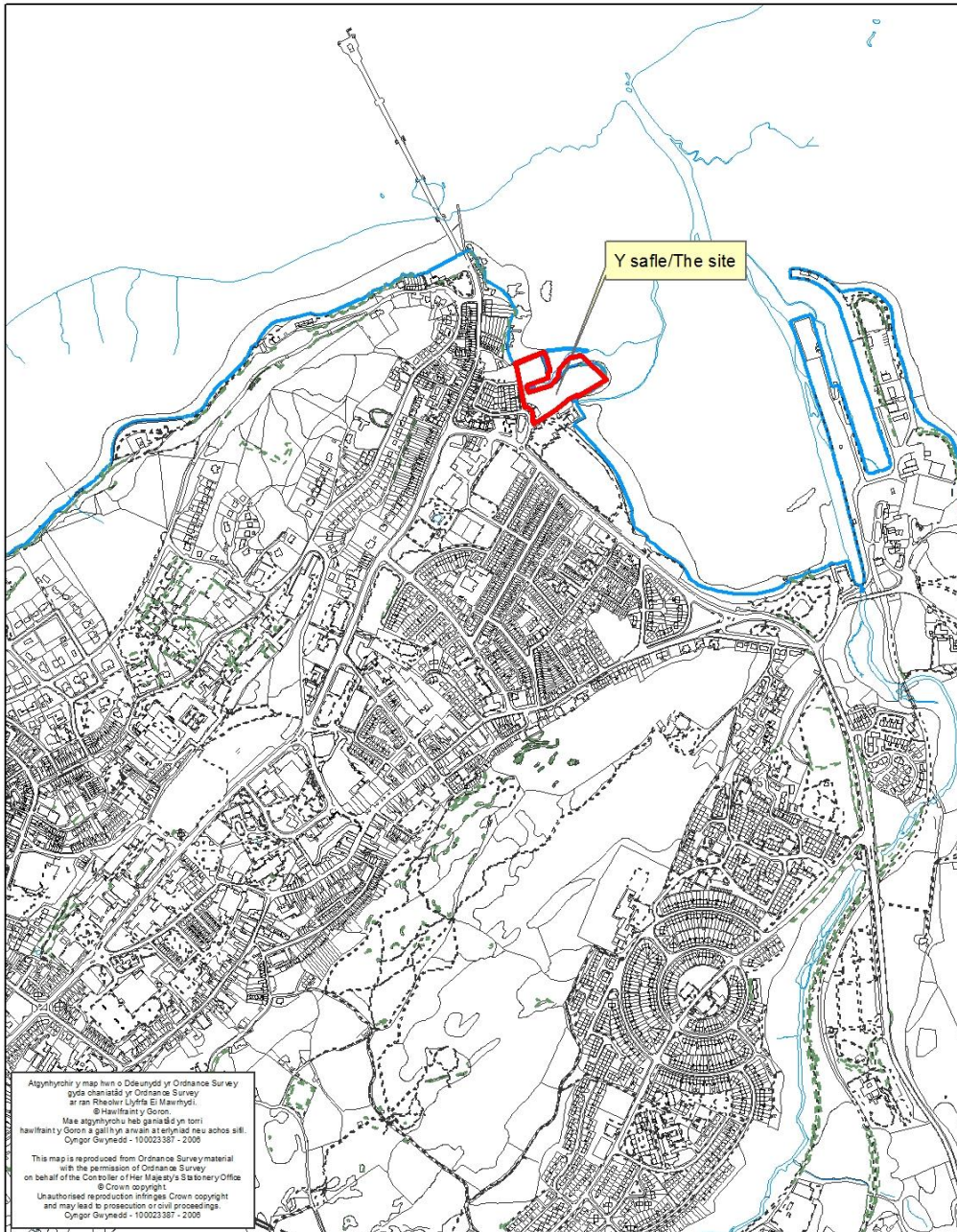


Number: 3



Rhif y Cais / Application Number : C15/1081/11/LL

Cynllun lleoliad ar gyfer adnabod y safle yn unig. Dim i raddfa.
Location Plan for identification purposes only. Not to scale.



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Application No: C15/1081/11/LL
Registration Date: 19/10/2015
Application Type: Llawn - Cynllunio/Full - Planning
Community: Bangor
Ward: Garth

Proposal: RE-SUBMISSION OF A PREVIOUS APPLICATION TO IMPORT INERT MATERIALS IN ORDER TO RAISE EXISTING GROUND LEVELS.
Location: FORMER DICKIES BOATYARD, BEACH ROAD, BANGOR, LL57 2SZ

Summary of the Recommendation:

TO APPROVE SUBJECT TO CONDITIONS

1. Description:

1.1 This application was deferred consideration by the planning committee in their meeting of 4th July 2016 in order to re-consult with NRW and Gwynedd Public Protection on the Construction Environment Management Plan and schedule of environmental mitigation measures submitted in support of the application. The committee request further assurance from NRW & Gwynedd Public Protection that the scheme of mitigation in the Construction Environment Management Plan is sufficient to address any concerns about leachate, drainage and potential environmental impacts on the marine environment and amenities of the area. Also, that the methodology outlined in the proposals provides the best environmental-engineering solution for dealing with any land contamination identified in the geo-environmental appraisal prepared by Tier Environmental Ltd.

1.2 Additional information has been submitted in response to concerns of the planning committee and revisions to this report further address biodiversity, amenity, public rights of way, pollution control/land contamination and flood risk issues in Section 5 but also, the conclusions of the report in Section 7. The amended details submitted with the Construction Environment Management Plan include the following;

- Proposal to build the concrete wall at the same time as the sea embankment and no stockpiling of materials on site,
- Suite of environmental control measures to mitigate for the potential impacts on Air Quality, Traffic Management, Noise & Vibration, Waste Management, Water Quality Monitoring, Environmental Contingency Plan & Risk Assessment,
- Analysis of potential land contamination within the existing deposit,
- Provision of a wheelwash facility,
- A 6 month period to implement the Construction Environment Management Plan to include a 6 week window for the importation of materials and raising of land levels as stated in the report,
- Working hours 8.00am – 5.00pm Monday to Friday and 8.00am – 1.00pm on a Saturday,
- Proposal to retain site buildings, fences & wood panelling during this period but also, in order to facilitate work within the constraints of high tide, apply mitigation

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measures for any impact on the movement of birds associated with environmental designations and to complete concrete works required in the construction of a wall & walkway around the site. The work needs to be completed between September and March.

- 1.3 The consultation responses of Gwynedd Biodiversity, Gwynedd Conservation Officer, NRW, Gwynedd Public Protection, RSPB, as well as third part objections have been updated in this report. Also, minor changes to the consideration of planning policy to include Policy B8 of the UDP, (Anglesey AONB) and Welsh Government TAN 23, (Economic Development).
- 1.4 This application is a re-submission of a previously withdrawn proposal under reference, C14/1072/11/LL to regularise the disposal of up to 1.5m of inert soils and waste on the eastern extent of the former Dickies Boatyard but also, the import of an additional 19,000 tonnes of inert materials, riprap and slate waste aggregate in order to prepare the site for the next phase of development. The original application was withdrawn because of insufficient information but also matters relating to land ownership and appropriate certification submitted with the application. With this proposal, the applicant has demonstrated that all reasonable steps have been taken to establish land ownership with notice having been served on parties with an interest in adjacent land as well as placing notices on site in accordance with the requirements of the planning regulations.
- 1.5 The site is currently afforded permitted development rights as a builder's compound and temporary repository for material derived from excavation works associated with the Phase 1 residential development at Dickies Boatyard. The application is therefore a part-retrospective proposal to raise the existing ground up to the required cap levels, so that a formal application may be submitted to Welsh Government to remove the site from the C2 flood risk designation on the development advice maps of TAN 15 (Development and Flood Risk).
- 1.6 The Construction Environment Management Plan confirms that materials previously deposited on the site have been laid in 300mm layers, further consolidated with a 20-tonne excavator to achieve even compaction throughout the site and ensure that the deposit is sealed to reduce the migration of wind-blown particles and silt run-off. A geotextile membrane will cover the existing deposit prior to any additional material being laid on top. As with methodology previously adopted on this site, additional inert material will be deposited in 300mm layers, further consolidated by using a 20 tonne machine which will extend the footprint of the site beyond the mean high water mark into the foreshore and intertidal mudflats. A Marine Licence will also need to be sought from Natural Resources Wales but essentially, clean slate inert waste and larger rock armour material will be used to build-up the site embankments up to the levels indicated on the application plans. A maximum cap level of 6.98m AOD is proposed and there are parts of the site where this level has, or is close to being achieved. Other areas of the site require varying depths of fill and sea defence material to form the embankments and retaining wall surrounding the site to help manage wave action and tidal erosion.
- 1.7 The site is quite prominent when viewed from the upper levels of Beach Road on the approach to the city and is located the within the settlement of Garth, immediately south of Bangor Pier. The application site itself comprises previously reclaimed land on the Port Penrhyn foreshore, forming part of a larger brownfield site having a historic industrial/commercial use. Planning permission for the erection of 72 residential units and associated works has been implemented on adjoining land which

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was previously used as a boat yard. The area known as Hirael Bay has been designated as a redevelopment site under policy C5 of the Unitary Development Plan but also, in the fully adopted ‘Supplementary Planning Guidance – Development Briefs’ where the land is proposed for mixed use development.

- 1.8 The proposed development does not fall within the description and criteria set out in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, but does fall within paragraphs 11 & 13 to Schedule 2 of the Regulations, other operations (waste disposal) and any change or extension to a development already authorised or executed. Also, the site is located within 320m of the Traeth Lafan SPA & Traeth Lafan SSSI but also within 300m of the Menai Strait and Bae Conwy SAC. Having screened and assessed the proposal in accordance with the development criteria under Schedule 3, it is considered that the likely impact of the development on the environment is insufficient to justify the submission of an environmental impact assessment with the planning application.
- 1.9 Any indirect impacts on European environmental designations will need to be considered separately as part of the HRA undertaken in accordance with Regulation 61 of the Habitats and Species Regulations 2010.

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, the Unitary Development Plan.
- 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 decision.

2.3 Gwynedd Unitary Development Plan 2009:

- STRATEGIC POLICY 2 -**The Natural Environment**
- STRATEGIC POLICY 3 - **Built and Historic Environment**
- STRATEGIC POLICY 6 – **Land Redevelopment and Reuse**
- STRATEGIC POLICY 8 – **Waste**
- STRATEGIC POLICY 16 – **Employment**
- POLICY A1 - **Environmental or Other Impact Assessments.** Ensure that sufficient information is provided with the planning application regarding any environmental impacts or other likely and substantial impact, in the form of an environmental assessment or assessments of other impacts.
- POLICY A3 - **Precautionary Principle.** Refuse proposals if there is any possibility of serious or irreversible damage to the environment or the community unless the relevant impact assessment can show beyond doubt at the end of that the impact can be avoided or alleviated.

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- **POLICY B8 - The Llŷn and Môn Areas of Outstanding Natural Beauty (AONB).** Safeguard, maintain and improve the character of the Area of Outstanding Natural Beauty by ensuring that proposals conform to a number of criteria aimed at protecting the recognised features of the site.
- **POLICY B12 - Protecting Historic Landscapes, Parks and Gardens.** Protection of landscapes, parks and gardens of special historic interest in Wales from developments which will cause significant harm to their character, appearance or setting.
- **POLICY B13 - Protecting The Open Coastline.** Safeguard the open coastal area by ensuring that proposals are not permitted unless they conform with a series of criteria aimed at avoiding significant damage to recognised features.
- **POLICY B15 - Protection of International Nature Conservation Sites.** Refuse proposals which are likely to cause significant damage to the soundness of nature conservation sites of international importance unless they conform to a series of criteria aimed at the management, enjoyment and protection of recognised features within such sites.
- **POLICY B16 - Protecting Nationally Important Nature Conservation Sites.** Refuse proposals which are likely to cause significant damage to nature conservation sites of national importance unless they conform to a series of criteria aimed at the management, enjoyment and protection of recognised features within the sites.
- **POLICY B17 - Local Wildlife Sites.** Refuse proposals that are likely to cause significant harm to sites of regional or local significance unless they comply with a set of criteria which aim to protect, promote and manage recognized features of these sites.
- **POLICY B20 - Species and Their Habitats that are Internationally and Nationally Important.** Refuse proposals which are likely to cause disturbance or unacceptable damage to protected species and their habitats unless they conform to a series of criteria aimed at safeguarding the recognised features of the site.
- **POLICY B21 - Wildlife Corridors, Habitat Linkages and Stepping Stones.** Safeguard the soundness of landscape features which are important to wild flora and fauna unless the reasons for the development outweigh the need to maintain the features and mitigating measures can be provided.
- **POLICY B23 - Amenities.** Protection of the amenities of local communities through securing that, proposals comply with a series of criteria which aim to protect recognized features and the amenities of the locality.
- **POLICY B27 – Landscaping Schemes.** Ensure that permitted proposals incorporate soft/hard landscaping of high standard which is appropriate for the site and which takes into consideration a series of factors aimed at avoiding damage to recognised features.
- **POLICY B28 – Unstable Land.** Refuse proposals on unstable land or adjoining land unless they meet a series of criteria aimed at avoiding damage to the development and to the stability of adjoining land.
- **POLICY B29 - Developments on Land at Risk From Flooding.** Manage specific developments in the C1 and C2 flood zones and direct them towards suitable land in zone A unless they conform with a series of criteria relevant to the features on the site and to the purpose of the development.
- **POLICY B30 - Contaminated Land or Buildings.** Ensure that proposals for developing contaminated land or buildings are refused unless they conform to a series of criteria aimed at managing or restricting the pollution.
- **POLICY B32 – Increasing Surface Water.** Proposals that do not include flood minimisation or mitigation measures that will reduce the volume and rate at which run off reaches rivers and other watercourses will be refused.
- **POLICY B33 – Development That Creates Pollution or Nuisance.** Protection of public health, safety or amenities, or to the quality of the built or natural environment as a result of higher levels of pollution.

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- **POLICY C3 - Re-using Previously Developed Sites.** Proposals which give priority to the use of land or buildings previously developed and located within or adjacent to development boundaries will be permitted if the site or the building and use are appropriate.
- **POLICY C5 - Redevelopment Sites.** Development proposals on sites earmarked as sites for redevelopment will be permitted provided they are consistent with the relevant development briefs and/or any main plan approved by the Local Planning Authority for the sites.
- **POLICY C24 - Landfill/Landraise and Hazardous Waste Collection/Disposal Sites.** Proposals for landfill/landraise and waste collection/recycling must conform with a number of criteria regarding need, location, scale, ability to manage the site, acceptable after-use provision, alleviating measures, traffic impact and assurance that the development will not harm conservation interests.
- **POLICY CH22 - Cycling Network, Paths and Rights of Way.** All parts of the cycling network, footpaths and rights of way will be protected by encouraging proposals to incorporate the above satisfactorily within the development and by refusing proposals which will prohibit plans to extend the cycling network, footpaths or rights of way. If this is not possible, appropriate provision will have to be made to divert the route or to provide a new and acceptable route.
- **POLICY CH33 - Safety on Roads and Streets.** Development proposals will be approved if they can conform with specific criteria regarding the vehicular entrance, standard of the existing road network and traffic calming measures.

2.4 Supplementary Planning Guidance

- Gwynedd Supplementary Planning Guidance – Development Briefs, Bangor Dependency Catchment Area – November 2009
- Hirael Bay Masterplan Report – February 2009
- Gwynedd Design Guidance 2004
- Landscape Character – November 2009
- North Wales Regional Technical Statement on Aggregates, First Review August 2014

2.5 National Policies:

- Welsh Government Well-being of Future Generations Act (Wales) 2015,
- Policies, guidance and general principles set out in the Welsh Government Planning Policy Wales (February 2016),
- Policies, guidance and general principles set out in the Welsh Assembly Government Minerals Technical Advice Note (Wales) TAN 1: AGGREGATES (March 2004),
- Policies, guidance and general principles set out in the Welsh Government Technical Advice Note (Wales) TAN 5: Nature Conservation and Planning (September 2009),
- Policies, guidance and general principles set out in the Welsh Government Technical Advice Note (Wales) TAN 11: Noise (October 1997)
- Policies, guidance and general principles set out in the Welsh Government Technical Advice Note (Wales) TAN 15: Development and Flood Risk (July 2004),
- Policies, guidance and general principles set out in the Welsh Government Technical Advice Note (Wales) TAN 18: Transport (March 2007)

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- Policies, guidance and general principles set out in the Welsh Government Minerals Technical Advice Note (Wales) TAN 21: Waste (February 2014)
- Policies, guidance and general principles set out in the Welsh Government Minerals Technical Advice Note (Wales) TAN 23: Economic Development (February 2014)
- North Wales Regional Waste Plan 1st Review 2009
- Collections, Infrastructure and Markets Sector Plan (CIMS) 2012
- Construction and Demolition Waste Plan 2012
- West of Wales Shoreline Management Plan November 2011
- Waste Framework Directive 2008/98/EC 19 November 2008

3. Relevant Planning History:

- 3.1** Planning Application Ref. C09A/0410/11/LL – Demolish the existing buildings on the Dickies Boatyard site, creation of roundabout and a new vehicular access from Beach Road via Medway Road to the site, creation of footpath from the site to Garth Road and erection of 72 living units – approved 06/01/2012.
- 3.2** Planning Application ref. C12/1141/11/LL to vary condition 2 on planning approval C09A/0410/11/LL relating to finished floor levels of plots 1 to 38 and reduction of ridge heights – approved 26/11/2012.
- 3.3** Planning Application Ref. C14/1072/11/LL – Application to import inert materials in order to raise existing land levels – withdrawn 25/06/2015.

4. Consultations:

Bangor City Council:

Object on the grounds of;

- Detrimental to the environment, amenities, seawater sands and local mussel beds,
- Potential contaminants contained within the site,
- Visual impact on the city and its residential areas,
- Pollution & flooding,
- Full explanation of the long-term proposed use of the site would have been beneficial.

Bangor Civic Society:

Do not oppose to the principle of development on this site but object to the application until clarification is provided on the following issues;

- Requirement to resolve matters concerning land contamination and the nature of material previously deposited on the site and the best way of dealing with it,
- Land stability,
- Total tonnage of material required for the project, haulage movements, timescale for implementation,
- Provenance/screening of waste materials,
- Requirement to test water quality and monitor for possible pollution given the proximity of mussel beds, Lafan Sands & Menai Strait SSSI,

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- Specification of the proposed cap material & confirmation of the cap level,
- Status of site if raised above C2 Flood Level & relationship with surrounding land that remains within a C2 Zone,
- Impact of landraise operations on the nearby Lafan Sands SSSI.

Gwynedd Public Rights of Way: No Response

Gwynedd & Môn Joint Planning Policy Unit: No Response

Gwynedd Archaeological Planning Service: No Response

CADW: No comments to make on the application as there are no scheduled monuments or registered parks and gardens within the vicinity that would be affected by the proposed development.

Conservation Officer Gwynedd Planning Service: No specific comment on the application as the proposal is not likely to have any impact on a listed building or designated conservation area. Not considered that the proposal is likely to harm the character or setting of the Glandŵr listed terrace.

Gwynedd Council Countryside and Access (*Traeth Lafan Local Nature Reserve Management Committee*):

- Concern about potential fines and pollutants being washed into the adjoining marine environment impacting on local shellfish population as a food resource for wading birds. In all matters relating to pollution prevention and control, the developer must ensure that a robust plan including monitoring is prepared and implemented in accordance with the conditions given by the regulatory agencies.
- Development will not directly impact the Local Nature Reserve and features of the SAC and SPA. However, Traeth Lafan is an important site for birds such as wintering oystercatchers, curlew and great crested grebe, red-breasted merganser and redshank and the development can result in disturbance to these birds when roosting. Measures are therefore required to reduce disturbance to roosting birds such as avoiding construction work at high tides with monitoring surveys undertaken during the construction phase to determine if the development is impacting on bird numbers using the site.

Gwynedd Highways & Transportation Unit: No objection, subject to the following recommendations;

- Sufficient arrangements should be put in place for a wheelwash facility on site with further provision for a road sweeper during the haulage period,
- Sufficient signage to be agreed with the transportation service prior to the import of materials to the site in

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order to warn road users of heavy plant crossing the highway, if the proposal involves the transfer of materials from the nearby 'Arriva' materials storage facility,

- Haulage movements restricted to 25 x 20-tonne loads per day.

Gwynedd Public Protection:

No objection subject to the following observations;

- No comments to make on landraise operations impacting on existing contaminated land. There may be a requirement to address the issue of contaminated land by condition, should an application for housing be submitted for consideration at a later date, i.e. as per condition 28 of pl. prm. C09A/0410/11/LL,
- Menai Straits is one of the primary areas for shellfish production in Wales. The waste planning assessment lists a number of precautionary measures to be taken during the construction stage which will prevent particulate matter and fines from being released into the Menai Strait. It is considered therefore that sufficient mitigation is proposed for the protection of shellfish beds in the wider area, although local mussel beds not in commercial use, and which are contained within the application area, may be impacted by the embankment construction works,
- The Construction Environment Management Plan addresses the concerns of the Public Protection Service. It is expected that the applicant will implement the mitigation measures and monitoring regime set out in the document. Recommended that a condition be imposed to request that the applicant implements a scheme of water sampling and analysis to ascertain the presence of pollutants.

Gwynedd Council Flood Risk Management and Coastal Erosion:

No objection, but issue the following advice and conditions;

A watercourse runs through or is adjacent to the site. Recommend the following conditions on the grant of any permission in the interests of the amenities of the area and neighbouring properties;

- The developer shall safeguard the watercourse and submit details of such provision for the approval of Gwynedd Council in accordance with Section 23(1) of the Land Drainage Act 1991,
- The cost of safeguarding the watercourse shall be borne by the developer,

The above conditions shall also apply if it is the intention of the developer to culvert the watercourse in accordance with Section 263 of the Public Health Act and Section 23(1) of the Land Drainage Act 1991.

Natural Resources Wales:

No objection in principle but in response to consultation, NRW

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requested further clarification on a number of issues concerning flood risk and more clearly detailed diagrams of working areas and method statements to demonstrate the level of impact on the inter-tidal area;

- Having reviewed the Habitats Regulations Assessment: Stage 1 Screening Report, NRW conclude that based upon the survey information submitted in support of the application, it is considered that the measures proposed in the application to be sufficient to ensure that significant effects on the Traeth Lafan SPA and qualifying species of Oystercatcher will be unlikely,
- Import of waste in landraise operations to be the subject of a permit application to Natural Resources Wales under the Environmental Permitting Regulations. No importation of waste should be carried out until such time a permit has been granted,
- NRW satisfied that the Construction Environment Management Plan is sufficient to address their concerns about pollution control, the identification of environmental receptors and commitments to various environmental monitoring regimes including waste management, site drainage/surface water management and mitigation for nesting/roosting birds. Any construction work should follow the principles and advice in Pollution Prevention Guidance Note 5, 'Works and Maintenance in or near Water'.
- Recommend a checklist of practical measures to be implemented during the construction period in order to mitigate for the potential environmental impact of the development on the marine environment and avoid the risk of pollution
- Site classified as a C2 Zone in the Development Advice Maps accompanying TAN15, described as "*areas of floodplain without significant flood defence infrastructure*". This is an application for the disposal of inert materials so as to enable the site to be raised above the extreme tidal flood levels indicated on the flood zone maps for the area. Before any future application for residential type development is submitted, a flood map challenge will need to be submitted to NRW/Welsh Government where flood zone maps may only be changed upon request and when the work of raising the level of the site has been completed,
- The latest submission on Flood Risk (Flood Consequence Assessment, April 2016 and covering letter dated 19 April 2016 addresses the flood risk concerns of NRW in previous correspondence. Condition to specify the detailed design of the rip-rap material to specify the minimum and maximum size of stone to be used and any future maintenance requirements,

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- Marine licence under the remit of NRW required for the extent of works below Mean High Water Springs (MHWS). No work should be carried out below MHWS until such a licence has been obtained
- All fuel and chemical containers banded to 110% capacity of the total volume stored & oil spill kit should be available on site to deal with any oil spill,
- Based on the findings of the supplementary geo-environmental appraisal submitted in support of the application, NRW have no concerns about land contamination.

Gwynedd Council Biodiversity Unit:

In response to consultation, Gwynedd Biodiversity requested that the applicant provides the following;

- Ecological assessment has been updated and the winter bird survey undertaken to a good standard.
- Additional information submitted to confirm the extent of the works below Mean High Water and method statements to determine the level of impact upon the inter-tidal area which is listed under Section 42 (NERC Act 2006) by Welsh Government as a habitat of importance to the biodiversity of Wales. The site forms part of a candidate wildlife site (*Porth Penrhyn & Menai – 1632*) and contains a habitat of biodiversity importance, (*intertidal mud used by waders in the winter such as oystercatcher, curlew, dunlin & wigeon*) which supports the Traeth Lafan SPA.
- The area of intertidal mud lost as a consequence of the proposal is 380 square metres within an overall area of 1,400 square metres of other intertidal habitats dominated by deposited materials. This loss will be permanent, however it is a small proportion of the Porth Penrhyn mud flats and is not significant. Specific recommendations to limit the disturbance on roosting birds and nesting birds during construction and long-term due to walkers & dogs,
- Further information submitted to enable Gwynedd Council, as competent authority for the purposes of Regulation 61 of the Habitats and Species Regulations 2010, to carry out a test of likely significant effects of the impact of the proposal on European designated conservation sites, (*Menai Strait SAC and Traeth Lafan SPA*) which lie approximately 300m north of the application site. The Traeth Lafan SSSI & Special Protection Area has been designated under European Legislation for its importance for wintering populations of oystercatchers, curlew and great crested grebe.
- A Habitats Regulations Assessment under regulation 61 of the Habitats and Species Regulations 2010 has concluded that the proposal to raise the level of the land with inert waste would not have a significant impact on the Traeth Lafan SPA. However because the

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designated features of SPA are birds which are mobile, any impact to the birds associated with the SPA must be considered. Some disturbance to oystercatcher during the construction phase, no impact on curlew & greater crested grebe,

- The proposed development is 320 meters from the Traeth Lafan SSSI, therefore this development will have no landtake within the SSSI and it will not cause the loss of habitats within the SSSI. However, as birds are mobile species, impacts to birds associated with the SSSI should be considered. Slight impacts on the redshank requiring mitigation,
- The proposed development site is 320 meters from the SAC. Below are the features of the SAC which are all habitats. The proposed development will not cause direct loss of these habitats, and not is it likely to cause indirect loss.
- Mudflats and sandflats not covered by seawater at low tide
- Large shallow inlets and bays
- Recommend that;
- If the proposal is to be granted then measures must be taken to reduce the impact to redshank and other roosting birds. This is required to satisfy the UDP policies for biodiversity B16, B17 and B21, due to the landtake within the candidate Wildlife Site and disturbance to birds associated with the Wildlife Site and SSSI.
- The proposed development should incorporate suitable features for nesting rock pipits.
- Once construction completed the site should be sown with wildflowers, which will provide seeds for birds.
- An ecological clerk of works should be present to ensure that no works take place that could disturb nesting or roosting birds.
- Prohibiting construction/dumping work to take place one hour before and one hour after high tide (a no work period of 3 hours encompassing high tide).
- To avoid damage to nesting birds (rock pipits) no construction/dumping on the coastal slopes between (1st March and 1st August).
- Monitoring surveys should be undertaken during the construction period to check that birds are continuing to use the site and that measures to minimise disturbance are being implemented successfully. A record of the numbers of waders on site to be submitted to the LPA.
- Appropriate mitigation measures for the possibility of reptiles on the site.
- Measures to enhance the development site for waders and other wildlife should be incorporated in to the development.

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Association:

R.S.P.B.: Withdraw their objection to the application as it is possible to avoid any disturbance to roosting birds by implementing measures set out in the ecological reports but also;

- i. No work within 1½ hours before and after high tide,
- ii. No work on the site from March to September.

Scottish Power: No Response

Dwr Cymru: No Response

Crown Estate: No Response

ESP Utilities Group (Gas): No Response

However, the response provided on the previous application C14/1072/11/LL is still relevant providing guidance notes and advice on the location of Gas utility in the area.

Public Consultation: A site notice was placed at three locations close to the site on the 22nd October 2016 with neighbouring residents informed by letter as well as a notice appearing in the Caernarfon & Denbigh Herald on the 4th November 2015. Nine letters of objection and a single letter of support have been received in response to statutory publicity on the application which highlight the following concerns;

Grounds for objection:

- Visual amenity & impact of proposals on NRW LANDMAP evaluation of outstanding cultural landscape
- Concern about the materials used and the levels still to be achieved
- Request that the application be considered by the Planning Committee
- Traffic & potential impacts on footpath/cycle network
- Coastal erosion and land stability exacerbated by recent tipping activity
- Restore site to nature conservation interests
- Location of application area within a C2 Flood Zone (Development Advice Maps TAN 15) & categorisation of highly vulnerable development
- Potential impacts on surface water and sewerage within a C2 Flood Zone
- Development contrary to the recommendations of the West of Wales Shoreline Management Plan
- Potential impact on SAC & SPA features
- Land contamination issues and the risk to human health receptors but also shellfish waters. Danger of leachate washing into the marine environment because of extra weight of development on land
- Development out of character with the surrounding

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architecture and natural amenities of Garth

- Impacts of run-off on local biodiversity on habitats, species and bird feeding areas

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

- Proposal implemented in 2 development phases where a landraise application is submitted in advance of an application for built development
- Legality of recent & historic tipping activity & applicability of legislation other than planning
- NRW licensing requirements, including the requirement for a marine licence
- Visual impact of future built development proposals for the site
- Stability of future built development proposals for the site & risk of collapse
- Land ownership
- Anticipated future flood levels creating an island which would be inaccessible to emergency services
- Mains services (gas, water, electricity) below anticipated flood level
- Possible detrimental impact of the development proposals on the UNESCO World Heritage Site Bid, 'Slate Industry of North Wales'
- Proposal should be the subject of an Environmental Impact Assessment

Grounds for support:

- Inert materials used to raise ground levels by a relatively small amount
- Could 'Inert' be substituted with 'Harmless'?

Assessment of the material planning considerations:

5.1 The principle of the development

- 5.1.1 The site is currently afforded permitted development rights as a builder's compound and temporary repository for material derived from excavation works associated with the Phase 1 residential development at 'Bae Hirael'. Consequently, the landform and site levels have changed since the former use as a boatyard in that excavation arisings derived from the Phase 1 construction works have been placed on top of a land surface that has already been reclaimed using building and demolition waste sometime during the mid-1980s. The covering letter submitted in support of the application sets out the applicant's long-term proposals for housing development, referring to the allocation of the site for redevelopment under Policy C5 of the Gwynedd Unitary Development Plan. The proposal is therefore part retrospective to retain all of the waste materials on the Phase 2 land and import a further 19,000 tonnes of inert materials in order to raise the ground levels. The applicant's intention if planning permission is granted is to submit a formal application to Welsh Government to remove the site from the C2 flood risk designation on the development advice maps of TAN 15 (Development and Flood Risk).

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- 5.1.2 Policy C5 of the Gwynedd UDP identifies redevelopment sites on the proposals map as those in key locations within or near centres and villages that may provide opportunities for a variety of uses and make effective use of previously developed land or land not being used to its full potential. The policy states that; “ *development proposals on sites identified on the Proposals Map as redevelopment sites will be permitted provided that they conform to the development brief that has been prepared for each site and/or any masterplan for the site approved by the Local Planning Authority*”. Any future development proposals for the site must conform to the visions and objectives of the Hiraef Bay Masterplan Report (February 2009) and The Gwynedd Supplementary Planning Guidance – Development Briefs, Bangor Dependency Catchment Area (November 2009). Amongst other requirements, the supplementary planning guidance identifies that an exciting and sustainable mixed-use development should be ensured, which provides resources for working, shopping, eating, living and leisure needs and that there should not be too much of the same type of development on the site.
- 5.1.3 However, any future development proposals for this site would be the subject of a separate planning application assessed on its own merits. The principle issue with this application is the assessment of the development proposals and material planning considerations of an application to import inert waste materials, slate scalplings and sea defence material in site preparation works, prior to the submission of a further application for development which would have to be considered on its merits.
- 5.1.4 Para. 3.27 of TAN 21 outlines the criteria for the location of new waste management facilities in the context of ‘Towards Zero Waste’ and the CIM Sector Plan. The paragraph provides locational criteria for waste management facilities but also, the use of inert building and demolition waste for the remediation of degraded, contaminated or derelict land where; “*well-located, planned, designed and operated waste management facilities may provide good opportunities for remediating and enhancing sites which are damaged or otherwise of poor quality, or bringing derelict or degraded land back into productive use*” . Paragraph 13.2 further states; ‘*in the case of landfill and landraising operations, appropriate and careful restoration and aftercare is required to prepare the site for a use which is compatible with the surrounding area and the provisions of the local development plan*’.
- 5.1.5 TAN 21 recognises that the likelihood of a need arising for new landfill should reduce over time as the new waste prevention, recycling and other recovery activities develop in accordance with waste policy targets and actions. Paragraph 4.23 is of particular relevance here where it states; “*The application of the waste hierarchy demonstrates that the disposal of inert waste is not acceptable in most circumstances and without exceptional justification planning applications for the disposal of inert waste should be refused. Exceptional circumstances may be demonstrated where the use of inert waste is necessary to address issues of instability, landscape, flood risk, matters relating to safety, or to enable the land to be used for an appropriate end use. In each case, the level of inert waste to be used should be the minimum necessary to achieve the desired outcome*”. TAN 21 makes it clear therefore that C & D disposal to land is only likely to be considered if is ‘recovery’ to achieve a better afteruse and disposal in its own right should be refused.
- 5.1.6 With respect to the principle of importing inert waste materials in site preparation works, if such materials can meet the same specification for basic fill as primary aggregates, then this would meet the objectives of Article 3(15) of the Waste Framework Directive 2008/98/EC, where the use of waste materials is recovery rather than disposal; “*recovery means any operation the principal result of which is waste*

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...serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.....”. The essential characteristic of a waste recovery operation is that its principal objective is that the waste serves a useful purpose in replacing other materials which would have had to be used for that purpose, thereby conserving natural resources. This position is further supported by National and Local planning policy requirements as well as the North Wales Regional Technical Statement on Aggregates.

5.1.7 In June 2008, the Gwynedd Council Board resolved to endorse the Regional Technical Statement produced by the North Wales Regional Aggregates Working Party. The North Wales Regional Technical Statement has been the subject of review and consultation and has since been endorsed by all of the local councils in Wales in August 2014 together with having obtained Ministerial approval. The statement has been prepared in accordance with the sustainability objectives enshrined in Planning Policy (Wales) and the provisions of Technical Advice Note (Wales) 1: Aggregates (MTAN1), setting out an overarching objective to ensure a sustainable and managed supply of aggregates in accordance with the subsidiary objectives in paragraph 29 of MTAN1 which, amongst other requirements, includes; “... *actively reducing the proportion of primary aggregates used in relation to secondary, recycled or waste materials*”.

5.1.8 The general principles of policy C24 (landfill & landraise) will apply in consideration of the development conforming with a number of criteria regarding need, location, scale, ability to manage the site, acceptable after-use provision, alleviating measures, traffic impact and assurance that the development will not harm conservation interests. Policy C3 is considered relevant, (*proposals which give priority to the use of land or buildings previously developed and located within or adjacent to development boundaries will be permitted if the site or the building and use are appropriate*) given that this is a proposal to raise ground levels and the profile of a brownfield site to facilitate built development. Also, paragraph 4.9 of Planning Policy Wales, ‘*preference for the re-use of land*’ states that; ‘many previously developed sites in built-up areas may be considered suitable for development because their re-use will promote sustainability objectives, including sites:

- *In and around existing settlements where there is vacant or under-used land, commercial property or housing;*
- *In suburban areas close to public transport nodes which might support more intensive use for housing or mixed use;*
- *Which secure land for urban extensions, and;*
- *Which facilitate the regeneration of existing communities’.*

5.1.9 In consideration of the above, the landraise operation does not provide additional waste management infrastructure for the disposal of inert waste but rather an application to re-use a brownfield site and raise the level of land above the C2 Flood Plain to provide a landform better suited to development. Subject to the consideration of all other material planning considerations including Traffic Impact, Nature Conservation, Amenity, Sustainability, Pollution Control and Flooding, it is considered that the development in principle complies with National and Regional Planning Policy and Guidance as well as the requirements of Policy C3, C5 & C24 of the Unitary Development Plan.

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5.2 Visual Amenities

- 5.2.1 The application site is not subject to any statutory or local landscape constraints but is located approximately 100m south-west of the Ogwen Valley Landscape of Outstanding Historic Interest. The boundary of the Porth Penrhyn / Penrhyn Caste Historic Park and Garden 'GD40', is located 385m due east with Bangor Pier, Grade 2* listed structure, located 240m due north. The Anglesey AONB lies approximately 1,400m due north.
- 5.2.2 The Gwynedd landscape strategy was developed in 1999 using LANDMAP methodology which establishes a systematic method for recording and retrieving information about specific landscape qualities and is incorporated within the Supplementary Planning Guidance on landscape character adopted in November 2009. Historic & Cultural Landscapes are recognised as outstanding features in landscape character area '1' (*Bangor Coastal Plain*) and landscape pattern largely reflects the influence of the Penrhyn Estate but also the large expanse of intertidal sand and mudflats at Traeth Lafan. Amongst other key issues, the strategy recognises the importance of the Register of Landscapes of Outstanding Historic Interest in Wales and the relationship of the landscape character area with the Anglesey AONB, taking into account the historic and cultural significance of these areas, nature conservation objectives and habitat management.
- 5.2.3 The site is quite prominent when viewed from the point where Llandygai Road merges with Beach Road on the A5 approach to the settlement of Garth and Hirael Bay. The land surrounding the application site is substantially developed including housing, social club & garage, water treatment works and open recreational area. The application site itself comprises of previously reclaimed land on the Porth Penrhyn foreshore, forming part of a larger brownfield site having a historic industrial/commercial use as a chandlery shop and boatyard.
- 5.2.4 Although the site measures 1.2 hectares, only about 1,500m² of the proposal would extend below the mean high water mark, i.e. additional land reclaimed in order to form the embankments from the foreshore up to the proposed cap level of 6.98m AOD. In respect of the level required to prepare the site for development, there will be an increased height of between 1m to 1.5m across the whole site, although a substantially larger volume of fill and sea defence material will be required to build-up the site embankments. It is considered therefore that the degree of change in terms of visual impact will be a slight to moderate increase in land levels but for the most part, a uniform embankment of field boulders and rip-rap material around the periphery of the site will be the most prominent feature.
- 5.2.5 NRW are satisfied with the specification of the sea embankment material (rip-rap), but recommend a condition to specify the detailed design of the material to specify the minimum and maximum size of stone to be used together with any future maintenance requirements. However, given that the existing concrete embankment formed around the historic layer of tipped material is deteriorating, sea defence material will need to be considered at some point in the near future in the interests of managing further tidal erosion.
- 5.2.6 In response to consultation, Gwynedd Council's Biodiversity Unit confirmed that the site forms part of a candidate wildlife site (*Porth Penrhyn & Menai – 1632*) being an inter-tidal area listed under Section 42 (NERC Act 2006) by Welsh Government as a habitat of importance to the biodiversity of Wales and which supports the Traeth Lafan SPA. Conditions attached to minerals and waste permissions typically include

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for restoration and afteruse proposals which focus upon the creation of areas for nature conservation interest. Furthermore, the requirement for habitat management in the Gwynedd landscape strategy states that new development and management proposals should seek to provide for wider management of key habitats including enhancing the existing habitat and link with the local Biodiversity Action Plan.

- 5.2.7 As previously stated, the principal purpose of this application is to raise the level of a brownfield site above the C2 Flood Plain in order to provide a platform better suited to development and clearly, the applicant has indicated his intentions in this regard. Any future development proposals for this site would be the subject of a separate planning application to be assessed on its own merits in accordance with planning policy requirements. However, should a situation arise that such an application would not be forthcoming, the authority would need re-assurance that the site may be restored to a beneficial afteruse. It would be reasonable therefore to consider that the site be restored to nature conservation interests within a given timescale unless a further application to develop the site is submitted.
- 5.2.8 In response to consultation, CADW have no comments to make on the application as there are no scheduled monuments or registered parks and gardens within the vicinity that would be affected by the proposed development. Given the scale and complexity of the development, it was not considered feasible to undertake an assessment of any direct or indirect (physical & non-physical) impacts of the development on the surrounding historic landscape (ASIDOHL). In terms of landscape and visual impact it is not considered that the proposal will impact on coastal features, habitats and character, including the setting of the Menai Straits and Anglesey AONB nor the Porth Penrhyn Historic Park and Garden. Furthermore, it is considered that the landraise proposal will have a negligible landscape and visual impact as viewed from the Anglesey AONB.
- 5.2.9 It is considered that subject to appropriate restoration conditions, the development therefore complies with the requirements of Policies B7, B12, B27 of the Unitary Development Plan.

5.3 General and residential amenities

- 5.3.1 In terms of impact on residential amenities, the main issues associated with this proposal would be the potential impacts of haulage, noise, vibration, dust derived from engineering operations associated with the development, namely the reception and disposal of inert materials and the reclamation of land below the mean high water mark. It is anticipated that the total scheme of works for this development would be completed within twenty four weeks of commencement including a temporary increase in traffic movements along Beach Road over a 6-week period involving the transport of 19,000 tonnes of material, typically, 25 x 20-tonne loads carrying 500 tonnes per day. Similarly, an operation requiring the removal of excess construction spoil upon cessation of the Phase 1 development on Dickies Yard would incur the same level of disturbance.
- 5.3.2 The authority has consulted with both the Natural Resources Wales and Gwynedd Council Public Protection Department and there are operational matters that require additional permits and consents that lie outside the remit of planning. The effects of, noise, dust, & transport is proportional to the area of the application although the effects thereof are limited to the duration of the contract, i.e. 6-weeks and the impacts would therefore be short-lived and may be further controlled by condition to limit working hours. The application details and Construction Environment Management

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Plan propose the following itinerary of mitigation for the potential impacts on the amenity of the area;

- Operator to keep a complaints log to me made available for inspection by the local authority,
- Working hours;
 - 8.00am – 5.00pm Monday to Friday,
 - 8.00am – 1.00pm on a Saturday.
- Control measures for the mitigation of fugitive dust, noise levels, vapour & vibration to be agreed via conditions with the local planning authority, having regard to off-site receptors. Background noise survey to be undertaken by the applicant prior to the commencement of works in order to establish a baseline for maximum noise levels from the construction operations,
- Dust control measures shall include;
 - Sealing of stockpiles by rolling or other means to reduce the potential for the migration of fugitive dust,
 - Dampening down of stockpiles,
 - Regular use of water bowsers and sprays during dry weather,
 - Street sweepers deployed to sweep road surfaces & wheelwash facility on site,
 - Geotextile membrane to cover the existing deposit prior to any additional material being laid on top.

5.3.3 The site is allocated for redevelopment under Policy C5 of the Unitary Development Plan. In consideration of the nature of the landraise operation noise, dust, vibration, working hours and haulage are considered a temporary intrusion on the amenities of local residents which may be controlled via planning conditions. It is considered therefore that the development conforms to policy B23 of the UDP (amenities).

5.4 Traffic and Access

5.4.1 As stated above, a temporary increase in traffic movements will occur along Beach Road involving the transport of 19,000 tonnes of material to the site over a 6-week period, 25 x 20-tonne loads carrying 500 tonnes per day. This would involve 5-6 HGV deliveries per hour onto the A5 & Class 1 County Highway.

5.4.2 The Council's Transportation Unit has no objection to the proposal subject to the following recommendations;

- Sufficient arrangements should be put in place for a wheelwash facility on site with further provision for a road sweeper during the haulage period,
- Sufficient signage to be agreed with the transportation service prior to the import of materials to the site in order to warn road users of heavy plant crossing the highway, if the proposal involves the transfer of materials from the nearby 'Arriva' materials storage facility,
- Haulage movements restricted to 25 x 20-tonne loads per day.

5.4.3 The site is not accessible to members of the public and the proposal does not affect the movement of people i.e. does not impact on pedestrian areas, footpaths or rights of way. However, it should be noted that there is a public right of way from Glandwr Road to the Crosville Club which is linked via an estate road through the Phase 1 development which forms part of the Sustrans National Cycle Network. The Construction Environment Management Plan submitted in support of the application confirms the use of appropriate signage as a means of warning other highway users that heavy goods vehicles (HGVs) will be frequenting the site during haulage

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operations and that close co-operation with the Highway Authority will be secured to ensure safe working practice. The CEMP further states that all site activities are to be contained within the hoarding line and a comprehensive traffic management plan will be implemented to ensure no disruption is caused to traffic or pedestrians on the adjoining roads or walkways. A walkway is also proposed around the headland of the Phase 2 development. It is not considered that the development will affect the integrity of the public right of way and the site has direct access onto the A5 County Highway.

- 5.4.4 In consideration of highway impacts, the proposal is acceptable in principle in that the development is compliant with Policies CH22 & CH33 of the Unitary Development Plan. A plan to confirm the location of a temporary wheelwash facility should be the subject of a planning condition.

5.5 Biodiversity & Habitats Regulations Assessment

- 5.5.1 As already stated, Gwynedd Council's Biodiversity Unit confirm that the site forms part of a candidate wildlife site (Porth Penrhyn & Menai – 1632) being an inter-tidal area listed under Section 42 (NERC Act 2006) by Welsh Government as a habitat of importance to the biodiversity of Wales (*intertidal mud used by waders in the winter such as oystercatcher, curlew, dunlin & wigeon*) and which supports the Traeth Lafan SPA. Additional information has been submitted to confirm the extent of the works below Mean High Water and method statements to determine the level of impact upon the inter-tidal area including an updated ecological assessment and winter bird survey.
- 5.5.2 The area of intertidal mud lost as a consequence of the proposal is 380 square metres within an overall area of 1,400 square metres of other intertidal habitats dominated by deposited materials. This loss will be permanent, however it is a small proportion of the Porth Penrhyn mud flats and is not considered significant. In mitigation, Gwynedd Biodiversity outline specific recommendations to limit the disturbance on roosting birds and nesting birds during construction phase but also the potential for long-term impacts due to walkers & dogs.
- 5.5.3 The Traeth Lafan SSSI & Special Protection Area has been designated under European Legislation for its importance for wintering populations of oystercatchers, curlew and great crested grebe. Gwynedd Council as competent authority is required to carry out a Habitats Regulations Assessment under regulation 61 of the Habitats and Species Regulations 2010. A test of likely significant effects is required to assess the impact of the proposal on European designated conservation sites, (Menai Strait SAC and Traeth Lafan SPA) which lie approximately 300m north of the application site. The HRA will need to undertake a scientific evaluation of risks and consider the impact of the proposal either alone or in combination with other projects or plans in accordance with the precautionary principle to identify any potentially negative effects.
- 5.5.4 The Habitats Regulations Assessment undertaken by Gwynedd Council concludes that, the proposal to raise the level of the land with inert waste would not have a significant impact on the Traeth Lafan SPA. In response to consultation, Natural Resources Wales concluded that; having reviewed the Habitats Regulations Assessment: Stage 1 Screening Report, and survey information submitted in support of the application, it is considered that the measures proposed in the application to be sufficient to ensure that significant effects on the Traeth Lafan SPA and qualifying species of Oystercatcher will be unlikely.

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- 5.5.5 In addition, it is not considered that the proposal, alone or in combination with other plans or projects will have an adverse impact on qualifying features of the Menal Strait and Conwy Bay SAC, (*mudflats and sandflats not covered by seawater at low tide & large shallow inlets and bays*) which is located 320 metres from the application site. It is considered therefore that the development complies with National Planning Policy guidance as well as Policy A1, A3, B13 & B15 of the Unitary Development Plan.
- 5.5.6 Furthermore, in order to ensure that specific measures are implemented to prevent the release of pollutants/contaminants as a result of construction/landraise operations, a Construction Environment Management Plan has been agreed with NRW prior to the commencement of works which outlines a scheme of environmental monitoring and mitigation to prevent any potential pollution and contamination of the marine environment.
- 5.5.7 Similarly, the proposed development is 320 meters from the Traeth Lafan SSSI, therefore this development will have no landtake within the SSSI and it will not cause the loss of habitats within the SSSI. However because the designated features of SPA & SSSI are birds which are mobile, any impact to birds must be considered.
- 5.5.8 In response to consultation Gwynedd Biodiversity recommend that; If the proposal is to be granted then measures must be taken to reduce the impact to redshank and other roosting birds must be incorporated into the development proposal. Gwynedd Council's Countryside and Access Manager on behalf of the Traeth Lafan LNR Management Committee agree with the requirement for specific mitigation in this regard. This is required to satisfy the UDP policies for biodiversity B16, B17 and B21, due to the landtake within the candidate Wildlife Site and disturbance to birds associated with the Wildlife Site and SSSI. Such measures include;
- Prohibiting construction/dumping work one hour before and one hour after high tide, i.e. a no work period of 3 hours encompassing high tide,
 - To avoid damage to nesting birds (rock pipits) no construction/dumping on the coastal slopes between (1st March and 1st August),
 - Biodiversity enhancement to be incorporated into the development including features for waders & rock pipits,
 - Monitoring surveys should be undertaken during the construction period to check that birds are continuing to use the site and that measures to minimise disturbance are being implemented successfully,
 - Ecological clerk of works to monitor the progress of construction and advise site operatives of potential ecological issues as proposed in the Construction Environment Management Plan together with suitable mitigation for reptiles & other protected species should they be encountered on site,
 - Once construction is completed the site should be sown with wildflowers, which will provide seeds for birds (see also paragraph 5.2.6).

5.6 Pollution Control & Land Contamination

- 5.6.1 Pollution control and site management issues need to be addressed in order to minimise the risk of chemical run-off and increased sedimentation having an adverse impacts on local biodiversity and the local water environment but also the wider impacts on SAC & SPA features on account of possible changes to bird feeding areas as well as hydrological links.

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5.6.2 The site is not included on the Authority's register of contaminated land but in respect of dealing with potentially unstable or contaminated land paragraph 13.5.1 of Planning Policy Wales states; *"The planning system should guide development to lessen the risk from natural or human-made hazards, including risk from land instability and land contamination. The aim is not to prevent the development of such land, though in some cases that may be the appropriate response. Rather it is to ensure that development is suitable and that the physical constraints on the land, including the anticipated impacts of climate change, are taken into account at all stages of the planning process. However, responsibility for determining the extent and effects of instability or other risk remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners"*. Upon inspection of the site, it appears that the existing concrete embankment formed around the historic layer of tipped material is deteriorating with evidence of scouring due to coastal erosion and wave action.

5.6.3 The Geo-environmental Appraisal submitted in support of the application provides supplementary information relating to the risk of contamination within the reclaimed land which forms part of the Phase 2 land at Dickies yard. Whereas the material derived from the Phase 1 construction works has been deposited to a depth of between 1m – 1.5m, exploratory trial pits taken at the site confirm logs of between 1.8m – 2.30m, which would indicate that the underlying layers of the old boatyard, deposited in the mid-1980s, forms part of the assessment. The appraisal concludes that; the human health risk assessment has shown that the made ground soils at the site contain asbestos, mercury, lead and PAHs at concentrations that may pose a potentially significant risk to human health receptors. As such, The Construction Environment Management Plan proposes a remediation strategy to mitigate for such risks, i.e. a clean cover system to ensure that the deposit is sealed and the migration of wind-blown particles and silt run-off is minimised.

5.6.4 With respect to the potential for leachate contamination from the existing made ground, the Supplementary Geo-environmental Appraisal report (report reference: T/14/1380/SGA, dated 26th January 2015) by Tier Environmental, confirms the following;

"The results demonstrate leachable concentrations of copper, benzo(a)pyrene, indeno(123cd)pyrene, benzo(ghi)perylene, benzo(b)fluoranthene and benzo(k)fluoranthene have been reported in excess of the respective Saltwater EQS Values by the same order of magnitude and up to 2 No. orders of magnitude.

The underlying Glacial Till and Tidal Flats Deposits are recorded as Unproductive Aquifers. The Coastal Zone Deposits have been classified as a Secondary (undifferentiated) aquifer. As such, it is considered that the Menai Strait constitutes the primary controlled waters receptor.

Further assessment of the above data has demonstrated that those concentrations reported by 2 No. orders of magnitude above the respective EQS are present in 1 No. sample only (TP6A). On this basis, it is not considered that the reported concentrations represent widespread gross leachable copper and PAH contamination. When the significant effects of dilution within groundwater and then subsequently the surface water body are considered, it is evident that the reported leachate concentrations will not present a significant risk to controlled waters. This is supported by the results of groundwater and surface water sampling undertaken as part of the Preliminary Site Investigation (report reference: T/14/1380/PSI, dated

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20th February 2014) which demonstrated that no groundwater or surface water concentrations were reported in excess of the respective screening criteria protective of controlled waters”.

- 5.6.5 In response to consultation, both NRW and the authority’s Public Protection Service confirm that they are satisfied with the appraisal of potential leachate contamination in the Supplementary Geo-environmental Appraisal report, together with the mitigation and site monitoring strategy set out in the Construction Environment Management Plan.
- 5.6.6 The construction method statement submitted in support of the application confirms the mitigation to be applied. The proposal includes for the deposit of an additional 19,000 tonnes of material placed on top of a geotextile membrane in 300mm layers and further consolidated or compacted using a 20-tonne excavator as they are being laid. 5,000 tonnes of infill will comprise of crushed brick and concrete from the Llandygai Waste Transfer Station with the remaining 14,000 tonnes of slate waste material sourced from local quarries. There is no current surface water drainage capacity on site and it is proposed that a 50mm layer of clean stone will be laid on top of the cap, laid slightly higher at the edge of the deposit in order to manage migration of dust and silt but also to direct rainwater to the centre of the site so that it percolates through the ground. Prohibiting construction/dumping work one hour before and after high tide will ensure that no operations are undertaken within/adjacent to sensitive areas over a period of 3 hours encompassing high tide. Furthermore, the application details confirm that oils & fuels are to be stored within a bunded area well clear from the shoreline and the location of such a facility should be agreed with the local planning authority in accordance with the requirements of a planning condition.
- 5.6.7 The applicant has submitted additional information in response to concerns by NRW in the form of a Construction Environment Management Plan. The submitted details summarise the scope of the development under consideration, the working conditions on site and measures to control environmental effects such as movements of HGVs, air quality, working hours, noise/vibration, waste management and pollution. The Construction Environment Management Plan outlines a scheme of environmental control, e.g. monitoring potential run-off from silt & waste materials and water sampling. In response to consultation, NRW confirm that the plan is sufficient to meet all of its concerns but do suggest a checklist of practical measures to be implemented during the construction period in order to mitigate for the potential environmental impact of the development. However, whilst it may be feasible to request the submission of a report under condition to demonstrate compliance, it would not be the intention to duplicate controls under the remit of NRW that would otherwise be the requirement of a Marine Licence or Environmental Permit.
- 5.6.8 With respect to the Menai Straits as one of the primary areas for shellfish production in Wales, the waste planning assessment and Construction Environment Management Plan list a number of precautionary measures to be taken during the construction stage which will prevent particulate matter and fines from being released. In response to consultation, Gwynedd Public Protection recommend that the mitigation measures proposed are subject to control through planning condition and that the applicant implements a scheme of water sampling and analysis to ascertain the presence of pollutants.
- 5.6.9 Subject to appropriate controls and a condition to secure compliance with the Construction Environment Management Plan, the development and scheme of mitigation complies with policies B15, B32 & B33 of the Unitary Development Plan.

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5.7 Flood Risk

- 5.7.1 In response to consultation, Gwynedd Council Flood Risk Management and Coastal Erosion confirm that they have no objection to the proposal but highlight the requirements of Section 263 of the Public Health Act and Section 23(1) of the Land Drainage Act 1991 to safeguard the adjacent watercourse and to apply planning conditions as appropriate.
- 5.7.2 The flood consequences assessment submitted in support of the application confirms that the site is contained within an area classified as a C2 Zone in the Development Advice Maps accompanying TAN15 (Development and Flood Risk), described as, “*areas of floodplain without significant flood defence infrastructure*”.
- 5.7.3 Policy B29 of the Gwynedd Unitary Development Plan addresses the issue of development on land at risk from flooding and is reflective of the guidance in TAN15 stipulating that; “*new development should be directed away from zone C and towards suitable land in zone A, or otherwise zone B. The tests outlined in TAN15 will be applied to development within zone C. Proposals for a less vulnerable development in zone C2 (areas of the floodplain without significant flood defence infrastructure) or any new development proposal in zone C1 (areas of the floodplain which are developed and served by significant infrastructure, including flood defences) will be refused unless it can be clearly demonstrated that:*
- *Its location in zone C is necessary to assist, or be part of, a Local Authority and other key partners’ regeneration initiative or a local authority strategy required to sustain an existing settlement, or*
 - *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, and*
 - *It concurs with the aims of PPW and meets the definition of previously developed land, and*
 - *The potential consequences of a flooding event for the particular type of development have been found to be acceptable in relation to the tests set out in TAN15”.*
- 5.7.4 Paragraph 6.1 of TAN15 states that; “*...some flexibility is necessary to enable the risks of flooding to be addressed whilst recognising the negative economic and social consequences if policy were to preclude investment in existing urban areas and the benefits of reusing previously developed land*”.
- 5.7.5 This is a part retrospective application to retain all of the waste materials already deposited on the Phase 2 land and import a further 19,000 tonnes of inert & permeable materials so as to enable the site to be raised above the extreme tidal flood levels indicated on the flood zone maps. A flood map challenge will need to be submitted to NRW/Welsh Government to remove the site from the C2 flood risk designation on the development advice maps of TAN 15 (Development and Flood Risk) before any future application for residential type, or highly vulnerable, development is submitted for consideration. However, NRW state in their consultation response that the flood zone maps may only be changed upon request and when the work of raising the level of the site has been completed.
- 5.7.6 Planning Policy Wales requires that for development management and flood risk, “*it is essential that Natural Resources Wales’ advice is obtained and given due weight as a material consideration by planning authorities in determining individual*

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applications". TAN15 further states that whether a development should proceed or not will depend upon whether the consequences of flooding of that development can be managed down to a level which is acceptable for the nature/type of development being proposed, i.e. a 'Flood Consequence Assessment'.

5.7.7 Concerns about potential flood risks have been received in response to statutory publicity on the application including, anticipated future flood levels creating an island which would be inaccessible to emergency services. However, the Flood Consequence Assessment dated April 2016 and covering letter dated 19th April 2016 addresses the concerns of NRW in respect of the potential flood risk associated with a development solely for the raising of existing ground levels in site preparation works for future development. A detailed hydraulic analysis would need to be prepared for any future planning proposal for built development on the site and such an application would need to be assessed on its merits against planning policy requirements.

5.7.8 Subject to details of rip-rap material being provided to ensure that erosion of the fill material will be minimised due to wave action, it is considered that the proposal complies with policies B29, B32 & C5 of the Unitary Development Plan as well as the requirements of national planning policy guidance.

5.8 Sustainability

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

5.9 The Economy

5.9.1 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.

5.9.2 The proposal to raise land levels and prepare the site for development in accordance with Policy C5 conforms with strategic policies 15 and 16 of the UDP and is likely therefore to have a positive impact on the area's economy.

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6. Response to the public consultation

- 6.1 The main concerns raised by third parties in response to consultation the application consists mainly of the potential impact of traffic, potential impact of the proposal on biodiversity including SAC, SPA and SSSI features, bird species, potential impacts of development within a C2 flood risk zone, impacts on residential amenity (tipping operation & raising of land levels), land contamination & land stability issues and visual amenity/impact of proposals on historic landscape.
- 6.2 The Local Planning Authority has considered these objections as material planning considerations in part 5 of this report. Furthermore, the material considerations relevant to this proposal have been assessed having regarding to the relevant planning policies and guidance.

7. Conclusions

- 7.1 The proposal is part retrospective to retain all of the waste materials on the Phase 2 land and import a further 19,000 tonnes of inert materials in order to raise the ground levels, so that a formal application may be submitted to NRW/Welsh Government to remove the site from the C2 flood risk designation on the development advice maps of TAN 15 (Development and Flood Risk). The flood zone maps may only be changed upon request and when the work of raising the level of the site has been completed. However, any future development proposals for this site would be the subject of a separate planning application assessed on its own merits. The principle issue with this application is the assessment of the development proposals and material planning considerations of an application to import inert waste materials, slate scalplings and sea defence material in site preparation works prior to the submission of a further application for development. Policy C5 of the Gwynedd UDP identifies redevelopment sites on the proposals map as those in key locations within or near centres and villages that may provide opportunities for a variety of uses and make effective use of previously developed land or land not being used to its full potential.
- 7.2 Issues that would otherwise fall within the remit of the Natural Resources Wales have been listed in this report, e.g. 'the requirement for a waste permit under the Environmental Permitting Regs 2010 and the requirement for a Marine Licence will be brought to the attention of the developer by means of a 'note to applicant' issued with planning permission, but will not feature in the list of planning conditions on the actual decision notice.
- 7.3 The principle of importing inert waste materials in site preparation works, if such materials can meet the same specification for basic fill as primary aggregates, then this would meet the objectives of Article 3(15) of the Waste Framework Directive 2008/98/EC as well as national and local planning policy requirements. Given the limited tonnage of material to re-profile the site (19,000 tonnes), the proposal will not have a detrimental impact on the local highway (Policy CH33),
- 7.4 Commencement and completion of landraise operations to be the subject of a written notification to the Local Planning Authority to ensure that the works are completed in as short a timescale as possible to minimise disturbance to local amenity and environmental/marine conservation interests. The inclusion of planning conditions to control the potential nuisance impacts of noise and dust on the amenities of the area (Policy B23).

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- 7.5 Development proposal will result in the loss of a small proportion of inter-tidal habitat but is unlikely to have significant impact on the Traeth Lafan SPA and Menai Strait SAC. Mitigation required for short-term disturbance during construction works to waders including redshank but also nesting habitat for rock pipit, but should specifically include the itinerary of measures as recommended by Gwynedd Council Biodiversity and the Traeth Lafan LNR Management Committee.
- 7.6 Degree of change in terms of visual impact will be a slight to moderate increase in land levels but for the most part, a uniform embankment of field boulders and rip-rap material around the periphery of the site will be the most prominent feature. It is considered that the proposal will not have a direct or indirect (physical & non-physical) impact on the setting of the Ogwen Valley Landscape of Outstanding Historic Interest, the Anglesey AONB or the Coastal Landscape of the Menai Straits (Policy B12). The submission of a restoration/landscaping plan (Policy B27) to be the subject of a planning condition in that the authority would need re-assurance that the site may be restored to a beneficial afteruse. It would be reasonable therefore to consider that the site be restored to nature conservation interests within a given timescale unless a further application to develop the site is submitted.
- 7.7 The Flood Consequence Assessment, April 2016 and covering letter dated 19 April 2016, addresses the concerns of NRW in respect of potential flood risk. Subject to details of rip-rap material being provided to ensure that erosion of the fill material will be minimised due to wave action, it is considered that the proposal complies with policies B29, B32 & C5 of the Unitary Development Plan as well as the requirements of national planning policy guidance.
- 7.8 The proposal will include a remediation strategy, where the import of inert waste and slate aggregate may be used to contain any potential land contamination within the site. Subject to compliance with the scheme of mitigation and monitoring in the Construction Environment Management Plan, it is considered that the proposal will not have a detrimental impact on the local water environment (Policy B32 & B33).
- 7.9 The proposal satisfies the sustainability goals of Planning Policy Wales and The Well-being of Future Generations Act (Wales) 2015.

8. Recommendation:

- 8.1 To authorise the Senior Manager, Planning, Environment and Public Protection Services the to approve the application subject to the following scope of conditions and where indicated, the submission of specific information in accordance with the requirements of conditions prior to the commencement of the development;
- Temporary operations involving the full implementation of the scheme and import of 19,000 tonnes of material to be implemented within a nine-month timescale of the date of notification to the Local Planning Authority,
 - Permitted Operations & Compliance with the Submitted Details/Plans,
 - Import of materials restricted to 500 tonnes per day, between the hours of 08.00 – 17.00 Mon to Fri & 08.00 – 13.00 on a Saturday, or 25 loads per day,
 - Restoration to commence within 3 years of the completion of land raise operations unless a further planning permission is granted,
 - Mitigation measures to reduce the impact on redshank, rock pipit and other features of local biodiversity interest, including;

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- Prohibiting construction/dumping work one hour before and one hour after high tide, i.e. a no work period of 3 hours encompassing high tide,
- To avoid damage to nesting birds (rock pipits) no construction/dumping on the coastal slopes between (1st March and 1st August),
- Biodiversity enhancement to be incorporated into the development including features for waders & rock pipits,
- Monitoring surveys should be undertaken during the construction period to check that birds are continuing to use the site and that measures to minimise disturbance are being implemented successfully,
- Development to include provision for biodiversity enhancement,
- Removal of civil engineering equipment, structures & surplus plant machinery upon completion of the development,
- Control of fugitive Dust & the provision of on-site wheelwash equipment to be the subject of a planning condition,
- Use restricted to the disposal of inert materials,
- Condition to specify the detailed design of the rip-rap material to specify the minimum and maximum size of stone to be used and any future maintenance requirements,,
- Pollution control measures, site monitoring and ecological mitigation to be implemented in accordance with the Construction Environment Management Plan,
- Applicant to implement a scheme of water sampling and analysis to ascertain the presence of pollutants,
- Fuels or lubricants to be stored in a location to be agreed in writing with the Local Planning Authority. Bunding to be at least 110% of the fuel tank capacity,
- Note to applicant referring to the consultation response of Natural Resources Wales and Gwynedd Council Flood Risk Management and Coastal Erosion service,
- Note to applicant that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner,
- Note to applicant that the application has been assessed in accordance with the seven sustainability goals of the Well-being of Future Generations Act (Wales) 2015.