

**APPEAL REF: APP/L6940/A/20/3265358 &**

**APP/L6940/A/21/3282880**

**Land at Craig yr Hesg Quarry, Berw Road, Pontypridd, CF37 3BG**

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**OPENING STATEMENT ON BEHALF OF THE APPELLANT**

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**INTRODUCTION**

1. There are two appeals before this Inquiry. The result will be a report to the Welsh Ministers who will then make their decision on the two appeals.
2. The subject matter is the quarry at Craig yr Hesg, here in Pontypridd. It is an existing quarry which operates under a set of modern planning conditions pursuant to a ROMP determination of April 2013.
3. There is an appeal which seeks an extension to the existing quarry. It is a consolidating application by which it would include the existing and consented working and the western extension. There is a second appeal which seeks continuation of the existing permitted workings until 31st December 2028. That is achieved by variation of condition and is otherwise referred to as the s73 appeal.
4. Before turning to the appellant's case on the issues which appear from the evidence, we propose to make some broader points about minerals planning and working of the planning process. We do so in order that those who have taken time to attend the Inquiry this morning may know at the outset what the appellant contends is the correct approach to the decision which is to be made.

5. A planning decision is founded in:
  - a. The law
  - b. Policy
  - c. The evidence
  
6. The law requires that decisions are made in accordance with development plan policy unless there are material considerations which indicate otherwise. The policy in the development plan is to be given statutory weight. The development plan policy leads the decision-making. It has primacy.
  
7. The policy is to be found primarily in the local plan for the area and in the national policy for minerals and relevant issues which arise from such development.
  
8. Both local policy and national policy have to grapple with what society needs and to balance that with a range of economic and environmental factors. This inquiry is not concerned with what that policy should be, at either a local or national level. If you are an objector who believes that it is wrong that Craig yr Hesg Quarry is a preferred area for the provision of important minerals to benefit the locality, the region and also nationally, then you are entitled to that view. It is, however, not the subject of this Inquiry. On the contrary, the Welsh Ministers, in making their decision, must decide this case by applying such development plan policy. In other words, there is no part of this inquiry which starts with a blank canvas on which an unconstrained vision of minerals planning may be drawn. Such an approach would fail in the statutory duty to give effect to the development plan.

9. Planning decisions are to be made reasonably. To do that, it is necessary to have regard to the evidence. That means all of the evidence, not just the particular evidence which points to an outcome which fits one particular perspective or the outcome which a party might prefer.
  
10. So far as the evidence is concerned, the planning system, and the specialist disciplines which support it, have well developed guidance for the assessment and control of the effects of development. Here the relevant evidence on effects is concerned with landscape and visual impact, ecology, ground water and surface water, air quality, noise, dust, blasting, highways and the historic environment. That evidence has been prepared in accordance with accepted methods. The assessment of the results has been by reference to recognised standards. That evidence has been provided to statutory consultees and to the public. Specialists within a wide range of public bodies and departments have had a very, very long opportunity to explain why the evidence is either wrong or deficient.
  
11. In respect of each aspect of the evidence, the question is never simply whether there is an effect or not. Rather, the first question is whether the effect falls within recognised standards. If it does not fall within those recognised standards, the second question is whether the effect can be mitigated and/or controlled by the planning system so that it does fall within a range provided by standards and guidance.

12. Likewise, the evidence as to need can be quantified and assessed against the policy which is in place to ensure that the social and economic infrastructure which depends on the mineral is actually feasible and deliverable.

13. These points are all basic. When they are applied, as then must be, it follows that a decision on essential minerals development is not to be taken on the basis of generalised views about the desirability of such development.

14. With those preliminary observations having been made, we turn to introduce the appellant's case on the issues.

#### **THE QUARRY AND THE APPEALS**

15. Craig yr Hesg Quarry is long established. Working commenced in the 1890s. It is on the west side of the Taff Valley, about 1km north of the built-up area of Pontypridd, south of Glyncoch.

16. It produces an aggregate from Pennant Sandstone. It is used largely in surfacing roads by reason of its high polished stone value and aggregate abrasion value. It is one of the highest quality sources of skid -resistant aggregate in the UK.

17. In May 2015, over seven years ago, Hanson submitted a planning application to extend the quarry to the west to provide an additional reserve of 10 million tonnes. At the time of the application, that would have resulted in a reserve of 15.7 million tonnes.

18. In February 2020 Rhondda Cynon Taff's Planning and Development Committee indicated that it would refuse planning permission, contrary to the recommendation of its professional officers. The matter went back to Committee in July 2020 when officers advised that no reason for refusal on grounds of health or air quality impacts was justifiable. The same point was made in respect of highways.
19. The Committee nonetheless refused permission on the basis that the application was not in accordance with Minerals Technical Advice Note 1 in respect of 200 m minimum separation.
20. The Committee did not refuse permission on any issue of principle. The Committee evidently accepted the principle of the scheme, the quarry was a suitable location at which to win and work the mineral.
21. The Committee did not refuse permission because it thought that there was any unacceptable impact which warranted refusal, save to express its view that the scheme as applied for did not accord with MTAN1 so far as a buffer distance is concerned. RCT declined to grant consent with a condition which gave effect to the Committee's view on the MTAN1 buffer, i.e. without prejudice to its position on the issue, the appellant asked the Council to grant consent with a condition which preventing working at a separation distance of less than 200m, but the Council declined to do so.
22. As we know, the Committee then turned away an application to continue working beyond the end of this year, again contrary to the clear and cogent advice of its professional officers.

23. Since that decision, the Council has adopted a variety of cases, the most recent of which is contained in Mr Williams' evidence, the function of which is essentially to defend the Council's costs position.

## **SOME KEY ISSUES**

### **The Scheme**

24. The phasing, method of working, and restoration appear to have gone uncriticised in the very, very long application process. The scheme is not a minerals scheme which has attracted any of the usual difficulties which might be associated with a hard rock quarry: landscape or visual effects; heritage concerns; ecological harm; effects on designations of particular importance; groundwater or surface water impacts.

25. It is in the nature of public inquiries that they tend to concentrate on the points which are said to be negative. In doing so, it is of some considerable importance to keep in mind how very narrow the range of issues is.

### **Need**

26. The SoCG is a helpful document in this regard.

27. The development, i.e. allowing either of the appeals, would meet an acknowledged need for aggregate in a way which is fully consistent with mineral planning policy objectives in respect of the effects of mineral extraction.

28. In particular, we draw attention at this stage to RCT's reliance upon an extension to Craig yr Hesg Quarry to meet its share of regional production. We will take the Inquiry to the relevant parts of the Regional Technical Statements which demonstrate that.

29. The need is not simply a bare need for aggregate. The Pennant Sandstone is recognised as a 'high specification aggregate' of strategic UK importance. Its qualities make it highly effective in surfacing roads. It is a special case in South Wales in terms of supply. Put simply, society needs it in order travel safely.

### **Policy Compliance**

30. Craig yr Hesg Quarry is a feature of the LDP<sup>1</sup>. The Foreword to the LPD tells us:

*"This Local Development Plan is an extremely important document for Rhondda Cynon Taf and provides the framework for decisions to be made up until 2021 on how land is used in the County Borough, for example what type of development is appropriate or desirable and how best to protect our environment. It is the culmination of a major piece of work that has included engaging with the community, stakeholders, and councillors over a number of years and its completion and adoption by the Council is a big milestone for Rhondda Cynon Taf.*

....

*It means that everyone can have a sense of confidence and reliability in terms of what it will look like in the future and will enable this policy and framework to be applied*

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<sup>1</sup> Rhondda Cynon Taff Local Development Plan 2011

*consistently to planning decisions that can affect any of us or all of us, depending on the development in question.”*

31. During the course of the evidence, we shall explore, with some care, the extent and degree of policy compliance and policy support. The Appellant will demonstrate that the development complies with the development plan, and, moreover, is an essential element of that plan. The development gives effect to local plan policies SSA25 and CS 10. It is amply supported and the development is actively encouraged by national planning policy in form of Planning Policy Wales which requires that significant weight is given to high specification aggregate provision<sup>2</sup>. Moreover, in the special case of Pennant Sandstone, the UK importance of the resource is recognised within Minerals Technical Advice Note (Wales) 1<sup>3</sup>.
32. The Appellant will contend that Council’s position as against its own adopted policy is unsustainable and free of any logic. The Appellant will wish to understand, and to hear a clear explanation via the evidence, how the same public body can adopt policy SSA25, after examination, which assumes continuation of an existing development beyond 2022, and then turn it away.
33. The Appellant will further wish to understand, via the evidence, how the Council’s current position is said to be consistent with its position on April 2013 ROMP determination.

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<sup>2</sup> §5.14.23 of PPW 11

<sup>3</sup> §42



34. We shall refer to the Well-being of Future Generations Act 2015. Public bodies have adopted their well-being objectives, framed within the Act's seven well-being goals. None of those objectives can reasonably be said to be a material consideration in these appeals which indicate refusal.
35. When the totality of the well-being goals is considered by reference to these appeals, the result is a strong indication that consent would be highly consistent with those goals, namely:
- a. Mineral resource to support a productive society
  - b. Avoiding the sterilisation of important resource
  - c. No adverse or unaccepted landscape, ecological or hydrological effects
  - d. Consistency with recognised standards of amenity
  - e. The provision of a recreational route
  - f. Investment in community infrastructure
  - g. No harm to the Welsh language
  - h. Support to the economy and particularly to construction
  - i. Efficiency in extraction at an established location

### **Technical Issues**

36. As we have explained at the opening of the Inquiry, we shall call specialist witnesses in respect of noise, air quality/dust, blasting and highways. We say nothing about those issue in opening – there is no contrary expert evidence.
37. Those witnesses will be called. You may have questions for them on their evidence. Unusually, in the context of calling no equivalent evidence of its own, the Council has

indicated that it wishes to ask questions of those witnesses. It is entitled to do so within certain limits. No particular difficulties are anticipated in that regard, though we remain watchful as to potential unfairness.

## **Merits**

38. The appellant will demonstrate:

- a. The Regional Technical Statement, which is required to be produced by MTAN1, concluded that early consideration should be given to allocating additional reserves. That was in 2008;
- b. There is a demonstrable need for the mineral, which is agreed in the terms of the SoCG, particularly at §§9.14 to 9.23;
- c. The site is an existing quarry at which all of the infrastructure to get to, work and process the mineral is in place;
- d. The environmental effects, associated with excavation of a virgin site are avoided by the extension as proposed;
- e. No changes would be made to the existing processing plant;
- f. The output would remain at around 400,000 tonnes per annum for which the highways effects are accepted by the Highways Authority
- g. The restoration scheme would provide for woodland to link with existing established woodland, enhancing the landscape;
- h. Formal access would be provided by a new right of way from Glyncoch westwards to existing rights of way at Darren Ddu Road, also linking with the Pontypridd Circular Walk;
- i. Positive long term ecological gains which are significant at a local level<sup>4</sup>;

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<sup>4</sup> WE ES [Table 7-6, p 121]

- j. The Local Development Plan (2011) identifies the western extension area as a preferred area of known mineral resource (Policy SSA 25);
- k. The site is safeguarded by Policy AW14 which restrains development within 200m buffer zones;
- l. All amenity effects of the quarry have been fully and appropriately assessed and have been shown to be acceptable by reference to recognised guidance, to the satisfaction of expert consultees and independent experts, post appeal;
- m. For the reasons we have summarised already, the proposal is sustainable development by reference to the seven well-being goals of the Well Being of Future Generations (Wales) Act 2015;
- n. The proposal accords with the development plan, which is the rational basis for planning decisions<sup>5</sup>, in all material respects;
- o. It was irrational for the Council to adopt and defend the allocation and then to refuse permission in the absence of any substantial evidence to sustain that decision and unreasonable to decline to follow the Council's professional advice, drafted on the basis of detailed evidence which had been very carefully considered.

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<sup>5</sup> LDP at §7.1

## **CONCLUSION**

39. Subject to appropriate conditions and the planning obligation, the western extension should have been consented many years ago. It is extraordinary that it was not, and still more so that the idea of working out the consented reserves was dismissed, as it was. Via this Inquiry we shall demonstrate why that is so.

**RICHARD KIMBLIN QC**

**SIONED DAVIES**

**21<sup>st</sup> June 2022**