

## REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

### PLANNING APPEAL

#### IMPORTATION OF INERT WASTE MATERIALS FOR RECYCLING AND USE IN RESTORATION OF QUARRY WORKINGS

##### MAES Y DROELL QUARRY, GRAIANRHYD ROAD, LLANARMON YN IAL APPLICATION NO. 15/2011/0692/PF

## 1. PURPOSE OF REPORT

- 1.1 This report relates to a refusal decision of the Planning Committee for the above development, in connection with which the Council has been given advance notification by the applicants that a formal appeal is to be lodged with the Planning Inspectorate, with a request for the appeal to be dealt with by way of a Public Inquiry.
- 1.2 The report will provide Members with the relevant background information and request, in anticipation of confirmation from the Planning Inspectorate that the appeal process has begun, that Members appoint two representatives to assist with the presentation of the case at the Inquiry in accordance with Para. 9.3 of the Planning Appeals and Member Involvement Protocol. It will also refer to the need for legal and professional representation in this process.

## 2. BACKGROUND

- 2.1 The planning appeal has arisen from the decision of the Committee to refuse to approve an application to import waste materials for recycling and use in the restoration of the quarry workings at Maes y Droell quarry, near Llanarmon yn ial.
- 2.2 The planning application was originally submitted in June 2011, and was finally determined by the Committee in February 2013. The officer recommendation was to GRANT permission. The Committee resolved to REFUSE permission for the following reasons:

*“1. In the opinion of the Local Planning Authority, the development is unacceptable on highway grounds in that the proposals would result in the generation of additional heavy goods vehicle traffic movements on an inadequate rural road network, being likely to lead to dangers for existing and proposed road users and affecting the safe and free flow of traffic, in conflict with Policies GEN 6 vii, TRA 6, and MEW 11 viii of the Denbighshire Unitary Development Plan.*

*2. The submitted plans do not demonstrate that a safe and satisfactory new vehicular access with adequate visibility splays can be constructed onto the highway in order to serve the development, and in the absence of such plans, the Local Planning Authority do not consider the proposals are acceptable on highway safety grounds, the existing access and approach road / junction serving the old quarry being inadequate to accommodate additional heavy goods vehicle traffic, all being likely to lead to additional dangers for existing and proposed road users, affecting the safe and free flow of traffic on the highway in*

*the vicinity of the site, in conflict with Policies GEN 6 vi and vii, TRA 6, and MEW 11 viii of the Denbighshire Unitary Development Plan, and the guidance in Technical Advice Note 18: Transport.*

3. *In the opinion of the Local Planning Authority, the development would give rise to an unacceptable intensification of activity, including additional traffic and processes involved in the recycling and restoration works, being likely to have an adverse impact on the residential amenities of occupiers of properties in the vicinity of the site, by way of noise, dust, and disturbance, in conflict with Policies GEN 6 i, v and vii, TRA 6, and MEW 11 iv of the Denbighshire Unitary Development Plan.”*

2.4 The resolution to refuse permission was proposed by Councillor Rhys Hughes and seconded by Councillor Bill Cowie. The Local Member, Martyn Holland spoke against the application but is not a Member of Planning Committee and could not make a proposition or vote for or against the grant of permission.

2.5 The formal Certificate of Decision was dated 20th February 2013.

2.6 There are potentially significant costs implications arising from the handling of the appeal via the Public Inquiry process. This will oblige the Council to engage a barrister to front the case, and as the decision to refuse was contrary to the Officer recommendation, it will also be necessary to consider employing specialist consultant(s) to defend the highway and residential amenity reasons for refusal, given the Officers of the Council involved in the case would not be able to present evidence contrary to their professional views expressed at application stage. It is likely that the costs for defending the appeal will be in the region of £20,000 - £30,000, leaving aside the potential for any successful costs claims which may be lodged by the appellants at the Inquiry.

2.7 Members should note that the Council's Service Level Agreement with Flintshire County Council for them to provide a Minerals and Waste Service does not extend to them paying to defend a Denbighshire County Council decision on appeal. Officers will however provide the necessary procedural support during the Inquiry process.

### **3. DECISION SOUGHT**

3.1 As the refusal decision was contrary to Officer recommendation, it is necessary to follow the adopted Protocol for dealing with Planning Appeals and Member Involvement, hence seeking the Committee's resolution on the following:

Paragraph 9.3 states:

“Members of the Planning Committee will be required to give evidence at inquiry or informal hearing in appeals where an officer recommendation has been reversed. The Planning Committee shall appoint representatives to give evidence at the hearing/inquiry (normally the proposer and the seconder of the proposal)”.

3.2 The need to engage a Barrister and Planning / Highway consultant(s) to present the Council's case requires the resolution of Committee, allowing Officers to proceed with the necessary arrangements in time for the preparation of the initial Statement of Case, the subsequent Proof of Evidence, and the presentation of evidence at the Inquiry itself.

**4. RECOMMENDATION**

- 4.1 That the Planning Committee appoints two representatives to give evidence at the Inquiry.
- 4.2 That the Planning Committee agree to the engagement of a Barrister and Consultants to defend the reasons for refusal.

**GRAHAM H. BOASE**

**HEAD OF PLANNING & PUBLIC PROTECTION**