

**REPORT OF THE CHIEF PLANNING OFFICER – Date 2nd MARCH 2009**

**APPLICATION NO:**

P/2009 /0024

**LOCATION:**

EISTEDDFOD FARM ALLT  
EISTEDDFOD GWYNFRYN MINERA  
WREXHAM

**DATE RECEIVED:**

13/01/2009

**COMMUNITY:**

Minera

**DESCRIPTION:**

RENOVATION OF DWELLING AND  
OUTBUILDING AND  
CONSTRUCTION OF EXTENSIONS  
FOR RESIDENTIAL USE.

**CASE OFFICER:**

MP

**WARD:**

Minera

**AGENT NAME:**

CYNEFIN  
CONSULTANTS  
MR GRAHAM WILD

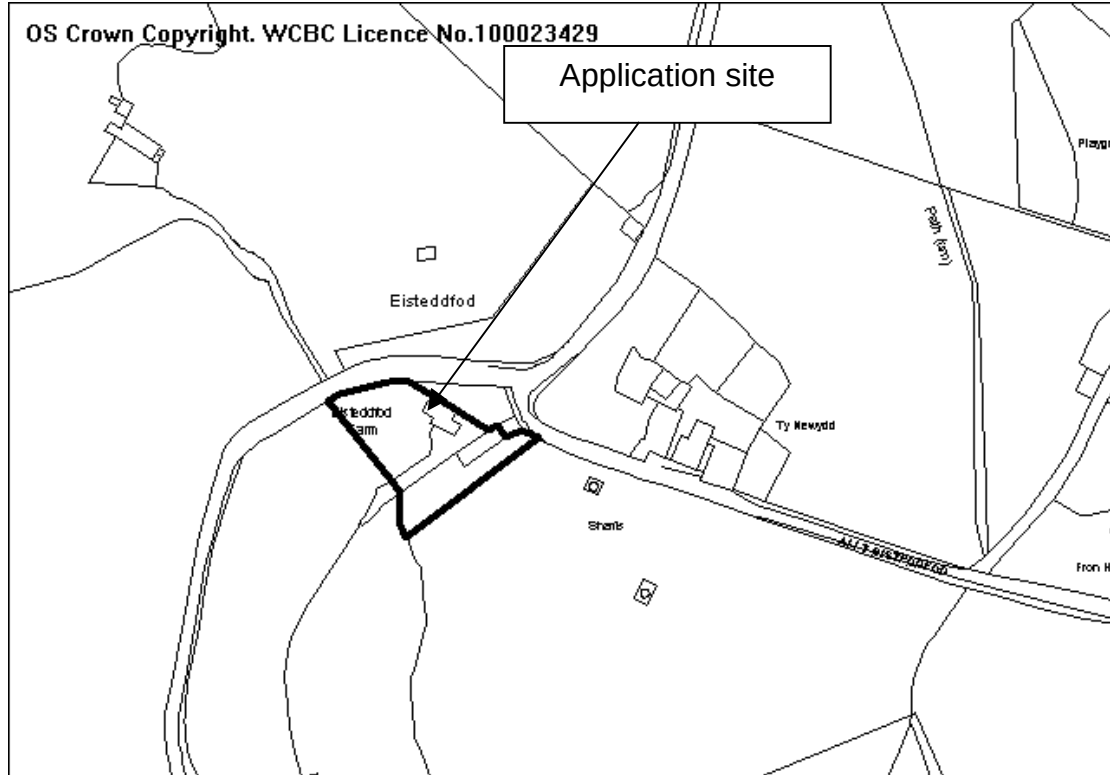
**APPLICANT(S) NAME:**

MR RON T DAVIES

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**THE SITE**

The application site consists of a stone building formerly used as a dwelling, together with a stone outbuilding. The site lies approximately 150 metres west of Gwynfryn.



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**PROPOSAL**

The proposal involves the reinstatement of residential use of the building together with extensions and alterations (although the applicants claims that the residential use has not been abandoned). .

**HISTORY**

None.

**DEVELOPMENT PLAN**

Outside of a settlement limit. The site lies adjacent to the Ruabon Mountains Site of Special Scientific Interest/Special Area of Conservation. Policies PS1, PS2, GDP1, EC6, H3, H5 and H10 apply.

**CONSULTATIONS**

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| Community Council: | Provided the proposed diversion of the footpath is suitable to the needs of walkers there are no objections.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Local Member:      | Requests application is reported to committee.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Highways:          | <p>although road giving access to site is narrow and of poor alignment a single dwelling will be of little detriment to the highway;</p> <ul style="list-style-type: none"><li>- visibility at the junction of the private access and Allt Eisteddfod concurrent with TAN18 standards;</li><li>- proposed garage 2m off private access road. Normally recommended that any garage is 5.5m from edge of carriageway. In this instance the garage is sufficient distance from the public highway;</li><li>- proposed parking area on eastern edge of the site forms part of adopted highway. To enable development to proceed this area of highway land will require a stopping up order;</li><li>- recommend conditions.</li></ul> |
| Rights of way:     | <ul style="list-style-type: none"><li>- a public footpath bisects the development;</li><li>- diversion order required. Until that process has been completed, it would not be possible to proceed with any part of the development which would cause the existing path to become obstructed;</li><li>- between the cottage and present carriageway, there is an area of highway and should not be</li></ul>                                                                                                                                                                                                                                                                                                                       |

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|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                        | obstructed or built upon without first being legally stopped up;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                        | <ul style="list-style-type: none"><li>- plans show this area of public highway being taking into the garden area of dwelling;</li><li>- applicant should provide an area of new highway – a 20m x 3m lay-by which could be used by members of the public who walk in this area. This would provide a useful replacement for the area of highway next to the dwelling which would have to be stopped up;</li><li>- if permission is granted, the applicant could ask the Welsh Assembly to make an order which would encompass all of the changes required to the public footpaths, the highway to be stopped up and the new lay-by.</li></ul> |
| Environment Agency:    | No objection: <ul style="list-style-type: none"><li>- Septic tank may require consent from the Agency under the Water Resources Act 1991/Groundwater Regulations 1998;</li><li>- Property is very near to a SSSI. CCW should be consulted.</li></ul>                                                                                                                                                                                                                                                                                                                                                                                          |
| Welsh Water:           | No comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| CCW:                   | Consulted 20.1.09                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| CPAT:                  | Proposals will affect a building of architectural interest. Request a photographic survey is carried out before development commences.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Other representations: | notified 20.1.09                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Site Notice:           | Expired 9.2.09                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

**SPECIAL CONSIDERATIONS**

**Policy:**

**Extensions:** If the proposals are considered strictly on the basis of the application description and the applicant's assertions that the property maintains residential use rights, then they need to be considered in light of the Council adopted guidance relating to extensions to houses in the countryside. Local Planning Guidance Notes 13 and 20 advise that extensions to such properties should not normally exceed one third of the floor area of the original dwelling.

The proposed extensions include additional living accommodation as well as a large outbuilding. The outbuilding is described as an agricultural store/garage/harness room however I consider it to be primarily a domestic outbuilding due to its design (including a double garage) and that it is physically attached to the dwelling. There would also be internal access from the dwelling to the outbuilding. The combined floor area of the original buildings and extensions would be in the region of three times that of the original buildings by themselves. Local Planning Guidance Note 13 does indicate that

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extensions of more than one third may be allowed where additional space is essential to meet modern standards. However I do not believe that such an allowance would permit extensions on the scale proposed.

- **Use:** The condition of the existing buildings is such I consider that the residential use has been abandoned and the works to bring it back into a habitable condition are tantamount to the erection of a new dwelling. (see photos overleaf). The details submitted with the application, including a Structural Appraisal are insufficient to convince me otherwise. The scale of the extensions taking into account the ratio new build to original is, in my view, such that the proposals would effectively be for a new dwelling in the countryside, therefore being contrary to policy PS1.

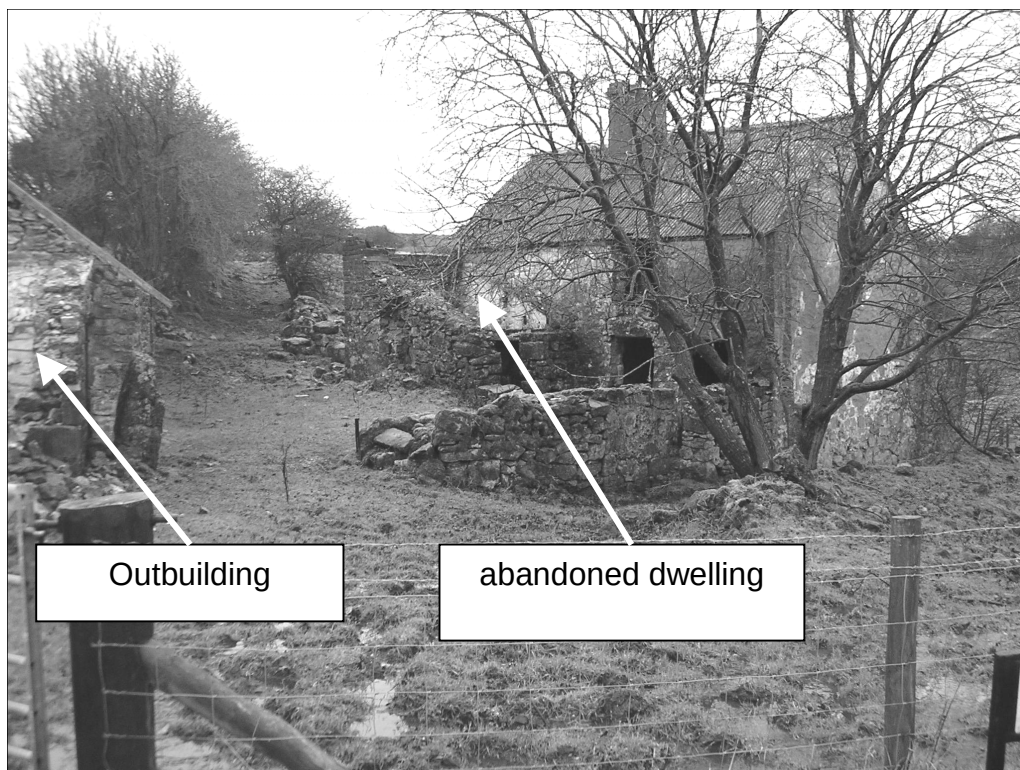
The building, as a result of the proposed extensions, would be far more prominent in the rural landscape and would prove harmful to the character of the area. As such the proposals do not accord with policies PS2 and GDP1. The size of the extensions, together with the fact that it appears the existing building would require extensive rebuilding, mean the proposals will effectively result in the erection of an entirely new dwelling. Because the site lies outside of a settlement limit, this would be contrary to adopted policies – specifically PS1.

**Permitted use of the building:** Although the applicant maintains that the permitted use of the building is as a dwelling, I am of the opinion that the residential use of the property has been abandoned and will set out my reasoning below:

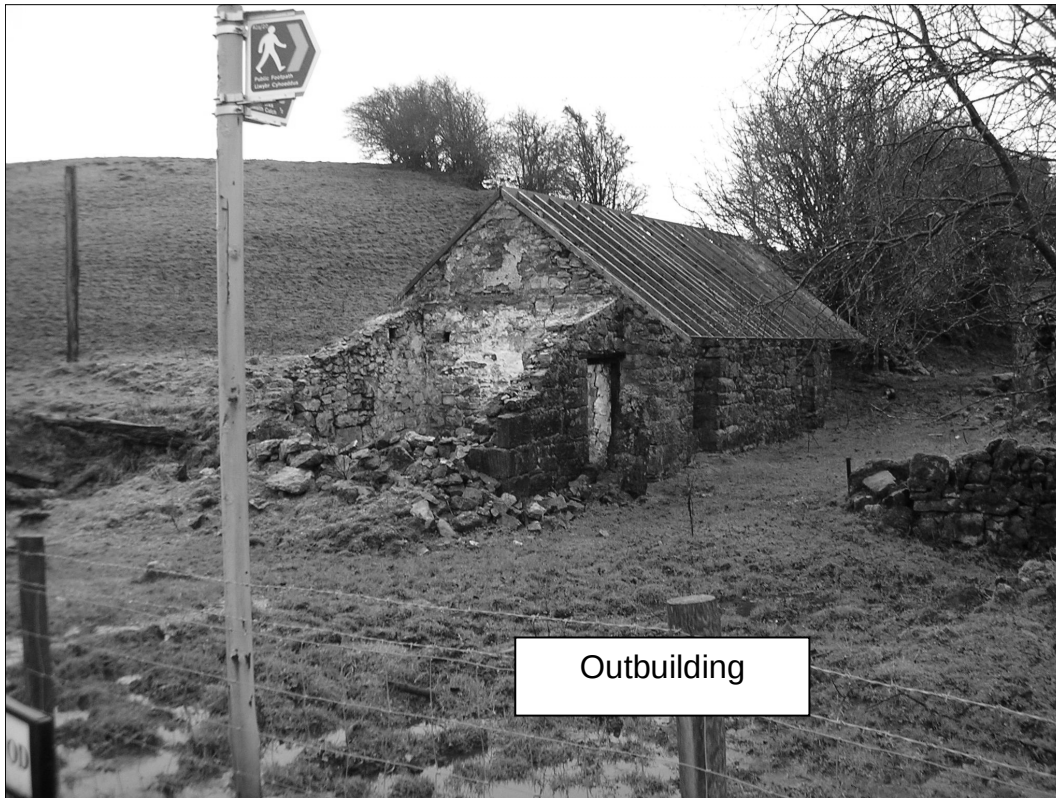
a) *Physical condition of the property.*

The property is in a poor state of repair and is clearly uninhabitable without extensive renovation. Although the application is accompanied by a Structural Appraisal, I believe the extent of any rebuilding may well be to such an extent that the works would amount of the erection of a new dwelling. This is illustrated by the photographs below;

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*b) The period of non-use*

There is no definitive date when the property was last occupied, but the applicant's agent has stated it was occupied until around 1986. I think it is clear by any objective evaluation that the property has not been used as a residence for a lengthy period of time, particularly taking into account its current condition.

*c) Evidence of intervening use*

There is no evidence that the building has been used for another purposes since it was last occupied.

*d) Intentions of the owners*

*In spite of his clear current intention to re-occupy the building, the applicant has only had an interest in the land for a relatively short period of time. His purchase of the site and the submission of an application does not, in my opinion, demonstrate that there was never any intention to abandon the use of the building as a dwelling.*

I believe the period of disused (at least 20+ years) and the actions of the previous owners (e.g. what measures have been taken during the period the property to secure it in a reasonable condition) are of key importance in determining whether the residential use has been abandoned. There is no clear evidence of work having been carried out to maintain the property in a

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habitable or near-habitable condition by its previous owners, Larfarge Aggregates. The condition the property has been allowed to deteriorate to suggests that the previous owners did not intend for the property to be reoccupied.

Even though there is no evidence to suggest the building has been used for other purposes since it was last used as a dwelling, I believe the above sets out sufficient evidence to demonstrate the residential use has been abandoned.

If the above arguments are accepted, then the applicant would need to, either separately or as part of this application, seek permission to reinstate the use of the building as a dwelling, in addition to seeking permission to alter and extend it. I will therefore comment on the proposals in light of policies controlling the erection/creation of new dwellings in the countryside.

**Rural housing policy:** The site is outside of a settlement limit where there is a presumption against the erection of new dwellings unless:

- i) Proposals are for the conversion of suitable existing buildings (policy H3 refers);
- ii) (other criteria are not relevant)

To obtain permission, a proposal would have to satisfy policy H3. One of the key requirements set by the policy is that buildings are structurally sound and capable of conversion without requiring rebuilding to the extent that the proposal would effectively be for the erection of an entirely new dwelling. Local Planning Guidance Note 3 (Converting Rural Buildings) advises that where the roof of a building is to be replaced no more than 10% of the walls should be rebuilt, or 20% if the original roof is to be retained. Substantial extensions are proposed to the building making it difficult to determine how much of the original building would remain, although the applicant's agent has stated that the original cottage and outbuilding would remain.

Even if the extensions are discounted, the details submitted with the application do not adequately demonstrate that the building (by itself) could be brought back into use in accordance with LPG3. As the photographs above clearly illustrate, the building is in a poor state of repair and it appears probable that a significant amount of remedial work would be needed to make it back into use, including replacement of substantial sections of the walls.

LPG3 advises against the erection of large extensions as part of conversion schemes, or the erection of new outbuildings. The size of the proposed additions do not accord with this advice. I believe the applicant could not demonstrate compliance with policy H3.

The applicant claims that he needs to live on site to manage an agricultural holding but his agent has confirmed that he is not seeking an agricultural workers dwelling. Nevertheless no supporting evidence has been submitted

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demonstrating a functional need for someone to live at this site as would be required if an application was to accord with policy H5. In the absence of any supporting evidence I can only conclude that there is no essential requirement for a dwelling at this site. Even so the, even if there was an essential requirement to live on site, this would not justify a new dwelling, or extensions to an existing dwelling of the scale proposed. Agricultural accommodation should meet the function requirements of a farm business rather than the personal requirements or needs of the applicants.

I believe there is also reason to doubt that it is essential for the applicant to live at this site. He has made two previous attempts to build an agricultural dwelling in the locality. On both occasions permission was sought to build a dwelling on land at Talygarn, Church Road, Minera, approximately a mile to the south-east of Eisteddfod Farm. Despite the submission of agricultural appraisals with both applications (codes no. P/2000/768 and P/2001/1080), it was concluded that there was insufficient justification to grant permission for a dwelling and permission refused. It is interesting to note that the land at Talygarn was chosen because it was most appropriate location in relation to the land owned by the applicant.

The applicant was also recently granted planning permission for the conversion of a redundant building to a dwelling (permission code no. P/2008/0941 granted on 5 January 2009). This property is just of a mile from the application site by road and could provide accommodation if there is an essential need to live in the area. The agent considers this to be irrelevant to this case, and clearly if the current proposals are treated simply as being for extensions to an existing building he is correct. However it would be a material consideration of considerable weight if the applicant were attempting to demonstrate an essential need to live in the locality.

**Public Right of Way:** The development would build over an existing public right of way. This will need to be diverted in order for the development to go ahead. In the absence of a diversion agreed, a further reason for refusal is required.

**Parking:** The proposed parking area is on land that officially forms part of the adopted highway. As noted by Highways, this would need to be officially 'stopped up' (i.e. its status changed so that it no longer form part of the highway) if permission is granted. It is worth noting that the application area does not include this area of land. If permission were granted the applicant could use it for the parking of vehicles, but could not use it for any domestic purposes unless it was officially incorporated into the garden by way of a separate planning permission.

**Ecology:** The site is adjacent to the Ruabon Mountain SSSI/SAC site. None of the details submitted with the application indicate that the potential impacts of the development have been assessed in any detail. I have however consulted CCW on the application and will, if necessary, take account of any recommendations they make.

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**Conclusion:** Due to the condition of the existing building and the scale of the proposed extensions, the development is tantamount to the erection of a new dwelling in the open countryside contrary to policy PS1. The proposals will also have a material and harmful impact on the rural landscape, contrary to the objectives of policies PS2 and GDP1 of the adopted UDP.

**RECOMMENDATION:** That permission be **REFUSED**

**REASON(S)**

1. The proposals, by virtue of the extensive rebuilding that is likely to be required to restore the existing building to a habitable condition, and the size of the proposed extensions, are tantamount to the erection of a new dwelling outside of a settlement limit. In the absence of any justification on the grounds of essential need the proposals do not accord with policies PS1 and H5 of the Wrexham Unitary Development Plan and the advice given in Local Planning Guidance Note 13.
2. The proposals, due to the size of the proposed extensions, will significantly increase the prominence of the building to an extent that they will have a material and detrimental impact upon the rural landscape, thus being contrary to policies PS2 and GDP1.
3. The development will have a detrimental impact upon the pattern of public rights of way in the locality and as such conflicts with policy CLF6 of the Wrexham Unitary Development Plan.

**NOTE(S) TO APPLICANT**

The Council considers that due to the condition of the building, the period of disuse and the lack of evidence by its current and previous owners to maintain it in a habitable or near habitable condition, the residential use rights of the building have been abandoned. Consequently planning permission would be required to allow the building reused as a dwelling.

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