

PLANNING COMMITTEE	DATE: 10/01/2022
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	

Number: 1

Application Number: C20/0649/44/LL

Date Registered: 29/09/2020

Application Type: Full

Community: Porthmadog

Ward: Porthmadog

Proposal: Application to site a powerhouse -5MWe gas back-up with associated infrastructure

Location: Land near Gelert House, Ffordd Penamser, Porthmadog, Gwynedd, LL49 9NX

Summary of the Recommendation: TO REFUSE

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1. Description:

- 1.1 This is a full application to site a 5MWe fast response flexible electricity generating facility and associated works to include CCTV cameras, amenity cabins, gas kiosks, tanks, fencing and various structures on land at the side of the Gelert site on the outskirts of Penamser Business Park on the outskirts of Porthmadog.
- 1.2 If approved, the proposal would enable fast generation of electricity should it be required when the local network cannot generate this. The size of the application site is approximately 0.14ha and the generation plant will be located within this site and to the side of the extensive Gelert building. It is intended to erect a palisade fence around the site, which will be 2.4m high with 4m high CCTV posts in places where the fence elevates. The proposal would provide 5MWe of electricity with the voltage increasing to 11,000v by the transformer for the local ScottishPower Energy Networks together with the National Grid network.
- 1.3 The connection point will be via the substation and a gas connection will be close to the site (gas will be required to power plant that transmit the additional electricity generated for the local/national network and these are known as gensets). The plant equipment will vary in terms of height with the majority between 2m and 3m high. The exhaust flumes will be approximately 7m high. On average, facilities such as these work for approximately 2,500 hours per year with peak hours between 16:30 and 21:00.
- 1.4 The site is located to the side of the Gelert site and building within the Penamser Business Park site on the outskirts of the town of Porthmadog. The site is situated within a C1 flood zone and is an Employment protection site as defined in the Local Development Plan.
- 1.5 The following documents/information have been submitted as part of the application:
- Planning Statement July 2020
 - Design and Access Statement
 - Porthmadog Dispersion Modelling Assessment July 2020
 - Porthmadog Noise Impact Assessment July 2021
 - Initial Ecological Assessment August 2020
 - Transportation Construction Management Plan 2021
 - Sheltered Habitats Regulations Screening Report January 2021
 - Flood Consequence and Drainage Assessment September 2020
 - Desktop Contaminated Land Risk Assessment, July 2021
- 1.6 It is noted here that the proposal is not a major development as described by the Welsh Government considering the surface area of the site and it is not subject to screening under an Environmental Impact Assessment (EIA), Schedule 2, Column 1 (3) 'Energy Industry - industrial installations for the production of electricity' - as the site's area is less than 0.5ha.

2. Relevant Policies:

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that planning decisions should be in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Local Development Plan.

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2.2 The Well-being of Future Generations (Wales) Act 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the seven well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the 'sustainable development principle', as set out in the 2015 Act. In reaching the recommendation, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

2.3 **Anglesey and Gwynedd Joint Local Development Plan 2011-2026, adopted 31 July 2017**

ISA 1: Infrastructure provision

PCYFF 2: Development criteria

PCYFF 3: Design and place shaping

PCYFF 5: Carbon Management

PS 5: Sustainable development

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

TRA 4: Managing highways impacts

AMG 5: Local Biodiversity Conservation

PS 13: Providing opportunities for a prosperous economy

CYF 1: Safeguarding, allocating and reserving land and units for employment use

CYF 5: Alternative use of current employment sites

PS 19: Conserving and where appropriate enhancing the natural environment

PS 4: Sustainable transport, development and accessibility

PS 7: Renewable Technology

ADN 3: Other renewable and low carbon energy technologies

PS 20: Protecting and where appropriate enhancing heritage assets

AT 1: Conservation Areas, World Heritage Sites and Landscapes, Registered Historic Parks and Gardens

SPG: Change of use of community facilities and services, employment sites and retail units (2021)

2.4 **National Policies:**

Future Wales: The National Plan 2040

Planning Policy Wales (Edition 11 - February 2021)

Technical Advice Note 12: Design

Technical Advice Note 15: Development and Flood Risk

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Technical Advice Note 5: Planning and Nature Conservation

3. Relevant Planning History:

3.1 C03D/0254/44/LL - ERECT A BUILDING FOR USE AS A STORAGE AND DISTRIBUTION CENTRE (CLASS B8) AND AS OFFICES (CLASS B1) TOGETHER WITH THE PROVISION OF A CAR PARK, MODIFICATIONS TO VEHICULAR ACCESS AND ASSOCIATED DEVELOPMENTS - APPROVED - 19-05-2003

C15/0109/44/LL - Change of use to a materials recycling facility and the manufacture of solid recovered fuel - APPROVED - 15-06-2015

4. Consultations:

Community/Town Council: Not received

Transportation Unit:

I refer to the above application and confirm that I have no objection to the proposal. However, I note that the application contains a few statements that require further attention, namely: -

- Planning Statement: 3.3.2 The public road leading to the proposed development stops at the entrance to the distribution centre main entrance gates. The road to the north on approaching this entrance location runs parallel with the proposed development and is a private road...

The length up to the distribution centre forms part of the adopted roads network, however, the applicant's attention is drawn to the fact that the entire turning area has been adopted as a highway, including the road to the north along the site's boundary.

- Access Statement: 3.1.3 The applicant has prepared and submitted their Construction Transport Management Plan with this application.

I cannot see the above document with the application's information. I recommend an appropriate condition/note to provide this document for approval prior to the commencement of any work on the site.

In addition to the above, I recommend the inclusion of a standard note regarding the bull-nose kerb access (Application for Department licence 171/184) on the highway boundary in the turning area, and to provide a white access protection line as part of the work for protection from the public highway.

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Observations 12.11.2020

Happy with the modifications to the Planning Statement, to recognise that the turning area is part of the highway.

However, the CTMP is disgraceful and encourages transport to go through Beddgelert for some reason.

Observations 12.05.2021

The amended CTMP is acceptable.

No objection to the proposal and no conditions in this case.

Natural Resources Wales:

Thank you for re-consulting us on the above application, which we received on the 17th November 2021.

We continue to have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following condition to the permission. Otherwise, we would object to this planning application:

Condition (Flood Risk): The finished floor level of the development shall be set a minimum of 150mm above existing ground levels.

Flood Risk

The site lies within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note (TAN) 15 Development and Flood Risk (July 2004). The Flood Map for Planning (which represents the best available information on flood risk) shows the site falls within a TAN 15 Defended Zone and the entirety of the site is shown to be at tidal flood risk (Flood Zone 3).

We have previously received confirmation from the LPA that they consider this as highly vulnerable development.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate, through the submission of a Flood Consequences Assessment (FCA), that the potential consequences of flooding can be managed to an acceptable level.

We have further -re-considered the Flood Consequences Assessment

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(FCA) (Delta Simons, dated September 2020, Ref: 20-1334.02) and further topographic information provided in the letter from Delta Simons dated 20/11/2020. The evidence presented in the FCA and letter dated 20/11/2020, demonstrates the risks and consequences of flooding are still acceptable and can be appropriately managed over the lifetime of development. Our advice is based on the following acceptability criteria:

The topographic information provided indicates the site lies well above flood levels even for the worst case scenario – Failure of Y Cyt and Glaslyn Tidal Gates. We therefore recommend that you include the following condition, as recommended in Section 7.2 of the FCA, within any subsequent permission:

Condition: The finished floor level of the development shall be set a minimum of 150mm above existing ground levels.

Reason: To protect the development from flooding.

Protected Sites

We have reviewed the revised Shadow Habitats Regulations Screening Assessment, Land at Porthmadog Business Park, Porthmadog, Delta-Simons Project No. 20-1334.05, 29th January 2021.

From the further information provided, we consider that the proposal is not likely to have a significant effect on a SAC, SPA or Ramsar. The revised Shadow HRA report has assessed air quality impacts upon all relevant protected sites and has concluded there will be no likely significant effect upon these sites. We now agree with this conclusion.

Based on the further information submitted, we also consider that the proposed development is not likely to damage the features for Coed Tremadog SSSI is of special interest.

No assessment of likely significant effect under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 has been undertaken by your authority or it has not been forwarded to NRW for consideration. Should you conclude that the proposed development is likely to have a significant effect on the European site, we look forward to being re-consulted. In the absence of this assessment, NRW cannot offer assurances that the proposals would not result in an adverse effect upon the SAC.

The operator needs to satisfy (based on aggregated net rated thermal input) the requirements of The Environmental Permitting (England and Wales) Regulations 2016, as amended including SI 2018 No. 110 The Environmental Permitting (England and Wales) (Amendment) Regulations 2018 on implementing the requirements of the Medium

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Combustion Plant Directive and new controls on Specified Generators effective from 20 December 2018. Such a permit may not be granted. Further information can be found on our website here: <https://naturalresources.wales/permits-andpermissions/mediumcombustion-plant-and-specified-generator-activities/?lang=en>

Protected Species

We note that the bat report submitted in support of the above application (Preliminary Ecological Appraisal, Delta Simons, August 2020) has identified that bats were not using the application site. We therefore have no comments to make on the application as submitted.

Land Contamination

Natural Resources Wales considers that the controlled waters at this site to be not of the highest environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

It is recommended that the requirements of Planning Policy Wales and the Environment Agency Guiding Principles for Land Contamination (GPLC 1, 2, and 3), March 2010, should be followed. GPLC can be downloaded from the Environment Agency website.

These comments are based on our assumption that gross contamination is not present at this location. If, during development, gross contamination is found to be present at the site the Local Planning Authority may wish to re-consult the Natural Resources Wales.

Welsh Water: Foul water drainage planning condition

Rights of Way: Not received

Public Protection Unit: **Observations 14.06.2019**

Contaminated Land Conditions

1. The Public Protection Service was made aware of the high levels of ground gas in the vicinity, therefore, a desktop investigation will be undertaken to assess the potential pollution risk on the site for the proposed development.

2. If the desktop investigation recommendations indicate that further action is needed, a sufficient intrusive investigation would be required

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to assess the risk of any possible pollution on the site.

If necessary, a Remedial Strategy will be incorporated.

3. The Public Protection Service would have to approve the desktop investigation, site inspection, risk assessment and any precautionary and/or remedial measures in writing prior to the commencement of the development.

4. Once the development has been completed, a Completion Report should be provided on the site and this will need to be reviewed and approved by the Public Protection Service. The Public Protection Unit have made all reasonable efforts to recommend the most suitable measures regarding potential pollution risks. However, this recommendation should not be considered as a sign that the land is safe or otherwise suitable for this development or any other.

The responsibility for assessing if the land is suitable for a specific use fundamentally lies with the developer.

If any contaminated land problems should arise during the development that may disturb the proposed development, e.g. if unusual ground conditions are found, then there should be immediate correspondence with the Public Protection Service.

Every action should be recorded, and the information disseminated to the Public Protection Service on site inspections, assessments and remedial work completed, where relevant and included in the site's Completion Report.

Any investigation should follow the procedure of the following documents:

- BS 10175:2011 Investigation of potentially contaminated sites – Code of Practice (British

Standards Institution 2011.)

- Planning Policy Statement (PPS) 23: Planning and Pollution Control, Annex 2: Development

on Land Affected by Contamination (Office of the Deputy Prime Minister 2004, Published by The Stationary Office).

- Contaminated Land Report (CLR) 11 Model Procedures for the Management of Land

Contamination (Environment Agency 2004).

- Land Contamination: A Guide for Developers (Welsh Local Government Association, Welsh

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Assembly Government & Environment Agency Wales 2006)

Reasons for the conditions

It is considered that the measures are essential to safeguard the site holders and surrounding areas.

Observations 04.08.2021

Following receipt of the desktop assessment, I confirm that this is sufficient, however, it is necessary to condition that the recommendations in Part 5.4 are followed.

Noise Assessment (12.05.2021)

The noise assessment states that the author had contacted the Service and I can confirm that the Department is satisfied with the methodology of the assessment in terms of using BS4142 and BS8233, however, we were not satisfied with using data that is 18 years old. The department had expressed to the noise expert on the 6th July 2020 that the Covid-19 movement restrictions had been raised and companies could undertake noise measurements in July 2020.

The noise report states that noise shall have no impact on the residents of local housing at Pensyflog estate, Pencoed, Fferm Pensyflog and the Travel Lodge in Porthmadog. However, while we accept the conclusions of the noise report in the form of undertaking the assessment in accordance with BS4142:2014 and BS8233:2014, the noise assessment included in the noise assessment is based on background noise levels measured back in 2003 and 2006 for work to construct the Porthmadog bypass. Therefore, this means that the data is by now 18 and 15 years old.

It is not good practice to base a noise assessment for developments in 2021 on historical measurements such as those included in this assessment. The author has noted that they failed to go out to measure background noise due to Covid-19, however, during summer 2020 the travel restrictions had been relaxed and therefore it was possible at this time for background noise measurements to be taken. In the report the author has used background noise of LA90 41.9dB measured in 2003 near the Pensyflog cottages entrance.

The data is old and there is no consideration to any changes over the years in the area's background noise levels (changes in traffic noise or any other noise sources that may or may not be present which may have an impact on the background noise levels in the area today.)

We recognise that the author in the report anticipates that the noise levels from the development will be low, especially with windows closed during the night and the levels from the development will not

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have an effect on nearby residents. The report does not convey the actual situation in terms of noise levels as they exist today. I therefore wish to convey our concern as a department that the actual background levels have not been measured and included in this report.

I suggest that a background noise assessment is undertaken to ensure that the levels stated in the report are correct. There is a possibility if there is a change in the background noise, and that the background noise is lower than what was measured in 2003, this will therefore have an impact on the report's results where mitigation measures may have to be set.

Observations 24.09.2021

We have assessed the new report that has taken the background noise levels in 2021 rather than using data that was 18 and 15 years old. The report demonstrates that there is not much difference between the noise levels taken in 2021 compared to the earlier levels.

The conclusion notes that noise from the units will be no higher than the area's background noise when operational during the day. The noise levels from the units will be higher than the background noise levels during the night if residents wish to use their gardens in the evening, but inside the houses the report conveys that the levels will be within the BS 8223 guidelines. We accept the conclusions of the noise report and it will be necessary to ensure that any unit let will be in compliance with the noise levels in the report. Noise from the units should not exceed 40dB LAeq, 15 minutes when measured at the nearest noise sensitive property.

The report notes that there will be a tonal aspect to the units, however, there are no details regarding the low frequency levels that will be generated. Low frequencies can cause significant problems, the applicant will have to ensure that the frequencies do not have a negative impact on residents. A unit should not have any identifiable tonal character, and therefore the applicant should ensure that any unit can comply with the NR curve 25 between the hours of 2300 and 0700, or that the unit is not allowed to operate at night.

Biodiversity Unit

The applicant has provided an ecological report (Preliminary Ecological Appraisal - Porthmadog Business Park) by Delta-Simons, dated August 2020. The ecological report has included a habitats survey (Phase 1 Habitat Survey) and a protected species survey.

I can confirm that the survey and the report have been produced to a

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good standard. I agree with the conclusion of the ecological report.

Habitats

The ecological report describes the site:

“The Site comprises a mix of hardstanding, scrub and ephemeral vegetation with hedgerows to the north and southeast boundaries with the gable of an offsite industrial building on the west boundary. There was a metal silo, metal generator building, construction welfare building and a sub-station on Site. The Site did not support standing water at the time of the survey.”

Species

According to the ecological report there is potential for reptiles and nesting birds to be present at the site, therefore the document recommends measures to avoid harm to these animals.

The site does not include features that may be a roosting place for bats. Bats can fly along the hedgerows.

Designated Sites

There are 3 designated sites within 6km of the development site:

- Meirionnydd Oakwoods and Bat Sites SAC – 900m to the north;
- Lley Peninsula and the Sarnau SAC – 1.5km to the south;
- Morfa Harlech and Morfa Dyffryn SAC – 3.5km to the south.

The development is not likely to affect the above sites for the following reasons:

- The development will not cause a loss of land within the designated sites.
- There are no impact pathways between the development site and the designated sites
- Regarding the Meirionnydd Oakwoods and bats, there will be no significant impact from the development, however, in order to improve the site for bats I suggest that the site has lighting suitable for bats and the hedgerow should be retained and improved.

Recommendations

I recommend that the planning conditions are attached to the approval in order to protect wildlife.

- The recommendations under part 6.2 (Construction and Operational Phase Protection / Enhancement Measures) in the ecological report

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by Delta-Simons dated August 2020 shall be followed.

I do not have any objection to the application if the measures to protect wildlife are followed.

Land Drainage Unit:

Since 7 January 2019, sustainable drainage systems (SuDS) are required to control surface water for every new development of more than one dwelling or where the building surface area has drainage implications of 100m² or more. Drainage systems must be designed and constructed in accordance with the minimum standards for sustainable drainage as published by Welsh Ministers.

These systems must be approved by Gwynedd Council in its role as SuDS Approval Body (SAB) prior to commencement of the construction work.

Due to the size and nature of the development, it is possible that an application will need to be submitted to the SAB for approval before construction work commences. No drainage details have been submitted thus far, and until an application is submitted to the SAB there is some uncertainty on whether the proposed site plan will enable the development to fully comply with the series of national SuDS standards.

Public Consultation:

A notice was posted on the site and nearby residents were notified. The advertisement period has expired and the following observations were received:

- No need for the development
- The development does not comply with the Council's environmental policies
- Is there a cleaner option on the horizon?
- Flooding

5. Assessment of the material planning considerations:

The principle of the development

- 5.1 The proposal is to provide a 5MWe fast response flexible electricity generating facility and associated works, and this facility would run (albeit occasionally) on gas, and therefore would be dependent on fossil fuel. It is recognised that similar applications have been approved by the Local Planning Authority in other locations on the grounds that they would form part of the support network that could be used when the renewable supply is insufficient within the local network. By now, similar proposals have been refused on appeal due to their dependency on fossil fuel in circumstances where councils have declared a climate emergency and also where there is a lack of evidence about the need to create energy by burning fossil fuel. Gwynedd Council recognised and

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declared a climate emergency in March 2019 and promotes a reduction in carbon use as part of their strategy.

- 5.2 Policy PS 5 of the LDP supports developments where it can be shown that they are consistent with sustainable development principles, and all proposals should alleviate the causes of climate change and adapt to those impacts that are unavoidable in accordance with Strategic Policy PS 6. Policy PS 6 of the LDP states that in order to alleviate the effects of climate change, proposals will only be permitted where it is demonstrated that they have fully taken account of and responded to the following, this includes the energy hierarchy, which includes reducing energy demand, energy efficiency and using low or zero carbon energy technologies wherever practical. Policy PCYFF 5 of the LDP confirms that developments will need to demonstrate how the energy hierarchy set out in Policy PS 6 has been fully taken account of and take maximum advantage of the contribution from renewable or low carbon energy to satisfy the proposal's need for electricity and heat.
- 5.3 Furthermore, the applicant states that there is a need for the provision and it would form part of the support network that could be used when the renewable supply is insufficient within the local (ScottishPower Energy Networks) and national networks (National Grid). The agent has also stated that there are local capacity issues that prevent local businesses from growing and expanding.
- 5.4 In addition to the above, the applicant has referred to the objectives of the Welsh and UK Governments to reduce gas and carbon emissions in the near future with the primary aim of seeking to reduce reliance on large-scale centralised electricity-generating facilities that use fossil fuels. In order to balance between the need for electricity and ensuring the safety of energy on one side and using more renewable energy on the other, a new type of energy generation will be required within the local network and close to the consumption point.
- 5.5 Therefore, to this end, the applicant notes that a number of small projects that generate electricity on demand, which are efficient and economical, are being implemented across the UK by using plants such as gensets, that is the subject of this application. These plants are fuel-efficient as they clean-burn and use an area with a small footprint with minimum infrastructure and are supported by the National Grid and the UK Government.
- 5.6 PPW, Edition 11, 2021, paragraphs 5.7.2, 5.7.6 and 5.7.11 state that the planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of de-carbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development...The planning system should (in relation to this specific application): (i) integrate development with the provision of additional electricity grid network infrastructure and (ii) secure the best location for new developments to ensure that resources are used efficiently. An effective electricity grid network is required to fulfil the Welsh Government's renewable and low carbon ambitions. An integrated approach should be adopted towards planning for energy developments and additional electricity grid network infrastructure...Planning authorities and the energy industry, including the National Grid and Distribution System Operators, should engage with each other to ensure that development plans take grid infrastructure matters into account. This can also ensure investment plans for transmission and distribution align with the identified potential for renewable and low carbon energy as well as the future challenges of increasing electrification of transport and heat.

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- 5.7 Despite this, the agent has only submitted statements, and there is no evidence submitted of the specific need for this provision at all or that it would be possible to provide the supply via other low carbon or renewable means. To this end, it is considered that the proposal is contrary to the general aims of the Local Development Plan, together with policies PS 7 and ADN 3 specifically that promote the provision of renewable or low carbon energy, and PPW, Edition 11, 2021, paragraphs 5.7.2, 5.7.6 and 5.7.11 as noted above, and policies PS 6 and PCYFF 5 in terms of alleviating the impact of climate change and carbon management.
- 5.8 Policy PS13 and CYF1 state that residential units and land for B1, B2 and B8 uses and some sui generis uses will be protected to create a thriving economy. Policy CYF 3 allows some ancillary uses on employment sites subject to specific criteria.
- 5.9 The proposal before you does not include employment use, past the period to install the equipment. It is recognised that the proposed site is a small, awkward site and there are vacant units within the business park, however, there is no specific justification for the proposal and it cannot be confirmed that the loss of employment land is acceptable in terms of policies PS 13, CYF 1 or CYF 3 of the LDP.

Visual amenities

- 5.10 As referred to above, the development includes various types of structures that vary from a 2.4m high palisade security fence to structures that vary in height from 2m to 7m. These structures are contained within an area that measures 0.14ha. The site is located at the rear of the existing Gelert industrial unit with a public footpath and railway track directly to the rear. There is high vegetation on the boundary to the back of the site. The site is located within an area of outstanding historic interest, however, bearing in mind the setting of the site within the local landscape the site will only be visible from the business park site itself and the path and railway that pass the back and even through the existing vegetation and past the existing buildings. Although the proposal includes the installation of 10m high exhaust flumes above the genset plant the height would blend into the existing buildings surrounding the site. Considering that the site is mostly screened and is located within an area that has been significantly developed, if approved, it is believed that the proposal would not have a substantial detrimental impact on the visual amenities or the local area. Therefore, the proposal is acceptable on the basis of the requirements of Policies PCYFF 2, 3 and 4, PS 20 and AT 1 of the LDP.

General and residential amenities

- 5.11 The site is located within Penamser Business Park and there are a number of different uses within this park including a hotel. As part of the application an amended Noise Assessment and Dispersion Modelling Assessment together with a Transport Management Plan were submitted to assess the affect and impact of the proposal on the general and residential amenities of nearby occupants and users.
- 5.12 The nearest houses (Pensyflog estate) are located over 300m away, and it is not considered that the proposal would have an impact on their general amenities.
- 5.13 As noted above, the amended Noise Assessment has been submitted that uses current background noise levels. The conclusion notes that noise from the unit will not exceed the area's background noise during the day, however, the noise levels from the units will exceed the background noise

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levels during the night, but will be within the BS 8223 guidelines. To this end, Public Protection accepts the conclusions of the noise report, subject to ensuring that any unit to be let will correspond to the noise levels in the report, and to include conditions regarding the noise levels and hours.

- 5.14 Based on the above assessment, it is therefore considered that the proposal is acceptable based on the requirements of Policy PCYFF 2 of the LDP.

Transport and access matters

- 5.15 The site is located within an existing Business Park and a Transportation Construction Management Plan has been submitted as part of the application. Following amendments to this document, the Transportation Unit has confirmed that the proposal is acceptable. It is noted that a public footpath is located at the back of the site (between the site and the railway). No response has been received from the Council's Footpaths Unit, however, it is noted that the plans demonstrate that there is no impact on this footpath.

- 5.16 Based on the information submitted, it is considered that the proposal complies with the requirements of policy TRA 4 of the LDP.

Biodiversity matters

- 5.17 The initial ecological report and the assessment of habitats regulations have been submitted as part of this application, and due to the proximity of the site to the Pen Llŷn a'r Sarnau and Morfa Harlech and Morfa Dyffryn Special Areas of Conservation as well as the Coed Tremadog Site of Special Scientific Interest, the Council needs to assess the proposal under the Habitats Regulations.

- 5.18 The Biodiversity Unit and Natural Resources Wales have confirmed that the proposal is acceptable on the grounds of the assessments submitted and the proposal will not have a detrimental impact on these designations as long as the proposal is completed in accordance with the mitigation measures noted in the reports submitted.

- 5.19 To this end, it is considered that the proposal is acceptable in terms of impact on species, Biodiversity and local and national designations, and the proposal complies with the requirements of policies PS 19 and AMG 5 of the LDP.

Sustainability and economy matters

- 5.20 The site can be described as a previously developed site with hardstandings in the form of slate waste together with a container and building/electrical equipment surrounded by a palisade fence. The nature of the proposal itself could be interpreted as a sustainable development as it is a low carbon development. Policy PS5 states that developments will be supported where it can be demonstrated that they are consistent with the principles of sustainable development and, for example, give priority to effective use of land and infrastructure, prioritising the reuse of previously developed land and buildings.

- 5.21 Policy CYF 5 states that uses that are not B1, B2 or B8 uses within employment sites can be permitted if compliance with a number of guidelines can be secured and the applicant has responded to these stating:-

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- The site chosen is an area with an unduly level in terms of space and land use. Using this space within the current size of the warehouse facility will not have any effect on the loss of any employment land.
- The development and use of this land supports continuous commercial viability of the existing commercial activity and therefore safeguards the use of the site directly for employment, it presents additional and new commercial activity that creates investment and internal employment.
- The development supports indirect employment throughout the operational period and maintenance and on top of this it provides significant opportunities for temporary employment with local businesses during the construction phase.
- Based on the nature of supporting the growth in the low carbon economy, the development supports high value technology skills in the region and this assists indirectly to maintain and the growth in the number of jobs available in the region that involves the low carbon economy.

5.22 It has already been noted that no evidence has been submitted to support the applicant's statements and therefore to this end it is not considered that there is sufficient justification for the proposal or to the location and therefore it is considered that the proposal is not acceptable on the grounds of the requirements of policies PS 5, PS 13, CYF 1 and CYF 5 of the LDP.

Flooding matters

5.23 The site is located within a C1 flooding zone and the proposal is to provide a gas powerhouse to generate electricity, that according to the definitions included in Technical Advice Note 15: Development and Flooding Risk is a development that is highly vulnerable to damage.

5.24 The application's agent has provided the Welsh Government's determination for a similar development (it is noted that this proposal was a solar development) within the flooding zone. The agent noted that in this decision there was no intention for the proposal to be considered as a development that is highly vulnerable to damage and was permitted on the ground of need that outweighed the requirements for justification within a flooding zone.

5.25 The contents of this decision are noted, and it is also noted that this decision was made in 2018 and recent discussions between other councils in Wales and Natural Resources Wales have confirmed that the type of development that is subject to this application is defined as a development that is highly vulnerable to damage, and therefore officers continue to be of this view.

5.26 A Flooding Consequence Assessment has been submitted as part of the application and has been assessed by Natural Resources Wales. Natural Resources Wales is aware of the development's definition as a development that is highly vulnerable to damage and has assessed climate change up to 2120 in their response.

5.27 Natural Resources Wales have confirmed that the level of the site is sufficient for the predicted future flooding levels on condition that the finished floor level of the development is set no lower than 150mm above existing ground levels.

5.28 The TAN notes that a new development should be directed away from zone C to suitable land in zone A, or otherwise to zone B where coastal or fluvial flooding is less important.

In zone C the tests outlined in sections 6 and 7 are relevant, recognising, however, that a development highly vulnerable to damage and Emergency Services in zone C2 should not be permitted. The only time where other new developments should be permitted in C1 and C2 zones is when the planning authority decides that there is justification to locate them there.

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5.29 The only time there can be justification for such a development, including transport infrastructure, is when it can be shown:-

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement or
- ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region.

also,

- iii. That the application concurs with the aims of Planning Policy Wales and meets the definition of previously developed land (Planning Policy Wales figure 2.1) and,
- iv. The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and Appendix 1 found to be acceptable.

5.30 As noted above, no evidence has been submitted as part of the application which justifies the proposal or the location and therefore the proposal does not comply with the general and specific policies in the LDP, and therefore it is not considered that the proposal complies with criterion i. The site concurs with the aims of Planning Policy Wales and meets the definition of previously developed land and therefore complies with the requirements of criterion iii. Natural Resources Wales have confirmed that the proposal is acceptable in terms of the requirements of TAN 15 and therefore the proposal complies with the requirements of criterion iv.

5.31 To this end, and as the proposal falls within the classification of a development that is highly vulnerable to damage, and there is insufficient justification for this, the proposal is unacceptable in terms of flooding and it does not comply with the requirements of policy PS 6 of the LDP or with TAN 15.

Response to the public consultation

5.32 A number of observations have been received following public consultation and are noted in the above table. It is considered that the matters raised have been addressed in the above report.

6. Conclusions:

6.1 Having considered the above assessment, it is not considered that this proposal is acceptable on the grounds of a lack of justification for the proposal and its location, that is within land designated for employment use and within a flooding zone, and that it uses fossil fuel when the Council has declared a climate emergency and promotes using less carbon. It is therefore considered that the proposal is contrary to the policies noted in the above report.

7. Recommendation:

7.1 To refuse – Reasons

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1. Insufficient evidence has been submitted for the need for the development or its use of fossil fuels that would undermine Gwynedd Council's declaration of a climate crisis. To this end, it is considered that the proposal is contrary to the general objectives of the Gwynedd and Anglesey Joint Local Development Plan 2017, together with policies PS7 and ADN3 specifically which promote the provision of renewable or low carbon energy, and policies PS5, PS6 and PCYFF 5 in terms of mitigating climate impacts and carbon management and Planning Policy Wales, Edition 11, 2021, paragraphs 5.7. 2, 5.7.6 and 5.7.11.
2. No specific justification has been submitted as part of the application for the proposal on this site and therefore it cannot be confirmed that the loss of employment land is acceptable and the proposal is therefore contrary to the requirements of policies PS5, PS13, CYF 1, CYF 3 or CYF 5 of the Local Development Plan on Anglesey and Gwynedd Joint 2017 which manages development on land designated for employment use.
3. The proposal falls within the definition of highly vulnerable development, and insufficient evidence has been submitted to ensure that the proposal complies with the Council's strategy, and therefore the proposal is not acceptable in terms of flood and does not comply with the requirements of policy PS 6 of the Gwynedd and Anglesey Joint Local Development Plan 2017 together with criterion (i) of paragraph 6.2 of Technical Advice Note 15 Development and Flood Risk.