

CERTIFICATE OF DECISION

**TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES) ORDER 2012**

In pursuance of their powers under the above Act and Order, the County Council as Local Planning Authority hereby

REFUSE TO GRANT PLANNING PERMISSION FOR:

PROPOSAL: Consolidating application for the extension of winning and working of limestone, importation of inert waste and restoration to amenity land

LOCATION: Graig Quarry, Graig Road, Denbigh.

PLANS AND DOCUMENTS SUBJECT TO THE DECISION:-

- (i) Location Plan (Drawing No. M18.155.D.003) - Received 7 June 2022
- (ii) Current Situation v2 (Drawing No. M18.155.D.004) - Received 7 June 2022
- (iii) Concept Restoration (Drawing No. M18.155.D.007) - Received 7 June 2022
- (iv) Heritage Designations and ZTV v2 (Drawing No. M18.155.D.009) - Received 7 June 2022
- (v) Phase 1 (Drawing No. M18.155.D.024) - Received 7 June 2022
- (vi) Phase 2 (Drawing No. M18.155.D.025) - Received 7 June 2022
- (vii) Phase 3 (Drawing No. M18.155.D.026) - Received 7 June 2022
- (viii) Phase 4 (Drawing No. M18.155.D.027) - Received 7 June 2022
- (ix) Phase 5 (Drawing No. M18.155.D.028) - Received 7 June 2022
- (x) Section A-A (Drawing No. M18.155.D.039) - Received 7 June 2022
- (xi) Section B-B (Drawing No. M18.155.D.041) - Received 7 June 2022
- (xii) Planning Statement & Appendices (Volume 1) - Received 20 June 2022
- (xiii) Pre-Application Consultation Report (Dated Dec 2021) - Received 7 June 2022
- (xiv) Pre-Application Public Engagement Report (Dated Nov 2021) - Received 7 June 2022
- (xv) BS 5837:2012 Tree Survey Report & Appendices (Dated 17/12/19) - Received 7 June 2022
- (xvi) Denbigh Quarry Stile - Footfall Report - Received 7 June 2022
- (xvii) Geophysical Survey Report (Total Magnetic Intensity - Archaeology) (Date 01/10/19) - Received 7

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- (xviii) Environmental Statement & Appendices (Dated Feb 2022) - Received 20 June 2022
- (xix) Scoping Opinion (Dated 14/08/19) - Received 7 June 2022
- (xx) Heritage Statement & Appendices (Dated Oct 2021) - Received 7 June 2022
- (xxi) Landscape and Visual Impact Assessment & Appendices (Dated Jan 2021) - Received 7 June 2022
- (xxii) Ecological Impact Assessment & Appendices (Dated Sept 2021) - Received 7 June 2022
- (xxiii) Greater Crested Newt Survey Report (Dated Dec 2019) - Received 7 June 2022
- (xxiv) Bat Roost Survey Report (Dated Dec 2019) - Received 7 June 2022
- (xxv) Bat Activity Survey Report (Dated Dec 2019) - Received 7 June 2022
- (xxvi) Badger Survey Report (Dated Dec 2019) - Received 7 June 2022
- (xxvii) Dormouse Survey Report (Dated Dec 2019) - Received 7 June 2022
- (xxviii) Breeding Bird Survey (Dated Nov 2019) - Received 7 June 2022
- (xxix) Preliminary Ecological Appraisal Revision B & Appendices (Dated Sept 2021) - Received 7 June 2022
- (xxx) Dust Risk Assessment - Received 7 June 2022
- (xxxi) Hydrological & Hydrogeological Impact Assessment & Appendices (Dated 04/02/22) - Received 7 June 2022
- (xxxii) Hydrological & Hydrogeological Impact Assessment - Figures (Dated 02/02/22) - Received 7 June 2022
- (xxxiii) Noise and Vibration Assessment & Appendices - Received 7 June 2022
- (xxxiv) Air Quality & Dust Assessment - Received 7 June 2022
- (xxxv) Agricultural Land Classification (Dated 16/01/20) - Received 7 June 2022
- (xxxvi) Waste Planning Assessment - Received 7 June 2022
- (xxxvii) Dust Impact Assessment (Ref: 425.064845.00001 Rev 1.1, SLR Consulting Ltd dated 14/07/23) - Received 19 July 2023
- (xxxviii) Noise Assessment (Ref: 403.064944.0001 Rev 02 SLR Consulting Ltd dated 02/08/2023)
- (xxxix) Phase 5 Full Extraction (Ref: M18.155.D.040) received 21/06/2022
- (xxxx) Vegetation and Habitat loss and replacement table Oct 2023 Final – received 02/11/23
- (xxxxi) Phase 1 Works Plan (Drawing number JN00572_DW01) dated October 2023 received 02/11/23
- (xxxxii) Phase 2 Works Plan (Drawing number JN00572_DW02) dated October 2023 received 02/11/23
- (xxxxiii) Phase 3 Works Plan (Drawing number JN00573_DW01) dated October 2023 received 02/11/23
- (xxxxiv) Phase 4 Works Plan (Drawing number JN00574_DW01) dated October 2023 received 02/11/23
- (xxxxv) Phase 5 Works Plan (Drawing number JN00575_DW01) dated October 2023 received 02/11/23
- (xxxxvi) Phase 6 Works Plan (Drawing number JN00576_DW01) dated October 2023 received 02/11/23
- (xxxxvii) AgLime Quality Standard Certificate for Denbigh Quarry (dated 08/03/2023) - received 11/12/23
- (xxxxviii) Eurofins Agro Testing Certificate of Analysis for Denbigh Quarry (dated 08/03/2023) – received 11/12/23

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THE REASON(s) for the Council's decision to refuse permission is (are):-

1. It is the opinion of the Local Planning Authority that the proposed lateral extension to Graig Quarry would have an unacceptably negative impact on protected species and the special characteristics and features of the Crest Mawr and Graig Quarry Sites of Special Scientific Interest. The proposal is therefore considered to be contrary to Local Development Plan Policies VOE1 'Key Areas of Importance', VOE 5 'Conservation of Natural Resources', PSE 16 'Mineral Buffer Zones', PSE 17 'Future Mineral Extraction' and guidance contained within adopted Supplementary Planning Guidance Note 'Conservation and Enhancement of Biodiversity', Planning Policy Wales 11(including updated Chapter 6), Minerals Technical Advice Note 1 'Aggregates', Technical Advice Note 5 Nature Conservation and Planning and Technical Advice Note 21 'Waste'
2. It is the opinion of the Local Planning Authority that the proposal contains insufficient justification for the development of an extension to the quarry and the restoration by importation of inert waste material, on an unallocated site in the open countryside. The proposal is therefore considered to be contrary to Local Development Plan Policy PSE 17 'Future Mineral Extraction', and advice contained in Minerals Technical Advice Note 1 'Aggregates', Technical Advice Note 21 'Waste' and Planning Policy Wales 11 (including updated Chapter 6).
3. It is the opinion of the Local Planning Authority that the proposed lateral extension to the quarry would have a negative impact on the amenity and well-being of local residents. The proposal is therefore considered to be contrary to Local Development Plan Policies PSE 16 'Buffer Zones', PSE 17 'Future Mineral Extraction' and advice contained in Minerals Technical Advice Note 1 'Aggregates', Technical Advice Note 21 'Waste', the Development Management Manual and Planning Policy Wales 11 (Including updated Chapter 6).

PLANNING POLICIES RELEVANT TO THE DECISION

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy PSE15 – Safeguarding minerals

Policy PSE16 – Mineral buffer zones

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Policy PSE17 – Future mineral extraction
Policy VOE1 - Key areas of importance
Policy VOE4 – Enabling development
Policy VOE5 – Conservation of natural resources
Policy VOE6 – Water management
Policy VOE7 – Locations for waste management
Policy VOE8 – Waste management outside development boundaries

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity
Supplementary Planning Guidance Note: Listed Buildings
Supplementary Planning Guidance Note: Planning Obligations
Supplementary Planning Guidance Note: Trees & Landscaping

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021
Welsh Government 'Chief Planning Officers' letter dated 11 October 2023 updating Chapter 6 of
Planning Policy Wales with regards to Net Benefit for Biodiversity
Development Control Manual November 2016
Future Wales – The National Plan 2040

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)
TAN 11 Noise (1997)
TAN 18 Transport (2007)
TAN 21 Waste (2017)
TAN 23 Economic Development (2014)
TAN 24 The Historic Environment (2017)
Mineral Technical Advice Note 1 (MTAN 1): Aggregates (2004)
Minerals Planning Guidance Note 11: The Control of Noise at Surface Mineral Workings
(1993)
Minerals Planning Guidance Note 14: Review of mineral planning Permissions (1995)

Other material considerations

Regional Technical Statement Second Review (2020)
Statement of Sub-Regional Collaboration for North East Wales (2021)
Towards Zero Waste (June 2010)
Beyond Recycling (2021)

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NOTES TO APPLICANT

1. APPEALS AGAINST REFUSAL OF PLANNING PERMISSION, OR IMPOSED CONDITIONS

- 1.1 If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or approval of the proposed development, or to grant permission or approval subject to conditions he/she may by notice served, appeal to PEDW in accordance with Section 78 of the Town and Country Planning Act 1990. In the case of a householder appeal or a minor commercial appeal, the notice must be served within twelve weeks from the date of the notice of the decision or determination giving rise to the appeal; in the case of any other appeal under section 78(1), six months from the date of the notice of the decision or determination giving rise to the appeal; or in a case in which the local planning authority have served a notice on the applicant in accordance with article 3(2) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2015 that they require further information and the applicant has not provided the information, the date of service of that notice.
- 1.2 If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by PEDW, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Council of the County in which the land is situated, as the case may be, a Purchase Notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- 1.3 In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by PEDW on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Part V of the Town and Country Planning Act 1990.

2. THE CHOICE OF APPEAL PROCEDURES

- 2.1 There is a choice of three appeal procedures and PEDW will co-operate with you, or your agent, in enabling your appeal to be processed in the way you would prefer. But there may be a few occasions when PEDW has to use a procedure which is not your own preference, in order to ensure that all aspects of the appeal are thoroughly and fairly considered. When this happens, PEDW will explain why.
- 2.2 The available appeal procedures are:
- i. by written representations which you and the Local Planning Authority make, followed by an accompanied or unaccompanied inspection of the appeal site by the appointed Inspector.
 - ii. by written representations which you and the Local Planning Authority make, followed by an Informal Hearing conducted by the appointed Inspector who hears oral representations from interested parties which may continue on an accompanied inspection of the appeal site.

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- iii. by a formal Local Inquiry conducted by the appointed Inspector following submission of proofs of evidence/statements of case. The Inspector hears representations from interested parties, allowing cross-examination of witnesses, and undertakes an accompanied inspection of the appeal site.

The procedures described in i. and ii. are likely to enable you to receive the quickest possible decision on your appeal, as the procedures for exchanging written representations are tightly timetabled. Written representations or Hearings are not suitable for cases which have generated substantial third party representations, or which involve cases where it is desirable to cross-examine evidence.

The procedure described in iii. is usually the slowest and most expensive method of appealing and you should only opt for this procedure if you have good reason to ask for a local hearing of your appeal. Normally, local inquiries are confined to those cases that require advocacy.

- 2.3 Should the appellant wish PEDW to appoint a Welsh speaking Inspector to hear any appeal against the Local Planning Authority's decision, the request should be made to PEDW when notice of the appeal is forwarded.

THE ADDRESS FOR APPEALS AND APPEAL FORMS

- 2.4 All appeals have to be submitted to PEDW within the relevant period of the date of the Local Planning Authority's decision against which you are appealing. The best way to appeal is to complete PEDW's official appeal form which may be obtained from:

PLANNING & ENVIRONMENT DECISIONS WALES, CROWN BUILDINGS, CATHAYS PARK, CARDIFF, CF10 3NQ.

- 2.5 The telephone number is 0300 060 4400, if you need more information or advice from PEDW.

3. COMPLIANCE WITH APPROVED PLANS AND CONDITIONS

- 3.1 You are reminded that any permission or consent must be carried out strictly in accordance with the approved plans, and any conditions attached to the certificate of decision. If any amendments are proposed to the plans, you should not proceed without obtaining the written approval of the Local Planning Authority. Any proposed amendments must be notified to the Head of Planning Services in writing with detailed plans suitably revised to illustrate the changes proposed. The Head of Planning Services will advise in writing whether the amendments can be accepted within the terms of the permission granted, or whether a fresh application is required. You are reminded in accordance with other Notices that it will also be necessary for you to ensure that amendments are acceptable to the other County Council Departments and statutory bodies where separate legislation applies.
- 3.2 Responsibility for the accuracy of the detailed plans and drawings forming part of the submission rests with the applicant, agent or developer.

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- 3.3 Applications for compliance with conditions - If this Decision Certificate includes conditions requiring the further consent, agreement, or approval of the planning authority, you should submit the information required for consideration by way of a letter stating the reference number of the permission and the condition in question, and with a suitable description of the proposed details, and plans or drawings to a recognised metric scale. No fee is required in connection with this type of application. The planning authority has eight weeks to determine such an application.
- 3.4 Proceeding without permission - Any development carried out prior to the grant of the relevant permission/consent, without compliance with the plans and particulars forming part of this permission, or without compliance with the conditions of this permission, is entirely at the owner/developer's own risk, and may oblige the planning authority to take formal Enforcement Action.
- 4. REQUIREMENT FOR SEPARATE CONSENTS**
- 4.1 It is important to appreciate that this decision certificate relates solely to an application submitted in accordance with the Acts/Regulations specified on the first sheet of this document. The Certificate does not convey any approval which may be required under separate legislation or from other statutory bodies, and does not override any private legal restrictions which may prevent the implementation of the proposal. (e.g. development on land in third party ownership).
- 4.2 Your particular attention is drawn to the possibility that the proposal MAY require Building Regulations Consent or oblige compliance with regulations under the control of the Council's Public Protection Officer. The onus rests on the applicant, agent or developer to ensure all relevant consents are obtained BEFORE the commencement of any development.
- 4.3 The erection of building extensions or other property alterations may give rise to important issues affecting the provision of gas, electricity, water and/or telephone services for an occupier and his/her neighbours. In certain circumstances interference may contravene legislation and you are advised that if it is possible that the provision of any service to the premises is within the area of a proposed extension or alteration you should notify the appropriate authority prior to commencing the works.
- 4.4 Where development involves works on or close to a boundary, including on shared internal walls, compliance may be necessary with the requirements of the Party Walls etc.. Act 1996, and you should obtain separate legal advice on this matter. The Local Planning Authority is not responsible for the enforcement of The Party Walls etc.. Act, or for resolving private legal disputes arising therefrom.

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