

Town and Country Planning Act 1990: Section 78
Appeals

(i) Proposed western extension and
consolidation scheme
Appeal ref number APP/L6940/A/20/3265358

(ii) 'Section 73' time extension request
Appeal ref number APP/L6940/A/21/3282880

Craig yr Hesg Quarry, Pontypridd

Hanson UK

Summary Proof of Evidence
in respect of Minerals Planning

Graham Jenkins BA (Hons), MRTPI, MIQ

APP12/2

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1.0 QUALIFICATIONS

- 1.1 My name is Graham Jenkins. I am employed as a Technical Director at SLR Consulting Limited (SLR) where I specialise in minerals planning.

2.0 SCOPE OF EVIDENCE

- 2.1 My evidence deals with the issue of need, mineral planning policy, and the planning balance in the context of both the development plan and national planning policy set out in Planning Policy Wales Edition 11 (PPW11), February 2021.
- 2.2 A key focus of my evidence is the consideration of the need for the development in terms of provision in the development plan and the context provided by the Regional Technical Statement (RTS). I also consider the planning policy context provided by the development plan (the adopted Rhondda Cynon Taff (RCT) Local Development Plan 2011), and wider national mineral planning policy requirements set out in PPW11 and Minerals Technical Advice Note 1: Aggregates (MTAN1).
- 2.3 My evidence is structured to deal firstly with the need for the development and planning policy which, subject to certain distinctions, is common to the issues associated with both appeals.
- 2.4 I then deal separately and sequentially with the planning issues associated with the two appeals which I refer to as the '*western extension appeal*' and the '*Section 73 (S73) appeal*'. I summarise the issues raised during the processing of the applications; the assessment of the applications by the Planning Officer in his reports to RCT's Planning & Development Committees; and the consideration of the applications by the Committees.
- 2.5 I then address the single reasons for refusing the respective applications, and, notwithstanding the reasons for refusal, I also consider the issues now raised in the 'new case' set out by RCT in their Statement of Case (SoC) and Supplementary Statement of Case (SSoC).
- 2.6 I also review issues raised by Third Parties.

3.0 SUMMARY OF EVIDENCE: WESTERN EXTENSION APPEAL

The need for the development

- 3.1 In mineral planning policy terms, the development would meet an acknowledged need for aggregate (reference LDP Policy SSA25 and CS10) in a way which is fully consistent with mineral planning policy objectives to minimise the effects of mineral extraction developments.
- 3.2 RCT are solely reliant upon an extension to Craig yr Hesg Quarry (SSA25) to meet its share of regional production referred to in the respective versions of the RTS, with no alternative aggregates mineral extraction site identified in the LDP. This reinforces the importance of the release of reserves at the site for extraction, and the compliance with this key component of the development plan.

- 3.3 The significance of this is underlined by the fact that the aggregate reserves which are available comprise Pennant Sandstone, recognised as a 'high specification aggregate' (HSA) of strategic UK importance, the need for which is to be accorded 'significant weight' (ref PPW11 para 5.14.23).
- 3.4 MTAN1 also confirms that the Pennant Sandstone in South Wales should be treated as a '**special case**' in terms of supply, and where MTAN1 urges planning authorities to recognise the UK importance of the resource (ref MTAN1 para 42)
- 3.5 PPW11 further confirms that it is 'essential to the economic health of the country that the construction industry is provided with an adequate supply of the minerals it needs'.
- 3.6 The Planning Officer's detailed and comprehensive analysis of the application set out in the February and July 2020 Committee Reports acknowledge the need for the development in terms of the development plan allocation; the contribution which the development would make to regional supply; the absence of any alternative allocations within RCT; and the need to release additional reserves of crushed rock in order to meet landbank requirements (ref LDP Policy CS10 and MTAN1 para 49).
- 3.7 This need to release additional reserves consistent with LDP policies SSA25 re the western extension and policy CS10 re the maintenance of a minimum 10 year is re-enforced by the substantial additional RTS2 requirement to release crushed rock reserves in RCT (a minimum of 19.125m tonnes for the 25 year plan and landbank period). This is a compelling reason to supplement the landbank via the release of additional reserves at the western extension appeal site. (At a lesser scale in terms of reserves, it is also a compelling reason to ensure that the currently permitted remaining reserves at Craig yr Hesg are not sterilised from December 2022 and thereby removed from the landbank, particularly in the context of the HSA quality of the reserves involved).
- 3.8 Set in the context of this acknowledged need and following a detailed analysis of environmental and amenity effects, the Planning Officer confirmed that there are no issues which would justify a refusal of the application, and I agree with that appraisal.

The reason for Refusal

- 3.9 The reason for refusal is founded upon concern that the extraction operations would encroach within 200m of sensitive property and that there are no 'clear and justifiable' reasons for reducing the 200m minimum distance.
- 3.10 I have set out what I consider to be 'clear and justifiable reasons' in this case which comprise:
- The acknowledged ability to comply with standards and limits whilst working at a reduced buffer zone distance, in a way which would minimise amenity impacts for the short timescale and intermittent duration of the extractive operations taking place within 200m of sensitive development.
 - The additional mitigation which would be provided in the form of a screening landform between the development area and sensitive properties, which would not only be a substantial physical barrier, but which itself would be a landscape and wildlife

enhancement via the substantial tree planting proposed, linking to adjoining woodland features.

- The combination of the above which would be consistent with the example cited in MTAN1 for reducing the minimum distance that “*because of other means of control, there is very limited impact from the mineral extraction site*” (ref MTAN1 para 71).
- The absence of any specific policy objections.
- The absence of any wider issues raised by RCT associated with working to the reduced buffer zone distance in terms of landscape, ecology, hydrology / hydrogeology or cultural heritage.
- The absence of any material difference in amenity terms of short term working at a distance of 175m behind a substantial screening landform compared to a distance of 200m: there would be no lesser ability to meet the noise and blast vibration limits which have been defined, and no change to the conclusions regarding limited dust and air quality impacts (noting that these conclusions are also valid for the existing quarry, and acknowledged as such via the ROMP review, which is considerably closer to larger numbers of residential properties than the extension area).
- The desirability of defining an extraction area which strikes a balance between maximising the yield of HSA and the mitigation of impacts on local amenity, rather than it being dictated by an arbitrary distance to sensitive property; and
- In the context of the above, the need to avoid what would be an unnecessary sterilisation of resources resulting from an increased separation distance between quarrying operations and residential properties, which at 200m from properties at Conway Close would amount to a sterilisation of some 1.5 million tonnes of HSA, which would not be a sustainable approach to the quarry development or aggregates supply within the region, particularly noting the ‘significant weight’ which is to be afforded to the supply of HSA.

3.11 The concern expressed in the reason for refusal regarding the 200m ‘buffer zone’ distance could have been readily addressed by granting planning permission with the imposition of a planning condition which would prevent any quarrying operations within the proposed extension area taking place within 200m of existing sensitive development. This outcome is contrary to long established advice that planning permission should not be refused on a ground clearly capable of being dealt with by way of a condition.

Response to RCT’S ‘New Case’ to be advanced at the inquiry

3.12 RCT’s ‘new case’ which departs from the reason for refusal is that there are shortcomings in the approaches to the baseline noise and dust surveys undertaken as part of the EIA, and that

- notwithstanding the absence of any planning policy references in the reason for refusal, the development would be contrary to LDP policies CS10, AW5 and AW10.
- 3.13 The issues raised in relation to the noise and dust surveys can be readily addressed and are referenced in the evidence of other witnesses. The resolution of these survey issues removes the concern raised in the RCT 'new case' that it is not possible to demonstrate that the amenities of nearby residents can be adequately protected and that there is a consequent conflict with policies CS10, AW5 and AW8.
- 3.14 The consistent theme of both policy in the development plan and national planning policy is not a requirement to eliminate amenity impacts but to ensure that there are no '*significant*' impacts (LDP Policy AW5), and that where unavoidable impacts occur they are limited to within an '*acceptable proven limit*' (LDP Policy CS10), to within '*acceptable limits*' (PPW11 para 5.14.2), and to within an '*acceptable standard*' (PPW11 para 5.14.42).
- 3.15 I conclude that with 'limits and standards' applied by planning condition (as is the case at the existing Quarry), there would be no '*significant*' impacts, and that the '*limits*' and '*standards*' with respect to noise, blast vibration, dust and air quality can be applied and adhered to in all cases. There is no technical evidence to refute this from either RCT or any of the technical consultees, and, again, it is noteworthy that, notwithstanding the belated RCT 'new case', the reason for refusal does not allege conflict with any of the policies in the LDP which relate to these limits and standards.
- 3.16 It follows that I do not accept that there is conflict with the policies of the development plan now cited, nor do I accept that in overall terms the development is not in accordance with the development plan. The RCT 'new case' is based upon isolated policies which the development is allegedly not in accordance with, rather than placing weight on the 'dominant' LDP policy of the 'preferred area' allocation of for an extension to Craig yr Hesg Quarry (ref policy SSA25) and the related policy objective to maintain a minimum 10 year landbank of permitted reserves (ref policy CS10) which represents the minerals planning strategy of the LDP.
- 3.17 The development plan balance is one between the 'dominant' development plan mineral strategy policies (preferred area SSA25 and provision of a 10 year landbank CS10), with the amenity protection policies (CS10, AW5 and AW8), where, in my view, the balance falls very heavily in favour of the dominant mineral planning policy, noting that I do not accept conflict with the amenity protection policies cited, properly interpreted against the wording of these policies.
- 3.18 I therefore formally request that the Inspector allows the western extension appeal based upon the scheme as submitted, subject to the Section 106 Agreement and conditions which have been agreed with RCT.
- 3.19 If notwithstanding my evidence, the Inspector is minded to conclude that a 200m separation distance between the western extension limits of extraction and sensitive property should be rigidly adhered to applied in this case, then, in the alternative, the Inspector is requested to allow the appeal subject to conditions which would preclude mineral extraction, and related processing and haulage operations within the extension area to take place within 200m of sensitive development, and to impose additional conditions as necessary to require that prior to the

commencement of the development, updated phased quarry development plans shall be submitted to and approved by RCT confirming the required 200m separation distance.

4.0 SUMMARY OF EVIDENCE: SECTION 73 APPEAL

Planning Context

- 4.1 The S73 application is a straightforward request for the currently permitted quarrying and related operations to be allowed to continue for an additional period of 6 years to provide time for the remaining permitted reserves to be extracted.
- 4.2 Other than changes necessary to reflect the requested revised end dates for quarrying and restoration activities, no changes are proposed to any of the remaining existing planning conditions, and no material changes are proposed to the currently approved quarry development scheme or restoration strategy.
- 4.3 The current quarrying and related operations are successfully controlled by a schedule of up-to-date modern planning conditions imposed via the ROMP Review (2013), which regulate the existing operation to within acceptable limits, and where these or similar conditions could be imposed as part of a S73 time extension permission.

The need for the development

- 4.4 The Quarry is producing HSA which is a resource of UK importance. It would not be in the interest of sustainable minerals planning to unnecessarily sterilise this currently permitted reserve.
- 4.5 PPW11 requires that the UK and regional need for such minerals should be accorded 'significant weight' provided environmental impacts can be limited to 'acceptable levels' (PPW11 para 5.14.23). Impacts are and can continue to be limited to 'acceptable levels' in this case, and 'significant weight' should thus be given to the benefits associated with the extraction of the remaining permitted reserves.
- 4.6 PPW11 also requires Planning Authorities to 'provide positively for the working of mineral resources' and that 'each mineral planning authority should ensure that it makes an appropriate contribution to meeting local, regional and UK needs for primary minerals which reflects the nature and extent of resources in the area'. This requirement has been embraced by RCT via LDP policy CS10. A permission for the requested S73 time extension would 'provide positively' for the working of the permitted mineral resource and it would assist towards RCT's contribution to local, regional and UK needs. A refusal of the S73 time extension application would be contrary to these policy requirements.
- 4.7 In addition to the specific importance of the HSA available at the quarry, there is a general need for RCT to contribute to the supply of crushed rock aggregate via the maintenance of a minimum 10 year landbank of crushed rock reserves (ref LDP policy CS10 and MTAN1 para 49). The declining landbank would be exacerbated by the removal of the remaining reserves at Craig yr Hesg Quarry from the landbank if the quarry ceases operation in December 2022.

- 4.8 The unnecessary sterilisation of currently permitted reserves which would arise if the requested S73 time extension is not granted would be contrary to sustainable mineral planning and to the sustainability principles enshrined in PPW11 and the WBFGA.

The reason for refusal

- 4.9 The reason for refusal alludes to 4 issues: associated with:

- (i) a continuation of quarrying operations within 200m of sensitive development
- (ii) alleged / perceived detrimental effects on amenity and well-being of the community of Glyncoch associated with quarrying which RCT define as a 'deprived community' acknowledged as being disproportionately affected by health problems.
- (iii) detriment to the well-being goal of a healthier Wales as set out in the Well Being and Future Generations Act 2015; and
- (iv) the need for the mineral does not outweigh the (alleged / perceived) amenity and well-being impacts.

- 4.10 I address each of these issues in my evidence, noting:

- (i) Contrary to the assertion in the reason for refusal, there would be no further quarrying within 200m of the closest sensitive properties on the edge of Glyncoch. All future quarrying would be beyond 200m, separated by a belt of woodland, and with quarrying taking place increasingly at depth and increasingly beyond 200m from the properties as the development focuses on quarrying in the central area of the quarry (rather than on the periphery).
- (ii) The Planning Officer has not suggested any objective basis for concern regarding amenity effects (noting in particular that no objections had been raised by RCT's Public Protection Officers), nor did he indicate that impacts would be 'significant' or could not be maintained within 'acceptable standards' to the extent that such effects would be contrary to planning policy which seeks to regulate such effects. This issue is discussed further by another witness who argues that the reference in the reason for refusal to deprivation and disproportionate effects is misplaced and incorrect
- (iii) The well-being goal of a healthier Wales is separately discussed by another witness, but it is incorrect for the reason for refusal to focus on a single well-being goal (a 'healthier Wales'), without reference to the other well-being goals and without any analysis which considers the respective weight of the goals in this particular case.
- (iv) I consider that there is a compelling need to allow the remaining permitted reserves at the Quarry to be extracted via the requested time extension in terms of the quality of the HSA aggregate involved (to be afforded 'significant weight'), the local and national planning policy commitment and requirement to maintain a minimum 10 year landbank of crushed rock reserves (where such a minimum landbank is not currently in place in RCT), and where the deficiency in the minimum landbank would be exacerbated if the remaining reserves at Craig yr Hesg Quarry are removed from the landbank in December 2022.

- 4.11 In contrast to the reason for refusal, the Planning Officer has offered his professional judgment and advice to the Planning Committee that the economic need for the mineral has been clearly demonstrated, the effects of quarrying can be controlled to nationally set standards by planning conditions, and the economic need for the mineral is not outweighed by any potential environmental and amenity issues. I agree with that reasoned assessment.
- 4.12 My overall planning policy conclusion is that the development would be in accordance with the development plan (ref Section 38(6) of the Planning and Compulsory Purchase Act 2004) in term of the sustainability benefits it would bring, it would assist in maintaining a landbank of permitted reserves, and the operation can continue to be regulated to within acceptable limits.
- 4.13 In addition, in terms of a wider planning balance, the weight to be afforded to the need for the development; the importance of continuity of supply; the special quality of the high specification aggregate; the economic importance of the development in terms of supply of the high specification aggregate; the absence of any material public health impact or ‘demonstrable harm’, and the socio economic benefits of the development are such that the balance should fall heavily in favour of the S73 time extension being approved.

Response to RCT’S ‘New Case’ to be advanced at the inquiry

- 4.14 As is the case with the western extension appeal, notwithstanding the specific reason for refusal of the Section 73 application, RCT now wish to present a ‘new case’ which mirrors the new case they wish to advance in relation to the western extension appeal. Not only is this change of case inappropriate in terms of the requirement at the time of determination to *‘state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision’* but in this case the two proposals are different with different issues, and the attempt by RCT to conflate all issues into one case is misplaced.
- 4.15 However, as with the western extension appeal, RCT’s ‘new case’, which departs from the reason for refusal, is that there are shortcomings in the approaches to the baseline noise and dust surveys undertaken as part of the EIA, and that notwithstanding the absence of any planning policy references in the reason for refusal, the S73 development would be contrary to LDP polices CS10, AW5 and AW10. For the reasons set out above in response to the same ‘new case’ to be presented by RCT in relation to the western extension appeal, I do not accept these alleged survey shortcomings and policy non-compliance arguments, and as is the case with the western extension appeal the alleged deficiencies with the noise and dust surveys are readily capable of being addressed.
- 4.16 Uppermost in terms of the S73 appeal is the fact that a comprehensive schedule of planning conditions is already in place via the determination of the ROMP application in 2013 which RCT deemed to be adequate to regulate the ongoing development to within acceptable standards and limits. Given that there have been no material changes in circumstances since the determination of the ROMP application, and the same or similar conditions could be imposed as part of a S73 permission, it is perverse for RCT to now suggest that an extended time period to complete the currently permitted development would be contrary to amenity protection policies.
- 4.17 RCT’s position is further illogical in terms of the ‘preferred area’ SSA25 allocation which implicitly relies upon a continuation of operations in the existing quarry for what would be a longer period

as part of an extension development. This is not the approach to 'rationale and consistent decision making' advocated by PPW11.

4.18 I therefore formally request that the Inspector allows the S73 appeal subject to the Section 106 Agreement and conditions which have been agreed with RCT.

4.19 However, in the event that the western extension and consolidation appeal is allowed, then the S73 Appeal would fall away given that the requested time extension would be subsumed within what would be a longer time extension associated with the extension development.



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