

<b>PLANNING COMMITTEE</b>	<b>DATE: 28/02/2022</b>
<b>REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER</b>	

**Number: 6**

**Application Number: C21/0721/17/AC**

**Date Registered: 24/08/2021**

**Application Type: Vary Condition**

**Community: Llandwrog**

**Ward: Talysarn**

**Proposal: Application under Section 73 to vary condition 10 on planning permission C18/1125/17/LL to increase the number of HGV lorry loads from 5 loads a day to 9 loads a day, Monday to Friday with no HGV movements on a Saturday**

**Location: Chwarel Foel Tryfan, Y Fron, Caernarfon, Gwynedd, LL54 7RF**

**Summary of the Recommendation: TO APPROVE WITH CONDITIONS**

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## 1. Description:

- 1.1** This application is made under Section 73 of the Town and Country Planning Act to vary condition 10 on planning permission C18/0125/17/LL to allow an increase in output from five HGV loads per day to nine, with no HGV movements on Saturdays. This will result in a total of 45 HGVs accessing the site per week.
- 1.2** Planning application C18/0125/17/MW for the removal and processing of existing mineral working deposits was granted subject to conditions on 6<sup>th</sup> September 2018. The proposal involves the removal of the inner parts of the slate tips overlooking the existing marshalling yard and shooting range in such a manner as to retain the external tip faces. The proposal included full extraction and restoration proposals implemented in 4 phases including an area for processing and 3 separate stockpiling areas.
- 1.3** Note – There are two extant planning permissions for the site and they relate to the extraction and processing of minerals from different areas of the quarry. For correctness and for the avoidance of doubt relating to output rates, a sister application, C21/0491/17/LL is subject to determination to increase output and consolidate output from the whole quarry complex to a total of 9 HGV loads on weekdays.
- 1.4** The site is located on common land adjacent to a Public Right of Way, and contained within a Special Landscape Area in the adopted LDP and within CCW's register of Nantlle historic landscape. The site is located approximately 1000m outside the newly designated UNESCO Welsh Slate Landscape World Heritage Site, it is 1100m south of the village of Rhosgadfan and 900m north of Y Fron.
- 1.5** The site was operational under the provisions of the extant, 1951 permission producing roofing slates and rock products until financial implications brought about its closure in 1973. The site was included in the statutory list of old mineral working sites and classified as "dormant" under the provisions of the Environment Act 1995. The determination of conditions under a ROMP application in 2007 re-activated the mineral workings and the operation has established itself in the mineral products market, producing slate aggregate and decorative material for local projects as well as for markets further afield.
- 1.6** The application does not fall within the description and development criteria set out in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 in so far as the area of the development falls below the mandatory threshold of 25ha and it has been screened negatively under Paragraph 2 to Schedule 2 of the EIA Regulations, '*Extractive Industry, Quarries, open-cast mining and peat extraction*', and it is considered that the applicable threshold of '*all development ...*' and does not require the submission of an Environmental Statement.

## 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 Gwynedd & Môn Joint Local Development Plan 2011 - 2026.

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

### **Anglesey and Gwynedd Joint Local Development Plan 2011 - 2026**

Strategic Policy PS 13: Providing Opportunity for a Flourishing Economy

Strategic Policy PS 22: Minerals

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

POLICY AMG 2: Special Landscape Areas

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

POLICY AMG 5: Local Biodiversity Conservation

POLICY AMG 5: Protecting Sites of Regional or Local Importance

POLICY PCYFF 2: Development Criteria

POLICY PCYFF 6: Water Conservation

POLICY TRA 4: Managing Transport impacts

POLICY MWYN 3: Mineral Developments

POLICY MWYN 5: Buffer Zones Around Mineral Sites

POLICY MWYN 9: Restoration and Aftercare

### **2.3 National Policies:**

- Well-being of Future Generations Act (Wales) 2015 – Welsh Government,
- Policies, guidance and general principles set out in the Welsh Government Planning Policy Wales, Edition 11 (December 2018),
- Policies, guidance and general principles set out in the Welsh Assembly Government Technical Advice Note (Wales) 11: Noise

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- Policies, guidance and general principles set out in the Welsh Assembly Government Technical Advice Note (Wales) 18: Transport
- Policies, guidance and general principles set out in the Welsh Assembly Government Technical Advice Note (Wales) 23: Economic Development
- Policies, guidance and general principles set out in the Welsh Assembly Government Minerals Technical Advice Note (Wales) 1: AGGREGATES (March 2004),

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

- 3.1 2259** - Proposed continuation of workings at Moeltryfan and Alexandra Quarries, Cesarea – Approved 11<sup>th</sup> December 1951.
- 3.2 3/17/126** – Use of land at Crown Quarry, Carmel for target shooting and for the construction of a National Rifle Association Approved Range – Granted subject to conditions on 9<sup>th</sup> January 1978.
- 3.3 3/17/R126A** – Renewal of planning permission in respect of use of land for target shooting at Moeltryfan Quarry – Granted subject to conditions on 14<sup>th</sup> March 1984.
- 3.4 3/17/126B** – Construction of a pistol firing range to be used in conjunction with existing rifle range – Refused planning permission by Arfon Borough Council on 13<sup>th</sup> September 1992 but subsequently Granted on appeal subject to conditions by the Planning Inspectorate on 30<sup>th</sup> December 1992.
- 3.5 Alexandra Bach Slate Waste Tip** – Notification received 22 November 2004 for the removal of approximately 60,000 tonnes of material from the mineral-working deposit. Deemed planning permission under Part 23 (b) of the General Permitted Development Order 1995.
- 3.6 Crown New Slate Tip** – Notification received 19 May 2004 for the removal of approximately 13,000 tonnes of material from the mineral-working deposit. Deemed planning permission under Part 23 (b) of the General Permitted Development Order 1995.
- 3.7 C07A/0325/17/MW**, Determination of conditions for a Dormant Phase 1 Mineral Site under Schedule 13, Paragraph 9 to the Environment Act 1995, was registered with the authority on 1<sup>st</sup> May 2007. Gwynedd Council as Mineral Planning Authority determined on the 8<sup>th</sup> October 2007 that the winning and working of minerals and associated operations at Moeltryfan and Alexandra Quarry, as permitted by planning permission No.2259 dated 11<sup>th</sup> December 1951, be subject to a schedule of conditions as amended.
- 3.8 C09A/0207/17/MW**, granted subject to conditions on 20<sup>th</sup> April 2009 – Erection of a secure compound, structures, containers, sedimentation tanks and the installation of machinery for the manufacture of architectural slate and slate craftwork products. Facilities are required for the cutting of slate blocks extracted from the quarry in the preparation and manufacture of architectural slate products and craftwork and it is essential that a secure compound and workshop is established in the interests of the viability of the minerals operation.
- 3.9 C13/1296/17/LL** – Granted subject to conditions on 19<sup>th</sup> March 2014 – Alterations to existing highway access and access track improvements together with the formation of a temporary area for the storage of processed mineral.

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- 3.10 C14/0471/17/MW** – Granted subject to conditions on 5<sup>th</sup> November 2014 – Variation of condition 6 attached to the ROMP determination C07A/0325/17/MW to allow an increase in quarry output from 10,000 to 20,000 tonnes per annum subject to a maximum of four loads per day.
- 3.11 C15/0571/17/MW** – Granted subject to conditions on 1<sup>st</sup> September 2015 – Part-retrospective application for the retention of a quarry stocking area, reconstruction of a building to provide administrative and welfare accommodation, siting of a weighbridge & removal of a slate tip in order to re-align the quarry haul route.
- 3.12 C16/0063/17/MW** – Granted subject to conditions on 17<sup>th</sup> March 2016 - Variation of condition 6 attached to the ROMP determination C14/0471/17/MW to allow an increase in quarry output, subject to a maximum of four loads per day.
- 3.13 C17/0902/17/MW** – Granted subject to conditions on 6<sup>th</sup> December 2017 – Retrospective application for the retention of a stocking area for the storage of processed mineral products and restoration soils.
- 3.14 C18/0125/17/MW** – Granted subject to conditions on 6<sup>th</sup> September 2018 for the removal and processing of existing mineral working deposits for the production of slate aggregates.
- 3.15 C18/1126/17/LL** – Granted on the 18<sup>th</sup> February 2019 to vary condition 6 on planning permission C16/0063/17/MW to allow 5 HGV loads per day, Monday to Friday with no HGV movements on a Saturday.

#### **4. Consultations:**

Llandwrog Community Council: No Response

Llanwnda Community Council: Support the application subject to compliance with the agreement that HGV's avoid the school run, weekends and public holidays

Snowdonia National Park Authority: No Response

Gwynedd Public Protection: No observations to make on the application

Gwynedd Highways & Transportation Unit: No Response

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Gwynedd Public Rights of Way Unit: NO PROW will be affected

Uwchgwyrfai Grazers Association: No Response

Mines & Quarries Inspectorate: No Response

Crown Mineral Agent: No Response

Gwynedd Economic Development & Communities: No Response

Natural Resources Wales: NRW do not consider that the proposed development affects matters listed on their consultation topics and do not have any comment to make on the proposed development

Welsh Water: No comments to make

Public Consultation: A notice was placed at a location close to the site and one letter of representation has been received noting concern relating to dust and that HGV's enter site as early as 6.30am

**Assessment of the material planning considerations:**

**5. The principle of the development**

5.1 Section 73 of the Town and Country Planning Act 1990 enables an applicant to apply to develop land without compliance with conditions attached to an extant planning permission.

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5.2 Under this section the Local Planning Authority may amend or remove conditions but may not amend any other part of the permission. A successful s.73 application results in the grant of a new planning permission and therefore the original permission remains intact. When determining a s.73 application, Local Planning Authorities may impose conditions beyond those proposed in the original application. However, the conditions imposed should only be ones which could have been imposed on the original permission. It has previously been held that the amendments permitted should not amount to a “fundamental alteration” of the proposal put forward in the original application.

5.3 This application is to increase output from 5 to 9 loads on weekdays. It should be noted that operations will result in the removal of the same amount of consented material from the quarry complex albeit at a quicker rate. With all other planning conditions relating to landscape impact, industrial archaeology, heritage, environmental protection, hydrology, working hours, phasing, biodiversity, public rights of way and designated sites reapplied, it is considered that the main material planning considerations relating to this application is the intensity of production and that of additional highway impact.

### **Landscape and Conservation Matters**

5.4 In addition to the materiality of this planning application, it should be added that the newly designated UNESCO North West Wales Slate Landscape World Heritage Site is approximately 1km from the boundary of this quarry complex, although not a designation when determining planning application C18/0125/17/MW, it is not considered that the increase in vehicular movements as applied for will have a material impact upon its setting greater than the extant consent.

### **Transportation Matters**

5.5 No adverse comments were received from statutory consultees, with the Highway department indicating the proposed increase in vehicular movement would be minimal. Further comments related to the ongoing voluntary arrangement of circular routing where HGV’s arrive to site from Groeslon and access through Rhostryfan that in effect halves traffic movement to and from the quarry prior to re-joining the A487. Although this arrangement cannot be conditioned, there is an eagerness by the applicant and Mineral Planning Authority for it to continue. Such arrangements are agreed and developed as part of the ongoing Planning Liaison Group that sits annually to discuss the site’s Operations.

5.6 There was Support to the application by the Llandwrog Community Council subject to HGV movements avoiding the morning and afternoon school run. Again this is a voluntary arrangement that is agreed and developed through the Planning Liaison Group for the site.

5.7 Given that there will be only a minor change to the current output restrictions, it is considered that the proposal is acceptable in principle and is compliant with Policy TRA 4 of the Gwynedd and Môn Joint Local Development Plan.

### **Residential Amenity**

5.8 There are two residential dwellings, or sensitive development, that fall within 200m of the application site, namely Tan y Foel Fawr, at 103m located at the foot of the incline haul route, the other being Tan y Foel Fach at approximately 150m north. MTAN1 states that research has indicated that people living close to mineral workings consider dust to be the main impact of mineral extraction and any processing operations, followed by traffic, noise and blasting.

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- 5.9 Planning Policy Wales and MTAN1: Aggregates set out the principle of buffer zones around mineral extraction sites. Policy MWYN 5 of the Joint Local Development Plan adopts the objectives of protecting land uses that are most sensitive to the impact of mineral operations by establishing a separation distance between potentially conflicting land uses. MTAN1 recommends a minimum distance of 100 metres for sand and gravel operations and others where no blasting is permitted, although the adopted Joint LDP specifies a 200m buffer for all slate operations including mineral working deposits unless there are clear and justifiable reasons for reducing the distance where there is limited impact from the extraction site.
- 5.10 With respect to this application, the only amenity impacts to be considered is the increase in output from five to nine loads per day Monday to Friday, with no HGV movements on a Saturday. Planning conditions already imposed on permission C18/0125/17/MW meet modern standards and allow for sufficient control on the potential nuisance impacts of noise and dust on the amenities of the area and Gwynedd Public Protection have no comments to make on the application.
- 5.11 Due to the flexibility of the existing planning condition relating to daily loads, the MPA have allowed an informal arrangement to increase output to 9 loads a day for the past 12 months to compensate for Covid lockdown measures that restricted output in 2020. Although no complaints have been made to the MPA as to operations at the quarry. Comments have been received as part of this planning application process from a nearby resident indicating that dust has become more of an issue during dry weather and there have been instances of vehicles arriving at site as early as 6.30am. Having raised this issue with the quarry operator they have increased dust suppression measures and have been made aware that more frequent monitoring will be undertaken by the North Wales Minerals and Waste Planning Service with site compliance measures. In relation to issues of vehicles accessing site at 6.30am. This issue has since been resolved and no haulage vehicles enter site until 7.30am. These issues are to be discussed with the operator and community within the next Planning Liaison Group Meeting.
- 5.12 There is unlikely to be any apparent change in site working conditions and there are no overriding planning policy issues sufficient to warrant refusal of planning permission and issues relating to noise, dust & environmental controls are well established on this site with relatively few instances of complaint forwarded for the attention of the MPA. Therefore, it is not considered that the increase in vehicular traffic will have a detrimental impact on the amenities of the area and therefore conforms to Policy MWYN 3 & PCYFF 2 of the Gwynedd and Môn Joint Local Development Plan.

### **Sustainability matters**

- 5.13 Figure 4.2 of Planning Policy Wales provides a definition of sustainable development in Wales where; “sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals”. Furthermore, this report has assessed the sustainability issues of this application in accordance with the goal of sustainable development in paragraph 4.1.1 of PPW to; “enable all people throughout the world to satisfy their basic needs and enjoy a better quality of life without compromising the quality of life of future generations”, and in accordance with the seven well-being goals of, ‘The Well-being of Future Generations (Wales) Act 2015’ to help ensure that public bodies are all working towards the same vision of a sustainable Wales.



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- 5.14 As Mineral Planning Authority, the Council has a duty to ensure that mineral resources are exploited in a sustainable way so that they can make an appropriate contribution to the area's construction materials requirements in accordance with the key principles of The Welsh Government minerals planning policy. Gwynedd has a long history of mineral extraction and it remains an important facet of its economic and social make up. The development will secure the continued supply of slate products at Moel Tryfan and Alexandra Quarry which will ensure that the Council can fulfil its apportionment obligations of supplying secondary aggregates for the North Wales sub-region.

### **The Economy**

- 5.15 Slate quarrying has been part of the way of life in Gwynedd for centuries and the legacy of its activities has become as much a part of the culture and landscape of the area as the Welsh language and scenery. Technical Advice Note 23, Economic Development states; in determining planning applications local planning authorities need to bear in mind that traditional business use, classes B1-B8, only account for part of the activity in the economy. It is important that the planning system recognises the economic aspects of all development and that planning decisions are made in a sustainable way which balance social, environmental and economic considerations. It further states that; Local planning authorities should recognise market signals and have regard to the need to guide economic development to the most appropriate locations, rather than prevent or discourage such development.
- 5.16 The proposed development will secure continued employment of workers employed directly and indirectly as a result of the quarry operations. Furthermore, the retention of a local workforce has positive impacts on the culture and more specifically, the status of the Welsh Language in the region. The proposal to which the application relates is absolutely critical to the company's future economic contribution. The company makes a direct and significant contribution to the local economy, employing up to 11 workers associated with the quarrying activities or companies which provide services for the operating company.
- 5.17 The proposal will therefore be likely to make a positive contribution on the economy of the area in accordance with Strategic Policy PS 13 of the Anglesey and Gwynedd Joint Local Development Plan 2011 - 2026.

### **6. Other Considerations:**

- 6.1 The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.
- 6.2 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner, which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.
- 6.3 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 6.4 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considers there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

### **7. Conclusion**

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7.1.1 This proposal seeks to vary condition 10 of planning permission **C18/0125/17/MW** to allow an increase in output from five to nine HGV loads per weekday. Correspondingly, a sister application C21/0491/17/LL proposes to increase output to the same rate and consolidate loads to nine HGV loads per weekday total from site. It is considered that this report demonstrates that all relevant material planning considerations have been assessed and that the proposal is consistent with that of The Adopted Gwynedd and Môn Joint Local Development Plan and that of National Planning Policies and Guidance. This application, submitted under s.73 allows condition 10 of the permission to be varied, while it is also allows sufficient control for all other conditions relating to landscape impact, industrial archaeology, heritage, environmental and amenity protection, working hours, phasing, restoration, biodiversity, public rights of way and designated sites to be reapplied.

**8. Recommendation:**

**Approve subject to the following amendment to conditions 10 of planning permission C18/0125/17/MW:**

*10. Except with the prior written agreement of the mineral planning authority quarry output, alone or in combination with any other extant minerals planning permission at the site, shall not exceed a maximum rate of no more than **nine** HGV loads per day Monday to Friday, with no HGV movements on a Saturday. Figures of the output from the site over any specified period shall be made available to the local planning authority within 21 days of request.*

**Development to be subject to the same schedule of conditions under the previous grant of planning permission C18/0125/17/MW to control noise, dust, vibration, hydrology, protection of the water environment, sequence of operations, compliance with the application plans, archaeology, ecological mitigation, review of operations and progressive restoration**