CAS-03423-V9Z8M3

DENBIGH QUARRY/GRAIG QUARRY

COSTS RESPONSE ON BEHALF OF COUNCIL

Introduction

1. This is the Council's initial response in relation to the Appellant's application for Full Costs against the Council on 21 July 2025.

2. Like the Appellant's application, this response will be made at the end of the Inquiry and further developed to reflect the evidence and closing submissions that will be heard. The Council therefore reserves the right to supplement this initial response with a more detailed written response when the Cost Application is formally made.

3. The Council resists the Appellant's application for costs on the basis that the Appellant is wrong in submitting that the refusal of planning permission was unreasonable and further has failed to clearly articulate how the alleged unreasonable behaviour has led to the unnecessary expense of the appeal.

The Guidance

4. The Annex 12 Guidance sets out at 3.8 and 3.9 that:

> *Where local planning authorities, in exercising their duties, have acted in a reasonable manner, they should not have costs awarded against them. Local planning authorities are required to behave reasonably in relation to the procedural matters of an appeal or application, ensuring they comply with the requirements and deadlines of the process. Where a local planning authority has refused, or proposed to refuse, an application that is not in accordance with relevant development plan policy and no material considerations indicate that permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.*
>
> *Local planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own*

> *officers or received from statutory consultees. However, they are expected to show that they had*
> *reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority.*

5. These paragraphs are critical because the heart of the Appellant's submissions is that the refusal of planning permission itself was unreasonable and so everything that flows from that was an unnecessary incurred expense. However, to establish that the Appellant must not just succeed at this appeal (as 1.2 of the Guidance recognises this does not necessarily indicate unreasonable behaviour) but show that the development should 'clearly be permitted' (per example (a)).

6. In this regard it will be shown at the Inquiry that not only is it not clearly the case that the quarry extension should be permitted, but there are persuasive reasons why permission should be refused and the appeal dismissed.

7. The Council – in a responsible and reasonable manner – has co-operated with the Appellant to narrow the scope of the issues between them to assist the Inspector and Welsh Ministers. This has included the withdrawal of RfR 1 and 2 at Statement of Case stage after further evidence emerged following the Appeal, and the narrowing down of RfR 3 through the Statement of Common Ground process to focus on concerns around the impact of blasting and noise on residents. All of this has saved Inquiry time and the expenses of all parties.

8. However, the remaining issue – the negative impact on amenity and well-being of local resident's contrary to Policies PSE 16 'Buffer Zones', PSE 17 'Future Mineral Extraction' MTAN 1 and TAN 21 and PPW12 – is a powerful one.

9. As will be developed through evidence and submissions at the Inquiry, the Appellant is wrong to characterise issues of amenity and well-being as being "technical issues" which are determined solely through expert analysis. They are not and the first-hand lived experience of those who have been previously affected by the quarry's operations – and would continue to do so if the development is granted – is weighty material evidence that supports there being a negative impact on amenity and well-being.

10. This harm is substantiated – contrary to Ground b) – by the two residents that the Council has chosen to call as a formal witness which is further endorsed by the extensive evidence provided by SOGS Dinbych.

11. The Council will then call the Chair of the Planning Committee who can provide his experienced view on why that evidenced harm to amenity and well-being translates to the policy conflicts properly identified in the 3rd RfR which renders the Appeal proposal contrary to the development plan as a whole.

12. The Council will address and challenge the Appellant's contentions at paragraph 13 both factually and in terms of their relevance to the issues to be considered at the Inquiry.

13. As recognised in 3.9 of Annex 12, Members were not required to adopt or follow the professional/technical advice provided by officers/statutory consultees. The Council's case at this Inquiry will show that there is an evidenced harm to amenity and well-being, and that harm provides reasonable planning grounds for refusing permission: namely a breach of multiple local and national policies leading to a breach of the development plan as a whole and where no other material considerations justify permission being granted. Given the Council will show this harm arises despite the proposed – and existing – conditions that does not provide a route for permission to be granted.

14. This is why the examples a), b) and c) of unreasonable behaviour are not made out, why the Craig yr Hesg decision can be distinguished and why – as will be developed during the course of submissions and evidence – the Council should not pay the Appellant's costs.

15. This is far from a wilful disregard for well-developed policies, guidance and practices. Instead, this is the Council applying those well-developed policies which seek to protect against unacceptable impacts which will be further evidenced at this Inquiry – an entirely reasonable approach which falls far short of justifying any type of Costs Award.

PIERS RILEY-SMITH
1st August 2025