

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

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

Note on Restoration as set out in Planning Policy

The Town and Country Planning Act 1990

Schedule 5 of the TCPA 1990 provides that an aftercare condition may either specify the steps to be taken or require that the steps be taken in accordance with a scheme approved by the mineral planning authority. A mineral planning authority may approve an aftercare scheme in the form in which it is submitted to them or may modify it and approve it as modified.

The aftercare period as referred to in the TCPA 1990 means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed.

Planning Policy Wales Edition 11

Planning Policy Wales sets out at 5.14.2:

“The role of the planning authority in relation to mineral extraction is to balance the fundamental requirement to ensure the adequate supply of minerals with the protection of amenity and the environment. The key principles are to: . . . achieving, without compromise, a high standard of restoration and aftercare so as to avoid dereliction and to bring discernible benefits to communities, heritage and/or wildlife, including beneficial after uses or opportunities for enhancement of biodiversity and the historic environment.”

At 5.14.50:

“. . . Planning conditions should ensure that land affected by mineral extraction is restored to a high standard suitable for its agreed after-use at the earliest opportunity, and work begun within six months of cessation of working wherever this is practicable, except where progressive restoration has already commenced.”

At 5.14.56:

“Planning conditions should be able to secure the restoration, aftercare and after-use of mineral sites. Operators and landowners should ensure that sufficient finance is set aside to enable them to meet restoration and aftercare obligations. The full cost of restoration does not need to be put on deposit at the outset, but it should build up commensurate with the programme of activity or extraction. Over long periods of operation ownership can change and financial surety should be encouraged to ensure that there is adequate finance to complete restoration and aftercare requirements . . . For larger sites, irrespective of the mineral type, progressive restoration should be achieved using a stream of funding required at various stages throughout the operation. Operators are encouraged, as a reasonable

alternative, to participate in established mutual funding or guarantee schemes which safeguard against possible financial failure.”

At 5.14.57:

“Sites left unrestored for a long period or delay in legitimate restoration is not acceptable. To address the uncertainty of local communities about the completion of restoration proposals and having regard to the polluter pays principle, wherever it is reasonable to do so, authorities may require financial guarantees as a means of ensuring that sites will be restored properly and in a reasonable time period. An authority may require financial guarantees by way of a Section 106 planning obligation/agreement as part of the approval of planning permission to ensure that restoration will be fully achieved. Some authorities have local legislation to enable them to impose this provision by way of a condition attached to the planning permission. Mineral planning authorities should have regard to the need to avoid imposing costs that are larger or longer than strictly required to meet best standards.”

MTAN1

MTAN1 sets out the following:

104.

“Responsibility for the restoration and aftercare of mineral sites lies with the operator and, in the case of default, with the landowner. Applicants should, therefore, demonstrate with their applications what the likely financial and material budgets for restoration, aftercare and after-use will be, and how they propose to make provision for such work during the operational life of the site. This is important to avoid future dereliction and the possibility that the costs of reclamation of mineral sites might have to be borne by other public or private sources.”

113.

“The aftercare period is five years starting with compliance with the restoration condition or such other maximum period after that compliance as may be prescribed by further regulations; and may relate to any part or phase of the site development.”

117.

“Planning permissions normally run with the land and are not usually personal to the developer. Where a permission is granted, therefore, the conditions should be drafted in such a way that, even if the interest of the mineral operator applying for permission is subsequently disposed of, the requirements for reclamation can still be fulfilled, whether by a new operator or in the case of default, by the landowner. The general principle is that a MPA should take into account whether it is feasible to implement the applicant's reclamation proposals successfully.”

MPA Restoration Guarantee Fund (MPARGF)

The MPARGF provides certainty that in the unlikely event that an MPA member represented by the Fund is unable to meet its financial obligations for restoration, the other members will collectively provide the necessary financial support to make sure the work is completed.

This gives planning authorities a credible alternative in circumstances where they might otherwise feel that a financial bond is needed before planning permission can be granted.

The MPARGF provides a £1m overall guarantee to planning authorities against a restoration default up to a single claim limit of £500k. It applies to all extraction sites operated by Fund members, and a planning authority can submit a claim when the operator of a quarry is unable to meet restoration obligations that arise through a planning condition.

Once an operator becomes a member of the MPARGF, their membership only ceases if they resign or are otherwise excluded from membership of the Mineral Products Association. Claims against the Fund will be eligible for consideration up to 12 months after the member concerned ceases to be a member. Therefore, claims will be accepted if a member becomes insolvent during the 12 months after they cease to be a Fund member.

Appellant's Overview of its Approach to Delivery of Restoration

The attached note from the Appellant sets out the steps taken by them, as operator, to comply with the above in so far as it is applicable to the operator and to provide reassurance to the MPA regarding funding security for restoration of the site.

Craig yr Hesg quarry – an overview of Hanson’s approach to delivery of restoration

1. Hanson UK is a responsible operator with a proven track record in the delivery of high quality restoration of its quarries across the UK. Restoration is undertaken to a variety of after uses ranging from wetland, nature conservation, woodland, grassland, fishing lakes, leisure, and agriculture.
2. At Craig yr Hesg the broad principles of the restoration strategy for the western extension include three main elements, namely:
 - (a) on-site soils would be used for restoration planting in selected locations to reflect the pattern of existing woodland adjacent to the site.
 - (b) quarry benches and faces would be progressively restored during quarry phases, where consistent with operational requirements, with a variety of treatments to enhance the ecological and landscape value of the site; and
 - (c) the quarry floor would be restored using fine granular material /quarry waste, and soils stripped from the extension area.

In view of the recognised ecological potential of restored mineral workings, the main objectives of the restoration proposals are focused on landscape amenity and nature conservation. The restoration strategy is consistent with the approved restoration strategy for the existing Craig yr Hesg quarry. This also reflects nature conservation after use objectives, and the scheme accompanying the extension / consolidation application is based upon applying the same restoration treatments and principles within both the existing quarry and extension area as part of a comprehensive and consistent approach to restoration of the overall site area.¹ There will be a heavy focus on natural regeneration to achieve the desired restoration outcomes.

3. To fund restoration, Hanson accrues a sum of money for each tonne sold which is placed in a restoration account for the site, which is then drawn upon to fund restoration works. This is part of the company’s standard accounting procedures. Each quarry site including Craig yr Hesg has its own restoration account which is in effect ring fenced i.e., restoration funds for Craig yr Hesg can only be used for restoration at this site.
4. In practice, Hanson’s Principal Landscape Manager undertakes a review of the total costs required to complete quarry restoration as per the approved restoration scheme. The total restoration cost is then divided by the total permitted mineral reserves to calculate an accrual rate for each tonne of aggregate sold. Restoration costs and the rate per tonne accrued are

¹ CD1.5 ES-Volume 4 NTS Western Extension – section 2.4

reviewed by the company on a regular basis and, if required, adjusted to ensure that sufficient funds are available to complete restoration pursuant to the approved restoration scheme. The company's accounts are subject to the usual annual external audits which provides verification of the approach taken by the company to fulfil its contractual obligations including meeting its restoration commitments.

5. Furthermore, Hanson is a member of the Mineral Products Association Restoration Guarantee Fund (MPARGF) where planning authorities can call upon funds in the event of default of restoration by an operator through insolvency. The MPARGF has been established for many years being first introduced in 1975 by the Sand and Gravel Association (since merged into the Mineral Products Association). The Fund gives assurance to planning authorities and the public through a financial commitment. It provides a £1,000,000 overall guarantee against restoration default with a single claim limit of £500,000. The Fund has never been called upon.
6. In summary Hanson has well established and robust internal controls to effectively manage the successful delivery of restoration at its quarry sites, including Craig yr Hesg quarry. The MPARGF provides further reassurance to planning authorities and the public that there is an ability to call upon funds in the extremely unlikely event that Hanson could not fulfil its restoration commitments.
7. If, notwithstanding these existing arrangements, Welsh Ministers consider further assurances to be necessary then Hanson is willing to provide a unilateral undertaking which commits the company to maintaining its membership of the MPARGF. Such an undertaking would require Hanson to provide an alternative form of guarantee in the form of a bond or similar in the unlikely event that it leaves the MPARGF.

Mark Page

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Hanson UK

26th June 2022