

Heading:

REFERENCE NO. 31/2014/0432/PF
LAND SOUTH OF ST ASAPH
BUSINESS PARK, ST ASAPH

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Denbighshire County Council
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 Application Site

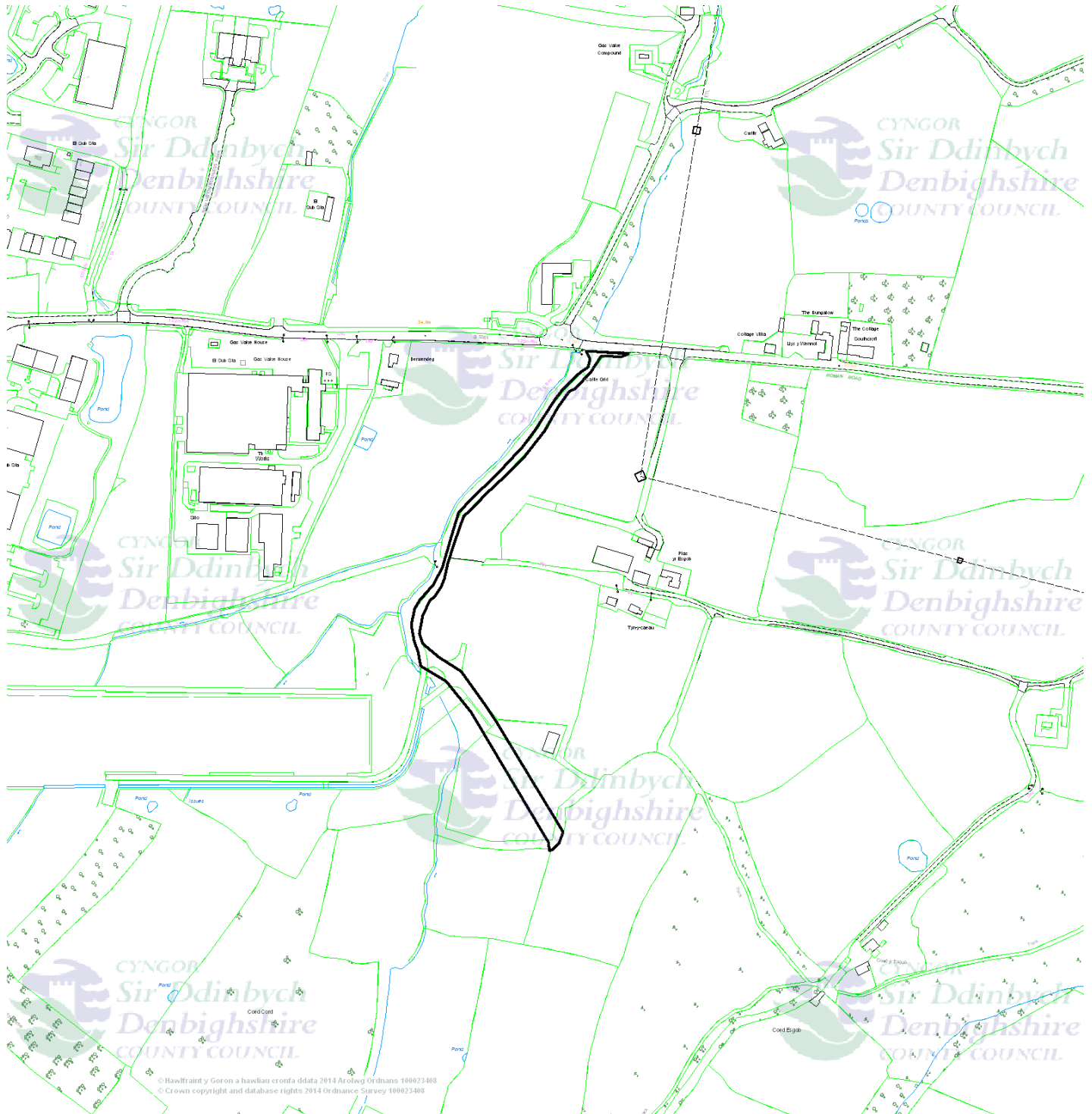


Date 2/6/2014

Scale 1/5000

Centre = 302065 E 373721 N

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



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Atgynhychir y map hwn o ddeunydd yr Ordnance Survey gyda chaniatâd yr Ordnance Survey ar ran Rheolwr Llyfrfa Ei Mawrhydi © Hawffraint y Goron. Mae atgynhychu heb ganiatâd yn torri hawffraint y Goron a gall hyn arwain at erlyniad neu achos sifil. Cyngor Sir Ddinbych. 100023408. 2011.

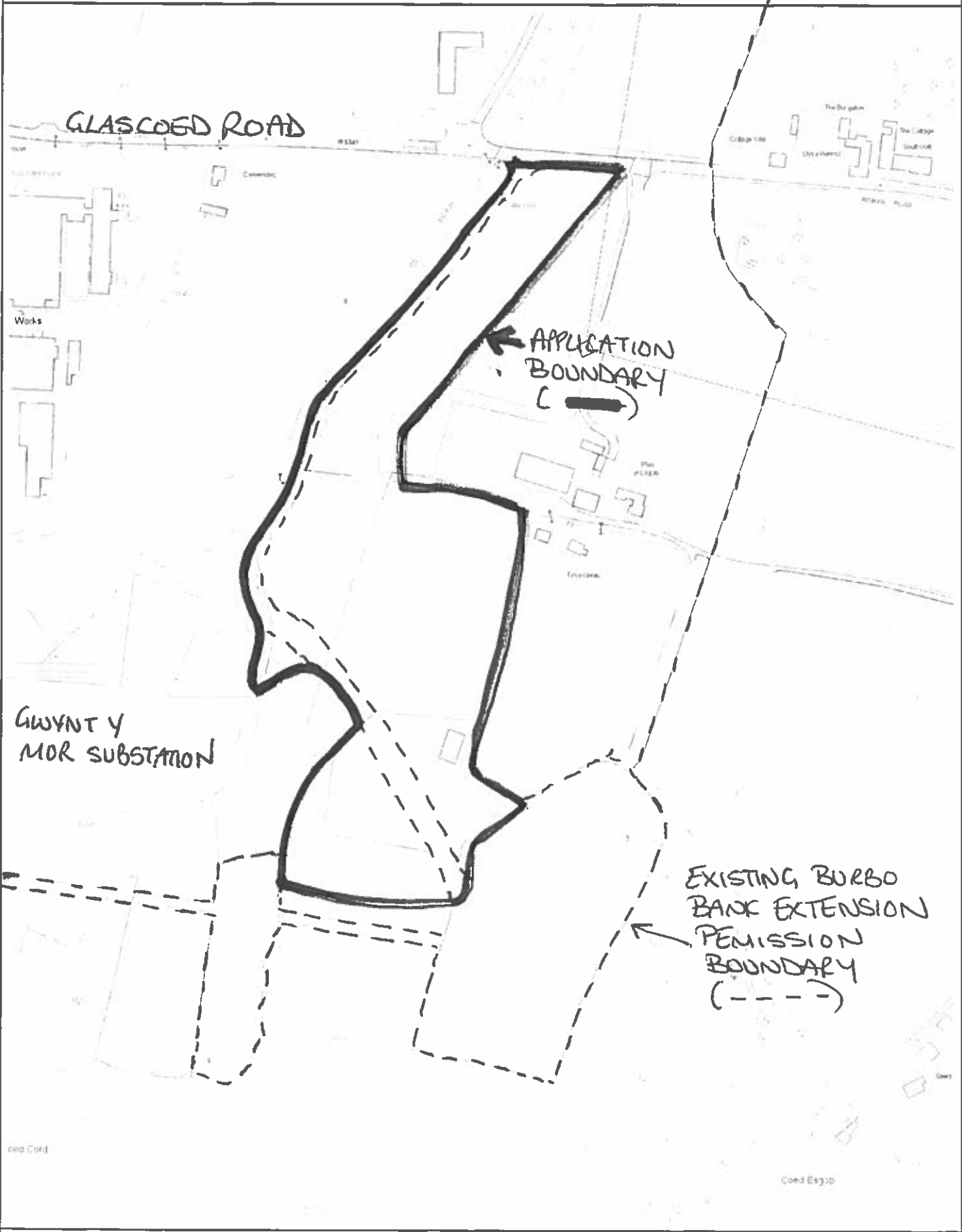


PLAN A: APPLICATION SITE + CONSENTED BURBO BANK EXTENSION SITE



CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Date 29/5/2014
Scale 1/2000
Centre = 302087 E 373639 N



ITEM NO: 4

WARD NO: Trefnant

WARD MEMBER(S): Cllr Meirick Lloyd Davies

APPLICATION NO: 31/2014/0432/ PF

PROPOSAL: Continued use of land as a construction compound for up to 5 years to be used in association with Burbo Bank extension onshore works

LOCATION: Land south of St. Asaph Business Park (south) Glascoed Road St. Asaph

APPLICANT: Dong Energy Wind Power Ltd.Mr Stuart Livesey

CONSTRAINTS: PROW

PUBLICITY UNDERTAKEN: Site Notice – No
Press Notice – No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – Town / Community Council objection

CONSULTATION RESPONSES:

CEFN MEIRIADOG COMMUNITY COUNCIL “Cefn Meiriadog community councillors object to the renewal of this application for continued use. They would like the site to be returned to its former state and use.”

NATURAL RESOURCES WALES – NRW does not object to the proposal, but following recommendations are made:

Statutory Sites: will not affect any statutory sites

Protected Species: NRW consider the St. Asaph population of great crested newts to be of national importance. Great crested newts recorded recently within application area, and advise the following:

- Newt fencing is maintained throughout construction phase.
- Site should be restored to habitats suitable for great crested newts, and further compensation land will be required should permanent loss of great crested newt habitat occur.

Flood Risk: No overall flood risk objection. Draft Code of Construction Practice for Burbo Bank Extension proposed mitigation measures to reduce surface water flood risk and these measures should be implemented.

Environmental Management: Applicant is advised that the septic tank associated with the development requires an Environmental Permit and Contractors need to comply with Pollution Prevention Guidelines Nos. 1 to 6. Fuels/oils/chemicals should be bunded on site and securely stored.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –
Head of Highways and Infrastructure

- Highways Officer – No Objection
- Footpaths Officer – No objection in principle. However, Public Rights of Way Footpath 16 & Bridleway 32 directly affected by the application. Developer is advised that Public Rights of Way will need to be made available to general public within the 5 year period.

Pollution Control Officer – No response at time of preparing report.

RESPONSE TO PUBLICITY: None received

EXPIRY DATE OF APPLICATION: 05/06/2014

REASONS FOR DELAY IN DECISION (where applicable):

- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks permission to continue the use of land as a construction compound on land to the south of St. Asaph Business Park, Glascoed Road, St. Asaph in connection with the onshore works on the Burbo Bank Extension offshore windfarm for a period of 5 years.
- 1.1.2 The site was previously used as a temporary construction compound for the construction of the Gwynt y Mor substation.
- 1.1.3 The Burbo Bank Extension Wind Farm Onshore Works, which consists of an underground cable route and new substation, obtained planning consent in November 2013.
- 1.1.4 Condition 10 attached to the existing permission sets maximum noise limits for the substation. Whilst the design of the substation will be the subject of a separate reserved matters application, additional noise mitigation will be necessary to achieve compliance with condition 10 and an additional temporary construction compound is therefore required to enable the additional noise mitigation measures (e.g. noise enclosures) to be constructed.
- 1.1.5 The access to the site will be provided by a new access road consented by planning application 31/2013/0400. This will be the only access to the construction compound.
- 1.1.6 The applicant does not intend to increase the amount of hard standing presently within the existing construction compound and the existing 2.4m high chainlink fence and the new fence around the compound will remain in situ.
- 1.1.7 The temporary construction compound will be used to accommodate construction personnel, offices, toilets, mess facilities, traffic management, car parking facilities and storage areas for plant and machinery, and temporary mobile lighting will be used.
- 1.1.8 The proposed operational hours for the construction compound will be between the hours of 07:00 to 19:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with 24 hour security.
- 1.1.9 A Code of Construction Practice is proposed.
- 1.1.10 The temporary use of the construction compound would be for a period of 5 years.
- 1.1.11 Construction works are anticipated to be completed by October 2017. The application states that, upon completion of construction activities, the laydown area will remain in situ and will be utilised for the storage of caravans by the land owners in accordance with planning permission granted on appeal in March 2014.

1.2 Description of site and surroundings

- 1.2.1 The application site is to the south of Glascoed Road approximately 500 metres to the south-east of the St. Asaph business park.
- 1.2.2 The site is formerly agricultural land.

- 1.2.3 Immediately to the west of the site is the Gwynt y Mor offshore windfarm substation and immediately to the east is the site for the consented Burbo Bank Extension offshore windfarm substation.
- 1.2.4 The nearest un-related residential property is Tyn-y-caeau approximately 120m to the north of the construction compound.
- 1.2.5 Two Public Rights of Way (footpath 16 and bridleway 32) are directly affected by the proposal. Footpath 16 runs along the haul road and bridleway 32 runs in an east-west direction approximately 130 to the north of the construction compound.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is un-annotated land outside of defined settlement boundaries. It is therefore in open countryside.
- 1.3.2 Public Rights of Way are directly affected by the proposal.

1.4 Relevant planning history

- 1.4.1 The applicant obtained planning consent in November 2013 for the Burbo Bank Extension onshore works, which consists of a underground high voltage electricity cable from Ffrith Beach, Prestatyn to St. Asaph, and a new substation on land to the south of Glascoed Road. The application site is immediately to the west of the consented substation location.
- 1.4.2 The application site has been in use as a temporary construction compound in association with the Gwynt y Mor offshore windfarm onshore works planning permission. The site is immediately to the east of the recently constructed Gwynt y Mor substation.
- 1.4.3 Planning permission was granted on appeal in March 2014 for the permanent retention of the previously formed site compound here for the use as a touring caravan storage area.

1.5 Developments/changes since the original submission

- 1.5.1 N/A

1.6 Other relevant background information

- 1.6.1 The Councils Footpaths Officer is in dialogue with the applicant over Public Rights of Way temporary closures to identify suitable routes for diverting the Public Rights of Way during the 5 year construction phase. This is a matter to be dealt with under highways legislation.

2. **DETAILS OF PLANNING HISTORY:**

- 2.1.1 31/2013/0400. Installation and operation of electrical substation compound with outdoor equipment, internal road layout & perimeter fencing south-east of St. Asaph Business Park and up to 11.14km of underground electricity cables between the St. Asaph substation and the coast at Ffrith Beach, Prestatyn, in connection with the proposed Burbo Bank offshore windfarm.
- 2.1.2 31/2008/1123. Installation of 132/400 kV electrical substation and associated underground 132 kV cables between St. Asaph and Pensarn in connection with proposed Gwynt y Mor offshore windfarm. Granted 18 February 2009.
- 2.1.3 31/2013/0767. Retention of a previously formed site compound for use as a touring caravan storage area. Granted on Appeal 7 March 2014 (Appeal Ref: APP/R6830/A/13/2206188).

3. **RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:
Denbighshire Local Development Plan (adopted 4th June 2013)

- Policy VOE5** – Conservation of natural resources
- Policy VOE 10** – Renewable energy technologies
- Policy ASA 1** – New transport infrastructure
- Policy ASA 3** – Parking standards

3.1 Supplementary Planning Guidance

3.2 Government Policy / Guidance

Planning Policy Wales Edition 6 February 2014
Technical Advice Notes
TAN 5 - Nature Conservation and Planning
TAN 8 - Renewable Energy
TAN 18 - Transport

3.3 Other material considerations

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 6, February 2014 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned., and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Residential amenity
- 4.1.3 Ecology
- 4.1.4 Highways (including access and parking)
- 4.1.5 Decommissioning / remediation

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of renewable energy development is supported by Planning Policy Wales and LDP policy VOE 10.

This development would be ancillary to the Burbo Bank Extension offshore windfarm onshore works planning consent. To meet the noise limits specified in condition 10 attached to the Burbo Bank Extension planning permission, the current substation design, although not finalised, shows noise enclosures on the majority of the outdoor electrical equipment and noise walls on the substation perimeter will be required. An additional construction compound is necessary to construct the proposed noise mitigation measures.

The site has previously been in use as a construction compound for the construction of the Gwynt y Mor offshore windfarm substation and underground cables. The current proposal is for the continuation of the use of the land as a construction compound and it is not proposing to increase the operational land footprint or intensify the use of the land.

Cefn Meiriadog Community Council has objected to the principle of the development as they would like the site to be returned to its former state and use.

Whilst the intention was for the site to be restored to its former use once Gwynt y Mor construction activities had ceased, planning permission has subsequently been obtained on Appeal for the permanent retention of the construction compound for use as a touring caravan storage area, and therefore the Council can no longer require the land is restored whilst this permission remains extant. Whilst this permission has not yet been implemented, as it is extant, Officers consider significant weight should be apportioned to it.

As stated, the proposal has been put forward to enable the applicant to incorporate additional mitigation measures into the substation design in order to achieve the noise limits specified in Condition 10 to the Burbo Bank Extension permission. The continued use of this land as a temporary construction compound will therefore have a benefit in the longer term, once the substation becomes operational.

In light of the previously accepted use on the site, the existence of the extant planning permission and the longer term benefit in terms of enabling noise mitigation measures to be included within the substation design, Officers therefore suggest that the principle of the development is acceptable.

4.2.2 Residential amenity

Planning Policy Wales 3.1.4 refers to the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment as potentially material considerations. The impact of a development on residential amenity is therefore a relevant test on planning applications.

There are no representations received raising concerns over residential amenity impacts.

The site has previously been in use as a construction compound. The current application is for the continuation of this use and it is not proposing to increase the operational land footprint or intensify the use of the land.

It is proposed that the construction compound will be operated between 07:00 and 19:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

The Supporting Statement indicates that activities at the additional construction compound may emit noise or cause vibration but these effects will be localised and short term. Mitigation measures to reduce the effects of noise and vibration will be detailed in a Code of Construction Practice.

As the current proposal is not materially different to the previous established use, Officers therefore conclude that, subject to the inclusion of a planning condition requiring the a Code of Construction Practice being submitted to and approved by the local planning authority prior to commencement, the impact on residential amenity can be controlled, and the development would not therefore give rise to unacceptable adverse impacts on local residents.

4.2.3 Ecology

Policy VOE5 of the LDP requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests. This reflects policy and guidance in Planning Policy Wales (Section 5.2), current legislation and SPG 18- Nature Conservation and Species Protection, which stress the importance of the planning system in meeting the biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses or compensate for losses where damage is unavoidable.

The Supporting Statement accompanying the application states that, as the site has already been developed for a construction compound, the proposal will not result in the loss of trees or hedgerows. Mitigation for great crested newts is currently in situ and will remain until the completion of the substation construction works.

NRW have not raised an objection to the proposal, but have requested a condition is applied to ensure the newt fences are maintained during the construction phase. NRW have also requested the site is restored to habitat suitable for great crested newts, and should the land be permanently be lost, compensation land should be secured.

The applicant has indicated that they are already in discussion with NRW regarding the existing newt fencing and the transfer of the responsibility of the Gwynt y Mor great crested

newt license to the applicant to enable the newt exclusion areas to be retained for use during the course of the Burbo Bank project. Officers consider this is a matter which can therefore be addressed under separate protected species legislation.

The Council can however, also apply a planning condition to requiring the site is decommissioned and remediated once the permission expires.

However, an extant planning permission exists for the permanent retention of the hardstanding and haul road. No planning condition was attached to this permission with respect to great crested newt. Therefore, should the landowner implement the extant permission, the Council cannot require great crested newt compensation land be provided under this permission.

Officers conclude that newt mitigation during the construction phase can be controlled through the protected species licence and therefore a planning condition requiring newt mitigation to be maintained would be unnecessary as it would duplicate another legislative process.

Subject to a planning condition being applied to ensure the site is decommissioned and remediated; Officers consider the proposal is not likely to have a significant adverse effect on biodiversity interests.

4.2.4 Highways (including access and parking)

Planning Policy Wales 3.1.4 refers to what may be regarded as material considerations and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment. The acceptability of the means of access is therefore a standard test on most planning applications.

Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. These policies reflect general principles set out in Planning Policy Wales (Section 8) and TAN 18 – Transport, in support of sustainable development.

Access to the substation will be from the existing private road off Glascoed Road via the St. Asaph Business Park.

The Environmental Statement accompanying the consented scheme acknowledged that there will be some disruption during the constructional phase from both deliveries to and from the temporary constructional compounds and from temporary traffic disruption caused by cable laying across the highways.

The supporting information with this application states that the use of the site as an additional construction compound will not have a significant effect over and above that already considered in the Environmental Statement for the consented scheme, and therefore the traffic and transport impact is considered neutral.

The Highways Officer has raised no objection to the scheme.

Officers are satisfied that the use of the land as an additional construction compound will not result in an unacceptable impact on traffic and transport. Highways impacts can be adequately controlled by a condition requiring a Code of Construction Practice Plan, incorporating a Traffic Management Plan to be submitted and approved prior to commencement of works.

With respect to Public Rights of Way, 2 Public Rights of Way are directly effected by the development proposal (footpath 16 and bridleway 32), both of which are currently closed under a temporary closure order. The Council's Public Rights of Way Officer has raised no objection to the proposal in principle and the applicant is already in discussion with the

Councils Footpaths Officer regarding the issue of further temporary closures and / or temporary diversions which has to be resolved under separate highways legislation.

4.2.5 Decommissioning / remediation of site

There are no specific policies in the adopted Denbighshire LDP relating to the re-instatement of land, hence the general considerations outlined in PPW need to be applied.

Extant planning permission exists for the permanent retention of the previously formed site compound (hardstanding and haul road) for use as a touring caravan storage area, and Officers believe it to be reasonable to attribute weight to the extant permission in the assessment of this application.

The touring caravan storage area permission has not yet been implemented. Condition 2 attached to the touring caravan storage area permission requires a detailed scheme of landscaping to be submitted to and agreed in writing by the local planning authority prior to commencement and this condition seeks to mitigate the visual impact of the site in the long term.

Whilst the current application is for the continued use of the land as a construction compound for a period of 5 years, from the supporting documents, construction works are likely to be completed in late 2017, and therefore the caravan storage permission could still be implemented after construction works have been completed (this in March 2019).

However, for the purposes of the current application, for the avoidance of doubt and in order for the Council to retain control over the use and appearance of the site in the long term, Officers consider it necessary to attach a planning condition to ensure a scheme for the decommissioning and remediation / re-instatement of the construction compound is submitted to the Council following completion of construction works, or before the expiry of the expiry of the 5 year period (whichever is the sooner).

5. SUMMARY AND CONCLUSIONS:

- 5.1 The purpose of using the land as a temporary construction compound for construction of the Burbo Bank Extension onshore works is in response to the need to incorporate additional noise mitigation features into the substation design.
- 5.2 The site has been used as a construction compound for the past 5 years and the applicant is not proposing to increase the footprint of operational land on site or intensify the use.
- 5.3 Whilst the Community Council have objected to the principle of the application and would prefer to see the land reinstated to its former use, as an extant permission exists for the permanent retention of the previously formed site compound for use as a touring caravan storage area, the Council cannot therefore require the site is reinstated whilst this permission remains extant. However, should planning permission be granted for this proposal, a condition should be attached requiring the land to be decommissioned and reinstated / remediated which would enable the Council to retain control over land in the long term should the extant permission not be implemented.
- 5.4 No other consultees have raised objection to the proposal and there have been no public responses.
- 5.5 NRW have not objected to the principle of the development, but have requested a condition is applied to ensure newt fences are maintained, and for the water, pollution, prevention and control measures to be applied, which Officers consider can be addressed by requiring the Code of Construction Practice Plan is agreed pre-commencement.
- 5.6 Whilst Public Rights of Way are directly affected by the proposal, this can satisfactorily be resolved under the provisions of the Highways Act 1980, and the applicant is already in discussion with the Council Officers to seek a solution.

5.7 Officers conclude that there would be no unacceptable adverse impacts arising as a result of the continued use of the land as a construction compound on a temporary basis, and are recommending the proposal should be granted subject to necessary planning conditions being applied.

RECOMMENDATION: GRANT - subject to the following conditions:-

The Conditions are:

1. The use of land as a temporary construction compound shall cease no later than 5 years from the date of this permission.
2. No development shall commence until a Code of Construction Practice Plan, incorporating a Traffic Management Plan and pollution, prevention measures to be implemented during the construction phase, has been submitted to and approved in writing by the local planning authority. The Statement shall include the following details:
 - (i) Programme and description of works;
 - (ii) Hours of operation;
 - (iii) Construction methodologies;
 - (iv) Material and plant storage/deliveries;
 - (v) Parking arrangements for site delivery, site operatives and visitors vehicles;
 - (vi) Wheel washing facilities;
 - (vii) Loading and unloading areas;
 - (viii) The erection and maintenance of security/safety fencing;
 - (ix) Site management and pollution, prevention and control measures (including arrangements for the safe storage of fuels/oils/chemicals to be kept on site);
 - (xi) Water drainage, including surface water drainage;
 - (xii) The movement of abnormal indivisible loads to the site.

The development shall be carried out in accordance with the approved Code of Construction Practice Plan, unless otherwise approved in writing with the Local Planning Authority.

3. Within 6 months of completion of construction works, or 3 months before the expiry of this permission, whichever is the sooner, a scheme for the decommissioning of the construction compound and the reinstatement and / or remediation of the land shall be submitted to, and approved in writing, to the local planning authority. The approved details shall be implemented within 3 months of the approval by the local planning authority being obtained.

The reason(s) for the conditions(s) is(are):

1. For the avoidance of doubt and in order that the Local Planning Authority retains control over the longer term use of the land.
2. In the interests of protect amenity, highway safety, water management and pollution, prevention and control.
3. To ensure the long term reinstatement and / or remediation of the site, in the interests of visual amenity.

NOTES TO APPLICANT:

Public Rights of Way Footpath 16 and Bridleway 32 are directly affected by this scheme. Currently they are closed under a temporary closure order. Please be advised that it is highly unlikely that further closures can be sought for the next 5 years.

You are therefore advised to contact the Council's Transport and Infrastructure team to discuss the options for stopping up and / or diverting Public Rights of Way under the Highways Act 1980.

You are advised that great crested newts have been recorded within the application site. You are therefore required to obtain a great crested newt licence under provisions of the Conservation of Habitats and Species Regulations 2010 (as amended) and no development should commence until a licence has been issued and newt mitigation is in place.

To make an application for a newt licence, please contact Natural Resources Wales:
Email: specieslicence@naturalresourceswales.gov.uk
Tel: 01248 385500

The Septic tank associated with the development will require an Environmental Permit from Natural Resources Wales unless an exemption applies. Please contact Natural Resources Wales for more information.

Contractors undertaking work at the compound must comply with guidance contained in Pollution Prevention Guidelines Nos. 1 to 6.