



Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 : SECTION 78

APPEAL BY WELSH WATER

PROPOSED ALTERATIONS AND EXTENSIONS TO LLANBEDR WASTEWATER

TREATMENT WORKS, LLANBEDR, HARLECH

1. Consideration has been given to the report of the Inspector, Mr Clive Nield BSc, CEng, MICE, MCIWEM, who held a public local inquiry into your client's appeal to the Assembly under section 78 of the Town and Country Planning Act 1990 against the decision of Snowdonia National Park Authority to refuse planning permission for proposed alterations and extensions to Llanbedr Wastewater Treatment Works, Llanbedr, Harlech.
2. In a letter of 19 May the Planning Inspectorate indicated that because the appeal involves operational land of a statutory undertaker, or land that would become operational if planning permission were to be granted, it would be dealt with by the National Assembly for Wales instead of by an appointed inspector in accordance with Section 266 of the Town and Country Planning Act 1990.
3. The Assembly resolved on 8 January that a committee to be known as Planning Decision Committee 2001/8 be established, in accordance with Standing Order 35 to discharge the functions of the Assembly under Section 79 of the 1990 Act in respect of the appeal by Welsh Water as described above. Accordingly the Planning Decision Committee has considered the appeal and has resolved under Standing Order 35.16 to adopt this letter.
4. The Inspector's conclusions are set out in paragraphs 138 to 178 of his report, a copy of which is enclosed, and those conclusions are reproduced as Annex A to this letter. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. The Planning Decision Committee agree with his conclusions and accept his recommendation.

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5. The Planning Decision Committee agree with the Inspector's conclusion, for the reasons given by him, that the proposal would be in accordance with the development plan and national policies, would provide significant benefits to water quality in estuary and coastal waters and benefits to tourism and would not unacceptably harm the character and appearance of the surrounding quiet rural area or the amenity of local residents or visiting tourists.
 6. During the course of the appeal your client submitted revised proposals that took into account the need for odour control measures and various other design refinements. The Planning Decision Committee agree with the Inspector, for the reasons given by him, that the modifications to the proposal are neither substantial nor significant and that it was appropriate for the amended proposals to be considered under the appeal. In particular they consider that the amendments providing additional detail of landscaping and odour control would, had they not been provided, been the subject of conditions attached to any planning permission granted. The Planning Decision Committee therefore conclude that the nature of the proposal was not substantially altered by the amendments and that there was no need for them to be resubmitted in the form of a fresh planning application.
 7. The Snowdonia National Park Authority maintained that in view of the amendments made to the application since its submission the National Assembly should issue a screening direction under the Town and Country Planning (Assessment of Environmental Impact Assessment)(England and Wales) Regulations 1999. As indicated in the previous paragraph the Planning Decision Committee do not consider that the revised proposals submitted during the course of the appeal are so substantial as to require the submission of a fresh application. They therefore agree with the Inspector that the Town and Country Planning (Assessment of Environmental Effects Regulations) 1988 should apply to the application and any subsequent appeal whether or not amendments to the original application are being considered, and that the National Assembly for Wales is not required to issue a screening direction under the 1999 Regulations before determining the appeal and that an Environmental Impact Assessment is not necessary. The Planning Decision Committee also agree with the Inspector's conclusion, for the reasons given by him, that an Environmental Statement is not required under the 1999 Regulations.
 8. There were submissions made to the inquiry in respect of Article 6 of the European Convention on Human Rights, which provides for a right to a fair trial, that the Llanbedr Community Council and local residents were inconvenienced by your client's delayed provision of a proper odour assessment and the changed nature of the application. The Planning Decision Committee accept the Inspector's view that while the Community Council and local residents were inconvenienced by the delay and the submission of changes to the proposals this did not prevent them from presenting their cases adequately at the public inquiry and that in consequence there was no violation of the rights of the residents under Article 6.
 9. The National Assembly for Wales (Transfer of Functions) Order 1999 transfers the functions of both the Secretary of State and the "appropriate minister" (so far as they relate to water and sewerage undertakers) to the National Assembly. With regard to Article 6 of the Convention on Human Rights the Planning Decision Committee consider that the procedures of the National Assembly for Wales for determining planning appeals are designed to comply with the Convention. The House of Lords has determined (in the case of R-v-Secretary of State for the Environment, Transport and the Regions ex parte Alconbury Development Limited and Others -judgement delivered on 9 May 2001) that the Secretary of State is not an impartial or independent tribunal but that the availability of judicial review is sufficient to ensure that the current appeal process is compatible with the requirements of Article 6 of the Convention. The principle applies to the appeal process in Wales and appeal decisions taken by the National Assembly.
 10. The Snowdonia National Park Authority raised the point that serious smell nuisance affecting someone's home has been found to be a breach of Article 8 of the European Convention on Human Rights which concerns the right to respect for private and family life. The Planning Decision Committee having regard to the Inspector's conclusions, which they accept, that there would be no unacceptable harm to the amenity of local residents and that the proposed measures would be confidently expected to avoid the works causing significant odour nuisance, consider that the degree of interference with

private and family life would be insufficient to give rise to a violation of the residents' rights.

11. The Planning Decision Committee has considered the question of conditions to be attached to the planning permission. The Planning Decision Committee agree with the Inspector's conclusions on the conditions to be applied. With regard to the condition suggested by the Inspector as supplementary to condition 6 suggested by your client the Planning Decision Committee accept that in this case the wording proposed by the Inspector is appropriate. As regards condition 14 suggested by the appellant the Planning Decision Committee accept that BS 4142 can be appropriate for planning applications in determining the extent of complaint from an industrial source under normal operating conditions. However, in this case given that the nearest dwellings are some 160m from the site, and bearing in mind that the National Park Authority acknowledged at the inquiry that the noise levels specified in the appellant's suggested condition would be acceptable for the protection of the amenity of nearby residents, the Committee consider that a condition should be imposed in the form suggested by the appellant.

Formal Decision

12. For the reasons given by the Inspector the Planning Decision Committee hereby grant planning permission for alterations and extensions to Llanbedr Wastewater Treatment Works in accordance with planning application NP5/62/236 dated 29 June 1998 as amended by the revised plans NH00139 019E, 020E and 021 D subject to the conditions contained in Annex B to this letter.

13. This letter, a copy of which has been sent to Welsh Water and the National Park Officer, Snowdonia National Park Authority, does not convey any approval or consent which may be required under any enactment, bye law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully



Dr Richard Edwards AM

Chair, Planning Decision Committee 2001/8

Enc. Leaflets "H" and "HC"

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ANNEX A

National Assembly for Wales Letter 10 January 2002

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Appraisal and Conclusions

Need for Improved Sewage Treatment and Disposal Provision

138. The need for improved sewage treatment and disposal provision for the sewage currently dealt with at the Harlech, Llandanwg and Llanbedr treatment plants is not in dispute. It is driven by European Community Directives covering Urban Wastewater Treatment and Bathing Waters, which require improved treatment and water quality standards to be met. At present all 3 works provide only primary treatment of sewage, and legislation and government guidance requires that treatment be improved to include secondary (biological) treatment. [23-25, 30, 31, 107]

139. At present the partially treated sewage effluents from the Harlech and Llandanwg works are discharged on or close to bathing beaches, and improved effluent quality is needed to ensure that EC Bathing Waters standards are met. The beaches cannot gain "European Blue Flag" status unless the bathing waters meet the stringent microbiological guideline standards specified in the Bathing Waters Directive. I conclude that there is an undisputed need for improved sewage treatment and disposal provision for the 3 settlements. [24, 30]

Alternative Schemes

140. Welsh Water has carried out an appraisal of options to address these requirements and decided that a combined scheme for all 3 settlements would be the most feasible and viable solution with the combined treatment works sited at Llanbedr and the effluent discharge into the Mon Artro. Local residents and their representatives object to the principle of bringing sewage from Harlech and Llandanwg to be treated at Llanbedr. However, such an argument can only be defended if there is another option that is preferable in environmental, social and economic terms or if the proposal would have unacceptable effects on the Llanbedr community. [31, 110]

141. The treatment works itself could be located at any of the 3 centres, and many local residents have argued that the most appropriate site would be near the Glan y Mor car park at Harlech [32, 34, 108, 130, 135]. That may well be the case in so far as impact on the local communities is concerned. However, a treatment works cannot be constructed in isolation, and the discharge of treated effluent to an acceptable location is a vital consideration. Welsh Water reports that the existing outfalls at Harlech and Llandanwg are environmentally unacceptable and would have to be replaced with new or extended outfalls. And a local resident has confirmed the unsatisfactory nature of the Llandanwg outfall [33, 34, 136].

142. Various alternatives have been considered for coastal outfalls from a works at Harlech. However, no environmentally acceptable location for discharge of the treated effluent can be found. The poor dispersion characteristics of this part of Tremadog Bay and the presence of the Pen'Llyn ar Sarnau candidate Special Area of Conservation (cSAC) at the present outfall site discount that location. The Morfa Harlech National Nature Reserve and Site of Special Scientific Interest (SSSI), the Pen Llyn ar Sarnau cSAC and a commercially important shellfishery discount discharge to the Dwyrdd Estuary to the north. And discharge to the land drainage system would be unacceptable because it becomes tide-locked. A discharge to the Mon Artro at Llanbedr would not be subject to the same constraints. The Environment Agency and the Countryside Council for Wales agree with this assessment and support the proposal to site the treatment works at Llanbedr. [33, 34, 35, 37]

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143. The Snowdonia National Park Authority argues that improvements could be carried out at each of the existing works [85]. However, this ignores the present unsatisfactory nature of the outfalls at Harlech and Llandanwg [33, 34] and the same problems in finding acceptable alternative discharge locations. The Llanbedr Community Council has suggested that specialist engineering techniques could be used to replace or extend the present outfalls and has questioned the harm caused by them to the coastal environment [108]. However, these again ignore the Environment Agency's objections in principle to discharges in these areas on account of their harm to the natural environment.

144. The Community Council and local residents have compared the Mon Artro and the Mon Dwyrdd and argue that their circumstances are similar. Consequently, it is difficult to understand why an effluent discharge is acceptable to

one but not to the other [109, 128]. The Community Council argues that the advice provided by the Environment Agency and the Countryside Council for Wales should be reviewed. However, no one has brought forward any evidence to suggest that those 2 guardians of the natural environment would do other than provide the same advice given to Welsh Water, i.e. that the currently proposed option is the best solution so far as the natural environment is concerned [37]. No evidence put forward has led me to reach any other conclusion.

145. During its consideration of the planning application the Snowdonia National Park Authority asked Welsh Water to consider other options of a less conventional nature [37], and Welsh Water submitted a report covering such matters [38, 39]. However, the National Park Authority and the Community Council consider that these could have been investigated in more detail, particularly the possibility of using the Fridd Rasus municipal waste disposal site, near Harlech, for a combined waste/sewage scheme [83, 110, 122, 123].

146. It is possible that there has been some misunderstanding over methods that are being developed elsewhere for beneficial use of treated sewage sludge as opposed to the untreated sewage itself. Sludge is the treated solids content of sewage and would be produced at the proposed works and removed elsewhere for further processing. The various suggestions for beneficial use of the sewage [123] could still be pursued with the treated sludge [39]. However, they would not affect the need for the proposed scheme.

Amended Proposals

147. During the course of the appeal, Welsh Water has submitted revised proposals that take into account the need for odour control measures and various other design refinements [13]. The Snowdonia National Park Authority argues that these involve changes of such significance that they should not be considered in the appeal; instead, they should be resubmitted to the Authority as a new planning application [86].

148. The proposed modifications comprise the deletion of certain units and the addition of others. Originally, a separate inlet works was proposed for the sewage pumped from Harlech and Llandanwg. It is now proposed that this would be received by the existing inlet works with a small balancing tank. Two small sludge tanks have also been deleted. The additional items include aeration blower units for the aeration tanks, several GRP covers to tanks and channels and an odour control unit adjacent to the inlet works. Extensions to the proposed landscaped bund and stone cladding of parts of the existing buildings are also included, as agreed with the National Park Authority before it determined the application [13].

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149. The parties agree that modifications to the application may be considered at appeal provided they are not substantial or significant [42]. My assessment is that the additional items would be either quite small or of low profile [41]. Most of the modifications would be to provide odour control facilities and would have been added to the original scheme in any case if planning permission had been granted subject to a condition for such measures [43]. In my view, the modifications to the proposal are neither substantial nor significant and it is appropriate that the amended proposals be considered under the appeal.

150. The National Park Authority has argued that the need for odour control measures to be installed at locations away from the appeal site (i.e. at the 2 pumping stations) illustrates that the proposal is linked with development at other locations [87]. That is clearly so. However, those installations would be inside buildings under the control of Welsh Water [56], and the necessary installations could be the subject of appropriate conditions attached to a planning permission. They do not change my conclusion that the amended proposals should be considered under this appeal.

Environmental Impact Assessment

151. The planning application was submitted in June 1998 and was subject to consideration under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988. The proposal fell well below the indicative thresholds for development likely to need environmental assessment, and an Environmental Statement was not provided or called for [88]. The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 came into force for applications submitted on or after 14 March 1999 [28] and specify much lower thresholds. If the same application had been submitted a year later, it is likely that an Environmental Statement would have been required [89].

152. The fact that an Environmental Statement would have been needed does not necessarily mean that the application would have been refused. A considerable amount of environmental information has been provided either for the application or the appeal. However, the 1999 Regulations would have ensured that a comprehensive assessment could have been considered with the planning application. It has been suggested that Welsh Water submitted the planning application at an early date in order to avoid the rigours of the 1999 Regulations [118]. In my view, this allegation is quite unfounded [68].

153. Nevertheless, the National Park Authority maintains that, in view of the amendments made to the proposal since it was first submitted, the National Assembly should issue a screening direction under the 1999 Regulations calling for an Environmental Statement. It says that, if permission were granted without consideration of an Environmental Statement, it would be contrary to the United Kingdom obligations under the appropriate European Community Directive and open to legal challenge. However, Welsh Water maintains that it would be ultra vires to consider the appeal proposals against the 1999 Regulations. [67, 91]

154. This is 'a matter of law. However, in my view, the Authority's stance is not correct. The 1988 Regulations apply to the appeal application and to any subsequent appeal, whether or not amendments to the original application are being considered. I am not persuaded that the National Assembly is required to issue a screening direction under the 1999 Regulations before determining this appeal or that an Environmental Impact Assessment is necessary.

155. It is open to the National Assembly to call for an Environmental Statement under Section 11 of the 1988 Regulations, and I have considered whether or not the proposal falls within the interpretation of development likely to have significant effects on the environment. The project falls within Schedule 2 of the 1988 Regulations, and the accompanying Circular

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(Welsh Office Circular 15/88) provides advice on identifying relevant projects. Section 20 identifies major projects of more than local importance and, occasionally, projects on a smaller scale in particularly sensitive or vulnerable locations as needing environmental assessment. However, Section 21 goes on to advise that the number of projects falling within these categories will be a small proportion of all Schedule 2 projects. Requirements were far less stringent under the 1988 Regulations than under the current 1999 Regulations. I share the National Park Authority's judgement that under the 1988 Regulations an Environmental Statement is not required.

Odour

156. The National Park Authority has produced no evidence to support its refusal of the application on grounds of odour nuisance. At the time of its refusal, the Authority had received very little information from Welsh Water on how odour would be avoided and alleviated, and its refusal was based on experience at other sewage treatment works nearby and its appreciation of the significant impact that unpleasant odours can cause [92, 93]. The Authority's specialist advisers have reviewed the odour control measures now put forward by Welsh Water, and the Authority now accepts that the amended proposals would be likely to adequately control odour emissions [61]. However, the Community Council and many local residents remain sceptical [111, 112 & 137].

157. Welsh Water has undertaken a study of the various measures required to ensure that odour nuisance would not occur at the proposed works [53]. The proposals now include measures to deal with potential septicity occurring in

the rising mains from Harlech and Llandanwg and to contain and alleviate odours that occur at the treatment works itself. The proprietary chemical Nutriox would be dosed at both pumping stations with automatic controls and standby facilities [55 & 56]. This is an established method that performs well and would be likely to successfully avoid odorous gases forming in the rising mains. An additional back up to this would be provided at the works inlet with a facility for automatic dosing of iron salts to alleviate any residual odour [57].

158. In addition, the parts of the sewage works vulnerable to odour release would be covered with sealed GRP covers, and the gases would be vented to air through filters to remove any odours [58]. These are also well established methods that are being used at many modern sewage treatment works where odour could cause problems.

159. Modelling work carried out on behalf of Welsh Water indicates that this combination of measures would be successful in reducing odour emissions to such an extent that they would be much less and much more localised than at the existing works and would be expected to cause less nuisance to passers-by and local residents. The nearest residential properties would be well outside the contour of influence for odour levels likely to cause annoyance [59 & 60]. In my view, adequate research has been carried out to determine the measures required for odour prevention [137], and I conclude that the proposed measures would be confidently expected to avoid the works causing significant odour nuisance.

Noise

160. The National Park Authority has raised concerns about noise emanating from the odour control fans, particularly the one at the inlet works that would be located in the open. Similar fans at Porthmadog treatment works have recently been causing nuisance to nearby residents during night-time periods when background noise levels are low. The nearest house at Llanbedr would be slightly nearer than that at Porthmadog. [97 & 98]

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161. At Llanbedr one fan would be located inside the sludge handling building and the other would be covered and screened by earth bunds. In addition, it would be proposed to use smaller, modern fans in plastic, rather than mild steel, housings. These measures would ensure that any noise was adequately contained and that the works would not cause disturbance to nearby residents. An appropriate condition could be applied to ensure that suitable noise levels were not exceeded. [62 & 64]

162. A resident of Harlech commented on the possibility of larger pumps at the Harlech pumping station giving rise to noise. This would be unlikely, as the building would provide ample opportunity for noise control. The National Park Authority's expert confirmed that noise from pumping stations is rarely a cause of complaint. [63 & 131]

Health & Environmental Impact

163. Several local residents have expressed concern about the impact the treated effluent would have on the water quality of the Afon Artro and the estuary. Mention has been made of the estuary ecology and particularly its rich habitat for birds [124]. However, particular reference has been made to the effect on the tourism trade. The CMC outward bound centre at Pensarn relies on use of the river and estuary for water sports for its young visitors, some of whom have special educational or physical needs [126 & 127]. There are 2 other outward-bound centres in the area as well as the popular camping venue at Shell Island, which received over 50,000 visitors in 1999 [133]. Tourism is important to the economic well being of Llanbedr, and water quality in the river and estuary is a vital contributor towards its future success.

164. Although the quantity would be considerably more than at present, the effluent discharged to the Afon Artro would be of a considerably higher standard than at present. The proposal would result in improved water quality in the river and estuary and some benefit to their ecology. This would be particularly marked in regard to

bacteriological pollution as a result of the introduction of the secondary (biological) and UV disinfection stages of treatment, which would kill 1,000-10,000 times more coliforms than the existing treatment works. As a result, risks to the health of water users would be considerably improved. [72]

165. The Director of the outward-bound centre commented that visitors' perceptions of risk are just as important as the actual risks, and the larger treatment works proposed would increase the general perception of its presence [129]. It is acknowledged that public perception of risk is a material consideration [76]. However, that perception would be reduced if the visual impact of the proposed works were minimised.

Visual Impact

166. The visual impact of the proposed works is not a matter in dispute with the Snowdonia National Park Authority. However, the Community Council is concerned about its impact at the entrance to the village and about the long period that landscape planting would take to grow to a size capable of providing meaningful screening [115 & 116].

167. Welsh Water has commissioned a visual assessment of the proposed development, which has concluded that the proposed development would not result in any discernible difference to the overall landscape and would result in only a moderate change to localised views from the road and nearby footpaths. These impacts would reduce further as the landscaping and additional planting matured [74]. A substantial earth bund on 3 sides of the works would provide considerable screening even without the additional landscape planting [12]. My conclusion is that the visual impact would be quite limited and not unacceptably harmful to the character and appearance of the village.

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Flooding

168. The Community Council and several local residents have provided evidence that the site is subject to flooding and have suggested that, if the proposed works were to be affected, the floodwaters would spread pollution over a wide area [113, 114 & 125]. However, Welsh Water explained that it was aware of the likelihood of flooding and that the works had been designed to avoid the tanks and other installations becoming inundated. The existing works was successfully designed to resist flooding in the same way, and none of the local residents has reported the works itself being flooded or pollution being caused. Nor has the Environment Agency raised this as a concern [65]. I conclude that the risks of flooding of the site can be adequately allowed for in the design of the works.

169. One local resident has asked what effect the additional volume of water discharged into the river would have on flood levels in the river itself [136]. However, as it would only equate to about 0.5% of the average daily flow in the river, its effect would be negligible [72].

Planning Policy

170. It is a requirement of the Town and Country Planning Act 1990 (as amended) 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.

171. The Snowdonia National Park Authority acknowledges that the proposal would be in accord with development plan and national policies, except in the context of "major development" as discussed below [14, 80]. In the light of my reasoning above, my general conclusion is also that the proposal would be in line with development plan and national policies. The proposal would protect and enhance the environment and would meet general criteria for good design and acceptable impact on its surroundings and nearby residents. It would also contribute towards sustainability. [44]

172. The provision of improved sewage disposal facilities and the avoidance of coastal pollution would support development plan aims and enable compliance to be achieved with the relevant European Community Directives and

corresponding UK legislation. It would also be of significant benefit to tourism in the area in support of the tourism strategy and the purposes of the National Park. [45]

173. Turning to consider the question of "major development", the National Park Authority has referred to the advice in Planning Guidance (Wales), Planning Policy, that *"Major development should not take place in National Parks, save in exceptional circumstances of proven national interest"*. In the absence of a definition of "major development" in the national guidance, the Authority has argued that the proposal falls within the definition of "major development" in Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 and so requires special justification. [81]

174. The Authority proposed the same definition in regard to draft Policy PC4 of the deposit version of the Local Plan, which follows a presumption similar to the national guidance. However, the Local Plan Inspector rejected that approach, as the definition in Article 8 is specifically intended to apply only to that Article. I agree with that interpretation. In which case, one turns to the adopted Local Plan, which defines "major development" as *"development which is national rather than local in character or that which will have a very significant and long term impact on the landscape, wildlife or cultural heritage of the Park because of its scale"*. Several examples are given for guidance in interpretation. [48 & 49]

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175. The Authority argues that the scheme has national and international implications because of its connection with European Community Directives and the huge financial penalties involved in the event of continued failure to meet the required standards [82]. I disagree. Measured against the adopted Local Plan definition, the proposal is not national in character or likely to have a long-term impact on the Park environment. And it would be much less significant in scale than the examples quoted [49]. Even allowing for the size and rural nature of the community of Llanbedr [117], I conclude that the proposal is not "major development" falling within the intentions of Local Plan Policy PC4 or Planning Guidance (Wales), Planning Policy.

Other Matters and Overall Conclusion

176. Much has been said and written about shortcomings in consultation by the main parties at the time of the planning application and even during the subsequent appeal stage [84, 86, 92, 94, 104, 105, 106, 120 & 132]. This certainly reflects badly on Welsh Water and, to a lesser extent, on the National Park Authority. However, the views of the Community Council and local residents were taken into account by the National Park Authority in refusing to grant planning permission, and they were well briefed at the public inquiry and presented their views forcefully. I have taken their views and comments into account in reaching my conclusions.

177. Overall, I conclude that the proposal would be in accord with the development plan and national policies, would provide significant benefits to water quality in estuary and coastal waters and benefits to tourism, and would not unacceptably harm the character and appearance of this quiet rural area or the amenity of local residents or visiting tourists. I do not accept the National Park Authority's arguments that the design modifications made to the proposal since the refusal of planning permission should not be considered at the appeal stage or that permission should not be granted without calling for an Environmental Statement.

178. I have taken into account all matters raised but they do not outweigh the considerations that have led me to my main conclusions. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed and planning permission be granted for the proposal as modified, subject to several necessary conditions.

Conditions

179. It was generally agreed at the inquiry that the suggested conditions put forward by Welsh Water could form the basis for conditions attached to a grant of planning permission. Suggested Conditions 1-8 are similar to those suggested by the Snowdonia National Park Authority, except that Condition 2 refers to the amended plans. Condition 3 should be omitted, as it is duplicated by Condition 5. And Condition 6 should be supplemented by an additional condition requiring the submission and approval of landscaping details. In view of the relatively simple nature of the proposals, a simple condition would suffice, for example Model Condition 20 of Circular 1/85 (the old conditions circular). Condition 7 would benefit from clarification that it refers to protection of the trees during the construction of the works. [78 & 101]

180. Suggested Conditions 9-13 deal with odour control and are necessary to ensure that the measures are installed and calibrated prior to operation of the works and that they are subsequently operated to ensure effective odour protection. The suggested informative is unnecessary. [79 & 102]

ANNEX B

CONDITIONS ATTACHED TO PLANNING PERMISSION OF 10 JANUARY 2002 RELATING TO PLANNING APPLICATION NO. 5/62/236.

1. The development to which this planning permission relates shall commence not later than the expiration of FIVE years from the date of this permission.
2. Unless agreed in writing with the Local Planning Authority the development hereby permitted shall not be carried out otherwise than in complete accordance with the details of the drawings NH00139/019/E; NH 00139/020/F and NH00139/021/D.
3. The roof of the existing 2 buildings and the proposed sludge thickener and control building; RAS/SAS pumping station; and inlet/storm pumping station shall be covered with blue-grey slates from Blaenau Ffestiniog area, or slates with equivalent colour, texture and weathering characteristics as may be approved in writing by the Local Planning Authority.
4. Prior to any stonework commencing on the site, a trial stonework panel including pointing not less than 2.00m² shall be constructed. No building operations in stone shall be carried out on the site unless and until the trial panel has been inspected and approved in writing by the Local Planning Authority. The stonework of the building shall be built in accordance with such an approved sample, unless the Local Planning Authority gives prior written approval to any variation.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species, unless the Local Planning Authority gives written consent to any variation.
6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
7. For the purpose of the protection of trees during construction work all trees and hedgerows proposed to be height. The fences shall be placed at the edge of the crown spread of the trees to be protected. No development or storage shall take place on land adjoining such trees unless and until fences have been erected. No materials shall be stored within such fences. Fences shall be retained until the completion of the development referred to above.

8. External covers to the inlet works and any other works to be covered shall be coloured blue-grey BS18B25, unless otherwise approved in writing by the Local Planning Authority.

9. The external covers to the inlet works and any other covers forming part of the development hereby permitted shall be provided before the development hereby permitted is brought into operation and shall remain in place during the time the development hereby permitted is in operation.

10. During commissioning of the works hereby permitted there shall be established the level of H₂S existing in the headspace beneath the inlet covers (provided as part of the works) which corresponds to a level of 1 mg/l dissolved sulphide in the incoming sewage from the pumping stations at both Harlech and Llandanwg.

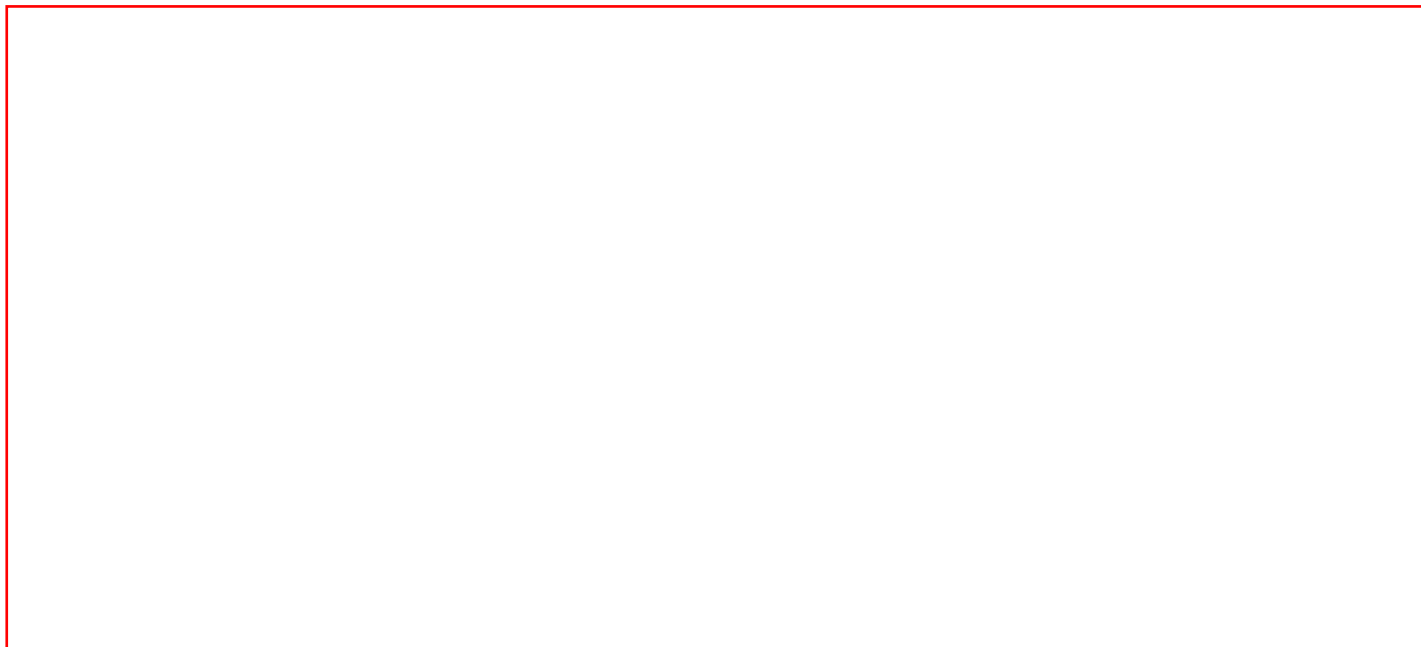
11. The works hereby permitted shall not be used until there shall have been installed at Harlech and Llandanwg pumping stations automated septicity control measures to ensure that the level of dissolved sulphide shall not exceed 1 mg/l in the incoming sewage as measured at Llanbedr WWTW by the corresponding level of H₂S in the headspace beneath the inlet covers as part of the works hereby permitted. The works hereby permitted shall not be operated unless such septicity control measures are in operation.

12. The works hereby permitted shall not be used until there shall have been provided at the works automatically controlled iron salt dosing equipment which shall be operated to ensure that the incoming flow of sewage other than from Llandanwg and Harlech pumping stations is treated to ensure that dissolved sulphide levels shall not exceed 1 mg/l as represented by the amount of H₂S measured in the headspace beneath the inlet covers.

13. The levels of H₂S beneath the inlet covers shall be recorded at appropriate intervals and shall be made available to the Local Planning authority on request.

14. The level of noise emitted from the Wastewater Treatment Works site shall not exceed 45LAeq 5min between the hours of 2300 and 0700 as measured 1 m from the facade of Mor Awelon.

This is derived from BS8233 and should equate to a good internal level of 30dB, allowing 15dB for the attenuation of the structure and partly open windows.





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Llanbedr Wastewater Treatment Works, Llanbedr

- 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 Welsh Water against the decision of the Snowdonia National Park Authority.
- The application. (ref: NP5/62/236), dated 29 June 1998, was refused by notice dated 29 September 1999.
- The development proposed is alterations and extensions:

Summary of Recommendation: The appeal be allowed and planning permission be granted subject to conditions.

Procedural Matters

1. Section 266 of the Town and Country Planning Act 1990 refers to applications for planning permission by statutory undertakers. It applies: - "(a) *to operational land; and (b) to land in which the statutory undertakers hold or propose to acquire an interest with a view to it being used for the purpose of their carrying on their undertaking, where the planning permission, if granted on the application or appeal, would be for development involving the use of the land for that purpose*" and states that "*Where an appeal is made to the Secretary of State ... the appeal shall be dealt with by the*

Secretary of State and the appropriate Minister". The National Assembly for Wales (Transfer of

Functions) Order 1999 transfers the functions of both the Secretary of State and the "appropriate

Minister" (so far as they relate to water and sewerage undertakers) to the National Assembly. However, such appeals are excluded from the general transfer of jurisdiction to planning inspectors

under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997.

2. I held a public inquiry into the appeal on 6 - 8 February 2001, and my site visit was carried out on 8 February 2001. In addition to the appeal site, I visited the Fridd Rasus municipal waste site (at Penmorfa, near Harlech), Welsh Water's sewage pumping station at Harlech and the Glan y Mor public car park in the sand dunes at Harlech (possible area for siting of alternative wastewater treatment works).

3. At the inquiry Welsh Water indicated that it wished to make an application for an award of costs against the Snowdonia National Park Authority, and the Authority responded that a counter claim would be made. However, after discussions amongst and between the parties, it was resolved that neither claim would be pursued.

4. This report includes descriptions of the application site and surroundings, the gist of the 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.

The Site and Surroundings (Document 6.1)

4. The appeal site of almost one hectare comprises the existing Llanbedr wastewater treatment works and a small area of rough grazing land lying between the existing works and the A496 Harlech to, Barmouth road. It is situated approximately 750 metres north of the centre of Llanbedr and some 3.5

km south of Harlech, within the Snowdonia National Park. The land is flat and relatively low-lying,

with the Afon Artro immediately to the west, contained within

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raised flood protection embankments. Further to the west the Cambrian Coast Railway Line runs on a low embankment approximately 180 metres from the boundary of the site, and beyond that the low-lying land extends to the estuary and coast. On the eastern side of the A496 road the ground rises steadily to the hills and mountains of the National Park. (Appendix HE of Document 6.2 and Plan A1)

6. There is a line of trees along the roadside boundary of the site, small groups of trees within the northern, western and south western boundaries and some trees to the east of the existing treatment works. Vehicular access to the present works is by a stone track along the northern boundary.

7. There are a number of public footpaths in the vicinity of the appeal site. In particular, footpaths run along the tops of the embankments on both sides of the river and over the footbridge just to the north west of the site. Another footpath runs along the north-western and northern edges of the site from the footbridge to the road and continues beyond the road in a north-easterly direction. (Appendix HJ2 of Document 6.2)

8. The nearest houses to the site are approximately 160 metres to the south east and 250 metres

to the south on the eastern side of the A496 road. At Pensarn Station, some 400 metres to the

north west, there is a small group of houses and an outward bound and watersports activity

centre.

9. The existing works provides preliminary and primary treatment to sewage from the Llanbedr settlement and discharges the partially treated effluent into the adjacent Mon Artro, which is tidal at this point. The works contains a series of concrete and pebbledash tanks, buildings, structures and items of plant of varying height, up to a maximum of about 6 metres above ground level.

Proposals (Document 6.1;

10. The proposal is to improve and extend the works to accommodate sewage pumped from Harlech and Llandanwg, in addition to that from the Llanbedr community, and to provide an improved standard of treatment with secondary biological treatment and ultra violet disinfection processes being added. The proposal is part of a larger scheme, which involves the closure of the existing primary treatment works at Harlech and Llandanwg and the transfer of sewage to Llanbedr by means of pumping stations at each location and rising (pumping) mains. (Document 9, particularly Appendix 7)

11. Planning permission (Ref. NP5/66/38A) was granted in November 1998 for the redevelopment of Llandanwg wastewater treatment works, including the proposed pumping station (Appendix HM of Document 6.2). At Harlech it is proposed to re-use the existing pumping station, located at Hwylfar Nant opposite the fire station. The preferred routes of the rising mains have yet to be determined. However, the routes currently anticipated are shown on an illustrated plan submitted with the application (Plan B).

12. The proposed development at Llanbedr would involve the retention of the existing tanks, buildings, structures

and plant and the provision of new secondary treatment aeration tanks, final settlement tanks, storm tank, ultra violet disinfection channel, sludge thickening and generator building, and various associated tanks, pumping stations and plant. The additional units would be located in the field between the present works and the road, with a bund on 3 sides and various landscaping measures aimed at substantially screening them from the view of passing motorists and local residents. (Plans A1-A4 and C1-C3)

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13. Following refusal of planning permission by the Snowdonia National Park Authority in September 1999, the Appellant submitted revised plans (Plans C1-C3) in August 2000 that were intended to supersede the original application plans (Plans A2-A4). The revised plans incorporate changes to the proposals made both prior to the determination of the application and since. Changes made prior to the application being determined comprise extension of the landscaped bunds and stone cladding of certain elevations of the existing inlet works and mess room buildings. Changes made more recently are of 2 sorts. Firstly, design refinements have resulted in the omission of 2 tanks (thickened sludge storage tank and surplus activated sludge (SAS) storage tank), the omission of separate inlet works for the sewage from Harlech and Llandanwg, the provision of a covered balancing tank and screenings skip located adjacent to the existing inlet works, and the addition of aeration blower units adjacent to the aeration tanks. Secondly, measures for the control of odours have been added. These comprise covers for the existing inlet works, channel and sludge tank, the addition of an odour control unit adjacent to the inlet works and the provision of an odour control vent stack on the sludge thickener building.

Planning Policy

Development Plan Policies (Documents 6.1 & 13)

14. The development plan comprises the Gwynedd Structure Plan, approved in 1993, and the Eryri Local Plan 1993 - 2003, adopted in November 1999. The Appellant has referred to several Structure and Local Plan policies, and the Authority does not dispute these.

Structure Plan Policy SP4 requires regard to be had to the need to protect and enhance the marine, coastal, terrestrial and atmospheric environments when considering development proposals. Policy D1 aims to protect and enhance the environment of Gwynedd, particularly the Snowdonia National Park, Llyn and Ynys Mon Areas of Outstanding Natural Beauty and the Heritage Coast. Policy D4 states that location, siting and design should minimise any adverse impact on the environment (with an environmental statement being submitted where appropriate), and Policy D29 seeks to ensure high standards of design.

16. Structure Plan Policy D19 *"urges the National Rivers Authority (now the Environment Agency), Welsh Water and other appropriate bodies to ensure that adequate and safe sewage disposal facilities are available so that raw sewage does not pollute the County's coastline and that all other forms of water and marine pollution are brought within international standards"*. Policy D20 presumes against development that would discharge effluent likely to impair the quality of coastal or river water, increase levels of odour pollution or introduce major noise or vibration nuisance.

17. The appeal site is unallocated in the Local Plan (Appendix HJ15 of Document 6.2) and is outside the development boundary for Llanbedr. The Plan does not make any land use allocation for wastewater treatment facilities in Harlech, Llandanwg or Llanbedr. It contains several policies of general application, particularly Policy PC1 on the general principles of development, Policy PC2 on sustainability and Policy PC3 on the location and design of new development.

18. Local Plan Policy PC5 aims to avoid new development outside development boundaries, though the preamble to the policy permits exceptions for certain reasons, one of which is a community facility that cannot be located within

a settlement. The Plan acknowledges that the delivery of public utilities is central to the viability and economic vitality of local communities, and Policy CCI permits development of public utilities subject to general criteria for location, design and amenity.

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19. The National Park Authority has also referred to Local Plan Policy PC4, which presumes against major development in the National Park, save in exceptional circumstances where specified criteria are met.

National and Regional Policies (Document 6.1)

20. The main parties also agree that several national and regional planning documents are material considerations. (Document 23)

21. Part III of the Environment Act 1995 defines the twin purposes of National Parks as to conserve and enhance the natural beauty, wildlife and cultural heritage of the areas and to promote opportunities for the understanding and enjoyment of the special qualities of those areas by the public. It also specifies that National Park Authorities should seek to foster the economic and social well being of local communities, whilst acknowledging that the conservation purpose carries the highest priority.

22. Planning Guidance (Wales), Planning Policy, provides general guidance on matters to be considered in regard to planning applications. It includes reference to the views and perceptions of local residents, the consideration of land use planning matters by local planning authority members and the need for additional infrastructure facilities. The latter is also the subject of Welsh Office Circular 62/91, "Water Industry Investment: Planning Considerations". This Circular provides guidance to local planning authorities on the planning implications of the water industry's investment programme aimed at enabling the industry to comply with national and European law.

23. Planning Guidance (Wales), Technical Advice Note 13 (TAN13), "Tourism", recognises the major contribution that tourism makes to the Welsh economy, and the North Wales Regional Tourism Strategy 1998-2005 emphasises the importance of maintaining and improving the standard of beaches in the area. European Community (EC) legislation aimed at improving the standard of bathing waters and other water quality matters is the driving force behind Welsh Water's proposals. (Document 9)

24. The United Kingdom Government has adopted European Community Directives covering Bathing Waters, Urban Wastewater Treatment, Shellfish and Habitats and is required to meet the objectives of those Directives. As a consequence, Welsh Water is required to carry out certain operational improvements and to have regard to certain environmental matters, either as a result of legal requirements of its licence or prescribed regulatory requirements. Two beaches at Harlech and Llandanwg are designated as EC Bathing Waters and are required to meet mandatory water quality microbiological standards for total and faecal coliforms. In order to achieve "European Blue Flag" status the bathing water quality must meet the far more stringent guideline microbiological standards for total and faecal coliforms and faecal streptococci. (Document 9)

25. The Urban Wastewater Treatment Directive specifies the standard of wastewater treatment required before effluent is discharged to coastal, estuary or inland waters. Whilst primary treatment is acceptable for discharges to defined "less sensitive" waters in coastal areas, other discharges to coastal areas require full biological (secondary) treatment. No area of Cardigan Bay has been designed as "less sensitive", and so the Directive requires all significant discharges to have been subject to biological treatment and significant discharges to estuaries to meet prescribed numerical standards for Biochemical Oxygen Demand (BOD) and Chemical Oxygen Demand (COD). (Document 9)

26. With regard to the Shellfish Directives, there are designated shellfish beds in the Dwyrdd Estuary, and beds in the Afon Artro Estuary may be designated some time in the future. The Habitats Directive allows areas to be designated as Special Areas of Conservation (SAC). There is a marine candidate SAC in this part of Cardigan Bay, the Pen Llyn ar Sarnau cSAC, which by designation gives international conservation importance to the area on account of estuaries and reefs. (Document 9)

27. The 1998 policy guidance document, "Raising the Quality", issued jointly by the Department of the Environment, Transport and the Regions and the Welsh Office, takes into account the various EC Directives and clarifies environmental and quality objectives to be achieved by the water industry in England and Wales by 2005 (The Section on the Sewerage Service is reproduced in Appendix 3 of Document 9).

28. Finally, reference is made to environmental impact legislation. At the time of the planning application in June 1998 the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 were in force, supported by Circular 15/88. The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 apply to all applications received on or after 14 March 1999 and are supported by Welsh Office Circular 11/99. (Document 13)

Case for Welsh Water

The material points are:

Scheme Appraisal

29. The existing treatment works at Harlech, Llandanwg and Llanbedr all provide primary treatment before the settled sewage is discharged to the local water environment. Llanbedr wastewater treatment works serves a population equivalent of some 600 in the summer and 350 in the winter and discharges effluent to the tidal part of the Afon Artro. Llandanwg works serves a population equivalent of some 1060 in the summer and 560 in the winter and discharges to a short sea outfall close to shore and to the designated Llandanwg bathing beach. Sewage from Harlech (population approximately 3100 in summer and 1800 in winter) is currently pumped from the terminal pumping station to a treatment facility in the sand dunes, next to the St David's Golf Course, and is then discharged to a short sea outfall on the Harlech bathing beach well above Mean Low Water Spring tide level. (Document 9)

30. Water quality monitoring at Harlech and Llandanwg over the past 6 years shows that the EC Bathing Waters Directive mandatory standards are generally passed but the guideline standards are generally failed. However, at Harlech the mandatory standards are only met with the aid of chlorine based disinfection of the effluent, a measure allowed by the Environment Agency only on a temporary basis. Long-term use of this method can have adverse environmental impacts due to the production of trihalomethanes. (Document 9)

31. All 3 works need to be improved to provide at least secondary biological treatment in order to comply with the EC Urban Wastewater Treatment Directive, and other EC Directives affect requirements for further treatment and the means of effluent disposal. Welsh Water has considered a wide range of options before deciding that the proposed scheme, involving combined treatment for all of the sewage at Llanbedr, would be the best environmental solution. (Document 9)

32. Several options were considered for treatment at Harlech. Extension of the existing treatment facility in the sand dunes would encroach into the Morfa Harlech Site of Special Scientific Interest (SSSI) and the candidate Special Area of Conservation (cSAC) and would suffer conflict with the golf course and access problems. The site of the existing terminal pumping station is too small and is close to residential and other sensitive properties. The best site for a new wastewater treatment works would be in the area to the north of the Glan y Mor car park. However,

locations for effluent discharge would be problematic. (Document 9)

33. Continued use of the existing discharge point on the designated bathing beach would be unacceptable to the Environment Agency, as it would not meet requirements for dilution and dispersion. Extension of the outfall would also not be acceptable due to the poor dispersion characteristics of this part of Tremadog Bay and the presence of the Pen Llyn ar Sarnau cSAC, which has been nominated for its marine and geological value. Discharge to the land drainage system, which flows northwards to the Afon y Glyn, would be unacceptable, as it becomes tide-locked. And construction of a new outfall for discharge to the Dwyrdd Estuary would be unacceptable, as it would affect the Morfa Harlech National Nature Reserve and SSSI, the Pen Llyn ar Sarnau cSAC and a commercially important shellfishery. (Documents 6.1, 8 & 9)

34. An extended wastewater treatment works could be provided at Llandanwg but the existing sea outfall would not meet Environment Agency requirements for dilution and would have to be extended or replaced. The Environment Agency has indicated that it would prefer the treatment and discharge of sewage from Llandanwg to be linked with the proposed solution for Harlech and discharge into the Afon Artro, particularly in view of the Pen Llyn ar Sarnau cSAC. (Document 9)

35. The preferred solution for treatment at Llanbedr is described in paragraphs 10-13 above. Although this section of the Afon Artro is affected by the tide, the discharge would be subject to the more onerous fresh water river criteria applied by the Environment Agency. The proposal is supported by the Environment Agency and the Countryside Council for Wales as the best environmental option for dealing with the sewage generated by the 3 centres. (Appendices HJ9 and HJ10 of Document 6.2 and Document 9)

36. Several reports of Welsh Water's appraisal of options for the treatment and disposal of sewage in the area were submitted to the Snowdonia National Park Authority during its consideration of the planning application. A bilingual report summarising the context of the scheme was submitted in July 1998 (Section 3 of Document 5), and the application was recommended for approval by the planning officer to the July 1998 planning committee meeting and, following a site visit by the Inspection Panel, to the October 1998 planning committee meeting. The committee asked for more information. (Document 6.1)

37. A more detailed "Review of Options" report was submitted in March 1999 (Section 11 of Document 5), following a detailed review by consultants Symonds. It confirmed the proposed scheme as the preferred option and included reference to consultation with the Environment Agency and the Countryside Council for Wales and their support for the proposal. The application was presented to the planning committee in April 1999 and was again recommended for approval by the planning officer. However, the committee resolved to ask Welsh Water to consider options other than standard sewage treatment works. (Document 6.1)

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38. In June 1999 a further report was submitted (Section 17 of Document 5) explaining a wide range of sewage treatment methods, including reed beds, wetland systems, "living machine" systems and composting, as requested by the Authority. The report explained why these alternative methods were impractical in this area. The application was reconsidered by the planning committee in September 1999 with a further officer recommendation for approval but was refused. (Document 6.1)

39. It is worth mentioning some of the methods referred to. The treatment of sewage on land requires large areas of land and may be subject to groundwater contamination and ponding on the surface. Similarly, reed beds and "wetland systems" need considerable areas of land; and a means of effluent disposal is still required. Composting is feasible for dealing with sewage sludge (i.e. the solid material extracted from the sewage during the treatment process) but not sewage itself. Similarly, methane generation and the production of biomass for fuels are based on the use of sludge rather than untreated sewage. (Section 17 of Document 5)

Amended Proposals

40. The application was refused for the following reason: *"The Snowdonia National Park Authority Planning Committee are not satisfied that the application provides for sufficient means to ensure that the proposed development will operate without significant loss of amenity to neighbours by reason of unpleasant odours"*. (Section 20 of Document 5)

41. During the course of the appeal Welsh Water has submitted revised design proposals for the alterations and extensions of the Llanbedr works (Plans CI-C3). These include provision for the control of odours at the works as well as other alterations, as explained in paragraph 13 above. However, the Authority maintains that these alterations are so significant that they should not be considered under this appeal.

42. It is common ground that alterations and modifications to an application can be considered at the appeal stage provided they are not substantial or significant (Document 24.1). In this case they are not. The alterations made to the proposal since the Authority's refusal of planning permission amount to either the deletion of certain units or the addition of items of minor impact. The proposed additional balancing tank and screenings skip would be relatively small and at low levels (South Elevation on Plan C3). At the inquiry it was explained that the proposed additional inlet odour control unit would be housed in a glass reinforced plastic (GRP) kiosk about 2 metres high, with a vent stack protruding a further metre, and that the aeration blower units would be small and only about one metre high (see elevations on Plan C3). The vent stack added to the sludge thickener and control building and the low GRP covers added to the inlet channel would be insignificant. (Document 6.1)

43. It has always been anticipated that odour control measures would be included in the proposed alterations at the works, and the repeated recommendations of the National Park Authority's officers that planning permission be granted were subject to conditions that odour control plans be submitted for approval and that GRP covers were included on certain tanks. The inclusion of these measures in the revised proposals now put forward, along with other minor changes, does not amount to significant change or substantial difference. Consequently, the appeal may be considered on the basis of the revised proposals. (Documents 6.1 & 24.1)

Policy Support

44. It is common ground that the proposal is generally in accord with development plan policy and is supported by both development plan and national policies. It would protect and enhance the various environmental elements referred to in Structure Plan policies SP4, D1

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and D4 and would meet the general criteria for good design and acceptable impact on surroundings and nearby residents required by Structure Plan Policy D29 and Local Plan policies PC3, PC5 and CC 1. The proposal would contribute towards the sustainability aims of Local Plan Policy PC2 by enhancing the quality of the environment, making best use of an existing operational site and its plant and equipment, incorporating good design and minimising vehicular movements for future operations. (Document 6.1)

45. The provision of improved sewage disposal facilities and the avoidance of coastal pollution would support the aims of Structure Plan policies D19 and D20 and Local Plan Policy PC 1. It would also enable compliance to be achieved with the various EC Directives and the UK provisions of the Bathing Waters (Classification) Regulations

1991 and the Urban Wastewater Treatment (England and Wales) Regulations 1994. By helping local beaches to meet the "Blue Flag" accreditation, the proposal would be of significant benefit to tourism in the area in support of the North Wales Regional Tourism Strategy 1998-2005 (Section HJ17 of Document 6.2) and the purposes of the National Park. (Document 6.1)

46. The only policy matter contended by the National Park Authority relates to the scale of the proposal. It argues that it should be considered as "major development" against the advice in paragraph 5.3.8 of Planning Guidance (Wales), Planning Policy, that *"Major developments should not take place in National Parks, save in exceptional circumstances of proven national interest"*. Local Plan Policy PC4 also presumes against major development in the National Park. (Document 13)

47. Planning Guidance (Wales), Planning Policy, does not include any definition of "major development" and, in presenting this argument, the Authority has relied on the definition of "major development" in Article 8 of the Town and Country Planning (General Development Procedure) Order 1995. However, this definition is only intended to apply to Article 8 itself, which deals with publicity for planning applications; Article 8(7), which lists various definitions, specifically begins *"In this article..."*. (Document 6.1)

48. The Authority presented the same case for definition of "major development" in regard to the national guidance and to Local Plan Policy PC4 in the deposit version of the Local Plan (Section HJ18 of Document 6.2). However, this approach was rejected by the Local Plan Inspector in his Report on Objections (Section HJ19 of Document 6.2). He considered that the Authority was misdirecting itself and the public by including this definition, as the purpose of Article 8 is to define the forms of application that must be publicised and not to define "major development" for the purposes of planning policy in the Snowdonia National Park. (Document 6.1)

49. The adopted version of the Local Plan takes "major development" to mean *"development which is national rather than local in character or that which will have a very significant and long term impact on the landscape, wildlife or cultural heritage of the Park because of its scale"* (Section HJ20 of Document 6.2). It gives examples of the type of development likely to fall within the meaning of "major development". The current proposal is not national in character or likely to have a long-term impact on the landscape, wildlife or cultural heritage of the Park. And it would be much less significant in scale than the examples quoted. Therefore, using the adopted Local Plan definition, the proposal would not amount to "major development" and would not contravene the presumptions of Local Plan Policy PC4 or of Planning Guidance (Wales), Planning Policy. (Document 6.1)

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Odour

50. The Authority's sole reason for refusing the planning application was concern about the possibility of unpleasant odours occurring. In supporting its decision the Authority has referred to a 1999 appeal decision concerning an application for extensions to a sewage works at Llanasa in Flintshire (Ref.APP/A6835/A/98/511919). The Inspector concluded that *"insufficient evidence has been put forward to demonstrate conclusively that it would be possible adequately to safeguard the local community from odours"*. However, that situation was somewhat different from the current proposal as that scheme straddled the boundary between Flintshire and Denbighshire, and the Inspector was concerned about the enforceability of odour control conditions in the neighbouring local planning authority area. (Documents 6.1 & 13)

51. It is interesting to note the Inspector's comments in the same appeal decision concerning the narrow view expressed that sewage from Prestatyn should be treated in Prestatyn. He acknowledged that Welsh Water would have difficulty in fulfilling its statutory function if parochial community views were always to prevail. This parochial view has been a feature of objections expressed by local residents at Llanbedr. (Documents 6.1 & 13)

52. Welsh Water has always acknowledged that odour abatement measures would be needed in order to ensure that odour nuisance would not arise. The covering letter for the planning application and subsequent scheme appraisal

reports submitted to the Authority (Sections HJ5 and HJ6 of Document 5) advised that a specialist odour consultant was to be appointed to advise on this aspect. Welsh Water's March 1997 Harlech, Llandanwg and Llanbedr Sewage Treatment Feasibility Study report (extract in Section HJ14 of Document 6.2) acknowledged that the scheme would have the potential to cause odour nuisance but concluded that by careful design and operation of the new facilities, odour nuisance could be avoided. The Authority did not ask for any more information on odour control before it made its decision, and at all stages of its consideration the Authority's officers advised it that odour control measures could be dealt with by means of appropriate conditions. (Document 6.1)

53. In order to provide assurance that odour nuisance would be avoided Welsh Water has subsequently commissioned an odour control and impact assessment study by OdourNet UK Ltd (Document 11). This was carried out by Mr Houseman, who presented evidence at the public inquiry (Document 10).

54. Septicity commonly occurs in long rising mains where there is inadequate ventilation and aeration of the sewage to prevent anaerobic conditions developing (i.e. conditions where there is no oxygen contained within the sewage). This would inevitably occur in the long pumping mains from Harlech and Llandanwg to Llanbedr and, if measures to counter it were not taken, the sewage arriving at the Llanbedr sewage works for treatment would contain high concentrations of hydrogen sulphide and other malodorous sulphur compounds. This would cause problems with the initial treatment process at the works and, if not contained, would give rise to release of unpleasant smells. (Document 10)

55. In order to avoid these circumstances arising several measures are proposed, which would adequately prevent septicity occurring in the pumping mains and contain any residual smells at the sewage works itself. Septicity would be prevented in the rising mains themselves by dosing the sewage with a proprietary chemical called Nutriox, which contains nitrate in the form of calcium nitrate. This provides a replacement source of oxygen for bacteria within the sewage that is more readily available than the oxygen within the dissolved sulphates in the

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sewage. Consequently, the bacteria turn to this source of oxygen rather than the sulphates, and so breakdown of the sulphates into odorous compounds is avoided. (Document 10)

56. A small stock of Nutriox would be held at the proposed Harlech and Llandanwg pumping stations and would be dosed into the sewage by means of small dosing pumps. Dosing would be automatically controlled based on regular monitoring of the sewage flows and odour levels, and reliable operation of the system would be ensured by the provision of duty and standby pumps with an automatic changeover facility, telemetry alarms and regular maintenance and testing. The dosing pumps, controls and Nutriox chemical storage would be contained within the pumping stations at Harlech and Llandanwg. These installations would ensure that sewage arriving at the proposed works from Harlech and Llandanwg would not be septic or unacceptably odorous. Such dosing installations are well proven, and many are already in operation in Wales and elsewhere. (Document 10)

57. Other measures would also be installed at the works itself. In the first place an iron salts dosing system (e.g. iron sulphide or iron chloride) would be installed as a standby against the unlikely failure of the Nutriox dosing system providing adequate control over septicity. This would dose iron salts into the inlet works and would be activated automatically in response to continuous odour monitoring. (Document 11)

58. The balancing tank, inlet pumps, screens and channels at the works would be covered with a GRP cover to contain any gases and odours emanating from the incoming sewage flow. The gases would be vented to the atmosphere through filters to remove any remaining odours. All sludge handling, thickening and storage facilities would be enclosed within a building, and again gases would be vented to the atmosphere through filters. All other stages would be designed to minimise the risk of odour nuisance, for example by using fine bubble air diffusers for the secondary treatment oxidation ditch in order to minimise surface turbulence. (Document 10)

59. Modelling has been carried out to assess the likely impact of the proposed works in terms of odour nuisance. Accepted standard techniques for atmospheric dispersion modelling have been used based on local topographic data, local meteorological data from the nearest station and the anticipated operational regime. A comparison has been carried out between the existing works and the appeal proposal. The results (illustrated in Document 10, figures 1-4) indicate that odour emission rates would be only about a quarter those of the existing works. Odour at a concentration likely to cause annoyance would be localised within the treatment works site, and odour at a lower level that may cause annoyance would only extend to the adjoining road for a small proportion of the time. (Document 10)

60. Residential properties are some distance away **from the site and would** be well outside the contours of influence assessed from the modelling exercise. The proposed works would be far less odorous than the existing works, which is already generally low because of its small size. Odour annoyance would not be expected to occur from the proposed works. (Document 10)

61. The National Park Authority has produced no evidence to support its refusal on grounds of odour, and its consultant technical adviser, Mr Grant of the Smith Grant Partnership, has evaluated and accepted the OdourNet report. He has advised that *"it seems unlikely that adverse impacts will be experienced at neighbouring residential properties, (though) occasional impacts may occur on the footpath adjacent to the western boundary of the works. However, due to the intermittent use of the path, any impact will be less significant than that due to similar odour concentrations at a residential property"*. His final conclusion is that *"subject to clarification of ...(certain) matters, it appears likely that odour emissions from*

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the proposed development can be adequately controlled". At the inquiry Mr Hughes confirmed that he was also satisfied with the proposed odour control measures. (Smith Grant report attached to Document 14)

Noise

62. Although not referred to at the time of refusal of the application, the National Park Authority has now raised concerns about noise, particularly in regard to fans proposed for the ventilation systems for odour control. The Authority has referred to problems experienced at Porthmadog treatment plant (Document 12). At the inquiry it was explained that fans at Porthmadog were installed in mild steel casings and that at Llanbedr it would be proposed to use smaller, modern fans in plastic housings. At Porthmadog the fans are in line with a nearby house, whose occupants have been disturbed. At Llanbedr one of the fans would be inside the sludge handling building and the other (to serve the inlet works) would be located behind earth bunding and within an insulated housing.

63. Comments have also been made about the possibility of noise at the Harlech pumping station, which is close to residential properties. However, although the planned pumps there would be more powerful than those presently installed, any noise could be adequately controlled. At the public inquiry Mr Hughes confirmed that he was not aware of any complaints concerning noise from the present pumps at Harlech.

64. Concerns about possible noise could be addressed by the imposition of appropriate conditions to a grant of planning permission. At the inquiry Mr Hughes confirmed that the noise limit included in conditions suggested by Welsh Water would be acceptable in preventing nuisance to local residents from noise. (Documents 21 & 24.1)

Flooding

65. Several local residents have expressed concern about the possibility of the treatment works getting flooded and giving rise to pollution carried in the floodwater. It was confirmed at the inquiry that the site has flooded on occasions in the past. However, the present works has been designed to ensure that tanks are protected from floodwater, and flooding has not caused any problems to the operation of the works. Interestingly, none of the local residents has reported pollution occurring in the past, and the Environment Agency has not commented on this

matter. The proposed alterations and extensions to the works would be designed to take account of the low-lying nature of the site in the same way as the present works were.

Environmental Impact Assessment (Document 6.1)

66. At the time of its submission the planning application was subject to consideration under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988. The proposal fell well below the threshold suggested in Welsh Office Circular 15/88 for infrastructure projects requiring environmental assessment, and the application was submitted without an environmental statement. The Snowdonia National Park Authority could have notified the applicant that an environmental statement was required but did not do so.

67. The National Park Authority are now arguing that the appeal proposals should be subject to screening under the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 on account of the amendments now put forward for consideration. However, the 1999 Regulations do not apply retrospectively to applications made before 14 March 1999 or to appeals associated with such applications, and it would be ultra vires to so consider them.

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68. It has also been suggested at the public inquiry that Welsh Water may have submitted the planning application in June 1998 for the purpose of avoiding having to comply with the 1999 Regulations. This is completely unfounded and is firmly refuted.

69. The need for environmental impact assessment for the other elements of the overall scheme has been questioned. There are 4 other elements: the 2 pumping stations at Harlech and Llandanwg; and the 2 pumping mains to Llanbedr. Planning permission has already been granted for the pumping station at Llandanwg (Appendix HJ4 of Document 6.2), and the National Park Authority has advised that the proposed works at Harlech Pumping Station are unlikely to need planning permission as they are considered to be permitted development under Class A(e) of Part 16 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (letter in Appendix HJ3 of Document 6.2).

70. Similarly, it is not expected that planning permission would be needed for the rising mains, as they would enjoy permitted development rights under Class A(a) of the same part of the Order. However if, when the routes are finalised, it were held that they may have significant environmental effects and that environmental impact assessment were needed, then a planning application accompanied by an environmental statement would be submitted at that time. As Welsh Water would not go ahead with the proposed works at Llanbedr without the rising mains, the current appeal would not prejudice environmental impact assessment for the rising mains, if it were required.

Risks to Health and the Environment

71. An ecological and badger survey was carried out in May 1998, and a report on it was submitted as part of the planning application (Section 4 of Document 5). The report did not identify any flora or fauna of ecological interest that would be likely to be affected by the proposed development. (Document 6.1)

72. Effluent discharge to the Afon Artro would be of a considerably better quality than at present and, even allowing for discharge quantities of about 8 times the present discharge, the polluting effect would be substantially reduced. The increased discharge would only represent about 0.5% of the average daily flow of the river. At the inquiry it was reported that the discharge consent for the current works specifies a maximum suspended solids content of 200 mg/l and that the discharge consent for the proposed works would be 25mg/l biological oxygen demand (BOD) and 35 mg/l suspended solids. The additional biological treatment and UV disinfection stages would also kill an estimated 1,000-10,000 times as many coliforms than the present process, so bacteriological pollution of the Afon Artro would be substantially reduced. Overall, the discharge to the river would be cleaner and less risk to health or the

environment. (Documents 6.1 & 24.1)

Visual Amenity (Documents 6.1 & 7)

73. Prior to the Authority determining the planning application, 2 measures were added to improve the appearance of the proposed development. The **landscaped earth bund proposed** between the highway and the appeal site would be extended along the northern and southern boundaries to provide more extensive screening, and some faces of the 2 existing buildings would be clad in natural stone to improve their appearance. All new buildings would also be built in natural stone with slate roofs.

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74. Although visual amenity is not a matter in dispute, Welsh Water has commissioned a visual assessment of the proposed development, and a report has been provided dated October 2000 (Document 7). The report concluded that the proposed development would not result in any discernible difference to the overall landscape. There would be a moderate change to the localised view from the road alongside the site, from nearby footpaths, particularly those along the riverbanks and along the north-western edge of the site, and from the railway line. However, these would reduce as landscaping and proposed additional planting became established over a period of about 15 years.

Public Consultation and Perceptions (Document 24.1)

75. The Community Council and some local residents have criticised the amount of consultation carried out. To a large extent such criticism should be directed towards the National Park Authority rather than Welsh Water. It is also evident that much of the criticism by local residents is directed at the principle of bringing sewage from Harlech to be treated at Llanbedr. This is clearly expressed in the wording of the petition submitted at the inquiry by the Community Council (Document 15).

76. Public perception of risk is acknowledged as a material consideration in land use planning matters. However, in this case that perception is not well founded and should be given little weight. A recent appeal decision for a landfill gas power station at Ruabon deals with public perception of risk in a similar way (Document 24.2).

Human Rights

77. Finally, reference has been made to the possibility of serious smell nuisance affecting local residents' rights under Article 8 of the European Convention on Human Rights, i.e. the right to respect for private and family life and for the home. The same Ruabon appeal decision (Document 24.2) concluded that similar concerns were not well founded because the degree of interference was insufficient to give rise to a violation of local residents' rights. In the current appeal case, smell nuisance would be minimal and the proposal would result in considerable environmental benefits. (Document 24.1)

Conditions

78. Welsh Water put forward a suggested list of conditions at the inquiry (Document 21). Condition 2 refers to the amended plans (Plans CI-C3). At the inquiry it was agreed that Condition 3 would not be necessary, as it would duplicate Condition 5 and that Condition 6 would need to be supplemented by an additional landscaping condition requiring the submission and approval of details. It was also agreed that Condition 7 would benefit from clarification that it referred to protection during the construction period.

79. The suggested "informative" could be applied as a condition if considered necessary, and the suggested management plan would be expected to cover actions required of Welsh Water in the event of problems occurring. Finally, suggested Condition 14 is derived from advice in Planning Guidance (Wales), Technical Advice Note (TAN) 11, "Noise". Welsh Water would prefer a condition of this sort rather than reference to British Standards, as suggested by Mr Hughes on behalf of the National Park Authority. Reference to "measured or calculated" would also

be acceptable.

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Case for Snowdonia National Park Authority

The material points are:

Planning Policy

80. The Snowdonia National Park Authority does not dispute the statutory and policy considerations submitted by Welsh Water, except in regard to whether or not the proposal should be considered to be "major development". In all other respects policy considerations within the National Park do not prohibit development of this nature at this location. (Document 23)

Paragraph 5.3.8 of Planning Guidance (Wales), Planning Policy, advises that "Major developments should not take place in National Parks, save in exceptional circumstances *of* proven national interest". The definition of "major development" in Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 includes "waste development", which it further defines as "any operational development designed to be used wholly or mainly for the purpose *of*, or a material change *of* use to, treating, storing, processing or disposing *of* refuse or waste materials". The proposal falls within this definition and is major development in the open countryside in the National Park. Such development requires special justification and very careful consideration. (Document 13)

82. The nature of the scheme as major development is also illustrated by the national and international implications of it not proceeding. The prime consideration for implementation of the scheme is to meet the requirements of EC Directives and to gain "European Blue Flag" status for the designated bathing beaches at Harlech and Llandanwg. Welsh Water has known for some time that the 3 existing treatment facilities are unsatisfactory. However, the catalyst for the proposed improvements has primarily involved the avoidance of huge financial penalties being imposed nationally in the event of continued failure to meet EC standards in relation to bathing waters. Without the proposed improvements the standards would be unlikely to be met, and clearly the scheme is of national significance and must be considered to be of major importance. (Document 23)

Alternative Schemes

83. Aspects of alternative sites and alternative methods should have been examined in far greater detail at an initial stage, and a site visit to the Fridd Rasus municipal waste disposal site is welcomed in this regard. The advice on waste treatment and disposal in paragraph 14 of Planning Guidance (Wales), Planning Policy, and on development in environmentally sensitive locations in paragraph 36 of Welsh Office Circular 11/99, "Environmental Impact Assessment (EIA)", is relevant. (Document 23)

84. Like the Community Council and local residents, the National Park Authority feels it has not had an opportunity to consider in depth many of the important issues now revealed in relation to the proposed scheme as a whole. There is a perception of cynicism on the part of Welsh Water in making an application that did not meet environmental considerations in regard to odour and possibly in avoiding the implications of the 1999 environmental impact regulations that came into force a few months later. (Document 23)

85. If Welsh Water's aim were only to rectify current defects at the Llanbedr treatment works, rather than implement the wider Harlech/Llandanwg/Llanbedr scheme, then the significant changes proposed at Llanbedr would not be necessary. Required improvements would be much more modest, and it may even have been possible to rectify the defects without the need for a planning application. (Documents 9 & 23)

Changes to Original Proposals

86. Whilst consideration may be given to the amended plans now put forward for the appeal, the changes to the plans are considered to be significant and, having regard to the circumstances in which they are seen to be presented, they should be refused. The right of appeal against a local planning authority's refusal of a planning application does not create a right to submit an amended proposal direct to the National Assembly for Wales. If Welsh Water believed it could overcome the reason for refusal of the application, its first course of action should have been to submit an amended application to the National Park Authority. (Documents 14 & 23)

87. That course of action would enable the Authority to consider the scheme as a whole, rather than just the element on the Llanbedr appeal site, with full statutory public participation. The scheme as a whole involves works outside the appeal site, and the odour control measures needed to enable odour nuisance to be avoided involve installations at the proposed Llandanwg and Harlech Pumping Stations. Contrary to its initial submission (Document 14), the Authority acknowledged at the inquiry that conditions involving off-site works could be applied to a grant of planning permission. However, the need to do this illustrates that consideration of the appeal proposal is inextricably linked with issues of development at other locations. (Document 23)

Environmental Impact Assessment

88. The appeal application was submitted in June 1998 and was assessed by the Authority against the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988, which were applicable at the time. "A waste water treatment plant" is specified in Part 11 (d) of Schedule 2. However, Welsh Office Circular 15/88 suggested a threshold of 100 hectares for infrastructure projects before an environmental impact assessment was needed, and the Authority did not request one. The situation would have been quite different if the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 had been in force at the time.

89. Part 11 (c) of Schedule 2 of the 1999 Regulations refers to "waste-water treatment plants (unless included in Schedule 1)" and a threshold of 1,000 square metres, which is comparable with the size of the appeal site. However, within a National Park all Schedule 2 applications require a screening opinion by the local planning authority as to whether or not an environmental impact assessment is needed. It is the Authority's view that, if any new application were made for the latest proposals, an Environmental Statement would be required. (Documents 13 & 14)

90. It is also likely that the proposed pumping mains would require environmental impact assessment. Although underground pipes would normally be considered as permitted development, where they are an integral part of a project covered by Schedule 2 of the 1999 Regulations, they would only be permitted development if a screening opinion or direction had been issued that no environmental impact assessment was needed. In this case the proposed pumping mains are an integral part of the project, and it would be preferable to consider them as part of a new application for the whole scheme with a comprehensive environmental statement covering odour control, visual assessment, alternative sites, traffic considerations, ecology, noise, cultural heritage and flood risk. (Documents 14 and 23)

91. In view of the extent of the amendments made to the appeal proposal since the 1999 Regulations came into force, consideration should be given to issuing a screening direction that an environmental statement is required. If permission were granted without consideration of an Environmental Statement, it would be contrary to United Kingdom obligations under European Community Directive 85/337, as amended by Directive 97/11, which could lead to a complaint to the European Community and a High Court challenge. (Documents 13 & 14)

Odour

92. Concerns about odour nuisance formed the basis for the Authority's refusal of the planning application. At that time Welsh Water had provided no information on measures to prevent or control odour at the proposed works, even though it has become clear since that the scheme feasibility report produced in March 1997 identified this as a problem that would be *"difficult to treat and capable of causing serious odour nuisance"* (Appendix HJ14 of Document 6.2).

93. Planning officers recommended that permission be granted subject to conditions for odour control measures as they were of the view that a properly designed and operated, modern sewage treatment works should not smell. The Authority's members did not share that faith in the technical abilities of Welsh Water, particularly in the light of reports of odour nuisance problems at works at Criccieth and Porthmadog. Odour control is critical to the impact of a sewage works on its neighbours, and it was considered there was a significant risk that satisfactory details would not be provided if permission were granted subject to conditions. (Document 13)

94. An extract from the March 1997 report was first submitted to the Authority in April 2000. It confirmed the Authority's fears about the potential for odour nuisance and recommended that septicity control measures be evaluated. If it had been submitted with the original application, the National Park Authority would have asked for a further report on odour control. In the event, that further report, understood to have been commissioned in 1998, was not produced until November 2000, a delay that reflects Welsh Water's lack of commitment to its claims to be a "good neighbour" and the premature nature of the original application. If Welsh Water had not sought to gain planning permission for a design that it knew was inadequate from the important perspective of odour control, then the subsequent delays could have been avoided. (Documents 13 and 23)

95. The Authority's decision to refuse permission because it was not satisfied that the proposal contained sufficient means to avoid problems of odour nuisance was similar to that of a recent appeal decision (Ref. APP/A6835/A/98/511919 - Appendix C of Document 13) in Flintshire. The appeal concerned proposed extensions to Llanasa sewage treatment works and was dismissed because the Inspector concluded that *"insufficient evidence has been put forward to demonstrate conclusively that it would be possible adequately to safeguard the local community from odours that would be generated by approximately three times the amount, of sewage than is currently dealt with at Llanasa"*. (Documents 13 and 23)

96. It has taken a long time for Welsh Water to produce its report on odour control measures, despite repeated requests by the National Park Authority over the course of the appeal period. The Smith Grant Partnership was commissioned by the Authority to review Welsh Water's report and concluded that *"it appears likely that odour emissions from the proposed development can be controlled adequately"* (report attached to Document 14). However, it is clear that the original proposal was designed without regard to odour control and that the odour control measures included in the latest proposals are an afterthought involving significant changes to the proposal considered by the Authority. (Documents 13 & 14)

Noise (Documents 12 & 23)

97. Although not raised at the time of refusal, the likelihood of noise nuisance occurring is now of concern to the

Authority as a consequence of the proposed odour control measures. Particular problems have been experienced with noise from similar odour control measures recently installed at Porthmadog wastewater treatment works. Statutory nuisance has been caused to neighbouring residents situated slightly further away from the works than the nearest houses at Llanbedr, and the County Council's Public Protection Manager has provided information on monitoring carried out during night-time hours. At Porthmadog relatively low background noise levels have been interrupted by sudden noise events as equipment is automatically switched on, and continuous average noise levels significantly above background levels have been experienced during early morning hours.

98. The main source of noise identified was from the motors of the odour control fans, which had not been fitted with acoustic enclosures because of concerns over possible overheating. At Llanbedr one of the odour control fan units would be outside any buildings and would rely on a cover to contain noise. Control could be exercised by means of a suitable condition. However, the danger of relying on such conditions is illustrated by the problems experienced at Porthmadog, where complaints identified as statutory nuisance in June 2000 are still unresolved in February 2001.

Human Rights (Document 13)

99. Article 6 of the European Convention on Human Rights provides for a right to a fair trial. It has been established that planning appeals determined by an Inspector, together with the right of challenge to the High Court, comply with this article. The National Assembly for Wales has a statutory duty to act within the terms of the Convention, and its procedures for determining planning appeals are designed to comply with it. During the course of the appeal procedures there was some uncertainty over the jurisdiction of the National Assembly. However, the Snowdonia National Park Authority maintains that the appeal should be determined by the National Assembly and that it has full jurisdiction.

100. Article 8 of the Convention concerns the right to respect for private and family life. Serious smell nuisance affecting someone's home has been found to be a breach of Article 8. In the case of *Lopez Ostra v Spain* (1994) 20 EHRR 277 the European Court of Human Rights held that Article 8 had been breached by failure to close a waste treatment plant that released "gas fumes, pestilential smells and contamination". This is relevant to the current appeal.

Conditions

101. The National Park Authority relies on the suggested conditions in the report to its planning committee on 28 April 1999 (reproduced as Document 20). Conditions 1-8 are similar to those suggested by Welsh Water, except that Condition 2 refers to the plans originally submitted (Plans A1-A4) subject to agreed changes to **the earth bund** and stone cladding of the existing buildings. At the inquiry it was agreed that Condition 3 could be omitted, Condition 7 be clarified and Condition 6 be supplemented, as detailed in paragraph 78 above.

102. It was also confirmed at the inquiry that Conditions 9-13 suggested by Welsh Water would be generally acceptable in place of the Authority's suggested Condition 9, and that references to 1 mg/l dissolved sulphide for monitoring odour would be acceptable. The Authority would wish to see reference to the monitoring protocol of BS4142:1997 in any noise condition but acknowledged at the inquiry that the noise levels specified in Welsh Water's suggested Condition 14 would be acceptable for the protection of the amenity of nearby residents.

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Case for Llanbedr Community Council

The material points are:

103. The Community Council has been helped in its review of technical matters by Mr Robert Lloyd, and his letters (Documents 3.1 & 3.9) are considered to be part of the Community Council's case.

Lack of Consultation (Documents 3.9 & 22)

104. Planning Guidance (Wales), Planning Policy, emphasises the need for local planning authorities to consult and collaborate with local representatives. As a major company and service provider, there is also an onus on Welsh Water to participate in consultation. In this case both the Snowdonia National Park Authority and Welsh Water have failed to adequately consult the Community Council and local residents, both at the planning application stage and throughout the appeal procedure.

105. The Community Council was briefly addressed by representatives of Welsh Water at one of its meetings shortly before the application was made. However, the Council had very little notice of this and did not gain an appreciation of the scale and scope of the scheme. The National Park Authority gave the Community Council very little time to comment on the subsequent application and, although its representatives were invited to attend the Members' site visit, the Council had little opportunity to participate fully. Publicity and consultation at this time, by both the National Park Authority and Welsh Water, gave a misleading impression to the Community Council and local residents of the large scale of the scheme, and neither party sought to liaise constructively with local people. No impression was gained that the intention was to bring all of the sewage from Harlech to Llanbedr.

106. When local residents did realise this, a large number wrote letters of objection. However, the National Park Authority did not respond to Community Council or local residents' letters, and the Community Council eventually wrote directly to each member of the planning committee. It was only at this stage that the National Park Authority woke up to the vast implications of the scheme and asked Welsh Water for accounts of other options considered. Up to that time the Authority's main concern seemed to be the appearance of the works, and it is clear that the officers had not properly assessed the main issues in the application. Nevertheless, the Community Council now supports the decision taken by the National Park Authority to refuse the application.

Alternative Options (Document 22)

107. The Community Council acknowledges that Welsh Water has a statutory obligation to improve water standards and that it has investigated alternative sites and methods. However, its consideration of siting a new treatment works at Harlech was carried out before the full extent of odour control measures had been assessed for the currently proposed scheme. If details of the measures had been available and assurances had been given on the quality of the treated discharge, it is possible that the objections of the Environment Agency and the Countryside Council for Wales to a Harlech-based scheme might have been overcome.

108. The present Harlech treatment works is well sited, and the best solution would be to develop an improved treatment facility next to the Glan y Mor car park in Harlech. The existing outfall could be retained, and engineering techniques are available (e.g. pipe bursting and thrust boring) to ensure any necessary improvement and extension could be carried out with minimum disturbance to the coastal environment. No modelling evidence has been put forward to show that the present outfall is harmful to the coastal environment. Indeed, it is an integral, long-established part of that environment, and the

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nutrients it provides may be important to the ecological balance in the area. That balance may be upset if the discharge were removed. (Document 3.9)

109. The Community Council cannot understand why it is acceptable to discharge treated effluent into the Afon Artro but not the Afon Dwyrdd. Whichever river it were discharged to, the tidal nature of the area would ensure that it would eventually pollute the Morfa Harlech SSSI and National Nature Reserve and the Pen Llyn ar Sarnau cSAC. Discharges to alternative locations have been dismissed purely on the advice of the Environment Agency and the Countryside Council for Wales. That advice should be reviewed. Environmentally sensitive areas cannot always be avoided. Provided techniques were used to minimise disturbance, discharges elsewhere may be acceptable and preferable. Welsh Water's review of options has failed to take into account the wider impacts of its proposals. (Document 3.9)

110. Insufficient consideration has been given to the possibility of siting a new and enhanced sewage treatment plant

at the Penmorfa refuse tip at Harlech. The Llanbedr works itself could be adequately updated at reasonable cost without bringing sewage from Harlech to be treated there and without having an unacceptable impact on the ecology and users of the Afon Artro. The Llanbedr Community Council remains opposed to Harlech sewage being pumped to the proposed Llanbedr works, and a petition signed by local residents shows that this is the overwhelming view of the Llanbedr community (Document 15).

Odour

111. It is clear that, without mitigation, odours would emanate from the proposed works and cause significant nuisance. Although Welsh Water's recent report by OdourNet UK Ltd appears to show that odour nuisance could be avoided (Document 11), the reliability of its modelling depends on the suitability of the data input. There is considerable doubt about the appropriateness of meteorological data from RAF Valley being applied in this location, and this raises queries about the reliability of the modelling and the level of understanding of the odour emissions. Under these circumstances, the views of the local community become particularly important in assessing the significance of potential odour nuisance. Large numbers of residents and holidaymakers could be affected. (Document 3.1)

112. The use of a large number of planning conditions, as suggested by Welsh Water (Document 21), illustrates the problematic nature of dealing with odour. The need to apply conditions to deal with future difficulties is a matter of some concern in itself, and planning conditions could not guarantee that odour problems would not occur. (Document 22)

Flooding

113. At the inquiry concern was expressed about risks of coastal flooding. Local residents can remember major flooding occurring in the vicinity of the appeal site in the 1950s, 1970s, 1980s and more recently in 1997. Photographs taken by Mrs Williams (Photographs 1-6) illustrate the extent of the flooding that occurs in the area, and this is likely to get worse in the future as a result of climate change (Document 16). The adjoining road is regularly flooded, and the appeal site is quite unsuitable for further building.

114. There is also concern about the possibility of pollution occurring as a result of the pumping mains bursting or being damaged. Sewage pipes have been broken elsewhere in the area, due possibly to the nature of the soil or to settlement when the ground is dry, and have caused pollution over the land. Welsh Water's record of sewerage management has not been good.

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Visual Impact (Document 3.1)

115. The Visual Assessment report submitted by Welsh Water (Document 7) leaves much to be desired. Errors and inaccuracies, particularly in the distances to nearby houses, cast doubt on its reliability. In addition, it was carried out before the design of the works was significantly altered to accommodate odour control measures. The latest, revised design is substantially different from the original. Visual impact on entry to the village is an important factor in regard to tourism, and the attractive appearance of this part of the village would be harmed by this proposal.

116. A feature of the report is that landscape planting would be expected to take some 15 years before it matured and became effective. During that period the proposed development would be considerably more visible than in the longer term. The report implies that this is acceptable. However, for local residents and tourists 15 years is a substantial period of time. The attraction of Llanbedr for tourists is its rural character, and loss of visual amenity for 15 years could cause considerable harm to the tourist trade. And in 15 years time the plant would probably be due for refurbishment or renewal, with further ensuing disruption.

Major Development/Community Impact

117. Welsh Water and the National Park Authority have argued about whether or not the proposal amounts to "major development". The Community Council does not argue the technicalities of this. However, so far as the local community is concerned the proposal is for a major development. It is of major importance to Llanbedr, a small rural community within the National Park. It would have an adverse effect on that community. The introduction of many times the current flow of sewage into this low-lying area would irreparably damage the social, economic and environmental fabric of the community. Mitigation measures cannot overcome the basic flaw of transferring sewage from other larger communities to this sensitive rural location. (Documents 3.1, 3.9 & 22)

Environmental Impact Assessment

118. The planning application was made in June 1998, about 6 months before the latest environmental impact regulations came into force. If it had been made a year later, a full Environmental Impact Assessment would have been required and the scheme would have been rejected on the basis of its impact on the ecology of the estuary and the outdoor recreation centre. Welsh Water's submission of an incomplete application, which it has since changed, is shoddy and underhanded. (Document 3.1)

119. It is important that the proposal be considered against the most up to date regulations as opposed to those in force at the time of the original planning application. (Document 22)

Human Rights

120. Finally; it is contended that Articles 6 and 8 of the European Convention on Human Rights are relevant considerations. Both the National Park Authority and Welsh Water have failed to protect the Community Council's obligations to local residents in regard to private and family life by failing to adequately consult them. In addition, Welsh Water should not have delayed the provision of a proper odour assessment or changed the nature of the application. The rights of the Community Council and the local residents to a fair hearing have also been prejudiced by these actions. (Documents 3.1 & 22)

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Other Representations at Inquiry

The material points are:

Mrs F Voedcker (Document 17)

121. Mrs Voelcker reported that Welsh Water had failed to properly respond to queries raised by the National Park Authority, of which she is a member, in respect of alternative sustainable options and that this should have been included as a second reason for refusal. Welsh Water is required to have regard to the statutory purposes of the National Park, as defined in the Environment Act 1995, and to the aims of sustainability, for which a duty is specifically conferred on the National Assembly for Wales by the Government of Wales Act 1998.

122. With this in mind, the National Park Authority asked Welsh Water to review its options for dealing with sewage by methods other than sea disposal. The planning committee particularly asked it to consider possible treatment on land and use on land of the resulting liquor and solids in combination with the solid waste plant at Fridd Rasmus. However, Welsh Water failed to do this and merely reported back to the Authority on the same original options.

123. Sewage is a rich resource, and in this area it is relatively uncontaminated by industrial waste. It has potential for methane generation, composting with domestic waste and the production of biomass for fuels, and it is against the best interests of the community to discharge such a valuable resource to the sea. As local authorities are being

required to reduce landfill and maximise waste reduction and recycling, there is potential for combined waste/sewage schemes (possibly supported by "Objective 1" funding). All of these alternatives should be considered and the overall social and environmental benefits should be taken into account. Only if these are genuinely less beneficial in all respects should disposal to sea be allowed. If a combined waste/sewage scheme were successful it would avoid discharging wastes to the sea, reduce landfill volume and result in beneficial by-products.

Mrs J Smith

124. Mrs Smith is a keen ornithologist and has taken part in wader bird counts for the Artro estuary. It is a very rich habitat and as many as 29 different bird species use the estuary. The ecological survey carried out for Welsh Water (Section 4 of Document 5) did not cover birds or fish and did not assess the ecological value of the estuary. Mrs Smith is concerned about possible increased pollution of the river and its impact on the estuary.

Mrs J Evans

125. Mrs Evans is concerned about the effects of flooding on an enlarged sewage treatment works and provided photographs that show the main road flooded in 1997 and the Afon Artro in flood in 1998. (Photographs 7-12)

Mr R Mayhew (Document 18)

126. Mr Mayhew is concerned about the possibility of increased pollution of the Afon Artro and its effects on water sports participants using the river. The outward-bound centre of which he is Director is located on the shores of the Afon estuary about 500 metres downstream of the appeal site. The centre employs a staff of 15 and caters for about 2000 young people each year, including groups with special educational or physical needs. Water sports using the estuary and the river are a major part of the

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centre's work, and the river in the vicinity of the effluent discharge point is an important location for

winter canoeing when the harbour can be too dangerous for weaker groups.

127. The viability of the centre depends on attracting groups, and any doubts on the part of group leaders, education authorities and other customer organisations, whether they concern actual health risks or perceived risks, could soon put the centre out of business. It cannot be guaranteed that the effluent would not be harmful to the health of the centre's staff and visitors, and there is accepted medical evidence that shows people entering bathing waters are at increased risk of infections. This seems to be so even after compliance with the EC Bathing Waters Directive has been achieved.

128. It is difficult to accept that discharge to the Mon Artro is preferable to the Afon Dwyrdd and Glaslyn, as shallow sea depths and limited tidal movements are common to both areas. Indeed, the tidal currents are much stronger at Harlech, and the beach is less used than those at Llandanwg or Shell Island. Dispersion from the Mon Artro is limited by its low volume of water in the summer and tide locking at times of high tide. With the increase in the volume of effluent discharged, water activities from the centre in the summer would often take place in a high concentration of effluent that had not been dispersed.

129. Whether or not the actual risks to health would be increased, the proposal would increase the perception of risk to visitors to the centre. The expanded site with an increased outflow and the possibility of odours would emphasise the presence of the works, which is barely noticeable at present. If the plant were to break down and a single group member were to become ill, confidence in the centre would be harmed and its viability would become doubtful. The proposed scheme could compromise the future of the centre.

Mr R Pickard

130. As a resident of Harlech, Mr Pickard is aware that the sewage works there is remote and does not cause nuisance to local residents, as the Llanbedr works sometimes does. Welsh Water has chosen the cheapest solution, albeit supported by the views of the Environment Agency on protection of the SSSI and cSAC. However, Mr Pickard would prefer to see an improved works at Harlech, preferably situated near the car park. The SSSI could be avoided by routing the discharge pipeline along the footpath, and a long sea outfall there could discharge at a point similar in character to the outflow from the Mon Artro.

131. Although the existing pumping station at Harlech would be used to house the pumps for the rising main to Llanbedr, more powerful pumps would be needed than at present. These could give rise to increased noise and nuisance to nearby properties.

Mr J Andrews

132. Prior to the public inquiry most local residents had little knowledge of what was proposed and were frustrated that it seemed to be a series of separate steps. Although there has been little development in Llanbedr over the past few decades, a lot has taken place in recent years in Harlech and Llanfair, and the local planning authority should have ensured that any sewage disposal matters were sorted out at the same time.

133. Llanbedr has a strong dependence on tourism. It has 3 outdoor pursuit centres that would be threatened by a new sewage treatment works, as Llanbedr relates to the river in the same way that some places relate to the beach. Shell Island is closely associated with Llanbedr and received over 50,000 visitors in 1999. At peak times it is home to 800-1000 campers. Bearing in mind the harm that a new sewage

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works could cause to Llanbedr, more attention should have been given to alternative sites. The Fridd Rasus waste site has good access and is in a remote location. And for Harlech options undue weight seems to have been attributed to avoiding outfall locations.

Written Representations (Documents 3.2-3.8, 3.10, 3.11, 4 & 25)

The material points are:

134. In addition to letters from the Llanbedr Community Council, written representations have been received from 5 local residents. 54 letters were also received by the Snowdonia National Park Authority at the time of the planning application.

135. Almost all of the representations referred to matters adequately reported by the Community Council or other parties at the inquiry, particularly a wish to see a new works built at Harlech or other options considered, risks of pollution, odour nuisance and flooding.

136. Two additional matters were raised. The first was concern about the volume of additional water that would be discharged to the river and the effect this might have on bank erosion and floodwater levels for houses on the edge of the estuary downstream of the site (Documents 3.3 & 3.10). The second was a report that the effects of pollution are already evident along the Afon Artro and estuary and that the outfall on Llandanwg beach leaks and smells and is unsatisfactory (Document 3.2).

137. After the public inquiry a letter was received from Elfyn Llwyd, Member of Parliament for Meirionnydd Nant Conwy. He advised that many local residents had contacted him expressing their concerns about the proposal for various reasons, but mainly because there has not been enough research into odour prevention arrangements on the site. He emphasised the importance of taking into account the views of the Llanbedr Community Council when the decision is made. (Document 25)

Appraisal and Conclusions

Need for Improved Sewage Treatment and Disposal Provision

138. The need for improved sewage treatment and disposal provision for the sewage currently dealt with at the Harlech, Llandanwg and Llanbedr treatment plants is not in dispute. It is driven by European Community Directives covering Urban Wastewater Treatment and Bathing Waters, which require improved treatment and water quality standards to be met. At present all 3 works provide only primary treatment of sewage, and legislation and government guidance requires that treatment be improved to include secondary (biological) treatment. [23-25, 30, 31, 107]

139. At present the partially treated sewage effluents from the Harlech and Llandanwg works are discharged on or close to bathing beaches, and improved effluent quality is needed to ensure that EC Bathing Waters standards are met. The beaches cannot gain "European Blue Flag" status unless the bathing waters meet the stringent microbiological guideline standards specified in the Bathing Waters Directive. I conclude that there is an undisputed need for improved sewage treatment and disposal provision for the 3 settlements. [24, 30]

Alternative Schemes

140. Welsh Water has carried out an appraisal of options to address these requirements and decided that a combined scheme for all 3 settlements would be the most feasible and viable solution with the combined treatment works sited at Llanbedr and the effluent discharge into the Mon Artro. Local residents and their representatives object to the principle of bringing sewage from Harlech and Llandanwg to be treated at Llanbedr. However, such an argument can only be defended if there is another option that is preferable in environmental, social and economic terms or if the proposal would have unacceptable effects on the Llanbedr community. [31, 110]

141. The treatment works itself could be located at any of the 3 centres, and many local residents have argued that the most appropriate site would be near the Glan y Mor car park at Harlech [32, 34, 108, 130, 135]. That may well be the case in so far as impact on the local communities is concerned. However, a treatment works cannot be constructed in isolation, and the discharge of treated effluent to an acceptable location is a vital consideration. Welsh Water reports that the existing outfalls at Harlech and Llandanwg are environmentally unacceptable and would have to be replaced with new or extended outfalls. And a local resident has confirmed the unsatisfactory nature of the Llandanwg outfall [33, 34, 136].

142. Various alternatives have been considered for coastal outfalls from a works at Harlech. However, no environmentally acceptable location for discharge of the treated effluent can be found. The poor dispersion characteristics of this part of Tremadog Bay and the presence of the Pen Llyn ar Sarnau candidate Special Area of Conservation (cSAC) at the present outfall site discount that location. The Morfa Harlech National Nature Reserve and Site of Special Scientific Interest (SSSI), the Pen Llyn ar Sarnau cSAC and a commercially important shellfishery discount discharge to the Dwyryd Estuary to the north. And discharge to the land drainage system would be unacceptable because it becomes tide-locked. A discharge to the Mon Artro at Llanbedr would not be subject to the same constraints. The Environment Agency and the Countryside Council for Wales agree with this assessment and support the proposal to site the treatment works at Llanbedr. [33, 34, 35, 37]

143. The Snowdonia National Park Authority argues that improvements could be carried out at each of the existing

works [85]. However, this ignores the present unsatisfactory nature of the outfalls at Harlech and Llandanwg [33, 34] and the same problems in finding acceptable alternative discharge locations. The Llanbedr Community Council has suggested that specialist engineering techniques could be used to replace or extend the present outfalls and has questioned the harm caused by them to the coastal environment [108]. However, these again ignore the Environment Agency's objections in principle to discharges in these areas on account of their harm to the natural environment.

144. The Community Council and local residents have compared the Mon Artro and the Mon Dwyrdd and argue that their circumstances are similar. Consequently, it is difficult to understand why an effluent discharge is acceptable to one but not to the other [109, 128]. The Community Council argues that the advice provided by the Environment Agency and the Countryside Council for Wales should be reviewed. However, no one has brought forward any evidence to suggest that those 2 guardians of the natural environment would do other than provide the same advice given to Welsh Water, i.e. that the currently proposed option is the best solution so far as the natural environment is concerned [37]. No evidence put forward has led me to reach any other conclusion.

145. During its consideration of the planning application the Snowdonia National Park Authority asked Welsh Water to consider other options of a less conventional nature [37], and Welsh Water submitted a report covering such matters [38, 39]. However, the National Park Authority and the Community Council consider that these could have been investigated in more detail, particularly the possibility of using the Fridd Rasus municipal waste disposal site, near Harlech, for a combined waste/sewage scheme [83, 110, 122, 123].

146. It is possible that there has been some misunderstanding over methods that are being developed elsewhere for beneficial use of treated sewage sludge as opposed to the untreated sewage itself. Sludge is the treated solids content of sewage and would be produced at the proposed works and removed elsewhere for further processing. The various suggestions for beneficial use of the sewage [123] could still be pursued with the treated sludge [39]. However, they would not affect the need for the proposed scheme.

Amended Proposals

147. During the course of the appeal, Welsh Water has submitted revised proposals that take into account the need for odour control measures and various other design refinements [13]. The Snowdonia National Park Authority argues that these involve changes of such significance that they should not be considered in the appeal; instead, they should be resubmitted to the Authority as a new planning application [86].

148. The proposed modifications comprise the deletion of certain units and the addition of others. Originally, a separate inlet works was proposed for the sewage pumped from Harlech and Llandanwg. It is now proposed that this would be received by the existing inlet works with a small balancing tank. Two small sludge tanks have also been deleted. The additional items include aeration blower units for the aeration tanks, several GRP covers to tanks and channels and an odour control unit adjacent to the inlet works. Extensions to the proposed landscaped bund and stone cladding of parts of the existing buildings are also included, as agreed with the National Park Authority before it determined the application [13].

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149. The parties agree that modifications to the application may be considered at appeal provided they are not substantial or significant [42]. My assessment is that the additional items would be either quite small or of low profile [41]. Most of the modifications would be to provide odour control facilities and would have been added to the original scheme in any case if planning permission had been granted subject to a condition for such measures [43]. In my view, the modifications to the proposal are neither substantial nor significant and it is appropriate that the amended proposals be considered under the appeal.

150. The National Park Authority has argued that the need for odour control measures to be installed at locations

away from the appeal site (i.e. at the 2 pumping stations) illustrates that the proposal is linked with development at other locations [87]. That is clearly so. However, those installations would be inside buildings under the control of Welsh Water [56], and the necessary installations could be the subject of appropriate conditions attached to a planning permission. They do not change my conclusion that the amended proposals should be considered under this appeal.

Environmental Impact Assessment

151. The planning application was submitted in June 1998 and was subject to consideration under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988. The proposal fell well below the indicative thresholds for development likely to need environmental assessment, and an Environmental Statement was not provided or called for [88]. The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 came into force for applications submitted on or after 14 March 1999 [28] and specify much lower thresholds. If the same application had been submitted a year later, it is likely that an Environmental Statement would have been required [89].

152. The fact that an Environmental Statement would have been needed does not necessarily mean that the application would have been refused. A considerable amount of environmental information has been provided either for the application or the appeal. However, the 1999 Regulations would have ensured that a comprehensive assessment could have been considered with the planning application. It has been suggested that Welsh Water submitted the planning application at an early date in order to avoid the rigours of the 1999 Regulations [118]. In my view, this allegation is quite unfounded [68].

153. Nevertheless, the National Park Authority maintains that, in view of the amendments made to the proposal since it was first submitted, the National Assembly should issue a screening direction under the 1999 Regulations calling for an Environmental Statement. It says that, if permission were granted without consideration of an Environmental Statement, it would be contrary to the United Kingdom obligations under the appropriate European Community Directive and open to legal challenge. However, Welsh Water maintains that it would be ultra vires to consider the appeal proposals against the 1999 Regulations. [67, 91]

154. This is 'matter of law. However, in my view, the Authority's stance is not correct. The 1988 Regulations apply to the appeal application and to any subsequent appeal, whether or not amendments to the original application are being considered. I am not persuaded that the National Assembly is required to issue a screening direction under the 1999 Regulations before determining this appeal or that an Environmental Impact Assessment is necessary.

155. It is open to the National Assembly to call for an Environmental Statement under Section 11 of the 1988 Regulations, and I have considered whether or not the proposal falls within the interpretation of development likely to have significant effects on the environment. The project falls within Schedule 2 of the 1988 Regulations, and the accompanying Circular

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(Welsh Office Circular 15/88) provides advice on identifying relevant projects. Section 20 identifies major projects of more than local importance and, occasionally, projects on a smaller scale in particularly sensitive or vulnerable locations as needing environmental assessment. However, Section 21 goes on to advise that the number of projects falling within these categories will be a small proportion of all Schedule 2 projects. Requirements were far less stringent under the 1988 Regulations than under the current 1999 Regulations. I share the National Park Authority's judgement that under the 1988 Regulations an Environmental Statement is not required.

Odour

156. The National Park Authority has produced no evidence to support its refusal of the application on grounds of odour nuisance. At the time of its refusal, the Authority had received very little information from Welsh Water on

how odour would be avoided and alleviated, and its refusal was based on experience at other sewage treatment works nearby and its appreciation of the significant impact that unpleasant odours can cause [92, 93]. The Authority's specialist advisers have reviewed the odour control measures now put forward by Welsh Water, and the Authority now accepts that the amended proposals would be likely to adequately control odour emissions [61] . However, the Community Council and many local residents remain sceptical [111, 112 & 137].

157. Welsh Water has undertaken a study of the various measures required to ensure that odour nuisance would not occur at the proposed works [53]. The proposals now include measures to deal with potential septicity occurring in the rising mains from Harlech and Llandanwg and to contain and alleviate odours that occur at the treatment works itself. The proprietary chemical Nutriox would be dosed at both pumping stations with automatic controls and standby facilities [55 & 56]. This is an established method that performs well and would be likely to successfully avoid odorous gases forming in the rising mains. An additional back up to this would be provided at the works inlet with a facility for automatic dosing of iron salts to alleviate any residual odour [57].

158. In addition, the parts of the sewage works vulnerable to odour release would be covered with sealed GRP covers, and the gases would be vented to air through filters to remove any odours [58]. These are also well established methods that are being used at many modern sewage treatment works where odour could cause problems.

159. Modelling work carried out on behalf of Welsh Water indicates that this combination of measures would be successful in reducing odour emissions to such an extent that they would be much less and much more localised than at the existing works and would be expected to cause less nuisance to passers-by and local residents. The nearest residential properties would be well outside the contour of influence for odour levels likely to cause annoyance [59 & 60]. In my view, adequate research has been carried out to determine the measures required for odour prevention [137], and I conclude that the proposed measures would be confidently expected to avoid the works causing significant odour nuisance.

Noise

160. The National Park Authority has raised concerns about noise emanating from the odour control fans, particularly the one at the inlet works that would be located in the open. Similar fans at Porthmadog treatment works have recently been causing nuisance to nearby residents during night-time periods when background noise levels are low. The nearest house at Llanbedr would be slightly nearer than that at Porthmadog. [97 & 98]

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161. At Llanbedr one fan would be located inside the sludge handling building and the other would be covered and screened by earth bunds. In addition, it would be proposed to use smaller, modern fans in plastic, rather than mild steel, housings. These measures would ensure that any noise was adequately contained and that the works would not cause disturbance to nearby residents. An appropriate condition could be applied to ensure that suitable noise levels were not exceeded. [62 & 64]

162. A resident of Harlech commented on the possibility of larger pumps at the Harlech pumping station giving rise to noise. This would be unlikely, as the building would provide ample opportunity for noise control. The National Park Authority's expert confirmed that noise from pumping stations is rarely a cause of complaint. [63 & 131]

Health & Environmental Impact

163. Several local residents have expressed concern about the impact the treated effluent would have on the water quality of the Afon Artro and the estuary. Mention has been made of the estuary ecology and particularly its rich habitat for birds [124]. However, particular reference has been made to the effect on the tourism trade. The CMC outward bound centre at Pensarn relies on use of the river and estuary for water sports for its young visitors, some of

whom have special educational or physical needs [126 & 127]. There are 2 other outward-bound centres in the area as well as the popular camping venue at Shell Island, which received over 50,000 visitors in 1999 [133]. Tourism is important to the economic well being of Llanbedr, and water quality in the river and estuary is a vital contributor towards its future success.

164. Although the quantity would be considerably more than at present, the effluent discharged to the Afon Artro would be of a considerably higher standard than at present. The proposal would result in improved water quality in the river and estuary and some benefit to their ecology. This would be particularly marked in regard to bacteriological pollution as a result of the introduction of the secondary (biological) and UV disinfection stages of treatment, which would kill 1,000-10,000 times more coliforms than the existing treatment works. As a result, risks to the health of water users would be considerably improved. [72]

165. The Director of the outward-bound centre commented that visitors' perceptions of risk are just as important as the actual risks, and the larger treatment works proposed would increase the general perception of its presence [129]. It is acknowledged that public perception of risk is a material consideration [76]. However, that perception would be reduced if the visual impact of the proposed works were minimised.

Visual Impact

166. The visual impact of the proposed works is not a matter in dispute with the Snowdonia National Park Authority. However, the Community Council is concerned about its impact at the entrance to the village and about the long period that landscape planting would take to grow to, a size capable of providing meaningful screening [115 & 116] .

167. Welsh Water has commissioned a visual assessment of the proposed development, which has concluded that the proposed development would not result in any discernible difference to the overall landscape and would result in only a moderate change to localised views from the road and nearby footpaths. These impacts would reduce further as the landscaping and additional planting matured [74]. A substantial earth bund on 3 sides of the works would provide considerable screening even without the additional landscape planting [12]. My conclusion is that the visual impact would be quite limited and not unacceptably harmful to the character and appearance of the village.

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Flooding

168. The Community Council and several local residents have provided evidence that the site is subject to flooding and have suggested that, if the proposed works were to be affected, the floodwaters would spread pollution over a wide area [113, 114 & 125). However, Welsh Water explained that it was aware of the likelihood of flooding and that the works had been designed to avoid the tanks and other installations becoming inundated. The existing works was successfully designed to resist flooding in the same way, and none of the local residents has reported the works itself being flooded or pollution being caused. Nor has the Environment Agency raised this as a concern [65]. I conclude that the risks of flooding of the site can be adequately allowed for in the design of the works.

169. One local resident has asked what effect the additional volume of water discharged into the river would have on flood levels in the river itself [136]. However, as it would only equate to about 0.5% of the average daily flow in the river, its effect would be negligible [72].

Planning Policy

170. It is a requirement of the Town and Country Planning Act 1990 (as amended) 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.

171. The Snowdonia National Park Authority acknowledges that the proposal would be in accord with development

plan and national policies, except in the context of "major development" as discussed below [14, 80] . In the light of my reasoning above, my general conclusion is also that the proposal would be in line with development plan and national policies. The proposal would protect and enhance the environment and would meet general criteria for good design and acceptable impact on its surroundings and nearby residents. It would also contribute towards sustainability. [44]

172. The provision of improved sewage disposal facilities and the avoidance of coastal pollution would support development plan aims and enable compliance to be achieved with the relevant European Community Directives and corresponding UK legislation. It would also be of significant benefit to tourism in the area in support of the tourism strategy and the purposes of the National Park. [45]

173. Turning to consider the question of "major development", the National Park Authority has referred to the advice in Planning Guidance (Wales), Planning Policy, that *"Major development should not take place in National Parks, save in exceptional circumstances of proven national interest"*. In the absence of a definition of "major development" in the national **guidance, the Authority has argued that the proposal falls within the definition** of "major development" in Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 and so requires special justification. [81]

174. The Authority proposed the same definition in regard to draft Policy PC4 of the deposit version of the Local Plan, which follows a presumption similar to the national guidance. However, the Local Plan Inspector rejected that approach, as the definition in Article 8 is specifically intended to apply only to that Article. I agree with that interpretation. In which case, one turns to the adopted Local Plan, which defines "major development" as *"development which is national rather than local in character or that which will have a very significant and long term impact on the landscape, wildlife or cultural heritage of the Park because of its scale"*. Several examples are given for guidance in interpretation. [48 & 49]

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175. The Authority argues that the scheme has national and international implications because of its connection with European Community Directives and the huge financial penalties involved in the event of continued failure to meet the required standards [82]. I disagree. Measured against the adopted Local Plan definition, the proposal is not national in character or likely to have a long-term impact on the Park environment. And it would be much less significant in scale than the examples quoted [49]. Even allowing for the size and rural nature of the community of Llanbedr [117], I conclude that the proposal is not "major development" falling within the intentions of Local Plan Policy PC4 or Planning Guidance (Wales), Planning Policy.

Other Matters and Overall Conclusion

176. Much has been said and written about shortcomings in consultation by the main parties at the time of the planning application and even during the subsequent appeal stage [84, 86, 92, 94, 104, 105, 106, 120 & 132]. This certainly reflects badly on Welsh Water and, to a lesser extent, on the National Park Authority. However, the views of the Community Council and local residents were taken into account by the National Park Authority in refusing to grant planning permission, and they were well briefed at the public inquiry and presented their views forcefully. I have taken their views and comments into account in reaching my conclusions.

177. Overall, I conclude that the proposal would be in accord with the development plan and national policies, would provide significant benefits to water quality in estuary and coastal waters and benefits to tourism, and would not unacceptably harm the character and appearance of this quiet rural area or the amenity of local residents or visiting tourists. I do not accept the National Park Authority's arguments that the design modifications made to the proposal since the refusal of planning permission should not be considered at the appeal stage or that permission should not be granted without calling for an Environmental Statement.

178. I have taken into account all matters raised but they do not outweigh the considerations that have led me to my main conclusions. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed and planning permission be granted for the proposal as modified, subject to several necessary conditions.

Conditions

179. It was generally agreed at the inquiry that the suggested conditions put forward by Welsh Water could form the basis for conditions attached to a grant of planning permission. Suggested Conditions 1-8 are similar to those suggested by the Snowdonia National Park Authority, except that Condition 2 refers to the amended plans. Condition 3 should be omitted, as it is duplicated by Condition 5. And Condition 6 should be supplemented by an additional condition requiring the submission and approval of landscaping details. In view of the relatively simple nature of the proposals, a simple condition would suffice, for example Model Condition 20 of Circular 1/85 (the old conditions circular). Condition 7 would benefit from clarification that it refers to protection of the trees during the construction of the works. [78 & 101]

180. Suggested Conditions 9-13 deal with odour control and are necessary to ensure that the measures are installed and calibrated prior to operation of the works and that they are subsequently operated to ensure effective odour protection. The suggested informative is unnecessary. [79 & 102]

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181. Condition 14 is needed to provide assurance against noise nuisance and should be improved to include reference to the measurements being carried out in accordance with BS4142:1997, as suggested by the National Park Authority. [79 & 102]

Human Rights

182. Representations have been made to the effect that the rights of local residents under Article 8 of the European Convention on Human Rights would be violated if the appeal were allowed. I do not consider them to be well founded, because the degree of any interference is insufficient to give rise to a violation of the local residents' rights under the article, given my conclusions in paragraph 177 above. [77, 100 & 177]

183. As regards the submissions made relating to Article 6 of the Convention [99 & 120], I accept that the Llanbedr Community Council and local residents were inconvenienced by Welsh Water's delayed provision of a proper odour assessment and the changed nature of its application. However, I do not consider that that prevented them from presenting their cases adequately at the public inquiry, and I afforded them ample opportunity to do so. I therefore consider that their rights under Article 6 of the Convention were not violated.

Recommendation

184. I recommend that the appeal be allowed and planning permission be granted for the proposed development as amended by the revised plans (NH00139 019E, 020E and 0211)), subject to conditions as advised in paragraphs 179-181 above.



Inspector

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APPEARANCES

FOR THE APPELLANT:

Mr S Carter, LLB, MCIA'b

Aaron & Partners, Solicitors, Grosvenor Court, Foregate Street, Chester, CHI
1 HG.

He called

Mr H Jones, DipTP, MRTPI

Associate Director of Planning and Environment,

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Mr T P Woodward, MRSC, CChem,
MCIWEM, MIWO

Scientist for North Wales, Hyder Operations, Llanwnda,

Caernarfon, Gwynedd, LL54 5UD.

Mr M Houseman, BSc(Hon)

Senior Consultant, OdourNet UK Ltd, 5 St Margaret's Street, Bradfor-on-Avon, Bath, BA15 1DA

FOR THE LOCAL PLANNING
AUTHORITY:

Mr B O Rees-Jones, LLB

Solicitor, Conwy County Borough Council

He called

Mr T J Hughes, BSc(Hon), MCEIH, FRSH

Public Protection Manager Environmental Protection, Housing and Public
Protection Department, Gwynedd County Council.

Mr J Bowers, BA(Hon), MRTPI

Planning Manager – Development Control, Snowdonia National Park
Authority.

INTERESTED PERSONS:

Mr Malwyn Parry

Acting on behalf of Llanbedr Community Council.

Solicitor Advocate, J Charles Hughes & Co, Bridge End, Dolgellau,
Gwynedd, LL40 1AY

He called

Mr G Pierce	Member, Past Chairman and nominated representative of Llanbedr Community Council. Lluest, Llanbedr, LL45 2HL
OTHER INTERESTED PERSONS	
Mrs F Voelcker	NAW-nominated Member of Snowdonia National Park Authority, but speaking in a personal capacity. Pant Glas Uchaf, Pant Glas, Garndolbenmaen, LL51 9DQ.
Mrs J Smith	13 Bryn Deiliog, Llanbedr, LL45 2LF.
Mrs J Evans	Plas Gwynfryn, Llanbedr, LL45 2NY.
Mr R Mayhew	Director of CMC Outward Bound Centre, CMC Pensarn Harbour, Llanbedr, LL45 2HS.
Mr R Pickard	Ty Crwn, Harlech, LL46 2YT.
Mr J Andrews	Tyddyn Stabal, Llanbedr, LL45 2NB.

DOCUMENTS

Documents	1.1-1.3	List of persons present at the Inquiry each day.
Documents	2	Letter of Notification and list of persons notified
Documents	3.1-3.11	Letters submitted by local residents and on behalf of the Llanbedr Community Council
Documents	4	Further letter from local resident received at Inquiry.
Documents	5	Supporting documents submitted by Symonds with appeal form, on behalf of Appellant.
Documents	6.1-6.2	Proof of Evidence and Appendices of Mr H Jones
Documents	7	Symonds' Visual Assessment Report, October 2000, for Appellant.

Documents	8	Symonds' letter to Countryside Council for Wales, dated 25 January 1999, submitted by Appellant.
Documents	9	Proof of Evidence and Appendices of Mr T P Woodford.
Documents	10	Proof of Evidence of Mr M Houseman.
Documents	11	OdourNet UK Ltd Report, October 2000, for Appellant.
Documents	12	Gwynedd CC lett to Hyder, dated 1 June 2000, submitted by SNPA
Documents	13	Statement and Appendices presented by Mr J Bowers
Documents	14	Supplementary Statement, Proof of Evidence and Appendices of Mr J Bowers
Documents	15	Petition against proposal, with 164 signatures, submitted by Llanbedr Community Council.
Document	16	Newspaper article on climate change, submitted by Llanbedr Community Council.
Document	17	Statement presented by Mrs F Voelcker
Document	18	Statement presented by Mr R Mayhew
Document	19	Letter introducing statement by Mr J Andrews
Document	20	Conditions suggested by SNPA, as included in report to Planning Committee on 28 April 1999.
Document	21	Conditions suggested by Appellant.

Document	22	Closing Statement on behalf of Llanbedr Community Council
Document	23	Closing Statement on behalf of Snowdonia National Park Authority.
Document	24.1 – 24.2	Closing Statement on behalf of Appellant and reference to recent Appeal Decision at Wrexham.
Document	25	Letter from Elfyn Llwyd MP, received after public inquiry.

PLANS

Plans	A1-A4	Application Plans
Plan	B	Indicative plan of possible routes for rising mains, submitted with application.
Plans	C1 – C3	Plans of revised proposals.
Plans	D1 – D2	Proposed layout plans for Harlech and Llandanwg Pumping Stations.

PHOTOGRAPHS

Photographs	1 – 6	Photographs of 1997 floods in area, submitted by Llanbedr Community Council.
Photographs	7 – 12	Photographs of 1997 and 1998 floods in areas, submitted by Mrs J Evans.