

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

**Number: 12**

**Application Number:** C13/0217/22/MW

**Registration Date:** 11/04/2014

**Type of application:** Minerals

**Community:** Llanllyfni

**Ward:** Penygroes

**Proposal:** Environment Act 1995. Application for the determination of conditions to re-activate a dormant sand and gravel site under planning permission 2250 dated 10 December 1951 - field no. 297, Cae Efa Lwyd, Penygroes

**Location:** Penygroes Quarry, Cae Efa Lwyd Fawr, Clynnog Road, Penygroes, Caernarfon, LL546PB

**Summary of Recommendation:** TO AUTHORISE THE SENIOR MANAGER OF PLANNING, ENVIRONMENT AND PUBLIC PROTECTION SERVICE TO DETERMINE THE SCHEME OF CONDITIONS UNDER DELEGATION SUBJECT TO MODIFICATIONS AS PROPOSED BY THE MINERAL PLANNING AUTHORITY

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

## Description:

- 1.1 This is a Mineral Sites Review Application, submitted under the Environment Act 1995 for the approval of a scheme of working and schedule of planning conditions on a dormant minerals site.**

### **IT IS NOT AN APPLICATION FOR PLANNING PERMISSION**

- 1.2 The planning committee will also be required to make a decision on a separate planning application for a new vehicular access to serve the sand and gravel pit under reference C17/0455/22/LL.**

1.3 Ellesmere Sand and Gravel Ltd. have submitted an application to recommence operations for the winning and working of sand and gravel at Cae Efa Lwyd, Penygroes. The site is classified as dormant under the Environment Act 1995, where the purpose of a Minerals Review is to submit a scheme of working and full schedule of planning conditions for the approval of the mineral planning authority prior to the commencement of operations. It is the responsibility of the mineral operator to submit a detailed scheme of working and schedule of planning conditions that demonstrate how the development may be implemented in an environmentally acceptable manner, consistent with modern environmental standards and working practices.

1.4 Cae Efa Lwyd is located directly west of Penygroes, and comprises of an agricultural holding and former mineral working with direct access onto the Ffordd Clynnog unclassified highway. The minerals review application was registered with the authority in April 2014 and proposes the winning and working of sand and gravel within a deposit measuring 3.10ha. The submission does not include proposals for the installation of machinery for the screening, crushing or washing of mineral, given that Cae Efa Lwyd will serve as a satellite site, where as-dug material will be transported to the existing operation at Cefn Graianog for processing and sale. Consequently, the review submission does not include proposals for the disposal of silt and waste arising derived from any washing processes and therefore will not require the installation of additional infrastructure such as settlement lagoons. Any overburden and soils stripped from the area of working will be stored in screening bunds along the eastern and southern boundary of the site which will be used to restore the site upon cessation of operations.

1.5 Following the consultation exercise in 2014, the authority issued a formal request for additional information in response to the concerns of Natural Resources Wales and Gwynedd Council Public Protection, Transportation and Biodiversity services. The authority has re-consulted on additional information submitted in June 2017 covering, hydrology, borehole data, updated ecological & protected species surveys, landscape and visual impact assessment, noise assessment, air quality assessment, transport assessment and revised restoration concept. Critically, the submission now includes for an alternative scheme of working as part of the development proposals following the submission of a planning application ref. C17/0455/22/LL for a new vehicular access onto Allt Goch. Also, a re-assessment of mineral reserves to ensure dry working above ground water to which the applicant proposes that the base level of extraction be curtailed from 88m AOD to 96m aOD. This would mean that the volume of material that may be exploited from the winning and working of minerals is reduced from 500,000 tonnes to 320,000 tonnes.

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- 1.6 Old mineral planning permissions are the subject of a statutory review and there are two types of review. Interim Development Order (IDO) for permissions (granted between 1943 and 1948) that are the subject of a formal review under the provisions of the Planning and Compensation Act 1991, and 'The Environment Act 1995, Review of Old Minerals Permissions', (ROMP) sites granted planning permission for mineral working between 1948 and 1982. Unless otherwise specified, a time limit up to 22 February 2042 applies to all mineral planning permissions subject to an (IDO) or (ROMP) review.
- 1.7 Cae Efa Lwyd Fawr, specifically Field 297, has the benefit of Planning Permission (REF: 2250 – *Re-opening of an existing gravel pit at Cae Efa Lwyd Fawr, Penygroes* – dated 10th December 1951). The Site was subsequently included in the first list of Mineral Sites as a dormant permission in accordance with Schedule 13 of the Environment Act 1995, where sites have not been worked to any substantial extent between 22nd February 1982 and 6th June 1995. Holders of “dormant site” permissions have to apply to the Mineral Planning Authority (MPA) for a review of the old mineral permission which includes a scheme of working and determination of new planning conditions.
- 1.8 Under the Environment Act 1995, Mineral planning authorities may either approve the scheme of conditions as submitted, or may determine a different scheme of conditions. However, the mineral planning authority must determine the conditions within a specified period. If the submission is not determined within that period (or as varied by agreement), the scheme of conditions is automatically deemed to be approved.
- 1.9 The application for the determination of conditions under Initial Review does not fall within the description and criteria set out in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 but does fall within the description of development set out in paragraph 2 to Schedule 2 (quarries, open cast mining and peat extraction). Having screened and assessed the proposal in accordance with the development criteria under Schedule 3, it is considered that the likely impact of the development on the environment is insufficient to justify the submission of an environmental impact assessment with the planning application.
- 1.10 The adoption of this screening opinion considers changes to the application proposals not previously assessed in the screening opinion adopted on the 2nd May 2014. Supplementary information on the ROMP application has been submitted in response to the formal request of the mineral planning authority and includes the following changes.

### **Overview of the Minerals Review Proposals**

- 1.11 Whereas the 2014 submission proposed a total of 500,000 tonnes to be removed over a period of 17 years, i.e. average of 30,000 tonnes per annum, the supplementary information includes a revised assessment of the mineral reserves at 320,000 tonnes to be worked to a depth of 96m aOD as opposed to 88m aOD, in the interests of ensuring dry working above ground water. The revised proposal discusses two scenarios which differ in terms of the phasing of operations;
- 50,000 tonnes per year for 7 years using the existing access onto the Ffordd Clynnog unclassified road. This will involve the working of mineral down to a level of 102m aOD during the first phase of operations. The second phase of operations will continue with the deepening of the workings down to the base level of 96m aOD with restoration to commence thereafter.

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- 100,000 tonnes per year for 3 years, subject to the favourable outcome of an application for a separate vehicular access onto Allt Goch, which would provide a direct link to the A487 roundabout, approximately 430m east. This will involve the extraction of mineral down to the base level of 96m aOD, with extractive operations thereafter progressing from west to east behind a 4m working face with direct vehicular access onto the Class 3 highway at Allt Goch. Restoration will commence within the worked-out area during phase 3 of operations as extraction progresses in towards the eastern extent of the working.
  
- 1.12 Both schemes include for the stripping of soils across the entire area of working for all phases of development and which will require the placement of soil bunds and acoustic fencing along the southern and eastern limitations of the site.
  
- 1.13 With an application for the determination of conditions on a Dormant minerals site, the principle of quarrying has already been established with the grant of planning permission and it should be borne in mind that the review process cannot negate those permissions or restrict working rights without incurring a prohibitive liability for compensation. The only matters which the mineral planning authority can consider are the conditions relating to the permission and the scheme of working, not the principle of the development.
  
- 1.14 The purpose of the application is to apply full, modern conditions to which the development of the quarry should be subject to. Dormant permissions cannot lawfully be reactivated until an application has been made to, and full modern conditions approved by the MPA. A list of new planning conditions as proposed by the applicant is attached to this report (Appendix 1). A revised list of conditions with changes as proposed by the Mineral Planning Authority is provided in (Appendix 2). In accordance with planning regulations, conditions must be;
  - i. Necessary
  - i. Relevant to Planning
  - ii. Relevant to the Development
  - iii. Enforceable
  - iv. Precise
  - v. Reasonable in all other respects
  
- 1.15 It is important to distinguish this type of application from an application made under the Town and Country Planning Act 1990 for planning permission as the quarry has an extant planning consent that allows the extraction of sand and gravel up until 2042 and there is no mechanism under the Minerals Review legislation to refuse the application. The Council may apply conditions different from those submitted by the operator and a distinction is drawn between ‘active’ minerals site and those classified as Dormant. Normally, liability for compensation will arise if the effect of the restrictive condition on an ‘active site’ is to; “... *prejudice adversely to an unreasonable degree either the economic viability of the operation or the asset value of the site ...*” and in such cases, the Mineral Planning Authority is required to give notice that they have determined conditions different from those submitted by the applicant and further specify the restriction on working rights.
  
- 1.16 However, Mineral Planning Authorities are expected to impose ‘full modern conditions’ on Dormant sites and they may do so with a reduced liability for compensation, even if this would compromise the sites’ economic viability or affect their asset value. Applicants have a right of appeal to the Welsh Government with 6 months of the MPA’s notice of determination if they consider the conditions imposed

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

by the Mineral Planning Authority unreasonable in any respect. However, if the application was refused or conditions were imposed which had the effect of preventing the reopening of a site, amounting to a revocation of the planning permission by stealth, this could attract a claim for compensation through the courts and the applicant would be able to challenge the whole decision and any conditions imposed by the mineral planning authority.

- 1.17 Para 74 of MPG 14 (*Review of Mineral Planning Permissions*) generally deals with compensation for Initial Reviews. It does not exclude dormant sites, and the inference is that compensation is payable irrespective of being a phase 1, phase 2 or a dormant initial review site. Para 82 further states; “*there should not be a sliver of difference between the approach to conditions for IDOs and the approach to conditions for Initial Reviews ..... that there should be no compensation for any new environmental, amenity and restoration conditions imposed*”. If the effect of different conditions is that there is no restriction of working rights, no compensation is payable. If the new conditions do restrict working rights but the effect is not to unreasonably prejudice to an unreasonable degree, the economic viability or asset value of the site then again there is no liability for compensation.
- 1.18 Paragraph 84 of MPG 14 states that neither economic viability, nor asset value are defined in the Act and the words have their common every day meaning. The guidance goes on to say; “*... economic viability means the ability of a site to produce sufficient revenue to cover all of its operating costs (including finance costs and depreciation) and produce an appropriate return on capital. The asset value of the site is the remaining mineral in the ground for which planning permission exists and stockpiled material, together with the land, buildings and fixed plant and machinery*”.
- 1.19 When assessing the risks of compensation there are a number of factors that the MPA would need to take into account. At a dormant ROMP site, there is clearly no active working, and indeed no working for some considerable time, measured in this instance in decades and in such cases, there is a government expectation that environmental amenity controls are imposed.
- 1.20 If the area of extraction was limited to a lesser area than the current consent permits via a limit of extraction condition, this permanently sterilises the mineral, and in normal circumstances the lost mineral would be subject to compensation for loss of profit. Limiting the area of extraction can also have the effect of sterilising mineral beneath the areas which are able to be worked, as the sand pit may not be able to go as deep and there would be losses under the slopes as well, so a small loss around the edge of a quarry can have a much larger volume of mineral that becomes sterilised.
- 1.21 In consideration of the proposals against the criteria for restriction of working rights under Paragraph 1(6) of Schedule 13 to the Environment Act 1995;
- The proposals do not include for the depositing of mineral waste other than overburden and soils used in the formation of acoustic bunds along the site boundary. Given that all of the material will be taken to Graianog for processing, the issue of restricting the height & quantity of any amount of mineral waste or the rate at which it may be deposited lies outside the scope of the Minerals Review application and unlikely therefore to give rise to a claim for compensation,
  - A revised assessment of groundwater restricts the depth of working to 96m aOD as opposed to 88m aOD, in the interests of ensuring dry working. A reduction in mineral reserve from 500,000t to 320,000t, as proposed by the applicant is a voluntary undertaking and lies outside the probability of the

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

authority being liable to a claim for compensation. However, to further restrict the depth of working, the size of the area which may be used for the winning and working of minerals or the total quantity of minerals extracted, (i.e. 320,000t), would be open to a claim for compensation,

- The application considers two output scenarios and proposes that mineral extraction at the site be completed before the default permission date of 2042, i.e. 50,000tpa for 7 years and 100,000tpa for 3 years. Given that this will not be an open-gate site within which there is any processing or direct sales involved, then limiting the hours of working or rate of output is less liable to compensation, as it is a whole lot easier to simply dig and export as dug mineral to another site for onward processing and sale. In consideration of potential noise, dust and amenity impacts, there may be scope to rationalise the output and proposal for a new access, i.e. a reduced output of between 50,000t and 100,000t but for a longer operational period, conditional on the construction and use of a new vehicular access as proposed under planning ref. C17/0455/22/MW.
- There would be no liability for compensation in respect of compliance with pre-commencement conditions requiring the submission of specific schemes of restoration and aftercare or further details of pollution prevention measures or schemes of working to further mitigate for the impacts of the development on residential amenity.

## 2. Policy Considerations

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 3.1.2 of Planning Policy Wales emphasise that decisions should be in accordance with the Development Plan, unless material considerations dictate otherwise. Planning considerations include National Policy and the Gwynedd & Môn Joint Development Plan, July 2017.

2.2 Under the Wellbeing of Future Generations (Wales) Act 2015 the Council not only have a duty to carry out sustainable development, but must also take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act, and in making the recommendation the Council have sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed determination.

### 2.3 Anglesey and Gwynedd Joint Local Development Plan (July 2017)

Strategic Policy PS 5: Sustainable Development

Strategic Policy PS 6: Alleviating and Adapting to the Effects of Climate Change

Strategic Policy PS 13: Providing Opportunity for a Flourishing Economy

Strategic Policy PS 19: Conserving and Where Appropriate Enhancing the Natural Environment

Strategic Policy PS 20: Preserving and Where Appropriate Enhancing Heritage Assets

Strategic Policy PS 22: Minerals

POLICY AMG 3: Protecting and Enhancing Features and Qualities that are distinctive to the Local Landscape Character

POLICY AMG 5: Local Biodiversity Conservation

POLICY AT 4: Protection of Non-Designated Archaeological Sites and Their Setting

POLICY PCYFF 2: Development Criteria

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

POLICY PCYFF 4: Design and Landscaping  
POLICY PCYFF 6: Water Conservation  
POLICY TRA 4: Managing Transport impacts  
POLICY MWYN 2: Preferred Areas  
POLICY MWYN 3: Mineral Developments  
POLICY MWYN 5: Buffer Zones Around Mineral Sites  
POLICY MWYN 9: Restoration and Aftercare

### **Gwynedd Supplementary Planning Guidance,**

- Gwynedd Design Guidance 2004
- Landscape Character – November 2009
- Planning and the Welsh Language November 2009

#### **2.4 National Policies:**

- Well-being of Future Generations Act (Wales) 2015 – Welsh Government,
- Policies, guidance and general principles set out in the Welsh Assembly Government Planning Policy Wales Edition 9 (November 2016),
- Environment Act 1995,
- Mineral Planning Guidance Note: 14 (Review of Old Minerals Permissions),
- Policies, guidance and general principles set out in the Welsh Assembly Government Technical Advice Note (Wales) 5: Nature Conservation and Planning (September 2009),
- Policies, guidance and general principles set out in the Welsh Assembly Government Technical Advice Note (Wales) 11: Noise (October 1997),
- Policies, guidance and general principles set out in the Welsh Assembly Government Technical Advice Note (Wales) 18: Transport (March 2007),
- Policies, guidance and general principles set out in the Welsh Assembly Government Technical Advice Note (Wales) 23: Economic Development (February 2014),
- Policies, guidance and general principles set out in the Welsh Assembly Government Minerals Technical Advice Note (Wales) 1: AGGREGATES (March 2004),
- North Wales Regional Technical Statement on Aggregates, First Review August 2014.

### **3. Relevant Planning History:**

3.1 Cae Efa Lwyd Fawr, specifically Field 297, has an existing Planning Permission (REF: 2250 – Re-opening of an existing gravel pit at Cae Efa Lwyd Fawr, Penygroes – dated 10th December 1951). Permission granted subject to four conditions;

- 1) *No workings being carried out nearer than 50 feet to the centre of the road.*
- 1) *The existing access being widened to 12 feet and set back a distance of 10 feet from the road boundary wall, with the walls on each side splayed at an angle of 45°.*
- 2) *Operations being continued in a northerly direction from the existing working face in the first instance, any overburden being used to restore the worked out areas as operations proceed. Worked out areas shall be left reasonably level and capable of promoting plant growth, abandoned faces being left at the natural angle of repose. Any excavations below the level of the road shall be suitably re-filled to leave a uniform surface.*
- 3) *All buildings plant machinery shall be removed as soon as they are no longer required for their purposes.*

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

#### 4. Consultations:

Llanllyfni Community Council: Object to the original proposal on the following grounds;

- Existing access too close to dwellings,
- Will cause and exacerbate traffic problems,
- B4418 too narrow with a weight restriction of 7.5 tonnes,
- More information required on haulage movements,
- 17-year timescale too long,
- Many changes to the original application granted in 1951,
- Health and safety implications.

No Objection in response to consultation on the revised proposals but request that planning conditions address the requirement for;

- Dust assessments
- Impacts of the proposal on nearby residential properties
- Restriction on haulage movements & school hours
- Cleaning

Gwynedd Transportation Unit:

- Concerns as to the impacts and duration of heavy haulage using the existing access onto the unclassified road which serves a number of residential properties including one property located directly opposite. Road unsuitable for heavy haulage movements which would inevitably lead to conflict with local traffic,
- Invite applicants comments as to the use of an alternative vehicular access onto the Class 3 highway at Allt Goch given that the existing junction suffers from poor visibility in a westerly direction where residents of Clynnog Road already depend upon a convex visibility mirror when turning. Proposals to run regular heavy haulage from this junction cannot be supported by the Highway Authority,
- Recommend that the applicant considers the use of the existing farm access serving Cae Efa Lwyd Bach located further west along the Class 3 highway at Allt Goch. Visibility splays could be improved but also the widening of Allt Goch to provide two-way traffic along the entire route used by HGVs to access the quarry,
- 7.5T weight restriction along the entire length of the class 3 highway, imposed as an environmental measure to prevent the use of the road as a rat run between the A499 and the quarries of the Nantlle valley and there is no structural reason for the weight limit. However,

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

proposals to run regular heavy loads from the site to the A487 roundabout at Penygroes could still be deemed to be in contravention of the order and the response further suggests that the matter could be resolved with the widening of the carriageway, amending the order and provision of alternative signage at the applicant's expense.

Welsh Government  
Transportation Unit:

Welsh Government as highway authority for the A487 trunk road does not issue a direction in respect of the proposal.

Natural Resources  
Wales:

- In response to updated borehole information, recommend that the authority should only determine the scheme of working subject to a condition stipulating no working of mineral below 96m aOD in the interests of protecting the local water table and water resources in the area,
- A surface water management plan will be required for drainage from haul roads and all material storage and working areas must have appropriate containment to ensure that any run off is contained and managed to ensure that there is no impact on any watercourse. A road drain was noted opposite the current field entrance (*Ffordd Clynnog*), drainage from the site road must not run directly to this drain.
- A permit from Natural Resources Wales may be required for the discharge of site drainage to any waterbody, or drainage system that enters a waterbody. Only clean, uncontaminated water may enter a soakaway and a settlement lagoon or tank should retain contaminated water long enough for silt to settle out,
- Any foul water disposal from the quarry would be subject to an environmental permit granted by NRW,
- Agree with the conditions proposed for pollution prevention measures employed on site. E.g. oil and fuel storage and leak prevention measures. The applicants should submit a method statement detailing what will happen and mitigation measures if there is a pollution incident on site. Refer to NRW's statutory guidance for pollution prevention to reduce the pollution risk, but the applicant must ensure that:
- Plant and wheel washing is carried out in a designated area of hard standing at least 10 metres from any watercourse or surface water drain,
- Run-off is collected in a sump - recycled and reused where possible,
- Settled solids are removed regularly,

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- Discharge of contained water goes to foul sewer (if possible) with prior permission from your local sewerage provider or tankered off site for authorised disposal
- Agree with a condition to prevent the importation of waste material on site,
- Badger survey confirms positive evidence of a badger sett within the former working. These setts would be destroyed under licence as part of the proposal and replaced by an artificial sett located as close as possible to the current main sett and in an area that lies within the badger group's territory.

Gwynedd Biodiversity Unit:

- National legislation places a duty on local planning authorities to have regard to conserving biodiversity and compliment the sustainability objectives of the Wellbeing and Future Generations Act. TAN 5 states that the planning system has an important role to play in meeting biodiversity objectives,
- Submission highlights the main ecological interests of the site including acid grassland, badgers, reptiles, invertebrates but not field boundaries, hedges & cloddiau. Main concern is the presence of Badgers on site,
- Badgers protected under the Badgers Act 1992. The site included a large and significant badger sett which was the subject of closure and provision of an artificial alternative granted under licence by Natural Resources Wales.
- Updated Badger Survey undertaken to a good standard,
- Alternative sett has not proved to be successful with trees damaged by grazing livestock and consequently, there appears a new badger sett re-established within the quarry. Concerns remain as to the impacts of the ROMP on badgers and therefore an additional alternative sett will need to be constructed together with tree planting before works commence on site.
- Field boundaries surrounding the site are varied and include hedgerows and cloddiau of high biodiversity value. Hedgerows & cloddiau contain a range of plant species and are likely to support protected species of nesting birds and reptiles with the quarry pit providing good habitat for invertebrates and sandy faces and bare ground providing habitat for solitary wasps and bees. Mitigation required for the retention of cloddiau & hedgerow including buffer zones & restoration proposals,
- Restoration plan should include compensation measures for the impact of the development

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

proposals on biodiversity including badgers, reptiles, invertebrates, lowland acid grassland & sand habitat. Also restoration of cloddiau & hedgerow,

- No cutting or removal of trees or shrubs during the bird nesting season unless otherwise informed in writing by the LPA.
- Before hedgerows and cloddiau are removed, measures to avoid harm reptiles must be agreed with the LPA,
- Provision for an alternative badger sett & foraging habitat & monitoring scheme. Quarry works must not commence until the replacement badger sett has been enhanced to the satisfaction of the LPA. All recommendations in the badger report dated 2<sup>nd</sup> August must be completed to the satisfaction of the LPA.

Dŵr Cymru:

No Response

Gwynedd Public Protection Unit:

Public Protection are concerned as to the nature of the development and proximity of residential properties and would prefer the Alternative Access scheme based on the shorter duration of operations, subject to the following requirements;

- Use of access & operation of the site restricted to 08:00hrs to 18:00hrs Monday to Friday and not at all on Saturdays, Sundays or Bank Holidays,
- Written record maintained at the site office of all HGV movements/output and that such records contain the vehicle's weight, registration number, time and date of vehicle movements and that such records be made available for inspection by the mineral planning authority upon request at any time during permitted working hours,
- The number of vehicles and daily movement of HGVs should be restricted by condition,
- Details of a wheel wash facility to be submitted for the approval of the mineral planning authority specifying the location, design, specification and controls to ensure correct usage. All vehicles transporting material less than 100mm in dimension shall be securely sheeted,
- Increased temporary daytime limits are suggested of up to 67 dB LAeq, 1h (free field) for up to 8 weeks in a year. Any amended report should note such temporary works proposed,
- Duration of soil stripping operations for each phase & possible migration of fugitive dust. Phases to be scrutinised to ensure best practice is maintained,
- Boundary of nearest sensitive property 20m from the site. The Mineral Technical Advice Note (Wales) recommends 100 metres minimum for

sand and gravel between active operational areas of a pit (not the application boundary) and sensitive property. Where these distances are less than further mitigation will be required with justification,

- Soil bunds only provide temporary screening for certain phases & eastern bund to be removed upon cessation of Phase 2 of operations. Existing site entrance is between two barriers to the nearest property, offering no attenuation and in-line of sight of the proposed development,
- Potential noise impacts are associated with mobile site plant and vehicle movement. The assessment makes calculations at sensitive receptors for a worst case scenario of all activities operating concurrently; and these are compared against suggested noise limits set out in the relevant guidance,
- Given the proximity of residential properties in a mainly rural area, the accuracy of any given background noise measurements for the basis to predict compliance with the guidelines and where additional measures are required. It is recommended to aim to establish noise limits at the noise sensitive properties that do not exceed the background level by more than 10 dB(A) as stated in (MTAN1). Public Protection service recommend that, due to the close proximity of the workings to noise sensitive properties, further protection should be afforded,
- There remains some concern as to the impacts of the operation on a Saturday morning and the appropriate mitigation that may be applied. The noise report proposes 'restricted working' on Saturday mornings to exclude any operations at the working face, given that residential dwellings within the vicinity of the site generally experience lower background sound levels on weekends due to a reduced contribution from commuter road traffic on the local road network,
- Recommend that permission is not granted for any operations on a Saturday,
- Noise mitigation scheme to be submitted for the approval of the mineral planning authority, specifying the provisions to be made for the control of noise from fixed and mobile plant or machinery,
- Public Protection confirmed that the UK National Air Quality Strategy directs the relevant air quality criteria for particulates and it is important that any air pollutants arising from the works do not have an adverse impact on public health. Public Protection maintain that local air quality monitoring should have been conducted,

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- It is considered that air quality can be controlled by planning conditions. On the request of the mineral planning authority, air quality monitoring shall be undertaken for a minimum period of 6 months to measure the Air Quality Objectives and/or Dust Deposition Rate,
- Dust monitoring should include reference to the use of dust deposit gauges and gravitational surveys to provide a greater degree of accuracy of basal measurements as a means of comparison when the site is operational. Recommended that a dust management scheme is prepared and put into place with the following matters conditioned;
  - The levels of PM10's shall not exceed 50µg/m<sup>3</sup> as a daily mean with no more than 35 exceedances per year, and 40µg/m<sup>3</sup> measured as an annual mean, when measured at the nearest sensitive human health receptor,
  - The levels of PM2.5 shall not exceed 25µg/m<sup>3</sup> as an annual mean, when measured at the nearest sensitive human health receptor,
  - Nitrogen Dioxide NO<sub>2</sub> levels shall not exceed an hourly mean of 200µg/m<sup>3</sup> more than 18 per year, and shall not exceeded 40µg/m<sup>3</sup> measured as an annual mean and shall be measured at nearest sensitive human health receptor,
- For statutory nuisance and requirement for dust deposit gauges, UK guidance suggests a guideline value of 200 mg/m<sup>2</sup>/day, averaged over 1 month – annual mean as an indication of likely nuisance.

Betsi Cadwaladr  
University Health  
Board:

- Quarries and associated activities are potential sources of fine and coarse particulate air pollution, but emissions can be minimised by effective management of site activities,
- Exposure to elevated concentrations of fine airborne particulates (PM10 and smaller fractions) may cause adverse health effects, coarse particles do not have the same potential to cause direct health effects, but can cause annoyance and consequently impact indirectly on well-being and quality of life,
- Agree with the concerns raised by Gwynedd Council Public Protection on the possible impacts on air quality and noise given the proximity of residential properties but also the survey methodology used by the applicant,
- Reference to the relevant guidance and policies in Planning Policy Wales & MTAN1 (Aggregates) concerning the minimum separation buffer of 100m applied to sand and gravel workings unless

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

there are clear and justifiable reasons for reducing the distance. Also, the potential impact on health must always be considered in relation to proposals for aggregates extraction,

- Quarry proposals would not require a permit under the Environmental Permitting Regulations and in the absence thereof, strict, enforceable planning conditions are required to ensure appropriate controls for emissions are in place. To minimise the likelihood of direct and indirect public health impacts, it is recommended that the LPA is satisfied that;
  - The relevant requirements of MTAN1 have been addressed,
  - Effective dust control techniques applied for the duration of the development including soil stripping, extraction & restoration,
  - Suitable offsite dust (including PM10 fraction) monitoring scheme is agreed,
  - Noise predictions based upon a background noise survey with effective noise control for the duration of the development to ensure that noise levels do not exceed background levels by margins greater than as agreed by the LPA,
  - Noise level predictions rely on the construction of bunds along the southern and eastern boundaries of the site which are scheduled for removal during the final phase of the development. Concern that the noise mitigation provided by the bunds will be removed.
  
- Site given as Grade 4 under the agricultural land classification system, being improved pasture grazed by sheep surrounding a former sand pit with evidence of recent gorse clearance,
- Soil depths and textures vary considerably across the site and restoration includes for the creation of 1.66ha of semi improved acid grassland. Concerns as to soil recovery estimates and soil storage bund heights & soil bund construction limits,
- A clear indication of agricultural aftercare is required including soil restoration depths,
- A clear indication of the soil handling method required – stripping and replacement,
- Clear indication of the depth and material at which the final landform will be ripped,
- Concerns about achieving the objective of agricultural restoration, slope gradients, drainage issues and surface water ponding, how the

Welsh Government  
Land Use Planning  
Unit:

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

landform will fit in with the surrounding land and whether it is too small an area to be practically farmed,

- Not clear whether agricultural restoration is appropriate for the entire area of working given the uncertainty over drainage and estimated soil volumes. It may be more appropriate to consider confining the agricultural area to the slopes, maximising the soil resource in such areas for productive grazing, or specifying an alternative afteruse.

Gwynedd  
Archaeological Planning  
Service:

- As this is an application to determine conditions for the reactivation of workings under an existing permission, it is not possible to stipulate pre-determination archaeological work. Given this restriction, it is appropriate to address potential archaeological impact through planning conditions including;
- The specification for archaeological work to be submitted for the approval of the mineral planning authority prior to the commencement of development (including ground disturbance works or site clearance),
- Development and all archaeological work to be carried out in accordance with the approved specification,
- Anticipated that the archaeological mitigation will comprise a staged programme of work, including an initial walkover survey, possible trial trenching and strip, map and record.

Inspectorate of Quarries: No Response

Scottish Power: No Response

British Gas TRANSCO: No Response

British Telecom: No Response

Welsh Government  
Department for Energy,  
Planning and Rural  
Affairs:

The application has been included on the Welsh Government statutory list for potential call-in. Welsh Government would wish to view a copy of the committee report and consult with their own advisors prior to the Minister deciding if the Welsh Ministers wish to determine the application or if the application is left with Gwynedd Council to determine.

A letter from the Welsh Government Department for Energy, Planning and Rural Affairs on the 24 November 2014 confirms that the Minerals and Waste Planning Service has dealt with the application correctly in accordance with the planning regulations. It is not

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

considered that the application should be called in for determination by the Welsh Ministers.

Public Consultations: Site Notices posted at two locations in Penygroes on 17<sup>th</sup> April 2014 and on the 5<sup>th</sup> July 2017, following the submission of additional information. Neighbour notification was carried out on both occasions with statutory notices appearing in the Caernarfon & Denbigh Herald at the same time.

A total of 15 local objections and three petitions with a total of 72 names have been received in response to statutory publicity highlighting the following concerns;

Grounds for Objection:

- Biodiversity & wildlife habitat
- Site dormant with very little activity for over 60 yrs. since the grant of permission
- Scale of working & duration of operations
- Impacts on the amenity of neighbouring residents and impossible therefore to realistically work the site in accordance with acceptable planning conditions
- Proximity to residential properties, buffer zone policy & guidance, 100m for Sand and Gravel in PPW & MTAN1
- Default position that planning officers would have to agree to conditions deemed acceptable on a scheme that would otherwise incur detrimental impacts on local residents, without recourse to fulfilling their responsibilities under statute to take account of technical considerations
- Loss of privacy
- Noise impacts & regulatory controls
- Health impacts attributed to dust emissions & relationship between PM10 particulates or smaller, on human health
- Prevailing wind from a SW direction towards Penygroes
- Site monitoring & effectiveness of dust management measures during working and whilst the site is not operational
- Diesel emissions & reference to documented evidence on the health impacts of heavy traffic
- Mental health impacts
- Operational hours between 7.00hrs & 18.00hrs
- Highway safety & impacts of haulage on narrow roads
- Unsuitability of the existing access onto the unclassified Clynnog road
- Haulage of material prohibiting the movement of emergency vehicles along Clynnog Road
- Weight restriction on the adjoining Class 3 highway at Allt Goch

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- Impacts on the water table/groundwater & private abstraction in the area
- Pollution of the local water environment
- Proximity of the Glynllifon SSSI & SAC environmental designations
- A petition signed by 60 local residents has been received on the 24 November 2017, objecting to the application on the grounds that approving the development would be detrimental to the amenities of local residents and the right to enjoy their homes and it is not possible to impose conditions that would make the development acceptable.

Public Consultations: In addition to the above, the following representations were not considered valid planning objections:

- The council's administrative procedures for public consultation on planning applications
- Application details in English only
- Moral considerations
- The Environment Act 1995 and the administrative procedures applied to the registration of sites and consideration of ROMP applications
- A bond of £5 million in compensation, should quarry operations have a detrimental impact on the quality of life, impacts on air quality and depreciation of property
- Application deemed invalid for the reason that it is not economically viable to restrict working to the area of the ROMP
- Possibility that the determination of the ROMP will lead to further applications for an increased scale of working submitted on the greater part of the mineral deposit towards Pen y Bryn Hall
- Cynical proposal to profit the applicant that would ravage the local community and local environment
- Comparison of a temporary use of land for quarrying with historic schemes of engineering that have documented evidence of permanent detrimental impacts on local communities
- Scope of Gwynedd Council advice notes on 3<sup>rd</sup> party representations on planning applications and guidance for speaking at committee

## 5. Assessment of the Relevant Planning Considerations:

### Principle of the development

- 5.1 Planning Policy Wales Edition 9, integrates the Welsh Government's planning policies for minerals development which were previously set out in Minerals Planning Policy Wales (2001). In accordance with the requirement of PPW 9, Gwynedd Council as Mineral Planning Authority has a duty to ensure that mineral resources are exploited in

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

a sustainable way so that they can make an appropriate contribution to the area's construction materials requirements. The key principles of The Welsh Government minerals planning policy are;

- *to provide for an adequate supply of minerals that society needs now and in the future, together with protecting and improving amenity;*
- *to protect things that are highly cherished for their intrinsic qualities, such as wildlife, landscapes and historic features; and to protect human health and safety by ensuring that environmental impacts caused by mineral extraction and transportation are within acceptable limits; and to secure, without compromise, restoration and aftercare to provide for appropriate and beneficial after-use;*
- *to help conserve non-renewable resources for future generations through efficient use, recycling and waste prevention; to protect renewable resources from serious harm or pollution; and to promote the use of appropriate alternative materials;*
- *to ensure an adequate supply of minerals that are needed at prices that are reasonable; and to safeguard mineral resources for future generations.*

5.2 In June 2008, the Gwynedd Council Board resolved to endorse the Regional Technical Statement produced by the North Wales Regional Aggregates Working Party. The North Wales Regional Technical Statement has been the subject of review and consultation and has since been endorsed by all of the local councils in Wales in August 2014, together with having obtained Ministerial approval. The statement has been prepared in accordance with the provisions of the Minerals Planning Policy (Wales) and Technical Advice Note (Wales) 1: Aggregates (MTAN1), to set out an overarching objective to ensure a sustainable managed supply of aggregates; “... so that the best balance between environmental, economic and social considerations is struck, while making sure that the environmental and amenity impacts of any necessary extraction are kept to a level that avoids causing demonstrable harm to interests of acknowledged importance”. The main purpose of the Regional Technical Statement is to set out the strategy for the provision of the aggregates in North Wales for a 25-year period ending in 2036 and provides a strategic basis for local development plans.

5.3 It assesses the environmental capacity of each authority to contribute to an adequate supply of primary aggregates. The Council, as Mineral Planning Authority, is required to maintain a landbank of permitted reserves of aggregate minerals with current guidance stating a minimum 7 year landbank for sand and gravel. Graianog is the only active sand and gravel quarry in Gwynedd given that a recent permission granted at Llecheiddior Uchaf in 2013 has yet to commence operations. Cae Efa Lwyd has been identified as a dormant reserve in the Local Development Plan and the Liverpool University Reports dated 1988 & 2003 (*Sand and Gravel Resources*) both confirm the deposit to be of high commercial potential. The review of the Regional Technical Statement has identified a shortfall in the landbank of sand and gravel reserves in Gwynedd, further recommending that land-based sand & gravel apportionments in Gwynedd be increased in order to generate an improved balance of supply with reserves in Flintshire and Wrexham and reduce the dominance of supplies from NE Wales. The total apportionments for Gwynedd, as calculated by the First Review of the RTS are 4.4 million tonnes for land-won sand & gravel and 6.75 million tonnes for crushed rock. These compare with existing landbanks of 0.7 million tonnes for sand & gravel and 8.51 million tonnes for crushed rock (as at 31st December 2010).

5.4 The RTS recognises therefore, that there is a shortfall of sand and gravel for which new allocations in Gwynedd totalling a minimum 3.7 million tonnes have been identified in

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

the LDP. This figure takes into account the permitted reserves of sand and gravel that may be offset against the apportionment requirements, i.e. the permission granted at Llecheiddior Uchaf and recent extension at Graianog. Amongst other objectives, Planning Policy Wales recognises that mineral working is different from other forms of development in that extraction can only take place where the mineral is found to occur and that the development is transitional and cannot be regarded as a permanent land use even though operations may occur over a long period of time. Policy MWYN 2 and Strategic Policy PS 22 of the Local Development Plan recognise the contribution from local authorities to maintain regional and local demand for a continuous supply of minerals and Cae Efa Lwyd has been listed as one of 5 'preferred areas' for future supplies of sand and gravel. Planning Policy Wales states that; "*Policies and proposals in development plans should make clear where mineral extraction should, or is most likely to, take place. This approach brings a high degree of certainty to all. These should be clearly identified on a proposals map*". 'Preferred areas' are identified as; "*areas of known resources with some commercial potential, and where planning permission might reasonably be anticipated*", within which operators should be encouraged to bring forward more specific proposals.

- 5.5 The RTS further states however that where there are Dormant reserves capable of being implemented, subject to Environmental Impact Assessment and the agreement of modern conditions, these may be offset against the apportionment requirements. In the case of sand and gravel, the Regional Aggregates Working Party (RAWP) reports identify both active and inactive reserves but in the case of Cae Efa Lwyd, it has always been considered there being a realistic prospect of re-opening in that figures for the permitted reserve have been provided in response to the RAWP Minerals Surveys. In addition, the MPA has received specific enquiries concerning the site over a number of years and the prospect of re-opening being that much more realistic since the completion of the by-pass where haulage may be secured via a direct access onto Clynog Road whereas previously, haulage vehicles would be required to negotiate a route through a built-up residential area before crossing a weak bridge linking with the centre of Penygroes.
- 5.6 The 2015 Draft Annual report produced by the North Wales Regional Aggregates Working Party states that, in terms of sand and gravel, the landbank, based on a 3 year sales average, stands at 22 years in North East Wales, but stands at only 6 years in North West Wales, which is below the 7-year minimum recommended in MTAN1. The landbank based on the previous 10 years' sales stands at 8 years for North West Wales. Although a reserve of 320,000 tonnes held in Cae Efa Lwyd will have little impact in terms of meeting the authority's apportionment requirements, the proposal is nonetheless a welcome addition to landbank of sand and gravel in north-west Wales. The material extracted at the quarry may be used to supply the established markets in Gwynedd and the north Wales sub-region including direct building products, sea defence works, decorative cobbles and road projects but mainly to supply ready mixed concrete outlets throughout North West Wales including the National Park, Anglesey and parts of Conwy.
- 5.7 The Llyn AONB is located 2.2km south and National Park a further 3km east. Other than the Nantlle Historic Landscape boundary located 180m east of the site, there are no other local landscape or environmental designations within or close to the application boundary. Subject to the consideration of all other material planning considerations, it is considered that the apportionment obligations on part of the authority for the continued supply of sand and gravel for North West Wales complies with National and Regional Planning Policy and Guidance as well as the requirements of Strategic Policy PS 22 of the Gwynedd & Môn Joint Local Development Plan.

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- 5.8 However, the main planning considerations with this proposal is the re-commencement of operations under a ROMP having the potential for noise, haulage and dust to impact on properties located adjacent to the area of development and the requirement to address a potential conflict with national and local buffer zone policies.

### Visual Amenities

- 5.9 The dormant minerals permission at Cae Efa Lwyd is located directly to the west of Penygroes, with direct access onto Ffordd Clynnog, which also serves a number of properties overlooking the site. Policy AMG: 3 of the Joint Local Development Plan aims to protect and enhance features and qualities that are distinctive to the local landscape character. Proposals that would have significant adverse impact upon landscape character must demonstrate through a landscape assessment how landscape character has influenced the design, scale, nature and site selection of the development.
- 5.10 A landscape and visual assessment of the proposed development has been completed in accordance with the Guidelines for Landscape and Visual Impact Assessment and makes an appraisal of the site taking account of Welsh landscape information resource LANDMAP, (*Natural Resources Wales*) and the Supplementary Planning Guidance: Landscape Character 2009, Gwynedd Council. The assessment makes an evaluation of the surrounding landscape and makes an appraisal of the direct and indirect (physical & non-physical) impacts of the development on the surrounding landscape, as well as local impact.
- 5.11 The site is not subject to subject to any nationally designated landscape constraints nor locally designated, ‘Special Landscape Area’ in the Gwynedd & Môn Joint Local Development Plan. However, the quarry is located entirely within the Caernarfon Coast & Plateau Landscape Character Area (LCA) which extends from Clynnog in the south to Bangor in the north. The area comprises of rolling pasture between the coastal lowlands and rising foothills of Snowdonia, separated by shallow west-flowing valleys with field boundaries consisting of a mix of woodland, stone walls and hedges in varied state of repair. The wider study area of the LVIA confirms a number of environmentally and historically designated sites including SSSI & SAC, scheduled ancient monuments, historic parks & gardens and listed buildings. Most notably, Cae Efa Lwyd Fawr farmhouse is a Grade II listed building and is located approximately 150m due west of the proposed extraction area.
- 5.12 The boundary of the Nantlle landscape of outstanding historic interest is located approximately 180m east of the site and it is not considered that the proposal will impact on the nature and historic fabric of this landscape designation or the cultural significance and character of the slate quarrying areas. However, quarrying has and continues to impact upon the local landscape and there is a history of commercial exploitation of sand and gravel resources within the Central Llyn LCA for over 60 years. The character area forms a buffer between the Llyn AONB to the west and Snowdonia National Park to the east and its key characteristics are defined in the Gwynedd SPG (Landscape Character November 2009) as;
- A long broad fringe adjacent to the Menai Coast LCA, extending to the upland fringes of Moel Tryfan and Mynydd y Cilgwyn
  - Character of landscape influenced by glacial actions and resultant deposits and landforms
  - Mixture of settlement types – small villages to large towns. Caernarfon, important historic core, with modern settlement edges of varying quality
  - Range of coastal habitats and landscapes, which contribute to character of the

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

area

- Area provides an important setting to the Anglesey AONB to the north (beyond the Menai Straits) and Llŷn AONB to the south

- 5.13 The potential significance of landscape and visual impacts is determined by a combination of the magnitude of the potential impact and the sensitivity of the landscape setting to change. The proposed development would cause direct impacts on landscape attributes of the application site which is unavoidable due to the nature of mineral extraction. The sensitivity of the surrounding landscape designations, residential areas and recreational receptors has been taken into account. Distance and the scale of the proposal are also key factors but also the composition of the landscape and the presence of numerous intervening natural and manmade features on the skyline.
- 5.14 Possible visual and landscape impacts during the operational period include a combination of plant machinery extracting material, vehicle movements, stockpile storage & screening mounds and loss of landscape elements including landform and vegetation both during extraction and post restoration. Both schemes of working (*ROMP & Alternative Proposals*) include for the stripping of soils across the entire area of working for Phases 1 & 2 of development, which will constitute a significant change in visual terms from agricultural land to a working quarry. The Landscape and Visual Impact Assessment concludes that the proposed development during the operational phase will cause a slight adverse, to notable adverse effects on the landscape-character area immediately surrounding the site and very slight adverse to slight adverse effects on landscape character further afield (*eastern end of Penygroes, Llanllyfni and scattered dwellings to the south towards the Llŷn AONB*). Receptor groups within 500m of the site were assessed as being most susceptible to adverse visual effects and include residential properties surrounding the site but also, transient users of Ffrordd Clynnog, vehicles travelling along Allt Goch, users of public rights of way and the Lon Eifion cycle track and properties on the east side of the Penygroes bypass including Lon Haearn Bach, Maes Y Mor & associated public open space. It is not considered that the proposals will have a long-term detrimental impact on the setting of the Cae Efa Lwyd Fawr Grade II listed building.
- 5.15 The LVIA also states that upon completion of restoration, the development has the potential to cause slight adverse effects on landscape character of Penygroes and the wider area. The landscape impacts of the proposal however, may be further reduced via the proposed mitigation and restoration works designed to assimilate the area of extraction to the surrounding landscape. The working of sand and gravel is relatively dynamic when compared with hard rock quarrying as reserves are commonly under agricultural land. Consequently, the mineral planning authority requires progressive restoration to offset the loss of amenity and productive land in the wake of such working. To date worked out sites have been effectively reinstated to their original use, mainly agriculture, and now blend in with the surrounding landscape.
- 5.16 It is recognised that varying techniques and methods of restoration and planting may be sought and it is important for the success of the scheme that restoration objectives are tailored specifically. The application details set out a schedule of measures for the restoration in part to agricultural use, to be implemented in accordance with the schedule of planning conditions, which requires the site be the subject of an annual audit of aftercare. Welsh Government Natural Resources department stipulate the best use of restoration materials in order to achieve the restoration objectives. However, in addition to agricultural restoration, the scheme provides for the creation of a landform that is capable of providing the optimum conditions for wildlife habitat & biodiversity enhancement.

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- 5.17 It is considered therefore that, subject to a detailed scheme of aftercare to be agreed under planning condition, the submitted scheme of restoration is sufficient to mitigate for the potential visual & landscape impacts of the development and complies with the requirements of Strategic Policies PS 19, PS 20 and Policies AMG 3, MWYN 3 & MWYN 9 of the Gwynedd & Môn Joint Local Development Plan.

### **General and Residential Amenities**

- 5.18 Both Minerals Planning Policy Wales and MTAN1: Aggregates have established the principle of buffer zones around mineral extraction sites, where the objective is to protect land uses that are most sensitive to the impact of mineral operations by establishing a separation distance between potentially conflicting land uses. Sensitive development is defined in MTAN1 as; *“any building occupied by people on a regular basis and includes housing areas, hostels, meeting places, schools and hospitals where an acceptable standard of amenity is expected”*. A buffer zone is defined from the outer edge of the operational area, including site haul roads and lagoons. MTAN1 recommends a minimum distance of 100 metres for sand and gravel operations and others where no blasting is permitted.
- 5.19 The objective of the buffer zone is to protect land uses that are most sensitive to the impact of mineral operations by establishing a separation distance between potentially conflicting land uses. Research has indicated that people living close to mineral workings consider dust to be the main impact of mineral extraction and any processing operations, followed by traffic, noise and vibration from blasting. The Welsh Assembly Government takes the view that the minimum distances should be adopted unless there are clear and justifiable reasons for reducing the distance. An example may be that, because of other means of control, there is very limited impact from the mineral extraction site.
- 5.20 Clearly, there is a conflict with national and local planning policy requirements with respect to establishing a buffer zone given that there are properties located within 100m of the proposed working as prescribed under Policy MWYN 5 of the Gwynedd and Môn Joint Local Development Plan. However, with an application for the determination of conditions on a Dormant minerals site, the principle of quarrying has already been established with the grant of planning permission and it should be borne in mind that the review process cannot negate those permissions or restrict working rights without incurring a prohibitive liability for compensation. The only matters which the mineral planning authority can consider are the conditions applied to the permission and scheme of working being sufficient to mitigate for any impacts, not the principle of the development.
- 5.21 The nature of mineral operations has the potential to cause short-term nuisances generated by residues & emissions during operational phases of the development. As confirmed in the ROMP proposals, the development will be subject to a restricted timescale involving off-site haulage of materials, taken to the existing operation at Cefn Graianog for processing. The submission does not include proposals for the installation of machinery for the screening, crushing or washing of mineral and consequently, there will be no need for the installation of additional infrastructure such as settlement lagoons to dispose of silt and waste arisings derived from any washing processes. Overburden and soils stripped from the area of working will be stored in screening bunds along the eastern and southern boundary of the site which will be used to restore the site upon cessation of operations.

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

5.22 The original 2014 submission proposed a total of 500,000 tonnes to be removed over a period of 17 years, i.e. average of 30,000 tonnes per annum. However, the supplementary information submitted in support of the ROMP confirmed a revised assessment of the mineral reserve at 320,000 tonnes to be worked to a depth of 96m aOD as opposed to 88m aOD, in the interests of ensuring dry working above ground water. The revised proposal discusses two scenarios which differ in terms of the phasing of operations;

- 50,000 tonnes per year for 7 years using the existing access onto the Ffordd Clynnog unclassified road. Based upon the site operating between 07:00hrs & 18:00hrs Monday to Friday and 08:00hrs & 12:00hrs on Saturdays, the site would export between 9 and 10 loads or 18 – 20 HGV movements per day, which would equate to 1 x 20-tonne load or 2 movements per hour,
- 100,000 tonnes per year for 3 years, subject to the favourable outcome of an application for a separate vehicular access, which would provide a direct link to the Class 3 highway at Allt Goch, approximately 430m due east of the A487 roundabout at Penygroes. Based upon the site operating between 07:00hrs & 18:00hrs Monday to Friday and 08:00hrs & 12:00hrs on Saturdays, the site would export between 18 and 20 loads or 38 – 40 HGV movements per day, which would equate UP to 2 x 20-tonne loads or 4 movements per hour.

5.23 In response to consultation, Gwynedd Public Protection Service confirmed that the proposal for a new and dedicated access would be the preferred option for the site as it would direct heavy traffic away from Clynnog Road and secure the implementation of the ‘Alternative Scheme’ as indicated on the application plans, i.e. a phased sequence of operations from west to east with an unbroken screen bund along the eastern and southern boundary of the site. With respect to the ‘ROMP’ scheme, the existing site entrance at Ffordd Clynnog severs the two screening bunds and acoustic barrier, offering no attenuation and in-line of sight of the proposed development to the nearest property.

5.24 In addition to the screen bund, both the ‘ROMP’ and ‘Alternative’ proposals include for a 2.5metre high acoustic fence erected along the eastern and southern boundaries of the site, given that soil bunds only provide temporary screening for certain phases and the eastern bund is to be removed and used as restoration medium upon cessation of Phase 2 of operations.

5.25 Mineral Planning Authorities are expected to impose ‘full modern conditions’ on Dormant sites and they may do so with a reduced liability for compensation, even if this would compromise the sites’ economic viability or affect their asset value. Applicants have a right of appeal to the Welsh Government with 6 months of the MPA’s notice of determination if they consider the conditions imposed by the Mineral Planning Authority unreasonable in any respect. However, it is the temporary operations that are likely to be the most intrusive elements of the scheme such as, the mobilisation of plant machinery, site preparation works, soil stripping, the formation of screening bunds and restoration works. Also, the implementation of phase 3 of extraction which requires the removal of the screen bunds, or part thereof, in order to restore the previous phases of development.

#### **Noise**

5.26 The application confirms that the existing noise climate has been assessed at neighbouring properties and predictions of maximum future noise levels have been undertaken in line with relevant British Standards and Welsh Government Guidance. In response to consultation, Gwynedd Council Public Protection Service have raised

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

concerns as to the nature of the development and proximity of residential properties in a mainly rural area. The accuracy of any given background noise measurements forms the base line to predict compliance with the guidelines and where additional measures are required.

- 5.27 In order to address the concerns of Gwynedd Public Protection, the applicant has provided further details of the existing noise climate together with an updated survey of background noise based upon the amended proposals and current Minerals Technical Advice Note (MTAN1).
- 5.28 Given the reduced buffer zone applied to the boundary of the proposal, the applicant has agreed to limit operating hours in the interests of the amenity of local residents, further mitigated by means of a baffle mound/bund and acoustic fence. Operations will not commence no earlier than 8:00hrs, but the Public Protection service recommend that, due to the close proximity of the workings to noise sensitive properties, further protection should be afforded. It is recommended that noise limits at sensitive properties do not exceed the background level by more than 10 dB(A) as stated in (MTAN1). Based upon the findings of the background noise survey, Public protection recommend a noise level of 48 dB (A) LAeq, 1hr free field at Pentyrch and Bryn Hyfryd and 45 dB (A) LAeq, 1hr free field at Cae Efa Lwyd Fawr. Public Protection further state that; there is a general acceptance that levels less than 45 dB (A) LAeq, 1hr free field would be acceptable as a condition and given that the background +10 where exceeded were less than 3dB from the recommended level, it is agreed that a compromise can be met in agreeing the levels conditioned.
- 5.29 However, there remains some concern as to the impacts of the operation on a Saturday morning and the appropriate mitigation that may be applied. The noise report proposes 'restricted working' on Saturday mornings to exclude any operations at the working face, given that residential dwellings within the vicinity of the site generally experience lower background sound levels on weekends due to a reduced contribution from commuter road traffic on the local road network.
- 5.30 The development could be conditioned accordingly although Public Protection Service recommend that permission is not granted for any operations on a Saturday. Given that Cae Efa Lwyd would operate as a satellite site, exporting material to Cefn Graianog for processing and sale, such a restriction does not appear to prejudice to an unreasonable degree, the operator's ability to work the site if the yearly quota of mineral can be achieved on a 5-day working week. There may be a requirement to apply flexibility in order to complete the development within a given timescale, given the restriction on Saturday working, e.g. 4 years for 100,000tpa output & 8 years for a 50,000tpa output.
- 5.31 For temporary operations and activities that provide longer term benefits (soil stripping and replacement, baffle mound construction, removal of spoil heaps and other similar operations), a limit of 67 dB LAeq has been adopted, based on the MTAN 1 guidance.

### **Air Quality**

- 5.32 The air quality assessment deals with the potential issues arising from mineral operations and the transfer of material to the existing processing plant at Cefn Graianog. Potential sources of dust have been identified and best practice dust control measures are recommended in order to minimise any such disturbance at nearby sensitive locations.
- 5.33 The Planning Statement proposes that the operation be the subject of specific dust mitigation measures and the requirement to monitor dust and climatic conditions that

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

may affect the migration and direction of fugitive dust and its impact on the local community. In response, Gwynedd Public Protection confirmed that the UK National Air Quality Strategy directs the relevant air quality criteria for particulates and it is important that any air pollutants arising from the works do not have an adverse impact on public health. Public Protection maintain that local air quality monitoring should have been conducted, as opposed to using the best available data but confirm that due to the site being a sand and gravel quarry, it is considered that air quality can be controlled by planning conditions.

## Summary

5.34 Both the Mineral Planning Authority and Gwynedd Council Public Protection service have challenged the environmental surveys and supporting information submitted with the application. Further information relating to noise and air quality have been formally requested in 2014 and 2017 to enable the authority to impose the appropriate environmental controls under planning conditions. The issue of noise, air quality, vibration and the potential impact on residential amenities has been the subject of further discussion with the applicant but also, informal meetings between Gwynedd Council officers, the community council, the local member and a delegation of local residents. A list of preferred conditions is included in Appendix 2 to this report and in summary, the Public Protection service has outlined specific requirements to be covered under planning conditions including;

- Specific noise level control in accordance with the relevant guidance in MTAN1, that noise limits at sensitive properties do not exceed the background level by more than 10 dB(A),
- Use of access & operation of the site restricted to 08:00hrs to 18:00hrs Monday to Friday and not at all on Saturdays, Sundays or Bank Holidays,
- Details of a wheel wash facility to be submitted for the approval of the mineral planning authority specifying the location, design, specification and controls to ensure correct usage,
- Noise mitigation scheme to be submitted for the approval of the mineral planning authority, specifying the provisions to be made for the control of noise from mobile plant or machinery,
- Maintenance of noise screening bund and/or an acoustic fence,
- Fitting of white noise alarms to all plant and machinery used on site,
- Written record of all HGV movements in and out of the site,
- On the request of the mineral planning authority, air quality monitoring shall be undertaken for a minimum period of 6 months to measure the Air Quality Objectives and/or Dust Deposition Rate in a method approved at agreed location/s with the mineral planning authority. Monitoring should include reference to meteorological conditions and the use of dust deposit gauges and gravitational surveys to provide a greater degree of accuracy of basal measurements as a means of comparison when the site is operational. Recommended that a dust management scheme is prepared and put into place with the following matters conditioned;
  - The levels of PM10's shall not exceed 50µg/m<sup>3</sup> as a daily mean with no more than 35 exceedances per year, and 40µg/m<sup>3</sup> measured as an annual mean, when measured at the nearest sensitive human health receptor,
  - The levels of PM2.5 shall not exceed 25µg/m<sup>3</sup> as an annual mean, when measured at the nearest sensitive human health receptor,
  - Nitrogen Dioxide NO<sub>2</sub> levels shall not exceed an hourly mean of 200µg/m<sup>3</sup> more than 18 per year, and shall not exceeded 40µg/m<sup>3</sup>

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

measured as an annual mean and shall be measured at nearest sensitive human health receptor,

- For statutory nuisance and requirement for dust deposit gauges, UK guidance suggests a guideline value of 200 mg/m<sup>2</sup>/day, averaged over 1 month – annual mean as an indication of likely nuisance.

- 5.35 Given the reduced timescale of the operation, the limitations on the processing of sand and gravel and with the imposition of appropriate planning conditions to control the winning and working of minerals under ROMP, it is considered that the development may be implemented without adversely affecting the amenities of local residents. Subject to conditions as amended by the Mineral Planning Authority and Gwynedd Public Protection service, the development may be implemented in accordance with the requirements of policy MWYN 3, MWYN 5 & PCYFF 2 of the Gwynedd and Môn Joint Local Development Plan.

### **Traffic and Access Matters**

- 5.36 The transport assessment submitted in support of the application confirms current and predicted movement values including an Automatic Traffic Count (ATC) survey taken at two locations at Allt Goch between 11<sup>th</sup> & 17<sup>th</sup> November 2015. In terms of traffic volumes at Allt Goch, the ATC results reveal that the average daily traffic flow between the Clynnog Road Junction and the A487 was 1163 vehicles over the seven-day measurement period. In response to consultation, the Welsh Government highway authority confirmed that it did not intend to issue a direction in respect of this application.
- 5.37 In response to consultation, Gwynedd Council Transportation service submitted concerns as to the impacts and duration of heavy haulage using the unclassified Clynnog Road which serves a number of residential properties including one property located directly opposite the site access. The section of unclassified road connecting with the junction at Allt Goch is unsuitable for heavy haulage movements and would inevitably lead to conflict with local traffic. Furthermore, the existing junction onto the Class 3 highway at Allt Goch suffers from poor visibility in a westerly direction where residents of Clynnog Road already depend upon a convex visibility mirror when turning. Proposals to run regular heavy haulage from this junction cannot be supported by the Highway Authority and a planning application for an alternative vehicular access onto the Class 3 highway has been submitted by the developer for consideration under planning ref. C17/0455/22/LL.
- 5.38 The proposal for a new and dedicated access would be the preferred option for the site as it would direct heavy traffic away from Clynnog Road and secure the implementation of the 'Alternative Scheme' as indicated on the application plans, i.e. a phased sequence of operations from west to east with an unbroken screen bund along the eastern and southern boundary of the site. The 7.5T weight restriction along the entire length of the Class 3 highway has been imposed as an environmental measure to prevent the use of the road as a rat run between the A499 and the quarries of the Nantlle valley and there is no structural reason for the weight limit. However, proposals to run regular heavy loads from the site to the A487 roundabout at Penygroes could still be deemed to be in contravention of the order and the Highway Authority's response further suggests that the matter could be resolved with amending the order and provision of alternative signage at the applicant's expense.
- 5.39 The application for an alternative access has been assessed under a separate committee report with a recommendation for approval given that such provision is of sufficient

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

standard to deal with the flow of traffic expected from the site and therefore conforms to the requirements of Strategic Policy PS4 and Policy PCYFF2, TRA4 and MWYN 3 of the Joint Gwynedd & Môn Local Development Plan. The highway authority technical guidance notes may be included as a note to applicant with the decision notice.

- 5.40 Notwithstanding, it should be noted that despite the Highway Authority's concerns as to the use of the existing access onto the unclassified Clynnog Road, this is the access as indicated on the application plans and which was referred to in the conditions imposed on the grant of the original planning permission. The fall-back position as far as the ROMP proposals are concerned is a scenario where 50,000 tonnes output per year for 7 years would use the existing access onto the Ffordd Clynnog unclassified road. In the event of the alternative scheme and use of the alternative access not being granted, improvements to the existing access onto Ffordd Clynnog would be required to comply with the Council's highway standards.
- 5.41 However, in consideration of the possible impacts of operational hours and movement of HGV's on the amenities of the surrounding properties, it is considered that a condition imposed to restrict the commencement of operations to 8:00am for both of the scenario's proposed. In consideration of potential noise, dust and amenity impacts, there may be scope to rationalise the output and proposal for a new access, i.e. a reduced output of between 50,000t and 100,000t but for a longer operational period, conditional on the construction and use of a new vehicular access as proposed under planning ref. C17/0455/22/MW.
- 5.42 However, in response to discussion on the scope of planning conditions, the applicant considers that the annual output limit under Condition 8 allows the mineral Planning authority proportionate and reasonable control over HGV movements on the local highway network and propose that the restriction on the number of HGV loads per day be removed from Condition 8 as it is unnecessary and too prescriptive a measure for a commercial operation.

### **Hydrology & Hydrogeology**

- 5.43 Natural in Resources Wales provided an itinerary of requirements respect of their concerns on surface water, pollution prevention management and the potential for the workings to impact on groundwater, given the original depth of working down to 88m aOD. The mineral planning authority also referred to the 1988 publication, '*Assessment of Sand and Gravel Resources in the Eastern Llyn Peninsula (University of Liverpool)*', where a borehole taken at Cae Efa Lwyd confirms the base of the deposit at 95m aOD as indicated by the geomorphological survey. In response to the request of the mineral planning authority, the applicant carried out a geological investigation and groundwater monitoring. The results of the borehole logs indicate that groundwater may lie within the mineral deposits and although potential reserves of mineral may lie below the water table, it is suggested that these reserves may be of lower quality, with a higher fines content and higher percentage of cobbles.
- 5.44 The geological investigation states; "*... thus it may be inferred that the glacial sand & gravel extraction will remain above the water table*". Therefore, whereas the 2014 submission proposed a total of 500,000 tonnes to be removed over a period of 17 years, the supplementary information includes a revised assessment of the mineral reserves at 320,000 tonnes to be worked to a depth of 96m aOD as opposed to 88m AOD, in the interests of ensuring dry working above ground water. In response to the updated borehole information, NRW recommend that the authority should only determine the

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

scheme of working subject to a condition stipulating no working of mineral below 96m aOD in the interests of protecting the local water table and water resources in the area.

5.45 NRW also requested confirmation as to how surface water will be managed on the site, and how it will be collected and disposed of around the site but also, pollution prevention measures employed on site, e.g. oil and fuel storage, wheel washing, leak prevention measures and procedures for dealing with a pollution incident on site. Only clean, uncontaminated water may enter a soakaway and a settlement lagoon or tank should retain contaminated water long enough for silt to settle out and the applicant confirms that a surface water management plan may be conditioned as part of the ROMP determination and it is likely that such a scheme would be the subject of approval prior to the commencement of operations on site. In their response, the applicant does provide a broad outline of surface water management on site including.

- *A small bund established around the periphery of the site will contain any surface water to within the quarry and which will be allowed to dissipate and drain naturally through the in situ mineral via a soakaway whilst the site is in operation. The soakaway will be retained as part of the restoration proposals within the north western void of the quarry which will provide an ephemeral water body with additional advantages for wildlife.*
- *A drain will be installed alongside the access roads to contain the run off from the road.*
- *Appropriate measures will be put in place to ensure that the fuel stores, leakages from machinery or any other sources of pollution are controlled to ensure that pollution does not reach ground water.*
- *Fuel will not be stored on site. All fuel will be transported from Cefn Graianog in a bowser when required. Ellesmere Sand and Gravel have a set procedure for refuelling. The fuel bowser will be; double skinned, can be securely locked, has an on-board spill kit, auto stop nozzle fitted, does not have a drain fitted to either the inner or outer tank and can therefore only be emptied by pumping.*
- *Only minor maintenance / servicing of plant and machinery will be carried out at Penygroes. All major work would be removed to Cefn Graianog and tasks performed there where the facilities are located.*

5.46 NRW agree with the conditions proposed for pollution prevention measures employed on site. E.g. oil and fuel storage and leak prevention measures. The applicants should submit a method statement detailing what will happen and mitigation measures if there is a pollution incident on site. NRW refer to their statutory guidance for pollution prevention to reduce the pollution risk, but the applicant must ensure that:

- plant and wheel washing is carried out in a designated area of hard standing at least 10 metres from any watercourse or surface water drain,
- run-off is collected in a sump - recycled and reused where possible,
- settled solids are removed regularly,
- discharge of contained water goes to foul sewer (if possible) with prior permission from your local sewerage provider or tankered off site for authorised disposal

5.47 A road drain was noted opposite the current field entrance at Ffordd Clynnog and drainage from the site road must not run directly to this drain. A permit from Natural Resources Wales may be required for the discharge of site drainage to any waterbody, or drainage system that enters a waterbody but also advise that any foul water disposal from the quarry would be subject to an environmental permit granted by NRW.

5.48 Subject to conditions to control the depth of extraction and the submission of a surface water management scheme based upon the itinerary of measures set out in the amended

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

details, the development complies with Policy MWYN 3 and PCYFF 6 of the Gwynedd and Môn Joint Local Development Plan. A note to applicant referring to the statutory responsibilities within the remit of NRW would be included as a note to applicant on the decision notice.

### **Ecology and the Impacts on Protected Species**

- 5.49 National legislation places a duty on local planning authorities to have regard to conserving biodiversity and compliment the sustainability objectives of the Wellbeing and Future Generations Act. TAN 5 states that the planning system has an important role to play in meeting biodiversity objectives.
- 5.50 The ecological report and mitigation proposals include an extended Phase 1 Habitat Report which identifies a range of flora and fauna within the site. For the most part, the application site comprises of improved and semi-improved lowland acid grassland with wet areas and bare sandy faces but also, historic features that may provide habitat such as field boundaries. An assessment to ascertain the presence of a range of protected species has been undertaken and there is evidence of a Badger Sett within the application area.
- 5.51 In their response, Gwynedd Council Biodiversity confirmed that the ecological assessment has been undertaken to an acceptable standard and is further satisfied that the measures detailed in the application statement and ecological report will mitigate for the potential impact on biodiversity. The submission highlights the main ecological interests of the site including acid grassland, badgers, reptiles & invertebrates.
- 5.52 The main concern for biodiversity and protected species is the presence of Badgers on site, which are protected under the Badgers Act 1992. The site included a large and significant badger sett which was the subject of closure in 2015 together with the construction of an artificial alternative granted under licence by Natural Resources Wales. Unfortunately, the alternative sett has not proved to be successful with trees damaged by grazing livestock and consequently, there appears a new badger sett re-established within the quarry. Concerns remain as to the impacts of the ROMP on badgers and therefore an additional alternative sett will need to be constructed together with tree planting before works commence on site.
- 5.53 The biodiversity officer's response addresses the requirement to apply appropriate mitigation for badgers, and confirms that the updated survey has been carried out to a good standard. In response, the applicant acknowledges that from a recent site inspection, it may be established that badgers are using the site and remedial works to enhance the artificial badger sett will be required including, re-planting with locally native species and improving accessibility for badgers. NRW confirm in their consultation response that whilst they no longer provide planning advice and guidance in respect of badgers, it is likely that a further licence will be required to undertake works on the existing quarry face to make it less suitable for badgers. Any sett destroyed under licence should be secured prior to the commencement of mineral extraction & ancillary development on site. A planning condition could make provision for an alternative badger sett & foraging habitat & monitoring scheme but essentially, mineral workings must not commence until the replacement badger sett has been enhanced to the satisfaction of the Mineral Planning Authority.
- 5.54 The scheme of restoration should also include increased provision for biodiversity. The application area comprises improved pasture of low biodiversity value but also, field enclosures & hedgerow of varied construction and state of repair, which could provide

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

hibernation sites for reptiles, nesting sites for breeding birds and habitat for lichens as well as being features of historic significance within the local landscape.

- 5.55 The amended plan provides scope for biodiversity including rough grazing land, steep banks for acid grassland, sandy faces and bare ground providing habitat for solitary wasps, bees and sand martins and a waterbody at the base of the working could provide a long-term habitat for badgers. Mitigation will be applied for the retention of cloddiau & hedgerow including buffer zones & restoration proposals, including the planting of gorse, locally native hedgerow and trees to provide foraging opportunities for a range of species.
- 5.56 Whilst the restoration concept for the site provides scope for rough grazing and biodiversity, it is considered that a detailed scheme of aftercare should be submitted for the approval of the mineral planning authority prior to the commencement of development on site to specify the best use of soil resources on site together with aftercare, soil handling and husbandry of the restored area. Restoration plan should include compensation measures for the impact of the development proposals on biodiversity including badgers, reptiles, invertebrates, lowland acid grassland & sand habitat. Also restoration of cloddiau & hedgerow.
- 5.57 Subject to the above scheme of mitigation for badgers and a scheme of aftercare be submitted under a pre-commencement condition, is considered therefore that the development complies with National Planning Policy guidance as well as Strategic Policy PS 19 and Policy AMG 5 and MWYN 3 of the Gwynedd & Môn Joint Local Development Plan.

### Archaeology

- 5.58 The ROMP submission outlines the extent of pre-application discussions with Gwynedd Archaeological Planning Services (GAPS) who confirm that; *“Although there is no recorded archaeology within the site, the HER records evidence of prehistoric and medieval settlement within the immediate locality. There is a potential for further archaeological features to exist within undisturbed ground in this area. Considerable disturbance has already occurred within the application plot due to the existing quarry and it is not known whether any archaeological evidence was lost as a result. However, the remainder of the plot appears to be largely unaltered and may therefore contain surviving archaeology, either as upstanding earthworks or buried deposits. Due to the nature of the development, any such remains would be completely destroyed”*.
- 5.59 In response to consultation GAPS advise that, as this is an application to determine conditions for the reactivation of workings under an existing permission, it is not possible to stipulate pre-determination archaeological work. Given this restriction, it would be appropriate to address potential archaeological impact through planning conditions including;
- The specification for archaeological work to be submitted for the approval of the mineral planning authority prior to the commencement of development (including ground disturbance works or site clearance),
  - Development and all archaeological work to be carried out in accordance with the approved specification,
- 5.60 The development proposals include for the retention of field boundaries surrounding the proposed working but in addition, it is anticipated that further archaeological mitigation will comprise a staged programme of work, including an initial walkover survey, possible

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

trial trenching and strip, map and record. It is not considered that the proposals will have a long-term detrimental impact on the setting of the Cae Efa Lwyd Fawr Grade II listed building.

- 5.61 Subject to the imposition of planning conditions as suggested by the applicant, requiring appropriate archaeological mitigation prior to and during the course of development, the proposal is compliant with the requirements of PS20 and Policy AT4 and MWYN 3 of the Joint Gwynedd & Môn Local Development Plan.

### **Public Rights of Way**

- 5.61 There are no public footpaths or rights of way affected by the proposal and there is no requirement therefore to make any provision for specific stopping-up or diversion orders.

### **Sustainability matters**

- 5.62 Figure 4.2 of Planning Policy Wales provides a definition of sustainable development in Wales where; “sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals”. Furthermore, this report has assessed the sustainability issues of this application in accordance with the goal of sustainable development in paragraph 4.1.1 of PPW to; “enable all people throughout the world to satisfy their basic needs and enjoy a better quality of life without compromising the quality of life of future generations”, and in accordance with the seven well-being goals of, ‘The Well-being of Future Generations (Wales) Act 2015’ to help ensure that public bodies are all working towards the same vision of a sustainable Wales.
- 5.63 As Mineral Planning Authority, the Council has a duty to ensure that mineral resources are exploited in a sustainable way so that they can make an appropriate contribution to the area’s construction materials requirements. Gwynedd has a long history of mineral extraction and it remains an important facet of its economic and social make up. There are extensive deposits of a variety of materials suitable for exploitation in North Wales, particularly igneous rock, sand & gravel and limestone. This application seeks to secure a permitted reserve of mineral where known deposits of sand and gravel exist.

### **The Economy**

- 5.64 Technical Advice Note 23, Economic Development states; in determining planning applications local planning authorities need to bear in mind that traditional business use, classes B1-B8, only account for part of the activity in the economy. It is important that the planning system recognises the economic aspects of all development and that planning decisions are made in a sustainable way which balance social, environmental and economic considerations. It further states that; Local planning authorities should recognise market signals and have regard to the need to guide economic development to the most appropriate locations, rather than prevent or discourage such development.
- 5.65 The development proposes to re-activate a dormant site where a permitted reserve of mineral exists and will help maintain 13 full time jobs for site staff employed directly and indirectly as a result of the existing operations at Graianog, Porth Penrhyn & Llandygai Industrial Estate. Furthermore, sand and gravel is essential for the local building economy and a local source keeps costs as well as carbon emissions down.

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

- 5.66 The proposal will therefore be likely to make a positive contribution on the economy of the area in accordance with Strategic Policy PS 13 of the Gwynedd & Môn Joint Local Development Plan to providing opportunities for a flourishing economy as well as the Gwynedd Supplementary Planning Guidance, Planning and the Welsh Language November 2009.

### **Response to the public consultation**

- 5.67 The main concerns raised by third parties in response to consultation the application consists mainly of the potential impacts on residential amenity, haulage, noise, dust, vibration & hours of operation, biodiversity, landscape, pollution of the local water environment and longevity of operations.
- 5.68 The Mineral Planning Authority has considered these objections as material considerations in preparing a recommendation for this application. Furthermore, the material considerations relevant to this proposal have been assessed having regarding to the relevant planning policies and guidance.
- 5.69 There is no legal mechanism to refuse an application for the determination of conditions and scheme of working for the re-activation of a dormant minerals site as part of an initial review under Schedule 13 of the Environment Act 1995.

### **Human Rights**

- 5.70 From 2nd October 2000 the Human Rights Act 1998 has the effect of inserting much of the European Convention on Human Rights under UK law. Under 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1), and that he/she is (or would be), a victim of the unlawful act may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.
- 5.71 The main Convention rights relevant when considering planning proposals are Article 1 of the First Protocol (the peaceful enjoyment of property) and Article 8 (the right to a private and family life). Article 1 of the First Protocol guarantees the right to peaceful enjoyment of possessions and Article 8 of the Human Rights Act 1998 guarantees a right to respect for private and family life. Article 8 also provides that there shall be no interference by a public authority with the exercise of this right except in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the freedom of others.
- 5.72 Fourteen objections and two petitions with twelve names have been received from local residents living close to the application site. These objections relate to noise, health impacts and general disturbance caused by operations and quarry traffic in this rural location and in close proximity to residential properties. Whilst residents may question whether the dormant minerals permission at Cae Efa Lwyd is capable of being implemented in accordance with modern standards and conditions, it is for the Mineral Planning Authority to consider the ROMP application and schedule of planning conditions on its merits and in accordance with the policies of the Local Development Plan to ensure that the site operates without adversely affecting the amenity of local residents. For the reasons set out in the assessment of relevant planning considerations in this report, it is not considered there would be any breach of the convention rights

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

and it would not be unlawful therefore to determine a schedule of conditions as amended by the mineral planning authority.

## 6 Conclusions

- 6.1 The purpose of a Periodic Review under the Environment Act 1995 is to ensure that conditions do not become outdated and provide an opportunity to respond to newly introduced standards and requirements. A schedule of conditions has been the subject of discussion and agreement with the applicant which is appended to this report. In accordance with the planning regulations it is considered that the schedule of conditions is necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects. Liability for compensation will only arise if the effect of any restrictive condition is to “... *prejudice adversely to an unreasonable degree either the economic viability of the operation or the asset value of the site ...*”. Subject to the consideration of all other material planning considerations, it is considered that the scheme of working is acceptable and would contribute to the sustainable supply of sand and gravel in Gwynedd and conforms to national, regional and local mineral planning policy requirements (specifically Policy PS 22, MWYN 2 & MWYN 3).
- 6.2 The proposal to work the sand and gravel reserves at Cae Efa Lwyd will contribute to the Council’s landbank of sand and gravel and apportionment obligations in the RTS, to supply minerals for the North Wales sub-region. There are few permitted reserves of sand and gravel in North West Wales and this proposal will secure an essential supply of sand and gravel for the local building economy. This will reduce the need to import materials from outside Gwynedd, thereby minimising costs and carbon emissions.
- 6.3 Whilst not the subject of this application, the proposed mineral working forms part of a larger, much more substantial and significant resource of sand and gravel with potential for further exploitation. Notwithstanding, issues relating to the duration, frequency and reversibility of the impact have only been considered in respect of the plans and details submitted with this application. The site has a valid permission up until 2042 and is unconstrained in terms of environmental designations. However, there are issues concerning the potential impact of the development on the amenities of the area given the duration of operations and position of the proposed working in relation to surrounding properties.
- 6.4 The main impacts of this proposal would appear to be, potential pollution to local watercourses from surface water runoff derived from extraction and haulage operations, disturbance to a local badger sett but principally, the potential for noise, haulage and dust to impact on properties located adjacent to the area of development. Although both of the scenarios proposed in the revised submission include for a more intense scheme of working to that previously submitted, the geographical extent of the working is limited and the winning and working of minerals will be completed within a significantly reduced timescale. However, the site is located on the edge of a settlement with many properties overlooking the mineral operation. In order for the planning authority to implement full and effective environmental mitigation through the development management process, the entire area of development will be the subject of full, modern planning conditions to control the mobilisation of plant and machinery, haulage movements, hours of working, noise impacts & noise monitoring, dust control including dust gauge monitoring, impacts on local biodiversity and the restoration of the site within an agreed timescale upon cessation of operations.
- 6.5 In consideration of potential noise and dust impacts, may be scope to rationalise the output and proposal for a new access. As stated in the submission in respect of dust impacts; “The ROMP Scheme is predicted to generate a maximum of 20 HGV

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

movements a day on average, the Alternative Proposal is predicted to generate a maximum of 40 HGV movements a day on average. There may be a requirement to apply flexibility in order to complete the development within a given timescale, given the restriction on Saturday working, e.g. 4 years for 100,000tpa output & 8 years for a 50,000tpa output.

- The development is acceptable in principle and it would contribute to the landbank of sand and gravel reserves in Gwynedd and is likely to have a positive impact on the economy of the area. The proposal conforms to regional and local mineral planning policy requirements (PS 22),
- The site will be the subject of a restoration plan for agricultural use but also biodiversity enhancement, (Policy MWYN 3 & MWYN 9),
- It is considered that the proposal will not have a detrimental impact on any additional features of archaeological importance (Policy AT 4). Conditions for archaeological mitigation & recording for previously undisturbed areas,
- It is considered that the continuation of a phased scheme of extraction and restoration will mitigate the impact of the mineral workings on visual amenities as well as local Landscape Character Areas (Policy PCYFF 2 & MWYN 3),
- It is considered that the proposal will not have a detrimental impact on the local water environment (Policy PCYFF 6 & MWYN 3). Conditions may be imposed to request a surface water management plan prior to the commencement of development and to restrict the depth of excavation to 96 metres aOD,
- Local Biodiversity conditions require specific mitigation for reptiles during field boundary removal, no site clearance during the bird breeding season and measures to ascertain the presence of Badgers and Reptiles prior to the commencement of works. Also, restoration to include;
  - habitat of high biodiversity such as acid, species rich grassland to favour the grazing of livestock,
  - Reinstatement of stone walling at the point of the new access,
  - Maintain a 5m buffer along the boundary of the site to protect existing field boundaries

6.6 Subject to conditions to mitigate for protected species, the development complies with National Planning Policy guidance as well as Strategic Policy PS 19 and Policy AMG 5 and MWYN 3 of the Gwynedd & Môn Joint Local Development Plan,

- The quarry will have access onto the A487 Trunk Road. In response to consultation, the Welsh Government highway authority confirmed that it did not intend to issue a direction in respect of this application. The application for an alternative access has been assessed under a separate committee report with a recommendation for approval given that such provision is of sufficient standard to deal with the flow of traffic expected from the site and therefore conforms to the requirements of Strategic Policy PS4 and Policy PCYFF2, TRA4 and MWYN 3 of the Joint Gwynedd & Môn Local Development Plan,
- Given the reduced timescale of the operation, the limitations on the processing of sand and gravel and with the imposition of appropriate planning conditions to control the winning and working of minerals under ROMP, it is considered that the development may be implemented without adversely impacting on the amenities of local residents, conforms to policy MWYN 3, MWYN 5 & PCYFF 2 of the Gwynedd and Môn Joint Local Development Plan as well as the Gwynedd Supplementary Planning Guidance, Planning and the Welsh Language November 2009,
- The proposal satisfies the sustainability goals of Planning Policy Wales and The Well-being of Future Generations Act (Wales) 2015.

PLANNING COMMITTEE	DATE: 18/12/2017
REPORT OF THE PLANNING AND PUBLIC PROTECTION SENIOR MANAGER	CAERNARFON

## 7. Recommendation:

7.1 The planning authority considers that the two scenarios involving a 4-year and 8-year scheme of working to be acceptable, subject to the appropriate controls imposed under the amended schedule of planning conditions. The 4-year scheme of working together with an output limit of 100,000 tonnes per annum is the preferred option, subject to the favourable outcome of an application for an new access under planning ref. C17/0455/22/LL. Given that a new and dedicated access would direct heavy traffic away from Clynnog Road and secure the implementation of the 'Alternative Scheme' as indicated on the application plans, a more effective scheme of mitigation may therefore be implemented.

7.1 To authorise the Senior Manager, Planning, Environment and Public Protection Services to determine the scheme of conditions in Appendix 2 of this report under delegation.

- Permitted Operations & Compliance with the Submitted Details/Plans,
- Duration of Working (4 years, 100,000tpa) (8 years 50,000tpa),
- Restriction on Permitted Development Rights, buildings, structures, erections, private ways, floodlighting & fences,
- Mitigation for local biodiversity, Badgers, breeding birds & reptiles,
- Hours of Working,
- No operations on Saturdays, Sundays or Bank & Public Holidays,
- Soil Handling & husbandry
- Drainage, measures to prevent the pollution of local watercourses,
- Restoration to mixed agricultural nature conservation use,
- Reinstatement of field boundaries,
- Archaeological mitigation and recording,
- Aftercare measures for agricultural use & biodiversity management,
- Dust controls & noise limitations, plant machinery at the working face to be fitted with white noise alarms.