



Llywodraeth Cymru
Ty'r Afon
Heol Bedwas
Caerffili CF83 8WT
03000 256 000
cadw.llyw.cymru

Welsh Government
Ty'r Afon
Bedwas Road
Caerphilly CF83 8WT
03000 256 000
cadw.gov.wales

Matthew Henry Bellis
Pen y Coed Farm
Minera Road
Wrexham
LL11 5LR

Eich cyfeirnod
Your reference

Ein cyfeirnod
Our reference

DE112

Dyddiad
Date

13 Jan. 22

Llinell uniongyrchol
Direct line

0300 025 6007

Ebost
Email:

scheduledmonuments@gov.wales

Dear Mr Bellis,

ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979 APPLICATION FOR SCHEDULED MONUMENT CONSENT

Offa's Dyke: Section S from Pen y Coed DE112

1. Introduction

1.1 Thank you for your application of 7 December 2021 to Cadw for scheduled monument consent for works at the above scheduled monument.

The work will involve:

- (i) Realignment of a post and wire fence at the NE end of the scheduled area
- (ii) Removal of existing gates and E gatepost of existing access
- (iii) Construction of new double gates outside (immediately E) scheduled area
- (iv) Realignment of fence along S side of carriageway, reengineer ground profile and reduce highway verge to provide a pull in between carriageway and new access

1.2 Cadw is a Department within the Welsh Government that undertakes the statutory functions of the Welsh Ministers in determining applications for scheduled monument consent.

1.3 Each application for scheduled monument consent is considered on its own merits in accordance with *Conservation Principles for the Sustainable Management of the Historic Environment in Wales* ([Conservation Principles](#)) and Annex A of *Technical Advice Note 24: The Historic Environment* ([TAN 24](#)). In particular, TAN 24 explains that the main purpose of scheduling is to ensure the preservation of ancient monuments and, when considering an application for scheduled monument consent, there is a presumption against proposals which would involve significant alteration or cause damage or which would have a significant impact on the setting of remains.



2 Assessment

2.1. Your application and supporting documentation has been assessed by our Regional Inspector of Ancient Monuments who has recommended that conditional scheduled monument consent should be approved. The reasons for the Inspector's conclusions are set out in **Annex A** of this letter.

2.2. I have carefully considered the impact of the proposed development on the scheduled monument and its setting in light of the advice that I have received from our Regional Inspector of Ancient Monuments. I have no reason to disagree with the advice of our Regional Inspector and am satisfied that his recommendation is consistent with the objectives of Conservation Principles and TAN 24.

3. Decision

3.1. Accordingly, I hereby approve conditional scheduled monument consent for the proposed works as outlined in section 1.1.

3.2. In reaching this decision, I have taken into account the requirement of sections 3 and 5 of the Wellbeing of Future Generations Act. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of *A Wales of vibrant culture and thriving Welsh Language*.

3.3. Any development control issues associated with wider development will be a matter for any application for planning permission. It is the responsibility of the applicant to establish whether any further approval or consents are required for the proposed development.

4. Proposed Conditions

4.1. The following proposed conditions are intended to protect the monument from damage or significant alteration as set out in TAN 24: *The Historic Environment* and to ensure that details of the project are archived.

- a) The applicant shall provide Cadw with reasonable advance notice of commencement of works on site and will afford access at all reasonable times to any Cadw official or archaeologist nominated by Cadw to monitor progress of the works.
- b) The approved works shall be carried out strictly in accordance with the application form, plans and documents as listed below. No variations are permitted unless they have been authorised in advance in writing by Cadw.
- c)

Number	Document / plan	Reference Number (if applicable)	Date
1	SMC application form signed by Matthew Henry Bellis and dated November 2021		

2	Amended plan accompanying above named SMC application	P/2021/0469	
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d) **The approved works shall be carried out strictly in accordance with a 'Method Statement' to be submitted in advance and formally approved in writing by Cadw before work commences.** The 'Method Statement' shall be adhered to throughout the project and any variations shall be approved by Cadw prior to works commencing.

e) The Method Statement shall provide for:

	INFORMATION REQUIRED	Date when information required
1	Arrangements for fencing / temporary protection of the scheduled area during the works.	Before work commences.
2	Arrangements for access / egress, movement of vehicles or other plant.	Before work commences.
3	Arrangements for spoil management.	Before work commences.
4	Arrangements for removal / disposal of excavated materials.	Before work commences.
6	Details of any finishes including materials to be used for pull in construction, fencing and new gates	Before work commences.

f) No works, including site clearance, shall commence until Cadw has been informed in writing of the name of an appropriately qualified archaeologist operating to ClfA published standards and guidance¹ who is to be present to undertake a watching brief for any works or operation occurring within the scheduled area. No work shall commence until Cadw has confirmed in writing that the proposed archaeologist is acceptable.

g) A digital copy of the draft watching brief report shall be submitted to Cadw for approval within of the archaeological fieldwork being completed².

h) A digital copy of the approved watching brief report shall be submitted to the regional Historic Environment Record and National Monuments Record of

¹ Chartered Institute for Archaeologists <https://www.archaeologists.net/codes/cifa> .

² Cadw will retain a copy of the watching brief report for our records.

Wales to be incorporated into these public records³, and the applicant shall inform Cadw when this has been completed.

- i) Cadw shall be invited to attend a site meeting within the first two days of commencement of the project to review the programme and arrangements that have been established for archaeological mitigation.
- j) That upon completion of the project the applicant will produce a completion report including an annotated photographic record detailing the site before, during and after works took place. The draft should be sent to Cadw in digital format for approval within 25 working days of the works being completed.
- k) Any historic or archaeological features not previously identified which are revealed when carrying out the works shall be retained in situ and reported to Cadw within two working days. Works shall be halted in the area/part of the site affected until provision has been made for retention and/or recording of the feature by a suitably qualified archaeologist in accordance with details submitted to and approved in writing in advance by Cadw.

5. Compliance

5.1. Where a condition requires approval or any contact with Cadw you are advised to contact Ashley Batten by email scheduledmonuments@gov.wales.

5.2. When all work has been completed and the conditions have been discharged, please complete and return the 'completion notice' at **Annex B** to Cadw. Section 2(6) of the 1979 Act provides that non-compliance with a condition attached to a grant of scheduled monument consent shall be an offence.

5.3. By virtue of Section 4 of the 1979 Act, if no works to which this consent relates are executed or started within 5 years from the date of this letter, the consent shall cease to have effect at the end of that period (unless it is revoked in the meantime).

5.4. This letter does not convey any approval or consent required under any enactment, bylaw, order or regulation other than Section 2 of the Ancient Monuments and Archaeological Areas Act 1979. It is the responsibility of the applicant to obtain any such approval or consent where necessary.

6. Mechanism for Challenge

6.1 Section 55 of the 1979 Act explains that if you are aggrieved by the decision given in this letter, you may challenge its validity by applying to the High Court within six weeks from the date of my decision. Furthermore, the legislation explains that the grounds on which an application may be made to the Court are;

³ Cadw requires formal confirmation of report deposit to discharge condition.

- a) that my decision is not within the powers of the Act (i.e. that I have exceeded the powers available under the Act); and
- b) that any of the relevant requirements set out in the Act have not been complied with and that your interest has been substantially prejudiced by the failure to comply.

The 'relevant requirements' mentioned above are defined in Section 55 of the 1979 Act and it is advisable to seek legal advice before taking any action.

6.2. Should you have any queries please do not hesitate to contact me.

6.3 Finally, please note that your personal data is managed in compliance with the [General Data Protection Regulations](#).

Yours sincerely,

Nichola Davies
Casework Manager
under authority of the Deputy Minister for Culture, Sport and Tourism, one of the Welsh Ministers

Annex A

ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979 APPLICATION FOR SCHEDULED MONUMENT CONSENT Offa's Dyke: Section S from Pen y Coed DE112

INSPECTOR'S ADVICE

1. Policy Context

1.1 An application for scheduled monument consent (SMC) is considered on its own merits in accordance with Conservation Principles for the Sustainable Management of the Historic Environment in Wales ([Conservation Principles](#)) and Annex A of Technical Advice Note 24: [The Historic Environment \(TAN 24\)](#). In particular, TAN 24 explains that the main purpose of scheduling is to ensure the preservation of ancient monuments and, when considering an application for SMC, there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains. Therefore, applicants are expected to demonstrate that no practicable alternative route or location, avoiding the scheduled area, exists and that the need to undertake works outweighs the presumption in favour of the protection of the scheduled monument.

1.2 The Welsh Government's six principles for sustainable management of the historic environment in Wales are also used as a guide when considering applications for scheduled monument consent. These are:

- Historic assets will be managed to sustain their values.
- Understanding the significance of historic assets is vital.
- The historic environment is a shared resource.
- Everyone will be able to participate in sustaining the historic environment.
- Decisions about change must be reasonable, transparent and consistent.
- Documenting and learning from decisions is essential.

2. Offa's Dyke: Section S from Pen y Coed

2.1 The monument comprises a c.200m length of the 8th century AD linear earthwork, Offa's Dyke. The scheduled area is divided into two parts – each c.100m in length by c.40m transversely – and orientated NNW-SSE on a north-facing hillslope between Offa's Dyke: Mountain View Section (DE222) and Minera Road where it meets Pen y Coed Farm. The southern part is mostly located within woodland while the northern part crosses open fields. The northern section comprises a substantial bank, ditch and counterscarp and is very well preserved up until the point at which it is bisected by the Minera Road (B5102) to the S of Pen y Coed Farm.

3. The Application

3.1 This application for scheduled monument consent involves moving a fence and gateway within the eastern edge of the scheduled area where the dyke meets Minera Road. The works are required in order to allow safe vehicular access to and from the carriageway from the farmyard on the southern side of the road. The works will involve:

(i) Realignment of a post and wire fence at the NE end of the scheduled area

(ii) Removal of existing gates and E gatepost of existing access

(iii) Construction of new double gates outside (immediately E) scheduled area

(iv) Realignment of fence along S side of carriageway, reengineer ground profile and reduce highway verge to provide a pull in between carriageway and new access

4. **Assessment**

4.1 The works are located on the E edge of the scheduled area and at the very N end of the monument adjacent to the main highway. None of the works will have a direct physical impact on the visible earthworks nor any known buried element of the monument.

There is some potential that as yet unidentified archaeological remains or deposits may survive in the locality and could be disturbed as part of the proposals. As such, the works can be seen to have a potential adverse effect on the **evidential value** of the monument. Conditions of the consent will ensure archaeological monitoring during any intrusive ground disturbing works allowing as yet unidentified archaeological remains to be identified and fully investigated. This mitigation will lead to an enhanced understanding of the monument and could therefore enhance the **evidential value** of the monument.

The works involve earth moving, the construction of a new gate, erection of new fencing and creation of level pull in area in the immediate setting NE of the earthworks. All of these works will have some impact on the **aesthetic value** of the monument. However, the proximity of the existing fence and gates would mean that any such impact would be considered negligible.

The new gate will be further away from the visible earthworks and the new fence and access will allow the monument to be more visible from the main highway, particularly for westbound traffic. As such, the proposals should have a minor positive impact on the **communal value** of the monument.

Recommendation

5.1 I recommend that scheduled monument consent is granted, subject to the following conditions:

6. Proposed Conditions

Conditions must meet the following criteria:

- Necessary
- Relevant under the legislation (Ancient Monuments and Archaeological Areas Act 1979 as amended by the Historic Environment Act (Wales) 2016)
- Relevant to the development to be permitted
- Enforceable
- Precise
- Reasonable in all other respects

6.1 The applicant shall provide Cadw with reasonable advance notice of commencement of works on site and will afford access at all reasonable times to any Cadw official or archaeologist nominated by Cadw to monitor progress of the works.

6.2 The approved works shall be carried out strictly in accordance with the application form, plans and documents as listed below. No variations are permitted unless they have been authorised in advance in writing by Cadw.

Number	Document / plan	Reference Number (if applicable)	Date
1	SMC application form signed by Matthew Henry Bellis and dated November 2021		
2	Amended plan accompanying above named SMC application	P/2021/0469	

6.3 The approved works shall be carried out strictly in accordance with a 'Method Statement' to be submitted in advance and formally approved in writing by Cadw before work commences. The 'Method Statement' shall be adhered to throughout the project and any variations shall be approved by Cadw prior to works commencing.

6.4 The Method Statement shall provide for:

	INFORMATION REQUIRED	Date when information required
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1	Arrangements for fencing / temporary protection of the scheduled area during the works.	Before work commences.
2	Arrangements for access / egress, movement of vehicles or other plant.	Before work commences.
3	Arrangements for spoil management.	Before work commences.
4	Arrangements for removal / disposal of excavated materials.	Before work commences.
6	Details of any finishes including materials to be used for pull in construction, fencing and new gates	Before work commences.

- 6.5 No works, including site clearance, shall commence until Cadw has been informed in writing of the name of an appropriately qualified archaeologist operating to ClfA published standards and guidance⁴ who is to be present to undertake a watching brief for any works or operation occurring within the scheduled area. No work shall commence until Cadw has confirmed in writing that the proposed archaeologist is acceptable.
- 6.6 A digital copy of the draft watching brief report shall be submitted to Cadw for approval within of the archaeological fieldwork being completed⁵.
- 6.7 A digital copy of the approved watching brief report shall be submitted to the regional Historic Environment Record and National Monuments Record of Wales to be incorporated into these public records⁶, and the applicant shall inform Cadw when this has been completed.
- 6.8 Cadw shall be invited to attend a site meeting within the first two days of commencement of the project to review the programme and arrangements that have been established for archaeological mitigation.
- 6.9 That upon completion of the project the applicant will produce a completion report including an annotated photographic record detailing the site before, during and after works took place. The draft should be sent to Cadw in digital format for approval within 25 working days of the works being completed.

⁴ Chartered Institute for Archaeologists <https://www.archaeologists.net/codes/cifa> .

⁵ Cadw will retain a copy of the watching brief report for our records.

⁶ Cadw requires formal confirmation of report deposit to discharge condition.

- 6.10 Any historic or archaeological features not previously identified which are revealed when carrying out the works shall be retained in situ and reported to Cadw within two working days. Works shall be halted in the area/part of the site affected until provision has been made for retention and/or recording of the feature by a suitably qualified archaeologist in accordance with details submitted to and approved in writing in advance by Cadw.

Name of Inspector: Ashley Batten

Date: 08/12/2021

COMPLETION NOTICE

Name of Monument:

Monument Number:

Conditions	Date	Signature
Notification of archaeologist to Cadw		
Method Statement		
Completion of works on site		
Submission of archaeological report(s) / Completion report to Cadw		
Submission of archaeological report(s) to NMR and HER		

Applicant Name:

Signature:

When all work has been completed and the conditions have been discharged, please complete and return this completion notice to Cadw at scheduledmonuments@gov.wales