

PLANNING COMMITTEE	DATE: 19/05/2025
REPORT OF THE ASSISTANT HEAD OF DEPARTMENT	

**Number: 4**

**Application Number: C20/1079/12/AC**

**Date Registered: 21/12/2020**

**Application Type: Variation of Condition**

**Community: Betws Garmon**

**Ward: Waunfawr**

**Proposal: Application Under Section 73 of the Town and Country Planning Act to Vary Condition 2 on Planning Permission C04A/0771/12/MW (Removal of Material from a Mineral Working Deposit) to Allow a 2-Year Extension for the Completion of Minerals Operations up until 31/12/2022, With Final Restoration Completed by 31/12/2023**

**Location: Hafod Y Wern, Waunfawr, Caernarfon, Gwynedd, LL54 7AQ**

**Summary of the Recommendation: TO REFUSE**

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## **1. Description:**

- 1.1 This is an application under Section 73 of the Planning Act 1990 to vary condition 2 on Planning permission C04A/0771/12/MW (removal of material from mineral working deposit) to allow a 2-year extension for the completion of mineral operations up to 31/12/2022, with restoration 31/12/2023.
- 1.2 The application site is a slate waste tip located at the Hafod y Wern quarry near Betws Garmon. Vehicle access to the site is gained by a 700m long track from the A4085 that serves a handful of residential dwellings.

## **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 made in accordance with the Development Plan, unless material considerations indicate otherwise. Planning considerations include National Planning Policy and the Local Development Plan.
- 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**

PS1: Welsh language and culture

PS 4: Sustainable transport, development and accessibility

TRA 4: Managing transport impacts PS 5: Sustainable development

PS 6: Alleviating the effects of climate change

PCYFF 1: Development boundaries

PCYFF 2: Development criteria

PCYFF 3: Design and place shaping

PCYFF 4: Design and landscaping

PCYFF 6: Water conservation

PS 13: Providing opportunity for a flourishing economy

PS 19: Conserving and where appropriate enhancing the natural environment

AMG 2: Special Landscape Areas

AMG 5: Local biodiversity Conservation

AMG 6: Protecting Sites of Regional or Local Significance

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PS20: Preserving and where appropriate enhancing heritage assets

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

AT 4: Protection of non-designated archaeological sites and their settings

PS 22: Minerals

MWYN 1: Safeguarding mineral resources

MWYN 3: Mineral developments

MWYN 5: Buffer zones around mineral sites

MWYN 9: Restoration and after care

## 2.4 **National Policies:**

Future Wales: The National Plan 2040

Planning Policy Wales (Edition 12 - 2024)

**Future Wales: The National Plan 2040**

**Planning Policy Wales (Edition 12 – February 2021) MTAN 1 Aggregates**

Technical Advice Note 5: Planning and Nature Conservation

Technical Advice Note 11: Noise

Technical Advice Note 18: Transport

Technical Advice Note 23: Economic Development

Technical Advice Note 24: The historic environment

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

- C16/1324/12/MW ‘The retention of static caravan and messing facility in connection with the permitted minerals development’ – permission granted 05/12/2016.
- C04A/0771/12/MW ‘Removal of material from a mineral working deposit’ – Granted permission subject to Section 106 Legal Agreement on 14/08/2006.
- Enforcement Notice served on 27/08/2001 for the unauthorised removal of slate waste from tip beyond area subject of Permitted Development right afforded by notice under Part 23B (22/05/1989).
- Notice for removal of material from mineral working deposit under Part 23B of the General Development Order 1988 submitted 22/05/1989.

## 4. **Consultations:**

Community Council: No response received.

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Transportation Unit:

Response received on 06/01/2021:

I refer to the above application and confirm that I do not have any objection the proposed extension of time.

*Cyfeiriaf at y cais uchod a cadarnhaf nad oes gennyf gwrthwynebiad i'r cais am estyniad amser.*

Natural Resources Wales:

Response received on 26/01/2021:

Thank you for consulting Natural Resources Wales on the above application. We have reviewed the planning application submitted to us, and from the information provided we do not consider that the proposed development affects a matter listed on our Consultation Topics, Development Planning Advisory Service: Consultation Topics (September 2018): [https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and](https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/?lang=en)

[development/?lang=en](https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/?lang=en)

We therefore do not have any comment to make on the proposed development. We do not believe the further continuation of operations on the site for a further 2 years will have a significant adverse effect on the Afon Gwyrfa and Llyn Cwellyn SAC and SSSI. Please note that our decision not to comment does not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development. We trust that the above comments are of assistance however, should you have any queries, please do not hesitate to contact me.

Public Protection Unit:

No response received.

Biodiversity Unit:

Response received on 01/02/2021:

The quarry has applied for time extension on the extant mineral permission C04A/0771/12/MW. I have no objection to this proposal for continued working of the site and its restoration and for the exiting permission to be granted a time extension. However, I would like to make some recommendation about wildlife and nature.

#### Wildlife Site

The quarry site is within a candidate Wildlife Site: Hafod y Wern 1020, which has been selected for its habitats (upland woods, rush & moor-grass pasture, open mosaic habitat of previously developed

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land and streams).

During a site visit there on 16/03/2010 I recorded a male reed bunting singing in the rushes in the marshy grassland next to the mineral permission. This species indicates the quality of the surrounding habitats for biodiversity.

I would like to visit this site again.

Below are maps showing the mineral permission and candidate Wildlife Site.

#### Restoration

I have not had a copy of the restoration plan. I recommend that the restoration plan for the mineral permission be provided.

#### Invasive non-native species

Non-native plant species that are listed under schedule 9 of the Wildlife and Countryside Act 1981 (as amended) and it is an offence to cause them to grow in the wild.

The mineral site should be monitored regularly for non-native invasive plant species such as Japanese knotweed, Himalayan balsam and Buddleia. Each year the quarry site should be surveyed for these plants and a map showing their location and estimated amount should be provided to the LPA. These species should be removed in the appropriate way.

Gwynedd Archaeological  
Planning Service:

Response received on 05/01/2021:

Thank you for this consultation. There are no archaeological implications to the requested variation.

CADW:

Response received on 21/01/2021:

Thank you for your letter of 31 December 2020 inviting our comments on the information submitted for the above planning application. \_

#### Advice

Having carefully considered the information provided with this planning application we have no objections to the proposed development. Our assessment of the application is given below.

The national policy and Cadw's role in planning are set out in Annex

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A.

#### Assessment

CN151 Hafotty Wern Las Hut Group & Fields

CN179 Huts & Field Systems NE of Nantlle

CN194 Ty Coch Prehistoric Settlement

CN261 Hut Circle Settlement North of Bryn Mair

CN262 Enclosed Hut Circle North-West of Tan Rhiw

CN264 Enclosed Hut Circle West of Llwyn Bedw

CN277 Hut Circle Settlement and Field System South-East of Erw

CN307 Hafod-y-Wern Long Hut

CN316 Ystrad Rural Settlement

CN364 Craig Cwmbychan cairn

Consent for the removal of the material from the existing tip was granted in 2006 and the period to complete the work was controlled by condition. The work has not been completed so in order to complete the extraction and achieve the necessary landform for the agreed restoration it is proposed to vary condition 2 to allow the

work to be carried out until the end of 2023. The above scheduled monuments are located inside 3km of the proposed development but intervening topography, buildings and vegetation block all views between them. Consequently the proposed development will not have an impact on the setting of any of these scheduled monuments.

#### World Heritage Site

Slate Industry of North Wales (candidate site)

Dinorwic Quarry mountain landscape

Nantlle valley-floor quarry landscape

The application area is not inside the boundaries of the Slate Industry of North Wales (candidate site) World Heritage Site but will be visible from the Dinorwic Quarry mountain landscape and Nantlle valley-floor quarry landscape sections of it. The removal of the material from the waste tip has been on-going for some time and

whilst there may be some small-scale visual changes from the identified sections of the candidate World Heritage Site it would be best for the consented extraction and restoration works to be

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completed.

Public Consultations: A notice was placed in the press, notices were placed in several locations close to the site and nearby residents were informed. The advertising period has expired and received no comments from the public.

## 5. Assessment of the material planning considerations

### Principle of development

- 5.1 As a 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. Slate workings in Gwynedd have traditionally been associated with the production of high-quality roofing material, but more recently its application has ventured into architectural sawn slabs, decorative building materials as well as the exploitation of slate waste as a secondary aggregate to substitute traditional primary resources. The principle of re-working slate tips is accepted as an alternative to proposals involving the winning and working of material from the virgin rock.
- 5.2 Policy MWYN 3: Mineral Developments supports mineral development subject to compliance with a set of criteria. Criterion number 10 requires that *"The proposal includes a scheme for the after use of the site and details of the restoration and aftercare required to achieve it in accordance with Policy MWYN 9"*.
- 5.3 Policy 'MWYN 9: Restoration and after care' of the JLDP requires application for mineral working be refused unless a scheme of restoration, after care and after use is submitted. In addition to the requirements of this policy, the extant planning permission is subject to a condition that required the submission of a restoration and aftercare strategy be submitted within 1 year of the permission.
- 5.4 Repeated requests for scheme of restoration and aftercare have not been addressed and matters remains outstanding.
- 5.5 Therefore, the application does not comply with the requirements of criterion 10 of policy MWYN 3 and Policy MWYN 9 in requiring an adequate scheme of restoration and is not acceptable in principle.

### Visual amenities and landscape

- 5.6 Policies PCYFF 3, AMG 2 MWYN 3 and MWYN 9 of the JLDP are all relevant policies to consider in terms of visual and landscape impact. The application does not propose any changes to area of the mineral working deposit to be removed and is specifically for the prolongment of

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the development. The site area falls entirely within the Special Landscape Area (SLA) of ‘North-Western fringes of Snowdonia’

- 5.7 As noted above, the application is not supported by any restoration and aftercare proposals and fails to comply with policies MWYN 3 and MWYN 9 and the outstanding requirements to supply these details on the existing permission.
- 5.8 Without adequate restoration and aftercare proposals for the site following the cessation of removing mineral waste, the Mineral Planning Authority cannot be certain that the appearance of the site will not have an adverse impact on visual amenities and SLA and subsequently does not comply with policies PCYFF 3, AMG 2, MWYN 3 and MWYN 9 of the JDLDP.

### **General and residential amenities**

- 5.9 Policy MWYN 3 of the JLDLP states that extensions to existing mineral sites will be acceptable subject to no unacceptable harm to the amenity or health of residents in terms of visual impact, levels of dust, noise, vibration, and light as a result of the operation itself or the resulting traffic movements.
- 5.10 The proposal does not include any changes to the approved working arrangements for the site and it is not considered that extending the lifespan of the development would have a detrimental effect on the amenities of the area and therefore complies with the needs of policies PCYFF 2 of the JDLDP.
- 5.11 However, this does not overcome the reasons for refusal relating to the principle of development.

### **Traffic matters, Public Rights of Way and Common Land**

- 5.12 The proposal will not alter vehicle access arrangements or traffic generated from the development. The local highway authority has confirmed that they have no objection to the prolongment of the development and it is considered that it complies with policy TRA 4 of the JLDLP.

### **Ecological and biodiversity matters**

- 5.13 The quarry falls within a candidate wildlife site ‘1020 Hafod y Wern’ which has been selected for its habitats (upland woods, rush & moor-grass pasture, open mosaic habitat of previously developed land and streams). The local authority’s ecologist has confirmed that there is no outright objection to the prolongment of the development but raised concerns about the lack of a restoration plan and monitoring for invasive non-native species.
- 5.14 The lack of a monitoring plan for invasive non-native species could be secured by way of a condition in the event of the application being granted permission. The lack of a restoration and aftercare scheme has already been discussed as fundamental reason for refusal earlier in this report, however, it does not constitute a reason for refusal for ecological matters or relevant policies.
- 5.15 On 7th February 2024, the Welsh Government published an update to Chapter 6 of Planning Policy Wales (PPW), which deals with green infrastructure, net worth to biodiversity, the protection afforded to Sites of Special Scientific Interest and trees and woodlands. The changes to PPW have been considered, however, in this case, they do not raise any new matters that have any material influence on the recommendation.



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- 5.16 The MPA do not consider that prolongment of the development would cause detrimental effect to local biodiversity or protected species and complies with policy AMG 5 of the JLDP.

### **The Welsh language**

- 5.17 Section 1 (a) of strategic policy PS 1 'The Welsh Language and culture' notes that a Welsh Language Statement will need to be provided with a proposed "retail, industrial or commercial development which employs more than 50 employees and/or with an area of 1,000 sq. m. or more".
- 5.18 The application exceeds 1,000 sq. m. and the applicant has not provided a Welsh Language Statement despite repeated requests and as such does not comply with policy PS 1 of the JLDP.

### **Heritage**

- 5.19 The development is located within 500m of the Scheduled Ancient Monument (SAM) number CN307 'Hafod y Wern Long Hut'. Consultation with CADW has confirmed that due to the intervening topography and forestry plantation it is highly unlikely that the development would result in any effect on the setting of the SAM and complies with policy AT 1 of the JLDP.

### **Planning Obligations**

- 5.20 Planning permission C04A/0771/12/MW is subject to a Section 106 Legal Agreement that restricts permitted development rights for the site afforded under part 23B of the General Permitted Development Order 1995 (as amended) and the development to those conditions attached to the permission. An amendment or revocation of this legal agreement would be required to implement any new permission.

## **6. Conclusion:**

- 6.1 The MPA have no alternative but to refuse the application due to lack of adequate restoration and aftercare proposals that are required under policies MWYN 3 and MWYN 9 for any mineral development.

## **7. Recommendation:**

- 7.1 To delegate powers to the Head of the Environment Department to refuse the application for the following reasons:
1. The application has not provided an adequate scheme of restoration and aftercare as required by criterion 10 of policy MWYN 3 and Policy MWYN 9 and therefore, the development's adverse impact to visual amenity and the Special Landscape Area cannot be ruled out contrary to policies PCYFF 3 and AMG 2 of the JLDP.
  2. No Welsh Language Statement has been submitted as per the requirements of policy PS 1 of the JLDP.