

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held in Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 13 December 2023 at 9.30 am.

PRESENT

Councillors Ellie Chard, Karen Edwards, Gwyneth Ellis, James Elson, Justine Evans, Jon Harland, Huw Hilditch-Roberts, Alan James, Delyth Jones, Julie Matthews, Terry Mendies, Raj Metri, Win Mullen-James, Merfyn Parry, Arwel Roberts, Gareth Sandilands, Elfed Williams and Mark Young (Chair)

Observers - Councillor Pauline Edwards, Councillor Hugh Irving and Councillor Rhys Thomas

ALSO PRESENT

Paul Mead – Development Control Manager; Paul Griffin – Principal Planning Officer; Clare Lord – Legal Officer; Mike Parker – Senior Engineer, Development Control; Sue Rees – Trainee Legal Officer; Zoom Host – Nicola Hughes; and Committee Administrator – Stephanie Jones

Hannah Parish, Manager of the North Wales Minerals and Waste Shared Planning Service was in attendance for agenda item 5.

Public Speaker – Mair Jones and Malcolm Ellis were in attendance for Agenda item 5.

1 APOLOGIES

Apologises for absence were received from Councillors Chris Evans, Andrea Tomlin and Cheryl Williams.

The Chair welcomed Councillor Justine Evans as a new Member of the Planning Committee.

2 DECLARATIONS OF INTEREST

There were no personal or prejudicial declarations raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

The Chair declared he intended to include for discussion the following matter requiring urgent attention –

NOMINATION OF VICE-CHAIR

The Chair informed Members that following Councillor Peter Scott's appointment to Chair of the Council, he was now no longer able to sit on the Planning Committee. Nominations were sought for the position of Vice-Chair of the Planning Committee for the remainder of 2023/2024 municipal year.

Councillor Gareth Sandilands proposed Councillor Alan James be appointed Vice-Chair, he stated Councillor James was held in high regards as a Planning Member and over the previous 10 years had completed all Planning training offered, seconded by Councillor Arwel Roberts.

There being no further nominations, it was –

RESOLVED that Councillor Alan James be appointed Vice-Chair of the Planning Committee for the remainder of the 2023/2024 municipal year.

4 MINUTES

The minutes of the Planning Committee held on 8 November 2023 were submitted.

Matters of accuracy – None

Matters arising – None

RESOLVED that, subject to the above, the minutes of the meeting held on 8 November 2023 be approved as a correct record.

APPLICATIONS FOR PERMISSIONS FOR DEVELOPMENT (ITEMS 5 - 7) -

Applications received requiring determination by the Committee were submitted together with associated documentation. Reference was also made to late supplementary information received since the publication of the agenda, which contained additional information relating to those applications.

5 APPLICATION NO. 01/2022/0523/ MA - GRAIG QUARRY, GRAIG ROAD, DENBIGH, LL16 5US

An application was submitted for the extension of winning and working of limestone, importation of inert waste and restoration to amenity land at Graig Road, Denbigh.

The Chair asked the Legal Officer to read through some late representations received from Welsh Government.

The Legal Officer informed Members that the Planning Authority was in receipt, as of this morning, of a holding direction from the Welsh Government under article 18 of the Town and Country Planning Development Management Procedure Wales Order 2012. It was in respect of a consolidating application for the extension of

winning and working of limestone, importation of inner waste and restoration to amenity land at Graig Quarry, Graig Road Denbigh.

The letter stated the Welsh Ministers had been asked to call-in the application for their own determination. Article 18 of the Town and Country Planning Development Management Procedure Wales Order 2012 enabled the Welsh Ministers to give direction restricting the grant of permission by a local planning authority.

The letter permitted the author permission on behalf of the Minister for Climate Change to officially direct Denbighshire County Council, effective from the date stated on the letter, not to grant planning permission in respect of, A- application no 01/2022/0523/ MA or, B- any development of the same kind which was the subject of the application on any site which formed part of or included land to which the application relates, without the prior authorisation of the Welsh Ministers. The direction would enable further consideration to be given to whether or not the application should be referred to the Welsh Ministers for determination. The direction prevented Denbighshire County Council only from granting planning permission, it did not prevent the authority to continue to process and consult on the application. It did not prevent the authority refusing the application if it so determined.

The letter referred to article 31 which provided for the Welsh Ministers to vary or cancel the direction in relation to the land and type of development covered. The authority would be informed on the decision of the Welsh Ministers on whether the application was being called in as soon as it was made.

The Development Control Manager clarified that Welsh Government do hold the power to issue a holding direction to a local authority. It prevents the authority from granting planning permission until the Welsh Government had assessed the proposal. It does not prevent the local planning authority processing the planning application. Welsh Government would, in any case, ask the authority what decision the Planning Committee would have made on the application as part of its determination.

The local authority was not permitted to issue a grant of planning permission based on the holding direction.

The Chair thanked the Legal Officer and Development Control Manager for clarifying the meaning of the letter.

Public Speaker –

Mair Jones (**AGAINST**) – She stated Crest fields and woods was a cherished place. The facts and measurements included in the report did not identify the area. She stressed 284 individuals had made legitimate objections against the proposal. If the planning policy had been followed through a place making process, the feelings of the Crest area, its positive impact on individual's health and wellbeing would have been considered at the outset and not dismissed.

The Council had agreed to extend the quarry's operation and not the footprint of the site. She questioned if a promise had been made at that stage that operations would cease in 2028 and the extension allowed on those grounds. She stressed Brendon (applicant) wanted to extend the operations for another 25 years at the site. In her opinion she felt the committee should assess the application as if it was a new quarry. The report stated the nearest residential property was over 250m from the proposed extended quarry boundary, outside the recommended 250m

buffer zone. Currently there was 34 properties within the 250m buffer, some properties would be 90m from the proposed new boundary. Reference to a bill currently being received by Westminster proposed a distance of 1000m from homes due to the toxic effect of mining.

A loss of 4 hectares of Best and Most Versatile (BMV) agricultural land in a climate emergency would be a travesty including the loss of any trees. Objectors questioned officers understanding of chapter 6 (of Planning Policy Wales) when the destruction of the nature corridor was dismissed. Local scientist stated she 'fundamentally refute the officer's assertion that some nature development during restoration after 25 years meets the criteria of net benefit for biodiversity today'.

The objector questioned why one third of our aggregate was being sent to England. She questioned why the report stated that Denbigh was the most strategically placed limestone provider, when the regional aggregate statement stated that limestone was more abundant in Flintshire.

This application failed to improve the economic, social, environmental and cultural wellbeing of the area. It did not contribute to the statutory wellbeing goals.

She stressed she was confident an independent professional would successfully challenge the report and its conclusions.

Malcolm Ellis (**FOR**) – He thanked Members and the Chair for allowing him to speak in favour of the application. The application presented was to provide limestone for the area for the next 20 years. It would provide benefits to the economy and the community to reduce carbon footprint and to confirm sustainability. If approved the proposal would give a future to the quarry and provide job security to 100 workers. The proposal would ensure a supply of limestone to the area as opposed to from other quarry's such as Derbyshire providing Limestone to the area.

He stressed Breedon did not want to increase the lorry movement to and around the site. The intention where possible was to use local businesses and contractors to promote local economy. Which in turn would have a positive effect on reducing the carbon footprint. The application included a final restoration which would increase biodiversity and ecology which would provide an improvement to the woodland area and animals currently residing there.

Breedon and the land owner had included several improvements to public footpaths including servicing and maintenance of the footways. The intention had also to be include further footpaths to the North of the site.

The Chair thanked both speakers for addressing the committee.

He informed Members the site had been subject to a site visit that had taken place on 8 December 2023. He thanked Members for attending the site and was beneficial to those in attendance.

Councillor Delyth Jones who had been in attendance at the site visit felt the meeting was very valuable and beneficial. She felt the fact the site had been pegged out was extremely helpful for members to see first-hand the intentions.

Councillor Parry echoed the thoughts of Councillor Jones. He thanked officers and the operator for arranging the visit.

General debate –

Councillor Delyth Jones (Local Member) thanked the Chair for the opportunity to address the committee. She thanked both speakers for attending the meeting to provide input to the process and discussions.

She reminded Members the quarry had been active close to the site for a considerable time. Currently a 28-hectare site with planning controls in place since 1948 which included a variation of time limiting conditions as recent as 03 October 2022 was approved.

Attention was drawn to Planning Policy Wales 11 section 3.58 and 3.59 which obliged weight to be given to protecting Agricultural land of grades 1, 2 and 3a of the Agricultural Land Classification system. It noted this land was considered the best and most versatile and land of that quality should only be developed if there was an overriding need for the development. Land on the proposed application was cited as 1.5 hectares of grade 2 land and 2.5 hectares' grade 3A.

The site of the application is located outside the designated development boundary in the current Local Development plan (LDP) and was in close proximity to the Crest Mawr Wood a Site of Special Scientific Interest.

Planning Policy Wales 11 stated 'Extensions to existing mineral working, whether they be time, lateral or depth extensions should be considered in the same manner as applications for new sites. Each application will need to consider the impact on the site as a whole and the wider surroundings and will need to be considered on its own merits.'

The application argued the need for the limestone assessed on the currently adopted LDP, and to currently assess need of a sub region of the same LDP. She acknowledged a certain level of material was required to support the local construction industry. Councillor Jones argued, as stated in the Minerals Technical Advice Note 1 (MTAN1), this need could not result in an unacceptable detriment of the environment or amenity. The assessment of housing need conducted as part of the current LDP was circa 7500 homes for Denbighshire, a figure now known was greatly over calculated.

Councillor Jones shared figures under discussion for Denbighshire as part current soon to be completed review of the revised LDP. The current preferred development strategy reviewing the level of growth for housing over the period 2018- 2033 was seen to be 3275 homes. Less than half of the current LDP. She informed Members up to 1st April 2023, a sum of 1483 properties had been constructed and a further 878 under construction or with agreed planning permission.

The current Regional Technical Statement second review (RTS2), stated with regards to Denbighshire local authority area the RTS2 did not require Denbighshire to make any crushed rock allocations based on the permitted reserves.

She informed the committee an application of a nearby quarry in Flintshire had recently been approved.

She urged Members to take into consideration the 271 objections against this application when coming to a decision today.

Councillor Pauline Edwards (Local Member) stressed her support for the statement Councillor Jones had shared with the committee. She stressed the objections had included those from Dr James Davies MP, Mr Llyr Gruffydd Member of Senedd and Denbigh Town Council. Concerns raised had included concern on the increase dust, noise and harmful particles in the air, loss of footpaths and green space including local ecosystems with no benefit to the local people. The concerns raised

by the local residents were all part of the Wellbeing of Future Generations Wales Act 2015.

She stressed the application was contrary to Denbighshire County Council's target of climate change and decarbonisation.

In response to the Local Members detailed statements the Development Control Manager informed Members that minerals and waste planning applications were assessed and processed by the North Wales Minerals and Waste Shared Planning Service. Flintshire County Council are the lead Authority for this Service and assisted Denbighshire County Council (DCC) with such applications. He introduced Hannah Parish, Manager of the North Wales Minerals and waste Shared Planning Service, who had been the case officer for this application.

The Manager of the North Wales Minerals and Waste Shared Planning Service responded to some of the points raised by the Local Members by stressing the application had taken a long time to process. This was largely due to the need to obtain the surveys required to support the environmental statement. External consultation with professional consultees had taken place. Within the recommended conditions it was suggested prior to any development within each phase further ecological surveys would be required.

Local Members raised concern the proposal would remove 4 hectares of best and most versatile agricultural land. The report noted that the department in Welsh Government that was concerned with agricultural land did not object to the application stating there was an overriding need for the aggregate that would outweigh the removal of agricultural land.

When the Denbighshire LDP, was being prepared, the evidence based used to consider if a new allocation for crushed rock was the Regional Technical Statement published in 2009. Since the adoption of the Denbighshire LDP, a further two reviews had been published. The Regional Technical Statement Second Review (RTS2) also allowed for regional collaboration should a particular authority not be able to make their required apportionment. Whilst there is no current need for Limestone aggregate in Denbighshire, on a sub-regional level there is a demonstrable need.

When the current adopted LDP was being developed there was no need so no allocation was required. It would not be appropriate for a quarry to be located within the development plan boundary due to the proximity to residential properties. It was stressed there are no residential properties within the 200m mineral buffer zone and the proposed extension area would not be closer to residential properties.

A management plan is required to be completed as part of an existing section 106 agreement for the management of the Crest Mawr Site of Special Scientific Interest. Should planning permission be granted, the existing section 106 legal agreement would be amended by a deed of variation to ensure the obligation to manage the woodland would continue. It was stressed the proposal had been assessed as a new application with a number of technical documents.

Members heard there was a team from the Shared Service that monitor the conditions and ensure the conditions are being adhered to.

The proposal included woodland planting in the restoration which would aid any offset of carbon dioxide.

In further discussions Members stressed the increase in carbon dioxide and impact it would have on the climate emergency declared by the authority. Members requested any subsequent reports or consultations be presented to the committee if the application was granted.

It was also discussed the type of lime that would be mined was not the correct lime that would be used agriculturally. The lime particles would be the wrong size and too big to breakdown quick enough.

The Senior Highway Engineer stated if granted the proposal would not create any additional vehicle or traffic on the highway network, over and above what had previously been deemed acceptable in planning terms from previous applications. As a result, there would be no significant change in vehicle activity to the current and ongoing arrangements.

Officers stressed the difficulty in stating if the proposal would have an impact on the level of carbon footprint of Denbighshire. There would always be conflicting issues for this type of proposal.

Numerous Members were supportive of the Local Members and the reasons highlighted against the application. The amount of conditions presented alongside the application was noted. Members also stressed that the application was for a new quarry. Members asked for clarification that if Denbighshire had no need for aggregate at the current time, was there another authority that was in need of such aggregate.

In response to Members comments the Manager of the North Wales Shared Minerals and Waste Planning Service stressed minerals could only be worked where they are found. Denbighshire imports minerals that do not occur within Denbighshire such as rock salt and therefore deficiency would have to be sourced from other areas.

The minimum requirement for a landbank of crushed rock is calculated by using the local development plan period(15 years) plus ten years. The application was being considered as a new application in regards to collection of information and reports.

The Development Control Manager reminded Members that Welsh Government had issued the holding order and could take the decision out of the committees' power and make the decision. If the application was refused there was also the right of appeal which would mean a Welsh Minister or Planning Inspector would make the decision based on evidence. He stressed to members the importance of providing evidence to support any reasons to refuse the application.

Officers stressed that 44% of the material sourced at the quarry is used as agricultural lime. Therefore, a large proportion of the minerals exported from the quarry is not being used as an aggregate in construction.

Proposal – Councillor Delyth Jones proposed the application be refused contrary to officer recommendation, seconded by Councillor Arwel Roberts.

Councillor Delyth Jones outlined her reasons for refusal as follows:

- The negative impact on the protected species and the environment. In particular, the impact of the species within the Site of Specific Scientific Interest.
- The application is outside of the Local Development boundary.

The Development Control Manager emphasised that the authority would not be issuing a decision notice on this application due to the holding direction from Welsh Government. The precise wording for the refusal would be agreed with the proposer and seconder before submitted to Welsh Government.

Members asked if an additional reason for refusal on the negative impact of local residents could also be included as a factor for refusal.

Councillor Delyth Jones was in agreement that a third reason for refusal, that being the negative impact upon the amenity and well-being of local residents be added to the reasons for refusal. Councillor Arwel Roberts was in agreement. The third reason agreed was:-

- The impact the development could have on the amenity of nearby residents

The Legal Officer outlined the vote and how the responses would be recorded.

Vote –

For – 16

Against – 0

Abstain – 1

RESOLVED that permission be ***REFUSED*** contrary to officer recommendation for the reasons as stated above.

At this juncture (11.30 am) there was a 20 minute comfort break.

The meeting reconvened at 11.50 am.

6 APPLICATION NO. 43/2023/0363/ PF - 46 HIGH STREET, PRESTATYN, LL19 9BB

A retrospective application was submitted for the Installation of perforated roller shutter to front elevation at 46 High Street, Prestatyn (previously circulated).

Local Member - Councillor Jon Harland informed Members he had received several representations from local residents. The main concern he had received had been around the colour of the shutter. A number of other shutters on neighbouring businesses were located on the inside of properties. This retrospective application had the shutter on the outside of the property. In his opinion it did not cause an issue.

General Debate –

Councillor Merfyn Parry confirmed the application was retrospective and sat outside the conservation area within Denbighshire. He was in support of the application as it was not in the conservation area. He suggested that guidance be issued to businesses within the conservation area detailing the rules and policies on planning policies and procedures.

Councillor Merfyn Parry proposed the application be **GRANTED** in accordance with officer recommendation.

Councillor Terry Mendies urged Members to refuse the application. He provided two reasons. The first being the application was retrospective. In his opinion he felt that should give merit to refuse. The second reason was the appearance of the shutter. He felt the shutter was unattractive and visually unappealing. The property although not included within the conservation area was in close proximity.

The Principal Planning Officer stressed that an application received retrospectively was not a material planning consideration for refusal alone for refusal. He confirmed the site was not in the conservation area but in close proximity to the boundary. The concern was based on the impact of shutters on the visual appearance of the property on the High Street. Officers had discussed the application with the conservation officer who was not in support of the application due to its location. Planning officers had taken this into consideration when providing a recommendation along with the need for security on the site.

He guided Members to the illustrations that had been included with the papers, which showed the building with the shutter in place. In officer's opinion the shutter did not have a prominent position in the conservation area or street scene.

The reason officers brought the application to the committee was due to some concerns raised in relation to the visual impact and to enable proper debate on the issues.

Members debated the balance of visual amenity against security for the site. Members were supportive of guidance and information being provided to businesses in the area providing details of planning policies.

Members were mindful of the high value stock retailed at the premises and stressed the need for the site to have appropriate security in place.

Local Member Councillor Hugh Irving echoed Members view on the need of security for the site. He stressed he would not like to see the site vacant on the High Street and supported the application.

Members also noted the potential requirements that may be in place for security at the site to ensure insurance of the goods and property.

Councillor Merfyn Parry proposed the application be **GRANTED** in accordance to officer recommendation seconded by Councillor Alan James.

VOTE –

For – 12

Against – 4
Abstain – 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation.

7 APPLICATION NO. 45/2023/0435/ PF - 157 VALE ROAD, RHYL LL18 2PH

An application was submitted for the change of use of part of existing nursery to form one dwelling and associated works at 157 Vale Road, Rhyl.

The Principal Planning Officer referred Members to the late information that had been submitted on the late representation sheet.

He informed Members that it had been brought to officer's attention a further application had been submitted by the applicant for the remainder of the site which would if granted a total number of 4 dwellings would be on the site. Officers felt it was appropriate that both applications should be presented to the Planning Committee at the same time.

Councillor Alan James proposed deferring the application. Councillor Merfyn Parry seconded the proposal.

VOTE –

For Deferral – 15

Against – 0

Abstain – 0

RESOLVED that the planning application be **DEFERRED**.

8 ADDRESSING THE NATURE EMERGENCY THROUGH THE PLANNING SYSTEM: UPDATED NATIONAL PLANNING POLICY FOR CHAPTER 6 OF PLANNING POLICY WALES

The Development Control Manager introduced the information report to the committee. He reminded Members that from October 2023 there had been a change to Planning Policy Wales 11 Chapter 6 – which addressed nature emergency through the planning system. It specified that all planning applications had to submit a green infrastructure statement to demonstrate any development proposals could provide a net benefit in terms of bio-diversity.

Members suggested a training event on the changes proposed would be beneficial to all Planning Members. The Lead Member for Local Development and Planning agreed that a training session on the new policy and changes was a positive suggestion and was in support.

The Development Control Manager confirmed a training session could be scheduled following officers receiving guidance information from Welsh Government.

RESOLVED that Planning Committee members note the contents of the information report.

9 PLANNING SCHEME OF DELEGATION REVIEW

The Development Control Manager introduced the report on the scheme of delegation (previously circulated).

The Planning Scheme of Delegation was a document adopted by the Planning Committee that set out the range of applications that were presented to Committee for determination.

Officers stressed there was no proposed change to the right for Members to request referral of relevant applications to Planning Committee

The proposed change related to the role and input of the authority in relation to nationally significant infrastructure projects and developments of national significance. The authority was not the decision maker for those applications with the final determination being made by Welsh Ministers.

Members heard often these applications had time restrictions and put pressure on officers and Members to supply input to the developer and Welsh Government as part of the pre application consultations and as part of the local impact report requirements. Often it was difficult given the time limits to produce reports and present to committee.

Officers were seeking, as part of the proposed change, that any pre application and application input that officers intended to provide be delegated to officers in agreement with relevant Local Members and Lead Members.

Members were very pleased and supportive of the proposed change. The Lead Member for Local Development and Planning, agreed the change would be beneficial for officers and residents.

Members heard if the proposed changes were agreeable by the Committee the changes would be effective immediately.

By a show of hands, it was unanimously,

RESOLVED, that Members note the contents of this report and adopt the suggested changes to the Scheme of Delegation.

The Chair closed the meeting by thanking all officers and Members for the commitment and dedication during the year. He concluded by wishing everyone a Merry Christmas and best wishes for the New Year.

The meeting concluded at 12.20 p.m.