

Technical note:

Trecelyn Wind Farm - Draft Public Rights of Way Diversion Consenting Strategy with S.247 forms

1. Public Rights of Way Diversion Consenting Strategy

1.1 Proposed Development overview

1.1.1 Pennant Walters Ltd (the Applicant) is consulting on a draft planning application to be submitted to Welsh Government for consent as a Development of National Significance (DNS). The Proposed Development, as described in the draft DNS application form, is a proposal to construct and operate a wind farm of up to four turbines (with a maximum blade tip height of 145m) and associated infrastructure including:

- Access works - new access off the existing road together with new and improved internal wind farm tracks off the main internal road;
- Crane pads at each turbine location;
- Turbine foundations;
- Underground power cables linking the turbines and the on-site substation; Temporary construction compounds, laydown, and storage areas; and
- Grid connection infrastructure, including the on-site substation, control building and overhead connection into the existing overhead line, together with construction enabling works.

1.2 Secondary consents

1.2.1 Section 9 of the DNS application form lists the secondary consents which can be considered by the Welsh Ministers alongside the primary DNS application.

1.2.2 Under these provisions, the draft DNS application subject to consultation has identified the requirement for a secondary consent related to the stopping and diversion of a highway under Section 247 of the Town and Country Planning Act 1990. In line with the applicable provisions of Section 247, the highway identified is a Public Right of Way (PRoW).

1.3 Overview of proposed change to PRoW

1.3.1 The Proposed Development includes the development of one turbine (Turbine 1) in the north of the Site that would be located on the location of an existing PRoW footpath (PRoW reference: CRUM/FP149/1). Due to the Proposed Development including development of a turbine on the route of an existing footpath designated as a PRoW, the

stopping up and diversion of the existing footpath is required to enable the development to take place. A diversion is proposed that would provide an alternative footpath route to the north of Turbine 1 and connect to the existing PRow east of the turbine.

- 1.3.2 **Draft Environmental Statement (ES) Chapter 16: Socio-economics** provides further details on the proposed stopping up and diversion location of the PRow and the route of the proposed PRow diversion is shown on Figure 16.2 of the Draft ES (these are also shown in detail in the S.247 plans at Appendix A to this consenting strategy).

1.4 Pre-application Consultation

- 1.4.1 The draft DNS application is subject to statutory pre-application consultation prior to submission. Through the consultation the Applicant is also seeking to consult on the approach to the PRow diversion. The consenting regime required for the PRow stopping and diversion is identified as being through the S.247 secondary consenting provisions (as set out in the draft DNS application). However, the stopping up and diversion could be alternatively undertaken through the provisions under S.257 of the TCPA 1990 which would be determined by Caerphilly County Borough Council (CCBC) after consent of the primary DNS application by Welsh Government DNS.

1.5 S.247 Application Forms

- 1.5.1 The draft DNS application is supported by a draft S.247 application form and associated drawings which provide further detail on the proposed stopping and diversions in line with the requirements of the S.247 application forms. The draft forms and associated drawings are contained in **Appendix A** to this Draft Public Rights of Way Diversions Consenting Strategy.

Issued by

.....
Andrew Williamson

Approved by

.....
David Kenyon

Copyright and non-disclosure notice

The contents and layout of this report are subject to copyright owned by WSP save to the extent that copyright has been legally assigned by us to another party or is used by WSP under licence. To the extent that we own the copyright in this report, it may not be copied or used without our prior written agreement for any purpose other than the purpose indicated in this report. The methodology (if any) contained in this report is provided to you in confidence and must not be disclosed or copied to third parties without the prior written agreement of WSP. Disclosure of that information may constitute an actionable breach of confidence or may otherwise prejudice our commercial interests. Any third party who obtains access to this report by any means will, in any event, be subject to the Third Party Disclaimer set out below.

Third party disclaimer

Any disclosure of this report to a third party is subject to this disclaimer. The report was prepared by WSP at the instruction of, and for use by, our client named on the front of the report. It does not in any way constitute advice to any third party who is able to access it by any means. WSP excludes to the fullest extent lawfully permitted all liability whatsoever for any loss or damage howsoever arising from reliance on the contents of this report. We do not however exclude our liability (if any) for personal injury or death resulting from our negligence, for fraud or any other matter in relation to which we cannot legally exclude liability.

Management systems

This document has been produced in full compliance with our management systems, which have been certified to ISO 9001, ISO 14001 and ISO 45001 by Lloyd's Register.

Document revisions

No.	Details	Date
1	Draft consenting strategy	November 2023

Appendix A: Section 247 forms and accompanying figures



Llywodraeth Cymru
Welsh Government

DRAFT

Stopping Up and Diversion of Highways Section 247 of the Town and Country Planning Act 1990

Important

- You have no authority to stop up or divert a highway until the notice announcing that the Welsh Ministers have made an Order is published. Not only is it an offence to obstruct or interfere with a highway before this is done, but it may also make it impossible for the Welsh Ministers to make an Order.
- Please read the guidance notes at the end of this form before answering any questions.
- Please ensure all the necessary enclosures accompany this form (see guidance note)

A - Names and Addresses

Please give:

the address of the place where the highway(s) is/are situated

Trecelvn Wind Farm development location

the name, address and telephone number of the Council Planning Department for the highway(s) concerned

Planning Department
Caerphilly County Borough Council
Tŷ Tredomen, Parc Tredomen, Ystrad Mynach, Hengoed. CF82 7WF
Postcode CF82 7WF Telephone: 01443 866416

the name, address and telephone number of the Council Highways Department if different from above

Highways Department
Located at same address
Postcode: Telephone:

(Named contact also, if available)

the name of the Community or Town Council and the address of its Clerk (if none, put 'none')

None
Postcode: Telephone:

the developer's full name, address and telephone number

Meryl Lewis
Pennant Walters Ltd (Full details at final submission)
Postcode: Telephone:

the applicant's full name, address, postcode and telephone number if not the developer

Postcode: Telephone:

the agent's full name, address and telephone number (if none, put 'none')

Andrew Williamson
WSP (Full details at final submission)
Postcode: Telephone:

the names of two local newspapers and the days on which they are published

South Wales Argus – published daily
South Wales Echo – published daily

a contact name, address and telephone number of a local public office where the public may inspect the Order and deposited plan free of charge

To be completed on submission

(The office would usually be expected to be open during normal business hours. Prior agreement with the Office

B - The Development

Describe briefly the development, which necessitates the proposed stopping up, or diversion. You should also attach a statement justifying this stopping up or diversion, either as an appendix or as a covering letter.

The proposed development includes the construction and operation of up to four wind turbines with associated infrastructure. The application is subject to determination by the Welsh Government as a Development of National Significance (DNS).

Who granted planning permission for this development?

What is the date of this permission?

On what date is work on the development expected to start?

Is there a related compulsory purchase Order, or other statutory action? Yes No

If 'Yes', please give details.

C - Highway to be stopped up or diverted

Is it:
 all purpose highway bridleway footpath or cycle track
 (including footways and verges)

What is its name?
 and classification number? (if any)

Description of each section

	(Maximum if appropriate)		Area in square metres if irregular in shape	Terminal points	
	Length (metres)	Width (metres)		From	To
1	337			Grid ref: 323839, 198120	324164, 198205
2					
3					
4					

Who owns the land on either side of each section?

1	
2	
3	
4	

D - Consents

- Please confirm in writing that the consent of every person having an interest in the land to be developed whether adjoining or under the highway to be stopped up necessary to enable the development to be carried out has been obtained. If 'Yes', please attach these consents.

If 'No', please attach any consents received and give particulars below of those that you have yet to obtain.

● (Full details at final submission)
●
●

(Continue on a separate sheet)

WARNING – IF THERE IS NO EVIDENCE TO THE CONTRARY, THEN IT IS PRESUMED THAT THE OWNERS OF THE ADJOINING LAND OWN THE SUB-SOIL OF THE HIGHWAY, UP TO THE CENTRE LINE. THE MAKING OF AN ORDER MAY BE DELAYED OR FRUSTRATED IF YOU FAIL TO OBTAIN CONSENT FROM THE OWNER OF THE SUB-SOIL. EVEN IF AN ORDER IS MADE A DEVELOPMENT MAY BE FRUSTRATED IF CONSENT HAS BEEN WITHHELD.

E - New highway to be provided (if any)

- Will it be:
 all purpose highway bridleway footpath or cycle track

- Has the highway authority been asked to accept responsibility for maintaining the new highway? Yes No

If 'Yes', please attach copies of any correspondence.

- Who owns the land to be dedicated as new highway?

- If the applicant will not own or control the land to be dedicated, has the landowner's consent been given to the proposed dedication? Yes No

- Describe highway to be provided and give approximate measurements

New footpath to north of the site (north of Turbine 1) with length of approximately 400 m

F - Highway to be improved (if any)

● Is it: all purpose highway bridleway footpath or cycle track

● What is its name?

and classification number? (if any)

● Description of highway(s) to be improved including terminal points and approximate measurements.

G - Applying in anticipation of planning permission in accordance with Section 253 of the Act

(Normally only applicable to Local Authority or Statutory Undertakers unless (D) or (E) applies)

● If you are applying in anticipation of planning permission, then please state:

(A) the name of the local authority or statutory undertaker which is applying

(B) the date on which it applied

or (C) the date on which the local authority or statutory undertaker applied to a government department for deemed planning permission under section 90 of the Act or section 2 of the Opencast Coal Act 1958

or (D) the date on which the application was referred to the Welsh Government under section 77 of the Act
The primary application is to be submitted to Welsh Government as a DNS. Secondary consenting of S.247 is permitted under the DNS requirements.

or (E) the date on which an appeal was made to the Welsh Government under Section 78 of the Act

H - Undertaking and declaration

- I declare that:

I understand that authority to stop up or divert a highway is conferred solely by the publication of a notice announcing that an Order has been made:

Except to the extent authorised by or under some other statutory provision, the highway(s) to be stopped up or diverted is/are in no way obstructed and is/are fully available for use.

- I undertake that:

Except to the extent authorised as above, such highway(s) shall in no way be obstructed before the Order comes into operation.

- All the information given in this form is, to the best of my knowledge and belief, true and accurate.

- I apply for an Order to authorise the stopping up or diversion of the highway(s) described above.

Signed

To be completed on submission

Name

Position

Date

Please check that you have enclosed everything specified in the guide then send your application to:

**Orders Branch
Transport
Welsh Government
Cathays Park
Cardiff CF10 3NQ**

Failure to submit all necessary documentation will result in your application being delayed. Your attention is drawn to the guidance notes within this application form.

Check List – Items to be submitted with the application (please 4 to check enclosures)

- Approved planning permission – (Order cannot be made without it)
- One** set of the plans approved by the above planning permission, including the approved site layout plan.
- One** copy of existing ground floor plan indicating the approved site boundary edged red and the existing highway boundary within the approved site edged blue.
- One** copy of existing highway layout taken from an up to date Ordnance Survey map scale 1/1250 or 1/500 as appropriate.
- Four** copies of proposed Order plan, showing the highway to be stopped up or diverted to scale as above (see guidance note).
- One** copy of Section 106 agreement (if applicable).
- One** copy of Compulsory Purchase Order details (if applicable).
- S253 relevant documents to be submitted (if applicable).
- Copies of correspondence with statutory undertakers.
- Copies of correspondence with highway authority including their approval to the proposal together with a plan.
- Photograph(s) of the location may be helpful (*optional*).

Guidance Notes

To be read before completing the application form for stopping up or diversion Orders

These notes relate to Orders under Section 247 of the Town and Country Planning Act 1990

Definitions

- ‘Highway’ means land over which the public have certain rights of way. Highways may be classified as follows:

‘all-purpose highway’ means one over which the public have rights of way on foot and with vehicles, and over which they may exercise an animal that can use a bridleway:

‘carriageway’ means a way forming all, or part of, a highway (other than a cycle track) over which the public have a right of way for the passage of vehicles;

‘footway’ means that part of an all-purpose highway over which the public have a right of way on foot only;

‘bridleway’ means a highway over which the public have rights of way on foot and on horseback, or when leading horses, with or without a right to drive any sort of animal along that highway. There is no other right of way on a bridleway, except in certain circumstances for non-motorised bicycles.

‘footpath’ means a highway over which the public have a right of way on foot.

‘cycle track’ means a way forming all, or part of, a highway, over which the public have a right of way on pedal cycles, with or without a right of way on foot. There is no other right of way on a cycle track.

Welsh Ministers’ Powers

- Under section 247 of the Act, the Welsh Ministers may, by Order, authorise the stopping up or diversion of any highway, if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission granted under part III of the Act, or to be carried out by a government department.

Therefore a copy of the relevant planning permission must be submitted before an application can proceed – see advice under “Enclosures”.

- In the case of footpaths and bridleways, section 257 of the Act empowers a local planning authority to make a stopping up or diversion

Order if satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission granted under Part III of the Act, or to be carried out by a government department.

- Where an application for the stopping up or diversion of all-purpose highways also affects a footpath the Welsh Ministers may make the Order stopping up or diverting all-purpose highways and footpath.

Enclosures

- When the Welsh Government is considering an application to stop up or divert a highway, it must be able to understand the effect of the development on the highway. Also, it needs to know that the local highway authority have been fully consulted on the proposed stopping up or diversion. Therefore, it requires a letter and related plan confirming that the local highway authority agree to the proposed stopping up or diversion.
- It is essential that measurements be accurately described in the Order schedule, measurements must be to scale. It should be possible to scale the measurements from the approved plan and the Order plan and for both to agree.
- You should send the following items with your application:

a copy of the planning permission granted under part III of the Act, together with any plans. **Applicants are reminded that an Order can only be made if Welsh Ministers are satisfied that it is necessary to do so in order to enable the development for which permission has been granted to be carried out. Where only an outline permission has been granted it may not be possible to meet this test.**

a copy of the approved site layout plan with the site boundary edged red and the existing highway within that site edged blue.

copies of correspondence with the highway authority.

copies of correspondence with statutory undertakers.

a plan showing the highway to be stopped up or diverted.

Applying in anticipation of planning permission in accordance with Section 253

Copy of the application for planning permission and relevant plans, a copy of the appeal, CPO or submission to the Welsh Assembly Government.

Submission of plans for incorporation in Order

- The following will be required:

4 copies of an up to date plan, or plans A3 or A4 size based on Ordnance Survey and drawn to a scale of 1/1250 or 1/500 or to other suitable scales.

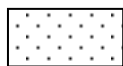
The plans should show existing highway(s) clearly labelled and be marked to show the details of stopping up etc as indicated below. It is also important that sufficient of the surrounding area appears on the plan to enable the location to be easily identified. Where locations to which reference is made in the form do not appear on the plan, their direction and the distance in metres from the end of the highway to be stopped up should be indicated.

plan(s) to be marked as follows:

- a) The highways proposed to be stopped up or diverted should be shown by zebra hatching.



- b) any new highway (all-purpose highways, footpaths or bridleways) pursuant to the Order should be shown by stipple:



- c) Any existing highway to be improved pursuant to the Order should be shown by crossing hatching over the affected length. The cross hatching should also include any widening or realignment:



- d) Any private means of access to premises or footpath to be stopped up should be shown in solid black:



- e) Any new means of access to premises should be shown by thin diagonal hatching:



- f) New footpath to be provided:



- g) **All plans must clearly show a North point**, preferably prepared so that North is shown parallel with the vertical side of the plan:

- h) The terminal points of the lengths of highway proposed to be stopped up or diverted must be clear on the plans:

- i) Highways such as footpaths and bridleways must be identified in Orders in words eg “the footpath/bridleway leading to North Street from “West Road”. Sufficient information should be given on the plans to enable an adequate description to be prepared:

- j) An unmarked copy of the above plan is required.

- Measurements – metric, taken from a terminal point(s) clearly identifiable on the plan.
- No other details are required.

Timescale for making an Order

- Once the details of an application have been agreed, it can take a **minimum of 5 months** to make an Order providing there are no objections:

If objections are received and cannot be resolved within a reasonable timescale, it will normally be necessary for the Welsh Assembly Government to hold a local inquiry. **In such cases the period before a decision is taken will be considerably longer, possibly a year or even longer in some cases.**

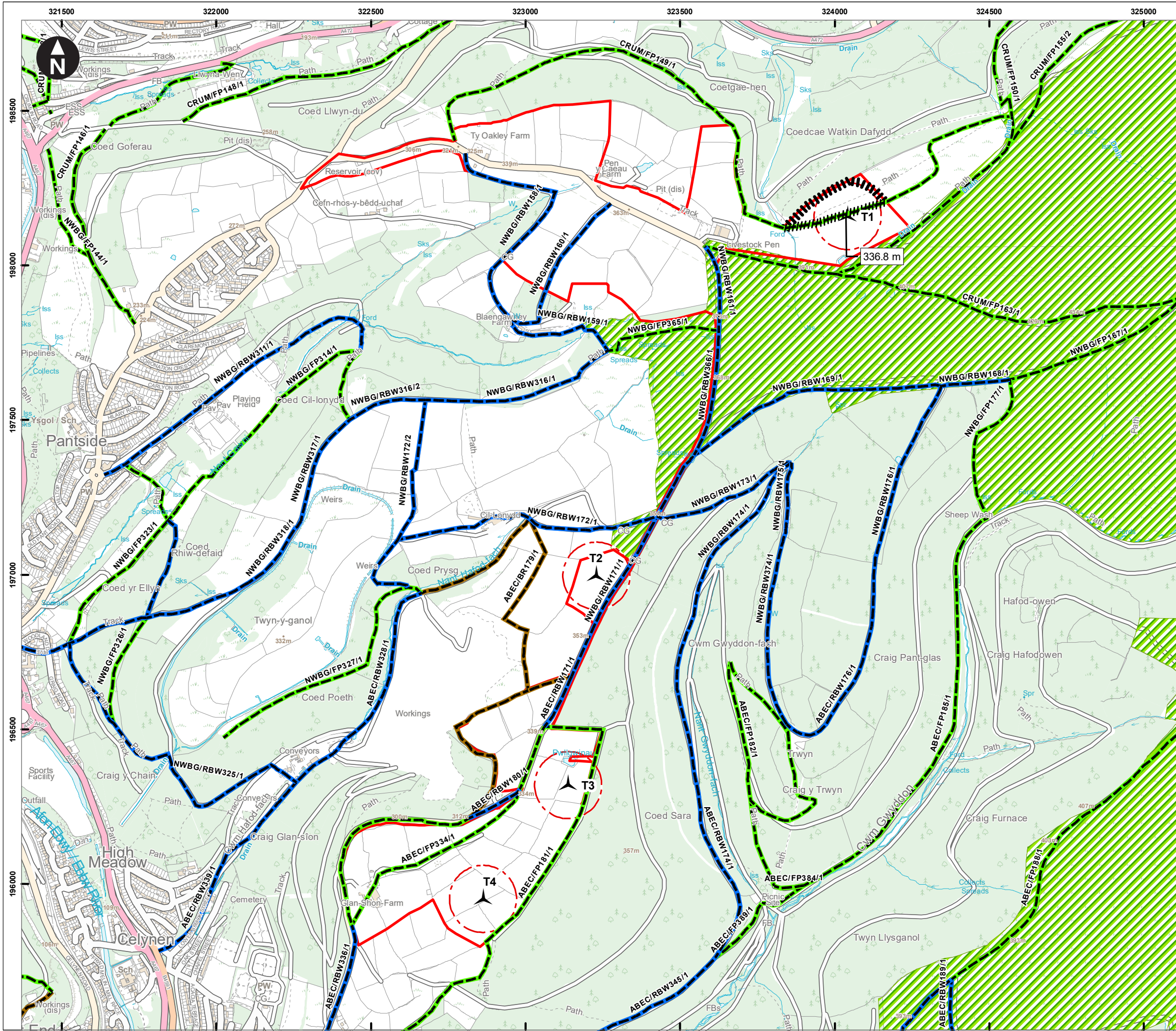
Objections

- If any objections to the proposed Order are made to the Welsh Government, they will be copied to the applicant so that he may, if he wishes, negotiate with the objectors with a view to resolving the objections. Where objections cannot be resolved within a reasonable timescale, it will normally be necessary for the Welsh Government to hold a local inquiry.

Return of form

- One completed copy of form TCPA 247(2011) (together with all the necessary enclosures) should be sent to:

Orders Branch
Transport
Welsh Government
Cathays Park
Cardiff
CF10 3NQ.

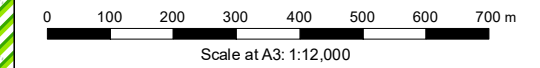
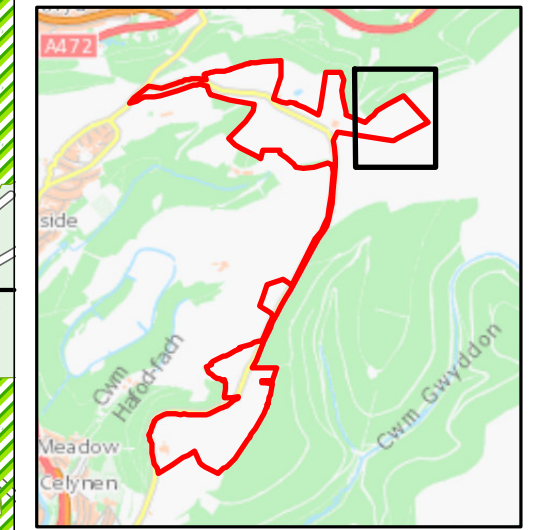


Key

- Site boundary
- 50m offset for PRowS (from tip)
- Turbine location
- Common land

Hawliau Tramwy Cyhoeddus / Public Rights of Way

- Llwybr Ceffyl / Bridleway
- Llwybr Troed / Footpath
- Cliffordd Gyfyngedig / Restricted Byway
- Footpath, to be stopped or diverted
- New footpath
- Length of footpath to be stopped or diverted

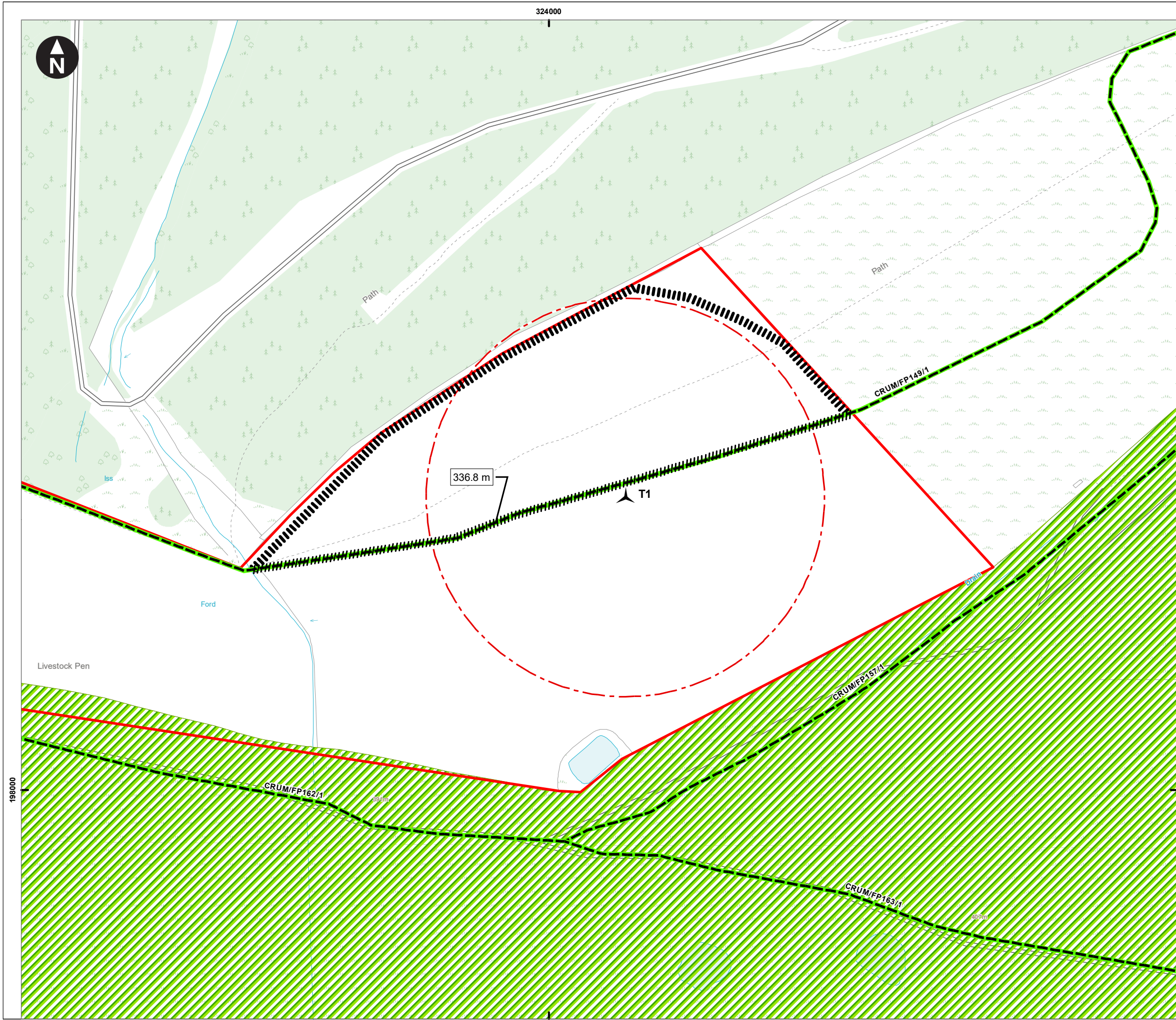


Contains OS data © Crown Copyright and database right 2020 © Crown copyright and database rights 2023 Ordnance Survey 010003 1673

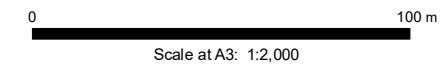
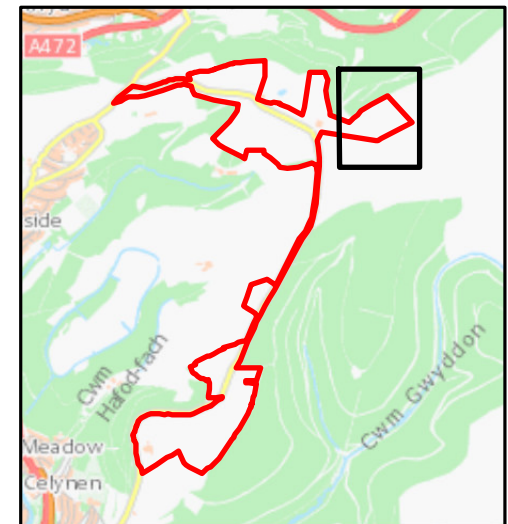
Trecelyn Wind Farm

Proposed Public Rights of Way Diversions

November 2023



- Key
- Site boundary
 - 50m offset for PRoWs (from tip)
 - Turbine location
 - Common land
- Hawliau Tramwy Cyhoeddus / Public Rights of Way**
- Llwyr Ceffyl / Bridleway
 - Llwyr Troed / Footpath
 - Cliffordd Gyfyngedig / Restricted Byway
 - Footpath, to be stopped or diverted
 - New footpath
 - Length of footpath to be stopped or diverted



Contains OS data © Crown Copyright and database right 2020
© Crown copyright and database rights 2023 Ordnance Survey
0100031673

Trecelyn Wind Farm

Proposed Public Rights of Way Diversions

November 2023

