



Adroddiad

Ymchwiliad a agorwyd ar 11/12/02
Ymweliad â safle a wnaed ar 13 a 20/12/02

Report

Inquiry opened on 11/12/02
Site visits made on 13 & 20/12/02

gan/by Clive Nield BSc, CEng, MICE, MCIWEM

**Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru**

**an Inspector appointed by the National
Assembly for Wales**

Dyddiad/Date **18 MAR 2003**

TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78
DENBIGHSHIRE COUNTY COUNCIL
APPEAL BY TARMAC CENTRAL LIMITED

accompanied by an application for
THE STOPPING UP OF HIGHWAYS (BURLEY HILL, PANT DU, NERCWYS, MOLD)
ORDER 2003

Under Section 247 of the Town and Country Planning Act 1990

Burley Hill Quarry, Nant Du, Nercwys, Mold

Cyf ffeil/File ref: APP/R6830/A/02/1084497

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File Ref: APP/R6830/A/02/1084497

Site address: Burley Hill Quarry, Pant Du, Nercwys, Mold

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Tarmac Central Limited against the decision of Denbighshire County Council.
- The application (Ref. 21/1999/0920/PF), dated 1 December 1999 and amended in September 2000 and April 2001, was refused by notice dated 5 September 2001.
- The development proposed is extension of the current limestone extraction operations.
- The inquiry sat for 7 days on 11-12 and 16-20 December 2002 inclusive.

Summary of Recommendation: The appeal be dismissed.

Stopping Up Order

Site address: Burley Hill Quarry, Pant Du, Nercwys, Mold

- The application is made for a Stopping Up of Highways Order under section 247 of the Town and Country Planning Act 1990
- The application is made by Tarmac Central Limited.
- The application (NAW Ref. CZ510 - 05 - 17 - 5) was made to the National Assembly for Wales.
- The Order proposed is for the closure and re-routing of a 420 metres length of Footpath No. 35 situated at the south-eastern corner of Burley Hill Quarry.

Summary of Recommendation: The Order be refused.

Preamble

1. This report includes descriptions of the site and surrounding area, the planning history and policies, the gist of representations made, my appraisal and conclusions and my recommendations. Document references are shown in brackets, and in my appraisal and conclusions the numbers in square brackets indicate the relevant paragraphs of the report. Comprehensive lists of documents and plans are attached at the end of the report, and possible conditions are included as a separate annex.

Procedural Matters

2. The original planning application made in December 1999 was for a larger extension of the quarry than now sought. It was amended to cover a reduced area (omitting extensions to the north-west and east of the present quarry) in September 2000, and it was amended again in April 2001 (omitting extension to the west into the Big Covert area). Plan INTRO 1 at the front of Core Document CD1(a) illustrates these application and extraction areas. Core Document CD1 (5 volumes) is an agreed consolidation of the planning application and Environmental Statement as finally considered by the Mineral Planning Authority.
3. In July 2002 the National Assembly for Wales directed that the appeal should be recovered for determination by the Assembly itself. The reason for the direction was that the development involves major proposals for the winning and working of minerals.

4. The application was originally made in the name of Tilcon (South) Limited. However, the company has since changed its name to Tarmac Central Limited, and the final application and current appeal are proceeding in that name. A Certificate of Incorporation on Change of Name, dated 10 May 2000, is included in the appeal documents.
5. The consolidated application (Document CD1(a)) contains plans PA1R, AS 20R2, PA3R and AS1 - AS9, which are the agreed application plans (identified for the purpose of the appeal as Plans A1 - A12). Plans AS1 - AS9 represent the various stages of planned operation and restoration of the quarry. However, at the inquiry the Appellant asked for them to be replaced by Drawings 1 - 9 in Core Document CD34 (identified as Plans B1 - B9). These show the existing surveyed situation and the planned stages of operation and restoration, but with the previously planned first 2 stages amalgamated. Apart from the inclusion of the existing surveyed situation and the amalgamation of stages 1 and 2, the Drawings are the same as Plans AS1 - AS9, and all parties agreed that these should be the plans considered. I am satisfied that they make no material difference to the proposed development, and I confirm that I have considered the proposal on the basis of Drawings 1 - 9 in CD34 (identified as Plans B1 - B9) and plans PA1R, AS 20R2 and PA3R in CD1(a) (identified as Plans A1 - A3).
6. The Appellant has provided a Section 106 Undertaking for a long-term Woodland Management Plan for Big Covert, the wooded hillside to the west of the quarry. The Undertaking is made in the name of Bodfari (Quarries) Limited, a wholly owned subsidiary of the Appellant Company, and the Trustees of the Fourth Duke of Westminster's 1964 Settlement, the minerals owner. (Documents 24.1 - 24.3)
7. Extension of the quarry to the east under the appeal proposal would conflict with a public footpath. Consequently, application has also been made to the National Assembly for Wales for diversion of a length of footpath. The public notice was published on 3 October 2002, and 2 objections were received. These were heard at the public inquiry along with objections to the planning appeal. It is noted that the Draft Order refers to "Flintshire" in its title, which is the correct postal address for Mold, the nearest town. However, the site lies in Denbighshire. (Documents 4.1 - 4.3)
8. I carried out an accompanied site visit on Friday 13 December 2002, largely following a route agreed amongst the various parties (Document 26). This included the quarry itself and the various public footpaths around all sides of the site. However, the weather was somewhat misty, and I carried out a further (unaccompanied) visit on Friday 20 December 2002 when there was good visibility. This enabled me to view the site from further afield, in particular from high ground to the north (Moel Findeg), south (Bryn Alyn) and east.

Site and Surroundings (Documents 6.2, 8.2 & CD33 Item 16)

9. Burley Hill Quarry is some 5 km south-west of the town of Mold and 600 metres south of the village of Maeshafn. Access is from the C107, a minor road running from Graianrhyd and Eryrys to the south past the quarry entrance to join the B5444 on the outskirts of Mold. In addition to the dwellings in the village, there are about 10 houses close to the eastern side of the site, set back off the C107 road. (Plan PA1R in CD1(a))
10. The existing quarry excavation covers an area of about 13.3 hectares, and the proposed extension would increase this by about 4.4 hectares. Existing static crushing and screening plant is located to the south of the quarry void, and the main waste area lies between this and the access road to the south. The quarry void itself is about 100 metres deep in its northern section, where upper elevations are at some 325-330 metres AOD. Ground levels fall to about 295 metres AOD at the south-western corner of the quarry. (Plan PA3R in CD1(a))

11. The quarry lies within the Clwydian Range AONB, albeit close to its eastern boundary. The AONB encompasses a range of limestone hills up to 8 km wide, running some 30 km from Prestatyn in the north to Nant y Garth Pass in the south and was designated in 1985. The area is characterised by distinct high hilltops and moorland set in an open, pastoral landscape. The quarry is surrounded by high ground on 3 sides. Immediately to the west there is a broad ridge known as Big Covert, which is covered in mixed woodland and rises to some 350 metres AOD. A large area of this woodland is in the Appellant's ownership. (Plan PA1R in CD1(a))
12. Moel Findeg lies about one kilometre to the north-east and rises to a height of some 364 metres AOD. About 800 metres to the east lies the woodland of Tir-y-Coed with a series of crests and troughs and a maximum height of 370 metres AOD. The southern boundary is contained within the base of a narrow, steep-sided valley with a ground level of about 268 metres AOD at the quarry boundary. Bryn Alyn rises to approximately 400 metres AOD about one kilometre to the south of the quarry and comprises extensive areas of rough grazing and scrub woodland on its lower levels. Bryn Alyn is designated as a Site of Special Scientific Interest (SSSI) and is expected to be designated as "Access Land" under the Countryside and Rights of Way Act 2000. (Plans PA1R & AS 20R2 in CD1(a))
13. The underlying geology of the range of hills is carboniferous limestone, which is a high quality construction material, as evidenced by the existence of 10 operational quarries in the area: Pant, Pant-y-Pwll, Hendre, Trimm Rock, Burley Hill, Graig, Aberduna, Brynmawr, Cefn Mawr and Pant-y-gwlanod. There are 2 principal rock formations: Cefn Mawr limestone and Loggerheads limestone. Cefn Mawr limestone is a thinly bedded dark grey limestone with frequent bands of mudstones and shaly partings. Loggerheads limestone has some thin mudstone horizons but is of a more consistent quality than Cefn Mawr limestone, provides a higher percentage of usable stone and has a wider variety of construction uses. Burley Hill Quarry lies within a Loggerheads deposit. (Document 6.2)

Proposed Development (Document 8.2 & Drawings 1 - 9 in CD34)

14. Quarry operations and restoration would be carried out in 7 phases as detailed on the drawings in Core Document CD34. Phases 1 and 2 would involve extension of extraction to the north, east and south-west of the quarry; Phases 3 - 6 would deepen the workings to the proposed floor level of 195 metres AOD; and during Phase 7 the remaining reserves beneath the fixed plant area would be extracted. Topsoils, subsoils and quarry waste materials would be stored and used for ongoing site restoration during each phase.
15. Calcareous grassland and remnant limestone pavement areas affected by the extension would be translocated to the south-eastern screen bund and the southern wastepile areas. As work progressed slopes would be graded, seeded and planted, culminating in final restoration of the quarry, including the removal of all plant. At the projected rates of working, the 7 phases would take some 13 years to complete.

Planning History (Documents 6.2 & 13.2)

16. Quarrying at Burley Hill dates back to the 19th century with main formal permissions being granted in 1950, 1979, 1982 and 1984. The various permissions are detailed in Core Documents CD5 - CD11. The principle permission for the extension of the quarry to its current extent was granted in February 1984 (ref. 5/31/6759) and expires on 31 December 2021 (Document CD7). In 1986 a further permission was granted (ref. 5/31/8775 & 8776) varying previous conditions and allowing annual output to increase from 400,000 tonnes per annum to a maximum of 800,000 tonnes per annum (Document CD9). A number of

permissions have also been granted over the past 20 years for plant, machinery and other infrastructure, including the erection of a coating plant.

17. The appeal application was refused by the Council for the following reason: *"The Local Planning Authority considers that the environmental harm caused to the AONB and its enjoyment by the lateral extension to the north and east, in particular the loss of natural landscape features and greater visual impact, outweighs restoration, supply and economic benefits. The case for granting the application does not constitute exceptional circumstances and the proposed development is contrary to policies F3 and H4 of the Approved Clwyd Structure Plan: First Alteration, policies L1 and L5 of the Adopted Glyndwr District Local Plan and policies STRAT 4, MEW 1 and ENV 2 in the emerging Unitary Development Plan, and advice contained in Planning Guidance (Wales) Planning Policy First Revision, paras. 5.3.7 and 5.3.8 and Minerals Planning Policy Wales, para. 21."* (Core Document CD2)
18. By virtue of the 1984 permission, the Environment Act 1995 required its operating conditions to be subject to periodic review in 1999. This was postponed pending the outcome of the appeal application. However, the review was subsequently submitted and a schedule of new conditions, including a detailed restoration scheme, was approved in May 2002 (ref. 21/2002/00009/MA). This scheme is the fall-back for comparison with the appeal proposal and is referred to as the ROMP (Review of Mineral Permissions) scheme. The scheme is detailed on plans ROMP 1, ROMP 2A and ROMP 3 - 9 (identified as plans C1 - C9) in Core Document CD12. (Core Documents CD12 - CD14 inclusive)

Planning Policy (Documents 9.2 & 13.2)

19. The Denbighshire Unitary Development Plan (UDP) was adopted in July 2002 and is now the development plan for the purposes of Section 54A of the 1990 Act. The Clwyd Structure Plan and the Glyndwr District Local Plan are superseded. The refusal notice referred to UDP policies STRAT 4, MEW 1 and ENV 2. (Core Document CD18)

20. Policy STRAT 4, headed "Minerals" reads:

"The County's landbank of permitted reserves will be maintained over the plan period.

New minerals operations or lateral extensions to existing operations within the AONB will only be permitted in exceptional circumstances. Minerals applications will be subjected to the most rigorous examination and all major mineral developments will need to be demonstrated to be in the public interest before being allowed to proceed. Outside the AONB, new minerals operations or extensions to existing operations will only be permitted where there is no demonstrable harm to interests of acknowledged importance.

The recycling of secondary aggregates and industrial wastes will be favoured and encouraged as substitutes for naturally occurring minerals."

21. Policy MEW 1, headed "Minerals Operations within the AONB", reads:

"Applications for mineral working or the extension to existing operations within the AONB will only be permitted in exceptional circumstances and consideration of such applications will include an assessment of:

- i) need for the development in terms of national consideration of mineral supply;*
- ii) the impact on the local economy of permitting or refusing the development;*

- iii) *whether alternative supplies can be made available at reasonable cost, and the scope for meeting the need in some other way;*
- iv) *any detrimental effect on the environment and landscape and the extent to which they can be moderated;*
- v) *and in the case of extensions to existing quarries, the extent to which the proposal would achieve an enhancement to the local landscape.*

Even when an application satisfies these criteria it will be subject to the most rigorous examination and will be expected to meet in full the requirements of Policy MEW 2" (Policy MEW 2 lists 13 criteria to be met). Supporting text for Policy MEW 1 also recognises that it is unlikely that further land in the AONB will need to be released during the plan period.

22. Policy ENV 2, headed "Development affecting the AONB", reads:

"Development affecting the Area of Outstanding Natural Beauty (AONB) will be assessed against the primary planning objective to conserve and enhance the natural beauty of the area. Small scale development will only be permitted where it would not detract from the character and appearance of the AONB.

Major industrial and commercial development within the AONB will be subject to the most rigorous examination and will not be permitted unless there is an overriding need in terms of proven national interest and there being no alternative sites.

Development in the AONB should be designed to a high standard and contribute to the conservation and enhancement of the natural beauty of the area."

23. Reference has also been made to UDP policies EMP 1 and EMP 14. Policy EMP 1 lists the areas of land designated for employment development over the plan period, and Policy EMP 14 makes provision for employment development at Dyserth Quarry, subject to certain criteria being met. (Documents 14.1 & 14.2)
24. The main national guidance is contained in Planning Policy Wales (March 2002) and Minerals Planning Policy Wales (December 2000). Planning Policy Wales (PPW) contains general guidance but acknowledges in paragraph 1.1.4 that, *"because of the differences between mineral working and other forms of development the Assembly Government's land use planning policies for minerals development are contained in a separate document, Minerals Planning Policy Wales"*. However, particular reference has been made to Planning Policy Wales advice on the status and primary objective of designating AONBs and on the need to give great weight in development control decisions to conserving and enhancing the natural beauty and wildlife, whilst also having regard to the economic and social well-being of the area. (Core Document CD22)
25. Minerals Planning Policy Wales (MPPW) provides more specific advice. Paragraph 10 describes the essential role of mineral planning authorities in relation to mineral working as ensuring that a proper balance is struck between the fundamental society need for a wide range of minerals and the protection of existing amenity and the environment. It defines the overriding objective as to provide a sustainable pattern of mineral extraction by adhering to 5 key principles, which are to:
- "• provide mineral resources to meet society's needs and to safeguard resources from sterilisation;*
 - protect areas of importance to natural or built heritage;*

- *limit the environmental impact of mineral extraction;*
 - *achieve high standard restoration and beneficial after-use;*
 - *encourage efficient and appropriate use of minerals and the re-use and recycling of suitable materials.*" (Core Document CD21)
26. MPPW paragraph 21 provides particular advice on AONBs. It says that "*minerals development should not take place in these areas save in exceptional circumstances*" and that "*all major mineral developments (must be) demonstrated to be in the public interest*". It lists 5 considerations to be taken into account:
- "• *the need for the development in terms of UK considerations of mineral supply;*
 - *the impact on the local economy of permitting the development or refusing it;*
 - *whether alternative supplies can be made available at reasonable cost, and the scope of meeting the need in some other way;*
 - *the detrimental effect of the proposals on the environment and landscape and the extent to which that can be moderated; and*
 - *in the case of extensions to existing quarries and other mineral extraction sites, the extent to which the proposal would achieve an enhancement to the local landscape and provide for nature conservation and biodiversity.*" (Core Document CD21)
27. Minerals Planning Guidance MPG6, Guidelines for Aggregates Provision in England and Wales, was issued jointly by the Department of the Environment and the Welsh Office in 1989, and the main parties agree that parts of it remain material guidance in Wales. Although not strictly applicable in Wales, the main parties also agree that the 1994 version of MPG6, Guidelines for Aggregates Provision in England, is material to the inquiry (Item 11 of CD33). These provide useful advice on landbank provision and interests of acknowledged importance such as AONBs. They are reproduced in Core Documents CD 19 and CD20.
28. Regional Planning Guidance for North Wales, dated October 2002, has been adopted by all 7 mineral planning authorities in the region as supplementary planning guidance and provides further support for some policy matters. The adopted version is reproduced as Core Document CD23B; Core Document CD23A is the January 2000 Consultation Draft referred to in MPPW. Reference has also been made to other policy documents as material considerations, including: North Wales Regional Aggregates Working Party (RAWP) March 1995 Guidelines for Aggregates Provision (CD25); Clwydian Range AONB Management Strategy 2000 (CD27); July 2002 Consultation Paper on Draft National and Regional Guidelines for Aggregates Provision in England 2001-2016 (CD29); April 1995 Clwyd Landscape Strategy (CD30); and December 2000 Draft Denbighshire Landscape Strategy (CD31). In addition, the February 2002 Consultation Draft of Minerals Technical Advice Note (Wales) Aggregates is a material consideration (CD26).

Other Agreed Facts

29. The main parties (Appellant, Council and CCW) have agreed a Statement of Common Ground, which is reproduced in Core Document CD33. It lists 17 matters of agreement:
- 1) reconciliation of Burley Hill Quarry reserves under various situations;

- 2) limestone and dolomite landbank analysis for Denbighshire, based on North Wales RAWP Annual Report 2000 (CD24);
 - 3) limestone and dolomite landbank analysis for NE Wales, based on same report;
 - 4) ditto for Denbighshire/Flintshire/Conwy;
 - 5) schedule of permitted operating hours at other North Wales quarries;
 - 6) analysis of Burley Hill Quarry sales distribution by local authority area for 2000;
 - 7) plan associated with 1981 planning application;
 - 8) outline method statement for translocation of limestone pavement and calcareous grassland;
 - 9) methodology for computer generated photomontages;
 - 10) acceptance that photomontage locations are reasonable and provide a fair representation of views;
 - 11) acceptance that MPG6 (1994) England is material;
 - 12) agreement that Supplementary Planning Guidance 20: Minerals (1998) has been superseded by the UDP;
 - 13) acknowledgement that main parties are not in dispute on matters of noise, dust, blasting/vibration, hydrogeology and archaeology;
 - 14) description of Footpath 35 closure and diversion route;
 - 15) description of the nature and quality of the Burley Hill Quarry reserves;
 - 16) description of the quarry location and situation;
 - 17) Woodland Management Plan, October 2002.
30. At the inquiry further agreement was reached in regard to much of Mr Goldup's evidence on the environmental effects of sourcing the stone from other quarries if the appeal proposal is not permitted. The Council accepts the evidence, subject to several reservations expressed in an agreed statement reproduced in additional Core Document CD33A. The methodologies used for the assessment of local impact, economic costs and environmental costs are agreed to be reasonable to show broad indications of the various matters.

Case for Tarmac Central Limited

The material points are:

Policy Matters (Documents 9.2 & 29)

31. The most relevant UDP policy is MEW 1, because it relates specifically to mineral working or the extension of mineral workings in the AONB. It closely reflects the national policy in paragraph 21 of MPPW, listing the same 5 considerations, and requires that circumstances be exceptional for the development to be permitted. However, within the meaning of the policy, "exceptional circumstances" does not require a unique situation but will be demonstrated if an exception to the normal rule is justified. The 5 factors listed for assessment as part of the "exceptional circumstances" test do not all have to be met but must contribute towards an

overall conclusion that exceptional circumstances exist. Both UDP Policy MEW 1 and paragraph 21 of MPPW make reference to *"the most rigorous examination"*, and there is no doubt that the appeal proposal has been so examined, and it is maintained that the "exceptional circumstances" test has been met. (Documents CD18 & CD21)

32. Paragraph 21 of MPPW also requires that all major mineral developments be in the public interest before being allowed to proceed. Whilst the proposed development is considered to be in the public interest and the Appellant accepts that exceptional circumstances are unlikely to be demonstrated if it is not, it does not accept that the proposal would be a "major mineral development" as such. The quarry extension would involve a modest land-take, a limited additional impact over the existing quarry and would bring benefits in terms of restoration. Therefore, while the Assembly's conclusion on whether or not it would amount to "major development" for the purposes of MPPW paragraph 21 would not materially affect the appeal outcome, it should not influence an objective consideration of the visual and landscape impacts of the proposed scheme. (Document CD21)
33. UDP Policy MEW 1 requires that the criteria listed in Policy MEW 2 should also be met. These include: (ii) no unacceptable harm to residential amenity; (iii) no unacceptable harm to the character and appearance of the landscape; (iv) no unacceptable harm to the biodiversity of the natural environment; and (vi) no unacceptable harm to land drainage. There is no issue between the Appellant and the Council that all the criteria of this policy are met, with the possible exception on criterion (iii). However, as this is one of the main requirements of Policy MEW 1, Policy MEW 2 is of no additional practical significance. (Document CD18)
34. Although quoted in the reason for refusal, it is considered that UDP Policy ENV 2 does not apply to mineral development, because this is fully addressed in Policy MEW 1 and MPPW paragraph 21. The 2 sets of policies do not rationally stand together, and the requirement of Policy ENV 2 that *"major industrial and commercial development within the AONB will not be permitted unless there is an overriding need in terms of proven national interest and there being no alternative sites"* is not applicable to the appeal proposal. Nevertheless, national consideration of mineral supply is relevant to the assessment of need under Policy MEW 1 and is addressed in that context. (Documents CD18 & CD21)
35. UDP Policy STRAT 4 says that *"the County's landbank of permitted reserves will be maintained over the plan period"*, and this is in line with national guidance. UDP policy is supported by paragraph 16.22 of the UDP, which explains that *"the Council will seek to protect and maintain the County's landbank of permitted reserves in line with government guidance as far as this is compatible with the County's role to protect the AONB"*. However, the UDP does not state the length of the County's landbank for crushed rock that it aims to maintain, and it is necessary to fall back on other guidance to determine what should be an appropriate size of landbank. (Document CD18)
36. MPPW paragraph 17 defines landbank as *"a stock of planning permissions which usually relates to the extraction of non-energy minerals and provides for continuity of production in spite of fluctuations in demand"*. In Wales the landbank policy of MPG6 (1989) remains extant, and paragraph 34 advises that *"the aim should be to provide for the release of land to maintain a stock of permissions, for an appropriate local area, sufficient for at least 10 years' extraction"* and that *"a longer period may be appropriate for rock"*. However, it is acknowledged that in MPG6 (1994), advice (for England) in paragraph 63 introduced a landbank target of 7 years for sand and gravel, whilst again including the proviso of a longer period for crushed rock. (Documents CD19 & CD 20)

37. The Council refers to a recent appeal decision (ref. APP/A6835/A/99/1032144) in connection with a proposed development for the extraction of sand and gravel. The decision was issued in July 2000, and the Inspector took the view that the MPG6 (1989) advice should be tempered by certain factors, including sustainability principles. However, the recently adopted Regional Planning Guidance for North Wales (adopted October 2002) makes particular reference to MPG6 (1989). Paragraph 8.22 says that the sections relating to the maintenance and calculation of landbanks for aggregate minerals still apply. And paragraph 8.23 repeats the MPG6 (1989) advice that *"the landbank for an appropriate local area should be sufficient for at least 10 years extraction in the case of sand and gravel and that a longer period may be required for crushed rock"*. It goes on to say *"It may not, however, be practical to achieve these targets (or any revised targets which may be set by the National Assembly) within the boundaries of individual planning authorities"* and *"in such circumstances a joint approach must be agreed between neighbouring authorities, including liaison with the relevant mineral planning authorities in England"*. (Documents CD4 & CD23B)
38. This illustrates that revised targets have not yet been set by the National Assembly. The draft Minerals TAN (Document CD26) issued in February 2002 suggested a 5 years landbank for crushed rock. However, little weight can be attributed to that in view of the vigorous objections made to it (Document 9.3 Appendix 2). Therefore, the correct approach is to examine whether or not there would remain a 10 years landbank within the County.
39. The Council argues that the release of further limestone reserves should await the UDP review process, expected by 2007. However, the UDP is an up to date plan (adopted in July 2002) that provides for the necessary balancing exercise to be carried out. It would undermine the credibility of the development plan system to try to make decisions based on possible future policy changes. The UDP makes adequate provision for the appeal proposal to be assessed against policies MEW 1 and MEW 2, and the following sections deal in turn with the criteria listed in Policy MEW 1.

Need for Development in terms of Mineral Supply (MEW 1 criterion (i))

40. National policy places a clear responsibility on Mineral Planning Authorities to maintain a minimum landbank, and this is accepted in the Denbighshire Unitary Development Plan. Although most of the output from limestone quarries in Denbighshire is "exported" to customers in the North West of England and the Council argues that a wider area should be considered, it is appropriate that the landbank should be assessed on a County-wide basis. This approach is advised in paragraph 40 of MPG6 (1989) and is recognised in the approach of the UDP, where the Council says its aim is to maintain its share of regional production. In paragraph 16.4 of the UDP the current production for Denbighshire is estimated to be between 2.5 and 3 million tonnes per annum. Notwithstanding this view, an assessment of the North East Wales landbank is also made and provides a context for the County operations. (Documents 9.4, CD18 & CD19)
41. The current County landbank is the starting point for the consideration of need. There are 6 limestone quarries in Denbighshire: Aberduna, Denbigh, Graig, Pant-y-Gwlanod, Burley Hill and Dyserth. The main parties agree on the figures for the reserves and average annual sales for these quarries (Item 2 of Document CD33), and these are the same as presented in the North Wales RAWP Annual Report 2000 (Document CD24). Reserves amount to some 43.8 million tonnes and average sales to 2.5 million tonnes per annum, i.e. a landbank at 31 December 2000 of approximately 17.5 years. However, this takes no account of the fact that Dyserth Quarry is dormant and unlikely to ever reopen. Indeed, UDP Policy EMP14

(Document 14.1) designates Dyserth Quarry for employment development. If Dyserth Quarry is ignored, County reserves amount to 32.1 million tonnes and the landbank at December 2000 amounts to 13 years supply. (Documents 9.2 & 29)

42. A landbank assessment is not a theoretical exercise and needs to take account of actual circumstances and constraints. Paragraph 83 of MPG6 (1994) (Document CD20) lists various factors to be taken into account in assessing the real need and supply situation. It is, therefore, entirely appropriate to ignore Dyserth Quarry in this case. Thus the assessment shows that by 2011, the end of the UDP plan period, unless further reserves are permitted, the landbank is likely to fall to only some 2 years. In these circumstances, the Council has a clear policy commitment to release further reserves. (Documents 9.2 & 29)
43. The appeal proposal would increase the present Burley Hill reserves from about 4.43 million tonnes at present to about 9.28 million tonnes, an increase equivalent to some 2 years of the total County landbank. There are no other current planning applications for other quarries in Denbighshire and no indications that other applications will be made. The Council would be abrogating its responsibility if it just waited to see if something comes up. (Documents 29 & CD 33 Item 15)
44. A similar situation has been encountered in Lancashire, where in 2001 the County decided that an impending landbank shortfall by the end of the plan period (the supply would have fallen to below 10 years by 2006) was sufficient justification to warrant permission for extension at Clitheroe Quarry. At the time permission was granted the additional reserves would have taken the landbank beyond the 10 years advocated in national guidance. However, that was not considered significant compared with the benefit of deferring for a period the need to release large-scale lateral extensions or new quarries. A similar opportunity exists at Burley Hill. (Documents 9.2 & 9.3 Appendix 1)
45. To set the County-wide assessment in context, a similar landbank analysis has been carried out for the North East Wales sub-region, encompassing Denbighshire, Flintshire and Conwy. Based on the figures of the North Wales RAWP Annual Report 2000, reserves and sales statistics are agreed with the Council both with and without dormant and inactive quarries (Document CD33 Items 3 & 4). These have been modified to allow for the reopening of Brynmawr Quarry and show a realistic total for reserves of about 141.5 million tonnes. Based on an average output of 6.5 million tonnes per year, the sub-regional landbank amounted to some 22 years in December 2000, and will fall to 11 years by the end of the plan period, unless additional reserves are released. (Document 9.2)
46. Simple landbank analyses of this sort provide a broad indication of need. However, they do not take account of the individual circumstances at each quarry. These are affected by the nature and extent of the stone deposits, the operational regime and on-site plant, and the economic pressures facing each quarry owner. A more detailed exercise has been carried out to simulate the operation of the limestone quarries in North East Wales over the period 2001 to 2018 under 2 scenarios: how the industry might seek to serve the market over the next few years both with and without the extension of Burley Hill Quarry as currently proposed. These are reproduced in Document 9.3 Appendix 3 Tables 4.1 and 4.2 and are based on accepted data in the North Wales RAWP Annual Report 2000 (Document CD24) and on the Burley Hill product profile. The latter shows that the emphasis at Burley Hill is to maximise the amount of high quality aggregate that can be produced for use in readymix concrete, precast concrete and asphalt production. Some 64% of overall production in 2000 was of this high quality aggregate, reflecting the high quality of the geological reserves. (Document 6.2)

47. At the time of the planning application Burley Hill Quarry was fully operational. However, for sensible commercial reasons involving co-ordination with other quarries in the same ownership, it has since been closed, and its future use depends on the outcome of this appeal. If the appeal is upheld, the quarry will be reopened as soon as possible (assumed to be early 2004) and at envisaged production rates would become exhausted in 2017. If the appeal is dismissed, it is anticipated that the quarry will remain closed until 2010 and become exhausted in 2018. These are the scenarios that have been modelled. (Document 6.2)
48. The simulation is based on a range of assumptions but provides a reasonable basis to illustrate likely trends. It shows that there would be a gradual, cumulative reduction in the ability of North East Wales to sustain its current level of sales unless permissions were granted for additional reserves and that this would be most apparent in Denbighshire itself. If the extension of Burley Hill Quarry were not permitted, this trend would be accelerated and increased, and 3 of the other 4 quarries operational in Denbighshire in 2000 (the base year for the simulation) would be exhausted and closed by 2007. By that date Denbighshire would be producing only about 34% of its 2000 level of sales. This would rise to 55% in 2010 when Burley Hill Quarry reopened. However, this would still represent a serious shortfall against the County's policy to sustain its own share of mineral supplies in the region. (Document 9.2)
49. If the appeal extension were allowed, the equivalent figure in 2010 would be some 66% of the 2000 level of sales and it would be much higher in the interim period. This shows that, although the Burley Hill extension would not solve Denbighshire's shortfall in full, it would go some way towards meeting the policy obligations. A similar picture is shown for the North East Wales sub-region, where only 6 of the 10 remaining limestone quarries would still be operational by 2009. (Document 9.2)

Alternative Supplies (MEW 1 criterion (iii))

50. The implication of this reducing supply from quarries in the area is that stone would have to be supplied from other areas, particularly from the North of England and the Midlands. This would involve additional environmental impacts both in the local areas concerned and on a wider strategic basis due to the additional haulage distances involved. Mr Goldup's proof of evidence explains how these matters have been assessed, and the Council accepts that the assumptions and methodology used are reasonable. (Documents 7.2, CD33 Item 6 & CD33A)
51. The local impact assessment is a qualitative assessment of environmental and traffic impact on roads in the immediate vicinity of the various quarries in North East Wales and takes into account the number of residential properties along the roads, their level of pedestrian use and the nature and condition of the roads. Some of the roads pass through villages or groups of houses where the impact of increased lorry traffic may be quite significant. The assessment shows that, while the transfer of stone supply from Burley Hill to some other quarries may be neutral in net local impact, increased production at others would be likely to have a net harmful effect. (Document 7.2)
52. The macro-level assessment takes into account: increases in vehicle operating costs; increases in the value of time spent travelling; the cost of a statistical increase in the number of accidents; increase in road maintenance costs; and the cost of increased environmental impacts (particularly noise and emissions). It is not claimed that the figures are precise or that the assumptions made have any degree of certainty. However, the assessment does show that the economic and environmental costs of making alternative supplies available from quarries further away from the markets served would be substantial. By 2018 these increases in costs would be of the order of 11 times more for the existing quarry situation than if the appeal

extension were allowed, and this represents approximately a third of the likely total cost of supplying the market from Burley Hill over the life of the quarry, if the appeal were allowed. (Documents 7.2 & 29)

53. The question of whether or not such additional economic and environmental costs would be reasonable is a matter of judgement. In the Appellant's view, they are substantial and unreasonable, and they are a powerful consideration towards demonstrating that the circumstances of this case are exceptional. (Document 29)
54. The Council argues that future projections are flawed on account of insufficient allowance being made for alternative sources of supply in North Wales and for the use of recycled products. However, it is mistaken in this. Quarries in North West Wales do not produce the same sort of stone and generally serve a different market than Burley Hill Quarry. They are also poorly placed geographically. (Document 9.2)
55. In theory, it is possible that a new greenfield quarry could be developed in the same limestone geological formation but outside the AONB. However, the scope for such a development is unproven and no proposal has been brought forward in recent years. The existing quarries have evolved as a result of good access, best quality stone and natural screening, as is the case with Burley Hill. A new quarry would also involve a much greater land-take than the extension proposed at Burley Hill in order to make a similar size of reserve available. The likelihood of an alternative greenfield site being permitted in the foreseeable future is slight. (Document 9.2)
56. Increased use of recycled construction waste for the high quality aggregates market is limited by specifications and standards for concrete and tarmacadam products. It is difficult for recycled material to meet these standards, and it can only generally substitute for limestone for lower quality end-uses. Consequently, the main market for Burley Hill Quarry aggregates is unlikely to be reduced as a result of increased use of recycled materials. (Documents 6.2 & 29)
57. Furthermore, the Council says that nationally less than 23% of construction and demolition waste is being recycled. However, statistics in a recent report issued by the Office of the Deputy Prime Minister, "Survey of Arisings and Use of Construction and Demolition Waste in England and Wales in 2001" (Document 9.3 Appendix 8), show it to be running at closer to 40%. Hence there is less scope for its growth in the future. Assertions that demand for primary aggregates will fall in the future are disputed. Independent research carried out for the Quarry Products Association shows that, although the use of recycled materials is expected to rise, there will also be growth in the primary aggregates market as a result of an increased overall market. (Document 9.4)
58. Finally, the Council has also emphasised the potential for aggregate use of slate waste, which is available in huge quantities in parts of North Wales. Whilst the Council's evidence shows that slate waste is capable of use in road construction, it is at best a very long-term option of uncertain economic viability and limited range of use. (Documents 9.4 & 29)
59. Overall, the clear advantages of allowing the appeal in connection with the need for stone aggregate material and the associated lower economic and environmental costs is not affected by the possibility of uncertain events that might take place in the Burley Hill Quarry market in North Wales and the North West of England. (Document 29)
60. Before moving on to consider other matters, it is noted that paragraph 10 of MPPW also identifies the safeguarding of resources from sterilisation as one of the key principles of

mineral development. If the appeal were dismissed, it is possible that by 2010, when it would be planned to reopen the quarry under the ROMP scheme, circumstances might have changed, and it might not be possible to recover all of the present reserves, particularly bearing in mind the unstable nature of the western face. Furthermore, even if the ROMP scheme were to be successfully completed to recover the remaining existing reserves, once the quarry restoration work associated with the ROMP scheme was completed, additional reserves at the quarry would effectively be sterilised. This is an additional factor to be taken into account. (Documents 9.2 & 29)

Impact on Local Economy (MEW 1 criterion (ii)) (Documents 6.2 & 29)

61. In the past Burley Hill Quarry has made a significant contribution to the local economy. When fully operational it provided direct employment for 30 people, not including 16 HGV drivers. When the quarry was closed some of these were re-deployed at other sites but 14 were made redundant. If the appeal were dismissed, the quarry would, in time, be operated under the ROMP scheme and would be likely to employ about 5-6 people (excluding hauliers). If the appeal were allowed, the quarry would reopen almost immediately and would employ approximately 30 people (excluding hauliers) over a longer period of time. Indirect employment and its contribution to the local economy would also recover to their previous levels. In 1999 the business contributed an estimated £4.5M to the local and regional economies of Denbighshire and North East Wales. Whilst it is not suggested that the impact on the local economy is so serious as to amount to exceptional circumstances in itself, it is a significant factor that contributes towards those circumstances.
62. The UDP reports that the quarry industry supports 400-500 full-time jobs in the County, which is a significant figure in a population of approximately 90,000. The Denbighshire economy is fragile, relying mainly on agriculture and tourism, and has been awarded EU Objective 1 status. The strategic objectives set out in the plan include maintaining and improving the local economy by enabling improved job opportunities as well as safeguarding the needs and aspirations of existing businesses, particularly their development and expansion. The economic development strategy set out in paragraph 10.9 of the UDP includes: promoting inward investment; enabling indigenous company expansion; rural development initiatives; and forging partnerships. These aims would be furthered by allowing the proposed extension of the quarry. (Documents 9.2 & CD 18)
63. Much has been made by other parties of the importance of tourism in the area and of the number of visitors who enjoy the beauty of the area and the footpaths and hills around the quarry. However, there is not the slightest evidence that the presence of quarrying at Burley Hill has any negative effect on visitor numbers or their contribution to the local economy.

Effect on Landscape (MEW 1 criteria (iv) and (v)) (Document 8.2)

64. The achievement of optimum quarry restoration is supported by both national and local policy. PPW sets the basic principles for the conservation and enhancement of the natural beauty of AONBs, and MMPW provides more specific advice in relation to minerals development. Paragraph 7 advocates the principles of sustainable development and, in this context, seeks to achieve "*without compromise, restoration and aftercare to provide for appropriate and beneficial re-use*", and paragraph 21 lists the 5 criteria to be assessed. In addition, paragraph 48 deals specifically with restoration and aftercare and says "*Restoration and aftercare should provide the means to at least maintain, and preferably enhance, the long term quality of land and landscapes taken for mineral extraction. This will be to the*

benefit of local communities and ensure that a valuable material asset will be passed on to future generations." (Documents CD21 & CD22)

65. The relevant UDP policies have been explained earlier, and their requirements would be fully met by the appeal proposal. During the working life of the quarry the visual impact generated would be limited, and in the long-term the scheme would enhance the visual amenity of this part of the AONB and create extensive areas of new woodland, calcareous grassland and wetland. The proposed development would also meet the aims of the Clwydian Range AONB Management Plan, which encourages existing quarries to be operated and restored to a standard that is appropriate to the landscape of the AONB. And it would provide an opportunity for the managed introduction and development of nature conservation, biodiversity and improved public access to Big Covert, the wooded hillside to the west of the quarry. (Document CD27)
66. The Draft Denbighshire Landscape Strategy, published in December 2000, is also relevant. In 1998 the Council undertook a LANDMAP study of the County using the CCW methodology for landscape assessment. LANDMAP identifies the most important qualities in the landscape. The LANDMAP description of the character area in which the appeal site lies provides a useful context for the assessment of the impact on the landscape. It is described as follows: *"A distinct and outstanding group of upland limestone hills dominate the landscape to the east of the Clwydian Range. The topography is characterised by limestone outcrops and scarp slopes which are particularly prominent at Bryn Alyn and Loggerheads....Overall, there is a mosaic of pasture and woodland, although the former is mainly on the open hill tops and upper slopes with extensive woodland in valleys and on lower slopes."* (Document CD31)
67. A number of management objectives are set for this character area, including seeking the sympathetic restoration of active quarries and enhancing the visual and biodiversity value of plantations. The proposed scheme would ensure the effective and sympathetic restoration of Burley Hill Quarry and would enhance the visual quality of the surrounding landscape and of the woodland at Big Covert. The restoration scheme includes extensive additional planting of trees and shrubs, which would complement the existing woodland, the relocation of existing areas of calcareous grassland and limestone pavement affected by the quarry extension, and the creation of additional grassland and wetland areas. These proposals would actively support the County's landscape management objectives.
68. It is apparent from the reason for refusal that the members of the planning authority also considered there to be restoration benefits. Several consultees acknowledged the benefits of the appeal proposal over the alternative ROMP scheme, and both the Council and CCW recognise the benefits of the Woodland Management Plan put forward for Big Covert. (Document 29)
69. The thinking behind the proposed restoration scheme is to relieve the harshness and monotony of the existing quarry configuration, notably the very high and featureless northern and eastern faces, and create a more visually acceptable transition from and link with the surrounding natural topography. The after-use of the quarry would be one of passive nature conservation with possible public access in due course. The proposal represents a substantial improvement on the ROMP restoration scheme in terms of integration with the landscape and the quality and timing of restoration measures. (Document 9.2)
70. These conclusions have been reached after a thorough and systematic landscape and visual impact appraisal based on methodology guidelines published by the Landscape Institute and

the Institute of Environmental Assessment - SPON 1994 (Document CD32). The guidelines define landscape impact broadly as changes in the fabric, character and quality of the landscape as a result of the development; and they define visual impact as a subset of landscape impacts relating to changes in available views of the landscape and the effects of those changes on people.

71. The capacity of the landscape to accommodate change to its fabric, character and quality has been methodically assessed taking into account landscape resources and experience and mitigation measures. The key physical features of the landscape are its sinuous, undulating topography with steep escarpments, its areas of woodland, hedgerows and hedgerow trees, and its areas of calcareous grassland. The proposed scheme would enhance the landscape resource of the area by roll-over restoration techniques (around the edges of the quarry), increasing the area of woodland and creating calcareous grassland areas on the floor of the quarry.
72. Landscape experience is created by scale, openness, diversity, topographic form and line, and pattern. The proposed scheme would be compatible with the scale of the landscape, neutral with regard to openness, beneficial to diversity due to the design and long-term maintenance proposals for the quarry and Big Covert areas, and beneficial to the form and line of the quarry and to the local landscape pattern. The quarry would be better integrated within its setting as a result of the mitigation measures included in the scheme, albeit over a lengthy period of time.
73. The visual impact assessment process has used site survey and desk analysis to produce plans of computer generated zones of visual influence (ZVIs), which identify all potential areas from which the quarry and the proposed restoration scheme would be visible, photographs taken from vantage points all around the quarry, and computer generated photomontages illustrating the appearance of the planned restoration proposals under both the appeal and ROMP schemes. These are all presented, along with explanatory location maps, in Document 8.3.
74. If the appeal were dismissed, the fallback position would be operation and restoration of the quarry in accordance with the approved ROMP scheme. Hence it is appropriate to compare the landscape and visual impacts of the 2 schemes and to determine whether or not there is a significant difference between them.
75. The final landform configuration approved under the ROMP scheme is illustrated in plan ROMP 3 of Core Document CD12 (marked for identification purposes as plan C3). It is based on working the remaining reserve of 4.4 million tonnes, which would be unlikely to take place before 2010. The operational requirements of the existing quarry dictate that progressive restoration would not be feasible until the reserves have all been removed. Therefore, restoration would be unlikely to be completed before 2018-2021. It is also possible that the quarry may not be reopened, in which case restoration would be further delayed until possibly 2021.
76. Under the ROMP scheme there is very little scope for modification of the landform structure, as the quarry has been worked to the full lateral extent of its permission. Consequently, the structure of the upper quarry face would remain in its current state, and the northern face would continue to be visually apparent when viewed from Bryn Alyn to the south of the site. The upper face would be some 20-30 metres high, and a 30-50 metres face would remain below the existing bench. Trees and shrubs would be planted on the benches of the northern and eastern faces, using waste material tipped to depths of between 0.3 and 1.5 metres.

Calcareous grass seeding and further planting would be carried out on the floor of the quarry, again using waste material. Whilst this would go some way towards screening the exposed faces, the limited number of benches and availability of waste material to provide an adequate depth of cover over the rock would limit its effectiveness. The restricted width of the benches and of access to them would also constrain future maintenance operations.

77. The western face is unstable, and no modification to its current structure would be achieved. Some hydroseeding might be possible. However, as it would not be feasible to tip any type of soil or growing medium on to the face, the success of the hydroseeding would be uncertain. The original appeal proposal included extension of quarrying to the west to address this instability. However, that is not included in the revised appeal scheme, and treatment of the western face would be the same under both the ROMP and appeal schemes, with the exception that the appeal scheme would include tree planting in the current stockpile area.
78. Overall, the restoration proposals included in the ROMP scheme are the best possible under the circumstances. However, the existing regular bench profiles would remain a dominant feature, and it would still be visible over a wide area. Photomontage 02 (in Document 8.3) provides an illustration of its likely long-term appearance from the south, and visual impacts from various other vantage-points are described in notes attached to photographic plates 1-23 in the same document. As a consequence of the constraints on the ROMP restoration, the quarry would continue to have a long-term visual impact on the AONB even after many decades following completion of mineral extraction, as illustrated by the ZVI (Zone of Visual Influence) plan CAH 7 in Document 8.3. This would not be consistent with meeting the objective of the Clwydian Range AONB Management Strategy (Document CD27) to restore quarries *"to a standard that is appropriate to the landscape of the AONB"*.
79. On the other hand, proposed restoration measures under the appeal scheme would go very much further towards that aim, and comparison between the 2 schemes is explained in the notes attached to photographic plates 1-23 (Document 8.3). Short-term benefits would accrue as a result of the progressive restoration scheme illustrated on Drawings 2-9 in Core Document CD34 (identified as plans B2-B9), and long-term benefits would be achieved on account of better quality and more appropriate measures made possible by the extended quarrying scheme.
80. The Zone of Visual Influence exercise has been used to identify points from which the quarry is visible and so inform the detailed design. The valley configuration within the southern boundary of the site would be aligned to capitalise on the natural valley running in a south westerly direction into Big Covert, and the ridgeline within Big Covert and the high ground to the east of the site would be retained, as they are critical to limiting views within the wider countryside.
81. The northern and eastern extensions offer more scope to modify the boundaries and would allow a greater degree of integration with the adjoining landscape. The northern extension would involve removing the top of the adjoining hill so that the height of that face would be reduced when viewed from the south. This, coupled with rollover techniques along the edge of the quarry, would bring about notable improvements in visual impact within 4 years of commencement. The eastern extension would allow wider, more accessible top benches to be retained, slopes rather than vertical faces to be presented at the top levels, and rollover techniques to be used along the edge of the quarry. Hence, there would be a more gradual transition between the quarry and the surrounding land.

82. In view of its importance, it is worth considering the visual impact appraisal in more detail. At long distances only the upper faces of the quarry are visible and the quarry is only a small element in the wider landscape. More detailed assessment has been carried out for views from nearby residential properties, public open spaces, roads and footpaths.
83. The nearest village is Maeshafn to the north of the quarry, where the underlying topography is rolling in nature with a series of troughs and hillocks. These landscape elements would continue to prevent views of the quarry and of the proposed extension, with the temporary exception of works at the northern edge of the quarry during the first few months of operation. The nearest properties, Pen-y-ffordd, Midldor and Pant Rhedynog, would experience a slight reduction in skyline associated with the reduction in the height of the hill at the northern face. However, no views of the proposed quarry would be opened up by this reduction (see photomontage 03 in Document 8.3), and visual impacts would be slight.
84. Fron Deg Farm and Rock Cottage lie close to the southern edge of the quarry but are screened from it by trees or landforms, and these circumstances would not change. Properties further to the south, including the village of Eryrys, are screened by an intervening hill and have no views to the north. There are several houses to the east of the quarry off the C107 road, and some of these are close to the boundary. The others are screened by the intervening topography and mature vegetation, which would be retained. An earth screen bund and tree planting would be introduced to the east of the quarry during the first phase of the proposed scheme and would further enhance the existing screening. Big Covert and the hillside provides full screening from properties to the west.
85. The main area of public open space in the area is Moel Findeg to the north east of the site. This has recently been purchased by a local trust and is being developed as a country park. Views from there are best illustrated by photographic plate 20 and photomontages 4 and 5 (Document 8.3). They would be affected by the reduction in height of the northern face of the quarry, which would make the upper part of the western face marginally more visible, though at considerable distance. This is accepted as the main adverse impact of the proposal.
86. Apart from the quarry access road, the only road from which the quarry is visible is the C107. This runs to the east of the site but is largely screened from it by the landform and hedges, as illustrated by photographic plates 12, 13, 14 and 18 in Document 8.3. Further screening would be provided by the bund and additional planting mentioned above. Some views are possible from the road to the south east of the site, approaching from Eryrys. However, the proposed extension would have no impact on this, and the existing impact would be reduced in time as a result of the restoration works.
87. Most views of the quarry are gained from the network of public footpaths surrounding the site. There is no doubt that these paths are walked but surveys show that their use is not extensive. To the north of the quarry there are footpaths towards Maeshafn but none of these offer views of the quarry and, apart from a few months at the beginning of renewed operations when the top of the northern extension was prepared, the appeal scheme would not be visible from them due to the existing topography and vegetation. Views from the footpaths on Moel Findeg have been described above.
88. The landscape to the south of the quarry is characterised by high open hillsides, and the footpath on the north-facing slopes of the nearest hill, Bryn Alyn, offers vantage points into the existing quarry. The northern, western and eastern faces are clearly visible (see photographic plates 15 & 16 in Document 8.3), and from points closer to the quarry the static quarry plant can also be seen (photographic plate 6 of Document 8.3). The proposed quarry

extension would have increased visual impact during its early stages. However, the progressive restoration scheme would generate beneficial visual change over time, as illustrated by photomontages 1F-1J in Document 8.3. The present stark appearance of the quarry would be mitigated, and the upper levels of the quarry would be integrated into the landscape. Photomontages 02 & 02A also provide an opportunity to compare the effectiveness anticipated for the ROMP and appeal restoration schemes in views from the south. The ROMP scheme clearly cannot provide the same opportunity for integration.

89. To the east of the quarry a network of footpaths runs broadly north-south and views of the quarry vary greatly. Footpath 35 skirts the eastern boundary and over a short section offers open views into the quarry. However, it is this footpath that would need to be diverted to accommodate the extension, and views from other footpaths are largely screened by the natural topography and vegetation. A more distant footpath running along the western edge of Tir-y-Coed (beyond the C107 road) offers some view into the quarry from its elevated vantage point (see photographic plate 17 in Document 8.3). However, it would offer no views of the northern extension, and the additional screen mound and tree planting along the eastern edge of the extended quarry would reduce general views from that footpath.
90. Finally, the high wooded hillside of Big Covert provides effective screening from all footpaths to the west, apart from footpath 33, which runs along the edge of the quarry within the wood itself and offers extensive views of the quarry at several points (see photographic plate 3 in Document 8.3). However, because of the instability of the western face, parts of this footpath have already been redirected away from the quarry, and the Woodland Management Plan would include a further diversion to the west, thus reducing the impact of the quarry on people walking along that footpath.
91. The appeal scheme would offer the following advantages over the ROMP scheme:
 - a substantially greater volume of waste material for restoration use (more than twice as much), allowing greater depths to be placed so that better tree and shrub establishment and growth would be likely;
 - wider benches for improved planting and maintenance access;
 - a reduction of about 10 metres in the height of the northern face, thus significantly reducing its visual impact;
 - more varied and natural landforms within the quarry and with rollover along the top edges of the northern and eastern faces;
 - progressive restoration, bringing forward improvements by several years, e.g. the upper part of the northern face would be completed during 2005/6, coinciding with the public gaining "Access Land" rights to Bryn Alyn under the Countryside and Rights of Way Act 2000. (Document 29)
92. The second design objective of the restoration scheme is to enhance and maximise wildlife potential, notably with the creation of new areas of mixed broad-leaf deciduous woodland, calcareous grassland and wetland following the completion of stone extraction. The new woodland would reflect the naturally occurring species in the locality and would extend over the areas of rollover and retained benches within the quarry. The proposed extension would result in the limited loss of some areas of calcareous grassland and remnant limestone pavement. However, it is proposed that these would be moved and reintegrated into the

restored landform using methodologies agreed with the Council and the CCW (see Item 8 of Core Document CD33 & Appendices E & F of Document 8.4).

93. The area of limestone pavement affected would amount to about 0.1 hectare, which is small compared with the area of about 1.2 hectare of pavement on Bryn Alyn. The limestone pavement on Bryn Alyn is one of the reasons why the area was designated as a Site of Special Scientific Interest. However, the limestone pavement within the appeal site was not so designated; nor has its protection been considered to be of such importance as to warrant a Limestone Pavement Order being made, as it could have been. Although the translocation proposals are experimental, there is no reason to think that a substantial part of the biological value of the pavement would not be retained, and the CCW accepts that the mitigation measures would provide some amelioration of its disruption. (Document 29)
94. Relocation of the area of calcareous grassland is much less of an issue. It would provide appropriate new habitats as required by UDP Policy ENV 5, and there is every reason to believe that the relocated grass would substantially replicate the biological diversity of the flora and fauna present at the existing site. A further 10.3 hectares of new grassland would also be created within the site, providing further habitat mitigation and enhancement. (Document 29)
95. The Woodland Management Plan for Big Covert (see Appendix G of Document 8.4) is an important element of the proposed scheme and would be implemented as an integral part of it. It would provide a long-term management plan for Big Covert for the next 30 years, improving the structure and character of the woodland, allowing ground flora to re-establish and improving public access. A long-term management plan would also be drawn up for the quarry area itself and would be integrated with that for Big Covert, providing an holistic approach to the local area to enhance the vegetation structure. The Woodland Management Plan for Big Covert is the subject of a Section 106 Undertaking, and significant weight should be given to this benefit as part of the exceptional circumstances that justify allowing the proposed development. (Document 29)

Other Effects on Environment (MEW 1 criterion (iv)) (Documents 8.2, 29 & CD1)

96. This section covers effects on flora and fauna, other than those associated with the calcareous grassland and limestone pavement, which are dealt with in the previous section. Chapter 7 of the Environmental Statement Volume 2A (Core Document CD1(b)) explains that a Phase 1 habitat survey was carried out in October 1998 followed by a series of other more specific surveys (see Environmental Statement Volume 2B (Core Document CD1(c))). Bat surveys were carried out in December 1998, February 1999 and August 1999. A dormouse survey was completed in October 1999, a badger survey in June 2000 and an invertebrate appraisal in August 2000.
97. Several old shafts and adits in Big Covert are known to support roosting bats, and a single lesser horseshoe bat was found in an underground adit near the south west corner of the quarry. Other species are also known to roost in Big Covert. The closest adit would be about 12-13 metres from the extraction area and, although there would be no direct impact, indirect effects might occur, for example vibration. The Wildlife and Countryside Act 1981 provides protection for bats and their roosts and, if they were to be affected by the quarrying work, a licence for mitigation measures would have to be obtained. However, the CCW has not suggested that it would be unlikely to be granted or that the "favourable conservation status" of the lesser horseshoe bat would be affected.

98. Measures would be taken to exclude bats from the nearest adit in advance of any nearby blasting operations. In addition, it would be proposed to construct an artificial roost (with stone boulders and concrete pipes) within the quarry rollover restoration and a series of boxes attached to trees in Big Covert, of a type known to be attractive to some types of bats. Overall, the potential effect of the development on bats would be extremely limited and could be satisfactorily mitigated.
99. Badgers are present in Big Covert and in the area around the quarry. A further survey would be carried out before quarrying was started in the south west corner of the quarry and, if active setts were found, mitigation measures would be undertaken under an appropriate licence. The CCW has made no sustained objection in regard to badgers, and the value of woodland habitat for them would be improved by implementation of the Woodland Management Plan for Big Covert if the development were allowed. There is no dispute that other effects on the natural environment would be negligible.
100. Some local residents say that the Environmental Impact Assessment was inadequate. However, the Council, CCW and other relevant organisations were consulted on the scope of the study and have confirmed that they remain satisfied that the assessment and Environmental Statement are fully compliant with the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999. The assessment was prepared in accordance with the advice contained in Welsh Office Circular 11/99, "Environmental Impact Assessment (EIA)".
101. The baseline survey was comprehensive, and there is no reason to think that it would have failed to identify the existence of any important species or habitats had they been present on the site. Further work was carried out as considered necessary, including all further work requested by the various bodies consulted. The Environmental Statement provides the information needed to assess any significant effects of the proposed development on the environment, both the natural and wider environment.

Effects on Amenity (Documents 9.2, 9.3, 29 and CD1)

102. Although not in dispute with the Council, matters relating to noise, dust, vibration and "flyrock" have been raised by some local residents. Obviously, it is not contended that the operation of the quarry would have no effect on the amenity of some local residents or on the users of footpaths in the vicinity. However, it would be no worse than would be experienced under the ROMP scheme and would be contained well within acceptable limits. Blasting would typically occur about once per week, as in the past, when vibrations have been maintained well within the limits set out in the current planning permissions and national standards. Monitoring procedures and standards could again be adequately covered by suitable conditions. The Environmental Statement includes reports on these topics.
103. Particular criticism has occurred in regard to the noise survey carried out for the EIA. However, this was carried out fully in accordance with the guidance in MPG11, "Minerals Planning Guidance: the Control of Noise at Surface Mineral Workings", issued by the Department of the Environment and the Welsh Office in 1993. There is no requirement to carry out more than one background noise survey. In any case, the survey carried out represents the likely worst case, as the background noise levels surveyed were low, resulting in low noise limits being set for the proposed operations, including the temporary initial work at current ground levels. The calculations of predicted noise levels are in accordance with normal practice, and the advice contained in MPG11 on reversing alarms would also be followed and could be the subject of a suitable condition. (Document 10.2)

104. Some concerns have been expressed about “flyrock”, the term used to describe broken rock that is projected away from the site of blasting operations in an uncontrolled manner. No substantial evidence has come forward to show unacceptable incidents in the past, and none have occurred since Tarmac took over the running of the quarry in 1998. In fact, there have been no incidents of flyrock at any of Tarmac Central’s 25 hard rock quarries over the past 5 years. Industry standards and good practice would be followed to minimise the possibility of such incidents.

Effects on Hydrology and Drainage (Documents 9.2, 9.3 & 10.1)

105. Mr Carus, the neighbouring landowner, has argued that extension of the quarry to the east would alter the local hydrogeological regime to the detriment of water provision to his land. However, this matter was considered as part of the Environmental Impact Assessment, and the Environmental Statement reports that it would be unlikely to be so. It is noteworthy that the Environment Agency has not raised any concerns about possible effects. (See volume 2A of the Environmental Statement – Core Document CD1(b))

106. Although the source of the historic spring to the north of the quarry is unknown, it has run for over 200 years and not been affected by natural seismic occurrences or past quarry operations. Further blasting operations at the quarry, would be unlikely to produce ground movement on the scale of seismic events. The perched water table to the east of the quarry, which is thought to feed the spring, would not be materially affected by extension of the quarry in that direction due to its underlying horizon of low permeability superficial deposits. Outside the area of the perched water table the farmland relies on surface infiltration of water rather than groundwater, and the normal hydrological process would therefore not be altered.

Footpath Stopping Up and Diversion Order (Documents 8.2, 9.5 & 29)

107. A stopping up order, under Section 247 of the 1990 Act, would be needed to accommodate the proposed extension of the quarry to the east. It has not been contested that the order would be necessary for implementation of the permission, if granted. Therefore the statutory test is satisfied.

108. Footpath 35 approaches the existing quarry near its south east corner (see plan enclosed in Document 9.5) and then runs northwards close to the eastern boundary of the quarry. Approximately 420 metres of footpath 35 would be closed, mainly a relatively enclosed section alongside the quarry with immediate views into it. Walkers would be diverted along existing footpaths 42 and 43 as far as the junction of footpaths 43 and 44. These paths run roughly parallel to footpath 35, at a higher level and about 100 metres to the east of it. Then a new section of footpath would be provided in a north westerly and westerly direction down the hill to rejoin the existing footpath 35 close to the edge of the quarry. (See plan in Document 9.5)

109. The section of footpath 43 that would be used is well screened from the quarry, is less enclosed than the length of footpath 35 that it would replace and enjoys open views to the east. It also has a gradient comparable to the section to be closed. The alternative route would be pleasant and convenient. The net loss of footpath length would be approximately 260 metres but would be more than compensated for by the additional public access included in the Woodland Management Plan for Big Covert. Overall, the net loss of footpath and the diversion route would constitute minimal disruption to public amenity and would be more than balanced by other benefits. These have been factored into the overall balance for the scheme as a whole.

Overall Assessment (Document 29)

110. The proposed quarry extension is compliant with the development plan because exceptional circumstances justify the grant of planning permission. These exceptional circumstances comprise a combination of the following:

- (i) the release of further reserves of limestone suitable for high quality end-uses is needed in order to maintain the County's landbank of crushed rock, to which there is a clear policy commitment in the recently adopted UDP, and to avoid the very significant environmental and economic costs of sourcing the market served by Burley Hill from other quarries;
- (ii) the clear and substantial benefit to the landscape of the AONB, both in the short and long term, resulting primarily from the proposed treatment of the northern face and the Woodland Management Plan, which is an integral part of the scheme, neither of which will be achieved if the quarry is worked under the ROMP approved scheme;
- (iii) the harmful impact on the local economy of refusing planning permission, and the beneficial impact of granting permission, particularly in terms of jobs and the wider contribution to the local economy made by the quarrying industry, of which Burley Hill is an important part; and
- (iv) the fact that the additional environmental impacts of the proposed extension, compared with the ROMP scheme of working, are very limited and can be satisfactorily mitigated.

111. The appeal proposals would therefore represent an opportunity, which a proper application of up-to-date development plan, regional and national policy requires to be taken. Accordingly, the appeal should be allowed.

Case for Denbighshire County Council

The material points are:

Policy Basis (Documents 13.2 & 28)

112. The basic proposition to be considered is whether or not there is a good enough reason to allow the proposed quarry extension in this area of national importance. In the Council's view, there is no doubt that there is not. All parties are agreed that it is necessary to demonstrate "exceptional circumstances" in order to comply with UDP Policy MEW 1 and paragraph 21 of MPPW. However, the Council also considers that the proposal amounts to "major development" and, as such, also needs to be demonstrated to be in the public interest to comply with UDP Policy STRAT 4 and paragraph 21 of MPPW and for there to be "*an overriding need in terms of proven national interest*" in order to comply with UDP Policy MEW 2. (Core Documents CD18 & CD21)

113. It is a matter of judgement whether or not the proposal is considered to be "major". National guidance describes "major development" as that which is more national than local in character. In this case, the proposal raises matters of wider importance and the market for the stone (and hence the argument of "need") encompasses a considerable area. This definition also seems to be supported by the National Assembly's decision to recover the appeal for its own determination. The recovery letter said: "*The reason for this direction is because the development involves major proposals for the winning and working of minerals.*" Whilst the Appellant is of the view that it is not "major development", it does not argue one way or the

other, as it takes the view that the level of justification needed to show exceptional circumstances can only be demonstrated if the proposal is in the public interest. Whilst the Council considers there to be a higher threshold to be met, it does not pursue the argument as it considers that the proposal fails to meet even that of "exceptional circumstances".

114. Tarmac's case is that there are 3 elements to the claimed exceptional circumstances, essentially restoration benefits, the need for the product, and economic and environmental benefits; and it is Tarmac's case that the cumulative effects of these, rather than any one alone, amount to exceptional circumstances. The following evidence deals with each of these in turn.

Landscape Issues (Documents 12.2, 13.2 & 28)

115. It is accepted that the landscape and visual impact analyses in the Appellant's Environmental Statement have been assessed using recognised procedures, and the Council has adopted the same procedures. The assessment process systematically identifies potential impacts, their magnitude and their significance from different viewpoints around the site.
116. The site lies in an Area of Outstanding Natural Beauty, and so any impact on the landscape is of particular significance and carries increased weight. Notwithstanding its inclusion in the AONB, the CCW LANDMAP analysis has identified the area surrounding the quarry as one of the highest category of landscape importance where the visual aspect is outstanding (Appendix 1 of Document 12.2). The area is used extensively by walkers, and in assessing the sensitivity of the landscape the value of people as receptors and the views from footpaths and viewpoints are important. In addition, the establishment of "access land" under the "Right to Roam" legislation may increase the significance of some viewpoints, such as Bryn Alyn, the hillside to the south.
117. Whilst visual impact on the landscape is important, character impacts are also significant and have been largely ignored in Tarmac's evidence. However, the proposed extension of the quarry would result in the loss of 4.4 hectares of high quality landscape, which contains several important features, 2 of which are categorised as "outstanding" in their own right: areas of calcareous grassland and limestone pavement. This landscape would be replaced by a use that is identified in the LANDMAP assessment as having the least landscape value.
118. The northern extension would remove the remains of the original rounded hillside, including the limestone pavement and grassland and scattered trees that link with Big Covert to the west. Regeneration woodland species on the rim of the quarry would also be lost. The replacement landscape would take the form of a planted, south-facing slope constructed of quarry waste with quarry faces to the east and west. A typical natural feature of visual and ecological value would be lost and replaced by an artificial landform planted with trees and shrubs.
119. The eastern extension would remove a strip of grassland with typical local flora. which helps to enclose the wetland feature (see photographs in Appendix 7 of Document 12.2). Quarrying would remove these natural features, and the grassed hillside to the east would terminate abruptly in a cliff face with a series of benches and exposed rock faces, the upper face being 30-40 metres high in places. A screening bund would be constructed and assimilated into the landform. However, it is doubtful if the planted vegetation would look natural on the type of material used to construct the bund. An existing spoil mound previously constructed to the south of the quarry and planted with trees and shrubs shows how difficult it is for such a feature to fit in with the character of the local landscape.

120. Extension of the quarry in the south western corner would remove an area enclosed by trees and woodland currently used for stockpiling on the edge of Big Covert. Further excavation would also adversely affect the natural landform. The quarry itself, although "restored", would take the form of a deep enclosed hollow uncharacteristic of the area with steep slopes, exposed rock faces and vegetation of an artificial nature.
121. Before assessing the visual impact, its duration and the sensitivity of its receptors need to be considered. The surrounding footpaths are well used and popular with walkers; their use is partly due to the significant number of generators of outdoor activity in the area, e.g. nearby youth hostel and outdoor education centres (see map in Appendix 5 of Document 12.2). One of the features of the footpath network is that, within a relatively small area, there is a diversity of views ranging from intimate, enclosed views to more spectacular panoramic views. The proposed footpath diversion would replace present long distance views with a more bland view from the diverted route and would detract from walkers' enjoyment to some extent. However, impact on local residents is of even more concern than that on footpath users, as the impact could not be avoided. It is also important not to ignore short-term effects, for example those of the preparatory, operational and restoration works at the northern hillock, which would be readily apparent to nearby local residents.
122. The appeal proposals should be judged against 2 possible fallback positions: the first is the ROMP scheme; the second is a softened version of the current situation that could occur with time if Tarmac decided it was not feasible to reopen the quarry and implement the ROMP operation and restoration scheme. However, no assessment as such has been carried out of the latter possibility, and the assessment of visual impact is made simply against the current situation and the fallback ROMP scheme.
123. At present there are no views of the quarry from houses or roads to the north and, although the southern end of the quarry and the top of the spoil mound and plant can just be seen from Moel Findeg nature reserve to the north east, it is at such distance that it has minimal impact on the overall landscape. Under the ROMP scheme there would be little or no visual or character impact on views from the north. However, the appeal scheme would have both short and long-term impacts. During the stripping of the vegetation, removal of soil, translocation of the grassland and limestone pavement features, initial extraction of rock near the top of the northern face and subsequent restoration work in that area the work would be visible from many footpaths to the north, from the nearest houses in Maeshafn and from Moel Findeg. In the long-term loss of the hillock would leave a permanent gap in the landscape, diminishing its interest in comparison with the present, and from some views (particularly longer distance) exposing the top of the western face. These impacts would be unacceptable.
124. It is worth mentioning the stability of the western face at this point. Tarmac's initial application included extension of workings to the west in order to stabilise the western face, which is acknowledged as being unstable and liable to slips. The Council's view is that with time the face will achieve a natural level of stability, and Tarmac has accepted a "wait-and-see" approach for the time being. Nevertheless, it remains Tarmac's view that work will be needed to stabilise the western face, and it is likely that further proposals will be put forward in due course for additional quarrying work to that face. Bearing this in mind, the role of the northern hillock as a partial screen for views of the top of the western face from the high land to the north takes on additional importance.
125. From the south one property, Fron Deg, looks over the northern and western quarry faces, and the south east corner of the quarry is visible from the access road immediately to the

south. Footpaths on Bryn Alyn, the hillside to the south, provide open views of the quarry faces, and the full depth of the quarry can be seen from the higher slopes. The Appellant claims that the main visual benefits would be seen from the south as the appeal scheme would involve a reduced height northern face compared with the ROMP scheme, and this is not disputed. The reduced height would benefit views from the nearby property, Fron Deg, and from the hillside of Bryn Alyn. However, the extension work to the east (and to a lesser extent work in the south western corner) would extend the field of view of the quarry and, even though the appeal scheme may achieve greener and softer restoration measures compared with the ROMP scheme, the extent of any overall benefit would be questionable.

126. It may even be argued that the restoration scheme would appear more unnatural than that of the ROMP scheme. It would have straight lines of vegetation on benches and would appear more contrived than the ROMP scheme, which would appear more genuine as a quarry in an area where there are natural limestone rock faces in any case.
127. The scattered dwellings to the east do not generally have views of the main part of the quarry but the tops of the northern and western faces are visible from a short section of the C107 road from Eryrys to Mold. Various views are possible from footpaths to the east (see plan in Appendix 3 of Document 12.2), particularly close views from footpaths 35 and 43 and, at the south east end, from footpaths 35 and 42. Longer distance views of parts of the quarry are possible from parts of footpaths 53 and 65 to the east of the C107 road, and from higher ground to the south east parts of the northern and western faces, the stockpile, plant area and southern spoil mound can be seen against the backdrop of Big Covert.
128. Apart from views of operations inside the quarry from footpaths 35 and 42 adjacent to the quarry, the ROMP scheme would have no effect on views from the east. However, the appeal scheme would remove the natural screening along the edge of the quarry and replace it with a screen mound. Construction work for this would be readily visible from nearby dwellings, the C107 road and several sections of footpath. When constructed it would largely screen views of the western face but would itself be an unnatural feature in the landscape, particularly bearing in mind the poor integration achieved with the present southern spoil mound.
129. There are no views of the quarry from the west, except from footpath 33 on the edge of Big Covert. This gives views of the eastern face, which would be improved in the long-term if either scheme were implemented. However, during the extraction of rock from the extended eastern face under the appeal scheme the visual impact of the working would be high, though alleviated to some extent by the Woodland Management Scheme and new planting.
130. In conclusion, it is recognised that the appeal scheme offers some benefits in terms of the lowering of the northern face, restoration within a slightly shorter timescale, and the greater availability of spoil. However, in overall terms the impact is profoundly detrimental, both in terms of short-term and long-term visual impacts and in the irreversible loss of important landscape features to be replaced by a larger, restored quarry. The CCW's evidence is relied upon with respect to the translocation of limestone pavement and calcareous grassland areas, which are merely measures to mitigate harm caused by failure to preserve those elements in their natural state.
131. Burley Hill Quarry is situated within the high quality landscape of the Clwydian Range AONB, and there are strong policy objections to extensions of quarries in the AONB. The present quarry is concealed from most directions, and the proposed extensions to the north and east would remove important landscape features and have greater visual impact than the

existing quarry or the ROMP scheme. This clear and significant harm to the landscape would not be outweighed by the limited benefits of the appeal scheme restoration.

Need for the Mineral (Documents 11.2, 13.2 & 28)

132. Tarmac does not contend that its market would go without limestone aggregate if the appeal were dismissed. Indeed, the re-ordering of the market since the closure of Burley Hill Quarry has shown that all but some 0.1 million tonnes of its former annual production can be sourced from other quarries in North East Wales. It would be a number of years before there would be a genuine need for additional supplies in the general sense of the meaning of "need", and this is attested to by Tarmac's plans to keep the quarry closed for a further 8 years if the appeal is dismissed. Nevertheless, "need" in terms of the landbank of reserves is being argued for, with reference to local and national policies for maintaining an adequate reserve.
133. MPPW defines landbank as "*a stock of planning permissions which usually relate to the extraction of non-energy minerals and provides for continuity of production in spite of fluctuations in demand*". UDP Policy STRAT 4 says that "*the County's landbank of permitted reserves will be maintained over the plan period*". However, there is no clear guidance on what size of landbank should be maintained. (Core Document CD21)
134. The most recent guidance on the timescale for landbanks with specific reference to Wales is MPG6, Guidelines for Aggregates Provision in England and Wales (1989), which advises that a minimum landbank of 10 years or more should be maintained for rock. However, MPG6, Guidelines for Aggregates Provision in England (1994), replaced the 1989 version for England and advised that the landbank should be maintained at a level of 7 years or more for crushed rock. Whilst specific to England, MPG6 (1994) has been referred to in a recent appeal decision in Wales (at The Gelli, Nannerch, Flintshire - see Core Document CD4). That Inspector concluded that it must be relevant to Wales as it is more up to date and takes account of the principles of sustainable development. Regional Planning Guidance for North Wales (2001) refers to MPG6 (1989) as the current guidance. However, in view of the recent appeal decision, it is considered that the advice in MPG6 (1994) warrants greater weight. Accordingly, it is considered that a 7 years landbank represents the most up to date relevant guidance and should apply to this appeal. (Core Documents CD4, CD19, CD20 & CD23B)
135. It is noteworthy that the Minerals Technical Advice Note (Wales), Consultation Draft, published in February 2002, proposed a radically new approach to aggregates planning, which places far less reliance on maintaining a stock of reserves that allow past production rates to continue. It proposes a 5 years landbank, as well as a regional strategy, based on an apportionment agreed by the RAWP. Whilst it is acknowledged that the draft TAN carries only limited weight and that the relevant policies have been the subject of objection, it is clear that a radical new approach will be reflected in the TAN when it is finally issued. This is likely to be well before the County landbank falls below 7 years supply and will be the best time to review the supply situation on the basis of up to date national policy. (Core Document CD26)
136. Another matter in dispute is the area over which the landbank should be assessed. Tarmac argues that it should be considered on a County basis as UDP Policy STRAT 4 refers to "*the County's landbank*". However, no meaningful planning objective has been put forward to explain why each Minerals Planning Authority should have to maintain its own landbank when the majority of the resource from the region is actually "exported" to North West England. Both MPPW and Regional Planning Guidance for North Wales advocate a regional approach, and the same theme was taken up in the Draft Minerals TAN. Whilst the County

landbank is a consideration, it is more appropriate to carry out the landbank assessment for the North East Wales sub-region. (Core Documents CD18, CD21, CD23B & CD26)

137. Survey data in the North Wales RAWP's Aggregates Monitoring Survey 2000 (Core Document CD24) shows limestone landbanks at that time of 17.5 years for Denbighshire and 27.5 years for the North Wales region, nearly all of which is in North East Wales. These figures are robust and do not include substantial reserves at Cefn Mawr Quarry, as it is currently used for cement production, or Penmaenmawr Quarry, which is an igneous rock but capable of use as an aggregate for concrete and roadstone. If these were included, the crushed rock landbank for North East Wales would be further increased to approximately 33.5 years and for the North Wales region to approximately 35.5 years. Allowing for 2 years depletion of these reserves to the current date, the landbank for crushed rock is clearly significantly more than 7 years whether it is assessed for the County, North East Wales sub-region or North Wales region. (Core Document CD24)
138. Tarmac argues that, unless additional land is released, the landbank for the County will fall below the minimum level required before the end of the UDP plan period of 2011 and that 4 of the 5 active quarries in Denbighshire and 7 of the 13 in North East Wales will be exhausted over the next 10 years. However, this assessment is too simplistic and takes no account of possible future changes in demand or planning permissions being granted elsewhere. Only Burley Hill and Aberduna Quarries are located within the AONB. It is also relevant that the appeal scheme would provide an increase of only some 4.85 million tonnes, which represents an increase of less than one year for the North Wales and North East Wales landbanks and less than 2 years for the County landbank, which is insignificant. Tarmac's analysis of the redistribution of supply amongst other quarries merely serves to demonstrate how flexible the market can be.
139. There is clearly no justification for the extension of Burley Hill Quarry on the basis that there will be a need for the existing landbank to be supplemented because at some time in the future further reserves may be needed. In view of the extensive "export" of crushed stone to North West England from North East Wales, it is also relevant that equivalent landbanks in nearby regions of England are between some 30 - 80 years, reinforcing the conclusion that there is no need for the release of additional reserves.
140. In view of the adequate nature of the regional and sub-regional landbanks (and to a lesser extent the County landbank), the uncertainties of future demand and the imminent change of approach expected when the Minerals TAN is issued, the best time to review the County's minerals reserves is during the next UDP review, which is scheduled to be completed well before 2011, the end of the current plan period. In any case the plan-led system, which is subject to regular reviews, should not be criticised for not making provision for a landbank at the end of a plan period to be maintained above the minimum advised length. No such objection was made at the UDP inquiry, even though it has formed a major part of the Appellant's case in this appeal. The argument is similar to that put forward in the recent appeal at The Gelli referred to above (Core Document CD4), and the approach taken by that Inspector is commended. He considered that, even though landbank figures would fall to apparently low levels by the end of the plan period, it was sufficient to allow any future shortfall to be addressed through the development plan process.
141. Uncertainty over future demand is exacerbated by national and local sustainability policies that aim to maximise the use of secondary aggregates. Whilst it is not suggested that recycled aggregates will replace significant quantities of primary aggregates, their increasing use is an additional factor that complicates future predictions of market development. It may be that

they will alter the balance between the production of high and low quality materials in the limestone quarries of North East Wales. As a major element of government sustainability policy they cannot be ignored.

142. One waste product with great potential in North Wales is slate, of which there are huge quantities. It is referred to in the Draft Minerals TAN (Core Document CD26) and has been the subject of feasibility studies in recent years (see Arup's report, "North Wales Slate Tips - A Sustainable Source of Secondary Aggregates?", produced for the National Assembly in June 2001 - Appendix 9 of Document 11.3). Further investigations have been carried out by McAlpines' slate division (see Documents 10.4 & 10.6), including trials of existing rail facilities for transportation. Given the extent of the slate waste reserve and that much of it is in a National Park, its future use is likely to be strongly supported by national policy.
143. Tarmac has made particular mention of the high quality of the reserves at Burley Hill Quarry, and this is not disputed. However, it is not a unique reserve in this regard, and the quantity of stone that would be under-utilised as lower quality aggregate under the ROMP scheme would not be significant. Nor would dismissal of the appeal scheme lead to a shortage of either type of stone in the marketplace. In reality, Burley Hill stone is not needed to make up the County or sub-regional landbanks. If permission were granted, its main benefit would be in enabling the Appellant to maintain its market share in North East Wales.
144. Overall, it is submitted that the demand for crushed rock should be assessed on a regional rather than local basis, that there is an adequate landbank whether assessed at local, sub-regional or regional level, that there are substantial landbanks in the neighbouring regions of England, where the main market is, and that there is no need for the development in terms of national demand for primary aggregates. It is also clear that alternative supplies can be made available to the market in the current circumstances of closure of Burley Hill Quarry and that future predictions of demand are likely to be affected by many uncertainties. It is concluded that no exceptional circumstances exist with regard to the need for the mineral.

Environmental Benefits (Document 28)

145. Tarmac argues that, if the extension is not permitted, the quantity of stone aggregate involved would have to be supplied from other quarries in North East Wales and the North West of England and that this would involve increased economic and environmental costs (Document 7.2). The exercise carried out to demonstrate this is merely an overly complex method of demonstrating that, if the Burley Hill output was sourced from elsewhere, journey distances overall would be increased. That plainly has economic and environmental impacts that are not easy to quantify.
146. A similar argument was presented in connection with the recent appeal for sand and gravel extraction at The Gelli in Flintshire (see appeal decision in Core Document CD4). The conclusions of that Inspector are especially pertinent: *"It is argued that one effect of not proceeding with the development would be to increase haulage distances to existing customers. This may be so in the short term but it would appear that the market for concreting sand in the general region is a complex one with numerous suppliers and customers spread over a wide area of North Wales and the North West of England. In such a context the commercial market inevitably has to make regular adjustments in response to a changing situation with regard to demand, supply, pricing structures and alternative sources and products. I cannot accept that the industry in general would be adversely affected by the loss of just one source of production."*

Local Economic Benefits (Documents 13.2 & 28)

147. The Council recognises the importance of the quarry industry in providing jobs in the County and does not dispute the numbers of direct and indirect jobs detailed by the Appellant. It is acknowledged that if the appeal were allowed there would be more jobs for a longer period at Burley Hill Quarry (some 30 for 14 years) than if it were dismissed (some 5 or 6 for 9 years), though in part that is attributable to the operation of a coating plant at the site in the former scenario. However, judgement of the benefits claimed should be tempered by the facts that some of the jobs would merely be transferred from other local quarries, some are of more sub-regional than local effect and some would have been lost in any case in the future. The duration of any quarry is limited, and similar circumstances could apply as any quarry nears the end of its permitted reserves. There is also the unquantifiable impact on the AONB and any knock-on effect on tourism income.
148. The protection of jobs and the contribution the industry makes to the local and regional economy is recognised as an important consideration in favour of the proposal. However, it does not amount to exceptional circumstances when balanced against the harm to a landscape of national importance.

Overall Assessment (Documents 13.2 & 28)

149. On balance it is considered that the proposal would harm rather than preserve or enhance the AONB and that there are no exceptional circumstances that justify allowing the proposal. None of the contributory elements relied upon by the Appellant to demonstrate exceptional circumstances stand up to scrutiny. However, even if one did, Tarmac's case is a cumulative one and would not be made. The proposal also falls well short of any higher threshold of overriding public or national interest. The proposal would be in conflict with UDP policies MEW 1 and ENV 2 and with national policy contained in Minerals Planning Policy Wales, notably paragraph 21. It is recommended that the appeal be dismissed.
150. It may be that the effect of such a dismissal would be that the provision of aggregates would take on greater prominence in the next review of the Unitary Development Plan. However, that is the most appropriate forum for the consideration of such matters.
151. The Council does not dispute matters such as noise, dust, blasting/vibration, hydrogeology or archaeology (see Item 13 of Core Document CD33). Where necessary these can be suitably dealt with by the use of conditions. No evidence is put forward on nature conservation matters as this is best covered by the CCW. The Council supports the CCW on such matters.

Case for the Countryside Council for Wales

The material points are:

Background and Policy (Documents 15.2, 16.2, 17 & 27)

152. The Countryside Council for Wales had statutory responsibilities in relation to nature conservation, protection of the landscape and encouraging the open-air enjoyment of the countryside. It has specific responsibility for designating Areas of Outstanding Natural Beauty (AONBs) under Section 87 of the National Parks and Access to the Countryside Act 1949 and for providing advice on planning applications that affect such areas. It is rarely represented at public inquiries, and its participation in this one reflects its concern at the appeal proposal. CCW supports the Council's position on the wider planning and minerals policy issues and, in particular, on whether the quarry extension would be justified by any

special need. However, in order to avoid duplication, its evidence is limited to its own particular area of statutory responsibility.

153. The site is within the Clwydian Range AONB and adjacent to the Bryn Alyn SSSI. There are also 2 non-statutory Sites of Interest for Nature Conservation, Big Covert and the calcareous grassland to the east of the existing quarry. Two habitats affected by the proposal, calcareous grassland and limestone pavement, are priority habitats under the UK Biodiversity Action Plan.
154. Paragraph 21 of MPPW is clearly the most relevant national policy, and in that context it is considered that the proposal constitutes major development and so must be shown to be in the public interest as well as "exceptional circumstances" before being allowed to proceed. It is also important to take into account the general national guidance contained in PPW, particularly paragraphs 5.3.5, 5.3.6 & 5.5.6 (Core Document CD22). These emphasise the high degree of protection to be given to the landscape in an AONB and the equal status now accorded to AONBs and National Parks for the conservation and enhancement of their natural beauty. The consultation draft of the emerging Minerals TAN (Core Document CD26) clearly shows an intent to take forward the principle that *"mineral development shall not take place in National Parks and Areas of Outstanding Natural Beauty save in exceptional circumstances"*, and this has been further reinforced by government statements (See Appendix PAM2 in Document 17).
155. The relevant UDP policies are an accurate reflection of government policy, and policies MEW 1, MEW 2 and ENV 2 are particularly applicable. In addition, UDP Policy TRA 11 acknowledges the value of the network of public footpaths as a recreational resource and aims to safeguard them from harmful effects of development. This reflects the CCW's own 1996 policy document, "Camre, a Strategy for Public Rights of Way", which aims to give priority to opening up fully those routes that are popular, useful and scenically attractive (Appendix PCM6 in Document 16.3). Policy R2 of the Clwydian Range AONB Management Strategy 2000 also aims to promote countryside recreation as far as it is compatible with landscape and wildlife conservation (Core Document CD27). The Strategy also attributes Burley Hill to an area of dominant landscape character, and its characteristic features include: prominent, steep hills with limestone outcrops, scarp faces, scree slopes and pavement; broadleaved and mixed woodland; herb-rich unimproved and semi-improved grazed limestone pasture; and disused and working quarries. Clearly, the woodlands, limestone pavements and calcareous grasslands of this area of the AONB are regarded as important components of the visual landscape.
156. The area of limestone pavement affected by the proposal, whilst on the face of it of modest size, is a significant proportion of the total pavement area in the Clwydian Range AONB (see Document 18.2). Limestone pavements are composed of shells and the remains of tiny sea creatures laid down some 330 million years ago. Over the years glacial action and weathering have eroded the stone and formed deep corrugations and crevices, which provide a rare and rich habitat and a beautiful landscape. It is important to safeguard limestone pavement from destruction. (Appendix AJD6 in Document 15.3)
157. The CCW has consistently maintained its opposition to the proposed development (in the various forms it has been put forward) since it was first consulted by the Appellant's ecological consultants in 1998. Despite the reduced scale of the final proposal, that opposition remains. In order to be informed on the need for the mineral CCW commissioned a report from its own consultant in 2000. However, it now relies on the Council's own evidence on this matter.

Effects on the Landscape and Enjoyment of the AONB (Documents 15.2, 16.2 & 27)

158. The landscape setting of the quarry itself is relatively intimate, characterised by short and medium distance views, particularly from the network of surrounding footpaths. The topography of the immediate area is that of a limestone shelf into which the quarry void has been sunk (see map at Appendix AJD5 of Document 15.3). The shelf originally rose to a highest point of about 345 metres AOD but this has been quarried away to a peak of between 300 and 330 metres AOD at the main rim of the quarry along the north face.
159. The most open aspect of the quarry is from the south where Bryn Alyn rises to a height of some 403 metres AOD. The highest ground in Big Covert to the west is about 350 metres AOD. To the north east the main area of high ground is Moel Findeg at about 363 metres AOD, and to the east it is the woodland of Tir y Coed at about 360 metres AOD. So far as the general public is concerned, the effects have been assessed from the public rights of way system, especially the promoted recreational routes, and potential "access land" as defined in the Countryside and Rights of Way Act 2000.
160. The network of public footpaths around the quarry is illustrated on the plans in Appendix PCM1 of Document 16.3. Footpaths of particular note are:
- FP35 (Llanferres) which runs generally north/south along the eastern side of the quarry from the village of Maeshafn to the north, and part of which would have to be re-routed to accommodate the proposed eastern extension;
 - FP42 (Llanferres) which runs along the southern and south eastern boundaries of the quarry;
 - FP33 (Llanferres) which runs north/south through Big Covert, and part of which lies alongside the western edge of the quarry;
 - FP43 (Llanferres) which runs roughly parallel with FP35 but further away from the quarry and higher up the hill;
 - FP41 (Llanferres) which runs roughly east/west between the C107 road and FP43 at a point near the north eastern corner of the quarry;
 - FP67A (Llanferres) and FP36d (Nercwys) which run approximately west/east from Maeshafn to the high ground of Moel Findeg;
 - FP53 (Llanferres) which runs northwest/southeast onto the higher ground to the east of the C107;
 - FP33 (Llanarmon) which runs roughly east/west across the high ground of Bryn Alyn to the south of the quarry;
 - FP36 and BW93 (Llanarmon) which rise up from the quarry access road and the C107 road respectively to meet FP33 on Bryn Alyn.
161. Since 1992 CCW and the Council have worked in partnership to open-up a strategic network of footpaths. Footpaths 33, 35, 41, 42, 43 and 53 in the Community of Llanferres and footpath 33 and bridleway 93 in the Community of Llanarmon have been identified as being of local importance and are well marked and maintained. Together with a wider network of paths, they provide opportunities for enjoyment of the countryside in this area.

162. Some of the routes are actively promoted. Sections of footpaths 35, 36 and 43 from Maeshafn past the eastern side of the quarry and footpaths 36 and 33 on to the high ground of Bryn Alyn to the south are part of the Clwydian Way, a 196 km circular route devised and publicised by the North Wales Area Ramblers Association. Several commercial publications also promote walks in the area, particularly around the quarry, Big Covert, Maeshafn and Moel Findeg. Booklets include "The Loggerheads Six" by Raymond Roberts, "More Walks on the Clwydian Hills" by David Berry and "Walking in the Clwydian Hills" by Carl Rogers. Extracts from these and the Clwydian Way booklet are in Appendix PCM3 of Document 16.3.
163. The AONB attracts large numbers of visitors from the large urban populations of Merseyside and the North West of England and, although most of these gravitate to the country parks in the central area, the wider countryside of this part of the AONB attracts a great number of visitors, and the Maeshafn/Eryrys area is popular for quiet enjoyment of the countryside. This is illustrated by the results of a survey of the number of walkers using 3 footpaths to the north, south and east of the quarry over several weeks in September and October 2002 (see Appendix PCM5 of Document 16.3). These averaged between 4 and 16 walkers per day.
164. The Countryside and Rights of Way Act 2000 confers a public right of access to mountain, moor, heath, down and registered common land. CCW has been preparing draft maps of open country and common land, and these are open for public consultation for 3 months from 31 January 2003. Subject to a later appeal stage on provisional maps, conclusive maps will then be issued showing the land on which the public will have access once the new right is granted. CCW expects the Bryn Alyn hillside to the south of the quarry to be "access land" from a date currently scheduled in 2005. An indicative map of the area of land concerned is included in Appendix PCM4 of Document 16.3.
165. Quarrying operations affect the landscape environment of the AONB by the removal of rock and the creation of quarry voids, by the destruction of natural landscape features and modification of the landform, and by disturbance to the tranquillity of the countryside caused by blasting, quarry operations and heavy lorry traffic.
166. The Appellant has given little consideration to the impact of the quarry operations themselves, though extraction would be carried out over a period of some 13 years. During that period damage and disruption would be caused to important and rare habitats, natural features would be lost, operational activities would be visible (for lesser periods of time) from new locations to the north and east, and tranquillity would be lost for local residents and recreational users of the network of footpaths. In comparison, operations for the ROMP scheme would involve a shorter working period and a significant reduction in the scale of work carried out. Bearing in mind the popularity of the area for quiet enjoyment of the countryside and the close relationship between the quarry and the network of surrounding footpaths described above, these are important matters.
167. However, in the longer term it is the impact on the landscape that would be the most significant. The proposal would increase the extraction area of the quarry by a further 4.4 hectares and involve the destruction of 0.1 hectare of limestone pavement and 1.4 hectare of calcareous grassland. Although the Environmental Statement says that the integration of the quarry into the surrounding landscape is the primary objective of the restoration scheme, such an aspiration is seriously prejudiced by the current configuration of the quarry, which has left little scope for creative modifications.

168. The final depth of the proposed workings would be approximately 195.5 metres AOD, which is comparable with the level of the River Alyn in the adjoining valley (drawing AS11 in Environmental Statement Volume 2B - Document CD1(c)). The resulting landform would be uncharacteristic of the naturally occurring valley landforms in the AONB. By comparison the restored floor of the quarry under the ROMP scheme would be at approximately 227 metres AOD (Drawing ROMP 4, identified as plan C4 in Core Document CD12), which creates a reduced perception of depth and a less unnatural profile.
169. Although the appeal proposal would involve a reduction in the height of the northern face, it is not considered that the retention of rock faces in the final landform would be unduly problematic, as the area has several natural rock faces. Furthermore, the reduced height of the northern face would not justify the proposed increase in working of that face, particularly when the loss of the limestone pavement and the reduced height of the quarry rim, which screens views from the north, is taken into account. Whichever scheme were implemented, the unnatural landform would be seen as an artificial feature in the AONB, whether its rim were green or not. However, the greater depth of the appeal scheme would emphasise that landform, and it is not considered that it would offer any significant advantage over the ROMP scheme.
170. So far as impact on the users of the footpath network is concerned, the proposed extension would require the closure and diversion of a section of footpath 35, which would result in a reduction in the opportunity for public access to this area of the countryside. Increased visual impact would be caused to people using footpaths close to the eastern side of the quarry as a result of the loss of natural screening and from several other footpaths as a result of the increased workings of the northern and eastern faces. The lowering of the hillock caused by the northern extension would open up increased views of the quarry from the north, particularly from Moel Findeg, and from the high land to the south the additional workings of both the northern and eastern faces would be visible.
171. Assessing the impact on the landscape and the enjoyment of the AONB overall, the appeal scheme would have few, if any, advantages over the ROMP scheme in either the operational or restoration phases. Any advantage that it might carry falls far short of comprising an "exceptional circumstance", as required under UDP Policy MEW 1 and paragraph 21 of MPPW. Burley Hill Quarry is no different from many other quarries where restoration could also be done in a different way if extraction limits were extended, allowing the final landform to be remodelled.

Effects on Ecology and Nature Conservation (Documents 15.2 & 27)

172. Turning now to consider ecological effects, CCW's concerns relate to the special nature conservation interests that would be harmed by the appeal proposal but not be affected by the ROMP scheme. As it would entail damage and risks to 2 priority habitats and one priority species, Section 74 of the Countryside and Rights of Way Act 2000 is relevant, imposing a duty on decision makers to have regard to the purpose of conserving biodiversity.
173. Mention has already been made of the loss of areas of limestone pavement and calcareous grassland. The small area of limestone pavement adjoining the northern face of the quarry is regarded as of ecological and geological importance as well as being an important landscape feature. Limestone pavement is valued for its botanical communities and is increasingly scarce as a result of quarrying and other removal. The total area estimated in the Clwydian Range AONB is less than 3 hectares and in Wales as a whole about 100 hectares. It is particularly important to conserve all remaining examples of this feature in North East Wales,

and the Habitat Action Plan for limestone pavement (under the UK Biodiversity Action Plan) says that no new permissions or extensions to existing permissions should be granted for any legal or incidental destruction and that existing quarry permissions should be reviewed for potential revocation.

174. The appeal proposal includes measures to mitigate the destruction of the limestone pavement by relocating areas of the surface to the restored spoil heaps at the southern end of the quarry. These proposals have been discussed with the CCW and would be worth carrying out rather than see the pavement lost completely. However, the relocation would be experimental and would not represent a re-creation of the pavement or maintain geological continuity with the underlying bedrock, and it would not retain its biological or geological value.
175. Approximately 1.4 hectare of unimproved calcareous grassland would also be lost, though Tarmac argues that its loss would be offset by the transplantation of about 1 hectare on mounding and restored spoil heaps and the creation of some 10 hectares in the quarry bottom. However, the success of such a scheme could not be guaranteed and, in any case, it could not replicate the particular circumstances at the existing site, which have developed over a long period of time. Tarmac's invertebrate survey of August 2000 (Appendix 12B of the Environmental Statement Volume 2B - Document CD1(c)) notes that the grassland is of relatively high invertebrate interest, and in particular contains a thriving population of the Brown Argus butterfly, a species of "high conservation importance". It is difficult to relocate invertebrate communities successfully.
176. The Environmental Statement reports the presence of bats in the caves and mine workings in the area, including adits in Big Covert. Of particular importance is the evidence of lesser horseshoe bats in old mine working under the south western corner of the quarry. These are a Priority Species under the UK Biodiversity Action Plan, and it is an offence to intentionally kill or injure or to intentionally, deliberately or recklessly disturb lesser horseshoe bats or to damage or destroy their breeding sites or resting places.
177. Any impact of the quarry workings on these bats would have to be monitored, and any mitigation needed would be the subject of a licence. The Appellant proposes to construct an artificial hibernaculum, which would be welcomed. However, there would be no guarantee that the bats would use it, as the correct temperature conditions are critical for successful hibernation. Whatever mitigation measures were carried out, there would clearly be a risk of harm to this rare and protected species.
178. Finally, the Environmental Statement indicates a significant population of badgers within Big Covert and that these use habitat both within the woodland and in the fields on the eastern side of the quarry. The proposed further development of the quarry would have some impact in hindering free passage between the woodland and the fields. However, it would not be a significant impact on the badger population. The Woodland Management Plan for Big Covert put forward by Tarmac would be welcomed but it would not compensate for the harm that would be caused by the proposed development.

Overall Assessment (Documents 15.2 & 27)

179. When the 1984 permission was granted for quarrying at Burley Hill the planning authority (then Clwyd County Council) expressed the view that further extension of the quarry was unlikely to be acceptable in the future. Since that time the Clwydian Range has been designated as an AONB in recognition of its landscape importance, and a raft of national and development plan policies have been adopted to protect both the landscape and the countryside features affected by the proposed extension. Nothing in the interim has caused

the previous view to be overturned. The appeal proposal would harm the landscape, countryside access, nature conservation and biodiversity interests to such an extent that any benefits would be more than outweighed.

Other Representations made at the Inquiry (all objecting)

The material points are:

Mr Armstrong-Braun

180. Mr Armstrong-Braun was one of the 2 objectors to the Stopping Up of Highways Order for closure and diversion of a section of footpath 35. However, in addition to objections in regard to the footpath, he also expressed views on the quarry extension as a whole. (Document 4.2)
181. Loss of a long-established section of public footpath would be a loss of cultural and historical legacy. Diversion of the footpath would destroy its history and is unnecessary. Quarrying should not be permitted beyond the existing footpath line. However, if it were decided to confirm the order, 2 suggestions are made: firstly that the footpath should only be diverted as and when necessary and not before; and secondly that an additional footpath should be constructed down onto the floor of the quarry.
182. Turning to the quarry extension itself, if it were allowed it would set a precedent for further development in the AONB with resulting cumulative harmful effects. There may be local economic benefits but these would be short-term compared with the environmental harm, and some of the employees referred to have effectively transferred to jobs at other quarries. In any case such benefits should be balanced against the costs to tourism that would take place, particularly as any landscaping would take at least 10 years before it became reasonably effective.
183. If the proposal was not allowed, it is claimed that extra environmental costs would be incurred due to increased haulage distances for supplying stone from other quarries. This would be regrettable but would not outweigh the harm caused to the AONB and local amenity. Ecological harm would also be significant and would only be partially compensated by mitigation measures.

Mr Wardale, on behalf of the North Wales Area of the Ramblers' Association

184. The North Wales Area of the Ramblers' Association was the other objector to the Stopping Up of Highways Order (see Document 4.1 and Mr Wardale's Statement in Document Bundle 3.2). Some sections of the written statement were withdrawn at the inquiry in response to changes made to the scheme.
185. The Ramblers' Association is a national charitable organisation dedicated to the provision and preservation of public rights of way over footpaths. Two of its key objectives are important to this case: the preservation and enhancement of the beauty of the countryside for the benefit of the public; and the provision and preservation of public access to open country. The Ramblers' Association objects to the proposed footpath diversion on 3 counts: the changes would be substantially less convenient to the public; there would be a significant reduction of the natural beauty of at least 2 footpaths; and there would be a significant diminution to the amenity and consequent enjoyment of the countryside through a reduction in the existing footpath network.
186. At present the existing route of footpath 35 enables the walker to quickly leave the environment of the quarry and enjoy improved views. It is relatively flat and free from water

retention, undergrowth or unstable going underfoot. The same cannot be said for the proposed diversion link between footpaths 35 and 43.

187. At present the section of footpath 35 to be diverted moves quickly away from the quarry and has limited views of it. It runs through pleasant, broken countryside and an attractive little valley before reaching the point where the diversion would rejoin. Further to the north it runs through delightful mixed countryside with trees, hedges and open fields. The diverted route would be at a higher level, affording views of the quarry to the west over a considerable length, particularly as a small hillock would be removed by the extended workings. At present footpath 42 (to which footpath 35 would be diverted) traverses mainly open fields and hedges with a hidden valley just to the east of the small hill referred to. It is an attractive footpath and gives extensive views of the countryside to the north and south. However, the proposed quarry extension would remove the small hill, significantly harm the character and quality of the affected length of this footpath and open up views into the quarry workings.
188. Finally, the loss of the section of footpath 35 would amount to a significant reduction in the footpath network available to the public. The quarry is already a major obstacle between the footpath network to the east and that to the west, and its extension would exacerbate this effect. The loss of part of footpath 35 would also prevent use of a readily accessible and popular circular route, and the network would become more linear in nature and less attractive. In addition, the extended workings would further emphasise views of the quarry from paths on Moel Findeg and Bryn Alyn.

Mr King, on behalf of the Maeshafn and District Rural Association (MADRA)

189. Mr King's written Proof of Evidence is included in Document bundle 3.2 along with a petition collected by MADRA containing 425 signatures from local residents and visitors to the area. MADRA was formed in 1969 and is committed to the conservation and enhancement of the local environment. Its commitment has been demonstrated by many achievements over the past few years, including several village environmental improvements and competition successes, fund-raising, the purchase of Moel Findeg and the creation of a nature reserve on it.
190. Prior to the mid 1970s Burley Hill Quarry was relatively small-scale (see 1965 Ordnance Survey plan attached to Council's 1984 committee report, in Appendix SMH2 of Document 6.2) and had a negligible effect on the lives of local residents. However, successive extensions have substantially increased its scale of operation, with consequent harmful effects on the environment and the amenity of local people, particularly in regard to noise, dust and vibration. Many local residents have submitted letters about these problems. Clouds of dust over the quarry have been experienced, with deposits occurring on the nearby vegetation and footpaths. Noise has been caused by vehicle movements and general quarry operations. Also significant levels of ground and buildings vibration have been experienced over a wide area, despite assurances from the operators that blasting has been carried out within the permitted limits. Incidences of flyrock have also occurred, and a 1986 letter from the Health & Safety Executive (Document 19) is tabled concerning an incident connected with blasting of the western quarry face.
191. MADRA objects to the production of an even larger hole in this sensitive landscape area. Although the Appellant says that extension is needed to allow better landscaping, the hillock at the northern end of the quarry should not be removed, as it acts as a visual and noise screen for the village and for longer distance views from Moel Findeg. A previous planning permission (5/31/8386 at Core Document CD8) permitted removal of part of this and resulted

in increased noise levels reaching the village. Similarly, extension to the east would remove a strip of land that currently acts as an effective screen for footpaths along that side

192. Past quarry working has led to a number of footpath diversions and the loss of old dry-stone walls. Plan H shows an area of the stockpile with stone walls around it, many of which seem to have been lost. Such walls and footpaths are part of the local history and an important part of the wildlife habitat. More would be lost if the proposed extension were permitted. The structure of the present waste pile to the south of the quarry is an example of inappropriate and insensitive landscaping, which leads to doubts about Tarmac's latest proposals for restoration becoming a further alien intrusion into the landscape.
193. Tarmac's commitment to the management of Big Covert is welcomed, as this wood has been used by local residents for recreational purposes for many years. However, it would not compensate for the damage to the AONB and the further years of degradation of the amenity of local people. MADRA objects to the proposed extension and looks forward to the day when residents and visitors can indulge in the quiet enjoyment of this beautiful countryside.

Mr Carus, representing both himself and the Clwydian Conservation Campaign (CCC)

194. Mr Carus is the owner of neighbouring land to the north and east of the quarry and also represents the CCC, a loose-knit group of local residents formed in 1999 to oppose the current proposal. CCC opposes the quarry extension on grounds of harm to the AONB and to the amenity of nearby residents.
195. Dealing first with the submissions on behalf of the CCC, MPPW (Document CD21) advises that mineral development should not take place in AONBs unless there are exceptional circumstances (Paragraph 21), that it should not have an unacceptably adverse effect on the environment and the amenity of nearby residents (paragraph 34) and that permission should be refused unless it provided satisfactory and suitable restoration (paragraph 48). These requirements would not be met by the creation of a larger hole and further operations that would cause irreparable damage to the landscape appearance and features and would cause further noise, dust and vibrations. Vibration tests have been carried out at nearby houses and serve to illustrate that, even though blasting operations may be carried out within accepted industry standards, vibration is still very noticeable and causes damage to buildings and dry stone walls. They indicate that the standard limits are too high. As to the need for the mineral, Tarmac's voluntary closure of the quarry over the past year is a clear illustration that there is no overriding need.
196. Turning to Mr Carus' objections in connection with his own land, an old cottage to the north of the quarry (Maes Canol) is being restored and would be at risk of noise, dust, vibration and flyrock disturbance if the quarry were extended on that side. Flyrock incidents have occurred in the past (see correspondence at Document 20.1), and further quarrying would clearly increase the risk of further occurrences.
197. There would also be risk of disturbing the geology of an ancient spring to the east of Maes Canol. The pond there houses a population of Great Crested Newts (see Document 20.2), which also travel several hundred metres from the pond and probably frequent the limestone pavement that would be destroyed. There is a risk that extension of the quarry would disturb the geological structure where the spring arises. The Appellant says that it drains away from the quarry but the fractured nature of the limestone makes this far from certain. Extension of the quarry to the north and east would also inevitably extend the cone of depression in the water table, reducing the moisture available to trees and other vegetation in the adjoining fields. Some would die, as can be seen on the eastern side of the quarry at present.

Mrs Alfonso (Documents 21.1 & 21.2)

198. Mr & Mrs Alfonso live at Penyffordd Cottage, Maeshafn, the closest dwelling to the north of the quarry. Document bundles 3.1 and 3.2 contain several letters from Mr & Mrs Alfonso. However, for the purposes of the public inquiry their evidence is presented in Documents 21.1 & 21.2 for Mrs Alfonso and 22.1 & 22.2 for Mr Alfonso. Mrs Alfonso's evidence concentrates on the visual impact of loss of the hillock at the northern end of the quarry. Mr Alfonso's evidence covers criticism of the Appellant's Environmental Impact Assessment and comments on the impact on strategic economic and tourism aims.
199. At present Burley Hill Quarry is barely visible from Moel Findeg to the north (Slide 1 of Document 21.2). However, if the northern hillock were removed, it would open up views of the western face, as illustrated by the photomontage on Slide 2. A similar situation would occur in views from footpath 36, near Penyffordd Cottage, as illustrated by Slides 5 and 6. Slides 8 and 9 are cross sections in a north/south direction running through the northern hillock. They illustrate the magnitude of the proposed extraction in relation to the size of the hillock and its close proximity to Penyffordd Cottage. They also allow comparison with the ROMP scheme and illustrate that quarry restoration could be achieved without destroying the hillock. There would be risk associated with controlling the blasting of the northern hillock, and even greater destruction than expected could occur. (Document 21.1)
200. The northern hillock is an important feature in the landscape, formed over thousands of years, and includes an area of limestone pavement and varied and rich flora and fauna, as well as nesting peregrine falcons, which are Schedule 1 birds that must be "*especially protected at all times*" (Wildlife & Countryside Act 1981, as amended in 1991). The area of limestone pavement is the only remains of a much larger area that once crowned the top of Burley Hill and has been destroyed by past quarrying. (Document 21.1)
201. In conclusion, the northern hillock is a significant, beautiful feature in the landscape and should not be lost. If the top were removed the landscape would be irreversibly damaged. Tarmac seeks to justify the proposal by claimed benefits in restoration landscaping. However, these efforts would always appear unnatural due to the straight edges and regular patterns. Naturally weathered cliff faces occur in the area and, if the quarry faces were left as steeper surfaces, they would present a more natural appearance than the amphitheatre approach now proposed. If left alone, the western face would eventually slip to a stable angle of repose, and nature would ensure that it looked natural. (Document 21.1)
202. In cross-examination Mrs Alfonso acknowledged that neither she nor Mr Alfonso had any expertise in the computer-production of photomontages, and it was demonstrated that the 2 photomontages (Slides 2 & 6 in Document 21.2) were misconceived and not representative of views of the western face of the quarry if the northern hillock were lowered. Contrary to those slides, it was demonstrated that significant views of that face would not be opened-up.

Mr Alfonso (Documents 22.1 & 22.2)

203. Tarmac's Environmental Impact Assessment contains weaknesses and errors that cast doubt over many of the conclusions drawn from it. Firstly, in regard to the landscape impact the quality, validity and reliability of many of the photographs, photomontages and Zone of Visual Influence (ZVI) plans are questionable. In particular, some photographs have been taken from depressions, from behind obstacles or from inappropriate positions, and many of them seem irrelevant. Poor quality control of some photographs has led to false impressions being given by accentuation of some aspects and reduced regard to others. Some of the photomontages give a misleading comparison between the appeal scheme and the ROMP

scheme due to subtle differences in contrast and to the estimated growth of trees. And the ZVI plans contain obvious errors in defining locations from which the quarry can be viewed. A detailed list with cross-references to individual photographs, photomontages and plans is included in Document 22.1.

204. As a result Tarmac's photographs, photomontages and plans give a misleading impression by: reducing the significance of the northern hillock as a feature in the landscape and the impact of the reduction in height; reducing the current impact of the quarry and the future impact of the proposed scheme from some directions, whilst exaggerating it from others; promoting the appeal scheme restoration as superior to the ROMP scheme and its effectiveness in a relatively short timescale; and exaggerating the effort put into the assessment and analysis as a whole.
205. Tarmac's original version of the north/south sections through the quarry were incorrect and misleading in regard to distances, slopes and angles of sight. Errors in these were corrected at the inquiry, and Plan F now represents the corrected version. However, although Tarmac explains that some slopes appear shallow because the section runs along them at an angle, in reality the slope of the northern hillock is much steeper than shown on these sections, some of the levels are inaccurate, and sight-lines are not accurately represented. In particular, it is believed that the reduction in height of the northern hillock would open-up views of the western face from high ground to the north.
206. The second main issue is that of noise. MPG 11, Minerals Planning Guidance: the Control of Noise at Surface Mineral Workings, provides guidance on this. However, it should be seen as the minimum to be carried out in terms of surveys, consultation and controls. A more robust assessment of the effect of this industrial noise in the countryside should be carried out. Tarmac's noise survey took no account of weather conditions, wind direction, time of year, foliage, topography or shielding barriers (as advised in paragraph 24 of MPG 11). Only 2 noise measurements were taken, and there is no confidence that these were typical of day-to-day conditions. In addition, the quarry was warned beforehand and could have altered its operations accordingly to gain the most favourable results. More reliable data should have been obtained by carrying out several surveys during both work and non-work times. (Chapter 11 of Environmental Statement Volume 2A - Core Document CD1(b))
207. The SoundPlan software used for predicting future noise levels was also inadequate. There was no explanation of its set-up with calibration data or its (apparently) inconsistent results with the quarry operating or not operating (see Tables 11.1, 11.3 & 11.4 in Environmental Statement Chapter 11 - Document CD1(b)). Although Tarmac has clarified the meaning of this data, the fact that removal of the northern hillock is not predicted to make any difference to noise levels experienced at Maeshafn remains a matter of concern. Tarmac also says that the noise survey data shows that the operating quarry does not contribute anything to the existing noise levels because its noise output is too low. This is disputed, particularly bearing in mind the low level of background noise in the area. If the extension were allowed, work would take place along the surface of the northern hill close to houses to the north. MPG 11 includes an allowance for temporary, exceptionally noisy work, such as baffle construction at the edge of quarries. However, the scheme does not include controls for the time these works would last, extraction work near the top of the hill being included in Phases 1 and 2 of the scheme, which would extend over some 22 months.
208. Tarmac's assessment also fails to take into account the annoyance quality of the noise; for example, MPG 11 (paragraph 65) makes particular reference to vehicle reversing alarms. Tarmac should have carried out better consultation with local residents on such matters,

particularly those likely to be most affected by the loss of the intervening high ground at the northern edge of the quarry.

209. The third matter of concern is wildlife. The EIA does not seem to have included any surveys of amphibians, reptiles or birds, even though there are known to be great crested newts, peregrine falcons and ravens in the area. Chapter 7 of the Environmental Statement (Volume 2A - Document CD1(b)) mentions a bird survey carried out in 1999 but it is not included in the evidence. The movement of areas of limestone pavement and calcareous grassland and methodological weaknesses in assessing the environmental impact of haulage from other quarries are also matters of concern. However, nothing can be added to the evidence presented by the Council and CCW on these matters.
210. Finally, there is a conflict between the quarrying industry and the County's strategic aims for economic development, secure employment and quality jobs, as identified in the Economic Development Strategy for Denbighshire (2001-2002). The principles of this are identified as sustainable development, partnership, community involvement, and economic diversification, all within the context of protecting and enhancing the environment. Quarrying is not sustainable in the long-term and conflicts with the protection of the environment and tourism, which contributes considerably more to the local economy than the quarry industry, both in terms of financial income and the number of people employed. Tourism in this area is dependent on the beauty of the countryside and environment, which is harmed by quarrying. Such an activity can only be justified on grounds of exceptional need and public interest, and these have not been demonstrated.
211. Strategic options can be assessed in terms of suitability, feasibility and acceptability. The appeal scheme is not suitable because it would conflict with the County's overall strategic economic objectives, harm the environment in an AONB and not satisfy a real shortage or need. It is not feasible because the price to pay for damaging the countryside would be too high in terms of a diminished tourism industry. The objections of the various key stakeholders have shown that the development is not acceptable.

Mr Barton, representing both himself and the Llanarmon & District Conservation Society (Documents 23.1-23.5)

212. The Llanarmon & District Conservation Society was founded in 1975 and has about 130 members. Its objections were also submitted in written form (see letter in Document bundle 3.2 and Document 23.3).
213. The Unitary Development Plan contains a number of policies in support of the principles of sustainable development and reflects the strong support that is evident in national policy, notably in PPW and MPPW. The principle of sustainable development supports a reduction in the mineral landbank to a level below the 10 years advised in past national guidance. Monitoring by the Regional Aggregates Working Parties has shown demand for primary aggregates at lower rates than predicted in MPG6 (1994), and the increased use of recycled materials means that landbanks need not be maintained as high as in the past. The Inspector for the Gloucestershire Minerals and Waste Plan has recently recommended that a 7 years rather than 10 years landbank be adopted in that county (Document 23.4). This principle severely weakens the Appellant's argument of need for the mineral.
214. The site lies within an AONB, which has the same status in terms of landscape and scenic beauty as a National Park. The Clwydian Range AONB Management Strategy (Document CD27) states that the scale of modern quarries makes then inappropriate to the aim of protection of the landscape, and the Strategy contains policies to encourage a high standard of

operation and restoration and to deter new or extended workings. The Strategy provides additional support for the UDP and national policies. UDP Policy MEW 1 says that the extension of existing mineral workings will only be permitted in exceptional circumstances and specifies 5 criteria to be considered; the requirements of Policy MEW 2 also have to be met.

215. The proposed quarry extension consists of limestone grassland containing limestone walling, areas of limestone pavement and wetland, and significant areas of woodland on the northern hillock and Big Covert. There are also the Bryn Alyn SSSI and other designated wildlife sites nearby. It is diverse in flora and fauna. Replanting of the site would take a long time to establish and become mature, local wildlife habitats would be lost, and the landform would be essentially artificial in appearance. The harmful effects of the quarry on the amenity of local residents have been well illustrated by the reduced noise, dust and vibration levels experienced since the quarry was mothballed. The changed operational pattern of other local quarries since that time has also shown that alternative supplies are available at reasonable cost. Overall, Tarmac has failed to show exceptional circumstances and to meet the policy requirements for planning permission to be granted.
216. Some lead is provided by other recent planning and appeal decisions. A recent appeal for a site at The Gelli, Nannerch, Flintshire, has already been referred to (Document CD4). That site was adjacent to the Clwydian Range AONB and the key issues were similar to the current appeal. The Inspector found that pollution and noise nuisance would cause unacceptable harm to the amenity of nearby properties, that the industry in question would not be adversely affected by the loss of just one source of production, and that the views into and out of the AONB would be unacceptable. He concluded that the adverse visual impact would not be outweighed by other factors such as need. The same applies in the current appeal case.
217. Another recent decision relating to mineral extraction in Oxfordshire is also relevant (the committee report is in Document 23.5). The policies in the Oxfordshire County Structure Plan and the Minerals and Waste Local Plan are similar to those in the Denbighshire UDP, and the application was refused on account of damage to the natural beauty of the Cotswolds AONB and the lack of need for additional limestone resources. These 2 decisions clearly support the refusal of the current proposal on the grounds of its sensitive location in the AONB, its impact on the appearance and character of the landscape, the principles of sustainability contained in national policy and the lack of exceptional circumstances or national interest to warrant overriding these matters.

Written Representations

218. In addition to representations made at the public inquiry itself, over 60 letters opposing the proposed development have been submitted for the appeal. Whilst indicating the strong views of local residents and various bodies, they do not raise any material points not already covered.

Objections to Stopping Up Order

219. Following advertisement of the application for diversion of a section of footpath, 2 objections were submitted. These were from Mr Armstrong-Braun and the Denbighshire Committee of the Ramblers Association (Documents 4.1 & 4.2). Both parties appeared at the public inquiry (Mr Wardale for the Ramblers Association) and, as much of their evidence is relevant to consideration of the planning appeal as well as the Order, their evidence is summarised in the earlier section covering representations made at the inquiry.

Conditions

220. A discussion was held at the inquiry on possible conditions to be applied to a planning permission should it be decided to grant permission. The discussion was based on a second draft set of conditions (Document 25.2) prepared by the 3 main parties, and it is the numbers of those draft conditions that are referred to in the following paragraphs. Unless specified, the main parties were in general agreement on the draft conditions and any modifications.
221. All parties agree to conditions 1 & 2, which specify the 5 years expiry limit for the implementation of the permission and the 31 December 2021 date for the completion of all operational work at the quarry. Condition 3 provides "belt and braces" control to ensure that the restoration works would be completed as detailed. It was agreed that references to plans should be to the latest plans considered at the inquiry, i.e. Drawings 1-9 in Core Document CD34 (designated as plans B1-B9).
222. Condition 4 deals with hours of work and, although it seems to overlap with existing planning permissions, it was agreed that it served to clarify the situation for the coating plant as well as the quarry operations but that reference to the previous planning permission should be deleted. It was agreed that Condition 5 is an informative rather than a condition. If desirable, it could be included as part of Condition 4(i).
223. Conditions 6, 7 and 8 cover soil stripping, and it was agreed that 6 and 7 could be usefully combined. Conditions 9, 10 and 11 deal with dust suppression, and it was agreed that 10 and 11 could be replaced by a single condition requiring a scheme of dust suppression and monitoring to be approved by the Council and carried out as approved. Condition 12 specifies maximum noise levels, including in section 12(i) a detailed list of levels at various individual neighbouring properties. They are based on the noise survey results recorded for the EIA (see Chapter 11 of Volume 2A - Core Document CD1(b)) and have been set in accordance with the guidelines in MPG 11. The same levels have been specified for the recent ROMP review. Condition 12(ii) specifies a maximum short-term noise level for temporary operations but is not really necessary, as short-term operations (such as bund construction) would not be expected to exceed the normal limits in Condition 12(i) (see Table 11.3 in Chapter 11 again). Condition 12(v) aims to reduce nuisance caused by vehicle reversing alarms and would be an advantage over the ROMP scheme, which does not include such a measure.
224. Conditions 13-15 cover blast controls and are broadly similar to the ROMP scheme. Condition 13 specifies 95 percentile and absolute maximum vibration levels of 6 and 12 mm/sec respectively, as specified in UDP Policy MEW 2. Over the last 18 months of quarry operation these monitored levels averaged under 2 and had a maximum of 4.85 mm/sec, and Tarmac suggested that limits of 5 and 10 mm/sec could be applied instead of 6 and 12 in order to provide additional assurance to the occupants of nearby properties. The plan referred to in Condition 14 is in Volume 2B of the Environmental Statement (Document CD1(c)). Condition 15 would enable the Council to monitor blasting data if required and would be acceptable to Tarmac.
225. The Council argues that Condition 16, withdrawing permitted development rights, would be necessary to ensure that quarry plant was not moved to a position more harmful to visual impact in the AONB. The plan reference would need to be changed to Drawing 3 in Core Document CD34 (Plan B3) as this is the version now under consideration. Condition 17 would limit quarry output to 800,000 tonnes per calendar year, the same as the current limit and that specified in the ROMP approval.

226. Conditions 18-20 would specify that lorries carrying small stone would be sheeted and that lorry wheels and the quarry access road would be cleaned to avoid causing dust on the public highway. Conditions 21-23 deal with the protection of surface and ground water. Condition 21 would provide protection to watercourses and adjoining land; Condition 22 would apply the normal precautions to control site spillage of pollutants; and Condition 23 would safeguard any local water abstraction licences. They are the same as applied to the ROMP approval.
227. Conditions 24-26 would control the importation and storage of materials on the site and are similar to existing controls. The reference to plans in Conditions 25 & 26 would have to be changed to those considered at the inquiry, i.e. the drawings in Core Document CD34, and reference to an area "*marked out on site*" would have to be deleted from Condition 26. Condition 27 specifying the proper maintenance of all vehicles, plant and machinery is the same as in the ROMP approval.
228. Landscaping, ecology, restoration and aftercare provisions are detailed in Conditions 28-41. Conditions 28, 29, 40 & 41 provide control for the removal of the limestone pavement, and it was agreed that they could be replaced by a single condition requiring the work to be carried out in accordance with a method statement approved by the Council, which should include a plan of the areas to be moved. Condition 30 covers the removal of the area of calcareous grassland, and it was agreed it should be replaced by a condition similar to that suggested for the limestone pavement. Any reference to "Phases 1 & 2" should be replaced by "Phase 1", as these have now been combined in the appeal scheme. Conditions 31 and 36 would be better covered by the Section 106 Obligation and are no longer necessary. Condition 32 specifies measures for the protection of bats in the adit near the south west corner of the quarry. However, these would be adequately protected by the Habitat Regulations and the associated licensing procedures, and the condition would be unnecessary. Condition 33 specifies the construction of an artificial bat roost and a series of bat boxes, and it was agreed they would reduce risks of harm to the various bat species. Similarly the survey specified in Condition 34 would reduce the risk of causing harm to badgers.
229. Conditions 35 and 37-39 cover the progressive quarry restoration measures. In all cases the latest plans should be referred to (as in Document CD34), and reference should be made to "approved" rather than "submitted" details. Condition 37, for the submission of an annual report to the Council, would be necessary to ensure that restoration was carried out as quickly as possible and in accordance with the approved scheme, though it should not require the Council's approval on each occasion. Condition 38 would cover restoration of the plant area and compound and could usefully also include reference to "hardstandings". Condition 39 would deal with the situation that could arise if quarry operations were abandoned before planned final profiles were achieved. However, a reasonable timetable would need to be included, and it was agreed that this could be: 6 months for the submission of a revised scheme of restoration; and a further 24 months for implementation after the date of submission, or a longer period if agreed by the Council. Finally, Condition 42 is an informative rather than a condition and is unnecessary.
230. The reasons for the various suggested draft conditions are described as follows: Conditions 2, 3, 5-7, 23-26, 28 & 42 to enable the Council to retain control over the development and for the avoidance of doubt; Conditions 4, 8-16 & 27 to ensure that the Council would have control over all operations in the interest of amenity; Conditions 17-20 so that the Council would have control over the development in the interests of highway safety and amenity; Condition 21 to ensure the operation of an adequate water management scheme for the site

and to prevent the pollution of any watercourse or the discharge of water on to any public right of way; Condition 22 to prevent the pollution of any watercourse or aquifer; Conditions 29-32 & 35-39 in the interests of the visual amenity of the site and surrounding area; and Conditions 33 & 34 to ensure a satisfactory scheme of mitigation in the interests of species protection.

231. At the inquiry an additional condition was suggested and agreed by the main parties to cover 5 years aftercare provision for trees, planting, seeding and turfing in the restoration work for the main quarry area. It was agreed that a landscape management plan should be submitted for approval before the beginning of Phase 2 (as defined on Drawing 3 in Document CD34) and that the condition could be similar to model condition 31 of Welsh Office Circular 35/95, The Use of Conditions in Planning Permissions.

Section 106 Obligation

232. A final draft of the Appellant's Section 106 Obligation was submitted and discussed at the inquiry (Document 24.1). A signed version (Document 24.3) was submitted after the close of the inquiry and is the same as the final draft. The Obligation commits Tarmac (and any successors in title) to covenant with the Council to implement the Woodland Management Plan (WMP) for a perpetuity period of 80 years (though the plan itself only covers a 30 years period).

233. The WMP is attached to the Section 106 document. Its aim would be to provide a long-term management plan for Big Covert with the principle aims of maximising the wildlife and amenity potential of the woodland by creating new habitat types and footpaths, gradually converting the existing conifer and commercially based woodland into one which is predominantly deciduous in nature, and maintaining the visual integrity of the woodland during the operational life of the quarry and beyond. Management operations would include the following: selective felling and thinning of poor, weak, diseased, overcrowded and inappropriate trees to create a healthy, well-balanced range of trees; coppicing and pollarding of appropriate species as an alternative to felling; group felling where there are groups of tall trees of consistent quality to create clearings and allow natural regeneration; and crown and formative pruning to improve the quality of some remaining trees.

234. Regular meetings would be held with the Council, the Forestry Commission, CCW and other stakeholders to review progress and identify any worthwhile improvements to the plan. Over a 30 year period the WMP would result in a woodland that would be characteristic of naturally regenerated Upland Mixed Ashwood with a wide range of structural and ecological diversity.

235. Big Covert is regularly used by recreational walkers, and the WMP would also include proposals to increase public access by constructing additional footpaths and bridleways through the wood (with direction boards) and a public car park near the southern end of the quarry. These proposals have been developed after consultation with various interested groups and aim to balance the various needs.

Conclusions

236. In my view, the main considerations in this appeal are: the need for the mineral and the maintenance of an adequate landbank; the general environmental costs of sourcing alternative supplies from other quarries; the effects on the local economy; and the effects of the proposed quarry extension on the character and appearance of the countryside, particularly taking into account its location within an Area of Outstanding Natural Beauty and the policy protection provided for such an area. The effects on nature conservation and local amenity are additional matters to be considered. Taking all of these factors into account, the key consideration is whether or not exceptional circumstances exist to justify extension of the quarry within an Area of Outstanding Natural Beauty.

Policy Basis for Assessment

237. It is a requirement of the Town and Country Planning Act 1990 that, where an adopted or approved development plan contains relevant policies, an application for planning permission or an appeal shall be determined in accordance with the plan, unless material considerations indicate otherwise. The appeal site lies within the Clwydian Range AONB, and all parties agree that UDP Policy MEW 1, Minerals Operations within the AONB, is the key development plan policy. It says that applications for mineral workings or the extension of existing operations within the AONB will only be permitted in exceptional circumstances, and it specifies 5 particular criteria to be assessed and that the proposal should meet the requirements of Policy MEW 2. Policy MEW 1 reflects the national policy in paragraph 21 of Minerals Planning Policy Wales (MPPW), which lists the same 5 criteria and specifies the same "exceptional circumstances" test. [21, 31, 32, 112, 155]

238. The criteria are: the need for the development in terms of national consideration of mineral supply; the impact on the local economy; the scope for alternative supplies at reasonable costs or for meeting the need in some other way; any detrimental effect on the environment and landscape; and for extensions to existing quarries, possible enhancement to the local landscape. In addition, UDP Policy MEW 2 requires that no unacceptable harm be caused to a more extensive list of criteria, of which residential amenity, biodiversity of the natural environment and land drainage are also relevant to this proposal. These various matters are discussed in the sections below. [21, 33]

239. Essentially, the Appellant maintains that the proposed development would be in accord with the development plan because exceptional circumstances exist to justify permission being granted. It argues that the exceptional circumstances comprise a combination of: the need to release additional reserves to maintain the County's landbank of crushed rock and to avoid significant environmental and economic costs associated with sourcing the market from other quarries; the benefits of the restoration proposals to the landscape of the AONB in comparison with the current alternative provisions; and the benefits to the local economy. On the other hand, the Council and various objectors say that there is not a good enough reason to allow the quarry extension in this area of national importance. [110, 112]

240. The Council also argues that the proposal amounts to "major development" and hence that, under the terms of UDP Policy STRAT 4, Minerals, and paragraph 21 of MPPW, it would also need to be demonstrated to be in the public interest, which is a higher test than "exceptional circumstances". Whilst the Appellant does not accept that the proposal amounts to "major development", it does acknowledge that in order to demonstrate "exceptional circumstances" it would, in any case, have to show that the proposal is in the public interest. As the need for the development in terms of mineral supply is one of the main considerations

in this appeal, that is undoubtedly so, and there is no need to determine whether or not the proposal should be particularly considered as a major development. I have not taken it to be so for the purposes of my assessment. I note that the National Assembly recovered the appeal for its own determination and, in doing so, said that the reason for the direction was "*because the development involves major proposals for the winning and working of minerals*". However, I take this reference to "major" to be in a different context and not a pre-judgement that the proposals amount to "major development" in the policy meaning. [32, 113, 154]

241. It is acknowledged that national policy attributes equal status to Areas of Outstanding Natural Beauty and National Parks. Both Planning Policy Wales (PPW) and Minerals Planning Policy Wales (MPPW) emphasise the high degree of protection to be given to the landscape and to the conservation and enhancement of its natural beauty. Though it is noted that PPW does not strictly apply to minerals development, these principles underpin the relevant development plan and other policies applicable to this case and add weight to the need to protect the landscape. [24, 154]

Need for the Mineral and the Maintenance of an Adequate Landbank

242. The first main consideration is whether or not there is a need to release additional mineral reserves. National guidance places a clear responsibility on Mineral Planning Authorities to maintain an adequate minerals landbank in order to provide for continuity of production, and this has been taken up in the development plan. UDP Policy STRAT 4 says that "*the County's landbank of permitted reserves will be maintained over the plan period*" (which is to 2011), and supporting text explains that the Council will seek to maintain its landbank as far as it is compatible with protection of the AONB. However, the UDP does not state what extent of landbank it seeks to maintain, and the parties are not in agreement on what this should be. There is also dispute between the parties as to whether the landbank should be assessed on a County or region-wide basis. [35, 36, 40, 132]

243. The Appellant, Tarmac, points to UDP Policy STRAT 4, which says that a County landbank will be maintained. However, bearing in mind the small size of the County and the fact that most of the stone produced in it is "exported" to the North West of England, this would seem to serve little planning purpose, other than to maintain the County's share of the market. Both MPPW and Regional Planning Guidance for North Wales advocate a regional approach, and this has been reinforced in the recent Consultation Draft Minerals Technical Advice Note (TAN) on Aggregates. It is also particularly relevant that the first bullet point of MPPW paragraph 21 refers to "*the need for the development in terms of UK considerations of mineral supply*". These are strong material arguments, which in my view outweigh the approach implied in the UDP. Whilst the County landbank is a consideration, it is more appropriate to carry out the assessment for the North East Wales sub-region. [40, 136]

244. Turning to consider the size of landbank to be maintained, the situation is unclear. The parties agree that Minerals Planning Guidance MPG 6 (1989), which applied to England and Wales, remains applicable in Wales. That advised "*the aim should be to provide for the release of land to maintain a stock of permissions, for an appropriate local area, sufficient for at least 10 years extraction*" and that "*a longer period may be appropriate for rock*". On the other hand, that guidance is from some years ago, and much greater emphasis is now placed on supporting the principles of sustainability. In England MPG6 (1989) has been long superseded by MPG6 (1994) and, although that is strictly applicable only to England, the parties agree that it is a material consideration in this case. MPG6 (1994) replaced the 10 years target with 7 years. Although MPPW indicates that the relevant paragraphs of MPG6 (1989) are still extant in Wales, the most recent indication of thinking in Welsh policy is

contained in the Consultation Draft Minerals TAN on Aggregates, which advocates a 5 year landbank. However, that has been the subject of considerable objection and warrants little weight at this stage in its preparation. Nevertheless, it does reinforce the trend towards the maintenance of smaller landbanks in the interests of sustainability. In the absence of definitive guidance, I consider that a landbank target of 7 years represents a more up to date interpretation of national guidance and is the most appropriate to take into account in this case. [36, 38, 134, 135]

245. In the light of this clarification of the guidance, it is now possible to assess the current landbank situation. Agreed figures for reserves and annual average sales at the various quarries have been taken from the Aggregates Monitoring Survey 2000 of the North Wales Regional Aggregates Working Party (RAWP). These show that the Denbighshire landbank for crushed rock was 17.5 years at the end of 2000 and that, if the same production rates were to continue and no further permissions be granted, this would fall to 6.5 years by the end of 2011. It has been argued that this simple arithmetic calculation should be tempered by the "real world" situation and provision be made for the exclusion of Dyserth Quarry, which has been allocated in the UDP for employment development and is unlikely to ever re-open. It is reasonable to consider the "real" supply and, if this were done, the landbank would be 13 years at the end of 2000, falling to 2 years by the end of 2011. On this basis, Tarmac argues that the proposed extension, which would add about 2 years to the County landbank, would go some way towards meeting the shortfall. [41-43]
246. Similar figures have been agreed between the parties for the North East Wales sub-region, comprising Denbighshire, Flintshire and Conwy, (based on various assumptions with and without dormant and inactive quarries) and show a year 2000 landbank of at least 22 years, falling to at least 11 years by 2011. Clearly, on this basis there is no justification of need for the release of additional reserves in North East Wales before 2011, when the need for more quarries or extensions to existing quarries can be considered as part of the strategic review that will form part of the UDP review due to be carried out well before that date. This conclusion is further reinforced when one considers that most of the stone is "exported" to North West England and that the landbanks in the neighbouring English regions are even greater. [39, 45, 137, 139, 140]
247. In addition to the simple landbank approach, Tarmac has also carried out an exercise to simulate the operation of the quarries in North East Wales over the next 15 years under the 2 scenarios of extension allowed or dismissed. This indicates that, if the extension is not allowed, there will be a gradual, cumulative reduction in the ability of North East Wales to sustain its current level of sales as various quarries become exhausted and close. If the extension were allowed, this trend would be reduced and the timescale extended. However, these results are hardly surprising, given the limited nature of the reserves. In view of the variable nature of the market, I do not find that this exercise sheds much more light on the question of need than the more general landbank analysis. [46-49, 138]
248. An additional point made by Tarmac is in regard to the sterilisation of reserves. MPPW identifies the safeguarding of resources from sterilisation as one of the key principles of mineral development, and if the extension is not allowed, it is possible that it may not be possible to recover all of the present reserves. However, that is a hypothetical situation and, although a consideration, carries little weight. It is also likely that for operational reasons under the current quarry permission (the ROMP scheme) a reduced proportion of high quality stone would be gained from the quarry than if the extension were allowed. However, the reduced quantity involved would not be significant. [60, 143]

249. Overall, I conclude that it is appropriate to assess landbank on the basis of the North East Wales sub-region rather than just the County and that this should be compared with a 7 years indicative target rather than 10 years. The current crushed stone landbank for the sub-region stands at approximately 20 years and would fall to about 11 years by 2011, the end of the UDP plan period. Even allowing for the uncertainties of the market, it is likely that an adequate landbank would be maintained, and I conclude that there is no clear need for the development in terms of the national (or regional) demand for primary aggregates. [143, 144]
250. This conclusion is reinforced by consideration of the possible use of alternative materials in the future. Whilst there is no indication that a new greenfield quarry is likely to come forward in Denbighshire in the foreseeable future, some increase is likely in the use of recycled materials. Such materials are a major element of government sustainability policy, and their use has increased considerably in recent years as a result of positive government economic measures. Further increased use is expected in the future, though it is disputed whether or not this will be to such an extent that the demand for primary aggregates will fall. Slate waste is available in huge quantities in North Wales, and investigations are being carried out into a variety of possible uses. However, increased use of recycled materials in the high quality aggregates market is limited by strict specifications and standards for many products. Consequently the main market for the high quality stone from Burley Hill Quarry would be unlikely to be significantly affected by the general increased use of recycled materials. **Nevertheless, their effect on the general limestone aggregates market will be such as to extend the value of the existing landbanks and reinforce my conclusion of lack of need.** [54-58, 141, 142]

Environmental Costs of Sourcing Alternative Supplies

251. Turning to the second main consideration, Tarmac argues that significant environmental and economic costs would be incurred if the materials proposed from the extended quarry had to be sourced from alternative quarries, both in North East Wales and in the North of England and the Midlands. 2 studies have been carried out: one on the effects of increased traffic on local roads into and out of the other quarries in North East Wales; the other simulating the possible redistribution of supplies over a much wider area and estimating the associated increased haulage distances. [50]
252. The latter has taken into account increases in vehicle operating costs, increases in the value of time spent travelling, the cost of the statistical increase in the number of accidents, the increase in road maintenance costs and the costs of increased environmental impacts (particularly noise and emissions). Whilst the figures are far from precise, the methodology is accepted by the Council, and it is not disputed that it demonstrates that substantial additional haulage distances would occur if the appeal extension were not allowed. Tarmac estimates the increase in costs by 2018 to be some 11 times more for the existing quarry situation than if the appeal were allowed and that this represents about a third of the likely total haulage cost of supplying the market from Burley Hill. [52]
253. To some extent this is only to be expected, as any quarry would tend to serve customers to which it is nearer on account of the high costs of transport. The stone aggregates market is a complex and variable one, which regularly adjusts in response to the changing market situation, and the results of the assessment must be considered with this in mind. **Nevertheless, even if treated with a degree of scepticism, the study gives a clear message that, if the quarry extension were not allowed, the quarry industry would incur increased environmental and economic costs over the next 15 years. This**

weighs in favour of allowing the extension though, in my view, it would not be significant. [53, 145, 146]

254. The study of local roads takes into account the number of residential properties along the routes close to the other quarries, their level of pedestrian use, and the nature and condition of the roads. Some of the roads pass through villages where the impact of increased lorry traffic would be more significant than around Burley Hill Quarry. Overall, although increased use of some quarries would cause increased harm, the net effect for many would be fairly neutral, and it is difficult to draw meaningful conclusions from this study. [51]

Effects on Local Economy

255. There is no dispute over the Appellant's figures for the numbers of jobs generated by the proposed scheme. If the quarry extension were allowed it would provide more jobs for longer (some 30 for 14 years) than if the quarry were worked-out under its present permission (some 5-6 for 9 years), though some of these would be transferred from other quarries and some are attributable to operation of the tarmac coating plant. There would also be similar benefits in indirect jobs in support services in the area. In 1999 it is estimated that the quarry contributed about £4.5M to the local and regional economies, and the UDP reports that the quarry industry as a whole supports some 400-500 full-time jobs in the County, which is a significant figure in a total population of about 90,000. **It is not disputed that there would be a benefit to the local and regional economy if the extension were allowed though, in my view, it would not be significant.** [61, 62, 147, 148]

256. It is contended by some parties that it would have a negative effect on tourism, which would offset the other economic benefits. Tourism is a major contributor to the County economy and benefits from the beauty and tranquillity of the countryside and its close proximity to major centres of population in North West England. However, no evidence has been put forward to support the claim that the proposed scheme would have any significant effect on the popularity of the area, and I make little allowance for this in reaching my conclusions. Taken as a whole there would be a small benefit to the local economy, which weighs in favour of granting permission for the proposed extension. [63, 147, 148, 210]

Effects on the Character and Appearance of the Landscape

257. The Council's refusal of the planning application was centred on its harm to the character and appearance of the countryside. This factor takes on increased importance as a result of the quarry's siting within the Clwydian Range AONB. National, UDP and other non-statutory policies all seek to protect the beauty of the landscape and to encourage existing quarries to be operated and restored to an appropriately high standard. Notwithstanding inclusion in the AONB, the local area has also been identified in the Council's draft Landscape Strategy as one of the highest landscape importance where the visual aspect is outstanding. The Clwydian Range AONB Management Strategy 2000 attributes Burley Hill to an area of dominant landscape character where the steep hills with limestone outcrops and pavement areas and the unimproved and semi-improved calcareous grasslands are regarded as important components of the visual landscape. [64-67, 116, 155]

258. The extensive network of public footpaths is also an important recreational resource and is acknowledged as such in various policy documents: in UDP Policy TRA 11, which aims to safeguard them from harmful effects of development; in the Countryside Council for Wales' own 1996 policy document, "Camre, a Strategy for Public Rights of Way"; and in the Clwydian Range AONB Management Strategy 2000. Several of the local footpaths are promoted in commercial publications, and some are part of the Clwydian Way, a 196 km

circular route devised and publicised by the North Wales Area Ramblers Association. High ground to the north-east, east and south provides distant views of the quarry, and it is also visible from parts of the footpath network immediately around it. The visual impact of the proposed development has been assessed from this range of vantage points. In addition, Bryn Alyn, a large area of open hillside to the south of the quarry, is expected to be designated as "access land" under the Countryside and Rights of Way Act 2000. [116, 155, 160-164]

259. The scheme would impact on its surroundings both in the short-term during its operational phase and in the long-term after restoration. As a result of extending the area of the quarry, operations at ground level around the edges would be visible for periods of time during the early years of operation. As a result of the increased resource volume the extraction period would also be extended. In both of these aspects the appeal scheme would be more harmful than the currently permitted (ROMP) scheme with regard to visual intrusion and noise. During this period, tranquillity enjoyed by nearby residents and walkers would be lost. [166]
260. However, the long-term impacts of the proposed development and its restoration scheme are the most important. These can be judged against the current situation but comparison also needs to be made with the currently permitted quarry development. The Environment Act 1995 requires the operating conditions of the present quarry to be subject to periodic review, and the, so called, ROMP (Review of Mineral Permissions) scheme was approved in May 2002. This includes a scheme of restoration works to be carried out when extraction operations have ceased and represents the fallback position against which the appeal proposals are to be compared. [18, 74]
261. Tarmac argues that the restoration works for the appeal scheme would relieve the harshness of the present quarry and create a better transition and link with the surrounding topography than the ROMP scheme. It places importance on the roll-over restoration techniques, which would soften the top edges of the quarry, and on the increased area of woodland and grassland created. The photomontages provide a comparison between the appearances of the 2 restoration schemes. [69, 71-73]
262. Due to the extension of the quarry to the north and east the appeal scheme would lead to the loss of several important natural features. The northern extension would remove the original rounded hillside, including areas of approximately 0.1 hectare of limestone pavement and some calcareous grassland as well as scattered trees that provide a link with Big Covert, the wooded hillside on the western side of the quarry. The eastern extension would remove a strip of natural grassland and screening at the edge of the quarry and replace it with a screen bund. The total area of calcareous grassland lost would be some 1.4 hectares. **These are important natural features, and their irreversible loss would cause substantial harm to the natural landform.** In particular, the northern hillock provides an element of screening between the quarry and the village of Maeshafn and is an important part of the landscape views from that direction. In addition, the quarry void itself would be considerably deepened, further exacerbating its unnatural character. [117-119, 165, 167, 168, 191, 200]
263. Apart from immediate views of these particular features from the nearby footpaths and dwellings, the most significant visual impacts would be in longer distance views. The lowering of the northern hillock would make the western face of the quarry more visible from Moel Findeg to the north east, and the Appellant acknowledges this disadvantage. Two local residents presented their own photomontages purporting to represent this increased visibility of the western face. However, they were not produced by any accepted methodology, and I am not satisfied they are representative of the likely views. I prefer to consider the photomontages produced by Tarmac, which are not disputed by the Council. Such views

would be at considerable distance and, in my view, the impact would not be a matter of overriding importance. **However, in contrast, the impact on views from Bryn Alyn, immediately to the south, would be quite marked.** [85, 123, 199, 202]

264. Open views of the northern, eastern and western faces of the quarry and the full depth of the quarry floor can be seen from the slopes of Bryn Alyn. Although the height of the northern face would be reduced in such views, the extension work to the east and, to a lesser extent, to the south western corner of the quarry would extend the width of the field of view, and the floor of the quarry would be lowered. The Appellant claims advantages over the ROMP scheme restoration measures in regard to an increased volume of waste material and wider benches for landscape planting and maintenance, the reduction in the height of the northern face, more varied landforms within the quarry and around the edges, and a progressive programme of restoration that would bring forward the benefits more quickly. However, it is a matter of subjective judgement whether these would improve the impact of the quarry on the landscape or not. [81, 91, 125]

265. The Council, the CCW and some local residents refer to the existence of natural rock faces in the area and question whether the more extensive restoration measures proposed in the appeal scheme would have a more natural appearance than the simpler ROMP scheme or would be seen as an artificial feature in the AONB. However, on balance, I consider that the more extensive restoration provisions contained in the appeal scheme would be beneficial to the landscape, though not sufficient to outweigh the additional harm caused by the loss of the important natural features as a result of the increased area covered. Whilst proposals to translocate the limestone pavement and calcareous grassland areas would mitigate this harm, they would not have the same appearance in their new locations and their character would not be fully retained. [78, 126, 169]

266. Taken as a whole, I conclude that, whilst the appeal scheme restoration proposals would provide some advantages over those contained within the ROMP scheme, they would not outweigh the substantial, increased harm caused by the extension of the quarry and the loss of important natural features. The benefits would not make a significant contribution towards demonstrating "exceptional circumstances".

Effects on Nature Conservation

267. In comparison with the ROMP scheme, the appeal scheme would entail damage and risks to 2 priority habitats (limestone pavement and calcareous grassland) and one priority species (lesser horseshoe bat). Consequently, Section 74 of the Countryside and Rights of Way Act 2000 is relevant, imposing a duty on decision makers to have regard to the purpose of conserving biodiversity. In addition, the Bryn Alyn Site of Special Scientific Interest (SSSI) lies immediately to the south of the site, and Big Covert and the calcareous grassland to the east of the existing quarry are non-statutory Sites of Interest for Nature Conservation. [153, 172]

268. Limestone pavement is composed of shells and the remains of tiny sea creatures laid down some 330 million years ago. Over the years it has become deeply eroded, and deep corrugations and crevices have been formed, which provide a rare and rich habitat. Although the area of pavement affected by the appeal scheme has not been the subject of any special designation for its protection, it is valued for its botanical communities and scarcity. It is important to conserve such examples of limestone pavement, and the Habitat Action Plan for limestone pavement (part of the UK Biodiversity Action Plan) aims to prevent any further destruction. The appeal scheme would include provision for translocation of the surface layer

of the pavement. However, its removal would be experimental and would not maintain continuity with the underlying bedrock. Consequently, it would be unlikely to retain its biological or geological value. [93, 156, 173, 174]

269. The appeal proposal would also involve the relocation of an area of unimproved calcareous grassland. This has a high invertebrate interest and a population of Brown Argus butterfly, a species of "high conservation importance", and it should preferably not be disturbed. However, its relocation would not carry as much risk as the limestone pavement, and the restoration scheme would also include the establishment of a large area of new grassland on the floor of the quarry. Disturbance of the grassland would be harmful to nature conservation but not as harmful as the disturbance of the limestone pavement.
270. Bats are present in the caves and mine workings in the area, and a lesser horseshoe bat has been found in an adit in Big Covert close to the south western corner of the quarry. It is an offence to disturb lesser horseshoe bats or to damage their resting places and, although the proposed workings in that area would be 12-13 metres from the nearest adit, it is possible that they would be disturbed. Nevertheless, the Wildlife and Countryside Act 1981 includes provision for licences for mitigation measures, and it has not been suggested that a licence would not be issued if necessary in this case. It should also be borne in mind that any bat population that exists does so in close proximity to the existing quarry, which was operational until quite recently. I conclude that, whilst there would be a slight risk of causing disturbance to bats, it would not be a significant factor likely to cause concern in regard to the requirements of the Habitats Directive. [97, 98, 176, 177]
271. Attention has been drawn to the existence of a local badger population, and Tarmac would propose to make a further survey before working the south west part of the quarry. However, it is unlikely that the badgers would be materially harmed by the appeal scheme, and the improvements planned to Big Covert might improve the habitat value of that wood. [99, 178]
272. Some local residents have criticised the Appellant's Environmental Impact Assessment and claimed that there are significant omissions in its wildlife surveys. However, an extensive list of surveys were carried out, and there is no reason to doubt the comprehensive nature of the baseline survey. The Council and the CCW are satisfied with the EIA, and I conclude that it meets the requirements of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 and was prepared in accordance with Welsh Office Circular 11/99, Environmental Impact Assessment (EIA). I have taken it into account in reaching my conclusions. [100, 101, 209]
- 273. Overall, I conclude that the appeal scheme would cause substantial harm to nature conservation on account of the destruction of the limestone pavement and calcareous grassland in their natural environment and would cause some risk to horseshoe bats nearby. The proposed mitigation measures and the Woodland Management Scheme for Big Covert would only partially alleviate this harm.**

Effects on Local Amenity

274. Although not matters in dispute with the Council, concerns about noise, dust, vibration, "flyrock" and drainage have been raised by local residents. One local resident has also criticised the coverage of noise in the Appellant's EIA. However, the Appellant's noise survey was carried out in accordance with standard methodology and advice, and I have no reason to doubt its adequacy. Suitable conditions could be applied to control all of the various matters raised, and there is no reason to doubt that they could not be controlled to acceptable levels. [102-104, 190, 195, 196]

275. A neighbouring landowner has expressed concern about possible depression of groundwater levels in the adjoining fields as a result of extension of the quarry to the north and east. Some localised impact close to the edge of the quarry would be likely. However, this matter was considered as part of the EIA, and it is unlikely there would be wider implications, for example for the perched water table that serves the pond at Maes Canol. **I conclude that effects on local amenity as a whole would not be significantly greater than for the ROMP scheme of operations.** [105, 106, 197]

Footpath Order

276. The proposed eastern extension would encompass a length of footpath 35. If permission were granted, stopping up and diversion of the footpath would be necessary in order for the development to be carried out. This necessity has not been disputed, and so the statutory test for an Order under Section 247 of the 1990 Act is satisfied. As a matter of detail, it is noted that the draft Order describes the address of the site as "Flintshire"; it is in fact in Denbighshire. [7, 107]

277. Objections to the footpath diversion are essentially made on 3 grounds. The first is that loss of the section of footpath represents an erosion of cultural and historical legacy. Some lengths of footpath have already been lost as a result of the existing quarry operations, and further loss should be avoided. The second is that the diversion would amount to a net reduction in the length of the footpath network and a reduction in its recreational value, as a popular circular route would be interrupted. The third is that the diverted route would be less scenic than the footpath lost. Some loss of amenity would occur, and the need for the diversion adds to the environmental and amenity harm of the proposal itself. I have taken these matters into account in reaching my conclusions on whether or not the quarry extension should be permitted.

Overall Conclusion

278. The key consideration in this case is whether or not exceptional circumstances exist to justify extension of the quarry within an Area of Outstanding Natural Beauty. I have considered all of the criteria listed in UDP Policy MEW 1 and all other relevant matters. I have also taken into account the Environmental Statement.

279. **I conclude that there is no clear need for the development in terms of the demand for primary aggregates, as the landbank would remain at an adequate level, and that, despite the benefits of the proposed restoration scheme over the existing ROMP permission, the net effect on the character and appearance of the landscape would be seriously harmful on account of the loss of several important features. The proposal would not enhance the local landscape as defined in bullet point 5 of MPPW paragraph 21. Furthermore, the proposal would cause some harm to nature conservation, mainly on account of the loss of the areas of limestone pavement and calcareous grassland from their natural locations. It would also cause some loss of amenity in recreational use of the local network of footpaths, though this and any effects on the amenity of nearby residents would not be significantly greater than for the ROMP scheme of operations.**

280. The proposed development would provide benefits in terms of substantial savings in environmental and economic costs associated with the haulage of stone aggregates and would bring modest benefits to the local economy in terms of more jobs, both direct and indirect. I have taken into account these and all other matters raised but they do not outweigh the considerations that have led me to my main conclusion that

the proposed quarry extension would be unacceptably harmful to the landscape of the AONB. Even if the landbank situation were less clear, the visual harm to the landscape would be such as to render the proposal unacceptable on that consideration alone. I conclude that there are no exceptional circumstances to justify permitting the proposal and that it would be contrary to development plan policy.

Possible Conditions and Section 106 Obligation

281. I have considered the draft conditions suggested by the main parties and what conditions ought to be attached to a grant of planning permission should the National Assembly disagree with my overall conclusion and decide to allow the appeal and grant planning permission. Paragraphs 220-231 explain the discussions held at the inquiry and the various matters agreed by the parties.
282. In addition to the statutory condition for start of implementation, conditions would be needed for the completion of all operations by 31 December 2021, for implementation in accordance with the approved details and for soil stripping. Quarry operations would need to be controlled by conditions on hours of working, dust suppression, noise limits, blasting controls, vehicle cleanliness, maximum rate of sales, the importation and storage of materials, vehicle, plant and machinery maintenance, measures to avoid water pollution and flooding, and the erection or installation of fixed plant and buildings. A range of conditions would also be needed for landscaping, ecological, restoration and aftercare provisions to ensure that the full benefits of these would be achieved. The reasons for all of these are detailed in paragraph 230. [221-231]
283. The wordings suggested by the parties would be generally suitable for most of the conditions, though in some cases clarification or slight modification would be necessary to ensure that the required purpose would be met. A list of suitable conditions, which would comply with the advice contained in Welsh Office Circular 35/95, *The Use of Conditions in Planning Permissions*, is attached as a separate annex.
284. Turning to the Section 106 Unilateral Obligation, this seems to make adequate provision for the Woodland Management Scheme, which would bring real benefits to the character of the woodland, natural habitats and public access facilities in Big Covert. However, whilst beneficial, in my view, the Obligation is only indirectly related to the proposed development, and its offer has limited bearing in determination of the appeal. [232-235]

Recommendations

285. I recommend that the appeal be dismissed.
286. If the appeal is dismissed, I recommend that the Stopping Up of Highways Order be refused.
287. If however, the appeal is allowed and planning permission granted, I recommend that the Stopping Up of Highways Order be made, subject to the location of the site being correctly identified in it as in Denbighshire.

Clive Nield

INTERESTED PERSONS:

Cllr K Armstrong-Braun	Amazonia, 8 Eaton Close, Broughton, Chester, CH4 0RF
Mr R Wardale	Representing the Denbighshire Committee of the Ramblers Association (Countryside Secretary - Ms V Walker Jones, 13 Lon Isaf, Mold, Flintshire, CH7 1XA.)
Mr A King	Representing the Maeshafn & District Rural Association (Secretary - Mr D Scruton, Hafan Deg, Maeshafn, Mold, CH7 5LU.)
Mr B A Carus, MSc, CEng, MICE	Pen-y-Chwareli, Nercwys, Mold, CH7 4EA.
Mrs R Alfonso, BSc, MSc	Penyffordd Cottage, Maeshafn, Mold, CH7 5LU.
Mr A Alfonso	Ditto.
Mr R E Barton, BSc, MSc, MCIM, MAMBA	Glan Alyn, Llanferres Road, Llanarmon-yn-Iâl, Mold, CH7 4QD.

GENERAL DOCUMENTS

Documents	1.1-1.7	Lists of persons present each day at the Inquiry.
Documents	2.1-2.2	Letter of Notification, list of persons notified, newspaper notices and Site Notice of Public Inquiry.
Documents	3.1-3.2	Bundles of third party letters, statements and petition objecting to the planning application.
Documents	4.1-4.3	Letters of objection to the Stopping Up Order; and Draft Order.
Document	5	Appellant's Opening Statement.
Documents	6.1-6.2	Summary and Proof of Evidence of Mr Haines.
Documents	7.1-7.4	Summary, Proof of Evidence, accompanying Figures and Tables of Local and Macro Impact, presented by Mr Goldup.
Documents	8.1-8.4	Summary, Proof of Evidence Volumes I and II (landscape plans, photographs, etc.), and Appendices to Volume I, presented by Mrs House.
Documents	9.1-9.5	Summary, Main Proof of Evidence Volumes I and II (Appendices), Rebuttal Proof of Evidence ref. Mr Jones' Evidence, and Proof of Evidence for Footpath Closure and Diversion Order, presented by Mr Hill.
Documents	10.1-10.11	Additional documents submitted by the Appellant at the Inquiry: 10.1 Response to Mr Carus' evidence ref. hydrogeological issues.

- 10.2 Response to Mr Adolfo's statement ref. weaknesses in EIA.
 - 10.3 Coleg Lllysfari letter of 10 December 2002 ref. Woodland Management Plan.
 - 10.4 Alfred McAlpine note "Penrhyn Slate Aggregates".
 - 10.5 Extract from Highways Agency "Manual of Contract Documents for Highway Works".
 - 10.6 Newspaper article about test run on Blaenau Ffestiniog railway.
 - 10.7 Note re. potential use of slate for macadam products.
 - 10.8 CCW letter of 22 February 2001 commenting on AONB effects
 - 10.9 Llanferres Community Council letter of 23 February 2001 commenting on revised proposal.
 - 10.10 Internal DCC memorandum of 9 January 2001 commenting on Environmental Statement.
 - 10.11 Llanarmon-yn-Iâl Community Council letter of 8 March 2001 supporting the amended application.
- Documents 11.1-11.3 Summary, Proof of Evidence and Appendices of Mr Jones.
- Documents 12.1-12.2 Summary and Proof of Evidence of Ms Probert.
- Documents 13.1-13.2 Summary and Proof of Evidence of Mr Phillips.
- Documents 14.1-14.2 Additional Documents submitted by the Council at the Inquiry:
- 14.1 UDP extract ref. Dyserth Quarry, Policy EMP 14.
 - 14.2 UDP extract ref. employment land, Policy EMP 1.
- Documents 15.1-15.3 Summary, Proof of Evidence and Appendices of Mr Dale.
- Documents 16.1-16.3 Summary, Proof of Evidence and Appendices of Mr Mitchell.
- Document 17 Proof of Evidence of Mr Minto.
- Documents 18.1-18.2 Additional Documents submitted by CCW at the Inquiry:
- 18.1 CCW letter of 22 November 2002 ref. Woodland Management Plan.
 - 18.2 List of limestone pavement areas in Clwydian Range AONB.
- Document 19 Health & Safety Executive letter of 27 August 1985 ref. flyrock incidents, submitted by Mr King.
- Documents 20.1-20.3 Documents submitted by Mr Carus at the Inquiry:
- 20.1 1990 correspondence ref. fly rock incidents.
 - 20.2 Note on Great Crested Newts.

		20.3 Letter of 10 December 2002 ref. water table.
Documents	21.1-21.2	Proof of Evidence presented by Mrs Alfonso, including photographs and photomontages.
Documents	22.1-22.2	Proof of Evidence presented by Mr Alfonso.
Documents	23.1-23.5	Submission presented by Mr Barton.
Documents	24.1-24.3	Unilateral S.106 Undertaking for the Woodland Management Plan; confirmation of acceptability to the Westminster Estate, the minerals owner; & copy of final signed version of Undertaking.
Documents	25.1-25.2	Draft conditions, versions 1 and 2.
Document	26	Agreed route for accompanied site visit.
Document	27	Closing Submission on behalf of CCW.
Document	28	Closing Submission on behalf of the Council.
Document	29	Closing Submission on behalf of the Appellant.

CORE DOCUMENTS

Application Documents and Decisions

CD1	Consolidation of Planning Application and Environmental Statement, incorporating Amendments of September 2000 and April 2001, and comprising: (a) Volume 1 - Planning Application Documents. (b) Volume 2A - Environmental Statement. (c) Volume 2B - Appendices, Drawings, Plates and Photomontages for 2A. (d) Volume 3 - Additional Documents submitted as part of the Application. (e) Appendix IV to Volume 1 (Green Book).
CD2	Decision Notice 21/1999/0920/PF dated 5 September 2001 refusing planning permission for extension.
CD3	Planning Committee Report dated 5 September 2001 relating to the extension.
CD4	Appeal Decision (Ref. APP/A6835/A/99/10321044) dated 3 July 2000 - Inspector's Report.
CD5	Decision Notice 5/31/5169 dated 2 February 1982 for the extraction of minerals, granted by the former Clwyd County Council.
CD6	Decision Notice 5/31/6247 dated 20 April 1983 for the stockpiling of minerals, granted by the former Clwyd County Council.

- CD7 Decision Notice 5/31/6759 dated 14 February 1984 for the extraction of minerals, granted by the former Clwyd County Council.
- CD8 Decision Notice 5/31/8386 dated 21 October 1986 for approval of reserved matters under condition 5 of the principal permission of 1984.
- CD9 Decision Notice 5/31/8775 and 5/31/8776 dated 27 August 1987 for variation of condition 9 to allow output levels of 800,000 tonnes per annum, granted by former Clwyd County Council.
- CD10 Decision Notice 5/31/10868 dated 23 May 1990 for wastepiling and re-landscaping, granted by former Clwyd County Council.
- CD11 Decision Notice 5/31/12030 dated 2 January 1992 for improvements to eastern landscaping.
- CD12 Application for determination of conditions under Schedule 14 of the Environment Act 1995 (ROMP Application) – December 2001.
- CD13 Planning Committee Report in respect of ROMP Application.
- CD14 Decision Notice 21/2002/00009/MA dated 29 May 2002 in respect of the ROMP Application.

Rule 6 Statements

- CD15 Denbighshire County Council's Rule 6 Statement.
- CD16 Tarmac's Rule 6 Statement.
- CD17 Countryside Council for Wales' Rule 6 Statement.

Development Plans, Policies and Guidance

- CD18 Denbighshire County Council Unitary Development Plan, adopted on 3 July 2002
- CD19 MPG 6 (1989) England and Wales.
- CD20 MPG 6 (1994) England.
- CD21 Minerals Planning Policy Wales - December 2000.
- CD22 Planning Policy Wales - March 2002.
- CD23 Regional Planning Guidance for North Wales (2001):
 - CD23A - Revised Consultation Edition, January 2000.
 - CD23B - Adopted Version, October 2002.

Other

- CD24 North Wales RAWP: Annual Report 2000.
- CD25 North Wales RAWP: Guidelines for Aggregate Provision, March 1995.
- CD26 Minerals Planning Policy (Wales) Consultation Draft, Minerals Technical Advice

Note (Wales) - Aggregates: February 2002.

- CD27 Clwydian Range AONB Management Strategy 2000.
- CD28 AM97 National Collation Results for England and Wales (2000).
- CD29 Consultation Paper on Draft National and Regional Guidelines for Aggregate Provision in England 2001-2016.
- CD30 Clwyd Landscape Strategy 1995.
- CD31 Draft Denbighshire Landscape Strategy – December 2000 (Denbighshire Landmap Study).
- CD32 Guidelines for Landscape and Visual Impact Assessment (Landscape Institute and Institute for Environmental Assessment - Spon 1994).
- CD33 Statement of Common Ground (covering 17 Items).
- CD33A Agreed Statement in regard to Mr Goldup's Evidence.
- CD34 Drawings 1 - 9 (Agreed Plans for Consideration at Appeal; see Plans B1-B9 below).

PLANS

- Plans A1-A12 Agreed Application Plans: plans PA1R, AS20R2, PA3R and AS1 - AS9 in Consolidated Planning Application Document (Volume 1 of CD1)
- Plans B1-B9 Agreed Replacement Plans for consideration at appeal, Drawings 1 - 9 included in CD34.
- Plans C1-C9 Plans ROMP 1, ROMP 2A and ROMP 3 - 9 inclusive, the plans associated with the approved ROMP scheme (included in CD12).
- Plan D Superseded ROMP 2 plan.
- Plan E Plan showing West Adit, submitted by Appellant.
- Plan F Plan and longitudinal sections showing sight lines over quarry from points to the north, submitted by Appellant.
- Plan G Plan of wildlife sites in surrounding area, submitted by Appellant.
- Plan H Plan of material stockpile at Quarry, submitted by Mr King.

Annex - Possible Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
2. All mineral extraction and processing operations shall cease by 31 December 2021 or earlier by agreement with the Minerals Planning Authority if all permitted reserves have been extracted. Restoration of the quarry shall be completed within 18 months of 31 December 2021, or within 18 months of any agreement confirming that all permitted reserves have been extracted, whichever is the earlier.
3. The development hereby permitted shall be carried out in accordance with the submitted plans and particulars, as subsequently amended by Plans B1-B9 (Drawings 1-9 in Core Document CD34), and there shall be no material variation therefrom without the prior written approval of the Mineral Planning Authority. The submitted plans and particulars are specified as:

Agreed Consolidation of Planning Application Volumes 1 & 3, dated September 2002.

Agreed Consolidation of Environmental Statement Volumes 2A & 2B, dated September 2002
4. Prior to commencement of the soil stripping within the extension area, the surface limit of excavation shall be marked out on the ground by the erection of permanent markers of a type to be approved by the Mineral Planning Authority and written notification of such works shall be provided to the Mineral Planning Authority. All stripped soils shall be stored on site and protected from disturbance until such time as required for reclamation or landscaping within the quarry site.
5. Prior to the commencement of limestone extraction from the eastern extension area, the south eastern landscape mound shall be constructed in accordance with the approved details.
6. (i) Other than those specified in 6(ii) or for purposes of maintenance or in an emergency to maintain safe quarry workings (which shall be notified to the Mineral Planning Authority as soon as practicable) or unless otherwise agreed in writing by the Mineral Planning Authority, workings at the quarry shall not be carried out outside the following times: 0700 to 1700 hours Monday to Friday; 0700 to 1200 hours on Saturdays; and not at all on Sundays or public holidays.

(ii) The screening and bunker station and tarmacadam plant shall not be operated outside the following times: 0600 to 1700 Monday to Friday; 0600 to 1300 hours on Saturdays; and not at all on Sundays and public holidays.

(iii) There shall be no loading or movement of vehicles outside the times specified in 6(i) above, except for vehicular traffic, whether laden or not, required for or in connection with the operation of the tarmacadam plant, which will be restricted to the operational times specified in 6(ii) above, unless otherwise agreed in writing by the Mineral Planning Authority.
7. Prior to commencement of the development hereby permitted a scheme for the suppression and monitoring of dust shall be submitted to and approved in writing by the Mineral Planning Authority; the scheme shall be carried out as approved throughout the working life of the quarry.

8. (i) Noise generated from permitted site operations shall not exceed the maximum noise levels set out below when measured at these properties: Rock Cottage 55.0 DB LAeq (1 hour); Lonfa 46.0 DB LAeq (1 hour); Erw Las, Maeshafn Chapel, Midldor, Pen y Ffordd, Mount Pleasant, Maes Canol, Chaldon, Pant Rhedynog, Miners Arms and any other property 45.0 DB LAeq (1 hour).

Unless otherwise agreed in writing by the Mineral Planning Authority, these limits shall apply during the following times: 0600 to 1700 hours Monday to Friday; and 0600 to 1300 hours on Saturdays.

(ii) Notwithstanding the noise limits set out in 8(i) above, short-term landscaping works shall not exceed a maximum noise limit of 70 DB LAeq (1 hour) measured at any sensitive property, and these landscaping works shall not exceed a total period of 8 weeks in any one year. This limit shall only apply between 0800 and 1700 hours Monday to Friday, unless otherwise agreed in writing by the Mineral Planning Authority.

(iii) Unless otherwise agreed in writing by the Mineral Planning Authority, the maximum noise level from site operations shall not exceed 42 DB LAeq (1 hour)(free field) measured at any sensitive property during the following times: 1700 to 2000 hours Monday to Friday; and 1300 to 2000 hours on Saturdays.

(iv) Unless otherwise agreed in writing by the Mineral Planning Authority, at all other times noise from the permitted site operations shall not exceed a maximum level of 30 DB LAeq (1 hour)(free field) at any sensitive property.

All noise levels shall be determined in accordance with approved methods specified in British Standard 4142 (1997).

(v) Prior to commencement of the development hereby permitted, a scheme for the minimisation of noise from reversing alarms commensurate with the health and safety of personnel within the quarry shall be submitted to and approved in writing by the Mineral Planning Authority; the scheme shall be implemented as approved.

9. Blasting within the quarry shall not generate levels of vibration that exceed 6 mm/sec PPV in any plane in 95% of all cases in any 4 month period and in any event vibration levels shall not exceed 12 mm/sec PPV in any plane, when measured at any sensitive property.
10. All blasts within the quarry area shall be monitored and recorded by the quarry operator at any one of 4 vibration sensitive properties identified on plan ES 29 R2, or such other property as may be agreed in writing by the Mineral Planning Authority. The monitoring shall record details of the location of the blast within the quarry and the PPV on the longitudinal, transverse and vertical planes, the frequency of the vibration in each plane, the resultant PPV and air over pressure, the date and time of the blast, and the location from which the monitoring was carried out. The results of the blast monitoring carried out by the quarry operator shall be made available to the Mineral Planning Authority within 5 working days of any written request.
11. The quarry operator shall notify the Mineral Planning Authority a minimum of 24 hours in advance of any blast within the quarry. The notification shall include the date and approximate time of the blast, along with details of the location of the blast within the quarry and identification of which of the properties identified on plan ES 29 R2 the blast will be monitored by the quarry operator.

12. Prior to leaving the site all vehicles carrying limestone less than 150 mm size shall be sheeted.
13. No vehicle except motor cars shall enter the public highway from the quarry unless their wheels and chassis have been adequately cleaned by travelling through the wheel wash to prevent material being deposited on the public highway.
14. The surface of the tarmacadamed access road between the wheel wash and the public highway shall be maintained at all times in good condition and free from dirt and dust.
15. The maximum annual sales of limestone from the quarry shall not exceed 800,000 tonnes in total without the prior written approval of the Mineral Planning Authority. To verify compliance the quarry operator shall provide sales figures to the Mineral Planning Authority within the month of April each year.
16. There shall be no importation of any waste material, including any material intended for restoration proposals, into the quarry area without the prior written approval of the Mineral Planning Authority. No other materials shall be imported to the site other than those required in connection with the tarmacadam and asphalt processing plant.
17. Unless otherwise agreed in writing by the Mineral Planning Authority, the quarry waste shall only be stored and used for restoration as identified on Plans B1-B9 (Drawings 1-9 in Core Document CD34).
18. The storage area for stockpiles and any materials imported to the site in connection with the tarmacadam and asphalt processing plant shall be restricted to within the area identified on Plans B1-B9 (Drawings 1-9 in Core Document CD34), unless otherwise agreed in writing by the Mineral Planning Authority.
19. All vehicles, plant and machinery operated within the quarry shall be maintained in accordance with the manufacturers' specifications at all times and shall be fitted with silencers as appropriate. All equipment, including silencers, shall be used to minimise any noise generation.
20. The operations carried out throughout the quarry shall not give rise to the pollution or silting of any watercourse or any other land and shall not cause any flooding. In addition, the natural or artificial drainage of any adjoining land shall not be adversely affected by any operations carried out within the quarry. Water discharge from the quarry shall be settled before it is permitted to enter any watercourse or drainage pipe. There shall be no discharge of surface water from the quarry on to any adjoining public right of way.
21. Any oil, fuel, lubricant and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any watercourse or aquifer. For any liquid other than water, this shall include storage in suitable tanks and containers, which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total contents of all containers and associated pipework. The floor and walls of the bunded areas shall be impervious to both water and oil. The pipes shall be vented downwards into the bund.
22. Prior to commencement of quarry working, a programme for the monitoring of groundwater shall be submitted to and approved by the Mineral Planning Authority and shall include: (i) continuation of water level measurements from the existing borehole; (ii) collection of water samples from the existing borehole; and (iii) a critical review of the suitability of this

- borehole as a monitoring point with respect to future phased working within the quarry. The programme of monitoring shall be carried out in accordance with the approved scheme.
23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other Order revoking or re-enacting that Order), no fixed plant or buildings, other than those existing or shown on the approved plans, shall be erected or installed within the quarry, except in accordance with such details of siting, design and external appearance as may previously have been approved in writing by the Mineral Planning Authority.
 24. Prior to the completion of Phase 1 of the permitted development and within 18 months of the commencement of quarry working, the identified areas of limestone pavement shall be translocated in accordance with a method statement submitted to and approved in writing in advance by the Mineral Planning Authority. The method statement shall include a plan identifying the areas to be moved and their destination locations and the translocation shall be carried out in accordance with the approved scheme.
 25. Prior to the completion of Phase 1 of the permitted development and within 18 months of the commencement of quarry working, the identified areas of calcareous grassland shall be translocated in accordance with a method statement submitted to and approved in writing in advance by the Mineral Planning Authority. The method statement shall include a plan identifying the areas to be moved, their destination locations and a programme for subsequent maintenance. The translocation shall be carried out in accordance with the approved scheme.
 26. Within 6 months of the commencement of quarry working, proposals for the construction of an artificial bat roost and the provision of a series of bat boxes, including the proposed timetable, shall be submitted to and approved in writing by the Mineral Planning Authority. The proposals shall be implemented in accordance with the approved scheme.
 27. Prior to the working of limestone in the south west corner of the quarry a survey shall be undertaken to determine the extent of badger activity within 50 metres of the proposed workings, and a report of the survey, including proposed mitigation measures if appropriate, shall be submitted to and approved by the Mineral Planning Authority. Any mitigation measures required shall be implemented within 18 months of such approval.
 28. The whole of the quarry shall be progressively restored in accordance with the approved plans, particularly identified as Plans B1-B9 (Drawings 1-9 in Core Document CD34), and an approved scheme of aftercare. The aftercare scheme shall be submitted to and approved by the Mineral Planning Authority within 12 months of the commencement of quarrying works.
 29. Within 12 months of the commencement of quarry workings, and annually thereafter, a review and report of such restoration and aftercare shall be submitted to the Mineral Planning Authority. The report shall provide details of:
 - (i) The anticipated extent of working and restoration within the quarry for the next 12 months.
 - (ii) The management and 5 years scheme of aftercare proposed for each section of restoration completed within the previous 12 months, including the maintenance, fertilisation and drainage of all areas of planting and the potential for ecological enhancement.
 - (iii) A review of all sections of restoration undertaken earlier than the previous 12 months.

The review and report shall be continued for a period of 5 years after the cessation of quarry working and completion of restoration, as defined under Condition 2 above.

30. Within 6 months of the cessation of quarry working, as defined under Condition 2 above, all plant, buildings, hardstandings and other ancillary objects or structures associated with the quarry shall be removed, and within 18 months the ground shall be restored in accordance with the approved plans.
31. In the event of an agreed cessation of the winning and working of minerals prior to the achievement of the final quarry contours as shown on the Proposed Final Restoration plan, Plan B9 (Drawing 9 in Core Document CD34), a final revised scheme of restoration and aftercare shall be submitted to and approved by the Mineral Planning Authority within 6 months of the date of that cessation. The revised scheme of restoration shall thereafter be implemented within 24 months and in accordance with the approval. The approved 5 years aftercare scheme shall commence on completion of the restoration or as otherwise agreed in writing by the Mineral Planning Authority.