

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED
DEVELOPMENT PROCEDURE) ORDER 1995 - TO DATE
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING ADVERT REGULATIONS 1994
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)
ACT 1990
APPLICATIONS FOR PERMISSION FOR DEVELOPMENT**

These are reports and recommendations by Officers for consideration and resolution by the County Planning Authority.

All the applications in respect of the proposals specified in this report will be available for inspection by the Members of the Committee prior to and during the meeting at which the said applications will be considered.

The Background Papers relating to each application, including forms, plans, relevant correspondence, Development Plan and guidance documents are available for public inspection during normal office hours

COPIES OF APPENDIX AVAILABLE FROM HEAD OF PLANNING SERVICES

ENFORCEMENT MATTERS

- ENF/2003/23** **Llangollen**
Installation of uPVC windows in premises in a
Conservation Area
- ENF/2003/38** **Prestatyn**
Development not in accordance with that granted
planning permission under code no.
43/2001/1194/PF

REPORT ON BURLEY HILL QUARRY : SECTION 78 PLANNING APPEAL

PROPOSAL: Extension to existing limestone quarry incorporating reclamation and aftercare proposals – Planning Application ref: 21/920/99 MA

LOCATION: Burley Hill Quarry, Pant Du, Nercwys, Nr Mold (Llanferres Community Council)

APPELLANT:

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide information to Members and to highlight the main issues relating to the decision by the Welsh Assembly Government to dismiss the appeal to extend Burley Hill Quarry.
- 1.2 The Welsh Assembly Government (WAG) highlighted the national importance of this appeal by directing that it be recovered for determination by the Assembly itself. The reason given for this was that the development involved major proposals for the winning and working of minerals.

2 SUMMARY OF MAIN ISSUES

- 2.1 The decision to dismiss the appeal was made by WAG in August 2003 in accordance with the recommendations made by the Planning Inspector who presided over the Public Inquiry. The main issues and implications for Denbighshire in respect of the appeal decision includes the following:
 - The significant weight given to protecting and enhancing the natural landscape and features within the AONB
 - The indicative landbank (stock of planning permissions) in which to assess the need for crushed rock should be 7 years rather than 10 years
 - The appropriate area in which to assess landbank should be the sub-region which is North East Wales (includes Flintshire, Wrexham, Conwy and Denbighshire)

- Denbighshire at present has a landbank for crushed rock of approximately 26 years and the landbank for North East Wales is approximately 33 years
- Further extensions to limestone quarries in Denbighshire will be difficult to justify on the basis of need alone given the current landbank situation
- Production rates of crushed rock in Denbighshire and North Wales as a whole have been decreasing and this is likely to continue particularly given the increased use of secondary materials such as construction and demolition waste and mineral waste as replacements for primary aggregate such as limestone
- Review of the UDP will need to reflect the need to maintain a 7 year landbank and that the appropriate area for assessing landbank is the sub-region rather than the County.

3 INFORMATION ABOUT THE APPEAL

Background

- 3.1 Burley Hill Quarry is a limestone quarry which is located within the Area of Outstanding Natural Beauty (AONB).
- 3.2 The planning application for an extension to Burley Hill Quarry was initially submitted in December 1999. The application was then amended in September 2000 and finally amended in April 2001. The April 2001 amendment was for a northern and eastern extension to the quarry which would have been approximately 4.4 hectares in area.
- 3.3 Denbighshire conducted an extensive consultation exercise for the original planning application as well as for the amendments to the application. There was a significant volume of local objection to the application and consultees such as the Countryside Council for Wales, most notably, also raised objections to the original and amended versions of the application.
- 3.4 The determination of the application occurred at a time when the Council's Principal Minerals Officer post was vacant so that the Head of Planning Services commissioned Wrexham County Borough Council to provide an independent assessment of the planning application. The application was submitted to the Planning Committee of the 5 September 2001 with the recommendation by the Head of Planning Services supporting the main findings of the assessment by Wrexham CBC that on balance, the application be refused. Members agreed with the recommendation and the application was refused on the following grounds:

“The Local Planning Authority considers that the environmental harm caused to the AONB and its enjoyment by the lateral extension to the North and East, in particular the loss of natural features and greater visual impact outweighs restoration, supply and economic benefits. The case for granting the application does not constitute exceptional circumstances and the proposed development is contrary to policies F3 and H4 of the approved Clwyd Structure Plan : First Alteration, policies L1 and L5 of the Adopted Glyndwr District Local plan and policies STRAT 4, MEW 1 and ENV 2 in the emerging Unitary Development Plan, and advice contained in Planning Guidance Wales Planning Policy : First Revision, paras 5.3.7 and 5.3.8 and Minerals Planning Policy Wales, para. 21.”

The Planning Appeal

- 3.5 In February 2002, _____ lodged an appeal against the refusal of planning permission and a Public Inquiry was arranged for December 2002 which lasted for 2 weeks.
- 3.6 Prior to the Public Inquiry the Officers of Planning Services attended a public meeting arranged by Llanferres Community Council to provide advice to the local residents on the appeal procedure, the Council’s case for the appeal and how residents could best provide their views.
- 3.7 At the Public Inquiry the Council were represented by 3 Senior Officers including the Head of Planning Services. Counsel was instructed to act on behalf of the Council.
- 3.8 The Countryside Council for Wales were represented at the Public Inquiry by 3 witnesses who gave evidence which supported the Council’s case.
- 3.9 Furthermore, the Ramblers Association, the Maeshafn and District Rural Association and local residents also provided evidence at the Public Inquiry as third parties objecting to the proposed development and supporting the Council’s decision to refuse planning permission.

4 CASE FOR THE COUNCIL

- 4.1 In landscape terms the AONB has a status which is equal to that of National Parks. National planning guidance contained in Mineral Planning Policy Wales and policy MEW 1 on of the UDP state that minerals development should not take place in these areas save in exceptional circumstances. The application therefore needed to be subject to a rigorous examination and as a major development needed to be

demonstrated to be in the public interest. The Council demonstrated in its evidence that:

- The development would result in the loss of 4.4 hectares of high quality landscape and the loss of important features such as the limestone pavement and calcareous grassland considered “outstanding” in their own right and overall harm to AONB would be significant
- The landbank for crushed rock in Denbighshire, North East Wales and North Wales was more than 20 years and there was therefore no need for the mineral
- There were no exceptional circumstances relating to need that would outweigh the significant harm to the AONB and the development could not be demonstrated to be in the public interest

4.2 Issues relating to vehicular access, traffic and residential amenity did not form part of the reason to refuse planning permission as Officers were of the view that such reasons could not have been sustained at the appeal.

For full details of the appeal decision or for any further information Members are advised to contact the Principal Minerals Officer.

REPORT BY THE ACTING HEAD OF PLANNING SERVICES

**APPEAL COSTS
PRESTATYN
AND**

RHUALLT

1. PURPOSE OF REPORT.

1.1 To advise Members of appeal costs awarded against the Council following appeal decisions at , Prestatyn and , Rhualt. The report has been prepared for information purposes only in accordance with normal procedures following the outcome of a decision which has financial implications for the Council.

2. BACKGROUND

2.1 Costs at appeals (dealt with by inquiry or hearing) can be awarded against either main party for unreasonable behaviour. This unreasonable behaviour may be the result of failure to follow proper procedures, but in most cases, where costs are awarded against Councils, the award is made because the Council has failed to provide planning evidence to support the reasons for refusal.

3. THE APPEALS

, Prestatyn

3.1 Planning permission was refused for extensions to the property at the Planning Committee on 29th January 2003 following a site inspection panel. The decision was made contrary to the officer recommendation. The reason for refusal related to the impact to the development on adjacent properties,

3.2 The appeal was dealt with by hearing on 6th August 2003. The Council were represented by a Senior Planning Officer (not the Case Officer) and the two Ward Members nominated by the Planning Committee. The appellants were represented by a Planning Consultant. Interested parties included the residents of

3.3 The Inspector allowed the appeal on the basis that the impact of the extension on the outlook and privacy of the adjoining properties would not be significant and that the fall back position that would allow a similar flat roofed extension to be erected under permitted development should not be discounted.

3.4 In considering the appellants claim for costs on the basis of an unreasonable reason for refusal, the Inspector reasoned that the Council had ignored the technical advice given by the Case Officer, in particular concerning the fall back position, that the reason for refusal did not reflect the observations of the site inspection panel, and that

local opposition to a proposal is not, by itself, a reasonable ground for refusing planning permission. He concluded that unreasonable behaviour had been demonstrated. He awarded costs against the Council.

, RHUALLT.

3.5 Planning permission was refused for an extension to an existing touring caravan site at a meeting of the County Council on 19th November 2002 due to its impact on the character and appearance of the open countryside. The decision followed a site inspection panel and a resolution of the Planning Committee on 2nd October 2002 to refuse planning permission for 2 No. reasons, visual impact and impact on the highway network. The decision was made contrary to the officer recommendation. The report to the County Council on 19th November indicated that a reason for refusal relating to highway safety would be difficult to sustain at appeal and thus the reason for refusal was confined to the issue of visual impact. A hearing into the appeal was held on 19th August 2003. The Council was represented at this hearing by the Development Control Manager (not the Case Officer), the ward County Councillor and a further County Councillor nominated by the Planning Committee. The appellants were represented by a Planning Consultant.

3.6 The Inspector allowed the appeal on the basis that the site is well screened and fits into the landscape. The proposal would not be particularly intrusive in the local landscape and that landscaping would further assist in assimilation.

3.7 The appellant made an application for costs on the basis of the Council's unreasonable behaviour. The Inspector concluded that the Council produced no substantial evidence to show the landscape amenity of the area would be adversely affected to an unacceptable degree and also failed to consider properly the possibility of imposing relevant planning conditions to allow the development to proceed. He awarded costs against the Council.

4. COMMENT

4.1 These decisions illustrate the risks of an award of costs in appeal cases where no substantial evidence can be offered in support of a reason for refusal. Such cases are often those where the Planning Committee refuse an application contrary to an officers recommendation, particularly where the issues are not finely balanced.

4.2 The delegation scheme enables applications to be referred to Full Council for determination where a resolution of the Planning Committee is likely to result in an award of costs against the Council. However, Officers are minded not to use this procedure in each and every case where Members refuse an application but only in cases where the reasons for refusal would clearly be difficult to substantiate. A judgement needs to be made as to whether a case can be made sufficient enough to avoid an award of costs. In both these cases the Officers' view was that planning permissions should be granted and the appeals would be allowed but the case for the Council would be sufficiently robust so as to avoid costs. These cases illustrate these judgements can be difficult and finely balanced.

5. RECOMMENDATION

5.1 Members note the contents of this report.

A REPORT BY THE ACTING HEAD OF PLANNING SERVICES

DATE OF SITE VISITS

1. PURPOSE OF REPORT

- 1.1 To advise Members of the likely date of any Site Visits requested by the Planning Committee.

2. DATE OF THE SITE VISITS

- 2.1 In consultation with Legal and Administration, it has been decided that the **Friday 10th October 2003** is most suitable. This date has been provisionally booked.
- 2.2 You are advised, therefore that any site visits arranged today will take place **On Friday 10th October 2003**

3. MEMBERSHIP OF THE SITE VISIT PANEL

- 3.1 This will depend on Political Balance and will include the Chair and Vice Chair of the Committee and the relevant Local Member(s)

4. RECOMMENDATION

- 4.1 **That Members agree to the Site Visits being held on Friday 10th October 2003**

**Decisions Made by the Acting Head of Planning Services under
Delegated Powers
1st - 31st August 2003**

Item For Information

This is a list of applications where the decision has already been made under delegated powers. If you wish to discuss the application/decision please contact the Case Officer.

DECISION TYPES

GRANT	- grant planning permission
REFUSE	- refuse all types of application
APPROVE	- approve reserved matters or condition
CONSENT	- grant listed building, conservation area, or advert consent
DEEMED	- does not require advert consent
NO OBJ	- no objection to works to tree(s) in conservation area
NOT REQ	- proposal does not require permission/consent
DETERMIN	- determine that prior approval is not required or is granted on determination application (certain telecom or agricultural works)
P DEV	- proposal found to be permitted development after receipt
WDN	- application withdrawn by applicant
INVALID	- application found to be invalid
CERTIFY	- Certificate of lawful use issued
RCERTIFY	- refuse to issue certificate of lawful use

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