FLINTSHIRE COUNTY COUNCIL

REPORT TO:	**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**
DATE:	**7 SEPTEMBER 2016**
REPORT BY:	**CHIEF OFFICER (PLANNING AND ENVIRONMENT)**
SUBJECT:	**CREATION OF OVERBURDEN STORAGE BUND AT PANT Y PWLL DWR QUARRY, PENTRE HALKYN**
APPLICATION NUMBER:	**055218**
APPLICANT:	**CEMEX UK MATERIALS LIMITED**
SITE:	**PANT Y PWLL DŴR QUARRY. PENTRE HALKYN, HOLYWELL**
APPLICATION VALID DATE:	**23 MARCH 2016**
LOCAL MEMBERS:	**COUNCILLOR COLIN LEGG**
TOWN/COMMUNITY COUNCIL:	**HALKYN COMMUNITY COUNCIL**
REASON FOR COMMITTEE:	**SITE AREA EXCEEDS 2 HECTARES**
SITE VISIT:	**NOT REQUESTED**

1.00 SUMMARY

1.01 Planning permission is sought to remove 210,000m^3 of clay overburden which is overlying the remaining permitted limestone reserves within Pant y Pwll Dŵr Quarry, and use this material to form a north westerly extension to the existing overburden storage facility, which lies to the north west of the quarry void. The proposal would also involve the permanent diversion of a private access road, the diversion of existing public rights of way, and the creation of a new permissive path.

1.02 Once completed, the site would be restored back to open access Common Land. On completion and restoration of Pant y Pwll Dŵr Quarry, once mineral extraction ceases, the bund would be

remodelled in accordance with an approved restoration masterplan for the quarry site as a whole.

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

2.01 Conditions including:-

1. Commencement
2. Approved Plans
3. Availability of Approved Plans
4. Working Programme
5. Maximum height of 280m AOD
6. Demark footprint of the overburden storage bund
7. Demark the soil storage area
8. Signage for public rights of way
9. Ecological Management Plan
10. Archaeology; Strip, map, record, excavate
11. Soil handling methodology
12. Hours of operation
13. Noise mitigation
14. Normal operations noise limits
15. Temporary operations noise limits
16. Dust mitigation
17. Drainage scheme
18. Landscaping scheme; hard and soft landscaping details
19. Access provision for grazing post restoration
20. Interim aftercare scheme
21. Restoration Masterplan
22. Final post quarrying Aftercare scheme
23. Maintenance of planting
24. Annual Aftercare meetings and reporting

3.00 CONSULTATIONS

3.01 ***Local Member:*** *Councillor Colin Legg* – does not object to the proposal and agreed that this be determined under delegated powers.

3.02 ***Halykn Community Council*** – Do not object to the application as long as the proposal is not detrimental to neighbouring properties, highway, AONB, SSSI etc, and planning policies are complied with.

3.03 ***Neighbouring Ward Councillor Matt Wright -*** At the time of writing the report no comments had been received.

3.04 ***Neighbouring Ward Councillor Jim Falshaw -*** At the time of writing the report no comments had been received.

3.05 ***Neighbouring Community Council;*** *Brynford Community Council* have no objection to the application.

3.06 ***Neighbouring Community Council;*** *Ysceifiog Community Council* have noted the application.

3.07 ***Head of Assets and Transportation*** – has no objection to the proposal. It is presumed that comments have been sought from the Rights of Way Section and on that basis, there is no intention to make a recommendation on highway grounds.

3.08 ***Public Rights of Way Section***
Public Footpaths 36 and 32 cross the site. The applicant must contact the Rights of Way Section before proceeding with any works. The legally defined public right of way must be marked out in strict accordance with the definitive map and with the prior approval of the surveying authority before commencement of any of the development. The surface of the rights of way must not be disturbed without lawful permission, and development which would lie over the line of the public right of way must not commence until any necessary diversion or extinguishment has been lawfully authorised under the appropriate legislation. The applicant would need to apply under the Town and Country Planning Act 1990 to divert these footpaths. The applicant has applied for a Temporary Closure Order of Footpaths 32 and 36. The closure is due to start on 1 October 2016 should it be successful. The rights of way Section has no observations on the proposed permissive route as the Local Authority would have no maintenance obligations of this route.

3.09 ***Head of Public Protection***
A noise survey has been undertaken to assess noise levels at nearby residential properties. The noise survey predicts that the standards within the guidance of Minerals Technical Advice Note 1 will be achieved at the four nearby residential properties. However, to safeguard nearby properties in relation to noise mitigation, conditions should be imposed as proposed in the application.

3.10 In relation to dust, the Pollution Control section has historically received a number of dust complaints about this site. Whilst a statutory nuisance has never been proven, care must be taken to minimise any fugitive dust from leaving the site. Therefore, conditions in relation to dust mitigation, as proposed in the application should be attached to any approval in order to reduce the likelihood of nuisance.

3.11 ***Natural Resources Wales*** do not object to the proposal subject to the imposition of conditions requiring details of the species of planting that is proposed to be included within the landscaping and restoration scheme prior to the commencement of development to ensure that the species proposed are compatible with the protected sites' habitat features. The restoration scheme should also include details of the maintenance, watering, monitoring and aftercare of the restoration scheme to ensure that the restoration is successful in establishment. They have also provided comments in relation to Protected Sites,

Protected Species, Biosecurity, Landscape, and Pollution Prevention which will be expanded upon within the Appraisal section below.

3.12 ***Clwyd-Powys Archaeological Trust*** agree with the mitigation measures proposed with Archaeological Assessment Report which includes a proposed 'strip/map/excavate' methodology for recording surface and sub-surface archaeology related to earlier mining, quarrying and possible prehistoric activity. They have suggested a suitably worded condition to facilitate the archaeological recording.

3.13 ***Cadw*** have assessed the likely impact of the proposal in relation to the Scheduled Ancient Monuments located in close proximity to the application site, and in relation to the Holywell Common and Halkyn Mountain Registered Historic Landscape; a landscape of outstanding historic interest. They have concluded that the proposed development would have a very slight impact on the setting of the scheduled monuments and on the overall impact on the registered historic landscape.

3.14 ***Halkyn Graziers and Commoners Association*** strongly object to the proposal for the following reasons:

1. This project would mean a loss of grazing land for the Halkyn Graziers and Commoners Association members; and
2. As the land subject to the planning application is not designated as a SSSI, it is one of the very few areas on the common where they are permitted to feed their animals as feeding on SSSI land is prohibited. This will cause extra work for the graziers as most of the graziers work full time and they bring their sheep off the common before and after their working day. They would have to travel further for grazing land.
3. If this proposal was to go ahead, this would mean the loss of 4.7ha of grazing and have the inconvenience for three years.

3.15 The Halkyn Graziers and Commoners Association have stated that in accordance with the Common Land legislation the correct consent should be sought and compensatory land should be provided. If planning permission is granted, the Graziers Association has suggested that the land must be returned to a suitable condition for grazing animals once completed. The Halkyn Graziers and Commoners Association has suggested that a suitable solution would be for the Quarry Company to compensate the Graziers for loss of grazing land during the construction and restoration of the bund, or alternative land should be supplied for grazing. This could be provided by the quarry moving some existing fencing around their existing bunds and/or paying compensation to the graziers involved.

3.16 ***Campaign for the Protection of Rural Wales (CPRW)***
Concern is expressed at any proposed development that would impact on the open countryside and result in change to the character and

appearance of the landscape. This application is no exception. However, the need for specific mitigation measures to reduce the visual impact of the development, and its affect upon the local flora and fauna, along with environmental issue is recognised by the applicant who has put forward various proposals to limit the development's impact. As a result, the Clwyd Branch of the CPRW requests measures be conditioned with any planning consent granted.

3.17 With regard to historic assets that are present in the adjacent area, attention is drawn to the Historic Environment (Wales) Act 2016, in respect of any potential conflict with this legislation. It also requested that it be conditioned that an archaeological watching brief is maintained during soil stripping at the site, along with mitigation measures proposed by the applicant with regard to this matter.

3.18 Public rights of way cross the development site that would necessitate applying for temporary closures and diversions of footpaths, in addition to Halkyn right of way No. 32 and No. 36 being affected by extinguishment orders. Again, it is request that such action is covered by suitably worded conditions accompanying any planning consent and modifications to be made to the definitive map as required.

3.19 ***Ramblers Association***
As long as Flintshire County Council is satisfied as to the need for the development, the Ramblers Association do not wish to raise objection in principle to the landform and layout proposed in the planning application. The Ramblers Association have requested the imposition of the usual conditions on protecting the rights of way, working conditions, restoration, landscaping, and the final quarry landform. The suggested "concession path" over the summit with an outlook point; which will itself be "Open Access" under Commons legislation, is welcomed. The actual legal diversions of the rights of way would then be done by separate Order(s). The precise routes of the new paths can be reviewed at that stage.

3.20 ***Welsh Water/Dŵr Cymru*** has requested that the applicant contact them to establish the location and status of the sewer which may affect the proposal. This would be added to the decision notice as an informative.

3.21 ***Flintshire County Council Drainage*** have considered the submitted Flood Consequences assessment and have requested that prior to the commencement of development a scheme of drainage be submitted which would accord with guidance within 'Soakaway Design BRE Digest 365'.

3.22 ***Clwyd Bat group, Clwyd Badger Group, Local Access Forum, Halkyn Common Joint Consultative Board and Flintshire County Council's Common Land Section*** have been consulted at the time of writing the report, no comments had been received.

4.00 PUBLICITY

4.01 This application was advertised by press notice, site notices and neighbour notification letters were dispatched to nearest residential receptors. The application was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 on 21 April 2016.

4.02 Further information was submitted in respect of amended plans to amend the profile of the proposed landform and the routes of the rights of way. This was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) Wales Regulations 2016 on 11 August 2016.

4.03 During the consideration of this application one letter of objection has been received in response to the consultation on this application. The main planning based representations that are material to the determination of this application include:

- Noise and dust during construction
- Loss of grazing land, impact on grazing rights
- Loss of access to common land
- Drainage concerns, run-off on to adjacent land
- Limiting access to adjacent land
- Unnatural landform
- Loss of natural countryside
- Additional heavy haulage vehicle traffic to and from site

4.04 The applicant also held a pre-application public exhibition event on 1 December 2015.

5.00 SITE HISTORY

5.01 Planning permission for the working of minerals at Pant y Pwll Dŵr Quarry was first granted on 15 November 1948 (Ref. D40). Since then a number of extensions and modifications at the Quarry have been granted:

- Reference P72 (extension) 1 May 1956
- Reference 163/67 (extension) 29 February 1968
- Reference 3/HA/658/80 (extension) 19 January 1982
- Reference 3/316/88 (modification of working) 5 December 1988

5.02 In November 1995 planning permission was granted for a series of proposals primarily seeking approval of a number of detailed matters for the future development of the site in relation to revisions of the quarry working scheme, relocation of the quarry processing plant and landscaping and restoration.

5.03 On 30 May 2000 the quarry operator made an application for the determination of new conditions under the requirements of the

Environment Act 1995. This application proposed a scheme of conditions for the Council to consider. However, the Council did not determine this application within the statutory time period. As a result, in accordance with the provisions of the Environment Act 1995, and in particular paragraph 9(9) Schedule 13, the 'deemed' approval took effect on 31 August 2000 (Ref 00/20/570). This is the current extant planning permission in which the quarry is operating under.

5.04 Planning permission was granted on 10 June 2003 for a new access road to the quarry under reference 031327 and subsequently varied by permission 047245 on 3 November 2010 to allow for additional overburden to be deposited on an existing screen bund on the northern boundary of the site.

5.05 Planning permission was granted on 11 June 2003 for revisions to the approved processing plant under reference 031328.

5.06 On 18 July 2012 a scheme was approved pursuant to condition No.15 of the deemed consent reference 00/20/570 approving details for the disposal of overburden waste arisings from the site. This planning application is to build up on that constructed overburden storage bund. This application under determination could not be sought under the provisions of Condition No. 15 of planning permission 00/20/570 as some of the site is not within the boundary of the deemed consent.

5.07 In December 2015 an application was made under reference 054768 to vary condition No.17 of planning permission Ref 00/20/570 in relation to increasing output limits from the quarry. On 20 July 2016, the Planning and Development Control Committee resolved to grant planning permission subject to conditions.

6.00 PLANNING POLICIES

6.01 LOCAL PLANNING POLICY

Flintshire Unitary Development Plan (Adopted September 2011)

STR1 – Development
STR2 – Transport and Communities
STR7 – Natural Environment
STR10 – Resources
GEN1 – General Requirements for Development
GEN3 – Development in the Open Countryside
GEN5 – Environmental Assessment
D1 – Design Quality, Location and Layout
D3 – Landscaping
L1 – Landscape Character
L4 – Common Land
WB2 – Sites of International Importance
WB3 – Statutory Sites of National Importance

WB4	– Local Sites of Wildlife and Geological Importance
HE6	– Scheduled Ancient Monuments and other Nationally Important Archaeological Sites
HE7	– Other Sites of Lesser Archaeological Significance
AC13	– Access and Traffic Impact
EWP12	– Pollution
EWP13	– Nuisance
MIN1	– Guiding Mineral Development
MIN2	– Mineral Development
MIN3	– Controlling Minerals Operations
MIN4	– Restoration and Aftercare
MIN10	– Mineral Buffer Zones

6.02 **GOVERNMENT GUIDANCE**

Planning Policy and Guidance

Planning Policy Wales Edition 8 (including Minerals Planning Policy) (2016)
Technical Advice Note 5 – Nature Conservation and Planning (2009)
Technical Advice Note 11 – Noise (1997)
Technical Advice Note 18 – Transport (2007)
Technical Advice Note 23 – Economic Development (2014)

6.03 Minerals Planning Policy and Guidance

Minerals Technical Advice Note 1: Aggregates 2004
Minerals Planning Guidance Note 11: The Control of Noise at Surface Mineral Workings, 1993
Regional Technical Statement for North Wales 1st Review (2014)

6.04 The main policies to be considered in the determination of this application are the policies of the Flintshire Unitary Development Plan (FUDP) particularly policies relating to minerals, amenity (air quality, noise), public rights of way, common land, landscape, visual impact, flood risk, nature conservation, protected species and statutory sites. The Policies and guidance contained within PPW, MTAN1, and evidence provided within the RTS in relation to regional apportionment are also central to the determination of this application. The materiality of the above polices are discussed in the following planning appraisal.

7.00 PLANNING APPRAISAL

7.01 Introduction

The details of the proposed development will be outlined below along with a description of the site and location, site constraints and the issues that will be assessed within the main planning appraisal. The Environmental Statement which accompanied the planning application has considered and assessed the impacts of the proposed extension to the quarry's existing overburden bund in terms of noise, impacts on ecology and nature conservation and adjacent designated site/ protected species, soils and hydrogeology, hydrology and the water

environment, flood risk, air quality and dust, landscape and visual amenity of the proposal and potential impacts on the Common Land and adjacent landscape designations, and socio-economic impacts.

Details of Proposed Development

7.02 Planning permission is sought to remove 210,000m^3 of clay overburden which is overlying the remaining permitted limestone reserves within Pant y Pwll Dŵr Quarry, and use this material to form a north westerly extension to the existing overburden storage facility, which lies to the north west of the quarry void. The proposal also involves the permanent diversion of a private access road, the diversion of existing public rights of way, and the creation of a new permissive path.

7.03 The proposed landform would be constructed in four phases to a maximum height of 280m AOD which would be no higher than the existing overburden storage bund which this application seeks to extend. Soils would be stripped, and temporarily stored on land adjacent to the proposed bund. As the bund is progressively constructed, soil would be placed on the newly formed landform in order to progressively restore the site. It is estimated to take two years to complete the construction and restoration of the bund, dependant on weather conditions.

7.04 Once restoration works are completed, the site would be returned back to open access Common Land but with the necessary provisions to ensure the Quarry is maintaining its health and safety obligations. A five year programme of aftercare would be agreed by condition and implemented. On the closure and final restoration of Pant y Pwll Dŵr Quarry, the proposed bund would be remodelled in accordance with a subsequently approved restoration masterplan for the site which would tie in with the restoration masterplan for the whole of the quarry, and then subject to a further programme of aftercare.

Site Description and Location

7.05 Pant y Pwll Dŵr Quarry is located 1km to the west of the settlement of Pentre Halkyn and 3km to the east of Babell. The A55 North Wales Expressway is located 1.5km to the east of the site, with access to this route from the quarry gained via local unclassified roads through Pentre Halkyn, linking to the B5123 and connecting to the A55 at the Springfield Interchange.

7.06 The application site is 4.7 hectares in area and lies immediately adjacent to and north west of the existing Pant y Pwll Dŵr Quarry. The application site is bounded to the north by Ffordd Babell, an unclassified road and a power cable which crosses the northern edge of the field within which the application is located. To the east, the application boundary is defined by the brow of the existing overburden storage bund that lies within the footprint of the quarry itself. The southern site boundary is marked by the point at which the proposed

extension to the overburden storage area merges into the existing landform (consented by approval of scheme pursuant to Condition No. 15 of deemed consent 00/20/570), whilst the western boundary is formed by a stand-off margin to a field boundary.

Relevant Planning Constraints/Considerations

7.07 In terms of land use, the entire site is registered Common Land. It consists of upland grassland with small scattered areas of bracken; the land is used predominately for sheep grazing although there are signs that it is also used for casual horse riding. It incorporates two disused and fenced off mine shafts, although these would not be disturbed as a result of the development.

7.08 There are two public rights of way; FP32 and FP36 that cross the application site, and a private road which leads to a property called Nant y Fuwch also crosses the application site and would be diverted.

7.09 The north east corner of the site lies within the Halkyn Common and Holywell Grasslands Site of Special Scientific Interest (SSSI). A peninsula of the Halkyn Mountain Special Area of Conservation (SAC) is located 330m to the south of the site but not within the application boundary. The SAC is also located 10 metres to the north of the site. The entire site is located in Pant y Pwll Dŵr non-Statutory Wildlife Site reference 17SE26.

7.10 The whole site lies within but forms the western boundary of the Holywell Common & Halkyn Mountain Registered Landscape of Outstanding Interest, a non-statutory designation. The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) lies approximately 6.8km to the west.

7.11 In addition there would be a setting impact for the two nearest scheduled monuments (Prehistoric round barrow burial mounds SAM FL054 and FL053) Parc y Prysau A located to the west of the application site, and Parc y Prysau B adjacent to the application site to the South West. FL096 Bryn y Cosyn Round Barrows are located at a distance of 500m of the application site.

7.12 The closest residential properties are a number of isolated farm houses; Pant y Groes (180m north west), Nant y Fuwch (215m south), Waen y Brodlas (280m north) and Parc y Prysau (350m north west).

Issues

7.13 ***Principle of Development***

Where mineral reserves are not found at the surface of the ground, it is expected that some quantities of overburden material would be required to be removed in order to access the mineral reserves below. The principle of this activity at Pant y Pwll Dŵr has been accepted by

the extant planning consent which was deemed in 2000, as there is a planning condition that permits the disposal of overburden material and clay waste on site, subject to details being approved.

7.14 Details were approved pursuant to condition No.15 of the Deemed Consent for the construction of an overburden storage bund in July 2012 located to the north west of the quarry. This proposal seeks to extend the existing bund further to the west.

7.15 Some of the material proposed to be moved to create the bund extension would not be permanently stored in this location. It is proposed to re-profile and remodel the bund once the quarry closes and the site is permanently restored. This material would be used in the quarry restoration which would reduce the transport impact of transporting materials off site, and then subsequently importing materials for restoration purposes.

Need for the storage of Overburden

7.16 Remaining permitted reserves at Pant y Pwll Dŵr Quarry lie beneath a depth of clay overburden. Therefore, in order to release permitted reserves, this overburden needs to be removed, prior to mineral being extracted. Storage of overburden is becoming a critical issue at the quarry, as presently there is nowhere within the extant planning permission boundary to store this surplus material without sterilising mineral and/or resulting in excessive double handling of material. An alternative location within the footprint of the planning permission for the winning and working of mineral has been explored for the storage of overburden but this area lies wholly within the SAC and SSSI and therefore would be more constrained and may not be supported.

7.17 Minerals can only be extracted where they are found. Minerals Technical Advice Note 1: Aggregates states that it is essential to the economic and social well-being of the country that the construction industry is provided with an adequate supply of the materials it needs but not to the unacceptable detriment of the environment or amenity. Due to its location, it is considered that Pant y Pwll Dŵr Quarry has a key strategic role in limestone product supply. The proposal does not seek any additional reserves. The removal of the overburden would release permitted reserves on site which is an important resource for the region. The permitted reserves at the site contribute to the County's landbank in which the figures within the Regional Technical Statement are based and the managed aggregate system in the Region.

7.18 Some of the overburden material would be used in the final site restoration once the mineral extraction has completed, and the quarry's reserves exhausted. The overburden storage bund would then be remodelled in accordance with a subsequently approved scheme and restored. As this material is required for site restoration, it would not be considered sustainable to export the material off site.

Highways, Traffic, Transportation and Access

7.19 Concerns have been made by a local resident in relation to the proposal generating additional heavy haulage vehicle traffic to and from the site. However, no vehicle movements generated by the proposed development would use the public highway with the exception of vehicles used to deliver and collect the mobile plant required for the project. As this would amount to very few movements traffic and transportation has not been considered within the scope of the submitted Environmental Statement.

7.20 All haul roads proposed to facilitate the construction of the bund would be internal to the quarry, therefore here would be no off-site traffic movement associated with the proposal. Therefore, the Highway Development Control Manager does not intend to make a recommendation on highways grounds. As such, it is considered that the proposal accords with Policies AC13 and MIN3 of the adopted Flintshire Unitary Development Plan.

Public Rights of way

7.21 The proposal would involve the temporary closure and subsequent diversion of public and private rights of ways. The actual legal diversions of the public rights of way would be done by separate Orders. The diversion of public and rights of way would be carried out prior to the commencement of development. An additional permissive footpath has been proposed which would lead to the summit of the bund to provide a look out over the Common and the quarry. Whilst the majority of the site is designated as Open Access under Common Land legislation, once restored, the proposal would provide extended the definitive public right of way provision, subject to subsequent diversion Orders. The standard informatives in relation to rights of way would be appended to a decision notice, should planning permission be granted. The Ramblers Association and the Public Rights of Way department do not object to the proposal.

Noise

7.22 The proposed construction, restoration, remodelling and subsequent restoration of the overburden storage bund could give rise to noise and disturbance to amenity.

7.23 An independent noise assessment has been undertaken as part of the Environmental Statement and concluded that with mitigation measures as proposed, the development could be undertaken in accordance with noise guidance and levels contained within MTAN1 relating to noise emissions resultant from mineral development.

7.24 Hours of operation would be conditioned in line with that of the existing condition at the quarry for soil stripping and movement of overburden which would be restricted to 0800-1700 Monday – Friday and 0800-1200 on Saturdays, with no working on Sundays or public

holidays. Noise mitigation measures would be employed during the implementation of the development and subsequent restoration in line with those imposed by condition at the quarry, and noise levels would be imposed by condition in line with guidance set out in MTAN1.

7.25 The method of working proposed has been specifically designed to limit noise emitted from the development by, wherever possible ensuring that works take place behind a screening bund acting as a baffle. Where it would not be possible to work behind a baffle, during noisier elements of the proposal such as site preparation, the 'temporary operations' noise limit level contained within guidance set out in MTAN1 would not be exceeded.

7.26 The noise assessment demonstrates that noise from activities associated with the application would be within acceptable limits. It has been concluded that there would be no loss of amenity to local residents in terms of noise subjection to the suggested conditions. The County Council's Head of Public Protection has confirmed he concurs with the findings of the noise surveys. Furthermore, there have been no complaints regarding the operations at this quarry in relation to noise, and it is anticipated that the extension would not cause any loss of amenity to any nearby sensitive properties.

7.27 Concerns have been raised by a local resident in relation to noise during the construction of the bund. However, the Head of Public Protection has no objections to this proposal subject to conditions in relation to noise mitigation which would be comparable to existing site mitigation controls already in place for the quarry. This would include the imposition of planning conditions controlling noise with regards to limits, mitigation measures and hours of operation. As such, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, EWP6, MIN2, MIN3, and EWP13 of the adopted Flintshire Unitary Development Plan.

Dust

7.28 It is possible that the development could give rise to dust escaping beyond the perimeter of the site from activities such as soil stripping and replacement, and overburden excavation. The activities proposed may give rise to fugitive dust which would be enhanced in dry windy weather. Much of the soil replacement would be at an elevated level as the new landform is created. However, these are relatively short term activities in comparison with the overall life of the development. The placement of overburden within the new landform, and the movement of dumpers across the landform is also a potential source of fugitive dust.

7.29 Provided that industry best practice is employed in the control of dust, the Environmental Statement concluded that the amenity of local residents would not be adversely affected by dust. Mitigation measures akin to that of the measures employed within the quarry

operations include; suspension of activities in windy weather, drop heights from excavator to dumper body minimised, on site speed limits, and the use of a water bowser. The landform has been designed to minimise dust. The bulk of the landform would be undertaken behind the baffle which would help reduce dust from escaping from the site.

7.30 Concerns have been raised by a local resident in relation to dust during the construction of the bund. However, the County Council's Head of Public Protection and NRW have not objected to the proposal subject to the imposition of planning conditions ensuring the proposed dust mitigation measures are implemented as proposed, so that adequate steps are taken to prevent dust causing a nuisance beyond the site boundary. As such, subject to conditions to ensure that dust is minimised and controlled, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, MIN2, MIN3, and EWP12 of the adopted Flintshire Unitary Development Plan

Ecology and Nature Conservation

7.31 A preliminary ecological appraisal of the application site was undertaken as part of the Environmental Statement. Also, an Ecological Management Plan has been produced in order to provide habitat enhancements and a due diligence safeguarding strategy in respect of legally protected species.

7.32 The proposed development is approximately 10m away from the boundary of the Halkyn Mountain Special Area of Conservation (SAC) which is located to the north of the application site. To the south, the SAC also lies 200m away from the application site. As the proposal may have implications for the SAC, a test of likely significant effects under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) has been undertaken and concluded that none of the features of the SAC would be directly affected by the proposal. Controls and mitigation would prevent potential indirect effects through dust management and the management of surface water runoff.

7.33 Part of the site which forms the existing overburden bund lies within the Halkyn Common and Holywell Grasslands Site of Special Scientific Interest (SSSI). It is considered that any additional overburden and extension to the bund, which is outside of the SSSI would not adversely affect the SSSI. Subject to the restoration of the bund being restored to a calcareous grassland habitat, it is considered that the proposed development would not have an adverse effect on the features or functionality of the protected sites.

7.34 The restoration of the overburden storage bund would comprise dry calcareous grassland which aims to re-establish and compliment the features of the SAC and SSSI. Plans submitted with the application provide details of the proposed calcareous/acidic seed mix which

would be appropriate. The restoration would be secured by condition to ensure that the restoration is successful and an aftercare period of 5 years would be conditioned.

7.35 The assessments which accompany the Environmental Statement with regards to the proposal's potential impact on protected species are considered to be satisfactory, and it is considered that the proposal would not likely to be detrimental to the maintenance of the favourable conservation status of local populations of the great crested newt, bats, dormice, or otter.

7.36 The proposal would result in the loss of 1.9ha of lowland meadow which is a UK BAP Priority Habitat. However, the bund and subsequent restoration would create 4.7ha of Lowland Calcareous grassland, also a UK BAP Priority Habitat, providing a net gain of 2.8ha.

7.37 An Ecological Management Plan has been provided as part of the application to provide habitat enhancements with the aim of achieving a net biodiversity gain through eradication of gorse scrub and bracken from the grassland within the application site, and methodologies to be adopted during soil stripping to safeguard against breaches of legislation regards to nesting birds and badgers. These would be conditioned should planning permission be granted.

7.38 As there would be no material imported from outside of the quarry site there is no biosecurity risk posed by this proposal.

7.39 Whist part of the site is with an SSSI which boarders a SAC, it is considered that the proposal would not have a significant adverse effect on the designated sites or nature conservation interests of the site. The land is currently grazed therefore presents little interest in terms of nature conservation. With the implementation of the proposed restoration, ecological management plan and mitigation, there would be no significant adverse effects on the SAC or SSSI or wildlife and habitats of local importance. Natural Resources Wales and the County Council's Ecologist does not object to the proposal subject to conditions. As such it is considered that the proposal would accord with the provisions of Policies WB1, WB3, WB4, WB5 and WB6 of the Flintshire Unitary Development Plan.

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Hydrology/water resources and flood risk

7.40 Concerns have been made by a local resident in relation to drainage issues and run off onto adjacent land which could cause flooding.

7.41 A Flood Consequence Assessment has been commissioned as part of the Environmental Statement. It recommended that a system of soakaways be installed on completion of the proposed landform so that all surface water run off could be managed within the site. It concluded that, with the system of soakaways as proposed, there

would be no increased risk of flooding.

7.42 The County Council's Drainage officer has assessed the Flood Consequence Assessment and has requested that prior to the implementation of the development a scheme of drainage be submitted which would accord with guidance within 'Soakaway Design BRE Digest 365'.

7.43 Ground water or other water supplies would not be effected by the proposed development. Natural Resources Wales do not object to the proposal in terms of impact on ground water.

7.44 The installation, implementation and maintenance of the drainage and soakaways proposed would be conditioned. It is considered that subject to the approval of a drainage scheme, the proposal would accord with Policies MIN3, EWP16 and EWP 17 of the Flintshire Unitary Development Plan.

Landscape and visual impact

7.45 Concerns have been raised by a local resident in relation to the proposed bund being unnatural in the landscape and having an impact on the loss of 'natural countryside'.

7.46 A comprehensive landscape and visual impact assessment of the proposal has been undertaken. The site lies within the western edge of the Holywell Common and Halkyn Mountain Registered Landscape of Outstanding Historic Interest. Cadw have assessed the likely impact of the proposal in relation to the Registered Historic Landscape and have concluded that the proposed development would have a very slight impact on the overall impact on the registered historic landscape. It is considered that once the bund has been restored, and grass established, it would quickly fit into the existing landscape, and therefore it is considered that the proposal would have a very slight overall impact on the registered historic landscape. The site is not subject to any other landscape quality designations.

7.47 The proposed extension to the existing overburden storage bund would be no higher than the existing overburden bund which peaks just above the 280m contour which is 18m above the nearest section of road. In terms of the proposed extension, from the highest point, the storage bund would gradually slope down at a consistent gradient in a north west direction, reflecting the existing landform, towards an electricity pylon situated just outside the application site. The proposed bund would have a steeper gradient towards the road but this is comparable to the slope of the existing bund to the east of the quarry entrance.

7.48 With regards to the visual impact, the proposed extension to the existing bund would be prominent and visible from a number of locations and receptors. It is considered that the effect on visual

amenity for the duration of the construction of the bund for three nearby residential properties would be classified as 'Moderate to Major' which is considered to be a significant effect. It is important to note that this would be a temporary impact during the construction of the bund. The construction phase of the project would be a relatively short period of time; no more than a year, but potentially less subject to ground and weather conditions.

7.49 To mitigate the visual impact of the construction of the bund, the scheme has been designed to maximise the extent to which the construction operation would be screened behind a 4 metre high screening bund during construction. The screening bund would also be subject to progressive restoration works as the project progresses which would reduce the visual impact of the proposal. Once the bund has been restored, and the vegetation established it is considered that the impact would be moderate and not significant. Furthermore, the proposed grass seed mix would help green the new earthworks within the short term so the restoration should be completed within two years. When viewed from the north west, the direction of the nearest occupied residential properties the overburden bund would have an elongated form, thus reducing its impact. It is considered that the proposed landform would be not be overbearing or incongruous to the residential occupiers once completed. During the proposed construction phase, the adverse visual effect would inevitably be greater but remaining acceptable with the proposed mitigation measures. It is considered that the visual impact of the proposal from the subsequently diverted public rights of way would not be significant.

7.50 With regards to landscape the bund would not be a new feature in the landscape as it would form an extension to an existing established landscape feature of Pant y Pwll Dŵr Quarry. The maximum height would not exceed the height of the adjacent landform. The proposal would join with the profile of the adjacent bund to create one combined landform. Furthermore, the landform proposed would be a less uniform and less steel feature than exists at present and would be considered to be more in keeping with the local landscape.

7.51 The restoration proposals would ensure that the development would be characteristic of the open, grassed adjacent overburden landform, with no trees, hedges or other areas of planting other than scrub vegetation such as heather, hawthorn and gorse. This would be typical of the surrounding landscape character, especially in the higher, undulating areas. With careful and strategic planting this could help to mitigate the overall appearance of the overburden bund during the life of the quarry. Details of planting would need to be submitted and agreed by condition to ensure that there was no conflict with the objectives of the SAC and SSSI or needs of the Halkyn Common Graziers. The construction is proposed to take less than a year and the planting should be undertaken the following planting season.

7.52 The landscaping scheme should also show all the proposed hard landscape elements. As well as the specification and position of fence types, the landscape scheme should show the perimeter ditch, boulder barricades, and rock out crops. These features, when combined would better replicate the existing landscape helping to mitigate the overburden bund's uniformity.

7.53 The soft landscaping scheme should show hawthorn and gorse planting where it would be expected to regenerate naturally over a period of time. There should also be a requirement to maintain and review the landscaping with the Mineral Planning Authority to enable it to be altered if necessary.

7.54 Once the quarry closes in the future, the overburden bunds would be remodelled and material used within the final restoration of the site. A subsequent restoration scheme shall be submitted for approval.

7.55 It is considered that with the mitigation measures proposed, the proposal would not have a significant impact on the landscape and the temporary visual impact of the construction of the bund could be mitigated. It is considered that the proposal complies with the provisions of Policies MIN2, MIN4, L1 and L2 of the adopted Flintshire Unitary Development Plan.

Restoration and Aftercare

7.56 The proposal provides details of how the bund would be restored once constructed. There are limited soils on site as the depth is not likely to be more than 0.3m in depth. Those soils that do exist in the application site area would be stripped and stored to a maximum height of 3 metres, and then used to restore the landform once the overburden has been transferred.

7.57 Mitigation measures have been proposed in order to minimise the damage to the soil's structure, when soils are being handled and moved. These would be conditioned to ensure that the soil is protected and available for restoration purposes to ensure that the site can be restored to an appropriate standard. The restored landform would be subject to a five year aftercare period and a scheme would be required by condition. Once the quarry has ceased operations, the landform would be remodelled and soils would be handled in the same way to ensure that the soil's structure is protected, and the site subsequently restored. A further 5 year aftercare scheme would be imposed to ensure that the restoration and planting is successful.

7.58 The site would be restored to a mosaic of acidic/calcareous grassland which is appropriate in this location. The proposal provides an interim restoration for the duration of the quarrying operations. A restoration masterplan would be required to be submitted by condition to provide details of the proposed landform once the quarry has ceased extracting mineral and is closed. With the mitigation measures

proposed, it is considered that the proposal would accord with the provisions of Policies D3, TWH1, TWH3 and MIN4 of the adopted Flintshire Unitary Development Plan.

Common/Grazing Land

7.59 The application site is located within Halkyn Common Land which is used by the Halkyn Graziers to graze their animals. For the duration of the construction of the bund, and the subsequent restoration, this Common Land would not be available for grazing. However, this would be for a temporary period of time of a maximum of two years, and once the land restored, the land would then be available for grazing. Once the quarry closes in the future, during the period of time when the bund would be remodelled to achieve the final restoration profile, the land would be not accessible for grazing once again. However, this would also be for a temporary period during the subsequent remodelling and restoration.

7.60 Concerns have been made by the local grazing community and the Halkyn Graziers and Commoners Association have objected to the proposal due to the loss of grazing land. However, compensatory provisions would be provided during the construction and restoration of the bund. Any fencing erected would not prevent livestock from accessing the site once restored.

7.61 The land would be inaccessible for a temporary period of time during construction and restoration. Once restored the land would be available for grazing. The bund would then be accessible to grazing animals and therefore, in the long term there would be no loss in grazing land on the Common. The proposed landform has been designed such that the slope gradient would be shallower than the existing overburden landform, and therefore provide more accessibility to users of the Common Land and accessible to grazing animals.

7.62 The proposed restoration scheme has been specifically designed to retain the openness of both the site as it is currently, and the adjacent proposed over burden storage bund.

7.63 The proposed development is within a registered Common and development works or an enclosure is subject to separate legislation via the Commons Act 2006. The development should it be approved, would have to qualify for an exemption or secure agreement for it to be implemented from the Planning Inspectorate Wales.

7.64 It is considered that the proposal would not affect the character or historic value of the area and would not materially affect the appearance as the proposal is an extension of an existing established feature of the landscape. Furthermore, rights of way where possible would be diverted and once the bund has been constructed and restored, the rights of way proposed on the bund would be re-opened

so the proposal would maintain public access as much as possible. As such, it is considered that the proposal accords with the provisions of Policy L4; Common Land of the Flintshire Unitary Development Plan.

Cultural/Archaeological Heritage

7.65 The application is accompanied by an archaeological desk-based assessment of the potential impact of the proposed development on the cultural heritage of the area. Cadw have also undertaken an assessment of the proposal with regards to the potential impact on the setting of Scheduled Ancient Monuments located in close proximity to the application site. Both assessments concluded that the proposed bund would have a very slight impact on the understanding of the interaction between the group of five Bronze Age round barrow burial mounds and their setting.

7.66 One of the Scheduled Ancient Monuments is located in close proximity to the south west of the application site. The development has been designed to increase the undisturbed distance between the Scheduled Ancient Monument and the soil storage bund to 20 metres. This strip would be marked out with stakes and reflective tape to ensure that there would be no encroachment. This would be conditioned.

7.67 With regards to on site archaeology, as there remains a chance of encountering unknown archaeology within the soil stripping element of the development, it is proposed to identify, map and record as part of the soil stripping exercise to ensure that anything of archaeological value is identified and recorded, minimising any impact and ensuring preservation by record. It would be conditioned to submit a scheme of written archaeological investigation to secure preservation by record of all archaeological remains which will be impacted by the development.

7.68 The application area is situated on the western edge of the Holywell Common & Halkyn Mountain registered historic landscape immediately to the west of the existing quarry. There are already existing bunds in the area and this application would be an extension to any existing bund. As such, once grassed, it will quickly blend into the existing landscape and therefore it is considered that the proposal would have a very slight overall impact on the registered historic landscape in the context of the existing landforms.

7.69 Cadw and Clwyd-Powys Archaeological Trust have raised no objections to the proposal. Subject to conditions as detailed above it is considered that the proposal would accord with Policies MIN2, HE1, HE2, HE5, HE6, HE7 and HE8 of the adopted Flintshire Unitary Development Plan. It is considered that there would be no conflict with the Historic Environment (Wales) Act 2016.

Socio-Economic

7.70 Consideration has been given to the tests detailed within Technical Advice Note 23 with regards to Economic Development and this project. In terms of alternative locations on site to store the overburden, the site is heavily constrained by existing nature conservation designation, and there are limited options to store such a large amount of material on site. Furthermore, it would not be sustainable to remove the material off site as some of the material would be used in the site's final restoration.

7.71 The Quarry is considered to be a regionally and inter-regionally important site which employs 40 people. Should planning permission not be granted, it would sterilise a large quantity of permitted reserves and could result in a premature closing of the site which has planning permission until 2042 which would result in the loss of 40 jobs.

7.72 In terms of special merit, it is considered that the need for the mineral located underneath the overburden would outweigh any temporary loss of grazing land which would be restored following the bunds construction. Furthermore, the need for the mineral would outweigh the temporary visual impact during the construction of the bund.

8.00 <u>CONCLUSION</u>

8.01 In order to access permitted reserves within Pant y Pwll Dŵr Quarry, overburden needs to be removed. There are limited locations within the existing quarry boundary to store this material due to surrounding nature conservation designations. A location partially outside of the existing quarry boundary has been proposed which lies within Halkyn Common. Whilst there would be a temporary loss of grazing land, this would be only for the duration of construction and restoration which would be no more than two years. Furthermore, compensatory provision would be provided to the graziers and the landscaping scheme would require details of livestock fencing to ensure access to the common is maintained following the restoration of the bund.

8.02 It is considered that the need for the aggregate reserves, would outweigh the temporary loss of grazing land. Should the application be refused, it would sterilise a large quantity of permitted reserves and could result in a premature closing of the site which has planning permission until 2042 which would result in the loss of 40 jobs.

8.03 It is considered that with the mitigation measures proposed, the proposal would not have a significant impact on the landscape and the temporary visual impact of the construction of the bund could be mitigated. Operational effects of the construction of the bund would be controlled by condition in terms of noise and dust mitigation. It is considered that there would be no impact on the adjacent ancient scheduled monuments subject to soil storage in the location proposed. The proposed landscaping and restoration would ensure that there is no adverse effect on the adjacent SAC and SSSI.

8.04 In considering this application the Council has taken into account all the environmental information and matters that are material to the determination of this application, as set out in the Application, Supporting Statement, Environmental Statement, amended plans and technical appendices. The Environmental Statement has considered and assessed the impacts of the proposed extension to the quarry's existing overburden bund in terms of noise, impacts on ecology and nature conservation and adjacent designated site/protected species, soils and hydrogeology, hydrology and the water environment, flood risk, air quality and dust, landscape and visual amenity of the proposal and potential impacts on the Common Land and adjacent landscape designations, and socio-economic impacts of the proposed development and concludes that the proposal would

8.05 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. Accordingly, it is recommended that planning permission should be granted subject to conditions.

9.00 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

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