

AGENDA ITEM NO.

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to	Meeting of the Executive
Date	2 December 2013
Subject	Compulsory Purchase of Lands in connection with proposed Cemetery Extensions at Llanbedrgoch and Llanddona
Portfolio Holder(s)	Richard Dew
Lead Officer(s)	Dylan Edwards
Contact Officer	Dylan Edwards
Nature and reason for reporting	
<p>Negotiations for purchase of land in connection with proposed cemetery extensions at Llanbedrgoch and Llanddona have reached deadlock. Planning Consent for schemes at both sites has now been granted and the Executive is requested to confirm the use of Compulsory Purchase Powers to enable appropriate legal processes to be commenced for cemeteries to be provided in the future at these communities.</p>	

A – Introduction / Background / Issues
<ol style="list-style-type: none">1. Following the presentation of a report to the Executive on 26 March 2007, the Council reaffirmed its policy that it would not directly administer and maintain cemeteries, but would leave this function to Community Councils. It did, however, agree that, subject to the availability of capital funding, it would acquire land for new cemeteries or cemetery extensions, provide the necessary infrastructure, and then pass over the completed facility to the relevant Community Council to operate.2. On 24 September 2012 the Board of Commissioners considered a report regarding the provision of cemetery extensions at Llanbedrgoch and Llanddona. In both cases the Community Councils had advised that the number of remaining burial spaces is extremely limited. It was reported to the Executive in 2007 that the cemetery at Llanbedrgoch was understood to be at capacity. In February 2013 the Local Member confirmed that there were no more burial spaces remaining within the community. In 2005 the Llanddona Community Council reported that only 7 spaces remained in the community at the Llaniestyn Church cemetery. By 2012 this number had reduced to 1,

indicating a rate of use of available spaces of approximately 1 per year. It was reported by the BBC in July 2013 that this cemetery was full and that no burial spaces remained within the community.

3. The Council has identified land adjacent to the existing cemeteries as locations for cemetery extensions. The existing cemetery at Llanbedrgoch is at St Peter's Church. The existing cemetery at Llanddona is at St Iestyn's Church. At both of these locations the site of the existing churches and cemeteries are each in the region of 500m². At both sites land has been identified adjacent to the existing cemeteries and which is currently in use as agricultural land. The sites for the proposed extensions are shown on the plans appended to this report.
4. Negotiations with landowners have been on-going for several years but no agreement has been reached for a voluntary sale. In the case of Llanbedrgoch the amount of land identified for the cemetery extension is approximately 50m x 20m and is believed to represent a very small proportion of the land owned by this landowner. The initial approaches to the landowner took place in 2007/08 but have still not resulted a satisfactory conclusion. At Llanddona the land identified for the cemetery extension is approximately 60m x 60m which includes space required for a car parking area. It is believed this land is a small proportion of the land held by the landowner. Although the initial approaches to the landowner are more recent than those at Llanbedrgoch there have been significantly more difficulties in engaging in any meaningful dialogue with that landowner.
5. Preliminary environment and ground investigations have been carried out at both sites to ensure the suitability of the sites for future burials. These investigations include consideration of ground water conditions and appropriate dialogue with the Environment Agency Wales. Investigations also include determination of ground conditions and to identify the presence of any bedrock within depths likely to affect future burials. Whilst limestone bedrock has been found at relevant depths at the site in Llanbedrgoch it is considered likely that this will be sufficiently friable for remedial work to be carried out as part of the preparation of the site for burials. Due to environmental considerations it is highly unlikely that statutory consents would be granted for use of any other site remote from the present cemetery. The current site therefore represents the best option to provide an additional burial facility in the community and the cost of remediating the rock identified at the site is not considered to be prohibitive in proceeding with this scheme. The site investigation at Llanddona has not revealed any bedrock at relevant depths to restrict burials.

6. The proposals for each cemetery extension are set out below.
 - At St Peter's Church Llanbedrgoch the proposal is for a change of land use and to construct a cemetery to the East of the existing Church with approximately 130 burial spaces. The proposal includes additional car parking space, stone boundary walls and ornamental entrance gates and also includes the diversion of an existing Public Footpath to the outside of the proposed new walls.
 - At St Iestyn's Church Llanddona the proposal is for a change of land use and to construct a cemetery to the South East of the present Church with approximately 311 burial spaces and with provision for parking up to 10 cars. The proposal includes the construction of stone boundary walls and ornamental entrance gates.
7. Planning applications for the change of use and works to provide each cemetery extension have been approved as follows:
 - The Planning and Orders Committee approved the application in respect of St Peter's Church on 4 September 2013
 - The Planning and Orders Committee approved the application in respect of St Iestyn's Church on 2 October 2013
8. A budget for the proposed Llanbedrgoch cemetery extension was established some years ago. This budget has been retained within the Council's capital programme in anticipation of progress with regard to this or another cemetery scheme. A budget of some £112,000 is currently available 2013/14 and appears likely to be retained for 2014/15. This budget is considered to be sufficient to acquire the land through CPO and to carry out the scheme at that site, including dealing with the rock as noted above. With regard to the proposed cemetery extension at Llanddona a bid for further capital funding of some £120,000 is in preparation at the time of drafting this report and as part of the budget setting process for 2014/15. Whilst no assurance can be given at the present time that this budget will be confirmed, it is noted that there is genuine concern as to whether burials will be able to continue within these communities in the future, and currently it appears that there is a reasonable prospect that the required budget will be made available within the next few years.

9. Section 214 of the Local Government Act 1972 provides that both the Council and Community Councils are burial authorities. Section 214 (2) of the Act provides that burial authorities may provide and maintain cemeteries. In this case the Council is providing the cemetery extensions but the relevant Community Councils will then administer and maintain them. Section 120 of the Act allows the Council to acquire by agreement land for, amongst other things, cemeteries. Section 121 of the Act gives the Council a power of compulsory purchase.
10. The test applied by the Welsh Ministers in deciding if a compulsory purchase order should be confirmed is that of a compelling case in the public interest. It is considered that this test is met in the case of these two cemetery extensions. Clearly there is a pressing need for additional burial space in the two communities and the land identified is the most appropriate for the purpose. The human rights of the owners of the two sites are engaged by compulsory purchase but as the “compelling case” test is met such interference is proportionate and justified.

B – Considerations

A range of options was considered as part of the report presented to the Board of Commissioners on 24 September 2012 and it was resolved:

- To authorise relevant officers to prepare and progress Compulsory Purchase Orders in respect of sites for proposed cemetery extensions at Llanbedrgoch and Llanddona.

Following this decision the Property Service has engaged specialist assistance to ensure that the CPO process is followed correctly in order to maximise the opportunity for successful outcomes. Applications for planning consent have been prepared, submitted and approved and ground investigation works have been carried out at both sites.

Our Legal advisors have recommended that the earlier decision of the Board of Commissioners is re-affirmed prior to commencing the legal process for CPOs and this report provides that opportunity following receipt of Planning Consent for both sites.

The options as alternatives to CPO were considered by the Board of Commissioners in 2012 and are:

- To withdraw from negotiations at both sites and inform both Community Councils that the County Council is unable to assist further in this instance. The result of this option would almost certainly be a lack of future burial provisions within these communities.
- To withdraw from negotiations at both sites and commence a process of seeking alternative sites within the communities. It is likely that such sites would be remote from the existing cemetery provisions, which is undesirable, and it is considered unlikely that statutory consents would be forthcoming for such sites.
- To continue with negotiations with both landowners to seek a resolution. It is unlikely that any further meaningful negotiation can take place outside of a CPO process. It is noted that recent correspondence has been received from the owner of the land in Llanbedrgoch inviting further negotiation. It is proposed to continue with the CPO process to prevent any further delay but also that negotiation continues alongside that process in the hope that a solution which is satisfactory to both parties may be reached through dialogue and without the need to resort to the Compulsory Purchase in due course.
- To offer payment for the sites considerably in excess of market value. The Council may have difficulty in justifying a payment above the reasonable market land values and any such decision may set undesirable precedents for the future.

All of these options carry significant risks either for the Council or that satisfactory solutions will not be forthcoming and that these communities will not have burial facilities for the future.

It is recommended that the decision to proceed to CPO is confirmed by the Executive.

C – Implications and Impacts		
1	Finance / Section 151	
2	Legal / Monitoring Officer	
3	Human Resources	
4	Property Services (see notes – separate document)	Included in the report

C – Implications and Impacts		
5	Information and Communications Technology (ICT)	
6	Equality (see notes – separate document)	
7	Anti-poverty and Social (see notes – separate document)	
8	Communication (see notes – separate document)	
9	Consultation (see notes – separate document)	
10	Economic	
11	Environmental (see notes – separate document)	The implications for the Council’s duties under the Countryside and Rights of Way (CROW) Act, 2000 and the Natural Environment and Rural Communities (NERC) Act, 2006 were considered in determining the planning applications.
12	Crime and Disorder (see notes – separate document)	
13	Outcome Agreements	

CH - Summary

The report sets out the background and present situation with regard to proposals to acquire land within two communities for proposed cemetery extensions. The Council’s policy is to assist local Town and Community Councils with establishing cemeteries, subject to available capital funding, and then transfer sites to the relevant Town or Community Council for future maintenance and administration. Due to impasse in negotiations at these two locations the Executive is requested to confirm the earlier decision to proceed to Compulsory Purchase Order in both instances.

D – Recommendation

I recommend that the Executive authorises relevant officers to apply for Compulsory Purchase Orders in respect of sites for proposed cemetery extensions at Llanbedrgoch and Llanddona.

Name of author of report: Mike Barton

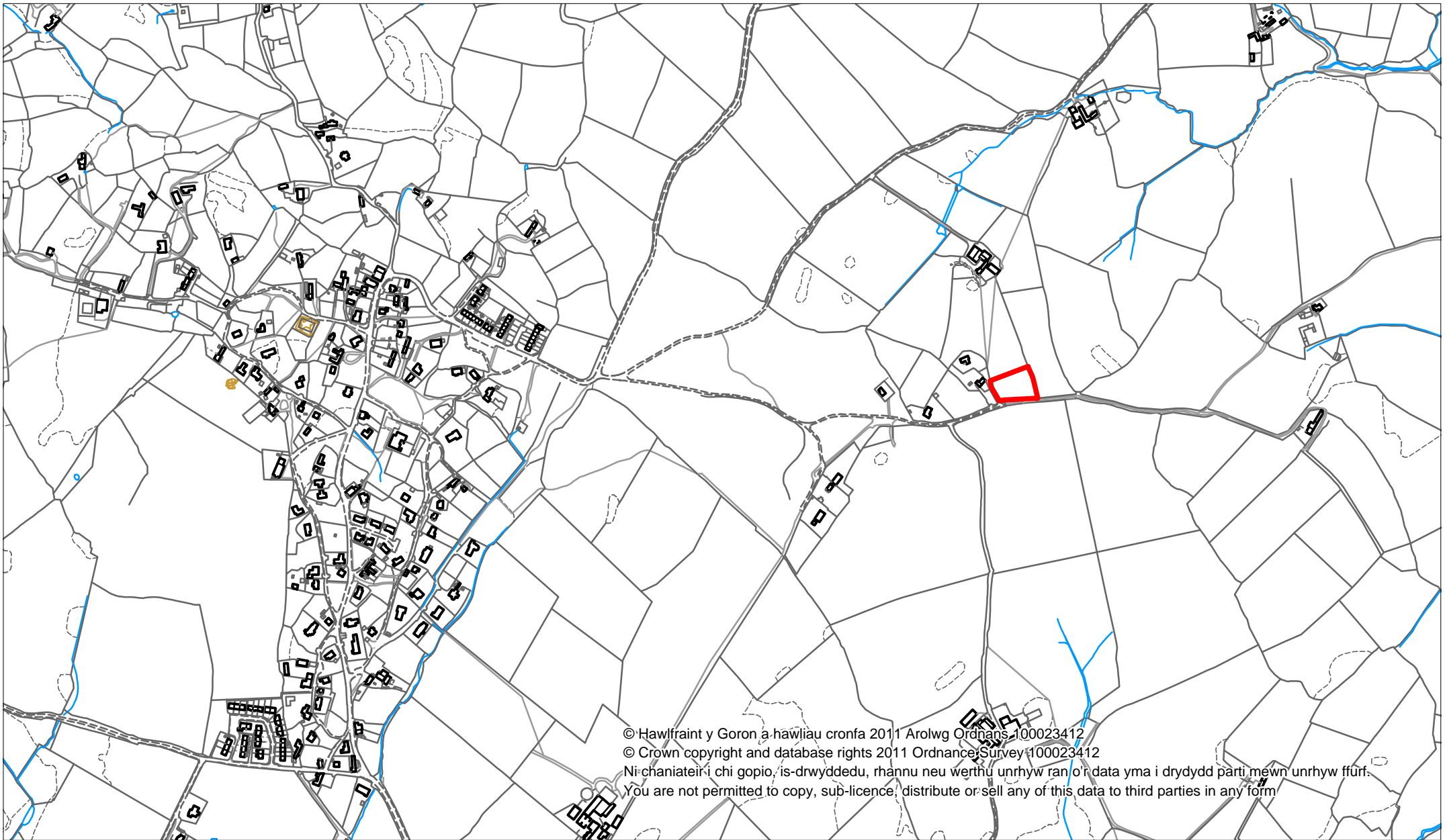
Job Title: On behalf of the Head of Service Environment and Technical Services

Date: November 2013

Appendices:

Location Plans

Background papers



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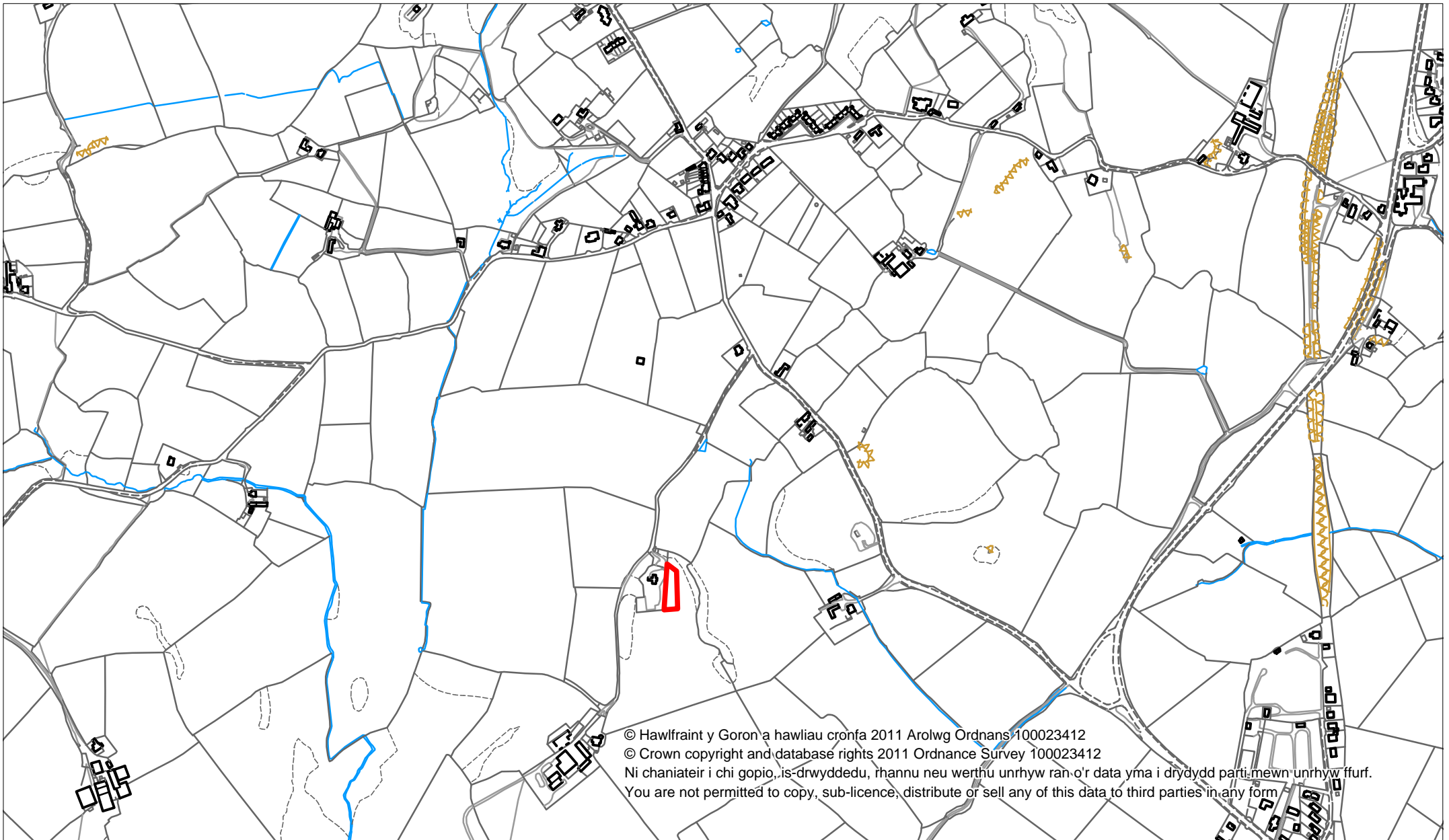
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