

Town and Country Planning Act 1990

Local Planning Authority Statement of Case

APPEAL RELATING TO LAND AT FENNANT ROAD,
PONCIAU, WREXHAM, LL14 1PL

PINS Refs: **APP/H6955/A/16/3161155**

LPA Planning Refs: **P/2016/0225**

1.0 INTRODUCTION

- 1.1 This appeal is made under Section 78 of the Town and Country Planning Act 1990 against Wrexham County Borough Council's decision to refuse planning permission for the following description:

Change of use of land to provide 2 no. gypsy / traveller pitches, erection of ancillary mobile day room / amenity building and construction of hard-standing area and access.

1.2 Reasons for refusal

1. The proposed site lies outside defined settlement limits. The applicants have failed to demonstrate that attempts have been made to find suitable sites within existing settlements and consequently the proposed development would form an unacceptable intrusion into open countryside, eroding a green wedge of open land along Fennant Road. To allow the development would therefore be contrary to Wrexham Unitary Development Plan policies PS1 and PS2.

2. A significant proportion of the site is identified as being at risk from surface water flooding as identified on Natural Resources Wales's updated flood map for surface water. Without adequate flood mitigation measures the proposed development would be highly vulnerable to flooding and is therefore contrary to Wrexham Unitary Development Plan policy GDP1 (i)

3. The site lies within an environmentally sensitive location within close proximity of Offa's Dyke, a Scheduled Ancient Monument and a designated SSSI/SAC. The proposed development would have an adverse impact upon the setting of Offa Dyke and would result in the loss of terrestrial connective habitat between the designated site and associated great crested newt population. To allow the development would be contrary to Wrexham Unitary Development Plan policy EC11 and GDP1 (h)

4. Fennant Road is devoid of a footpath along its nearside edge serving the site. In the absence of adequate footpath provision the proposed development would adversely impact upon pedestrian safety, contrary to Wrexham Unitary Development policy GDP1(d), which requires all new development to ensure safe and convenient pedestrian and vehicular access to and from the site and in the nearby locality.

2.0 THE SITE

- 2.1 The site is located on the north side of Fennant Road, Ponciau and it measures 0.16 hectares. The site is enclosed by conifer hedges, and by the boundary treatments along Fennant Road, incorporating access gates/fence/hedgerow.

3.0 SITE HISTORY

- 3.1 The planning history of the site is shown below.

P/2015/0203 - USE OF LAND FOR 1 NO GYPSY / TRAVELLER PITCH AND ERECTION OF ANCILLARY UTILITY / DAY ROOM. REFUSED 28.05.2015

4.0 POLICY

- 4.1 The development plan for the area is the Wrexham Unitary Development Plan 1996 – 2011, Adopted 14 February 2005 (UDP). Despite being out of date this continues to be used for decision making purposes.
- 4.2 Within the UDP the site lies outside settlements. Policies PS1, PS2, GDP1, H9 and T8 apply.
- 4.3 The Council also refer to Welsh Assembly Government Circular 30/2007 'Planning for Gypsy and Traveller Caravan Sites' (WAG C30/2007); The Good Practice Guide in Designing Gypsy Traveller Sites in Wales and Planning Policy Wales (PPW).

5.0 COUNCIL'S CASE

5.1 Location of development

- 5.1.1 The Council acknowledges its policy provision and need to provide sufficient allocated land for gypsy and traveller sites over the a plan period. Details of the latest quantitative needs assessment carried out by the Council are shown at Appendix 1. This is provided to the Inspector as requested with the caveat that it is still awaiting approval by the Welsh Government. Further information is also included at Appendix 2 which details statistical data and planning history across the County Borough as requested by the Planning Inspectorate to be submitted as part of this appeal. There is currently an unmet need.
- 5.1.2 It is a requirement of UDP policy H9 (wording included with the Council's Questionnaire) for applicants to demonstrate any exceptional circumstances where sites for caravans for individual gypsy families cannot be accommodated within settlement limits. No specific reference to this local planning policy was made at the time of the planning application and the Council was unable to determine whether any site selection process had taken place. It was therefore unable to conclude whether there were any more suitable sites within a defined settlement limit and what the exceptional circumstances are as defined by policy H9.
- 5.1.3 Policy H9 requires that such proposals should comply with policy GDP1 (wording included with the Council's Questionnaire), and the Reasoned Justification goes on to state that Particular attention will be paid to '*...proposals' visual impact on the surrounding landscape character*'. The introduction of a the two pitches on the land together with caravans and other ancillary and associated items would not accord with the character of the site

or make a positive contribution to the appearance of the nearby locality. The site is an open tract of land which falls away into a dip of land which is visible on approach from both directions along Fennant Road. The Council considers that, to allow the development without further exploration of other more suitable sites, would result in an unacceptable intrusion into the landscape and would not accord with policy GDP1 and H9.

5.2 Surface water

5.2.1 The map attached at Appendix 3 demonstrates the extent of the site known to potentially suffer from surface water flooding. It is considered that the proposed layout of the site would be at risk from such surface water flooding which would be detrimental to the future occupiers of the site and would represent a substandard level of accommodation.

5.2.2 The development proposes the installation of soakaways in an area of the site which is prone surface water flooding. It is further considered that the siting of additional hard surfacing within the site will contribute and exacerbate instances of surface water flooding in the locality which would, again, be detrimental to future site occupiers and the amenity and safety of neighbouring occupiers and highway users.

5.3 Scheduled Ancient Monument

5.3.1 The site is located approximately 130 metres due to south of the linear earthwork known as Offa's Dyke. This is a designated Scheduled Ancient Monument (SAM). Public Right of Way Esclusham Above 33 (PRoW) runs along the western boundary of the appeal site and heads away in a north westerly direction. The alignment of the SAM and the PRoW are shown at Appendix 4.

5.3.2 The Council considers that to allow the development subject to this appeal would result in an adverse impact on the setting of this SAM. It would be seen in the same context as the development site on approach, especially from a southerly direction along Fennant Road as well as those pedestrians using the PRoW. The SAM is an important landscape feature to the locality and its protection from adverse development is considered necessary.

5.4 Natural Environment

5.4.1 Due to the proximity of the site to the Johnstown Newt Site Special Area of Conservation (SAC) and the removal of the potential refuge around the site in the form of piles of stone, the proposal has the potential to cause disturbance to newts and/or loss or damage to their resting places.

5.4.2 The loss of native hedgerow to the site frontage in order to create the required visibility splays to make the development acceptable in highway safety terms is considered to result in a loss of significant hedgerow habitat. Such hedgerows contribute to the special network of hedgerows in the locality for the foraging behaviour of great crested newts in the locality and its significant

reduction is considered detrimental to the long term aims and objectives of managing and maintaining the SCA. As such, without upfront detail of reasonable avoidance measures and mitigation, the Council considers that the development would be detrimental to the special ecological features of the area.

5.5 Highway Safety

5.5.1 Policy H9 of the UDP requires that development proposals for gypsy and traveller sites, where proposed outside settlement limits, must accord with other locational and general environmental principles. The site is located on a stretch of highway which is not serviced by a pedestrian footway in either direction. The nature of the road network is such that it is on a bend in the highway, on a bus route, between two areas of significant population and a well-used route from Wrexham into Ponciau and Rhosllanerchrugog. There is limited forward visibility for motorists travelling in either direction in the immediate vicinity of the application site.

5.5.2 As a result of the lack of footway associated with Fennant Road at or the vicinity of the application site, it is considered that further increase in its residential use would be detrimental to highways users and the amenity of the future occupants of the site. This would not accord with policy GDP1 or H9 of the UDP.

6.0 CONCLUSION

6.1 The Council considers that the development of the site as proposed has not been fully justified. The proposed development would also result in significant visual harm to the immediate locality as well as heritage assets in the vicinity of the site and the natural environment. The site is also considered to be poorly located in terms of the local highway network and would result in danger to highway users and pedestrians leaving the site. The Council respectfully requests that this appeal is dismissed.

7.0 SUGGESTED CONDITIONS

7.1 Should the Inspector be mindful to allow the appeal, consideration of the following conditions is respectfully requested:

1. The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
Reason: To comply with Section 91(3) of the Town and Country Planning Act, 1990.
2. The site shall not be occupied by any persons other than gypsies and travellers as defined by paragraph 3 of Welsh Assembly Government Circular 30/2007.
Reason: The residential use of this countryside site has only been allowed based on their being a need for gypsy and traveller site accommodation and

therefore any future occupation of the site accommodation must be strictly controlled.

3. There shall be no more than 2 (two) pitches on the site and on each of the 2 (two) pitches hereby approved no more than 1 (one) static caravan and 1 (one) touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, stationed at any time.
Reason: To define the terms of the planning permission and to ensure that the site layout can be implemented and retained in the interests of the amenity of the site occupiers and those of the surrounding land.
4. No mobile home, static caravan or chalet shall be brought onto the site or thereafter replaced until details of its size, external appearance and means of attachment to the ground have been submitted to and approved in writing by the Local Planning Authority. Thereafter only a mobile home, static caravan or chalet that accords with the details as approved shall be sited on the land.
Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
5. No commercial activity shall take place on the site, including the storage of materials and the stationing of any vehicle over 3.5 tonnes overnight. There shall be no loading or unloading of vans, open backed vehicles or lorries on the site at any time other than for domestic purposes.
Reason: To protect the amenities of the occupiers of nearby properties.
6. The vehicular parking and turning areas as shown on approved drawing(s) No(s). 0.4001/BM shall be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking and turning of motor vehicles at all times.
Reason: In the interests of highway safety.
7. Within three months of commencement of development, full details of a soft landscaping scheme together with a timescale for implementation of works shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include for the provision of ecological enhancement measures taking into consideration the proximity of the site to habitat features favourable for great crested newts.
Reason: In the interests of the visual amenity of the area and the interests of securing the long term security of species which would otherwise be harmed by this development.
8. The landscaping scheme submitted and approved in connection with condition no. 7 shall be fully implemented in all respects within the agreed timescale and in strict accordance with the approved scheme.
Reason: In the interests of the visual amenity of the area and the interests of securing the long term security of species which would otherwise be harmed by this development.

9. The landscaping scheme as carried out in connection with condition nos. 7 and 8 shall be permanently retained. Any planting becoming severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced with trees or shrubs and within a timescale all to be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the visual amenity of the area and the interests of securing the long term security of species which would otherwise be harmed by this development.
10. Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 25 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction above the level of the adjoining carriageway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.
Reason: To ensure that adequate visibility is provided at the proposed point of access to the highway.
11. No private surface water run off shall be permitted to flow from the development site onto the adjoining highway. An Aco drain or similar shall be provided across the approved access to intercept any such run off prior to first use of the development.
Reason: In the interests of highway safety.
12. Notwithstanding the removal of the native hedge across the frontage of the site where it adjoins Fennant Road as required by condition no. 10, the existing trees, shrubs and hedges shown on drawing(s) No(s). 0.4001/BM to be permanently retained shall not be cut down, grubbed out, lopped or uprooted. Any trees, shrubs or hedges removed or being severely damaged or becoming diseased shall be replaced with trees, shrubs or hedging plants of the equivalent size and species.
Reason: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.

APPENDIX 2

GYPSY AND TRAVELLER COUNT DATA

Gypsy and Traveller Caravans

Table 1: Number of Gypsy and Traveller caravans on 14th July 2016

Number of Caravans							
	Authorised sites (with planning permission)		Unauthorised sites (without planning permission)				All caravans
	Number of caravans		Number of caravans on sites				
			Number of caravans on sites on Gypsies own land		on land not owned by Gypsies		
					Tolerated	Not tolerated	
	Local Authority ¹	Private	Tolerated	Not tolerated	Tolerated	Not tolerated	
Isle of Anglesey	0	0	0	0	9	9	18
Gwynedd	14	3	0	0	1	0	18
Conwy	0	0	0	0	4	0	4
Denbighshire	0	0	0	0	0	0	0
Flintshire	41	52	8	0	0	11	112
Wrexham	23	6	0	3	0	0	32
Powys	55	4	0	0	6	0	65
Ceredigion	0	0	0	2	0	3	5
Pembrokeshire	103	31	0	2	4	0	140
Carmarthenshire	15	23	0	6	0	0	44
Swansea	12	0	0	0	2	0	14
Neath Port Talbot	98	0	0	0	0	0	98
Bridgend	0	4	0	0	0	0	4
Vale of Glamorgan	0	1	0	0	21	0	22
Cardiff	144	38	0	0	0	3	185
Rhondda Cynon Taf	5	15	0	0	0	0	20
Merthyr Tydfil	28	0	0	0	6	0	34
Caerphilly	0	0	0	0	0	0	0
Blaenau Gwent	20	0	0	7	0	0	27
Torfaen	42	19	7	0	0	0	68
Monmouthshire	0	3	4	0	0	1	8
Newport	0	30	3	14	19	10	76
Wales	600	229	22	34	72	37	994

Source: Gypsy and traveller caravan count, Welsh Government

¹ Alternatively known as Socially Rented Sites. Includes sites owned by Registered Social Landlords

Table 2: Number of pitches¹ on Gypsy and Traveller sites provided by Local Authorities² in Wales on 14th July 2016

	Number of pitches				
	Occupied residential	Vacant residential	Occupied transit	Vacant transit	Total
Isle of Anglesey	0	0	0	0	0
Gwynedd	8	0	0	0	8
Conwy	0	0	0	0	0
Denbighshire	0	0	0	0	0
Flintshire	20	0	0	0	20
Wrexham	13	2	0	0	15
Powys	20	0	25	79	124
Ceredigion	0	0	0	0	0
Pembrokeshire	74	1	0	0	75
Cardiganshire	15	0	0	0	15
Swansea	6	1	0	0	7
Neath Port Talbot	63	4	0	0	67
Bridgend	0	0	0	0	0
Vale of Glamorgan	0	0	0	0	0
Cardiff	80	0	0	0	80
Rhondda Cynon Taf	5	0	0	0	5
Merthyr Tydfil	22	2	0	0	24
Caerphilly	0	0	0	0	0
Blaenau Gwent	20	0	0	0	20
Torfaen	26	0	1	0	27
Monmouthshire	0	0	0	0	0
Newport	0	0	0	0	0
Wales	372	10	26	79	487

Source: Gypsy and traveller caravan count, Welsh Government

¹ One pitch may accommodate multiple caravans

² Does not include Authorised Private Sites

January 2016				July 2016				
All Caravans (1)		Authorised Sites (with planning permission) (2)	Unauthorised Sites (without planning permission) (3)	All Caravans (1)		Authorised Sites (with planning permission) (2)	Unauthorised Sites (without planning permission) (3)	All Caravans (1)
Total Welsh local authorities		782	149	931	829	165	994	
Total Welsh local authorities								
Isle of Anglesey	0	13	13	0	18	18		
Gwynedd	22	2	24	17	1	18		
Conwy	0	0	0	0	4	4		
Denbighshire	0	0	0	0	0	0		
Flintshire	83	3	86	93	19	112		
Wrexham	39	1	40	29	3	32		
Powys	32	6	38	59	6	65		
Ceredigion	0	3	3	0	5	5		
Pembrokeshire	131	9	140	134	6	140		
Carmarthenshire	36	6	42	38	6	44		
Swansea	14	11	25	12	2	14		
Neath Port Talbot	92	0	92	98	0	98		
Bridgend	7	0	7	4	0	4		
Vale of Glamorgan	1	21	22	1	21	22		
Cardiff	154	18	172	182	3	185		
Rhondda Cynon Taf	20	4	24	20	0	20		
Merthyr Tydfil	44	9	53	28	6	34		
Caerphilly	0	0	0	0	0	0		
Blaenau Gwent	20	1	21	20	7	27		
Torfaen	57	4	61	61	7	68		
Monmouthshire	3	0	3	3	5	8		
Newport	27	38	65	30	46	76		

Table 3 – Statistical returns to Statistics for Wales Gypsy Count

UNAUTHORISED SITES

There are currently two unauthorised sites within the authority's area. These are detailed below:

The Clans and Oakstream, Bowers Road, Acrefair, Wrexham LL14 3TN

There are two separate planning units within the same family ownership. One of the sites (The Clans) is a tolerated site with one static caravan. It has been in situ for over 15 years. The Oakstream site benefits from planning permission.

Long Lane, Pentre Broughton, Wrexham, LL14 3TN

An enforcement notice has been served relating to this site requiring that there be no more than one caravan, one touring static caravan and an amenity block. This site has been known to exist for 15 to 20 years.

AUTHORISED SITES

G&T Site Address	Private/Public	Total No. of pitches	Authorised	Tolerated	Unauthorised	Community	Ward
1. Bowers Road, Acrefair	Private	2	0	1	1	Cefn	Cefn
2. Mountain View, Long Lane Pentre Broughton	Private	1	1	0	0	Broughton	Bryn Cefn
3. The Retreat, Long Lane, Pentre Broughton	Private	1	0	1	0	Broughton	Bryn Cefn
4. Ruthin Road, Wrexham	Public	15	15	0	0	Coedpoeth	Coedpoeth
5. Homestead Lane, Wrexham	Private	1	1	0	0	Offa	Brynyffynnon
6. Travelling Showmen Site, Old Mold Road, Stansty	Private	8 caravans (unclear of no. of pitches)	8	0	0	Gwersyllt	Gwersyllt West
7. Southsea	Private	1	1	0	0	Broughton	Bryn Cefn
Total		29					

PLANNING APPLICATIONS AND APPEALS

A list of planning applications and appeals concerning gypsy sites in the authority's area over the past 5 years, and their outcomes can be found below.

P/2011/0670 - PROPOSED TRAVELLERS CHALET AND CARAVAN PARK FOR ONE PLOT (ONE CHALET AND TWO CARAVANS) PLUS AMENITY BUILDING. REFUSED 06.02.2012 AND APPEAL DISMISSED 13.08.2012

P/2012/0441 - CHANGE OF USE OF SINGLE PITCH TRAVELLER SITE TO FOUR PITCH TRAVELLER SITE. WITHDRAWN.

P/2014/0601 - SITING OF 2 BEDROOM CHALET WITH PARKING AREA FOR MOBILE TRAILER AND 2 PARKING BAYS, TO BE OCCUPIED BY GYPSIES / TRAVELLERS (ONE FAMILY). GRANTED 01.12.2014

P/2015/0203 - USE OF LAND FOR 1 NO GYPSY / TRAVELLER PITCH AND ERECTION OF ANCILLARY UTILITY / DAY ROOM. REFUSED 28.05.2015

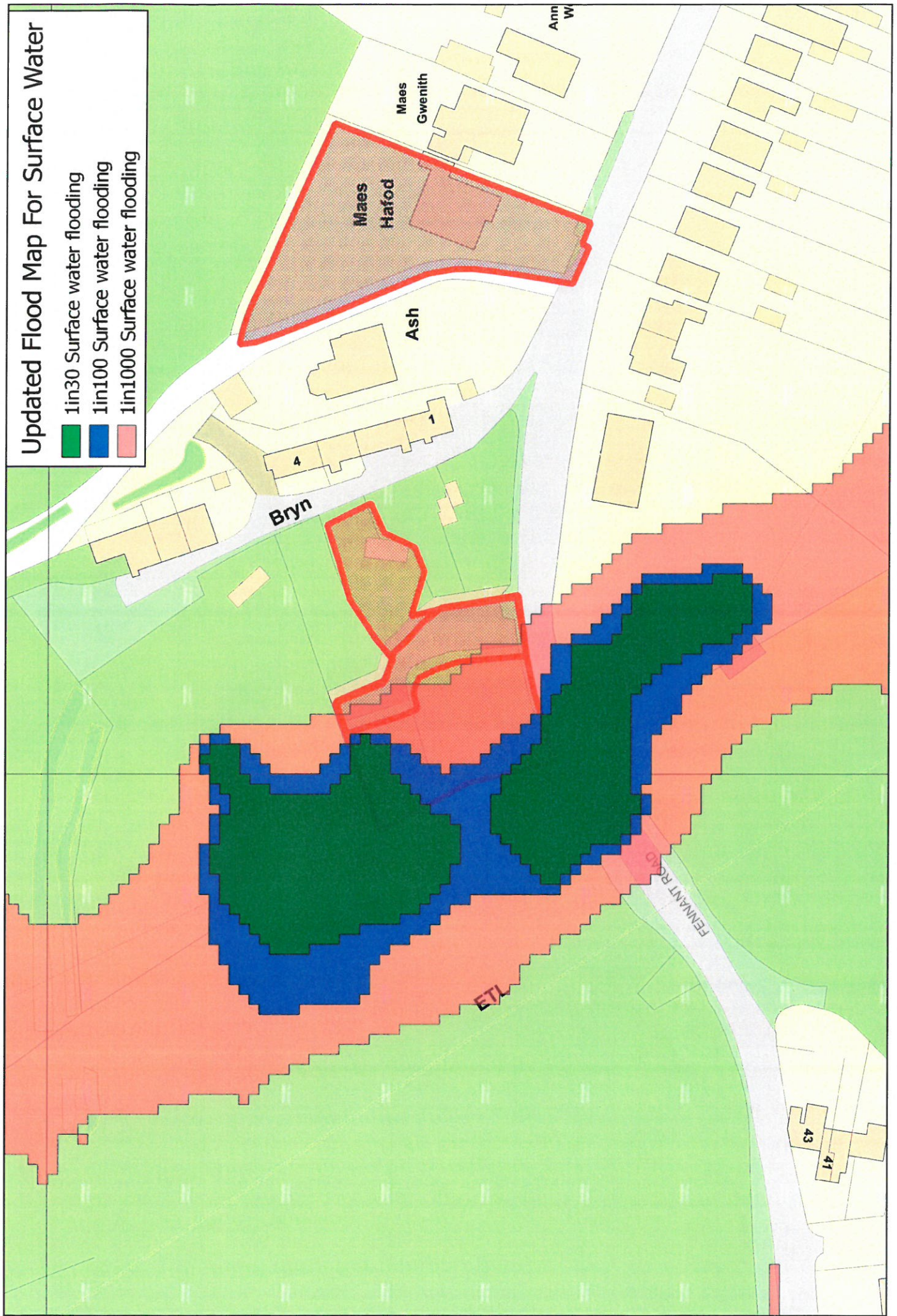
P/2015/0225 - USE OF LAND TO PROVIDE RESIDENTIAL GYPSY / TRAVELLER PITCHES (7 PLOTS) AND ERECTION OF COMMUNAL UTILITY BUILDING. REFUSED 04.08.2016

APPENDIX 3

SURFACE WATER MAP

Updated Flood Map For Surface Water

- 1in30 Surface water flooding
- 1in100 Surface water flooding
- 1in1000 Surface water flooding



APPENDIX 4

PRoW AND SAM MAP

