



# Cyfoeth Naturiol Cymru Natural Resources Wales

## Assessment of a proposal to exclude the right of access for 5 years minus 1 day for the purpose of avoiding danger to members of the general public.

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### 1. SUMMARY

**Application reference number:** AP1861 965 for 5 years minus 1 day, which expires on 28 August 2018.

**Applicant:** Ms Rhian Evans, Natural Resources Wales (NRW), Government Buildings, Arran Road, DOLGELLAU, Gwynedd, LL40 1LW.

### 2. RELEVANT LEGISLATION

Using the powers granted by Section 25 (1) b of the Countryside and Rights of Way (CRoW) Act 2000.

**Application:** To completely exclude the right of access from 365.50 hectares of land known locally as "The Ranges", Trawsfynydd, Gwynedd, as outlined in blue on the map in Appendix 1.

### 3. PURPOSE

This Relevant Authority assessment is to determine whether or not it is necessary to exclude or restrict the right of access to a parcel of NRW land known locally as The Ranges, Trawsfynydd, Gwynedd for the purposes of avoiding danger to the public by reason of unexploded munitions on the site of a former Twentieth century War Department live firing range.

### 4. LOCATION DETAILS

**4.1 Site name:** The area is known locally as The Ranges, Trawsfynydd, Gwynedd. National Grid Reference (NGR) at the centre of the plantation is SH 760326. Its elevation is approximately 350 metres above sea level. Please refer to Appendix 1 for its location.

**4.2 Size of area:** 365.50 hectares.

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**4.3 Site physical description:** A former commercial forest plantation cleared in 2002 and 2003 of its original conifers planted between 1964 and 1966. Subsequently the area has been deliberately allowed to regenerate as a mixed woodland made up of open ground, ash, silver birch, willow and several areas of coniferous (spruce and larch species) natural regeneration.

**4.4 Land ownership:** The forest plantation is owned by the Welsh Government and is managed on its behalf by NRW.

## **5. LAND USE**

**5.1 Previous use:** The land was sold by Her Majesty's Principal Secretary of State for the War Department to the Minister of Agriculture, Fisheries and Food on 24 March 1964. Some of the land contained in this title deed had been extensively used for the live firing of a variety of ordnance from 1903 to the late 1950s. Former Forestry Commission Wales (FCW) records state that "In preparation for the planting of Sitka spruce, the area was ploughed [starting in 1964] by John Tudor Jones and Douglas E McRobert in specially armoured tractors. As they completed the work they unearthed in the region of 900 live items and about 20 tons of expended pieces of ordnance. In 1971 they were both awarded the British Empire Medal."

**5.1.1** Between 2002 and 2003 the former FCW undertook a tree felling programme across the entire site to remove the Sitka spruce and begin the process of conversion to a naturally regenerated mixed broadleaved woodland type. An operational risk assessment was undertaken and it was decided to employ BACTEC<sup>1</sup>, a leading Explosive Ordnance Disposal (EOD) and mine action company to clear the site of ordnance.

**5.1.2** The trees were felled using a system where the harvesting and extraction machinery only travelled on mats created from the tops of the felled trees. Therefore it was only necessary to clear ordnance on the area where these mats would lie and in total covered/accounted for approximately one third of the entire site i.e. approximately 120 hectares.

**5.1.3** The ordnance clearance work took 3 full time men 15 calendar months from August 2002 to October 2003 all inclusive. The results of which were a further 67 live items and 620 expended pieces of ordnance.

**5.1.4** Between September 2009 and March 2013 the former FCW as a responsible landowner undertook 3 further operational risk assessment surveys. This was in order to permit the safe upkeep of the Irish bridge and also the safety of local clay pigeon shoot members who on a permissive basis use a short length of internal forest road upon which also the realigned footpath 4 Trawsfynydd passes. The

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<sup>1</sup> BACTEC is an international EOD and Landmine Clearance Company, providing risk mitigation services. Established in 1991, BACTEC support construction projects and worldwide EOD initiatives both on and off shore. More at <http://www.bactec.com/about-us.htm> .

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results of which were the discovery of 3 further live items and 13 expended pieces of ordnance.

**5.1.5 Maritime and Land EOD Limited** undertook this work and using advanced equipment concluded that within every ten square metre area there is at least one “anomaly”<sup>2</sup>, which when interpolated for the remaining 245 hectares equates to approximately 24,500 pieces of ordnance, which at that time was estimated to cost at least 2 million pounds to remove.

**5.2 Present use:** The area has been allowed to regenerate as mixed woodland. However following its mistaken dedication<sup>3</sup> under Section 16 of the CRow Act, a minimalist non-intervention policy exists, which is reviewed from time to time.

**5.2.1** The local NRW Coed y Mynydd Forest District 10 year Forest Design Plan (FDP) for the area was renewed, submitted and approved by NRW Forestry Grants and Regulations staff on 10 May 2013. This FDP will next be reviewed by NRW District in 5 years time in accordance with standard industry/regulatory best practice.

**5.3 Environmental designations:** The site is located in the Snowdonia National Park and is surrounded by common land and the NRW site is part of the Nant y Graen a Nant Ganol site of special scientific interest<sup>4</sup> (31WGR). Different parts of the site are noted for their special interest in:

(a) Afforested peat types notably deep peaty soils, modified deep peaty soils, shallow peaty soils and soils with peaty pockets.

(b) Archaeological features including Defeidiog Ishaf, Defeidiog Isaf building and the Defeidiog Ishaf landscape.

(c) Geological features notably the presence of small prehistoric sea animal trilobite fossils.

## 6. LEGAL PUBLIC ACCESS

**6.1 Footpaths:** There are 2 public rights of way running through the site, notably footpath 4 Trawsfynydd to the west and footpath 2 Trawsfynydd to the east. Since 2009 the route of both footpaths have with Gwynedd County Council’s help been realigned on to internal forest roading making for a safer linear routes for use by members of the public.

**6.2 Sustrans cycle path:** The area is bisected on a west to east axis by a minor unclassified public road over which the Sustrans regional cycle route 13 passes on its 14 miles way to or from Llanuwchllyn to Trawsfynydd.

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<sup>2</sup> “Anomaly” refers to a metallic object that has a high probability of being a piece of ordnance that is more that likely to still be a live state.

<sup>3</sup> Please refer to section 7 of this report for a more comprehensive explanation

<sup>4</sup> Site of special scientific interest citation (Wildlife and Countryside Act 1981)

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**6.3 Usage levels:** The area experiences traditional seasonal peaks and troughs of visitors (walkers) using both public rights of way.

**6.4 Open country designation:** Since 9 June 2005 the area has been designated as open country having been dedicated in error by the former FCW on 9 December 2004 under Section 16 of the CRoW Act 2000.

**6.5 Previous CRoW directions granted:** To date NRW (formerly FCW) as the Relevant Authority body for forests and woodlands has on 4 separate occasions granted the permanent exclusion of public access from the area under the following application reference numbers:

(1) AP1002 106<sup>5</sup> for 9 months plus 1 day, which expired on 10 March 2006.

(2) AP 1004 727 for 6 months minus 1 day, which expired on 7 September 2006.

(3) AP1005 767 for 3 years, which expired on 4 September 2009; and

(4) AP1273 520 for 4 years, which expires on 30 August 2013.

## 7. RELEVANT ASSESSMENT CRITERIA

**7.1** The following excerpt is taken from the Countryside Council for Wales's Welsh Assembly Government approved (15 February 2011) "Statutory guidance to Relevant Authorities on their functions in relation to local access restrictions" document, "Wales Edition 2: December 2010"; "Criteria Set 20 (Chapter 2.5): Risks arising from unexploded ordnance"; pages 127 to 129 all inclusive in association with the "Determination Chart 2.5 – directions for land management or public safety reasons", page 53.

- *"Because of the danger of serious injury or death, intervention is likely to be necessary where there is a verified risk from unexploded ordnance".<sup>6</sup>*
- *"Restrictions will only be necessary in exceptional circumstances".<sup>7</sup>*
- *"Exclude people from any area where there is significant confirmed danger until it has been neutralised or removed".<sup>8</sup>*

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<sup>5</sup> Without an application being made by the landowner due to significant public safety concerns

<sup>6</sup> Countryside Council for Wales's Welsh Assembly Government's approved statutory guidance to Relevant Authorities; criteria set 20, Step 5, page 127.

<sup>7</sup> Countryside Council for Wales's Welsh Assembly Government's approved statutory guidance to Relevant Authorities; criteria set 20, Step 6, page 128.

<sup>8</sup> Countryside Council for Wales's Welsh Assembly Government's approved statutory guidance to Relevant Authorities; criteria set 20, Step 7, page 128.

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- *“Leave residual routes or areas open to the public if it is safe and practicable to do so”.*<sup>9</sup>
  - *“If appropriate, return to step 8 (“Give a direction?”) of the explanatory notes for Determination Chart 2.5”.*<sup>10</sup>

## **8. DECISION – RESTRICTION AND/OR EXCLUSION**

**8.1** As the Relevant Authority body for forests and woodlands, excluding those on common land, I have been informed by the applicant/landowner of an error on their part in originally dedicating the parcel of land concerned.

**8.1.1** Had the content of the title deed indicated any association with its previous military land use, then the dedication in 2004 would not have taken place.

**8.1.2** For information the name of the CRoW dedication instrument concerned is shown as “Ffridd Dôl-y-moch, Trawsfynydd, Gwynedd,” which is the 365.50 hectare area within a title deed totalling 729.57 hectares. Please note that on the conveyance document this entire area is recorded as “Freehold land in the Parish of Trawsfynydd in the County of Merioneth,” dated 24 March 1964.

**8.1.3** The applicant/landowner with the Relevant Authority have undertaken a due diligence exercise in examining the primary legislation concerned and have regrettably concluded that there are no existing provisions with the Act for public safety reasons or administration errors, other than mistakenly dedicating someone else’s land, which is not the case here, to renege or revoke the original executed dedication instrument dated 9 December 2004.

**8.1.4** Therefore following submission of an application from the landowner to exclude permanent public access from the entire area for a period of 5 years minus 1 day, NRW as the Relevant Authority body for forests and woodlands is content that the parcel of land as described above continues to pose a “significant risk” to the public under the aforementioned criteria.

**8.1.5** It is therefore our intention to give a long term Direction for the permanent exclusion of the public from the land described (365.50 hectares) for 5 years minus 1 day from 00.00 hours on Friday 30 August 2013 as detailed in the attached draft long term Direction.

## **9. ACTIONS**

**9.1** NRW as the Relevant Authority body for forests and woodlands are minded to give a draft long term Direction under Section 25 (1) b and submit subsequently for

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<sup>9</sup> Countryside Council for Wales’s Welsh Assembly Government’s approved statutory guidance to Relevant Authorities; criteria set 20, Step 7, page 129.

<sup>10</sup> Countryside Council for Wales’s Welsh Assembly Government’s approved statutory guidance to Relevant Authorities; criteria set 20, Step 8, page 129.

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consultation to the Local Access Forum and statutory consultees as provided for either under Section 27 (1) of the Countryside and Rights of Way Act 2000 and or under Regulation 6 (2) and (3) (a) of the Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003, recommending a continued exclusion of permanent public access to the site on public safety grounds.

## **9.2 Actions following the giving of a Direction**

- As required by the Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003, Regulation 12 (f), provide a copy of the final Direction to all seven statutory consultees listed in Schedule 1 pursuant to Regulation 6 (2) of the Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003.
- As required by the Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003, Regulation 12 (e) and (f), provide a copy of the final Direction to (1) the Local Access Forum, namely the Secretary of Snowdonia South Local Access Forum and (2) to the Access Authority, namely the Rights of Way Team Leader, Gwynedd County Council.

## **9.3 Site based actions following the granting of a Direction**

- New exclusion signage, including a map, to be replaced/updated at various locations on the periphery of the site. The landowner to complete this as soon after approval of the Direction.
- NRW Dolgellau office staff to monitor and maintain this site signage on a regular basis.

**Chris Botting MBA, MICFor  
Regulatory Case Manager  
Forestry Grants and Regulations  
Natural Resources Wales**

**17 May 2013**

# APPENDIX 1: Map of the 365.50 hectare NRW affected area

