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## PLANNING COMMITTEE 13 January 2025

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### Present

Chair: Cllr Elwyn Edwards

Vice-chair: Cllr Huw Rowlands

**Councillors:** Delyth Lloyd Griffiths, Louise Hughes, Elin Hywel, Gareth T. Jones, Cai Larsen, Anne Lloyd Jones, Edgar Owen, Gareth Coj Parry, Gareth A. Roberts and Gruffydd Williams

### Others invited:

Councillor Rhys Tudur – item 5 (at the request of the Local Member)

Councillor Elin Walker Jones – item 6.1 Local Member

### Officers:

Gareth Jones (Head of Planning and Environment), Keira Sweeney (Planning Manager), Robyn Jones (Deputy Monitoring Officer), Rhys Cadwaladr (Senior Planning Officer - Mineral and Waste) and Lowri Haf Evans (Democracy Services Officer).

Item 5: Gwyn Evans (Access Team Leader), Catrin Davies (Rights of Way Officer), Dafydd Jones (Solicitor)

### 1. APOLOGIES

Apologies were received from Councillor John Pughe Roberts

### 2. DECLARATION OF PERSONAL INTEREST AND PROTOCOL MATTERS

- a) The following Members declared that they had an interest in relation to the item noted:
- Councillor Gruffydd Williams (a member of this Planning Committee), in item 5 on the agenda, as he was the applicant.
  - Councillor Huw Rowlands (a Member of this Planning Committee), in item 6.2 C23/0916/05/LL on the agenda, because he was the clerk of Llanfrothen Community Council.

The Members were of the opinion that it was a prejudicial interest, and they did not participate during the discussion or vote on the application.

- b) The following Members declared that they were local members in relation to the items noted:
- Councillor Elin Walker Jones (not a member of this Planning Committee), in relation to item 6.1 (C24/0916/11/DT) on the agenda
  - Councillor Gareth Tudor Jones (a member of this Planning Committee) in relation to item 6.3 (C24/0689/42/LL) on the agenda

### 3. URGENT ITEMS

As a matter of order, it was reported that since the Chair and Deputy Monitoring Officer were joining the meeting virtually, the Assistant Head of Department would be announcing the results of the voting on the applications.

### 4. MINUTES

The Chair signed the minutes of the previous meeting of this committee, held on 9 December 2024, as a true record.

### 5. **Wildlife and Countryside Act 1981: Application to register a public footpath on the Definitive Map and Statement, Nefyn Harbour, Town of Nefyn.**

**To consider whether the Authority should draw up a Definitive Map Modification Order.**

Attention was drawn to the late observations form.

- a) The Access Team Leader highlighted that an application had been submitted to the Council, under Section 53 of the Wildlife and Countryside Act 1981 to register a public footpath in the town of Nefyn on the Definitive Map. The application was made on the grounds that the public had walked along this path, as if they had the right, unhindered and consistently, without concealment and without the landowner's permission over a continuous period of twenty years.

The application had been received from Councillor Gruffydd Williams in its amended form in November 2021. It was explained that the claimed footpath started at a junction with Public Footpath number 19 in the Town of Nefyn (point B on the Plan), and then led down a narrow, steep path with many steps, along the sandy beach; then on to the front of many residential properties and beach huts, before terminating beyond the sea wall (point E on the Plan).

It was explained, after receiving the application and taking legal advice, it was considered essential for the Council to refuse the application for the following reasons: -

- Failure 1: The section of the path claimed cannot be identified between points B to E on the plan on the ground and that the path did not have any discreet boundaries. It was not possible to confirm whether actual use had been made of it (either by the public or otherwise), as it did not exist in an identifiable way on the ground. Specifically, it was argued when walking, that members of the public tended to use the path claimed or any other part of the beach depending on the location of the tide. There was a requirement in law to obtain assurance of the extent of the claimed path to the degree in which it could be ensured that it was identifiable on the ground. It was considered that it was not possible to clearly identify the path on the ground and therefore this requirement could not be satisfied, and it would not be possible for anyone who objected to this application to have grounds for objection.
- Failure 2: It was considered that the path had been mainly used by the users or owners of the beach huts or boatowners on the beach. Specifically, the claimed path did not have a link to the highway or public rights of way network at its termination at point E. As the public, in general, never used the path, it was not possible to consider such use

as a right, and consequently, it was not possible to satisfy the code of presumed dedication under section 31 (1) of the Highways Act 1980.

Attention was drawn to the relevant legislative framework, highlighting the fact that the only consideration was the evidence and that factors such as public safety, desirability, suitability or need for the path could not be considered by the Authority. It was reiterated that the entire process related to deciding whether an actual public right of way had existed or not.

Reference was made to the evidence received, noting that a statutory minimum level of users was not required to show adequate use to lead to a presumed dedication, however, it should be used by the public or community. When considering an application of this type, the public must demonstrate that they have used the path unchallenged over a period of twenty years.

In order to make the case under Section 31 of the Highways Act 1980, there was a need to establish a date when the public came to use the suspected path. In this specific case, it was argued that there was no assumed introduction date. The Officers recommended refusing adding the alleged path to the definitive map.

- a) As Councillor Gruffydd Williams was the applicant of the application and therefore raised a prejudicial interest, he nominated Councillor Rhys Tudur to speak on behalf of the community. The following observations were presented and historical photos of the path were shown;
- There had been a strong response to the application locally - this highlighted the interest of local residents.
  - The path was historical and it had been used for well over 20 years.
  - The traces of the path could be identified clearly and when the tide was in, there was no option but to use the path above the wall.
  - Recent photos with security gates and vegetation prevented use and therefore hid the traces of the path - the traces of walking along it were more visible in old photos
  - The path was historically used by fishermen - not just for recreational use.
  - The boundary clearly followed the houses and walls.
  - In the context of Public Policy and the County Council's Notice of use, many property-owners acknowledged the existence and use of the path as a public path. They had not prevented anyone from walking along it and they had not taken steps to prevent the public's use of it.
- b) The Solicitor highlighted that the path was used at high tide, but in usual circumstances, people generally walked along the beach and therefore it was not possible to restrict the use to a path only, rather for 'roaming' use. He reiterated, that if a public inquiry would be held, it was anticipated that 'roaming use' would be proved and it would be difficult to provide evidence that was contrary to this. As the evidence was vague and contrary to the code, approving was likely to lead to the risk of substantial costs to the Council.
- ch) It was proposed and seconded to refuse the application in accordance with the recommendation.
- c) During the ensuing discussion, the following observations were made by members:
- That 27 responses and photos had been received / showing, evidencing of the use

- That there was historical use of the path; used by generations of Nefyn residents. The path was an integral part of the area's history and heritage.
- That the 'reasonable use' turn of phrase in the order seemed to be a low threshold, as well as the balance of probability - this was a matter of opinion - there was no guarantee that a public inquiry would refuse.
- An application had been submitted in 2018 and an amended plan in 2021; what had happened in the meantime?
- That a noticeboard on the beach drew attention to the path.
- It was a disgrace that the Council did not respect this historical path.
- That a public footpath sign had been installed - the path was visible.
- The path led to the breakwater, with the option of walking on around the headland to Morfa Nefyn.
- That benches in memory of people's loved ones had been installed along the path.
- That there was adequate space to walk between the houses and the wall.
- The feelings of locals had to be respected - social media was awash with comments and feelings.

In response to comments that there was pressure to refuse due to the risk and costs to the Council, the Solicitor noted that he had a duty to inform them of the relevant risks. In response to a further comment regarding the possibility that the costs would not be unreasonable considering an appeal some years ago with Mawddach Crescent, it was noted again that there was a duty to highlight the relevant risks to the Committee.

In response to an observation that the path was in a poor condition and was dangerous, it was noted that safety was not a factor to be considered here. In response to a further comment regarding acknowledging the path by installing clear signs and giving an opportunity to Nefyn Town Council to adopt it and respect the community's wishes, it was noted that no order would prevent people from using the beach, but there was a risk here that there was no evidence highlighting the use of the path only.

The Solicitor reiterated that if the Council decided to create an order to register the path contrary to the recommendation, the Proposer and Seconder would be expected to defend the Committee's decision should an appeal / public inquiry be held.

- dd) A vote was taken on the proposal to refuse.  
The proposal fell.

It was proposed and seconded to ask the Authority to draw up an order to register the path. It was considered that sufficient evidence had been submitted highlighting the use of the path over a period exceeding 20 years. It was also noted that the date when the amended plan was submitted (November 2021) as the date when the question had been raised.

**RESOLVED: Contrary to the recommendation, the Authority to draw up a Definitive Map Modification Order and register the public footpath of Nefyn Harbour, Nefyn Town - noting the date when the question was raised as 20 November 2021**

**Reason: Sufficient evidence of 20-year use**

## **6. PLANNING APPLICATIONS**

The Committee considered the following applications for development. Details of the applications were expanded upon and questions were answered in relation to the plans and policy aspects.

### **6.1 Application Number C24/0916/11/DT**

#### **14 Belmont Avenue, Bangor, Gwynedd, LL57 2HT**

Two-storey extension at the rear of the property

- a) The Planning Manager highlighted that this application was for the demolition of an existing multi-purpose room at the rear of the property and erecting a two-storey flat roof extension. It was explained that the property was a semi-detached property in a residential area in the city of Bangor, with the application submitted to the Planning Committee at the request of the local member.

Reference was made to the objections received. In terms of design and appearance, it was considered that this type of extension was not unexpected in residential areas, and therefore it would not have an unacceptable visual impact. In response to the comments that raised concerns about loss of light, it was noted that a detailed assessment of the impacts had concluded that the impact of the extension would not be harmful, based on the loss of light or oppressive impact (despite it being a two-storey extension, it was only 0.5m longer than the existing rear extension).

Attention was drawn to the late observations form which referred to the cumulative impact of adaptations with planning permission, permitted adaptations (i.e., extensions and alterations that did not require planning consent) and the cumulative impact of the proposal. It was explained that the plans submitted showed the impact of all proposed elements, and therefore it was possible to alter the situation as a whole. Individual consideration was not given to the porch, the gable end extension on the side of the roof and the dormer window in the back, due to the extant permission, as well as the fact that it would be possible to build the flat roof extension, which is the subject of this application, without completing the rest of the alterations. Consequently, the Officers were not of the opinion that the cumulative impact of all of these elements were harmful should they all be implemented.

Reference was made to the objections received regarding the broader water overflow problems on the street in general, as well as the development's impact on the area's drains. It was noted that the observations received from Welsh Water asked for a condition to prevent additional flows of surface water into the sewerage system. The Council's Drainage Unit did not object to the proposal. Despite acknowledging the concern, there was no robust evidence to highlight that the extension would affect or worsen the current situation. Subject to the nature of the drains, private or as a part of the public drainage system, it was reiterated that there would be protection either through the building control procedure or Welsh Water rules, therefore it was not considered that there was a planning reason to object to the proposal based on drainage matters.

Having considered all relevant planning matters, the local and national policies and guidance, the proposal was considered to be acceptable. The Officers recommended to approve the application with conditions.

- b) Taking advantage of the right to speak, an objector to the application made the following observations:
- That the occupier of property number 16 had contacted Hafod Planning for advice regarding the application, and the response had been submitted in a letter to officers (dated 06-01-25).
  - They strongly encouraged conducting a site visit so that the Members understood the views of the occupier of number 16 and the impact that the oppressive extension would have on her house.
  - Number 16 would lose light to the rear of the house and this would affect the occupier's amenities.
  - That the land to the rear of the building was very steep and was the same as the first floor of the property.
  - There had been flood problems in the past - the occupier of number 16 was concerned about this.
- c) Taking advantage of the right to speak, the applicant noted the following observations:
- That he wanted to provide a place for his family that would provide sufficient space for the children to visit him. Although some of the children came and went, they needed rooms for them.
  - The house, with the extension, would offer 4 bedrooms and an office.
  - His partner needed an office to work / study from home, and he, as a self-employed person, needed an office so that he could do his administrative work.
  - Could not afford to buy a larger house.
  - The location of Belmont Avenue was convenient.
  - That the plans were not out of character - a number of nearby houses had extensions.
- d) Taking advantage of the right to speak, the Local Member made the following comments:
- That she objected the application.
  - That she, as the Local Member, knew the area very well.
  - That there were three contentious reasons for refusing - drainage, amenities and character.
  - Character - the house would look very different to all other houses and would create a substantial visible impact to the appearance of a semi-detached house. The extension was of a substantial scale.
  - Amenities - next door would lose light and the extension created unbearable substantial overlooking.
  - Drainage - consideration had to be given to the steep landscape of the garden in the rear of the property, as well as a drain that had been installed between number 14 and 16 to deal with surface water (historical flooding problems here).
  - The work of laying the foundations for the extension was likely to have an impact - this element had not been met.
  - Drainage, overflow, surface water and an increase in water levels - a meeting was needed with YGC to discuss this. Some houses in the street had damp and water pumps - the situation needed a thorough assessment and a robust drainage system.
  - Encouraged the Committee to refuse the application.
- e) It was proposed and seconded to conduct a site visit.

**RESOLVED: To defer a decision and conduct a site visit,**

## 6.2 APPLICATION NUMBER C23/0916/05/LL

### Chwarel Garth, Minffordd, Penrhyndeudraeth, LL48 6HP

- a) An application for a temporary waste transfer station in Chwarel Garth to receive, store, treat and process non-reactive materials from the Eryri/Snowdonia Visual Impact Provision Project.

Attention was drawn to the late observations form.

The Senior Minerals and Waste Planning Officer highlighted that the inert waste recycling activities would be for a temporary period to coincide with the SVIP development. It was explained that the application site was adjacent to a part of the quarry where the crushing activities already happened and the proposal would use the existing infrastructure in the quarry, such as transport roads, weighbridge, offices and access to the highway.

In the context of the principle of the proposal, it was noted that the Waste Hierarchy, Planning Policy Wales, TAN 21 and the Welsh Government document "Towards Zero Waste", noted that by treating waste, there should be a reduction in waste products and waste diverted from landfill sites by recycling and reusing where possible. In addition, emphasis is placed on the minerals planning policies to promote the use of secondary/alternative aggregates in order to reduce the dependency on primary rock extraction and protecting the County's hard rock land bank.

In terms of local policies, it was explained that the principle of establishing a waste management facility was based on policies PS 21, GWA 1 and GWA 2. Although the site had not been allocated in policy GWA 1, the policy states that it is possible to establish the waste management facility in existing quarries if there is justification and no detrimental impact. In addition, policy GWA 2 sets criteria that waste management proposals must comply with. In this case, it was highlighted that a need had derived specifically from the SVIP work by the National Grid. No waste deriving from other sources being treated - this only refers to the management of the inert waste materials produced by the excavation and tunnelling work. It was highlighted that the information submitted with the application proposed a total of slightly more than 250,000 tonnes in order to prepare for any inconsistencies in the preliminary estimate. The proposal stated that material would be imported to the site at an annual rate of 75,000 tonnes, which would equate to a period of 3.3 years.

It was expressed that there is no closer designated site for the SVIP development and that nobody within the area would be able to provide for the substantial amounts of waste material that will be produced.

In the policy context of MWYN 1 and MWYN 5 which consider the need to safeguard the County's minerals resources, there was an intention to use the temporary quarry's existing infrastructure in order to recycle inert waste into secondary aggregates. It was noted that conditions would need to be imposed that the waste was specifically from the SVIP project.

In the context of visual and residential minerals, the site is within the Special Landscape Area of Aber Glaslyn and Dwyryd and Aberglaslyn Landscape of Outstanding Historical Interest. The proposal related to minor physical changes to the site but as the proposal would not lead to any visual impact that would be substantially different to the impact of the mineral

works currently permitted in the quarry, it was considered that the proposal complied with policies PCYFF 3, AMG 2 and AT 1 of the LDP.

In terms of the impacts of noise and air quality, the proposal would restrict the waste management activities to the same working conditions as the wider quarry in order to ensure consistency and practicality. The conditions would, amongst other things, include working hours, noise restrictions levels, noise level monitoring and dust mitigation measures. Considering the distance of the site from nearby properties and environmental conditions that are already in place in the quarry, it was considered that the proposal complies with the MWYN 3 and PCYFF 2 policies in the LDP.

In the context of traffic and access, the proposal will use the internal transport roads, weighbridge, wheel washing facility, existing parking places and vehicular access in the quarry to the A487 trunk road and therefore it was not considered that it would have any detrimental impact on the public highways network and parking standards; therefore in compliance with policies TRA 2 and TRA 4 of the LDP and TAN 18.

It was explained that the western parts of the site came under the Flood Risk Zones on the Government's Development Advice Map and Flood Map for Planning. The inert waste facility was defined as a development that is a less vulnerable development for the purposes of TAN 15, so that the proposed use can be useful if the proposal complied with the justification tests included in TAN15. It was noted that the proposal met the justification tests of TAN 15 with Natural Resources Wales confirming that the information in the Flood Impact Assessment is acceptable. As a result, it was considered that the proposal would not have a harmful impact on hydrological features and flood risk and would comply with relevant policies.

In the context of Ecology matters, it was noted that the site of the proposed application was located close to the ecological designation of 'Coedydd Derw and Ystlumod Meirion' Special Area of Conservation and the 'Glaslyn' Site of Special Scientific Interest. Considering that the proposal is in an existing and working quarry, there will be no direct loss of any habitat. It was reiterated that the Biodiversity Unit in the Local Authority and Natural Resources Wales had noted that part of the quarry was part of the flightpath of the Lesser Horseshoe Bat and recommended no extra floodlights or external lighting that would cause an obstruction to their flightpaths. As a result, conditions would be needed to ensure a lighting plan, Pollution Prevention Plan, and biodiversity enhancements.

When considering Language, Community and Economy matters, the Members were reminded that Criteria 1 (A) of strategic policy PS 1 noting that a Welsh Language Statement would need to be provided with a proposal for an industrial development which employed more than 50 employees or with a surface area of 1,000 square metres or more. In this case, the proposal did not include any physical changes to this site or changes to the existing workforce. It was reiterated that Diagram 5: Policy PS 1 in Supplementary Planning Guidance 'Maintaining and Creating Distinctive and Sustainable Communities' elaborated on the requirements of policy PS 1, noting that the only requirement was to consider criteria 4 and 5 of the policy, which require proposals to incorporate bilingual signage plans and using Welsh names for new developments, house and street names. Considering that the name of the application site was bilingual and already had bilingual signage in place, the only reasonable condition to use under the circumstances would be to retain the signage for the duration of the development.



Having considered all the relevant matters, it was deemed that the application was acceptable. It was recommended to approve the application in accordance with appropriate conditions.

b) It was proposed and seconded to approve the application.

**RESOLVED to approve the application subject to the following conditions:**

1. **Development to commence within 12 months of the permission date.**
2. **Development permitted to cease within 5 years of notification of commencement. The development hereby permitted shall cease immediately in the event of early or premature cessation of the winning and working of minerals at the site (Chwarel Garth).**
3. **In accordance with the plans and submitted details.**
4. **Nothing other than inert waste excavation material from the SVIP development shall be imported to the site.**
5. **Operator/developer shall provide a log of material imported to the LPA within 10 days of request (information to contain origin, tonnage, description of material, date and times of movement and fate).**
6. **Restriction of relevant GPDO rights for buildings, structures, private ways, floodlighting, fencing etc.**
7. **Mark boundary of permitted area prior to commencement.**
8. **Biodiversity enhancement agreed prior to commencement.**
9. **Copy of determination and approved plans to be shown at the Chwarel Garth site office.**
10. **Hours of working (to match mineral permission).**
11. **Oil, fuel and chemical storage on impervious bases and bunded.**
12. **Monitor site for presence of non-native invasive species.**
13. **Noise level restrictions (specific levels to match mineral permission).**
14. **Noise levels restrictions for temporary operations (specific levels to match mineral permission).**
15. **Annual noise monitoring/survey.**
16. **Vehicles, plant and machinery to operate within maximum noise emission levels of manufacturer specification and not operated without appropriate sound deadening screens, casework, enclosures and silencers.**
17. **'White noise' reversing alarms for mobile plant and vehicles.**
18. **Dust mitigation measures carried out in accordance with condition 23 of Mineral Planning Permission (C16/1385/05/MW).**
19. **Surface of site access to county highway to kept clean and no mud/debris to be deposited on highway.**
20. **Environmental log of dust complaints kept and to be made available to the LPA within 14 days of request.**
21. **The import of inert waste material shall be restricted to the use of the existing dedicated haul routes.**
22. **Loaded vehicles leaving site to be sheeted or treated to avoid emission of dust (for material under 75mm).**
23. **Condition to retain bilingual signage for the duration of the development.**
24. **Lighting scheme to avoid any effects on bat flight paths.**
25. **Pollution Prevention Plan to ensure that all measures are taken to avoid any pollution entering watercourses and the Glaslyn.**
26. **Biodiversity improvement measures.**
27. **Monitoring and control of invasive plant species during the permit period.**

### 6.3 APPLICATION NUMBER C24/0689/42/LL

#### Land at Maes Twnti, Morfa Nefyn, Pwllheli, LL53 6EU

Full application to construct 9 affordable houses (use class C3) with associated developments, including extending an existing estate road, creating parking spaces and landscaping

Attention was drawn to the late observations form.

- a) The Planning Manager highlighted that the application site was partly located within the development boundary of Morfa Nefyn (3 units falling within the development boundary and 6 units completely outside the boundary) and therefore in the context of the principle of the development, the application needed to be justified due to the development boundary and that the housing figures for Morfa Nefyn had already exceeded the indicative supply figure identified within the LDP.

It was explained that the evidence submitted with the application included information from Tai Teg which showed that 17 people were eligible to buy an intermediate house and 6 people wanted a rented house. It was reiterated that information had been received from the Planning Policy Unit this showed that almost 75% of Morfa Nefyn households had been priced out of the housing market and the Housing Strategic Unit had confirmed that the proposal met the need in the area. With the proposal proposing 100% affordable housing, including the units within the development boundary, it was considered that the need had been proven and that there was justification for the development.

It was highlighted that the houses would be developed by the Council through the Tŷ Gwynedd Scheme and they would be sold based on part ownership, which means that they could be purchased at an affordable price. This meant that the Council would retain a percentage of equity in every property to secure an affordable purchase price and ensure that the units would remain as affordable units in the future. It was reiterated that the application noted that the units could be let at an intermediate rent, offering a discount of approximately 20% on similar prices in the open market - these matters to be managed by imposing a planning condition.

It was noted that the houses would form an extension to the existing estate and the design of the houses being relatively standard. It was considered that the layout, design and materials of the proposed development were appropriately in keeping with the location and that the size of the houses met the requirements of the SPG for affordable housing. Considering the location, design, orientation, and size of the proposed houses, it was not believed that there would be any significant detrimental impact deriving from this development and it was reported that objections had not been received from the public following the consultation period.

A Welsh Language Impact Assessment was received as part of the application, which concluded that the proposed development has a general beneficial impact on the Welsh language and the community in Morfa Nefyn; affordable housing provision met the need, and the need had been proven for local residents. The Statement noted, by providing affordable housing that are targeted to meet local need, those who are looking for affordable housing can continue to live in their local communities.

In the context of technical matters such as transport and access, biodiversity, open spaces and infrastructure, it was noted that the proposal was acceptable and met relevant planning policies. The Officers recommended to approve the application with conditions.

- b) Taking advantage of the right to speak, the Local Member made the following comments:
- That there was a lack of housing for local people. Welcomed the development - desperate need for affordable housing in Llŷn.
  - The area of the proposal was ideal - a suitable and convenient location for services.
  - The houses were modern. Homes for young families and individuals who would otherwise be priced out of the market.
  - It would support the local school (potential that 15-18 children would be living in the houses).
  - Nefyn Town Council was eager for the application to be approved - it would regenerate the community and allow more people to remain local in their home area.
- c) It was proposed and seconded to approve the application
- ch) In response to a question about who would build the houses, considering that Cyngor Gwynedd was the applicant, it was noted that 'who would build the houses' was not a consideration for the Planning Committee. In response to a supplementary question that an opportunity had been lost here to collaborate with Self-build Wales, it was noted that this was not a consideration regarding the application before the Committee.

**RESOLVED: To delegate powers to the Head of Environment Department to approve the application, with the following conditions:**

1. Time
2. Development to comply with the approved plans
3. Affordable housing condition
4. Agree on external materials including the roofing slates
5. Withdrawing permitted development rights
6. Welsh Water Condition
7. Highways Conditions
8. Biodiversity Conditions
9. Need to submit a Construction Management Plan prior to commencing the development work
10. There must be a Welsh name for the housing estate and individual houses
11. Restrict the use to C3 use class only
12. Landscaping to be completed
13. Agree proposed lighting arrangements for the site.

**Note:**

**Dŵr Cymru**

**Sustainable Drainage**

**Natural Resources Wales**

The meeting commenced at 13:00 and concluded at 15:00

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CHAIR