

WREXHAM COUNTY BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 97

THE WREXHAM COUNTY BOROUGH COUNCIL (MODIFICATION OF MINERAL PLANNING PERMISSION) (HAFOD QUARRY, RUABON) ORDER 2007

EXPLANATORY STATEMENT

Background

Hafod Quarry was identified by Wrexham County Borough Council (“the Council”) as a First Periodic Review Mineral Site under the Environment Act 1995, as a result of Planning Permission 6/15143 dated 25 October 1988, which permitted the extraction of clay, sand and gravel from the area shown in the plan annexed as the Fourth Schedule to the Order. A copy of this Planning Permission is annexed at the Second Schedule to the Order

In accordance with the requirements of Section 96 and Schedule 14 of the Environment Act 1995, which require all planning permissions for mineral workings to be subject to a periodic review, a submission of modern planning conditions, together with a Supporting Statement, was made by MWH Associates Ltd (MWHL) to the Council in October 2003 and considered under the reference P/2003/1220.

A portion of the application site forms part of the Stryt Las a'r Hafod Site of Special Scientific Interest (SSSI) designated in July 2001 and the Johnstown Newt Sites Special Area of Conservation (SAC) designated in December 2004 as shown in Appendix 1 to this Statement.

It was determined by the Council that the review of the minerals permission constituted a development falling within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, and therefore an environmental impact assessment of the development was required and carried out in 2004/2005. The full results of the assessment were set out within a detailed technical report, referred to as the Environmental Statement which was submitted to the Council in September 2005 in support of the application and original documents.

Impact upon the SAC

Minerals Planning Guidance 14: Review of Mineral Planning Permissions issued in 1995 and constituting current guidance in Wales states at paragraph 124 that:

“After a SAC status has been confirmed, any extant permissions for development (of any type) which have not been implemented or have not been completely implemented, must be reviewed by the local planning authority under the Conservation (Natural Habitats) Regulations 1994. Such a review will need to ascertain whether implementation of any permission, which is likely to have a significant effect on site, and is not directly connected with or necessary to its management, would adversely affect its integrity.”

The Conservation (Natural Habitats & c) Regulations 1994 (“the Habitats Regulations”) require Local Planning Authorities to review any permission which is likely to have a significant effect upon a SAC and to make an Appropriate Assessment of the implications for the site in view of the site’s conservation objectives. Regulation 50 requires that as soon as reasonably practicable the Council should review any relevant permission and should then affirm, modify or revoke it; and/or in the case of a review of minerals permission (“ ROMP”), consider imposing additional conditions.

The Welsh Assembly Government has issued a licence in respect of the protected great crested newt population at Hafod under Regulation 44 (2) (e) of the Habitats Regulations allowing activities that would interfere with the protected species for reasons of “preserving public health or public safety or overriding public interest including those of a social or economic nature” In their licence application MWHL identified two receptor sites for newts disturbed by the activities. The second of these sites is located on land subject to the existing mineral extraction permission. As part of the overall amphibian mitigation scheme, MWHL have undertaken habitat enhancement works within both receptor sites. They have also confirmed their intention to manage these sites for long term nature conservation management purposes.

To extract minerals from the SSSI/SAC area would require a further licence to relocate the newts. The Countryside Council for Wales has expressed the view to the Council that no justification of mineral extraction could satisfy the requirements of Regulation 44 (2), that the integrity of the SAC must not be adversely affected. This means that a licence could not lawfully be issued.

As required by the Habitats Regulations, the Council undertook a review of the mineral permission. The conclusion of the resultant “Appropriate Assessment” was that the existing consent/ROMP (as submitted) would affect site integrity and conservation status of that part of the SAC within the application site. It proposed that measures to exclude this area from mineral extraction should be undertaken to ensure that there is no adverse impact upon the SAC and to establish an appropriate programme of conservation management action.

On the 4th September Wrexham County Borough Council approved P/2003/1220 with conditions (annexed in full as the Third Schedule to the Order), which included the following:

4. *Notwithstanding the submitted information, further details shall be submitted to the Minerals Planning Authority for approval within six months of the date of this permission demonstrating that:*
 - i) *no mineral extraction shall take place within any area notified as a SSSI/SAC;*
 - ii) *no mineral extraction or other works shall take place in any adjacent area which may affect the integrity the SSSI/SAC’s ecological feature.*
5. *A long term nature conservation management scheme shall be submitted to the Minerals Planning Authority for approval within 6 months of the date this permission. The scheme shall be in respect of:*
 - i) *land designated as SSSI/SAC; and*
 - ii) *land that functions or is proposed to function as wildlife corridors during mineral extraction operations.*

The nature conservation management scheme shall be implemented as approved.

6. *A revised phasing scheme for mineral extraction shall be submitted to the Minerals Planning Authority for approval within six months of the date of this permission. Mineral extraction shall be only carried out in accordance with the approved phasing scheme.*

Purpose of the Modification Order

Although conditions 4, 5 and 6 attached to the Review of Mineral Permission (ROMP) ensure that no mineral extraction will take place within the SAC and that the nature conservation interests are protected, an area of the SAC remains within the site area of an extant and partly implemented mineral planning consent.

It is the purpose of the Order (and the associated Wrexham County Borough Council (modification of Landfill Planning Permission) (Hafod Quarry, Ruabon) Order 2007) to take the area of the SAC out of the site area of the extant mineral planning consent and modify the conditions accordingly, in order to comply with the Council's obligations under the Habitats Regulations and the Council Directive on Habitats (92/43/EEC).

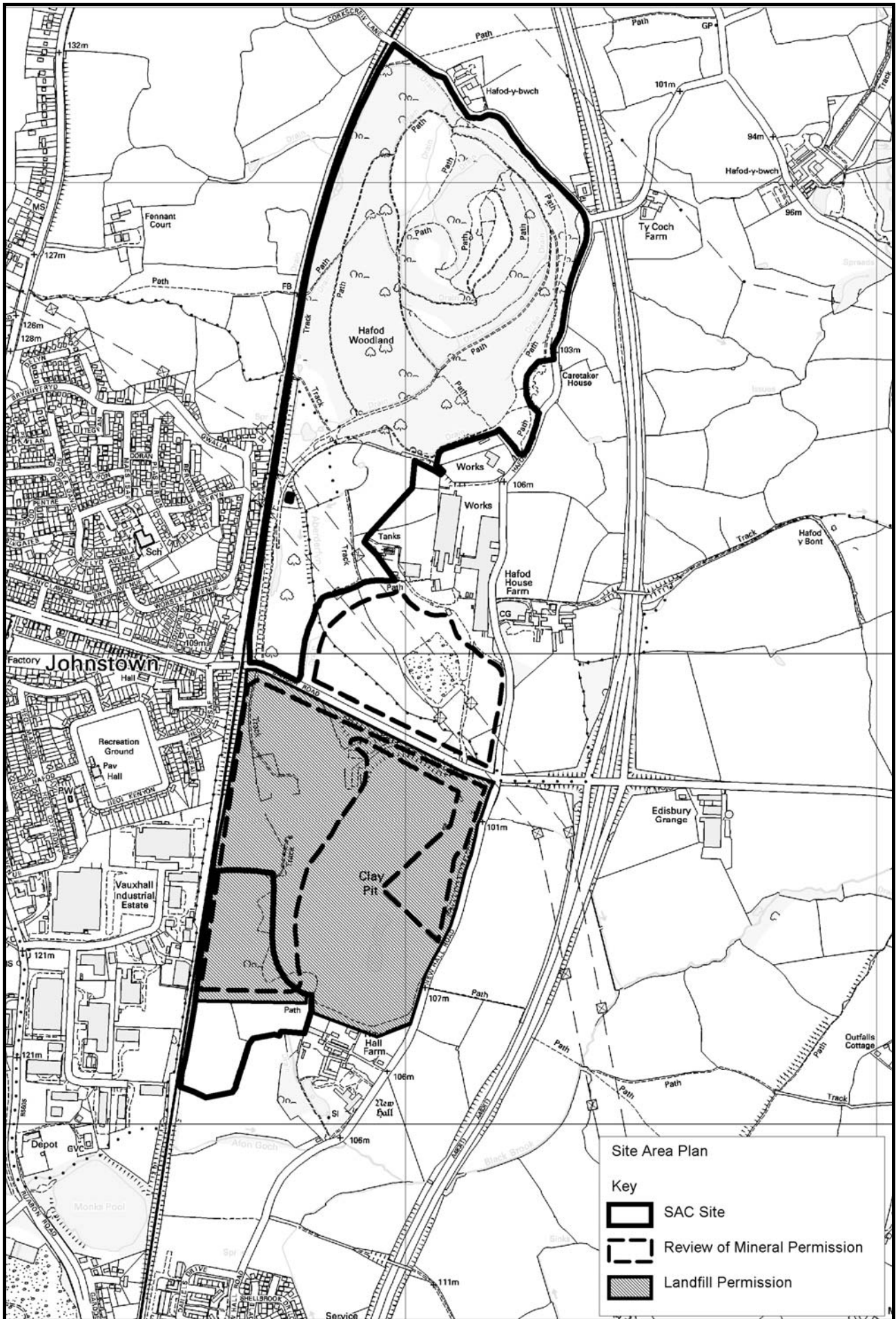
A copy of the ROMP as modified is annexed to this statement.

Documents

In the event that there are objections to the confirmation of the Order the Council may refer to the following documents during any hearing that may be held in connection with such objections:

1. Determination of conditions for mineral site (ROMP) and approved drawings P/2003/1220.
2. Report the Planning Committee of the Wrexham County Borough Council 4th September 2004 number CPLO/44/06. Subject; Hafod Quarry.
3. Wrexham County Borough Council Planning Committee Meeting of 4 September 2006. Addendum. Report of the Chief Planning Officer. Item 4 – Hafod Quarry.
4. Minutes of Meeting of the Wrexham county Borough Council Planning Committee held on 4th September 2006. Item 2(i).
5. Designation of the Stryt Las a'r Hafod Site of Special Scientific Interest.
6. Johnstown Newt Site Special Area of Conservation Map 1/1.
7. Informal "Screening Opinion" dated 15th February 2005.
8. Mineral Planning Guidance 14: review of Mineral Planning Permissions: 1995

Appendix 1



ANNEXE

Review of Minerals Permission

Copy of Conditions as Modified (subject to confirmation)

WREXHAM COUNTY BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 97

THE WREXHAM COUNTY BOROUGH COUNCIL (MODIFICATION OF MINERAL PLANNING PERMISSION) (HAFOD QUARRY, RUABON) ORDER 2007

P/2003/1220

Conditions

- 1A. In these conditions:-
“Site” means the area shown edged red on Drawing Number WCBC/Hafod/01.
“SSSI/SAC” means the Stryt Las a’r Hafod Site of Special Scientific Interest and the Johnstown Newt Sites Special Area of Conservation
1. The development hereby permitted shall be limited to a period expiring on 31st December 2048, except for any outstanding restoration and aftercare works, unless otherwise approved in writing by the Mineral Planning Authority. Within a twelve month period following this date, or within a twelve month period following the completion of mineral extraction at the Site, whichever is the sooner, all buildings, plant, machinery and other structures shall be removed and final restoration works shall be completed, allowing aftercare to commence.
 2. The development hereby permitted is for the winning, working, processing, treatment, transport and sale of clay, sand and gravel and associated products, together with ancillary operations, subject to the requirements of conditions attached to this permission.
 3. All quarrying and associated operations within the Site shall be carried out in accordance with the details submitted within the Supporting Statement (October 2003) as updated and amended by the Hafod Quarry Environmental Statement and Non-Technical Summary (September 2005 Report No 2425/5/01) unless otherwise approved in writing by the Mineral Planning Authority.
 4. Condition 4 no longer used.
 5. A long term nature conservation management scheme shall be submitted to the Minerals Planning Authority for approval within six months of the date of the confirmation of the Wrexham County Borough Council (Modification of Mineral Planning Permission) (Hafod Quarry, Ruabon) Order 2007 by the National Assembly for Wales. The scheme shall be in respect of:

- i) the areas of SSSI/SAC in the control of the applicant, and
- ii) areas within the Site that function as or are proposed to function as wildlife corridors during mineral extraction operations

and the scheme shall be implemented as approved.

6. A revised phasing scheme for mineral extraction shall be submitted to the Minerals Planning Authority for approval within six months of the date of the confirmation of the Wrexham County Borough Council (Modification of Mineral Planning Permission) (Hafod Quarry, Ruabon) Order 2007 by the National Assembly for Wales. The scheme shall demonstrate that the operations and works carried out in accordance with the revised phasing will not affect the protected ecological features of the SSSI/SAC. Mineral extraction shall only be carried out in accordance with the revised phasing scheme so approved.
7. The mitigation measures, surveys and monitoring identified within Section 7 of the Ecological Impact Assessment (September 2005 Report No 2425/5/01) shall be undertaken throughout the operational development of the Site and subsequent restoration and aftercare.
8. No extraction of clay or sand and gravel shall take place in Area F (as shown on Drg. No. W26/103) until a detailed scheme of working and restoration has been submitted to and approved in writing by the Mineral Planning Authority.
9. Unless otherwise approved in writing by the Mineral Planning Authority, the stockpile within Phase F shall not exceed a height of seven metres above existing ground levels.
10. Mineral working shall not exceed a depth of 65m AOD, unless otherwise approved in writing by the Mineral Planning Authority.
11. A copy of these conditions, including all documents hereby approved, and other documents approved in accordance with this permission, shall always be available at the Site Office for inspection by the Minerals Planning Authority during normal working hours.
12. In the event that mineral extraction has ceased for a continuous period of two years, an alternative scheme and programme of implementation for the interim restoration and aftercare of the Site shall be submitted for the written approval of the Mineral Planning Authority. This scheme shall be submitted within twelve months of the end of the two year period, and implemented within twelve months of the date of approval allowing restoration and aftercare to commence.
13. Written notification of dates of commencement of development, dates of commencement in each successive phase, dates of completion of restoration in each phase and of commencement and completion of aftercare for each restoration phase, and date of cessation or of completion of minerals operations, and completion of the development hereby permitted shall be made to the Minerals Planning Authority in relation to the following:
 - i) soil stripping on each occasion;
 - ii) soil respreading on each occasion; and
 - iii) restoration in each restoration phase.

Notification shall be within 7 days except in the case of soil stripping and respreading whereby prior notification shall be 24 hours.

14. Notwithstanding the information provided with the application, within six months of the date of this permission, an overall Site restoration concept plan shall be submitted for the approval of the Minerals Planning Authority. This restoration concept plan shall also include details in relation to the expected after-use of the Site.

15. A detailed restoration scheme for each restoration phase shall be submitted to and approved in writing by the Minerals Planning Authority before commencement of mineral extraction within each phase. The scheme shall include:

- i) details of the final landforms;
- ii) details of the final water bodies;
- iii) details of the surface water and groundwater control systems to be installed and used;
- iv) areas where soils are to be stored and replaced;
- v) depths of replaced soils;
- vi) methods and machinery to be used in soil handling operations;
- vii) details of temporary and final tree and shrub planting and the creation of any other habitats; and
- viii) a programme for the work.

The detailed restoration scheme as approved, or subsequently amended, shall be implemented in respect of any area of land within the Site that is ready to be restored during the forthcoming twelve months.

16. An outline aftercare scheme for the Site shall be submitted for the written approval of the Minerals Planning Authority within twelve months of the date of this permission or any other date as agreed in writing by the Minerals Planning Authority. The outline aftercare scheme shall relate to the phased restoration scheme submitted with the Application, or any subsequently amended restoration scheme and the after-care period in respect of each phase shall commence upon the date of completion of restoration of that phase and shall continue for a period of 5 years thereafter. The aftercare scheme, where appropriate, shall include details in respect of:

- i) cropping patterns;
- ii) cultivation procedures;
- iii) remedial treatments;
- iv) field drainage;
- v) fertilisation;
- vi) weed control;
- vii) irrigation;
- viii) tree/shrub planting;
- ix) ponds and wetland areas; and
- x) wildflower meadows.

The aftercare scheme shall be implemented in accordance with the approval.

17. Following receipt of the approval in writing of the outline phased aftercare scheme required under Condition no 16 above, a detailed annual aftercare programme shall be submitted in writing to the Minerals Planning Authority by the last day in March of each calendar year. The detailed annual aftercare programme shall relate to any land within the Site that is ready to be subject to aftercare during the forthcoming twelve months. The aftercare programme shall include, where appropriate, details in respect of:

- i) a record of aftercare operations carried out on the land during the preceding twelve months;
- ii) the nature, timing and depths of soil cultivators, and stone picking operations;
- iii) proposed fertiliser and lime application rates, based upon the results of soil nutrient analyses;
- iv) herbicide and fungicide application rates and areas of land to which they are applied;
- v) timing, working depths, tine spacings, and equipment to be used in moling and subsoiling operations;
- vi) timing of the installation of underdrainage, including plans and location of pipes, details of installation methods, drain spacings, drain depths, pipe size and gradients, nature and depth of permeable fill, outfalls and post installation remedial works;
- vii) irrigation proposals;
- viii) ground preparation, tree/shrub species, establishment methods, planting density, timing of planting;
- ix) the retention of existing vegetation;
- x) the areas to be planted with trees/shrubs;
- xi) the species, heights, planting distances, means of protection from rabbits and livestock, means of fertilisation, of trees/shrubs to be planted;
- xii) maintenance of tree/shrubs by beating up, weeding, fertilisation, cutting back/pruning;
- xiii) the areas that are to be sown with grass/wildflower mixes and the species mixes, provenance, sowing rate, purity, germination rate, of grass/wildflower seeds to be sown;
- xiv) timing and frequency of cutting and grass removal;
- xv) the age and numbers of livestock to graze the land, and the grazing period.

Any trees or shrubs removed, dying, being severely damaged, or becoming seriously diseased within five years of planting following completion of each twelve month period shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.

18. A detailed Management Plan for each phase of restoration shall be submitted to and approved in writing by the Minerals Planning Authority before commencement of restoration works within each phase. The detailed Management Plan shall take account of any ecological surveys and monitoring that has been carried out within each phase and of any aftercare schemes that have been approved for each phase. The detailed Management Plan will set out how the objectives of the restoration scheme will be achieved and address the practical aspects of the creation and aftercare of new habitats and the protection of species present on the Site.

The detailed Management Plan as approved or with any subsequent amendments shall be implemented in respect of all land within each phase.

Annual review meetings will take place with the Minerals Planning Authority to enable management carried out to date to be reviewed and to allow for changes to be made to future management proposals where appropriate.

19. The existing trees and hedgerows within the Site that are outside of the approved areas of mineral extraction shall be retained and shall not be felled, lopped or removed in areas outside of the current or succeeding phases of mineral working without the written consent of the Minerals Planning Authority. Any such

vegetation removed without consent, dying, being severely damaged or becoming seriously diseased shall be replaced with species as may be specified by the Minerals Planning Authority, in the planting season immediately following any such occurrences.

20. Prior to the commencement of operations within each phase of mineral extraction, details of measures to be taken for the protection of trees and hedgerows; and habitats on the edge of the extraction area, from damage in accordance with precise details which shall be submitted to and approved by the Minerals Planning Authority. The means of protection shall include:
- i) measures to prevent disturbance to soil levels within the root spread of the tree or hedgerow;
 - ii) fencing erected at a distance of 1m from the canopy spread of all trees; and
 - iii) fencing along working boundaries to prevent damage to adjacent habitats.

The means of protection shall be retained until operations have ceased within each successive phase, restoration operations have been completed and all plant equipment and surplus materials have been removed from that phase. Nothing shall be stored or placed in any area protected and the ground areas within these areas shall not be altered without the prior approval in writing by the Minerals Planning Authority.

21. All soil handling within the Site will accord with MAFF's Good Practice Guidance for Handling Soils: Sheets 1 – 4 or such other government guidance in respect of soil handling as may be in effect at the relevant times.
22. Within each phase of the mineral working all soils and soil making materials and overburden shall only be stripped, handled, stored and replaced in accordance with a scheme which shall have been approved in writing by the Minerals Planning Authority before the commencement of any soil stripping in that phase.
23. All topsoil and subsoil shall be stripped in accordance with the phasing of mineral extraction and stored separately from all areas to be excavated or to be used for internal haul road. All soils and overburden shall be stripped and stockpiled separately. All stripping, movement and respreading of soils shall take place when soils are dry and friable and the ground is dry enough to allow the passage of plant and machinery without damage to the soils. All soils and overburden shall be retained for the restoration.
24. All disturbed areas of the Site and all topsoil, soil making material and overburden mounds shall be kept free from agricultural weeds (such as thistle, dock, Japanese Knotweed and ragwort), in accordance with a scheme of weed control which shall be submitted to and approved by the Minerals Planning Authority within six months of the date of this permission
25. An archaeological watching brief shall be undertaken to identify and record any previously unknown archaeological remains, which may be revealed during the removal of topsoil and subsoil within areas of land where insitu soils are still present and the overburden is unlikely to have been disturbed. The results of any archaeological findings arising during the watching brief shall be submitted to the Minerals Planning Authority within three months of the completion of the soils removal within each phase of the Site.

26. Unless otherwise approved in writing by the Mineral Planning Authority and in the case of emergency and for essential pumping and for the maintenance and repair of plant and machinery, no operations shall be carried out within the Site except as follows:

- i) Operations connected with the extraction of clay shall only be carried out between the hours of 0800-1630 Monday and Tuesday; 0800-1600 Wednesday, Thursday and Friday and 0800-1200 Saturday;
- ii) Operations connected with the extraction of sand and gravel or the stripping of soils or overburden shall only be carried out between the hours of 0700-1800 Monday to Friday and 0700-1300 Saturday.

There shall be no working on any Sunday or statutory Bank Holiday.

27. Except with the prior written agreement of the Minerals Planning Authority, noise emissions from operations carried out at the Site (excluding soil stripping and replacement, baffle mound construction, removal of spoil heaps and other similar operations) shall not exceed the levels as stated in Table 1 below. All measurements shall be in $dBL_{Aeq} (1 \text{ hour})$ at the specified monitoring location, when measured at a height of 1.5 metres above the ground and in free-field conditions.

Table 1: Noise limits at specified monitoring locations

Noise sensitive receptor	Bund Formation 1 hr L_{Aeq} dB	General Earthworks 1 hr L_{Aeq} dB	Mineral Extraction Operations 1 hr L_{Aeq} dB
Location 1 New Hall Farm	58	61	52
Location 2 Hafod House	43	48	55
Location 3 Y Gesail	66	56	52
Location 4 Heol Orsaf	66	56	52

Locations 1 – 4 as defined in Hafod Quarry Environmental Statement Report Number 2425/5/001 Figure 9.1 Noise Monitoring Location Points

28. Noise mitigation measures as detailed in Hafod Quarry Environmental Statement Report Number 2425/5/001, section 9 shall be implemented in full and maintained for the life of the Site thereafter.

29. Except with the prior written agreement of the Minerals Planning Authority, noise emissions from the short term operations carried out at the Site (such as soil stripping and replacement, baffle mound construction, removal of spoil heaps and other similar operations) shall not exceed 70 $dBL_{Aeq} (1 \text{ hour})$ at the specified Monitoring Locations, when measured at a height of 1.5 metres above the ground in free field conditions. This level shall not be attained for a period greater than eight weeks in any one year at any one of the specified locations and the Minerals Planning Authority shall be notified beforehand in writing before any such operations commence.

30. During the carrying out of the proposed works, and at intervals agreed with the Minerals Planning Authority, compliance monitoring shall be carried out to determine compliance with the noise limits as detailed above. Where any of the locations, 1 to 4 detailed above in Condition no 27, show an exceedance of the related noise level, then additional noise mitigation measures shall be put in

place with the prior agreement of the Minerals Planning Authority. The Minerals Planning Authority shall be advised 14 days in advance of any compliance monitoring that is to be carried out.

31. Details of the operational noise level of any new item of mobile plant and types of audible reversing warning device or a SMART audible reversing warning device (a device that automatically adjusts its noise emission levels in accordance with background levels) shall be submitted for the written approval of the Minerals Planning Authority. Following receipt of the approval in writing of the Minerals Planning Authority, the audible reversing device shall be operated in accordance with the approved details throughout the period of the development, unless otherwise agreed in writing with the Minerals Planning Authority.
32. No blasting shall be carried out at the Site as a result of this permission.
33. The Site shall be operated in accordance with the guidance provided in the Best Practice Guide appended to 'The Environmental Effects of Dust from the Surface Mineral Workings' and 'PG3/8(96) Secretary of state's Guidance – Quarry Processes'.
34. Air quality mitigation measures as detailed in Hafod Quarry Environmental Statement Report Number 2425/5/001, Section 8.0 shall be implemented in full and maintained for the life of the Site thereafter.
35. Within six months of the date of this permission, a Dust Management Plan, setting out practical measures for the control and monitoring of airborne dust emissions from the Site, shall be submitted to and approved in writing by the Minerals Planning Authority. The plan shall include provision for:
 - i) management of stockpiled materials;
 - ii) speed restriction on internal roads;
 - iii) the physical means of watering the Site, and when it will be used in order to suppress dust; and
 - iv) the cessation or curtailment of operations which generate airborne dust in any area within 100 metres of the western or southern boundaries of the Site when dust is visibly escaping from the Site across either of the said boundaries, until the dust is no longer visibly escaping from the Site.The Dust Management Plan shall be carried out as agreed throughout the period of mineral operations on the Site.
36. Access to and from the Site for haulage vehicles involved with the transportation of minerals extracted from the Site shall only be gained via the existing access point as identified on Drg. No. W26/103.
37. A wheel cleaning facility shall be provided and maintained to prevent mud and any other detritus being deposited on the public highway, and such a facility shall be used by all haulage vehicles leaving the Site. Vehicles shall only leave the Site when their wheels and chassis are clean.
38. No loaded lorries removing sand and gravel shall leave the Site unless their loads have been trimmed and sheeted so as to prevent spillage.
39. Within six months of the date of this permission a maintenance scheme for all internal haul roads shall be submitted to and approved by the Minerals Planning

Authority. The approved scheme shall be carried out throughout the period of development.

40. A notice shall be erected and maintained within the Site entrance to the southern quarry at a point visible to all drivers of haulage vehicles, instructing them to turn right on to Bangor Road on leaving the Site.
41. No lighting fitment shall be installed on the Site in such a way that the source of light is directly visible from nearby residential properties. Any lighting associated with mobile plant shall be operated so as to minimise glare and annoyance to local residents.
42. Surface water shall not be discharged from the Site onto adjoining land without the permission of the Minerals Planning Authority.
43. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
44. Notwithstanding the information submitted with the application, within six months of this permission, further details regarding the management of surface and groundwater shall be provided. Such details shall take into account the in-combination effect and requirements for other consents or variations to the PPC Permit so as to comply with all other legislation.