

PLANNING COMMITTEE

Date – 9th APRIL 2025

ADDENDUM REPORT BY HEAD OF PLANNING, PUBLIC PROTECTION AND COUNTRYSIDE SERVICES

AGENDA ORDER, LATE INFORMATION AND AMENDMENTS TO PLANNING COMMITTEE REPORTS

The following sheets are an addendum to the main agenda for the Committee. They set out the order in which items will be taken, subject to the discretion of the Chair. They provide a summary of information received since the completion of the reports and matters of relevance to individual items which should be taken into account prior to their consideration.

Where requests for public speaking on individual planning applications have been made, those applications will normally be dealt with at the start of that part of the meeting.

AGENDA FOR THE MEETING

1. APOLOGIES
2. DECLARATIONS OF INTEREST (pages 5 - 6)
3. URGENT MATTERS AS AGREED BY THE CHAIR
4. MINUTES (Pages 7 – 10)
5. APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (Items 5 - 7)

ORDER OF APPLICATIONS

PART 1

	Application no.	Location	Page
Public speaker items			
5	16/2024/1284	MOEL FMAU CAR PARK, LLANFERRES	11
6	21/2021/1194	BURLEY HILL QUARRY, ERYRYS	49
Non Speaker items			
None			

PUBLIC SPEAKER ITEMS

Item No.5 – Page 11

Code No. 16/2024/1284/PF

Location: Moel Famau Car Park, Llanferres, Mold, Denbighshire

Proposal: Erection of a new visitor hub with information and restroom facilities, ranger space and associated works

LOCAL MEMBER: Cllr Huw Williams

OFFICER RECOMMENDATION: TO GRANT

PUBLIC SPEAKER FOR – Mr David Shiel (Applicant)

PUBLIC SPEAKER AGAINST – none

Addendum Report – None

Late representations – None

Additional Information –

The applicants have submitted a response to the comments made by the Strategic Planning and Housing Officer.

In summary, their response details that, in the opinion of the applicants, the proposal has focused on policy VOE2 and the aims and objectives of the AONB Management plan. It highlights how the proposal seeks to address the duties imposed by the AONB designation and the reality facing this site due to the increasing visitor numbers. It points out that over recent years numerous strategies and approaches have been explored and implemented to effectively manage visitor numbers, however as discussed, the proposed visitor hub is deemed necessary in order to continue effective management of the site for visitors, landowners and the countryside management team.

The statement goes on to point out that the proposed building would not, in the applicants opinion, be detrimental to the appearance of the AONB; the siting of the building is in such a position which will not be widely seen within the wider AONB landscape, and that a permanent building will assist with creating a presence to help manage the visitor numbers at the site. The response also details how the scheme has been amended to ensure that matter such as 'tranquillity, views, materials, sustainability, and habitats' are addressed.

It reiterates that the aim of the proposal is to improve the sites management, consisting of:

- Management of visitors and their behaviour on site
- The communication of site-specific visitor campaigns - sheep attacks, ground nesting birds, wildfires, etc
- Emergencies – accidents, missing people, etc
- Hub for volunteer rangers
- High quality and locally sourced refreshment offering

- Toilet provision for visitors and staff

The limitations of the existing arrangements are also discussed, along with the advantages of the proposal. It concludes that given the intended purpose of the building, an alternative site location would not effectively address key issues around visitor behaviour. The proposed location is crucial for the future management and success of the site, in the applicants opinion.

Officer Note –

Officers have noted the contents of the additional statement provided by the applicants.

Item No. – Page 49

Code No. 21/2021/1194

Location: Burley Hill Quarry, Pant Du Road, Eryrys

Proposal: Section 73 application to continue the development at Burley Hill Quarry without complying with the time limits imposed by conditions 1, 26 and 30 of a Schedule 14 Environment Act 1995 Review of conditions (ref 21/2002/0009), and to revise the time limits to allow a continuation of extraction for a period of 15 years from the date of determination of the application.

LOCAL MEMBER: Cllr Huw Williams
Cllr Terry Mendies (c)

OFFICER RECOMMENDATION: TO DEFER

PUBLIC SPEAKER FOR – Tiffany Cox (Applicant)

PUBLIC SPEAKERS AGAINST – Allan Morgans (Llanferres Community Council)
- David Coggins Cogan (Nercwys Community Council)

Addendum Report –

The application was subject to a Site Inspection Panel meeting at 12:30 on Thursday 3 April 2025.

In attendance were:

CHAIR – Councillor Mark Young

VICE CHAIR – Councillor Alan James

LOCAL MEMBER – Councillor Terry Mendies

GROUP MEMBERS –

Conservative Group – represented by Councillor Terry Mendies

Green Group – represented by Councillor Martyn Hogg

Independent Group – none in attendance

Labour Group – represented by Councilor Alan James

Plaid Cymru Group – none in attendance

COMMUNITY COUNCIL –

Llanferres Community Council - Lyn Gibson

Llanarmon yn Iâl Community Council – Steven Latham

Nercwys Community Council – Mellisa Morgan

The Officers present were Paul Griffin (Development Management) and Hannah Parish (North Wales Minerals and Waste Shared Planning Service) who was Lead Officer during the site visit

The reason for calling the site panel was to allow opportunity to view the nature of the surrounding area and how the site relates to the surrounding area (including dwellings) and to observe the ground topography.

At the Site Inspection panel meeting, Members considered the following matters:

1. The basis of the application for the continuation of quarrying at the site for a further 15 years.
2. Issues raised in representations on the applications which included impact on highways, vehicle movements, the public rights of way network, operational concerns from the impact of noise, dust and blasting.
3. The site in relation to the surrounding area, the ground topography, and relationship to neighbouring dwellings.

In relation to the matters outlined:

The Lead Officer walked Members through the site from the entrance of the quarry access road, through to the area of the location of the proposed weighbridge and office area, through to the main quarry void, and proposed extraction and working area. The Lead Officer outlined the proposals which involved the proposed phased working over five phases with concurrent phased restoration. Clarification was sought by Members in relation to the phasing, depth of working and nature of restoration. Existing stockpiles of won limestone were observed and it was explained that these would be crushed and screened as part of the first phase.

The Lead Officer confirmed that mobile plant would be brought into site to process, crush and screen the limestone before exportation off site. The Officer also confirmed that the site would operate on a 'Campaign basis, blasting up to 50,000 tonnes per blast, no more than 6 occasions per year, and 300,000 tonnes per annum, as set out in the officer's report. Further clarification was sought with regards to the number of vehicle movements proposed which was confirmed as 110 movements per day, as set out in the Officer's report. Hours of operation was also queried, which is also set out within the report and proposed conditions. Members also queried the difference between the consented annual tonnage compared with the proposed. This information is also set out within the Officer's report.

Further clarification was sought by Members as to the detailing of the proposed restoration. Members were advised that the detail of the restoration would be required by the submission

of a detailed restoration scheme that would be secured by condition and would involve the landscaping/planting of for biodiversity enhancement purposes.

Members raised concerns with regards to the safety of the site and it was confirmed by the applicant that the site is also regulated under the Quarries and Mines Regulations 1999 which stipulates how the site should operate from a health and safety perspective.

The location of a proposed acoustic fence was shown to Members, along with the relationship of the site to the nearest residential dwelling.

Clarification was sought by Members as to the proposed alterations to the public right of way. The officer explained the public right of way strategy proposed by the applicant during the operational phase and the post operation/final restoration phase. The Lead Officer confirmed that Denbighshire County Council's Public Rights of Way Officer had been consulted on the proposals and that no objections were raised in that regard. Members were advised that the formal diversion of the public rights of way sat outside of planning legislation and would be dealt with separately through the Highways Act.

Matters of monitoring and enforcement were discussed.

Late representations –

A total of five late representations have been received.

1. Letter of objection received from Paul Philipson raising concerns in relation to assurance of restoration, should the application be refused.
2. Letter of objection received from Sam Rowlands MS reiterating concerns of his constituents in relation to the period of time where the site has been not operational, during which time there has been significant expansion in both nearby residential properties and tourism businesses. Concerns relate to additional noise, dust pollution which will have an adverse impact on both the quality of life of nearby residents and viability of local tourist businesses. The access to the site is poor and reactivating the quarry will increase risk to highway safety.
3. Llanferres Community Council has sent a letter to all Members of the Planning Committee setting out 5 key concerns:
 - i. Very exceptional circumstances have not been demonstrated to justify reopening of the quarry
 - ii. Insufficient consideration given to the location of the quarry in the AONB
 - iii. Damage from quarrying activity within the site and the wider environment especially in relation to the impact on birds and the destruction of vital habitats for species which breaches the Wildlife and Countryside Act 1981.
 - iv. No consideration of the wider impact on the local highway network and the increase pressure on Denbighshire County Council's budget
 - v. The economic effects have not properly been considered.

The Community Council reflect on an application to physically extend the quarry which was refused in 2003 and they state that the reason for refusal of that application are still pertinent to this application and should be refused.

4. A further letter has been also been sent to all Members of the Planning Committee from Richard Buxton Solicitors representing Councillor Melissa Morgan. The letter challenges a number of matters set out in the Officer's Report including:
 - i. The principle of the development not being established in the location;
 - ii. No material changes to the restoration plan, and reliance in the planning balance;
 - iii. Very exceptional circumstances Tests for mineral development in the AONB;
 - iv. Treatment of the objection by NRW with regards to the harm to the public's experience of tranquillity in the AONB;
 - v. Erroneous advice with regards to Climate Change and down stream impacts
5. A letter of objection has been sent by Llyr Gruffydd AS/MS raising concern on behalf of his constituents at the amount of time the quarry has been dormant. Concern is raised that there are now more residential properties in the area than when the quarry was last in use, and that the quarry would have an impact on the local community as a result of HGV movements on narrow county roads. Requests that the application is a full planning application and not dealt with under Section 73 of the Town and Country Planning Act.

Additional Information – None

Officer Note –

The table below sets out issues raised in late representations and provides further commentary and also reference to the relevant section within the committee report where this has been considered.

Issue	Reference in the Committee Report	Officer further comments
Assurance of restoration being undertaken regardless of the decision	Para 4.2.8, Pages 122-124	Should planning permission be refused, Conditions contained within planning permission 21/2002/0009 requiring restoration would be enforceable. The applicant would be required to submit an amended final restoration scheme to account for amended levels and they would be required to restore the site accordingly. Should planning permission be granted, strict time limited conditions would be imposed to ensure each extraction phase is completed in a timely manner, and should there be cessation of winning and working of mineral (after a period of 12 months) a condition would require early restoration thus ensuring that the remaining consented reserves are worked, and site restored in a timely manner. (Conditions 2 and 41)
Operational concerns, noise, dust, amenity	Para 4.2.6, Pages 116-119	It is considered that the Officer's Report adequately assesses public health impact and residential amenity, blasting, noise and dust. Public Health Wales and the Council's Public

		<p>Protection Officer have not objected subject to conditions set out in the report.</p> <p>It is considered mitigation and management, secured by condition would ensure impacts are managed to acceptable levels. (Hour of operation; Condition 8, Dust mitigation and management; Conditions 9-11, Noise mitigation and management; Conditions 12-16, Blasting control and management; Conditions 17-24).</p>
Increase risk to highway safety	Para 4.2.10 Pages 125-126	<p>It is considered that the Officer's Report adequately assesses the impact on the Highway network and the Council's Highways Officer does not object to the proposal. Condition no. 26 would restrict the annual output to 300,000 tonnes per annum which is considerably less than previously consented. An illuminated vehicle turning warning sign would also be required to be installed by condition no.32 and Condition no.33 would require a sign to advise vehicle routing. Conditions 27-30 provide measures to ensure vehicles leaving the site would not transport mud/debris on to the public highway in the interests of highway safety.</p>
Ecological concerns	Para 4.2.7, Pages 119-122	<p>It is considered that the Officer's Report adequately assesses the proposed effects and impacts of the proposal on ecology. Furthermore, Natural Resources Wales and the Council's Ecologist does not object to the proposal with regards to ecological grounds. Condition no.44 requires for a 30-year long habitats management plan and Conditions 45-51 would be imposed in the interests of nature conservation, biodiversity and habitat creation.</p>
Wider impact on Council's budgets re road maintenance budgets		<p>Officers consider this not to be material to the determination of this application.</p>
<p>Economic effects also detailing concerns regarding:</p> <p>- no test blast being conducted</p>	<p>Para 4.2.14, pages 129-131</p> <p>Para 4.2.6 page 116-117</p>	<p>It is considered that the Officer's Report adequately assesses socio-economic effects.</p> <p>A test blast would be required by Condition no. 18 within Phase 1. Following the test blast Condition no. 20 would require the submission and approval of a supplementary 'Blast Vibration Study and Blasting Monitoring and Management Protocol'.</p>

<p>The principle of the development not being established in the location. Concerns raised include the Officers report not having regard for the Countryside and Rights of Way Act 2000 and not being able to rely on the principle of the development having been established in this location.</p>	<p>Para 4.2.1 Pages 104-105</p>	<p>The Officer's report sets out the principle of the development in terms of the location. Minerals can only be worked where they occur, and it is a fact that planning permission for winning and working of minerals has been established in this site since 1950, and further permissions have been granted since the designation of the AONB as set out in the planning history at Section 2 on page 102. The report correctly states at the end of page 105 "<i>The key focus of planning policy is thus a consideration of whether it is acceptable for the quarrying operations to re-commence and continue for the requested additional duration, and whether this is acceptable in planning policy terms, particularly due to the sites location within the AONB which will be examined within the report</i>".</p>
	<p>Para 4.2.4, Pages 109</p>	<p>The Officer's report continues on page 109 stating that: <i>Section 85 of the Countryside and Rights of Way Act 2000 places a duty for the Council and Mineral Planning Authority, in performing their functions to, or so to affect land in the AONB, to have regard to the purpose of conserving and enhancing the natural beauty of the AONB area.</i></p>
	<p>Para 4.2.8, Page 122</p>	<p><i>Section 85 of the Countryside and Rights of Way Act 2000 places a duty for the Council in performing their functions to, or so to affect land in the AONB, to have regard to the purpose of conserving and enhancing the natural beauty of the area.</i></p> <p>Whilst it is a fact that the principle of working limestone within this quarry has been established since 1950, and further permissions have also been granted since the AONB designation in 1985, the Officer's report has had regard to the impact on the special qualities of the AONB including tranquillity, landscape character, recreation and tourism, elsewhere in the Officer's report.</p>
<p>No material changes to the restoration plan; restoration should not be treated as</p>	<p>Para 4.2.8 Pages 122-124</p>	<p>The Officer's report states that should planning permission be refused, the site would still require restoration as required by the extant permission. If permission is refused, the Council will exercise its enforcement powers (if necessary) to ensure that the site is properly restored under the current</p>

<p>leading the planning benefits.</p>	<p>Para 5.8, page 134</p>	<p>planning permission. An amended restoration scheme would be required for written approval as stated above as the final restoration profile of the topography would be materially different to that which has been approved previously.</p> <p>For further clarity, should planning permission be granted, the remaining reserves would be worked, the site would be restored as per previously approved, in essence, there are no material changes to the restoration plan, thus presenting a neutral benefit. As restoration of the site is required in any event, the granting of planning permission would result in delaying the restoration. However, the benefits of permitting the extension of time would result in the formation of topography which has already been approved.</p> <p>Post publication amendment to the Officer's report at paragraph 5.8.</p> <p><u>Members should read this to state:</u> <i>"The continuing use of an existing quarry, the need for the mineral, the provision of direct, indirect and induced employment, should all carry significant weight in establishing the planning balance."</i></p> <p>Paragraph 5.9 should be disregarded.</p>
<p>Very exceptional circumstances Tests for mineral development in the AONB and Need</p>	<p>Para 4.2.2 Page 106-108</p> <p>Para 4.2.2, Page 107-108</p>	<p>Claims are made in late representations that there is no need for additional crushed rock extraction. However, the Officer's report clearly states that this application is for an extension of time, not for new reserves.</p> <p><i>"Should the planning permission be refused, the reserves would be removed from the Landbank and therefore additional mineral would need to be found to maintain the Landbank at an alternative site."... "this would sterilise 3.8 million tonnes of mineral which would therefore have a direct impact on the further reduction of the Landbank in the County and in the sub-region which would therefore put pressure on other areas that are underlain with limestone to be developed".</i></p> <p>Emerging RAWP Report for 2023, soon to be published indicates that should the application be</p>

		<p>refused, this would remove the reserves from the landbank which would further lower the landbank below 20 years which would reinforce the Officer's report with regards to the matter on need, and the very exceptional circumstances in this case. Furthermore, as the Officer's report states: <i>"an increase in demand is anticipated in the near future to facilitate the construction of large-scale infrastructure projects of regional and national importance such as on and off-shore wind farms and other 'net zero' projects which will also have an effect on depleting reserves and increase the probability of needing to identify new sites in the future."</i></p> <p>It is considered that the Officer's report is clear with regards to the very exceptional circumstances as set out within the conclusion to the report being:</p> <p><i>"With regards to the special characteristics of the AONB with regards to tranquillity, as a mineral planning authority, we consider the balance for the need for mineral whilst protecting amenity and the environment. If 'tranquillity' is to be the determining factor for quarry developments in an AONB, then in practical terms there can be no further quarrying within an AONB. This is not a position which is supported by national, or local policy as PPW12, PSE 17 and Policy VOE 2 does not preclude minerals development in the AONB"</i></p> <p><i>"On balance, it is considered that very exceptional circumstances have been demonstrated and the key LDP policy tests met, and that the demonstrable need for the limestone which forms part of the County's Landbank would outweigh the temporary harm on the tranquillity of the AONB, which can be mitigated by management and mitigation"</i></p> <p>As late representations have questioned why Burley Hill Quarry cannot be treated in the same vein as Wrexham with regards to constrained limestone. It is important to note Wrexham limestone resource is entirely in the AONB therefore in the RTS second review, it does not require Wrexham to provide an allocation in the Local Development Plan. This is distinctly different that considering an extension of time to</p>
	<p>Para 5.11 Page 134</p> <p>Para 5.12 Page 134</p>	

		<p>allow existing land-banked reserves to be worked.</p> <p>Post publication amendment to the Officer's report to be included within Conclusion Section 5.</p> <p>Should members be minded to grant permission, the Council will notify the Welsh Ministers of its decision in accordance with the provisions of the 'Town and Country Planning (Notification) (Wales) Direction 2012.</p>
Treatment of the objection by NRW with regards to the harm to the public's experience of tranquillity in the AONB;	<p>Para 1.6, page 101-102</p> <p>Para 5.12 Page 134</p>	<p>Officers duly requested additional information with regards to very exceptional circumstances regarding need, and a supplementary tranquillity assessment as a result of objection from NRW and the AONB joint committee. This information was submitted and recirculated for consultation as stated within the Officer's report. Paragraph 1.6.5 confirms that both maintain their objection.</p> <p>The Officer's report clearly states in the conclusion at paragraph Para 5.12 reasons for departing from NRW's objection with regards to impact on tranquillity within the AONB as set out above.</p>
Incorrect advice with regards to Climate Change	Page 129, Paragraph 4.2.13	<p>Within the Late Representation sheet provided to members before the Planning Committee of 12th March 2025, Officers provided a clarification note on the treatment and consideration of the Supreme Court 'Finch Case' with regards to the consideration of 'downstream' indirect effects with regards to the impact on climate change.</p> <p>The further report of 10th April 2025 sets out <i>"When considering downstream indirect effects with regards to the impact on climate change and its significance, in EIA terms, it is considered that the downstream effects of producing and exporting aggregate for use in construction would not be significant in EIA terms and would be beyond the scope of this Environmental Impact Assessment."</i></p> <p>For further clarification the judgement from the Supreme Court in June 2024 this indicates that there is no obligation to assess effects which are de minimis. The example Lord Leggatt considered was a plant manufacturing parts for construction of motor vehicles or aircrafts. Lord</p>

		<p>Leggatt concluded that the local authority could reasonably take the view that the contribution of such components is not sufficiently material to justify attributing the impacts on the environment by the end-product of the activity (i.e. an airplane) to the manufacture of the component parts. In this case, the end product of the activity is winning and working of minerals to create mineral products used sometimes in its raw nature, or used to create another product.</p> <p>Where a product of a product (such as metals from steel works) or in this case at a quarry producing limestone that can be used in many different quarry products have many possible uses, such as use in concrete or asphalt manufacture, or in construction, this indeterminacy would make it impossible to identify any such uses as “likely”. Lord Leggatt noted that causation must be established by evidence, not by conjecture. If there is insufficient evidence to support a reasoned conclusion that a possible effect is ‘likely’, no requirement arises to assess it. As such, as the Officer Report states, if something cannot be measured, then this is not a matter for EIA. EIA is not a matter for speculation.</p> <p>Officers consider that the advice contained in the clarification note of 12th March 2025 and further within the Committee Report at page 129, paragraph 4.2.13 with regards to the ‘downstream’ impacts of climate change to be sound and correct.</p>
Reason for Refusal of application 21/920/99 MA are still relevant	<p>Para 4.2.5, Page 115</p> <p>Para 4.2.5, Page 115</p>	<p>The application was for a physical extension in the AONB. Furthermore, each application has to be considered on its own merits.</p> <p>The Landbank over 20 years was at a different level and landbanks fluctuate over time. As stated above, with emerging figures from the recent draft RAWP 2023 report, with the removal of the reserves within Burley Hill, the current Landbank would be less 20 years. The Land bank fluctuates over time and the position of the land bank in 2003 is different to the present.</p> <p>The Officer’s Report states that: “<i>representations of objection received on the application have quoted the reasons for refusal for the lateral</i></p>

		<i>extension of the site to include the harmful impact on the visual appearance and character of the landscape and having regards to its designation as an AONB. It is important to note that, as stated previously, this proposal is not for a physical extension, it is for an extension of time to allow more time to extract consented permitted reserves. Reasons for refusal on the proposal that was refused for a physical extension therefore are not comparable or relevant when considering this proposal.”</i>
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Due to the nature and complexities of the late representation detailed above which were received after the Officer's report had been published, Officers recommend the Planning Committee **defer** the determination of the application to ensure all matters raised within the letters of representation are robustly addressed within a subsequent report which will be brought to Members of the Planning Committee at a future date. This will also allow Members of the Committee additional time to fully understand the concerns being raised as it is noted that there is a significant amount of complex and technical information provided within this addendum report.

Whilst the Officers are confident all matters of concerns are already addressed within the Committee Report before Members (as set out in the table above), as a responsible authority, it is considered prudent to allow Officers more time to consider the matters raised within these late representations to ensure that all matters are dealt with in the proper manner. This will ensure that the Planning Committee are in possession of all the correct information prior to making a decision to ensure a legally robust decision is made.

Officers therefore recommend Planning Committee defer the determination of the application to allow additional time for Officers to consider all the matters raised in late representations in a subsequent report that would be presented to the Committee at a future date.

NON SPEAKER ITEM(S)

NONE
