APPEAL REF: APP/L6940/A/20/3265358 & APP/L6940/A/21/3282880
Land at Craig yr Hesg Quarry, Berw Road, Pontypridd, CF37 3BG

APPELLANT'S COSTS APPLICATION

INTRODUCTION

1. This is an application is a for a partial award of costs. The application is for the costs of and occasioned by the appeal, save in respect those costs which relate to acoustic evidence and dust evidence.

2. In the course of the appeal, the Council raised a question about background noise levels (SoC at §3.8 and §3.50). The appellant did not accept that there was any merit in the Council's point. However, the appellant took a pragmatic view and undertook further monitoring. The result was the same as that obtained previously. The appellant provided the full evidence to the Council and invited the Council to withdraw its acoustic case on the basis that the appellant would not seek its costs on that issue.

3. Essentially the same point arose in respect of dust (SoC at §3.9 and §3.51) and the appellant took, and takes, the same pragmatic view.

4. The application is for a substantive award. The refusal was unreasonable.

5. This application first of all sets out the grounds in summary form, for each appeal. It then expands upon the grounds in the submissions which follow.

GROUNDS

Extension appeal (A)

6. The grounds on which an award of costs is justified are:

   a. The RfR has been abandoned.
   b. The Council relied on a new case in its Statement of Case because no professional witness would support refusal for the reasons given.
   c. The new case was so different to the RfR that it had to go back to Committee.
   d. The Council called no witness in respect of any specialism which went to the question of amenity. The Council had no case on reasonable planning grounds, and its professional planning advisors knew that.
   e. The need for the inquiry has been driven by the members of the Council who have adopted an irrational position, i.e. a position which has not been explained by good planning reasons, supported by the evidence which is to be expected.
   f. No part of the environmental information has been contested. It is unreasonable to accept the contents of an Environmental Statement which demonstrates compliance with policy and guidance and then to refuse for unparticularised environmental reasons.
   g. To the extent that there was a concern about buffer distances, the Council declined to use a condition to limit the extent of working to a distance which it considered acceptable. In any event, it has now abandoned that policy point.
   h. The Council was opposed to the extension as a matter of principle. So much is clear from the refusal of the s73 application.

S73 Appeal (B)

7. Paragraphs 1-6 are repeated.

8. The grounds on which an award of costs is justified are:
   a. (a) to (g) in paragraph 6 above
   b. It was unreasonable to refuse consent to continue to work mineral reserves which are presently consented, particularly in circumstances including:

i. There was no identified nor any identifiable health effect, as alleged in the members' RfR.
ii. The absence of any change at all in operations as a result of the proposal
iii. It was open to the Council, if the relevant tests for the imposition of a condition were met, to control the winning and working or mineral in order to address any effect which would have been unacceptable
iv. There were no unacceptable effects – effects were acceptable
v. The effect upon the land bank of the refusal

c. The Council simply opposed any continued quarrying. The members' position was that the quarry should close, regardless of development plan policy (which is not mentioned in RfR), the evidence as to environmental effects and of national planning policy in respect of a demonstrable need.
d. The members' decision was not a planning judgement. It was a decision to close down the quarry and sterilise the mineral, which was entirely unencumbered by any reasonable planning consideration.

SUBMISSIONS

The agreed starting point is indefensible

9. The officers and professional representatives of RCT are presented with a dreadful set of circumstances, from their point of view. RCT's position is quite indefensible. Members have given their officers and professional representatives the task of trying to defend decisions which are not supported by:

a. A highly experienced and leading minerals planner who was Secretary to the Regional Aggregate Working Party for South Wales;
b. Any of RCT's planning officers who reported the matter to Committee;
c. Any of RCT's specialist officers who were consulted, such as pollution control officers or highways engineers
d. Any public health body
e. Any independent specialist on behalf of RCT on key topics such as noise impacts, blasting, air quality, nuisance dust
f. The result of two environmental statements and their supplements

g. Any criticism of the environmental statements during a review by PEDW (other than a requirement to update baseline studies, necessary as a result of RCT taking 6 years to determine the application)
h. Experts who have been called to give evidence to demonstrate that effects of working are acceptable
i. Any case on alternatives or indeed any indication of the alternative site to replace the quarry if the appeals are dismissed
j. RCT's own policy, which anticipates the proposals in order to satisfy its own obligations to meet agreed need in South Wales and its obligations to follow national planning policy so far as high specification aggregates are concerned.

10. None of the above is contentious. Those 10 points are simply matters of fact which are not contested by RCT. On their own, they establish that the decisions to refuse were unreasonable, the inquiry should never have been necessary and that a costs awards should naturally follow.

Chaotic

11. Nevertheless, it is necessary to explain further just how irrational, chaotic and misconceived the members of the committee have been in reaching their decision. None of those adjectives are used lightly, without thought as to what they mean nor without appreciating that they are serious matters.

12. The planning authority is required to give full and precise reasons for its decision[1]. Where the decision is contrary to officer advice, the only place to find those reasons is in on the decision notice. As we explain below, those reasons were chaotic. Moreover, the decisions and the evidence called in support of RCT's case, if given effect, would create chaos. All four of the cases which RCT has tried to advance during these appeals are demonstrably wrong and the fact of the constantly changing case reveals the chaotic position into which members put the officers and professional representatives of RCT.

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1 The Town and Country Planning (Development Management Procedure) (Wales) Order 2012, Article 24(1)" "When the local planning authority give notice of a decision or determination on an application for planning permission or for approval of reserved matters and a permission or approval is either granted subject to conditions or the application is refused, the notice must— (a) state clearly and precisely the full reasons for the refusal or for any condition imposed specifying all policies and proposals in the development plan which are relevant to the decision;"

1.1 The reason for refusal in respect of Appeal B is:

"The additional period of 6 years proposed for the working of the quarry unacceptably extends the period of mineral operations within 200m of sensitive development within Glyncoch. Glyncoch is a deprived community, and such communities are acknowledged as being disproportionately affected by health problems. The continuation of quarrying within 200m of that community extends the impacts of quarrying (especially in terms of noise, dust and air quality) to the detriment of amenity and well-being of residents contrary to the well-being goal of a healthier Wales as set out in the Well-being of Future Generations (Wales) Act 2015. The need for the mineral does not outweigh the amenity and well-being impacts."

13. In respect of Appeal A, the RfR was:

"Minerals Technical Advice Note (MTAN) 1: Aggregates (Paragraphs 70 and 71) identifies a suitable minimum distance between hard rock quarries and sensitive development is 200 metres, and states that any reduction from this distance should be evidenced by clear and justifiable reasons. The proposed quarry extension encroaches within 200m of sensitive development and the Council does not consider that the applicant has provided sufficient evidence of clear and justifiable reasons for reducing that minimum distance in this case."

14. These RfR were 'Case 1'.

15. CT then contended, via is Supplementary Statement of Case, that in respect of both Appeals:
    i. There is insufficient noise evidence, particularly as to background monitoring (paras 3.8 and 3.50 of the supplement statement of case)
    ii. There is insufficient dust evidence (paras 3.9 and 3.51 of the supplement statement of case)
    iii. The adverse impacts are contrary to policies CS10, AW5, AW10 of the LDP and that the schemes were contrary to the development plan.

16. This was ‘Case 2’. This is the case which went back to Committee for it to agree that it would have refused for these reasons if it had thought of them at the time it refused. The Appellant made strong representations about this. It is not conduct which the scheme of appeals provides for and should not be the way that planning authorities conduct themselves[2].

17. Additional monitoring showed that the original monitoring was correct, or in fact somewhat advantageous to residents in respect of noise. In any event, that part of Case 2 was abandoned.

18. Via his oral evidence, Mr Williams explained ‘Case 3’, namely compliance with the development plan but material considerations outweighed that and so the appeals should be dismissed.

19. RCT’s position rested on effects on mental health and the transformative effect of the WBGA on decision making in planning.

20. So, ‘Case 4’ was no longer concerned with physical health but was focussed only on mental health and perceived harm. One has no idea what the Committee would have thought of this.

21. In his evidence in chief, Mr Jenkins outlined these four cases, their serial inconsistency and the absence of evidence in support. His account was neither challenged nor contradicted.

22. Case 4 was not supported by credible evidence. PW conceded that the proposals accord with the development plan. Re-examination on that point was a surprising course given the repeated confirmation that the proposals complied with the development plan, as the note of the evidence shows[3].

23. So far as the stand-off distance point is concerned, it was unreasonable to fail to grant permission for Appeal A subject to a condition to limit extraction. That was offered but

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2 APP3/1 and APP 4/1

3 Pages 32/33 and 37/38

turned away. It is crystal clear that nothing would ever satisfy RCT. It was opposed to the only quarry in its plan, as a Preferred Site, as a matter of principle.

24. It is be recalled:
    a. These appeals are concerned with an operational quarry of very long standing;
    b. The evidence in support of the Environmental Statement has been collected pursuant to a scope which has been agreed with RCT;
    c. RCT has had seven years in which to explain how and why environmental effects are unacceptable. It has not done so.
    d. The Environmental Statement has been consulted upon and has been responded to by expert and independent specialists both within and outside RCT. None takes issue with its contents. None objects to the proposal;
    e. The appeals have taken some time to be heard, so there was ample time for RCT to obtain evidence in support of member's RfR, but it did not do so, save for the evidence of Mr Williams.

25. When one stands back and looks at how RCT has behaved from the point of refusal to conclusion of the evidence, it is evident that it has repeatedly been compelled to shift its position from one untenable position to another. It has been nothing but chaotic. Such a chaotic series of untenable positions amply demonstrates that the decisions to refuse permission were unreasonable.

Perverse

26. Planning decisions are to be made rationally – they are to be based on the relevant policy and the evidence. They are to be capable of being explained by reference to the policy and the evidence. If the decisions ignore substantive evidence or are contrary to the decision makers own policy, without good explanation, they are irrational. They are perverse. Perverse decisions are unreasonable.

27. As against all of the agreed material, RCT only set one consideration, namely the objections to the application, placed in context of the WFGA. The essence of the applications is that quarrying operations affect amenity and are perceived to put health at risk.

Misconceived

28. It has all changed – the 2015 Act is all about health and well-being. It trumps the planning system. In that context, the concerns of RCT and objectors are sufficient to justify refusal of a long-planned and long-anticipated development for which there is an agreed UK need, no alternative and no objectively based amenity objection. So say RCT.

29. That is an incorrect understanding of the 2015 Act for all the reasons given by Owen Jones.

A RATIONAL PLANNING SYSTEM

30. In determining the costs application, the Welsh Ministers will have to decide whether they wish to signal their support for a functioning and rational planning system.

31. Minerals planning has a rational, systematic basis. It is founded in assessment of need and potential supply. That evidence is collated by expert mineral planners who make up the RAWP, in this case for South Wales. They have been doing that work for a very long time and really do know what they are doing.

32. The policy position is that the results of the RAWPs' work goes into the RTS, and thus into local plans. It is common sense and simply requires common sense from planning authorities.

33. Planning decisions are necessarily plan-led, unless there is evidence that the plan is failing in its objectives, such as when the landbank is inadequate. The plan tells the public, the developer and the decision maker where the development is best placed. Such policy provides a strong indication of what should happen upon the making of an application within a relevant area marked on a proposal map, as was done in this case some seven years ago. It is not a guarantee but it is a strong indication.

34. The startling feature of this costs application is that it is necessary to rehearse any of this. But it is necessary because RCT have jettisoned the rational basis of the planning

system in favour of reliance solely on objections, which in turn are solely based on objectively disproven or unsubstantiated concerns.

CONCLUSION

35. This is a very unusual case. Nobody has identified any case in which a planning authority has made decisions such as these which are, effectively, contrary to everything: national policy, the LDP, all of the agreed evidence, the proper understanding of the planning system and a common sense analysis of the well-being goals. The Inspector is asked to recommend that the planning authority pay the appellant's costs of the appeals save in respect of the noise and dust evidence, on which points the appellant has given the authority and assurance that it would not seek its costs.

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No5 Chambers

27th June 2022

APPEAL REF: APP/L6940/A/20/3265358 &
APP/L/6940/A/21/3282880

Craig yr Hesg

CROSS EXAMINATION OF
MR PHILIP WILLIAMS

Note

THIS IS THE APPELLANT'S NOTE OF THE CROSS EXAMINATION AND RE-EXAMINATION OF MR PHILIP WILLIAMS, THE LOCAL PLANNING AUTHORITY'S PLANNING WITNESS.

PRELIMINARY MATTERS

Q: Referred to **APP11.1, page 8 §1.8**

This refers to the environmental effects of working these minerals can be controlled by means of planning conditions.

Q: Are you familiar with Hugh Towns?

Committee report –

Is the nature of the advice and the experience of the person providing the advice to the council in the Report in accordance with your understanding of Mr Towns' experience?

A: Yes.

Q: He is the Carmarthenshire Regional Minerals and Waste Planning Manager and deals with the mineral and waste planning matters.

A: Yes.

Q: Does that all accord with Mr Town's mineral experience?

A: Yes.

Q: Does it follow that from your knowledge of him that he is one of the most experienced minerals planners in Wales?

A: Yes.

Q: I imagine that you came across Mr Towns in your role at Cardiff CC?

A: No working relationship – knew of him in planning circles and his expertise.

Q: When you were at Cardiff were you dealing with minerals?

A: One site that I was dealing with was Morganstown.

Q: Did you deal with the ROMP?

A: Yes – it was an aggregates quarry.

Q: Is there any other experience that you want to bring to the inquiry's attention?

A: No.

Q: Have you been on a site visit of this quarry?

A: 15th may – within the last month (later corrected to the 17th May) **EDIT: later corrected to 27th May**

Q: Is there anything in particular that you rely upon in your evidence – to look at the impact and the geographical location of residential properties and of the school, and of the long view across the valley and of the impact of the site?

A: Visited a number of locations – which included the school, which was in proximity to the quarry.

Q: Did that may site visit involve going within the red line?

A: No.

Q: So, when you visited the quarry, you have observed the quarry from public vantage points but not within the quarry itself?

A: Yes.

Q: You are going to the site visit on Monday – that is the first time that you will have been able to view the site and the western extension and impact on Conway Close?

A: Did look at the site - looking in, rather than the site looking out.

** PW confirmed he is going on site visit on Monday **

Q: **APP3.1** – this is the response to the statement of case for the Extension.

** taken to §1.8 – this focuses on the reason for refusal in the same document – and not focusing on any form of impact.

A: Yes.

Set within the context 200m buffer and evidence base is not there.

Q: Focuses on the insufficiency of evidence to make the statement.

A: Yes.
Q: By framing the reason for refusal in this way – it is not saying never – it is saying "possibly, but you haven't persuaded us yet"?

A: Set it within the 200m zone and it should be served by clear and justifiable reasons and the RfR is pointing out that the evidence base is not there.

Q: As a matter of principle, it is accepting that quarrying could be appropriate?

A: Yes, it could be.

Q: Was the council saying that "we need some further background noise and dust data before we can proceed to decide that question"?

A: Yes.

Q: In the material that follows – we are not going to spend any time looking at the legal framework – **APP3.1 §3.10(i)** is it accurate that the appellant is obliged to make its decision having regard to the decision notice stating clearly and precisely the full reasons for refusal.

A: Yes

Q: In **APP3.1 §3.10(ii)** (middle of the sub-para).

"What has happened now is that members have been given some different reasons to refuse planning permission by a planning consultant who is instructed to defend the members' position. Those reasons are not the true reasons for the refusal of planning permission. Rather, they are a position promoted by a planning consultant whose task, in the face of an appeal, is to justify the members' decision. That planning consultant has made clear that the members' decision is not defensible."

Members have given different reasons now; now that they have been instructed to defend their reasons for refusal.

A: Yes

Q: If we go to Mr Bedford's Opening.

§7 and 8 on page 3.

"Not simply adjusting the controls for local uses – and that this is about juxtaposition and that this is about the buffer zone and that the relationship is such that … This is essentially saying that there is no extension of time beyond the year."

A: It is talking about the need for the appropriate level of buffer zone and (…) anything within that buffer zone.

It is faithful to the RfR to that extent because of the buffer zone.

Q: §8, 8 lines down – those properties and the wellbeing and the amenity of their occupiers are already compromised by the presence of quarries at the time.

A: Yes

Q: Lastly - no case is advanced by the council that there is an alternative which is material in this case?

A: Yes, that is correct.

NEED

Q: Is mineral is an essential need?

A: Yes

Q: The supply must be steady and adequate?

A: It has to respond to market demand, yes.

Q: LPA is required to provide positively to meet the need?

A: Yes

Q: 25-year minimum requirement for crushed rock 19.1M tonne until 2027 for RCT.

There is a requirement to maintain a landbank of 10 year of aggregate supply.

Same requirement in PPW?

We have the principles and we understand the key numbers.

A: (all agreed)

Q: Can we look in **CD 10.18 PPW11, in s.5 page 108** - in particular, at **§ 5.14.10.**

In respect of 5.14.10, the latter part of that paragraph deals with the way in which forward planning is to take place.

For aggregates this should be done under the North and South Wales Regional Aggregate Working Parties (RAWP) whose role is to provide a regional overview of supply and demand via the regional framework that is the Regional Technical Statement (RTS)

That is the evidence which feeds into the evidential foundation of the DP.

A: (all agreed)

CD6.3 MTAN1
Go to § 50 on page 20 –

> "50. As aggregate resources are not ubiquitous across Wales, and for the other reasons outlined in paragraph 49, it is unlikely to be possible or desirable to maintain an adequate landbank in every mineral planning authority. The Assembly Government will shortly commission a study of the geological availability of suitable minerals and the "environmental capacity" of each local authority to contribute to the supply of aggregates to meet regional demand (see paragraph 27). The RAWPs will be expected to prepare a 5-year technical statement for their region to ensure that an adequate supply of primary aggregates can be maintained taking into account the sustainable objectives outlined earlier in this section for the provision of aggregates. This regional statement should be prepared by each RAWP within 18 months of the

> completion of the environmental capacity assessment for Wales. The relevant parts of the strategy set out in the regional statement should then be incorporated into the individual Development plans. If agreement cannot be reached within each RAWP, the Welsh Assembly Government will make alternative arrangements for its completion. The Regional Technical Statement will be reviewed every 5 years."

Q: They are not spread equally across Wales. Creates a clear scheme so that we can sort out who is going to produce what. This makes clear that the scheme is to make sure that the work of the RAWP is to make its way into something that plans forward in a particular planning authority. This is what helps us to achieve a landbank, doesn't it?

A: Yes, on a sub-regional basis.

Q: Sub regional? This is not presently a feature of the RTS' before this inquiry, is it?

A: Correct

Q: If these appeals are dismissed then the available landbank would only be available at Forest Wood.

A: I believe so.

Q: This is said to have 3.6M Tonnes of available reserve. The result of this is a fairly short supply against the land bank. This is a land bank of 4.5 years.

A: (all agreed)

Q: when considering the landbank that would exist on New Year's Day 2023 – then is it relevant to bear in mind the deliverability of the mineral in Forest Wood.

A: Yes.

Q: This is currently below tens of metres of water, without drainage or a drainage strategy?

A: I don't know the characteristics of the site, but yes, I think your description is a fair one.

Q: So, the landbank is 0 on the 1st Jan next year from within RCT?

A: Yes

Q: That is not the position that the RAWP was trying to achieve?

A: No

Q: It was expecting to have a contribution from the authority?

A: Yes

Q: If on New Year's Day 2023 RCT contribution is 0, then that has a whole range of planning consequences, elsewhere in South Wales and beyond.

A: Yes, but not unusual that where there are shortfalls, including in South Wales and beyond.

But there is always a source from where that comes from.

That is a normal rebalancing of supply.

Q: Inspector writing her report to the Welsh Ministers records that the LPA ending up with a practical landbank of 0.

A: Where there is a balancing exercise of supply and need relative to other consequences of allowing it to continue.

Q: Is it normal for authorities to dip beyond the required landbank, and just wait to see what happens next?

A: Collaborative working to secure that supply under the RAWP umbrella.

The RCT is not offering any counter view in respect of need.

That is not part of the council's case.

Q: The nature of the mineral that we are concerned with – used across the UK.

As a mineral, this is a special case.

A: Yes.

Q: These two things go together – it is a special case, and it is sent around the UK because mineral of this quality is not found closer to where it is required.

A: Don't know the quality of the material relative to other sites across the UK.

And whether that supply can be gained from other parts.

Need and supply is not part of the council's case.

Q: CD6.3, MTaN 1 §42

"The Pennant Sandstone outcrop in South Wales has been identified as one of the main prospects for development and the UK importance of the resource should be recognised by relevant planning authorities. Such material is a special case that may well justify transportation over long distances because of the national need for the provision of the specific type of material with limited availability."

Q: These have been the main prospects for important minerals which are plentiful in Wales, but unavailable in some parts of the UK?

A: Special case – not a unique case.

Q: In terms of a proper understanding of the need position – it is important to have regard to §42.

In terms of understanding the need case – you have confirmed that you are not running an alternatives case.

Not raising anything to counter that which you are raising on the issue of need.

A: (not disputing)

Q: Let's see how that plays out in terms of policy (**PPW11, CD10.18**) Page 108. 5.14.11 –

as a matter of PPW11 minerals planning policy – the first sentence is quite strong and they must take into account the contribution they can make into account meeting UK demand;

A: Yes, this is very directive.

Q: Seeking to rule out local need.

And this is rarely the case if there are significant adverse effects:

Either only meeting local need – or ruling out only local area.

Practical effect is having no land bank on the 1st January 2023.

That whether this has significant environmental impacts.

Wholly appropriate to make that judgment one way or another.

[3] EFFECTS INCLUDING WELLBEING.

Q: **LPA/3.1 §4.31.**

AW14.5 – Policy which says 200m we are going to make sure that we are careful about the development that gets within the policy.

The focus of that policy is mineral safeguarding?

A: Yes.

The focus of the policy is not to say any property or development within 200m of the working will be adversely affected by the working.

He is not saying that anything 200m zone is that of the development coming forward (…)

(…)

We are going to the Plan which are in the core documents – which are in **CD2.2** E4B and E5B –

Conway Close and Orchard Drive and the northern land form which is tree planted. Depicted in yellow is phase 1.

Q: I want to see if we can agree what is relevant when we are assessing distance.

There is no proposal to work the mineral all the way up to the red line boundary.

I am just canvassing with you where the relevant plans might be – and you might take account of the limit of excavation.

It is relevant to pay account of the effect to the impact of the screening bund.

B1 – is a screening bund?

A: Yes – has an effect in screening noise, dust, etc.

Q: Relevant in both regards?

A: Well I thought that this was a visual screening.

Q: But you have to think about what is between the shovel and the receptor.

A: It is relevant to note that there is a substantial screening bund.

What we are doing is not giving any evidence on noise or dust.

Q: the next question is so what?

then it comes to the adequacy of the evidence base to justify that.

(…) - ref to 200m

Q: Then it is relevant to look at the time period when it might affect a particular receptor.

A: Hours of operation. Yes, for example, it is not 24/7.

Q: When Mr Bedford referred to what is happening where and for how long.

Likewise, each phase progresses through the site and also vertically.

A: Agreed.

Q: E5B – effects might be different – effects at the soil surface stripping to what the effect is when you are down at the fourth bench.

With these sorts of development – rather than just saying that the policy says 200m – there are other matters which need to be understood so that the policy can be faithfully and purposively applied,

A: Robust evidence base…

Q: Robust evidence base - is on your mind.

A: My written evidence refers to strands of evidence and one is the technical base and the other is the empirical base.

There is a strong emphasis on the empirical base from 3P and the impact of the operations and the timeline and the physical extension for a year.

The technical and empirical evidence.

Q: On the MTAN 1 separation distance – absent the considerations that we have just discussed, would be inappropriate?

A: Yes, it is not a black and white – it is open to interpretation and support. It is not dictatorial. It is not saying that everything within 200m (…) but the council did not get enough evidence to make a decision.

But you are right.

Q: It is to be applied flexibly?

A: No, appropriately, within set parameters.

Q: Needs to be applied flexibly, because where the working is deep it creates its own fantastic noise buffer then it would just be irrational to apply a fixed separation distance.

The 200m zone is designed to introduce additional levels of management and control.

A: Yes, the line literal has to be drawn somewhere.

Q: The issue arises in respect of the school building (or whether you measure to the edge of the playground).

What we are really debating is 25m or so.

Q: If that is a significant 25m – why is that, in effects terms?

A: If you accept that the principle of the external elements of the building are appropriate to assess in terms of any impacts, then this assesses in terms of the impact, then the purpose of the impacts of the school and this often results not the use of curtilages as much as the building themselves.

They have a number of buildings which they use.

It rather depends what that use is for – and that what the curtilage is for is fundamental.

Q: What you are saying then is that you need to give consideration to the fact that the school playing field is within 200m.

And then come to a conclusion as to whether or not there is an effect at that location.

Q: Regarding the extension of time – your argument then goes further.

You are then applying a 200m distance and pointing that there are properties within 200m of the existing quarry.

You have the existing quarry – consented - and that this will work until the end of the year.

What is your point? This is the context of the continuation –

A: **§1.3 page 5**. This is contrary to the wellbeing goal of A Healthier Wales.

Q: What is the point about the separation – that this the legislative context in which the judgement must be made.

A: That the WFGA was not in place – this was not a material consideration.

Effects.

Q: Test is never no effect – planning test is never no effect.

A: Yes.

Q: Therefore, we are looking to find out what is the acceptable effect.

A: Yes.

Q: And we are only interested in significant effects.

A: We are getting into semantics for you or I or what is within the 200m zone. There are matters for debate – it is a word (…)

Q: This is the work that has been carried out over 7 years – use of 'significant'.

The council, in agreeing the scope of the Environmental Statement, have never been concerned about significant effects.

That is all to be considered in the context of the controls which can reasonably be expected to control the extent of an effect.

On the assumption that if there is an acceptable solution that you can exercise control in an appropriate way.

A: For example, if this was by appropriate conditions, then the appropriate use of the conditions could be used to manage and control those impacts, however there are matters – however this has a wider context to it.

Dust.

Q: What is your understanding on the reason why the council is advancing this case.

A: No issue that the council is bringing to the table in that regard.

Q: Gathered that from lack of any written statement.

A: Not an expert in any of those areas – couldn't offer a professional opinion.

Q: Is it a reasonable inference that of any witnesses who were asked to give evidence no professional witness in those topic areas was prepared to give evidence.

A: *confirmed*

Q: On dis-amenity dust.

Not Air quality and that is PM10 particulate matter which is referred to as an Air Quality effect and sometimes we are looking at PM2.5. We are looking at dis-amenity dust here.

The Council have made no use of the Environmental Regulations – saying please provide further information

ES – no adverse comment from PEDW.

Council having instructed Amity Planning drew attention to background monitoring of noise and dust and the appellant undertook some more monitoring.

Position as between the council and the appellant is that there have now been issues associated SOCG – in respect of dust.

You took a point about the issues of dust.

Only one rebuttal – and that was from Katrina Hawkins

EIC – didn't disagree with what she said in rebuttal.

Q: Do you disagree with it?

A: No

Q: Therefore, this is agreed evidence.

Blast and Vibration.

Q: Consistently confirmed the ground vibration limits; and therefore, that the ground vibration limits are those imposed by current limits MTAN1.

A: Agreed

Any of the concerns which you express result from Blast Vibration. Not in technical evidence, but empirical evidence.

A: Yes

Q: Is there a good established set (of) guidance values which are applied by MPAs to control - within acceptable limits - blast vibration – this is founded in the scientific study in the effects of blast vibration?

A: (…)

Q: Then apply planning conditions which are fixed according to locations and the timing of the measurements.

This is the means by which the planning system has and does regulate blast vibration so that the effects are not significant.

A: Yes, and it is based on technical evidence.

Q: Is it based on people's perception of blasting but it is in planning terms otherwise acceptable?

A: This is not necessarily perception it actually is being experienced and there is a distinction to be drawn between the two.

Q: Are you saying that as a matter of fact is something beyond what the guidance says is acceptable, so is in fact unacceptable.

You are either saying that the guidance level is wrong, or that in fact what you are experiencing is above those levels.

The technical evidence provides a level of acceptability in technical and professional terms.

But, the reality is that, notwithstanding that, and that is not something that the council takes issue with, that even from all the expertise the evidence may be available is that the guidance levels applied are wrong.

A: (agreed)

Q: The council's case is a full-on challenge to the guidance which is applied in MPAs throughout the country.

A: All that was provided by third parties yesterday.

All that was provided is that for those individuals, it has a detrimental impact for them.

They were challenging the technical base for what they were experiencing even though - for them it would appear to be unacceptable.

Q: Therefore, you are inviting them (the Welsh Ministers) to find that the guidance is wrong and to dismiss the appeals partly on that basis.

A: The guidance is inappropriate in this case.

Whether it is wrong in this case, if it is wrong as a scientific (…)

Doesn't protect the interest so third parties in the way that it should.

Q: So, the case which you are advancing is a serious case to advance and that the long-established criteria are wrong or inappropriate.

A: This is within the context of the WFGA – was the first of such act anywhere in the world – this was the first and so that re-set the boundaries within which these decisions and all decision making in planning terms in planning contexts are taken and, on that basis, one of the goals, in A Healthier Wales, includes physical and mental wellbeing.

The council's argument is that the mental wellbeing and the school groups are material and are in conflict with that goal.

Q: That is the council's argument and this is your professional opinion too.

A: Yes

Q: Let's go back to the measurements - this is about energy being transmitted through the ground and through the air and has an effect on the receptor.
The essence of the effects of blasting – moves things so that you can feel.

A: Yes.

Q: Your position and the Council's position is that those criteria if adjusted – and that one could come to the point where those effects were acceptable.

A: (confirmed)

Q: If that is going to be your case, what you need to do - is that this is (acceptable), and that this is what the condition is.

At the moment, all I have to deal with is your empirical (account?).

** MBQC – clarified that this was broadening of scope **

A: Clearly, I am not in a position to advise against that you have provided.

Case is not reliant upon – in terms of empirical evidence; the issue of blasting is of concern.

Q: Welsh Ministers need to have a good understanding of what is being suggested.
The guidance here - the accepted guidance should not be applied?

A: Other criteria should be applied.

Q: And that you have taken the view that they can't be achieved and therefore, the appeals fall to be dismissed, in parts by reference to the effects of blasting.

Q: In the decision that it took.

A: The council listened to the community in the decision that it took.

In doing that, and the experience that they have had, and in the context of the appeals and also the track records of the operator, was such that, not only in terms of blasting, with the track record of how it has been operated to date, and particularly in the context of mental wellbeing….

Q: Are the steps which I put to you (1) in this instance, the widely accepted in guidance is not to be applied; (2) that lower standards should be applied; (3) lower standards are not achievable and so, in terms of blasting that contributes to the appeals being dismissed.

A: Agreed

Q: The Council advances that position without the support of expertise.

Without any reference to authoritative document which supports that.

Without reference to any scientific paper or mineral planning discussion article which suggests that might be an appropriate approach.

So, without any support whatsoever.

A: Yes.

Q: That is unreasonable isn't it?

A: No.

Q: It questions whether you have just listed in practical terms - provides the protection of the mental wellbeing of those parties who are impacted – so we get to the 2015 Act again.

A: Yes.

Q: Suppose the Welsh Ministers are glad that he raised the argument, what do you imagine the consequences?

A: Set the focus in any judgement that you have taken on the WFGA – It would emphasise the 7 goals.

It would reaffirm the status of that act relation to PPW edition 11, the National Plan and all plans and DP that flow from it.

Q: I can't say whether those who are familiar with (…) fundamental decision in the past – there are a few - which have been recorded nationally in terms of decision making.

A: It sets the context for that act. It is beyond taking account of that act – it could well be that the LPAs use it as a lead principle.

It sets the uniqueness of the case – does differentiate between physical and mental wellbeing and what you saw and witnessed yesterday.

Q; Principle that they apply?

A: Development has to have regard to the wider legislative framework and that, in mental wellbeing, and as a matter of principle, that would set the tone.

Q: Isn't it then a case of comma ", regardless of the scientific evidence and guidance."

A: Importance and weight to be attached to relative to the evidence.

Noise

Q: Assessed through ES and SES. No deficiency identified in any of those.

A: All agreed.

Q: Committee meeting - No mention of highways dust and blasting – from the transcript.

Relatively little to say about noise.

A: (agree)

Q: Rather the same impression from noise.

Highways (including noise from HGVs); dust and blasting but rather less was said about noise from the quarrying evidence.

MBQC: I got the impression that it might include noise (re evidence of Cllr Simon Pritchard).

Q: Quarrying operations – putting to one side noise effects, and moving the mineral out from

HGVs -any part of members refused permission on?

(…)

Because the RfR does say that the continuation and the impacts of air quality and that you understand that to relate not to HGV noise – and the loading shovel etc.

A: Loading and moving material around the quarry – not explicit to one or the other.

Q: Complaints - in a selection of those – really about loading; and moving material around within the quarry?

A: All the characteristics of the development – including the quarrying network as well as developments on the highway network – it is all embracing.

Q: When you get to go to the quarry for the first time on Monday - you will be able to form a view about this from the evidence.

You will be aware – that the receptors that were Monday - does not always use.

The background has demonstrated that the workings in the quarry are not audible and therefore, it would suggest that this is not about what goes on in the quarry.

(…)

Q: If independent specialists are agreed to go to the quarry and they record that it is not audible; then operations in the quarry are not something which go into your basket of considerations on noise.

A: I think it is audible to an acceptable degree rather than not audible at all.

Q: **APP7/1 – and 7/2** – proof and appendices of Rachel Canham

Page 15 of 46 –

Noise sample measurements without quarry operations.

There, again dealing with the same sites and that it explains to allow noise measurements to be contributed without site activities.
The range obtained was 34-45 at Garth Avenue.

There were a further set of base line operations which are based at table 22.

The conclusion from those additional sets of monitoring in 2021-22

15-minute samples at representative background noise data.

Range of surveys at a long period of time – looking at the background noise levels.
- In two instances not audible; and in Rogart Terrace immediately to the site level
- Agreed position as to the impact on background levels.

A: Yes, not in dispute.

Q: Site operations are concerned - there is no rational basis that site operations have an immaterial effect at all on potential receptors.

A: No – the council is not (…)

Health

Q: What I want to ask you about is the evidence in respect of health effects.

CD4.5 – this is a committee report.

This is one of the reports which went to the committee which is a helpful summary of some of the evidence.

It is dated the 7th October.

Virtual meeting of the planning and development committee – previously considered and then made a planning assessment.

At the bottom of page 111.

Consideration regarding the issue of concern to members which had been set out in full.

Then we look at health and air quality – largest environmental risk to and also understood that the most vulnerable effects are on those which are likely to experience it. There might be parts that might experience it – close to the quarry and ranked as one of the most deprived.

Does this planning assessment fairly set up of the issue and the potential in terms of physical health?

A: Yes.

Air quality objectives.

Q: This is then drawing attention to the PM10s.

That is what is done in respect of air quality in respect of the long paragraph.

(…)

A: Physical health, no.

Q: Dust - same distinction to dis-amenity dust (above 10 microns).

Risk of annoyance dust / dis-amenity dust – annoyance dust may still arise from time to time.

Do you agree with that conclusion?

A: Yes.

Q: The theme then is that there is a remaining matter which is an impact upon mental health. We have referred to air quality, dust, blasting, noise, and the conclusion in that regard, the difference between us, mental health effect which plays out through the 2015 Act which merits refusal.

A: Yes

Q: **CDAPP10/1** Dr Buroni's POE

Deprivation – §2.2.6 – lack of causal link – easy to draw conclusions on sensitivity on sensitive to specific health determinants and pathways.

§2.2.8 – Welsh index of multiple deprivation - further explained at sub para 11.

Q: When you are looking at impacts on a particular community.

Multiple Index of Deprivation – might have the same index but the characteristics for that being so might differ.

In short summary, it is more focused on socio-economic deprivation and less focused on the physical environment.

That is what the numbers say in this instance. (removal of the quarry)

In relative terms, and in terms of socio-economic terms, in relative terms they are worse.

As a matter of approach, do you therefore agree that it is important to bear in mind what the effect would be of the outcome that you contend for.

The outcome that you contend for would be to remove economic activity from the area?

A: In general?

Q: Remove the economic activity of those – those jobs go;
Those families no longer have those good quality jobs;
In the locality.

A: Not residing in the immediate locality.

Yes, not all in the locality, and the number of jobs as being 19 jobs.

One job is important –

Q: Having 19 good quality jobs – is an important factor to take into account?

A: Yes

Q: Also, an important factor to bear in mind that those jobs would cease to exist on the 1 Jan because in terms of notice before Christmas, I would imagine.

Same point from hauliers.

A: Yes, but occasionally have to look for new customers but opportunity of particular contract is gone for anyone.

However, it is a quarry which provides a specified number of quarrying opportunities.

Do understand the impact that they might have.

Q: Might have an impact on mental health –

A: That is conjecture – but I understand that job losses might have an impact.

LPA Proof of Evidence

Q: §4.36 – page 34.

You treat the Act in only two paragraphs of your proof.

One further paragraph –

A: this is drawing back to the reference in the RfR.

Q: This is kind of important because the mental health effects.

A: Playing out through the act.

Q: In your POE do you discuss the expression of the Act through PPW 11?

Do you discuss how the Act plays out in planning terms in planning policy Wales?

A: No, but both are clearly explained.

Q: Because is the way in which the 2015 Act plays out in the planning balance.

Owen Jones' Proof (**APP11.1**) page 17 – interrelationship between PPW and the WBGA.

Q: I want to see if you agree with his 3.5.

Achieving well-being through place making is a theme of PPW which, in part gives effect to the 7 wellbeing goals.

Same question in respect of the first step which is the assessment of proposals against strategic and spatial choice.

A: Yes.

Q: Active and social places and they want well connected and cohesive communities.

A: That is one way in which the 2015 act manifests itself in planning terms.

Q: In productive and entertaining places.

A: §3.26 onwards – distinctive and natural places is a way that manifests itself in PPW.

Q: A Healthier Wales is more important than a prosperous Wales?

A: Yes - and occasionally you get conflicts with the relative interest.

Q: Is that not the first stage to think about all the goals?

A: For example, you need to think about the restoration?

Q: No consideration at all is given to that goal – in the transcript?

We have the very general tenor of it yesterday by MS who made generalised comment that we have the 2015 Act now without looking at what made it up.

A: I think she recognises at looking to the Act – we have to look at the thrust of the Act.

Q: Appellant' opening statement - §35 on page 9.

The result that strongly consistent with the well-being goal.

A: Yes, standards of amenity.

Q: Save for D it is appropriate to refer to (a) – (i) in the way that we do at §35. Do you agree that save in respect of D it is appropriate to look at (a)-(i) in the way that we do at §35?

A: Yes.

Q: Compliance with recognised amenity standards and mental health effects.

A: Undertook to go back to PPW - and where you drew my attention to a particular sentence about the effect of ruling out the form of mineral development.

Page 108 – and we were looking at §5.14.11

Q: If we are applying your approach to weighing the very narrow material consideration that you rely upon and then against all the other material consideration.

Is the upshot not that you will not get (… mineral working)?

A: Can't comment on any site within RCT.

Inappropriate to make any judgment on that basis on the detail of any proposed scheme – that, having regard to these schemes, then it is unacceptable because of the impact.

Q: Only rarely on the basis of significant environmental impacts – the threshold has changed very significantly. Have to have regard to all elements of the proposal for example, outside the 200m buffer zone.

A: We are just concerned we are looking at here is on within the buffer zone.

The only way we could say that was on the basis of the judgment - in this case it believes that the impacts are unacceptable.

Q: If one applies that in circumstances by reference to all objective measures but, by reason of effects upon mental health and putting an emphasis on those aspects of the 2015 Act, then that can become a significant adverse impact. Then that narrows the bar - for not doing minerals in our area.

In your answer you just referred to 200m separation distance and you used the word preclude. I thought we agreed that there would be no precluding of the mineral working within 200m of a dwelling house.

A: No, what we are saying is that the 200m zone has a direct relevance and that any distance at a shorter distance to a sensitive receptor(…). And that it would have to show that it is not dictatorial.

Q: Pick it up in the context of the DP.

CD7.1 – RCT's minerals background paper of 2009.

In that document can we go please to page 12 of the PDF – page 8 of the through pagination.

Ref to Box.

Q: 2.7/2.8 – This was the only site that came forward and the only site that would come forward as this separate case mineral (that was the position in 2009).

A: There would be no other site that could have come forward as a candidate site.

CD7.2 – the examining inspector…

> "12.4 RCT is blessed with an extensive sandstone resource but the only active quarry is at Craig y Hesg, near Glyncoch. Delivery is a key element of the LDP process. Therefore, in the absence of any other active workings, the decision to identify an extension to this quarry in the LDP as a preferred area of known mineral resource (Policy SSA 26 – Preferred Area of Known Mineral Resource) is pragmatic and

sensible. It also accords with national policy by maintaining a deliverable landbank facilitating the supply of an important resource."

Q: Anything you disagree with?

A: No – not at that point in time.

Q: Anything you disagree with today?

A: No.

Q: **CD7.3** – local plan – preferred area.

Page 184 - Preferred area definition.

Q: Reasonably anticipated that planning permission would be forthcoming – that was the understanding.

(A:) I don't put that way because the decision maker is compelled to grant permission.

Q: Page 119 -

Proposals area in hatching.

Q: This is a plan which the public were consulted, and that this was key document for land use changes.

On the basis that there was not a replacement plan. These are expected to be applied rationally.

A: Agree.

Q: Continuing the working of the mineral at the day that the plan is adopted?

A: Yes.

Q: now the council say that the continued working is not in accordance with the DP

A: What is it is saying (and I am referring back to my proof) in SSA25 – this is a pertinent relevant policy within the plan – but there is no compromise on amenity.

Q: On the day that the plan was adopted the quarry was in accordance with the DP.

Continued operation of the quarry, would not be in accordance with the DP.

You say that there is a policy in the DP and that it should be turned away?

A: There is no provision on the compromise on amenity – the policy was adopted some years ago and the appropriateness of the policy, needs to have regard to other changes in

circumstances – and that it will include legislative change – and the time that the plan was adopted, the WFGA was not even embryonic.

Q: Other material considerations – continued operation of the quarry is not in accordance with the DP?

Continued operation of the quarry would be in accordance with the DP?

A: You have to consider the policies in the DP.

Then consider the ones which are relevant.

Then come to a conclusion with the DP so far as the s.73 application is concerned.

(it is reliant on material considerations which outweigh)

Q: Does the same apply in respect of the extension?

A: The extension is not part of the adopted development plan.

Q: Does the extension fall within the SSA 25 – delineation?

A: Is it within the delineation?

Q: Yes, then the extension would accord with the DP?

A: Yes.

Q: But you say it should be turned away because there are other material considerations?

A: There are other policies in the plan – and they can pull in opposite directions.

SSA 25 – and that it accords with the development plan.

The council are saying that all those matters which have to be taken, and then you reach a conclusion.

Q: Is there compliance with the development plan?

A: Yes – there is general compliance.

Weight

Q: Accordance with the DP – attracts the weight that comes with the primacy of the DP.

Therefore, a planning decision maker who is contemplating refusing consent for a proposal which complies with the DP.

They then must be looking for weighty material considerations which comply with the DP.

A: Yes

Q: Let’s then look at what is on the other side of the scale.

There is perceived fear – mental health effects, and those which are supported, on your case, by the 2015 Act.

Is that a fair characterisation of the other side and that is reflected in the RfR.

A: Yes.

Q: Other material consideration?

That refusal would result in an effective landbank of 0.

A: Yes. That is material.

Q: Significant issue (not overriding) but significant.

Matter to which the Welsh Ministers should attach significant/ substantial weight?

A: Yes.

Q: Is it an important material consideration that refusal of consent would remove from the supply nationally a high specification aggregate?

A: Yes.

Q: You would expect them to attach the significant / substantial weight – in MTAN 1.

A: Yes.

Q: So, on those points, you have compliance with the DP and the statutory weight which is attached to that.

You then have two important considerations of the land bank and the nature of the mineral.

Then you have your case on the fear perception that mental health, WFGA.

A: It follows that those matters must be determinative.

Not mentioned the 200m buffer zone.

Q: Yes, I think that we probably have come to the point where there is substantial weight to be placed on the point that you have raised.

And then you have the appropriateness of the weight (whatever weight that is) that is.

A: Yes, it is a relatively simple issue in one regard.

Q: Yes, that is how and why the council made its decision.

A: Yes.

Q: The submission that is going to be made on your evidence is that the matters which you rely upon are determinative.

A: Yes.

Q: In your years of practice, have you ever come across a case which is remotely like the one you have just contended for?

A: Case in Cardiff's authority which was a residential development and which 3P reps – notwithstanding the DP convinced the local Planning authority, then WG then dismissed the appeal.

Q: If (..no..) determinative weight is given to a development compliant scheme in Wales and in the UK (…)

Where in your view does that leave the forward planning system?

A: It enables the DP system to pursued – subsequent adoption to be made.

EiP in those plans there will be more explicit reference to the WFGA.

Taken time for that act to be bedded in.

Personally, involved in looking at the relationship with that act with PPW and the national plan.

Fully understand that there may be a gamechanger in that context.

Q: Chapter 7 – the monitoring and review framework – this provides a framework for rational (…)

Someone who invests 7 years of activity for nationally important mineral needs to understand §7.1 in the context of what you have just explained.

It is not in fact forward planning and that it can be entirely unpicked and it can be started from scratch.

A: No, can't be unpicked.

This is the context of a monitoring and review framework and that this will be saying something in a wider context – that the statement referred to.

Q: Recipe for chaos?

A: No.

Q: Unreasonable?

A: No – there is a change; and that the WFGA does not sit anywhere in any other nation and in my personal experience and those nations and those countries are very keen to understand that in a positive way rather than a negative way.

END

Inspector questions

Q: Future Wales 2040 – do you think that the policy (…) Does it support policy 19?

A: Yes, agree.

Q: Outcome 9 through an up-to-date suite of conditions open to standards – as it is approval-able with conditions and which could effectively monitor and control the track record of the operator to date. What did you mean by track record?

A: When 3Ps have approached with non-compliance attached to previous consents and the Council investigated them.

Q: Did the council investigate?

A: Not impose a notice of non-compliance, however, that was a dialogue.

Q; There was a satisfactory outcome from those discussions?

A: Not a personal employee of the council.

Q: One more point – policies in the development plan. Do you consider that the policies are out of date?

A: General suite which were adopted in March 2011 – and the definition of the time scales and the definition of legislation and guidance and the appropriateness of their guidance.

Buffer zone – and that was the general thrust of the council's position.

Q: Any of the policies which attach to the (…)

A: 'very surprised if they were repeated in the next development plan – I would expect there to be a change'.

Q: Would you expect the statement of policies to carry more weight than the Development plan?

A: And that is open to interpretation.

Q: We have to go back to the adopted plan - and consider what duration (….).

RE EXAMINATION

Q: Policy position about SSA 25; and you then said that there are other policies in the DP…. What did you mean?

A: Policies are listed in his proof at page 17.

AW10 for example, and purely in the context of the SSA25 it (the proposal?) accords, but there are elements of other policies to be taken into account.

Policies can pull against each other.

There are in general compliance with the development plan.

Q: What are the other policies in the development which you had in mind, which you say should be taken into account?

A: Page 17 & 18 – policy CS10, AW5.

Q: What are you saying about whether or not proposal complies with other policies?

A: Policies pull against each other.

AW10 goes against SSA25, but it is about the weight to be given to each.

Not unusual within an adopted LDP.

2.46 on page 19 – Development proposals will not (…).

CS10 – reduction in those standards – residential amenity is pertinent.

Q: What should the inspector conclude regarding the compliance with CS10?

A: Doesn't comply.

Q: And AW5?

A: Does not comply with those criteria.

Q: Therefore, in accordance with the LDP taken overall?

A: The SSA25. –it accords with that –

and CS10 and AW5 ? Doesn't comply.

Q: Where it doesn't comply; what are you advising the Welsh Ministers?

A: Weighing compliance with policy against non-compliance with other policies (..) non-compliance would outweigh compliance.

Q: And that whether or not there is compliance with the LDP taken as a whole?

A: If you do have the development which complies – (..)is it outweighed by the other policies in the plan.

§5.9 of this proof (talking about Appeal B)

Clearly lists the policies that conflict with the DP and I remember referring to the plan which accompanied the adopted plan and it was agreed that the extension was within the boundary - there are issues relating to the development and policies with which it conflicts and my view on the policies do not change.

A: AW10 – and CS10 do represent a conflict with the development plan taken as a whole.

Q: That was dealing with Appeal B?

§5.19 – Appeal A.

Q: Is there any difference in your position on Appeal A and your position on Appeal B?

A: No.

Q: LDP adopted in 2011 was before the ROMP planning permission in 2013 – and the conditions which were imposed and before the planning application which then became Appeal A and was submitted to the council in 2015 – in your appendices are the letters which set out as the empirical evidence.

Letters available or not at the LDP.

A: Not available.

Q: As far as there is any relevance of the empirical evidence in those letters –

A: Their content is then that they are of direct relevance to the case.

Q: Background paper to that preceded the LDP itself – this was CD7.1.

§2.8 – and that this the first part of the paragraph, and that this is the site which is currently coming forward by first spec aggregate.

A: The paragraph then went on as plan making was taking place – the site was not considered a new site to the LDP and, moreover, due to issues surrounding such a use to do with an established quarry. These include…

That is explaining the approach as to why they were not allocating a new quarry, and the way that they set out – and that (….)

Q: CD7.1 internal page 9.

Page 9 on the left-hand site.

paragraph beings with the words ‘however…’

It then goes on… ‘nevertheless…’

A: Indeed, further evidence would be required to show how extraction from this land would accord with national planning guidance.

At the time that the background paper was given, that paper was not there which is why they are talking about further evidence.

Q: What are the issues that you would expect would need to be addressed in that further evidence? IN accordance with the current guidance?

A: Further evidence would be necessary to ensure that they take into account the environmental impacts of the further scheme.

The background paper is dated December 2009 – and that, notwithstanding the fact that no other sites were designated, we (…) . Made an allocation in the local plan however that does not guarantee a planning consent – that can only be achieved through the DM process – through the submission and the planning application process having regard to the necessary evidence that we were asked to produce.

Q: APP 7/1 - the background noise doc – RC POE

A: This was in the context of site activities/ operations as distinct from HGV movements - taking materials from the site

Q: We were asked about the review of the noise monitoring (§12 and §15.19) – this is the last paragraph dealing with the 2013-2017 monitoring.

For the noise activity – site activities were audible and contributed to the background noise levels.

Meter in 2014 – then it goes over the page for noise sample levels of December 2020 (?)

Rogarth Terrace and Garth Avenue. Site activities contribute to background noise levels.

Site operations would have unacceptable effects because of noise from site activity?

Mr Kimblin put to you that there would not be a rational basis that site operations have unacceptable effects before (…) noise.

My note is that you agreed with that propositioning.

What were your reasons for agreement in light of what we have seen.

A: Acoustics consultant evidence - contributed to background noise.

No evidence that the council had brought to counter that claim.

That basis that the council accepts that the noise monitoring exercises - were audible and that they contributed to the background noise levels – but not critical in the context of impact.
No evidence to counter that view.

CD 4.5 – committee report

Q: You were drawn to the passages summarising the views of the public health officer and you said I agree the report fairly describes matters with regard physical health and you put emphasis on the word physical when you gave that answer.

I want to understand why you were emphasising physical when you gave those answers.

A: I do not think that they had regard to the mental health.

It was a response to the physical characteristics of health but were silent on mental health issues.

Doesn't think public health wales gave regard to mental health considerations regarding healthier wales.

END