

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
15/0781/ROMPSP 15.12.2015	Mr C Payne 24 Central Avenue Cefn Fforest Blackwood NP12 3LE	First periodic review of planning conditions (Environment Act 1995) The Senghenydd Minerals Site Graig-yr-hufen Road Senghenydd Caerphilly CF83 4BW

**APPLICATION TYPE:** Periodic Review Mineral Planning Consent

### SITE AND DEVELOPMENT

Location: The site is located to the north of the village of Senghenydd and comprises old colliery spoil tips on the hillside between the minor road from Senghenydd to Graig Yr Hufen farm on the east and the Nant Cae'r Moel on the west.

Site description: The site is in an elevated and exposed position on a hillside overlooking the village of Senghenydd. It forms part of the former tipping ground of the old Universal Colliery, which closed circa 1928, when it became a ventilation facility for the Windsor Colliery, Abertridwr to which it was linked underground. Tipping of colliery spoil from Universal Colliery, Windsor Colliery and other mines was carried out during the late 19th century and early 20th century. The tips have not been restored but have regenerated naturally over the years.

Access to the site is from an unclassified road with steep gradients and restricted width on the north-eastern boundary of the tips.

Development: The applicant proposes development comprising extraction of minerals, including burned colliery discard and unburned small coal from the tips; processing that material through screening, "granulating" and "plain water density separation" of materials; the importation and processing of builders' waste, including brick, stone and concrete; and blending of the products and export of products. Working faces would be restricted to four metres.

The application states that approximately one million tonnes of material would be removed from the tips in total and annual sales would amount to 40,000 to 45,000 tonnes of recycled and secondary aggregate, clay and coal. Markets for the products would include the construction industry and the solid fuel market.

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## Application 15/0781/ROMPSP Continued

After mineral extraction and processing the site would be restored to agriculture, amenity / nature conservation and possible employment use. However, it should be noted that employment use would require a separate application for planning permission.

As well as the plant and machinery on the site, buildings are proposed for offices, stores and workshops. These would consist of ten steel containers measuring approximately 12.2 metres by 2.4 metres. These would be located near the entrance to the site.

The applicant estimates that an average of eight loaded 20 tonne vehicles would leave the site each day. The maximum number of vehicles would be 16. In addition an average of five or a maximum of ten small goods vehicles would leave the site. HGV movements would take place between 07.30 and 08.30 and between 09.30 and 15.30. An emergency access is proposed 150m to the north of the existing access. This is outside the area of the 1955 consent.

Hours of operation for mineral extraction, mineral processing and vehicle movements are proposed to be 07.30 to 16.30 Monday to Friday. The applicant states that there will be minimal noise at the site boundaries, no dust will be produced that will leave the site and there will be no water pollution. Gabion walling is proposed to protect the Nant Cae'r Moel, although no details have been supplied.

A maximum of 5,000 litres of fuel and oil will be stored on the site in secure steel tanks.

The applicant states that following completion of the development the land will have been cleared of colliery discard and the original surface of the land will be exposed. The site will be returned to beneficial use at no cost to the public purse. Employment would be provided for ten local people for the duration of the development.

Dimensions: The site area of the site applied for is 7.96 hectares. This consists of the area of the 1955 permission referred to below together with additional land surrounding it. The 1955 permission was restricted to an area that was smaller than originally applied for and related to an area adjacent to the Nant Cae'r Moel where there were depressions to be filled in.

Ancillary development, e.g. parking: As described above.

## PLANNING HISTORY

E5907/ 1722 Caerphilly UDC - Disposal of colliery rubbish - Approved subject to conditions 30. 03.55.

P/00/1168 - Initial review of planning conditions under the Environment Act 1995 - Deemed permission 15 03 01.

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08/0785/NCC - Remove colliery rubbish and mineral waste and reclaim for beneficial use - Refused 19.08.08 - Dismissed on Appeal 27.08.10.

12/0190/CLPU - Obtain a Certificate of Lawful Proposed Use to allow materials including colliery rubbish, brick, stone, concrete and builders rubble to be disposed of on the site and for any of the materials on the site to be processed by machinery or otherwise within the confines of the site and exported from the site after processing - Refused 15.05.12 - Dismissed on Appeal - 13.09.12.

14/0718 - Remove Condition 5 of consent ref P/00/1168 - Application returned.

### Site History

Permission was granted in 1955 for "Disposal of colliery rubbish". The applicant was the NCB and permission was granted subject to only one condition, which stated:

"Permission be granted for the area covered by sections A-A and E-E, but not for the area covered by sections B-B, C-C and D-D.

REASON: The proposed tipping on the areas covered by sections B-B, C-C and D-D will seriously affect the amenities of the locality".

Since the site had not been finally restored in 1996, the permission was included as a dormant site on the first list of permissions for the purposes of the mineral review. An application was received for initial review of the conditions on 15 December 2000. However, the application appeared to relate to development that was not within the terms of the 1955 permission and to a site that was considerably larger than the 1955 consent. For those reasons it was decided that it was not a valid application.

However, after the three month period for determination allowed by the 1995 Act had expired, the applicant claimed that the conditions contained within the application were deemed to be approved under the provisions of the Act. This was contested by the Council but was later confirmed by the decisions of the Royal Court of Justice on 4 April 2002, the Court of Appeal dated 16 January 2003, The High Court dated 8 April 2003 and the Court of Appeal on 10 September 2003. However, the courts also confirmed that the limitation on the grant of permission in 1955 as set out in the condition remained in force and was not superseded by the conditions deemed to be approved in 2000. It has been established, therefore, that the 1955 permission has effect over a small area, known as the "white land" and not over the wider area of the tips.

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## Application 15/0781/ROMPSP Continued

In 2012, an application for a certificate of lawfulness was made claiming that the effect of the Courts' decisions was that the activities were allowed to take place over the wider site. The 1955 application had identified a larger area but the sole condition restricted the tipping to a small area at the centre of the site for amenity reasons. The application was refused and an appeal against the decision was dismissed, the inspector noting that the Courts had ruled that the 1955 permission was granted only for the specific area defined in the condition and that remained the case.

He also noted that in 2004 the Council had issued an enforcement notice alleging operations outside that small permitted area and subsequent appeals against the notice were dismissed. The inspector referred to the Court judgements and reached conclusions on the definition of the site boundaries applicable to the 1955 permission.

An injunction was granted in 2005 which prevents the applicant from using the land other than the permitted area (the white land) for the deposit of waste, and the removal, sorting and recycling of material.

## POLICY

### LOCAL DEVELOPMENT PLAN

Site Allocation: Apart from the southernmost tip, the site is outside settlement limits. Part of the site is a Site of Importance for Nature Conservation (SINC) (NH3.161). The site is within a Special Landscape Area (SLA) (NH1.3).

Policies: The following policies in the adopted Caerphilly County Borough Council Local Development Plan up to 2021 are relevant to the determination of this application: SP9 waste management, SP5 Settlement boundaries, CW2 Amenity, CW3 Highways, CW4 Natural heritage protection, CW5 Protection of the water environment, CW15 General locational constraints.

NATIONAL POLICY Planning Policy Wales ED8 Jan 2016. The following national guidance documents are also relevant MPG14: The Review of Old Mining Permissions, TAN 21: Waste 2014, MTAN: Aggregates 2001.

### ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes.

Was an EIA required? No.

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Application 15/0781/ROMPSP Continued

### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Yes, the site is within an area where there are mining legacy issues. The Coal Authority has offered advice in this respect.

### CONSULTATION

Wales & West Utilities - has no apparatus in the area of the site. Privately owned pipes may be present and safe digging practices must be used to establish their position before mechanical plant is used.

Transportation Engineering Manager - No objection is raised based on the existing use of the site subject to the following condition:

“The number and capacity of vehicles entering and leaving the site daily shall not exceed the number stipulated in A1.18 of the supporting evidence provided dated 13 January 2016.

REASON: In the interests of highway safety”.

Aber Valley Community Council - Requests that the conditions imposed are no less than the current conditions and that determination is made within the regulatory timescale.

Natural Resources Wales - Advice is provided in relation to drainage and potential risk to the water environment from operations within the site.

The Coal Authority - The site is within the coalfield, has been subject to past coal mining activity and is located within an areas of surface coal resource. The following issues should be considered and the need for mitigation considered:

- location and stability of abandoned mine entries
- extent and stability of shallow mine workings present on the site
- the potential for unrecorded mine workings
- the potential for hydrogeology, minewater and mine gas
- the potential for prior/co extraction of surface coal resource where practical and viable

Coal Authority Permission is required to intersect, enter or disturb any coal or coal workings.

Rights Of Way Officer - Footpath 30 (community of Caerphilly) crosses the site and must be protected at all times.

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Application 15/0781/ROMPSP Continued

### ADVERTISEMENT

Extent of advertisement: The application has been advertised on site and by means of letters to seven neighbouring properties.

Response: No response has been received.

Summary of observations: Not applicable.

### SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?  
The proposed development is unlikely to have a significant effect on crime and disorder in the local area.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

### COMMUNITY INFRASTRUCTURE LEVY

Is this development Community Infrastructure Levy liable? No. No permanent built development is proposed.

### ANALYSIS

Policies: Decisions on planning applications must have regard to the provisions of the development plan unless there are material planning considerations that indicate otherwise. Such considerations may include current circumstances, policies in an emerging development plan and policies of the Welsh government and the UK government.

The proposed development has been considered in the context of the policies in the development plan, including national policy and the adopted Local Development Plan. The main considerations in the determination of this application are discussed below.

Locational constraints.

The majority of the site is outside settlement boundaries where LDP policy CW15 allows development for the winning and working of minerals or waste management facilities that cannot be located elsewhere. The removal of colliery spoil needs to take place where suitable waste is found but the recycling and processing activities could be undertaken elsewhere, including on an industrial land, which is the Council's preferred location for such activities.

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## Application 15/0781/ROMPSP Continued

However, the principle of the deposit of colliery spoil has been established by the 1955 permission. The status of the recycling and processing activities and the removal of colliery spoil is less clear and is discussed below.

### Waste policy

National waste policy set out in MPPW and TAN 21: Waste encourages the minimisation of waste and the use of unavoidable waste as a resource. The application proposes the recycling of waste within the tips and of imported construction waste to form recycled aggregate products. It also proposes the recovery of mineral from the tips for use as a fuel. These activities could reduce demand for primary aggregates and for coal from new sites, although the permitted site area is relatively small and the effect would be limited. Nevertheless the development is considered to be consistent with advice in TAN:21, and in MTAN 1: Aggregates, which envisages that increased demand for aggregate will be met through recycled and secondary sources, rather than from primary sources. The operations carried out at the site provide capacity to help meet those aims.

### Minerals policy

PPW (2016) states that proposals for colliery spoil disposal should be environmentally acceptable or able to be made so by the imposition of conditions and should cause no lasting environmental damage. If this cannot be achieved, the development should provide community benefits which clearly outweigh the likely adverse impacts to justify the grant of permission. Land should be restored to a high standard capable of beneficial afteruse.

PPW (2016) states that development plans, which in turn will inform decisions on planning applications, should promote the recycling of construction and demolition wastes as well as industrial and mineral wastes.

In relation to colliery spoil MTAN2: Coal advises:

"Potential options for spoil include use as aggregate, in engineering and construction, stowing underground, the backfilling of voids such as quarries as well as surface tips. Full account should be taken of the environmental consequences and the need for any environmental permits before a particular option is selected. Surface tipping gives rise to spoil heaps that may exceed 100 hectares and rise to over 50 metres above ground level. Whilst visual intrusion is the most obvious impact, noise, dust and water contamination can occur, as well as the loss of the underlying habitat. The stability of coal tips is a particular issue".

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## Application 15/0781/ROMPSP Continued

These issues are considered below.

### Development type

The applicant's submitted conditions set out the proposed development as follows:

"The working programme will be split into two distinct operations, being (a) the treatment and disposal of the colliery rubbish, etc. presently on the land identified in section 1.3 and (b) the treatment and disposal of materials imported onto the 1ha area identified for that purpose on the working drawing accompanying this application.

(a) the colliery rubbish on the land identified in Section 1.3 will be treated and processed using either (i) the dry screening of "burned material" into sizes suitable for export as "secondary aggregate" or (ii) the separation of unburned material using a plain water washing barrel to separate the unburned material into its constituent fractions for inclusion with (b) or exported directly.

(b) the imported materials will be granulated and screened to form "secondary aggregate" and will, where required, be blended with a quantity of "burned materials" and suitable material produced by process (a) to produce material suitable for use in the construction and concrete product industries and then exported from the site".

The application states that the proposals do not include the major surface disposal of mine wastes. What is proposed is, therefore, substantially different to the "Disposal of colliery rubbish" that was approved in 1955.

It is however, consistent with the conditions which were deemed to have taken effect in 2000, which introduced the disposal of brick, stone, concrete and builders rubble as well as colliery waste (condition 2), processing of any material on the site and export of processed material from the site (condition 3).

Schedule 14 paragraph 6(5) states that where the local planning authority receives an application for periodic review it shall determine the conditions to which each mineral permission relating to the site is to be subject. The conditions may include any conditions which may be imposed on a grant of planning permission for minerals development and may be in addition to or in substitution for any existing conditions to which the permission in question is subject. There are existing and proposed conditions relating to disposal other than colliery waste.

### Site area

The site area that has been applied for is significantly larger than was permitted in 1955. In addition, the area proposed for the location of workshops, offices and stores Area A on the application plan, the majority of the area identified for processing (area B) and the majority of the stocking area (area D) are outside the area permitted by the 1955 permission. Area C - the proposed imported material stocking area is mainly within the white land but parts of it are outside.

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## Application 15/0781/ROMPSP Continued

The purpose of the review is to review conditions over an existing "mining site" which in this case is the 1955 permission. A fresh application is required to extend the site boundary so that any additional impacts can be fully considered. Therefore, any conditions can only relate to the white land, which has been held to be a reasonable interpretation of the spatial extent of the 1955 permission in the courts and at appeal on several occasions. A condition should be imposed defining the extent of the permission with reference to a plan showing the white land for the avoidance of any doubt as to the extent of the permission. The condition should also refer to the condition attached to the 1955 permission.

### Amenity

There is residential development located to the east of the site. There are four houses within approximately 275 metres of the white land. Cenydd Street, Graig Terrace, Phillips Terrace and Woodland Terrace lie approximately 340 metres from the white land at the nearest point. The access to the site is closer at approximately 162 metres and 200 metres respectively.

It is considered that conditions should be included to address the potential noise and dust impacts of the development in order to protect residential amenity. Hours of operation should also be regulated. Such conditions are included in Annex B attached to this report.

### Landscape and visual impact.

The site is within a special landscape area where development proposals should conserve and where possible enhance the special features of the SLA (policy CW4). The proposed operations will have a temporary adverse impact on the amenity of the site until 2042. However, the effect would be localised as the 1955 permission site is not readily visible from public viewpoints.

Restoration and aftercare conditions are proposed to ensure that the site is restored at the end of the duration of the permission. The requirement in condition 18 for an interim restoration scheme will allow the consideration of opportunities for early landscape mitigation measures, particularly at the entrance to the site which is within the applicant's ownership but outside the white land.

### Highways and transportation

The application states that the development will give rise to a maximum of 16 HGV trips a day together with an additional 10 smaller vehicle movements. Traffic entering and leaving the site has to negotiate a short stretch of the steep, narrow unclassified road to the east, before travelling south through the built up area of Senghenydd to the strategic highway network.

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## Application 15/0781/ROMPSP Continued

This route is not ideal for HGVs and when tipping was carried out under the 1955 permission, it was transported a much shorter distance from the colliery which was located to the south of the tips on the former saw mills site. Conveyors may well have been used which would have avoided the need to transport material by road.

However, there is a valid consent for the site, and the operator has the right to use the public highway to transport materials. Restricting the quantity of waste handled at the site or the number of vehicle movements may have the effect of reducing the economic viability of the operation.

Neither the existing access point nor the proposed new access point is within the permitted area, although they are within land in the control of the applicant. The new conditions cannot authorise the proposed new access as it was not part of the 1955 development.

The Council's Transportation Engineering Manager has raised no objection based on the current use of the site and providing the number of vehicle movements are no more than stated in the additional information dated 13 January 2016.

A public right of way crosses the northeast corner of the application site. However, development within the white land would not interfere with the footpath.

### Noise

No noise assessment has been undertaken by the applicant. Noise could arise from plant, machinery and vehicle movements. Therefore, a condition should be included requiring a scheme to be submitted showing how noise will be managed and to ensure that noise levels arising from the development do not exceed the levels recommended as being acceptable in guidance.

The nature of the development is such that no blasting will take place.

### Dust and air quality

No dust or air quality assessments have been undertaken. However, the activities proposed have the potential to cause dust through vehicle movements, dropping of material onto the site, loading of material into vehicles and from the processing activities. The approved conditions should include a requirement to submit a scheme showing how dust will be minimised during the permitted operations and the scheme should be implemented for the duration of the development.

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## Application 15/0781/ROMPSP Continued

### Hours of operation

There are inconsistencies in the hours of operation proposed. The applicant's conditions propose working between 06.00 and 22.00 Monday to Friday, 06.00 to 14.00 Saturdays and for maintenance and repairs only from 08.00 to 16.00 on Sundays. However, in the additional information submitted on 15 January the hours of operation are stated to be 07.30 to 16.30 Monday to Friday. The 1955 consent is unrestricted in terms of the hours of operation.

It is considered reasonable to set hours of operation in a condition. However, if the effect of the condition is to unduly constrain the operation, a liability for compensation may arise. It is considered that the proposed hours of operation set out in condition 6 in Annex B strike a reasonable balance, without adversely affecting the economic viability of the site.

### Protection of watercourses

Activities at the site have the potential to cause pollution of the Nant Cae'r Moel, which runs adjacent to the site. The applicant has proposed to protect the stream with gabion baskets, but no details have been supplied. NRW has advised that there is a risk to the water environment from the operations at the site. The proposed site operations will require an environmental permit under the 2010 regulations, which would address some of the risks. However, it is considered that a condition should be imposed to minimise the risk of pollution of the water environment.

### Natural heritage protection and ecology

The site is partly within a SINC. Policy CW4 seeks to ensure that development proposals conserve and where possible enhance the ecological importance of the site unless the need for the proposed development outweighs the ecological importance of the SINC and where harm is minimised by mitigation measures and offset as far as possible by compensation.

The replacement conditions in Annex B, especially conditions 11, 12 and 17 will help to protect the features of the SINC.

### Cultural heritage

The proposed development does not adversely affect any features of cultural heritage interest.

### Hydrology and hydrogeology

The applicant does not intend to undertake any working below ground level. Therefore, hydrology and hydrogeology are not significant considerations in this case.

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## Application 15/0781/ROMPSP Continued

### Restoration and aftercare

The application proposes that the site will be restored to agriculture with a small area of amenity land near the Nant Cae'r Moel and potential employment land, which would need to be the subject of a separate application. Detailed restoration proposals have not been submitted at this stage and the proposals appear to relate to the wider tip site rather than the permitted area. Therefore, a condition should be included to require a restoration scheme to be submitted, approved and implemented when the permitted activities on the site cease.

Aftercare should be carried out for a minimum of five years to bring the site into beneficial agricultural use. A scheme should be submitted, secured by a condition, showing how the land will be managed to that end after it is restored.

Comments from Consultees: Comments from consultees are considered in the analysis above.

Comments from public: No comments have been received.

### Other material considerations:

#### Legislative background

The mineral review procedure was introduced by the Government as a means of securing improved environmental standards for mineral operations and to provide an opportunity to update the conditions for such operations which can last for many decades, during which time the environmental standards that society considers to be acceptable can change.

The principle of the development cannot be challenged and the local planning authority cannot refuse a review application. However, it can add to or amend the conditions proposed by the applicant or substitute different conditions. Where an LPA determines conditions different to those submitted by the applicant, the applicant has the right to appeal to the Welsh Ministers.

Where the effect of the new conditions, other than restoration and aftercare conditions, compared to the existing conditions, is to restrict working rights then a modification order under parts IV and XI of the 1990 Act is deemed to have been made and confirmed under sections 97 and 98 of that act. Land and mineral owners whose interests have been adversely affected by the restrictions imposed will be entitled to claim compensation from the LPA.

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## Application 15/0781/ROMPSP Continued

A restriction on working rights may occur if any of the following are restricted or reduced in respect of the mining site in question:

- The size of the area that may be worked or used for the deposit of mineral waste
- The height of any deposit of mineral waste
- The rate at which any mineral waste may be deposited
- The period at the expiry of which winning and working of mineral or deposit of mineral waste must cease
- The total quantity of minerals that may be extracted from or of mineral waste that may be deposited on the site
- The depth to which operations for the winning and working of minerals may extend
- The rate at which any mineral may be extracted

For a first periodic review, MPG 14 states that there should be no need for further changes to working rights except in exceptional circumstances since it is assumed that the periodic reviews will deal with sites where permission has been granted since 1982 or where an initial review has already taken place. Therefore, where the effect of conditions imposed by the LPA is to restrict working rights further than before the review, a liability for compensation will always arise. Otherwise the advice on principles to be applied to the preparation of conditions and schemes is the same as for initial reviews.

MPG 14 advises that for working sites, a distinction should be drawn between conditions that deal with the environmental and amenity aspects of working the site, which should not affect the asset value and conditions that would fundamentally affect the economic structure of the operation. Conditions should not be imposed that prejudice adversely to an unreasonable degree either the economic viability of operating the site or the asset value of the site.

It is considered that exceptional circumstances do apply in this case because the initial review application was determined by default so that the conditions relating to non colliery waste were not considered on their merits and the planning justification for their inclusion was not then determined by the authority. The applicant's conditions, which took effect as a result, and which are set out in annex C are not considered to be adequate modern working conditions, in line with the principles of the review, and in some cases do not meet the tests for planning conditions set out in WG circular 016/2014.

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## Application 15/0781/ROMPSP Continued

The government recognises that mineral working is different to other forms of development in that it is a long term, temporary development that can only be carried out where the minerals are found and the review of conditions relates only to permissions for mineral development, which are defined as being any extant planning permission other than an Interim Development Order or General Development Order permission for minerals development i.e. development consisting of the winning and working of minerals or the depositing of mineral waste. The deposition of mineral waste means the permanent deposit of waste material arising from the extraction of minerals or minerals processing and the temporary storage of overburden mounds or other temporary deposits (MPG paragraph 60).

### EIA

Case law has determined that a ROMP application is a development consent for the purposes of the Environmental Impact Assessment Regulations 2000. The court of appeal judgement in 2003 held that the development did not fall within schedule 1 or schedule 2 of the Act because it could not be considered to be "underground mining development" or an "installation for the disposal of waste".

However, in a later appeal decision in 2008, a planning inspector decided that development consisting of the removal of mineral waste from the wider Senghenydd Tips site was EIA development requiring an assessment due to its potential significant effects on the environment in terms of noise impacts on the local population, the likely effects of dust, the likely impact on flora and fauna, the scale of road traffic, the implications for hydrology and watercourses, the likely implications for the stability of the site and finally the likely effect on the site and adjacent land from contaminants within the site being disturbed.

Since the application proposes the removal of mineral from the tips, albeit over a smaller site than was proposed in 2008, the application has been screened.

### Conclusion

The replacement conditions set out below are considered to be a positive contribution to update the existing conditions which date substantially from 1955, with ~~minor~~ revision in 2000. The existing conditions would be replaced by a comprehensive schedule of conditions which would ensure that future working and restoration takes place in accordance with modern standards and controls.

The replacement conditions do not restrict the area for tipping of colliery waste further than the 1955 permission or the height of the tipping or the rate of tipping. The expiry date is 22 February 2042 as proposed by the applicant and the total quantity of waste to be tipped is not restricted. Therefore, the effect of the conditions, compared to the 1955 permission, would not restrict working rights unduly.

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RECOMMENDATION: That the conditions set out below are approved.

The applicant's proposed conditions are set out at Annex A. The initial review conditions are set out at annex B

This permission is subject to the following condition(s)

- 01) The development subject of this determination shall be carried out in accordance with the following plans and submitted details:  
Application form dated 15 December 2015  
Additional information dated 13 January 2016  
and shall be limited to the area covered by Sections A - A and E - E as defined by the 1955 planning permission E5907/CUDC 1722 as indicated by the hatched area on the plan attached to this determination.  
REASON: To define the permitted development and the area to which the conditions apply.
- 02) The permission subject of this determination shall expire and the development shall cease on or before 22 February 2042 and restoration shall be completed by 22 February 2043.  
REASON: To avoid doubt as to the extent of and timescales for the development.
- 03) Not later than three months following the expiry of the permission, or the earlier permanent cessation of the activities allowed by Condition 01 of this determination at this site and structures shall be removed from the site.  
REASON: In the interests of securing restoration and to safeguard amenity interests.
- 04) Except in the case of emergencies, no operations other than those associated with servicing, environmental monitoring, maintenance and testing of plant or machinery shall take place on Sundays or Bank Holidays or Public Holidays or except between the following times on any other day  
07.00 - 19.00 Monday to Friday  
07.00 - 13.00 Saturday  
REASON: To protect the amenity of nearby residential areas.
- 05) Not later than three months following the expiry of the permission or the earlier cessation of the activities at this site, the sale and transportation of any residual stocks from the mining site shall cease.  
REASON: In the interests of securing restoration and to safeguard amenity interests.

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- 06) Stockpiles of waste materials and processed materials shall not exceed 5m in height.  
REASON: In the interests of the amenity of the local area.
- 07) No HGVs or LGVs shall leave the site unless their wheels and chassis have been cleaned in accordance with a scheme which shall be submitted to the Local Planning Authority within three months of the date of these conditions.  
REASON: In the interests of highway safety and to protect the amenity of the local area.
- 08) Except for temporary operations the free-field equivalent continuous noise level LAeq 1hr resulting from operations at the site shall not exceed 55dBLAeq 1hr measured at any noise sensitive property in the vicinity of the site.  
REASON: To reduce the risk of noise nuisance in the vicinity of the site and thereby to lessen the environmental impact of the operation.
- 09) The free-field Equivalent Continuous Noise Level LAeq1hr resulting from temporary operations such as site preparation and soil and overburden stripping shall not exceed 67dBLAeq 1hr at any existing noise sensitive property in the vicinity of the site. The duration of such temporary operations shall not exceed a total of 8 weeks in any calendar year for work close to any individual noise sensitive property where the suggested noise limit for routine operations is likely to be exceeded.  
REASON: To reduce the risk of noise nuisance in the vicinity of the quarry and to thereby lessen the environmental impact of the operation.
- 10) The best practicable means shall be used to restrict the generation of dust within the Mining Site, and shall include provision for haul roads and access roads to be watered during dry weather to lay any surface dust.  
REASON: To reduce the risk of dust nuisance in the vicinity of the quarry and to thereby lessen the environmental impact of the operation.
- 11) Measures shall be taken to minimise dust emissions from operations at the site, in accordance with the following protocol:
- (i) Soils and overburden shall not be handled during extreme dry conditions unless the working areas are first dampened down;
  - (iii) Site roads within the quarry shall be dampened down as appropriate, in accordance with the requirement of Condition 8;
  - (iv) The site entrance road shall be maintained by use of a road sweeper which shall operate as required to maintain the surface of the road free of mud and other detritus;
  - (v) All lorries, once loaded, shall be sheeted prior to leaving the site, with the exception of any load carrying plus 75mm size stone;

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- (vi) The speed of haulage vehicles at the site will be restricted to 10mph;
- (viii) Lorries will be loaded so as to avoid spillages;
- (ix) All site traffic will be kept to the designated haul routes;
- (x) Any plant spillages will be cleared to avoid accumulations;
- (xi) Drop heights will be minimised at loading and discharge points.

REASON: To reduce the risk of dust nuisance in the vicinity of the quarry and to thereby lessen the environmental impact of the operation.

- 12) Any facilities for the storage of oils, fuels or chemicals on the application site shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall 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 shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

REASON: To prevent pollution of the water environment

- 13) Measures shall be taken to minimise the risk of groundwater pollution from site operations, in accordance with the following protocol:
- (i) All fuel and chemicals should be stored in bunded areas in accordance with current Natural Resources Wales guidelines and condition 10;
  - (ii) All mobile plant using fuel should be located on hard standing when not in use;
  - (iii) All immobile plant using fuel should be located on hard standing. Drip trays should also be appropriately placed under all relevant plant;
  - (iv) All refuelling activities should be undertaken on areas of hard standing, using appropriate care and attention and in accordance with the correct procedures. Hard standing areas used by any plant to be positively drained with flows being passed through an approved oil separator before final discharge. Details of incident reporting and waste management procedures to be available to the Mineral Planning Authority on request;
  - (v) An incident reporting procedure should be maintained for reporting all site incidents, including pollution events. Suitable emergency responses should also be in place in the event of an incident and shall be available to the Mineral Planning Authority on request;
  - (vi) Appropriate spill kits or other means of controlling accidental spills should be made available on site. Adequate training in the use of such equipment should also be provided;

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- (vii) A maintenance and inspection programme should be followed in order to check the condition of site equipment and provide early warning of any potential leaks or spills.
- (viii) Suitable waste management procedures should be followed to prevent surface pollution resulting from any waste products, fuel containers, chemical drums etc;
- (ix) During site restoration all hazardous plant and equipment should be removed from the quarry;
- (x) The use of herbicides and other related chemicals should be restricted both during quarry working and post restoration. Chemical applications should be made at appropriate times, in suitable quantities, so to avoid sub surface contamination.

REASON: To protect against the pollution of water-courses and water supplies in the interests of the amenity of the surrounding land and to ensure quarrying operations do not adversely affect the quality or quantity of groundwater supplies in the surrounding area

- 14) Settlement ponds at the site shall be regularly emptied and maintained so as to keep them in good and effective order, and the discharge of waste, oil or other pollutant to any settlement pond, ditch, stream, watercourse or other culvert is not permitted. A record of any maintenance work or emptying of settlement ponds to be kept and shall be made available to the Mineral Planning Authority on request.  
REASON: To protect against the pollution of water-courses and water supplies in the interests of the amenity of the surrounding land and to ensure quarrying operations do not adversely affect the quality or quantity of groundwater supplies in the surrounding area.
- 15) Prior to the installation of lighting at the site, a 'lighting plan' shall be submitted for the approval of the Mineral Planning Authority. The plan shall include measures to monitor lux levels as part of a need to minimise light pollution and minimise ecological impacts, particularly on bats. The scheme shall be implemented as agreed.  
REASON: To monitor, protect and enhance features of Ecological Importance.
- 16) No materials, waste, arisings or plant shall be stored or operated within the Nant Cae'r -Moel Swamp and Woodland SINC, or allowed to fall, be washed or blown into it.  
REASON: To protect the features of interest for nature conservation for which the SINC has been designated.

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- 17) Not later than six months from the date of this consent, an interim, schematic restoration scheme shall be submitted to the Local Planning Authority for approval identifying the principles of the proposed restoration of the site and any opportunities for landscaping works. The scheme shall include
- The location, extent and timing of phases in the restoration works,
  - The interim levels of the reclaimed land
  - The methods to be employed to prepare the site for soiling
  - The depths of sub soils and soils, method of spreading, cultivation, removal of stones and other obstacles to cultivation and fertilisation
  - Details of the drainage of the restored surface
  - Details of planting, species mix and methods of protection
  - Details of access provision to amenity land
  - Management arrangements to promote agricultural and nature conservation after use.

Once approved the scheme shall inform the final restoration scheme required by condition

REASON: To ensure the satisfactory restoration of the site.

- 18) Not later than 21 February 2040, or the expiry of six months following the permanent cessation of the development, whichever is the sooner, the Operator shall submit for the written approval of the Mineral Planning Authority, a detailed final restoration scheme, including drawings to illustrate the proposals for the final restoration of the mining site. The final restoration scheme shall provide for the Mining Site to be restored to agricultural and nature conservation / amenity use. The remainder of the mining site shall be cleared of all plant, machinery, buildings and apparatus in accordance with the requirements of Condition 2. The restoration scheme shall include details of the final re-profiling works for the Mining Site, the soil/soil forming material profiles to be established; tree and shrub planting schedules; seeding, fencing and drainage; and a programme and timetable for the implementation of the works.

REASON: To provide for the early restoration of the mining site to some other productive use once the deposit of colliery rubbish has ceased.

- 19) Once approved, the scheme detailed in condition 15 shall be fully implemented within 12 months of the cessation of working or by 22 February 2043 whichever is the sooner.

REASON: To ensure that the site is reclaimed in a condition capable of beneficial afteruse at an early date and in the interests of amenity.

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- 20) An aftercare scheme for the mining site, covering a period of 5 years, specifying such steps as may be necessary to bring the mining site to a condition fit for the proposed after use shall be submitted for the approval of the Mineral Planning Authority not less than 6 months prior to the date at which it is expected that the restoration works will be completed. The approved scheme shall be implemented in full for the duration of the aftercare period.  
REASON: To provide for the restoration of the mineral site to some other productive use once the deposit of colliery rubbish has ceased.
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