

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **20TH JULY 2016**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **VARIATION OF CONDITION NO. 17 ATTACHED TO PLANNING PERMISSION REF 00/20/570 TO INCREASE PRODUCTION LIMIT AT PANT Y PWLL DŴR QUARRY, PENTRE HALKYN**

APPLICATION NUMBER: **054768**

APPLICANT: **CEMEX UK MATERIALS LIMITED**

SITE: **PANT Y PWLL DŴR QUARRY. PENTRE HALKYN, HOLYWELL**

APPLICATION VALID DATE: **23 DECEMBER 2015**

LOCAL MEMBERS: **COUNCILLOR COLIN LEGG**

TOWN/COMMUNITY COUNCIL: **HALKYN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **LEGAL AGREEMENT REQUIRED**

SITE VISIT: **NOT REQUESTED**

1.00 SUMMARY

- 1.01 A report was taken to the Planning and Development Control Committee on 22 June 2016 to consider the above development. See appended report for details. Members resolved to defer the decision in order for officers to gather further information and report back to the Committee on matters in relation to:-
- Clarification and comparison of hours of operation and the implications of a 0700 hours start time at the application site;
 - The need for an increase in the production limits at the application site and vehicle movement restrictions;
 - Output limits and vehicle movement restrictions at other quarries in the region;
 - Clarification regarding actual vehicle movements and

correlating tonnages, and the implications of a 0700 hours start time at the quarry on tonnages;

- Addressing the suggested conditions of Mr Bartlett; third party speaker;
- Prospects of funding for Aggregates Levy Sustainability funding for community benefits/provision of footway in Pentre Halkyn; and
- Community benefits.

- 1.02 Since the Members deferred the determination of this planning application, the applicant has agreed to accept a planning condition that would restrict the number of HGV leaving the site between 0600 hours and 0630 hours to 11 HGV, and a condition that would control HGVs entering the site before 0615 hours.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

- 2.01 The applicant entering into a Section 106 agreement or unilateral undertaking under the terms of the Town & Country Planning Act 1990 (as amended) or to provide an earlier payment to:-

- a) Provide a commuted sum of £17,000 to Flintshire County Council Highways Department to undertake road re-surfacing works with an anti-skid surface at the junction of the B5123 and Bryn Emlyn, Pentre Halkyn.
- b) Provide a commuted sum of £1,000 to Flintshire County Council Highways Department to make repairs to a fence adjacent to the Cattle Grid on Martin's Hill, Pentre Halkyn.

- 2.02 Summary of proposed conditions including:

- 1. Approved plans
- 2. Plans to be kept on site
- 3. Duration of permission
- 4. Time limit for completing the restoration of site
- 5. Revised restoration should the site close prematurely
- 6. Interim restoration scheme
- 7. Notification of temporary suspension
- 8. Specified Access Road
- 9. Maintenance of access road
- 10. No material to be deposited on the highway
- 11. Sheeting of exporting HGVs
- 12. Implementation of five year working programme
- 13. Update of working programme at least every five years
- 14. Notification of overburden stripping
- 15. Hours of operation; to include 0600 – 1800 hours Monday to Friday; 0600 – 1200 hours Saturday, no operations Sunday or public holidays and no HGVs entering the site until 0615 Monday - Saturday
- 16. HGV number limitations; 600 movements (300 in/300 out)

- Monday to Friday; 300 Movements (150 in/150 out) Saturday
17. Between the hours of 0600 hours and 0630 hours Monday to Saturday there shall be no more than 11 HGVs leaving the site
 18. Dust control and monitoring Action Plan
 19. Noise control and monitoring Action Plan
 20. Day time noise limits
 21. Noise limits for temporary working
 22. Blast Monitoring Action Plan
 23. Blast vibration limits
 24. No secondary blasting
 25. Protection of water course
 26. Pollution prevention
 27. Surface water management
 28. Removal of permitted development rights
 29. Maintenance of boundary treatment
 30. No quarry waste to be removed from site unless it is an approved adjacent sites
 31. Submission of final restoration and outline aftercare scheme
 32. Tree and hedge planting and protection
 33. Aftercare scheme
 34. Annual aftercare meeting and reporting

- 2.03 The above is a list of a summary of the proposed conditions and a full detailed set of draft conditions are available in Members Rooms.
- 2.04 If the Section 106 Agreement, unilateral undertaking or earlier payment (as outlined above) is not completed/paid within six months of the date of the Committee Resolution, the Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

3.00 DETAILS OF PROPOSED DEVELOPMENT

- 3.01 Cemex UK Materials Limited have applied under Section 73 of the Town and Country Planning Act 1990 to vary condition No.17 of the deemed planning permission at Pant y Pwll Dŵr Quarry, Pentre Halkyn.
- 3.02 Condition No.17 states: *“The quantity of processed limestone aggregate leaving the site shall not exceed an equivalent level of 800,000 tonnes per annum as measured over a period of three consecutive years.”*
- 3.03 The application seeks to increase the three yearly average annual tonnage from a limit of 800,000 tonnes per annum, as measured over a period of three consecutive years to a limit of 1.2 million tonnes per annum, as measured over a period of three consecutive years. However, as discussed in the appended report taken to the

Planning and Development Control Committee on 22 June 2016, concluding in paragraphs 8.03 and 8.04, it is considered that a condition relating to the output of the quarry, averaged over a three year period provides no control to the flow of traffic. It is not possible to ensure compliance, or highlight a breach until three years have passed, and it could be argued that, such a condition, should it be imposed would not pass the tests set out in Circular 11/95 'The use of conditions in planning permissions', as it would not be enforceable and it is not precise.

- 3.04 Therefore, it is recommended that the condition relating to the output be removed and replaced with a condition to control the number of HGVs entering and leaving the site to 600 movements (300 HGVs in and 300 HGVs out on a daily basis, with an annual cap of 1.2 million tonnes per annum.

4.00 CLARIFICATION ON QUERIES FROM PLANNING AND DEVELOPMENT CONTROL COMMITTEE 22 JUNE 2016

Clarification and comparison of hours of operation and the implications of a 0700 hours start time at the application site

- 4.01 A comparison of hours of operation for limestone quarries in Flintshire and in the North East Wales sub-region has been carried out and the figures are illustrated in the table below. Of those operational limestone quarries in Flintshire which have conditional restrictions, the hours of operation are 0600 hours until 1800 hours, with the exception of one; Hendre Quarry which is permitted to operate at 0630 hours until 1900 hours.
- 4.02 As the table below indicates, the hours of operation of operational limestone quarries are comparable across the region. Most having a start time of 0600 hours, with one site permitted to operate from 0530 hours until 1900 hours. All operational limestone quarries, which have restricted hours of operation are permitted to operate for at least a 12 hour day, Monday to Friday and the vast majority commence from 0600 hours.

Table to show hours of operation of operational limestone quarries in the North East Wales Sub-Region

Site	County	Hours of operation Monday - Friday
Aberdo/Bryn Mawr Quarry	Flintshire	No restrictions
Cefn Mawr Quarry	Flintshire	No restrictions for Cement dispatch; 24 hour vehicle movements. Aggregate hours of operation 0700 - 1800
Hendre Quarry	Flintshire	0630 - 1900
Pant Quarry	Flintshire	0600 - 1800
Pant y Pwll Dŵr Quarry	Flintshire	0600 - 1800
Denbigh Quarry	Denbighshire	0600 - 1800
Raynes Quarry	Conwy	0600 - 1700
Saint George Quarry	Conwy	0530 - 1900

- 4.03 As with all the conditions imposed on the deemed consent at Pant y Pwll Dŵr Quarry, the condition controlling hours of operation were suggested by the quarry operator in 2000, when a review of their conditions were submitted and deemed to be approved.
- 4.04 Pant y Pwll Dŵr Quarry provides a regionally important source of limestone aggregate. As a result, its products tend to travel further than those produced by a sand and gravel quarry which have more local market catchment areas. Hours of operation for these sand and gravel quarries may therefore commence later to reflect this. Many of the applicant's customers, and the applicant's own network of ready mixed concrete plants commence at 0700 hours, and so require the delivery of aggregate products prior to that time to maximise their working day and productivity. It is critical to the applicant's business therefore that it can deliver aggregate products at an appropriate time which is required by its customers, hence the quarry's 0600 hours start time.
- 4.05 It is imperative for the competitiveness of the applicant to continue to be permitted to operate from 0600 hours, as other limestone quarries in the immediate area, and the wider sub-region have either no restrictions on hours of operation, or are permitted to start at 0600 hours or earlier. Placing a restriction of a 0700 hours start time would place the site at a commercial disadvantage to its competition and may be considered unreasonable and therefore fail to meet the tests set out in Circular 11/95 with regards to conditions.
- 4.06 The data provided within the Transport Assessment indicates that the hours of 0600-0700 is a peak time for the development for exporting aggregate products to their customers. Should planning

permission be granted to restrict the opening times to commence operations at 0700 hours this would conflict with the peak commuter travel times and add to the commuter traffic and 'school run' traffic. This would increase HGV movements through the village during other peak times in the village which may increase road traffic hazards.

- 4.07 The applicant is not unsympathetic to the views of its neighbours and has barred third party drivers (those which are not in the direct control of the applicant) from entering the application site until 0615 hours on a voluntary basis since 2014. Should drivers arrive earlier than 0615 hours, a penalty is imposed and drivers are sent to the back of the queue and are refused loading for up to an hour as a deterrent. This voluntary policy has proved to be effective as the data provided by the applicant demonstrates a marked reduction in HGVs exiting the site between 0600 hours and 0630 hours since 2014. This has also solved the problem of vehicles queuing outside of the quarry prior to the quarry opening. The applicant proposes to retain this policy and would accept a planning condition which would prevent HGVs entering the site until 0615 hours Monday – Saturday.
- 4.08 Furthermore, the applicant has proposed an additional planning condition which would restricts the number of HGVs leaving the site between 0600 hours and 0630 hours to 11 HGVs. These vehicles would be in the control of the applicant and already on site as they would be parked on site overnight and ready for loading at 0600 hours the following day. This would also reduce the number of vehicles traveling through Pentre Halkyn in the earlier hours of the morning as the site would be restricted to only 11 HGVs leaving the site during the first 30 minutes of the working day. It is considered that the proposed changes to the planning conditions would present a workable compromise between the business needs of the applicant and the interests of the local residents, bearing in mind that the current operating hours of the quarry have been in place for a great many years and not imposed by the Mineral Planning Authority.

The need for an increase in production limits and vehicle movement restrictions

- 4.09 Mineral Planning Guidance advice indicates that production limits should only be used to control environmental impacts and not to conserve the resource. Mineral Planning Guidance advice suggests, a more appropriate way of controlling the environmental impacts of the operations of the quarry would be by the proposed restrictions in vehicle movements entering and exiting the site as recommended within this report, and the recommendation of the report by the Chief Officer (Planning and Environment) on 22 June.
- 4.10 Condition No.17 (which restricts the output limit) was suggested by

RMC; the quarry operator at that time in 2000. It is important to note that the Mineral Planning Authority did not impose this condition, nor did it require a limit on output. The rate of 800,000 tonnes per annum was offered by the applicant as they considered this rate to be appropriate for the level of production at that time in the year 2000, based on the operational output and capacity of the plant at that particular time. Since 2000, planning permission has been granted for new plant (granted in June 2003) which has in turn, increased the output capacity on quarry.

- 4.11 In the year 2000, there were a total of eight operational limestone quarries in Flintshire, and 20 operational limestone quarries in the sub-region. There were also a further 7 quarries in the sub-region that would have supplied lower quality 'bulk fill' material, which would provide an aggregate substitute, totalling to 35 operational limestone/shale quarries in the sub-region.
- 4.12 In stark comparison, now there are only five operational quarries in Flintshire. There are only an additional three operational limestone quarries in the sub-region, with two quarries in the wider sub-region providing lower quality bulk fill material, totalling to 10 operational limestone/shale quarries in the sub-region compared to 35 in 2000.
- 4.13 The increase in export rates experienced at Pant y Pwll Dŵr Quarry is due to the increase in demand, but also due to a reduction in the number of operational quarries providing limestone for aggregate products in the sub-region and wider North West England. The increase in production has been experienced to meet the demand of the market.
- 4.14 Future need for minerals and aggregate resources are assessed through the Regional Aggregate Working Party's Regional Technical Statement as required by Mineral Technical Advice Note 1: Aggregates (MTAN1). The starting point for assessing the future demand for aggregates is using the sales figures for the preceding 3 and 10 years, and assessing those remaining permitted reserves to calculate the Landbank for a given area. The historical sales represents the demand that has been placed upon those authorities in terms of aggregate required within the area. Therefore, the planning system through the production of Local Development Plans, with the evidence provided within the Regional Technical Statement identifies where there is potential short fall in the Landbank provisions for an area and identifies an apportionment for the future provision of aggregates.
- 4.15 The 2014 (the most recent data available) Limestone landbank for North Wales based on 3 year average sales is currently 35 years. The Flintshire landbank is 24 years. The overwhelming majority of the landbank for limestone is in NE Wales sub-region.

- 4.16 Whilst increasing the production at Pant y Pwll Dŵr Quarry would lead to the mineral being used more quickly, as stated previously, the Mineral Planning Authority should not place restrictions on a quarry to conserve the permitted reserves available. The purpose of the Managed Aggregate Supply System is to ensure that there is future provision to meet the demand for aggregates in the region. Should the Mineral Planning Authority restrict the output of a given quarry, the knock on effect would be that production and sales would be displaced elsewhere, and as a result an increase in production at other quarries so therefore the reserves would continue to decline on a regional basis. In some instances this could cause mineral to unnecessarily travel further which would not be sustainable.
- 4.17 Minerals can only be worked where they occur and are available. The market dictates demand for aggregate and the role of the planning system to plan for future demand through the LDP process to ensure that Flintshire makes adequate provision for future demand. At present, the current Regional Technical Statement has recommended a 3.84 million tonne apportionment for Flintshire and Wrexham to cover the lifetime of the forthcoming LDP.

Clarification regarding actual vehicle movements and tonnages and the proposed restriction, and the implications of a 0700 hours start time on tonnages

- 4.18 It is proposed to control the output of limestone by restricting vehicle movements entering and existing the site by a condition to state:-
- “The total number of daily HGV movements associated with the development hereby approved shall not exceed the following limits:*
- 600 movements (300 in and 300 out) Monday to Friday*
 - 300 movements (150 in and 150 out) Saturdays*
- In any 12 month period the quantity of processed limestone aggregate leaving the site shall not exceed 1.2 million tonnes”*
- 4.19 A key part of the proposed condition is the annual restriction of 1.2 million tonnes per annum. Whilst in any one day there would be no more than 300 HGVs exporting limestone from the site, in reality the actual daily HGV output would be much less. Taking the proposed annual upper limit of 1.2 million tonnes, and an average payload of 21 tonnes, this would equate to on average 220 HGV export movements, considerably less than the proposed upper daily HGV export limit. Therefore, in reality, the daily HGV export movements would not reach the proposed restriction of 300 export movements on a regular daily basis. The annual upper limit of 1.2 million tonnes per annum is provided to allow for fluctuations in demand, but yet controlling output to a reasonable daily limit, that which is less than has been experienced in recent years.

- 4.20 The submitted Transport Assessment provides data which includes the maximum number of export HGV movements in one day from 2009 until 2015. In 2014 this reached 387 HGV export movements in one day, and in 2015 one day reached 348 HGV export movements. Therefore, in recent years there have been occasions where there has been in excess of the now proposed daily limit, but without any significant impact on the safe operation of the highway, with no recorded highway incidents that involved quarry traffic, and no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period.
- 4.21 Should the quarry meet the proposed daily HGV limit of 300 export movements per day, using an average payload of 21 tonnes, the upper annual limit of 1.2 million tonnes would be far exceeded; exporting in excess of 1.75 million tonnes per annum which is greater than the applicant seeks to export. Furthermore, the existing quarry plant and infrastructure could not sustain this level of output.
- 4.22 The submitted Transport Assessment provides data for the average daily HGV export movement in 2014; their busiest year where annual export rates were 1.4 million tonnes. The average daily export HGV movement was 250 HGV export movements Monday to Friday and 40 HGV export movements on Saturday. As the proposed upper annual limit of export levels would be conditioned and restricted to 1.2 million tonnes per annum, which is less than that experienced in 2014, logically the forecasted proposed average daily HGV export movements would be less than experienced in 2014.
- 4.23 The proposed upper daily limit of 300 HGV export movements would allow the fluctuations in demand for limestone aggregate products and is less than what has been experienced in recent years. The condition, as proposed would allow a degree of flexibility, which the existing condition provides, yet it would have an upper annual tonnage limit to control annual output, which is less than was reached in 2014. The combination of the proposed conditional restrictions on a daily HGV movements and a cap on annual tonnage output need to be reasonable to meet the tests of Circular 11/95; 'The use of conditions in planning permissions'. It is considered that, based on the evidence provided within the Transport Statement in relation to the quarry's previous production rate, that the proposed condition would meet the tests within the circular.
- 4.24 Members raised concerns at the Planning and Development Control Committee on 22 June 2016 that should a later start time of 0700 hours be imposed, this could have the subsequent effect of increasing quarry HGV movements per hour through the village as there would be a shorter operational day of 11 hours instead of 12

hours as is currently allowed. Based on the average day of 220 vehicle movements this would equate to on average 18 HGV export movements per hour for a 12 hour day, and on average 20 HGV export movements per hour for an 11 hour day. Using the upper limit of 300 HGV export vehicle movements, this would equate to an average of 25 HGV export movements per hour for a 12 hour day, and an average 28 HGV export movements per hour for an 11 hour day. In reality however, the movements of vehicles into, and out of the application site are not steadily spaced out throughout the day, and there could be a variation in vehicle movements from one hour to the next. It would not be reasonable to control hourly vehicle movements into and out of the site. However, the applicant has agreed to accept a condition with restricts HGV output movements between 0600 hours and 0630 hours as stated previously.

Addressing the suggested conditions of Mr Bartlett; third party speaker

- 4.25 At the Planning and Development Control Committee meeting on 22 June 2016, the third party speaker requested a number of matters to be controlled by condition:-
- The collection of near miss information about safe use of the route by HGVs from the quarry.
 - The change from 'Give Way' to 'Stop' at the junction of Bryn Emlyn and the B5123.
 - The implementation of a single direction traffic priority scheme through the dangerous pinch points on Springfield and Martins Hill.
 - A further restriction in the number of HGV vehicle movements to and from the quarry between 0600 hours and 0700 hours on weekdays.
 - An annual sum beyond the £18,000 proposed, to implement and maintain road noise reduction and road safety developments.
- 4.26 Any proposed condition that fails to meet any of the six tests of Circular 11/95; 'The use of conditions in planning permissions' (detailed below) should not be used. This applies even if the applicant suggests it, or agrees on its terms or it is suggested by the members of a planning committee or a third party. Conditions should only be imposed where they are:
- Necessary;
 - Relevant to planning; and
 - To the development to be permitted;
 - Enforceable;
 - Precise; and
 - Reasonable in all other respects
- 4.27 Considering each suggestion in turn, the Local Highway Authority

relies upon police data for the recording of traffic accidents; it is not practical to collect near miss data as there is no agreed definition of what represents a 'near miss'. Any reports would be subjective and anecdotal, and therefore unenforceable. The nationally agreed practice when assessing the requirement of highway improvement works or safety measures is to consider only actual accidents and incidents that are recorded only by the police. Furthermore, as the Local Highway Authority has not requested that this information is collected, it would be unreasonable for the Planning Authority to require it by condition. Therefore it would fail to meet the tests of circular 11/95 as outlined above. However, the Company has always encouraged local residents to report to the quarry management team any incidents that have given cause to concern, and it continues to be committed to this process

- 4.28 The third party speaker also suggested a number of traffic calming measures to be controlled by condition; one of which includes a change in the designation from 'give way' to 'Stop' at the junction of Bryn Emlyn and the B5123. This is a matter for the Local Highway Authority; they have considered this suggestion and have stated that it would be inappropriate to change this junction designation. The provision of a mandatory STOP sign can only be justified on the grounds of extremely restricted junction visibility and conditions at this junction do not comply. Any such condition would be both unreasonable and un-deliverable.
- 4.29 The introduction of single direction traffic priority scheme is also a matter for the Local Highway Authority, but the applicant feels that this would cause significant and unacceptable levels of traffic congestion at certain times of the day on the route between the quarry and the A55. As such, it would likely to be counterproductive. The Local Highway Authority has the following comment; 'In order for the location to qualify, the site must first be assessed in accordance with Flintshire County Councils Traffic Calming Policy to ascertain if the site meets the requirements for the implementation of physical measures'. The use of traffic 'build outs' or systems of chicanes in this location could potentially cause traffic hazards that do not exist at present and is likely to introduce additional traffic noise, from braking vehicles and in particular, noise from HGVs moving up and down the gear box. As with the request to change the designation of the junction, any condition requiring a single flow traffic system would fail to meet the tests of Circular 11/95 as it would not be considered necessary, and the Planning Authority could not enforce its implementation.
- 4.30 Additional footpaths from A55 Springfield Hill and Martins Hill were also requested by the third party speaker. The merits of providing additional footpaths has already been discussed in paragraph 7.24 of the Committee report of 22 June 2016 appended to this report. This states that there is insufficient width within the existing highway

to deliver an appropriate scheme, and this would therefore be reliant on land in third party ownership. In accordance with Circular 11/95, conditions that would require land to be given up should not be used. Due to the topography of the land in this location, it would require major engineering works and retaining walls for additional footpaths to be feasible, making a project such as this very costly. The Council could not require the quarry operator to construct a footway, as there are no material grounds for requiring this, and therefore it would not be reasonable for the Planning Authority to require this, failing to meet the tests of Circular 11/95.

- 4.31 It would be considered unreasonable to require an annual revenue for road maintenance for the local road network as there are two other large quarries in Halkyn who use the road network, plus other road users. Furthermore, the quarry has been exceeding the proposed tonnage output since 2014, and exceeding the permitted tonnage limit since 2011 with no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period.
- 4.32 When consulted on this planning application, the Local Highway Authority has concluded that despite the increased output, this has not had a significant impact on the safe operation of the highway and there were no recorded highway incidents that involved quarry traffic. It is therefore considered that there would be no material planning reason to require additional traffic management features to support ongoing operation of the quarry under the proposed export threshold. Furthermore, on consideration of the measures suggested by third party speaker, the Local Highway Authority has concluded that they would not be appropriate in this instance at this location as outlined above. Should a planning condition require the implementation of additional traffic management schemes as suggested by the third party speaker, the tests of Circular 11/95; 'The use of conditions in planning permissions' would not be met, as it would not be reasonable or necessary to provide these additional works.

Prospects of Aggregates Levy funding for community benefits/provision of footway

- 4.33 The Aggregates Levy Sustainability Fund has the aim of addressing the environmental costs associated with aggregate extraction. In Wales the fund is used to address the following issues: the legacy of old minerals permissions; promoting the use of alternative materials to aggregates; reducing the impact of aggregate extraction; environmental and amenity benefits to communities affected by aggregates extraction; and conserving sites of special interest.
- 4.34 Since 2011, Pentre Halkyn has been awarded over £45,000 of grant funding to contribute towards the Community Centre and the Bowling Club. A further £175,000 has been awarded to contribute

towards the Halkyn Mountain Industrial Heritage Project.

- 4.35 Future viable projects within Pentre Halkyn that meet the Aggregates Levy Sustainability Fund criteria could therefore benefit from this funding stream. Due to the proximity of the village in relation to three limestone quarries, Pentre Halkyn would be eligible to apply for funding, and previous projects in the village have been successful in their applications.
- 4.36 It is possible that funding for additional pedestrian footways through the village could be funded through the Aggregates Levy fund as other villages have been successful for these types of projects. However, as discussed above, a footpath could not be secured through the planning process, and furthermore, the feasibility of such a path would be questionable, and therefore its deliverability is questionable.

Community Benefits

- 4.37 The planning system is in place to assess whether the use of land and development is acceptable in land use terms and not to consider what community benefits a scheme can provide. However, the company has provided contributions voluntary to the local community:-
- The Company has sponsored the Halkyn Ranger annually since 2008 to a value of £1,000, increased in 2015 to £1,650;
 - Donated books to Plas Derw Trust Ltd.;
 - Donated to the erection of a plaque and plinth at Rhes-y-Cae Primary School;
 - Donated £1,000 to the restoration of Christ Church, Rhes-y-Cae;
 - Contributed to the refurbishment of the showers at the local football club;
 - Voluntarily undertaking a twice weekly sweep of the public highway as far as Martins Hill;
 - Making of a donation to Rhos Helyg Primary School summer fair;
 - Contributing £500 to a new strip for Halkyn United Junior FC;
 - Contributing to the Halkyn Mountain Community Cinema;
- 4.38 In addition, the quarry provides a total of 40 jobs which contribute to the local economy. Indirect jobs are also associated with the quarry which contribute to the local economy. The quarry provides the material for the region's infrastructure and housing. Also, the applicant is willing to provide a one off sum of money contributing £17,000 to the provision of a skid resistant road surface at the junction of the B5123 and Bryn Emlyn to mitigate against noise from

wheel spinning, and also to provide funds to contributing £1,000 to the repair of the a damage cattle grid fence.

- 4.39 The quarry company is also remains committed to maintaining the biannual liaison group meetings as a forum to investigate issues raised by local residents and to report back to attendees the results of any investigations and actions taken.
- 4.40 The quarry could also be approached for match funding for any future projects that maybe eligible for receiving Aggregates Levy funding.

Review of Mineral Planning Permissions

- 4.41 Should the application be refused, or should conditions be imposed that the applicant cannot accept, the quarry can still operate under their existing conditions under their deemed consent which they would be required to review under the provisions of the Environment Act 1995.
- 4.42 A review of planning conditions cannot be refused, and should a Planning Authority impose conditions via a Review that would restrict the quarry operator's working rights and entitlements (such as reduced hours of operation) the Local Planning Authority would be liable for compensation claims.
- 4.43 This section 73 planning application provides the Local Planning Authority an alternative opportunity to review the deemed consent and obtain greater control of the operations by imposing strict and modern conditions to address concerns in relation to dust, noise and blasting vibration to ensure that the operations are not causing a detrimental impact on the local environment and residents.

5.00 CONCLUSION

- 5.01 There is no evidence to suggest a start time of 0600 hours at Pant y Pwll Dŵr Quarry is inappropriate. All but one quarry in Flintshire and the wider North East Wales region commences an operational day at 0600 hours. Therefore, there is no planning reason why the existing hours of operation should be reduced. However the applicant is willing to change the existing hours of operation as stated above to prevent HGVs entering the site until 0615 hours, and also to limit the number of HGVs exiting the site between 0600 hours and 0630 hours to 11. This would contribute to reducing the number of quarry associated HGVs travelling through Pentre Halkyn in the early hours of the morning.
- 5.02 Mineral Planning Guidance suggests that output limits should not be conditioned. However the deemed consent for the application site contains a condition that controls the output of aggregate products

which is being exceeded as demand for aggregate products from the quarry has increased since 2000 when the consent was 'deemed'. In order to control environmental impacts of the export of aggregates, it is considered that a more appropriate and effective way is to control vehicle movements. A daily limit of 300 HGV export movements has been proposed with an upper annual limit of 1.2 million tonnes, which would also effectively control daily vehicle movements. The proposed daily HGV and annual tonnage limits of the condition would be considered reasonable based on the data provided within the Transport Assessment.

- 5.03 The increase in exportation levels has not resulted in a significant impact on the safe operation of the highway, and there were no recorded highway incidents involved quarry traffic. There have been no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period. Therefore, there is no material planning reason why planning permission should be refused to allow the requested increase in exportation levels and vehicle movements. Furthermore, there would be no justification for requiring additional traffic management features to support ongoing operation of the quarry under the proposed export threshold, and none of the requests suggested by the third party speaker would meet the tests of Circular 11/95.
- 5.04 In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the imposition of conditions as listed above, there is no sustainable planning reason why planning permission should be refused to allow the requested increase in output of minerals from the quarry. Accordingly, it is recommended that planning permission should be granted. The applicant has agreed to enter into a Unilateral Undertaking via Section 106 of the Town and Country Planning Act 1990 to provide a commuted sum for resurfacing works to provide an anti-skid surface to reduce the risk of wheel-spinning, and to provide funds to repair a fence adjacent to a cattle grid in Pentre Halkyn. The funds could be provided by earlier payment or secured by a Section 106 legal agreement. The proposal would give rise to increased vehicle movements and the anti-skid resurfacing should address concerns in relation to wheel skidding and associated vehicle noise and disturbance when vehicles are turning right onto Bryn Emlyn. If the Section 106 Obligation (as outlined above) is not completed or the earlier payment is not received within 6 months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

6.00 OTHER CONSIDERATIONS

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no

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

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

Contact Officer: Hannah Parish
Telephone: (01352) 703253
Email: hannah.parish@flinshire.gov.uk