
Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017

Town and Country Planning (Development Management Procedure) (Wales) Order 2012, as amended

Town and Country Planning Act 1990: Section 78 Appeal

Section 73 application for extension to time limits which regulate operations at Craig yr Hesg Quarry.

Land at Craig yr Hesg Quarry, Pontypridd.

Application Ref: 21/0720/15

Hanson UK

Section 78 Appeal against failure of Rhondda Cynon Taff County Borough Council to determine the application within the prescribed period.

Statement of Case of behalf of Appellant

Final 14 09 21

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1.0 SUMMARY

- 1.1 This Statement of Case (SoC) is submitted in support of an Appeal against the failure of Rhondda Cynon Taff County Borough Council (RCT) to determine a 'Section 73 'time extension' (S73) application within the prescribed determination period.
- 1.2 The application (ref 21/0720/15) sought permission to continue the operation of Craig yr Hesg Quarry (the Quarry) without complying with the current planning conditions which require that the winning and working of minerals or depositing of mineral waste shall cease by 31st December 2022. The application sought to extend the time limit for such quarrying operations by 6 years to 31st December 2028.
- 1.3 Linked to the time limit for quarrying operations, other conditions currently require the submission of a final restoration scheme for the quarry by 31st December 2022, and the implementation of the approved scheme within 2 years of the date of approval or by 31st December 2024, whichever is the sooner. The application also sought to make consequential changes to these conditions which would require the submission of a restoration scheme by 31st December 2028 and the implementation of the scheme within 2 years of the date of approval or by 31st December 2030, whichever is the sooner.
- 1.4 The current time limit of December 2022 is derived from a planning permission for a quarry extension granted in 1993 and was based upon future output assumptions made at that time. Annual output has fluctuated according to market demand, and over a period of nearly 30 years these fluctuations have resulted in a position whereby a reserve of some 3m tonnes remains to be worked (3.3m tonnes as at 31st December 2020).
- 1.5 Based upon an assumed continuation of recent sales of 400,000 tonnes per annum, the existing reserves would provide a remaining life of some 8 years from December 2020 i.e., some 6 years beyond the current end date of December 2022. It follows that in the absence of a permission to extend the life of the quarry by the requested 6 years, a reserve of some 2.5m tonnes would remain unworked at the quarry as at December 2022.
- 1.6 In granting permission for the quarry extension in 1993, the Authority concluded that it was acceptable to work the full reserve referred to in the permission. The only issue which is now preventing the working of that reserve is the time limit, which the Section 73 application sought to amend to allow the completion of the development and restoration of the site as permitted.
- 1.7 The quarry has reached its full limits and there would be no changes to the current working area. The time extension application was a simple request to

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be able to work the remaining reserves as originally permitted, but over an extended timescale of 6 years.

- 1.8 Other than changes necessary to reflect these revised end dates for quarrying and restoration activities, no changes are proposed to any of the remaining existing planning conditions, and, in particular, no changes are proposed to the approved working and restoration scheme, to the pattern of output, or to the hours of working: the change is confined solely to the time limit to allow the remaining permitted reserves to be worked, and to avoid what would otherwise be an unnecessary sterilisation of permitted reserves.
- 1.9 Craig yr Hesg Quarry is a long-established quarry which commenced operations in circa 1890. It is situated on the western side of the Taff Valley, some 1km north of the built-up area of Pontypridd and to the south of the village of Glyncoch.
- 1.10 In 2013, the quarry was the subject of an Environment Act Review of Old Mining Permissions (ROMP Review), the outcome of which was the imposition of an updated schedule of 49 planning conditions which regulate the ongoing operation, and which provide for the restoration of the Quarry. As part of the ROMP determination, no change was made to the end date for quarrying imposed by the 1993 permission.
- 1.11 In determining the ROMP application, RCT were satisfied that the environmental, amenity and well-being effects of the ongoing operation could be successfully regulated by these conditions, supplemented by an Environmental Permit relating to the processing plant, asphalt plant and related operations. This is important in considering whether it is acceptable for the quarry to remain in operation for the requested additional 6-year period.
- 1.12 The Quarry is producing aggregate from a deposit of Pennant Sandstone, which has properties of skid resistance and abrasion which make it particularly suitable for road surfacing in situations where a high degree of skid resistance is needed to minimise the risk of skidding related accidents. These properties are measured in terms of 'polished stone value' (PSV), where aggregate with a PSV of over 58 is regarded as a high skid resistant aggregate. Material with a PSV of over 65 is needed for particularly stressed sites such as certain sections of motorway, interchanges, airport runways etc.
- 1.13 The Pennant Sandstone at Craig yr Hesg Quarry has a Polished Stone Value (PSV) of +68 to 70 and an Aggregate Abrasion Value of <10, making it one of the highest quality sources of skid resistant surfacing aggregate not only in South Wales, but the UK. The products, referred to as 'high specification aggregate' (HSA) are marketed over a relatively wide geographical area, including South Wales and southern England.

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- 1.14 The 2019 Annual Report published by the South Wales Regional Aggregates Working Party (SWRAWP) indicates that RCT had an 11-year landbank of permitted reserves as at December 2019 based upon a 3-year average of sales (2017 – 2019), or a 12-year landbank based upon a 10 year average of sales (2010 – 2019). In the absence of any permissions for the release of additional reserves in the subsequent period, the landbank will have fallen below the minimum period of 10 years required by MTAN1 (ref para 49) by the end of 2020 or 2021 (depending on the sales average used).
- 1.15 An alternative landbank calculation based upon reserves confirmed in the Regional Technical Statement Second Review: September 2020 (RTS2) indicates that the RCT landbank will have declined from 9.83m tonnes at the RTS2 base date of December 2016 to some 6.82 m tonnes at December 2020 (based upon the apportionment figure of 0.753 tonnes per annum), giving a landbank of 9 years at December 2020.
- 1.16 With a continuation of this apportionment figure, the permitted reserves in RCT would reduce to some 5.3m tonnes at December 2022, giving a landbank of 7 years. With the removal of the sterilised reserves at Craig yr Hesg Quarry of some 2.5m tonnes from December 2022 (if a time extension is not granted), the permitted reserve would reduce to some 2.8m tonnes and a landbank of only 3.7 years.
- 1.17 RCT has made a policy commitment to make a contribution towards local, regional and national supplies of aggregate, and to maintain a minimum landbank of crushed rock reserves of 10 years (ref LDP policy CS10). With this national and local policy requirement in place, it would not be appropriate to frustrate the continuity of supply from an established quarry without a compelling reason for so doing, or to exacerbate an already non-complaint landbank period by refusing the time extension request at Craig yr Hesg Quarry.
- 1.18 The Quarry also has an important role to play through the supply of national important high specification aggregates in contributing to the growth of the economy as the country emerges from the Covid pandemic.
- 1.19 The Quarry is also an important employer, with 19 direct and 10 indirect employees and a further 50-60 hauliers. The retention of this employment is important, particularly at a time of growing rates of unemployment as a result of the Covid pandemic.
- 1.20 The S73 application was submitted to RCT on 17th May 2021 and was registered as valid on 24th May. The application was accompanied by an Environmental Statement, Appendices to the ES and a Non-Technical Summary of the ES. The formal acknowledgement of the application confirmed

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that if by 13th September 2021 the Council has not determined the application then an appeal may be lodged.

- 1.21 The application was reported to the Planning & Development Committee of RCT on 26th August 2021. The Planning Officer recommended that the application be approved, and cited the following reasons in support of his recommendation:

PPW11 states that society needs, and will continue to need for the foreseeable future, a wide range of minerals. 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.

MTAN1 states that the overarching objective being to ensure supply is managed in a sustainable way so that the best balance between environmental, economic, and social considerations is struck, whilst making sure that the environmental and amenity impacts of any necessary extraction are kept to a level that avoids causing demonstrable harm to interests of acknowledged importance.

The economic need for the mineral has been clearly demonstrated and without these reserves the Authority would fall below the 10-year landbank required by Policy CS10 of the LDP with no prospect of realistic alternatives being found in the short term. This needs to be balanced against the potential environmental and amenity impacts raised by objectors. In considering those potential impacts it must be noted that the impacts can be controlled to nationally set standards by planning conditions attached to any planning permission.

On balance it is concluded that there is an overriding economic need for the mineral which is not outweighed by any potential environmental and amenity issues.

- 1.22 The Planning Officer's Report also confirmed that no objections had been made by any of the statutory technical consultees.
- 1.23 However, the Committee resolved that the application be refused on the basis of '*detriment to the amenity and well-being of the area*', and that a formal decision be deferred to a subsequent meeting to agree a reason for refusal.
- 1.24 A separate planning application for a lateral extension to Craig yr Hesg Quarry was submitted in May 2015 and was reported to RCT's Planning and Development Committee in February 2020. The Planning Officer also recommended that that application be approved, but this recommendation was similarly not accepted by the Committee who resolved to refuse the

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application, with again a formal decision deferred to allow a reason for refusal to be drafted. The formal decision was not issued until July 23rd, 2020, and this decision is now the subject of a separate appeal (ref APP/L6940/A/20/3265358).

- 1.25 The May 2015 application comprised both a lateral extension to the quarry and a consolidation of the extension area with the existing quarry which would have provided a single planning permission covering the overall area. The application included a related request for an extension of time to complete operations within the existing quarry. If that application had been approved, then the S73 time extension application would not have been necessary.
- 1.26 There was a delay of over 5 months between the Committee resolution to refuse the extension and consolidation application (6th February 2020), and the issuing of a formal refusal decision notice (23rd July 2020). Given this time delay history, the Appellants have concluded that it would be prudent, in the interest of time, to lodge an appeal against the ‘non-determination’ of the S73 time extension application rather than wait an uncertain period of time for a formal decision. This is particularly the case in the context of the limited time remaining up to the current December 2022 end date for quarrying which is the subject of the S73 time extension application.
- 1.27 In summary, the Appellants case is that:
- (i) The current quarrying and related operations are successfully controlled by a schedule of up-to-date modern planning conditions which regulate the existing operation within acceptable limits, and where these or similar conditions could be imposed as part of a time extension permission.
 - (ii) No changes are proposed to the currently approved working and restoration scheme which have been deemed to be acceptable based upon the planning permission which is in place.
 - (iii) The quarry is producing HSA which is a resource of UK importance. It would not be in the interest of sustainable minerals planning to unnecessarily sterilise this currently permitted reserve.
 - (iv) The need for this material is re-enforced by the absence of a required minimum 10-year landbank of permitted reserves, where the current shortfall would be exacerbated by the removal of the remaining reserves at Craig yr Hesg from the landbank if the quarry ceases operation in December 2022.
 - (v) There are no technical objections to the time extension request, which re-enforces the objective view that there is no reasonable basis for resisting the request for the quarry to continue in operations for the requested additional time period.

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- (vi) The Planning Officer has offered his professional judgment to the Planning Committee that the economic need for the mineral has been clearly demonstrated, the effects of quarrying can be controlled to nationally set standards by planning conditions, and that the economic need for the mineral is not outweighed by any potential environmental and amenity issues.
 - (vii) These factors combined present a compelling case for permission to be granted for the requested time extension.
- 1.28 It is anticipated that the issues associated with the respective cases of the Appellants and RCT will be confirmed in a Statement of Common Ground, but the key issues associated with the Appellants case are considered further in this SoC.

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Application Documents and Plans

2.1 The S73 application was submitted to RCT on 17th May 2021 by SLR Consulting Ltd, as planning agents to Hanson UK, and was registered as valid on 24th May under ref no 21/0720/15.

2.2 At the request of RCT, and following correspondence between RCT and the Applicants, the description of the application was confirmed as:

“Continuation of quarrying and related operations without complying with conditions 1-4 inclusive and conditions 45 and 46 imposed on the Environment Act ROMP schedule of conditions issued by RCT Council on 24th April 2013, ref 08/1380/10”.

2.3 The application was accompanied by a letter dated 17th May 2021 which set out the basis of the application and which cross referenced the application plans ref CYH1 – CYH9 inclusive, namely:

- Site Location Plan ref CYH1
- Application Site Plan ref CYH2
- Aerial Photograph ref CYH3
- Current Topographical Survey ref CYH4
- Interim Quarry Development Plan ref CYH5
- Final Quarry Development Plan ref CYH6
- Restoration Concept Plan ref CYH7
- Sections ref CYH8
- Bench Treatment Sections ref CYH9

2.4 The application was also accompanied by an Environmental Statement (ES) as Volume 1, a series of Appendices to the ES as Volume 2; and a Non-Technical Summary of the ES as Volume 3.

2.5 The letter accompanying the application (17th May 2021) confirmed that the application related to conditions 1-4 of an Environment Act 1995 ‘Review of Old Mining Permissions’ (ROMP Review) issued by RCT on 24th April 2013 (ref 08/1380/10) which imposes time limits on the carrying out of the development as follows:

Condition 1 states:

“This consent for the winning and working of minerals or depositing of mineral waste shall expire on 31st December 2022”.

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Condition 2 states:

“Following the expiry of the planning consent all extraction, processing and stockpiling of minerals and depositing of mineral waste shall cease”.

Condition 3 states:

“No later than 12 months following the expiry of the planning consent, or the earlier permanent cessation of winning and working of minerals, as agreed between the mineral operator and the Local Planning Authority, all plant, machinery, hard standings, ancillary workshops, buildings, structures or other works associated with the development shall be dismantled and removed from the site unless otherwise agreed in writing with the Local Planning Authority”.

Condition 4 states:

“No later than 12 months following the expiry of the planning consent or the earlier permanent cessation of winning and working of minerals, as agreed between the mineral operator and the Local Planning Authority, the sale and transportation of any residual stocks shall cease.”

- 2.6 In addition, condition 45 requires that not later than 31st December 2022 the operator shall submit for the written approval of the Local Planning Authority a detailed final restoration scheme, with condition 46 requiring that the approved scheme shall be fully implemented within 2 years of the date of approval or by 31st December 2024, whichever is the sooner. The application includes a consequential request to extend the time limits imposed by these conditions, with the dates stipulated in Conditions 45 and 46 relating to restoration to change to 31st December 2028 and 31st December 2030 respectively.
- 2.7 These conditions form part of a suite of 49 conditions set out in a schedule which now applies to the four historical permissions in place at Craig yr Hesg Quarry granted in 1949, 1965, 1970 and 1993. The quarrying time limit is consistent with the time limit end date referred to on the 1993 permission and was not altered as part of the ROMP Review.
- 2.8 The underlying reason for not seeking a change to the quarrying end date as part of the ROMP Review was that in May 2015 a planning application was submitted for a western extension to the Quarry and the consolidation of the existing permissions into one overall permission covering the existing quarry and extension area. The application included a request for an extension of the current December 2022 end date for quarrying as part of a proposal for the extraction of an additional 10 million tonnes of sandstone, together with the extraction of the remaining reserves in the existing quarry. If permission had been granted, this would have superseded the current ROMP schedule of conditions and the quarrying end date which is included in that schedule as condition 1.

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- 2.9 However, in July 2020, RCT refused planning permission for the western extension development (and indirectly the associated time limit extension). An appeal against that decision was lodged in December 2020 (ref APP/L6940/A/20/3265358), and the matter will be determined by the Planning Inspectorate in due course.
- 2.10 In the meantime, there were remaining reserves at the Quarry of some 3.3m tonnes as at 31st December 2020. Assuming a continuation of recent sales of 400,000 tonnes per annum, the existing reserves would provide a remaining life of some 8 years i.e., some 6 years beyond the current end date of December 2022. It also follows that in the absence of a permission to extend the life of the quarry by the requested 6 years, a reserve of some 2.5m tonnes would remain unworked at the quarry as at December 2022.
- 2.11 If the appeal against the refusal of the western extension development is allowed, then the time limit issue will have been resolved by that means. However, as a contingency, and to avoid the sterilisation of much needed currently permitted reserves, a separate S73 application was submitted to extend the current time limit to allow for the extraction of the remaining permitted reserves.
- 2.12 The S73 application sought to replace the conditions referred to in paragraphs 2.5 and 2.6 above with revised conditions which would read:

[1] The winning and working of minerals and the depositing of mineral waste shall cease by 31st December 2028.

[2] No processing or stockpiling of minerals shall take place after 31st December 2028 or, if sooner, the permanent cessation of the winning and working of minerals.

[3] No later than 31st December 2029 or the expiry of 12 months following the permanent cessation of the winning and working of minerals and the depositing of mineral waste, whichever is the sooner, all plant, machinery, hard standings, ancillary workshops, buildings, structures or other works associated with the development shall be dismantled and removed from the site unless otherwise agreed in writing with the Local Planning Authority.

[4] No later than 31st December 2029 or the expiry of 12 months following permanent cessation of the winning and working of minerals and the depositing of mineral, whichever is the sooner, the sale and transportation of any residual stocks from the site shall cease.

[45] No later than 31st December 2028 or the expiry of 6 months following the permanent cessation of the winning and working of minerals and the depositing of mineral waste, whichever is the sooner, the operator shall submit for the written approval of the Local Planning Authority a detailed final restoration scheme, including drawings to illustrate the proposals for the final restoration of the quarry. The final restoration scheme shall be based upon the restoration

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concept plan ref CYH7, and include, inter alia, the following matters:.....(list of matters unchanged from current condition 45).

[46] The scheme detailed in condition 45 above shall be fully implemented within two years of the date of approval of the scheme or by 31st December 2030, whichever is the sooner, unless otherwise agreed in writing by the Local Planning Authority.

- 2.13 Save for the updating of the conditions relating to scheme submissions referred to below, no changes were proposed to any of the remaining existing ROMP planning conditions.
- 2.14 The letter accompanying the application (17th May 2021) also confirmed that in undertaking the EIA and preparing the application documents it had been recognised that there remained a number of outstanding issues associated with schemes which were required as part of the ROMP schedule of conditions. The required schemes were duly submitted, but it remains the case that not all issues have been resolved. It was thus noted that the S73 application presented an opportunity to re-visit these issues and to attempt to draw all outstanding matters to a conclusion.
- 2.15 In parallel with the submission of the S73 application, additional comments and information were submitted in relation to:
- ROMP condition 22 – Noise Management and Monitoring Scheme
 - ROMP condition 25: Blast Monitoring Scheme
 - ROMP condition 31: Scheme for additional dust minimisation measures (landscape screening) in the vicinity of the primary crusher (ref. ES Appendix 11.6).
 - ROMP condition 42: Wildlife Protection Plan (ref. updated Ecological Management Plan ES Appendix 7.3), and
 - ROMP Condition 43: Interim Restoration Scheme.
- 2.16 The accompanying letter further noted that in the event that the S73 application is approved, then there will be an opportunity to address the respective issues listed above via updated conditions attached to a new S73 permission.
- 2.17 Other than an exchange of correspondence following the publication of the Planning Officer's Report regarding the content of a draft schedule of proposed planning conditions, there was no correspondence between the Applicants and RCT regarding the details of the proposed development or accompanying information.
- 2.18 The application was reported to the RCT Planning & Development Committee on 26th August 2021, with a recommendation that the application be approved subject to conditions and the prior completion of a Section 106 Agreement

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which would provide for Hanson to make a defined financial contribution towards ongoing PM₁₀ monitoring undertaken by RCT.

- 2.19 The content of the Report to Committee and the ensuing decision are discussed in Section 6.0 below.

Relevant decisions regulating operations at Craig yr Hesg Quarry

- 2.20 There have been four other relatively recent decisions relating to operations at the Quarry.
- 2.21 Firstly, in August 2008, an Environment Act 'ROMP' review application was submitted as part of the process of updating the planning conditions regulating the ongoing quarrying and related operations. An EIA was subsequently undertaken, and an Environmental Statement (ES) in support of the application was submitted in July 2010. The ES considered the environmental effects of the ongoing operation and made a series of recommendations for environmental and amenity mitigation measures which could be translated into updated planning conditions. RCT determined the application in April 2013 with the issuing of a schedule of conditions to apply to the current four mineral planning permissions in place at the quarry (ref 08/1380/10). The conditions retained the December 2022 end date for quarrying (and related time conditions) which had been imposed by the 1993 extension planning permission and which comprised one of the permissions which was the subject of the ROMP Review.
- 2.22 Secondly, in August 2013, an application was submitted in accordance with Part 19, Class B of the General Permitted Development Order 1995 which sought the prior written approval of the Authority of detailed proposals for the "siting, design and external appearance" of a proposed replacement asphalt plant to be erected within the processing plant site at the Quarry. The request was considered by the Authority's full planning committee and approval was issued in November 2013 (ref.13/0825/23). The asphalt plant has been installed in accordance with the approved details.
- 2.23 Thirdly, in October 2013, a planning application was submitted which sought permission to undertake improvements to the existing site entrance and access road, which would serve to provide a two-way entrance and exit road from the Quarry. Permission was granted in March 2014 (ref 13/1039/10), and the scheme has been implemented accordingly.
- 2.24 Fourthly, as noted above, in May 2015, an application was submitted for a western extension to the Quarry and the consolidation of the extension area

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with the existing quarry. The application incorporated a request for a time extension to the December 2022 end date to allow the reserves within the existing quarry and extension area to be extracted. If permission had been granted, then the consolidating nature of the application and associated Section 106 Agreement would have superseded the existing permissions and the time limit on the winning and working of minerals prescribed by the existing conditions.

- 2.25 The extension and consolidation application was refused by RCT in July 2020 and an appeal against that decision was lodged in December 2020 (ref APP/L6940/A/20/3265358). The SoC which accompanied that appeal confirmed that it was the intention to submit a S73 application in the Spring of 2021, which would seek permission to extend the quarrying time limit beyond December 2022, with an anticipation that the time extension request would be for a period of 6 years to allow the remaining reserves in the existing quarry to be extracted.
- 2.26 The SoC accompanying the extension and consolidation appeal also confirmed that in the event that planning permission is not granted for the requested S73 time extension, or if a decision is not made within the prescribed time period, then it would be the intention to lodge an appeal against a refusal or against non-determination, as appropriate. It further noted that if an appeal becomes necessary, then a request would be made to conjoin a S73 appeal with the extension and consolidation application appeal, and for both appeals to be heard at the same inquiry.
- 2.27 This is the position which has now been reached, and via the lodging of an appeal against the non-determination of the S73 application, it will be the objective of the Appellants for the two appeals to be conjoined and considered at a conjoined inquiry. Discussions will be held with the Planning Inspectorate and the successor authority 'Planning and Environment Decisions Wales' at the appropriate time regarding the administrative arrangements associated with this.

The Appellant's Case

- 2.28 The merits of the proposed development are to be seen in the following sections of this SoC which describe:
- The working and restoration schemes, the principle of which has been acknowledged to be acceptable via the planning permissions for quarrying which are in place, and via the recent ROMP Review which presented an opportunity to review the acceptability of the schemes in environmental and amenity terms.

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- The measures which are available to mitigate the effects of the scheme which again were the subject of a ROMP Review where RCT were satisfied, via the comprehensive updated schedule of conditions imposed, that the development could proceed in a way which would minimise environmental and amenity effects in an acceptable way.
- The ability to impose the same or similar conditions for the requested extended time period within which to complete the approved quarrying and restoration scheme.
- The application for a western extension to the quarry and consolidation scheme was refused based upon a reason confined to effects associated with development within part of the proposed extension area. No issues were raised in the refusal notice regarding the effects of the ongoing quarrying and processing operations within the existing quarry, noting that operations within the existing quarry formed part of the extension and consolidation application.
- The need for the development as emphasised by a landbank of permitted reserves in RCT which is below the minimum level of 10 years (ref MTAN1 para 49 and adopted RCT LDP policy CS10), and where the inadequate landbank would be exacerbated if the remaining permitted reserves at Craig yr Hesg Quarry are removed from the landbank in December 2022 (if the S73 time extension request is not approved).
- Policy compliance, notably in terms of being in accordance with the development plan with respect to which there is a presumption in favour of permission being granted, compliance with national planning policy in terms of sustainable development, and compliance with more specific mineral planning technical guidance and policy requirements set out in MTAN1 and PPW11; and with wider overarching planning policy set out in related legislation (ref Section 5.0 of this SOC).

2.29 Overall, the scheme is considered to have considerable merit, as evident from the content of the Planning Officers Reports to the August 2021 Committee; the comprehensive analysis undertaken of the issues associated with the development; the absence of objection from technical consultees including public health technical consultees, and the recommendation made to the Planning Committee that permission be granted subject to conditions (as listed) and the prior completion of a Section 106 Agreement, the terms of which in relation to air quality monitoring had been separately agreed in connection with the extension and consolidation application.

2.30 The appeal has been lodged based upon the non-determination of the application within the prescribed period, although the comments of members at the Planning Committee Meeting on 26th August 2021 provides an insight

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into the issues of concern to the members. These issues are briefly considered in section 6.0 of the SoC.

- 2.31 Section 7.0 of the SoC provides a brief response to consultee and third-party comments, noting the absence of objections from technical statutory consultees, and where the Appellant's case is that all environmental and amenity issues relevant to the proposed development can be appropriately addressed by the mitigation measures proposed and can be regulated by planning conditions. This is a view shared by the technical officers at RCT and the consultee regulatory bodies.
- 2.32 However, as at the date of lodging the appeal, copies of the responses from the technical consultees are not available on the RCT Planning Register web site. For the purposes of drafting this SoC, reliance has thus needed to be placed on a summary of the responses as provided in the 26th August 2021 Committee Report. In the circumstances, the Appellants reserve the right to make additional comments in response to the consultee replies when full copies are made available.

3.0 PROPOSED DEVELOPMENT

3.0 THE PROPOSED DEVELOPMENT

Quarry Development and Restoration Strategy

- 3.1 The currently approved quarry development plans (which accompanied the ROMP application) illustrated the site as existing in 2010, with a series of quarry phasing plans showing the anticipated progress of quarrying at 2010, 2014, 2016, and a final extent of quarrying upon completion of extraction of the permitted reserves.
- 3.2 With the passage of time, the plans accompanying the current Section 73 application represent an update within this approved context to illustrate:
- the site as existing at the end of 2020 (plan ref CYH4)
 - a final quarry layout which is consistent with the approved quarry layout (plan ref CYH6); and
 - an intermediate development plan illustrating the quarry layout at a general mid-way point between the current 2020 circumstances and the final quarry layout (plan ref CYH5).
- 3.3 The submitted plans thus update rather than revise the currently approved quarry development scheme.
- 3.4 The Quarry has reached its full permitted lateral and depth limits, and no new areas of quarrying would be associated with the requested time extension and completion of the approved working scheme. The remaining development would be confined to working back the faces and benches at the medium and lower levels of the quarry to the defined final positions, with then the implementation of the approved restoration strategy.
- 3.5 The approved restoration strategy for the Quarry is illustrated on plan ref A057337/9a which is cross referenced in ROMP condition 45. A number of very minor updates were made to the restoration strategy via plan ref CYH7 which accompanied the S73 application, but none of the changes are of any substance, and the strategy remains essentially unchanged in terms of the restoration land uses and the proposed treatment of the quarry faces, benches and quarry floor.
- 3.6 It is, however, to be noted that the restoration strategy as approved can only be delivered if the reserves are worked out as approved to create the landform upon which the restoration strategy is based. If the time extension is not granted and the reserves cannot be worked as planned, then this would create uncertainty with respect to the restoration strategy, and the currently approved

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restoration after uses are unlikely to be capable of being fully delivered in accordance with the currently approved strategy.

- 3.6 Details of the quarry development and restoration strategy are set out in Chapters 3.0 and 4.0 of the ES which accompanied the S73 application, and the details are thus not repeated in this SoC.

Environmental and Amenity Effects

- 3.7 The environmental and amenity effects of a continuation of the development for the requested extended time period were assessed in detail as part of an environmental impact assessment (EIA), as reported in the Environmental Statement (ES) which accompanied the application. Where applicable, each technical study made recommendations for mitigation measures designed to minimise the effects of the development, primarily based upon existing controls and measures which are themselves consistent with published guidance and standards protective of the environment and health.

- 3.8 Most notably in terms of the concerns subsequently expressed by members of the RCT Planning Committee, this included recommendations for:

- noise limits consistent with the existing ROMP noise limits at three of the four studied receptor locations, but with a lower noise limit proposed for a fourth property (36 Conway Close) based upon updated noise monitoring measurements; (ES Chapter 9.0)
- blast vibration mitigation measures and ground vibration limits which reflect existing ROMP conditions, which themselves reflect Welsh Government advice regarding ground and air-borne vibration from blasting (ES Chapter 10.0); and
- dust / air quality mitigation measures and proposed monitoring arrangements to be supplemented by a Section 106 Agreement by which Hanson would make a financial contribution towards ongoing PM₁₀ monitoring undertaken by RCT (ES Chapter 11.0).

- 3.9 These elements were brought together in Chapter 16.0 of the ES (Environmental Controls and Commitments) which included a schedule of existing monitoring / mitigation measures and commitments which are collectively designed to continue the effective environmental and amenity control measures which are in place, and which would continue to be implemented for the requested S73 extended operational time period.

3.0 PROPOSED DEVELOPMENT

Planning Conditions

- 3.10 The environmental and amenity impacts of the quarry development and restoration scheme are currently being regulated by an up-to-date schedule of modern planning conditions imposed via a ROMP Review, and which have been deemed by RCT to be adequate in controlling the ongoing development to within acceptable levels and limits. These conditions are supplemented by an Environmental Permit which imposes detailed restrictions on the operation of the processing plant, asphalt plant and related operations, with associated monitoring obligations.
- 3.11 These or similar conditions could be imposed / re-imposed as part of a S73 time extension permission, which would be capable of continuing to adequately regulate the effects of the development for the relatively short requested S73 time extension.
- 3.12 This position is evident from the Planning Officer's Report presented to the Planning Committee on 26th August which included a comprehensive schedule of planning conditions which generally mirror the existing controls imposed as part of the ROMP Review, but with a number of minor updates.

3.0 PROPOSED DEVELOPMENT

4.0 THE NEED FOR THE DEVELOPMENT

4.0 THE NEED FOR THE DEVELOPMENT

Minerals Technical Advice Note 1: Aggregates (MTAN1)

- 4.1 Issues associated with the need for the development are to be considered in the context of the sustainability principles of the Well Being of Future Generations Act 2015 (WBFGA) and the planning policy requirements of PPW11 which synergise with the WBFGA goals and objectives (referred to in Section 5.0 of this SoC).
- 4.2 This section sets out the position relating to mineral need in terms of the Regional Technical Statements (RTS) and the resource provision to be made by RCT as their contribution towards aggregate supply; the mineral provision made by the adopted development plan (RCT Local Development Plan 2011) consistent with the requirements of the RTS; and general policy issues relating to aggregate supply which provide a context for, and which are relevant to, the sustainable development principles.
- 4.3 Minerals Technical Advice Note 1: Aggregates (MTAN1) confirms that the overarching objective of planning policy for aggregate provision is “*to ensure that supply is managed in a sustainable way so that the best balance between environmental, economic and social considerations is struck, while making sure that environmental and amenity impacts of any necessary extraction are kept to a level that avoids demonstrable harm to interests of acknowledged importance*” (reference paragraph 7).
- 4.4 It seeks to meet this objective via 5 principles of ‘sustainable minerals planning’ set out in the then Minerals Planning Policy Wales and reiterated in Planning Policy Wales Edition 11 (PPW11 - ref section 5.14). This includes the goal to provide aggregate resources in a sustainable way to meet society’s needs for construction aggregate in line with objectives to, inter alia, “*ensure planning permissions for future primary extraction are essential and properly planned for in accord with the Regional Technical Statement (RTS)*” (reference MTAN1 ‘Principle A’).
- 4.5 MTAN1 highlights the limited availability of certain aggregates, such as high specification aggregates (HSA) for road construction that have the ability to provide particular levels of surface skidding resistance and durability. The Pennant Sandstone outcrop in South Wales, of which the mineral resource at Craig yr Hseg Quarry is a part, is identified as a resource of UK importance which, notwithstanding the ‘proximity principle’ may justify transportation over long distances because of the national need for the provision of the specific type of material with limited availability (MTAN1 paragraph 42). The RTS, 2008 (discussed below) further notes that this implies that, given suitable safeguards, additional levels of extraction to meet this particular need should be encouraged e.g. as a means of regenerating local economies.

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- 4.6 MTAN 1 provides advice on the landbank of permitted reserves which should be maintained for aggregates, with a reference to a minimum 10-year landbank for crushed rock to be maintained during the entire development plan period (para 49).
- 4.7 This requirement has been embraced by the adopted RCT Local Development Plan (LDP) where Policy CS10 includes a commitment to contribute to the local, regional and national demand for a continuous supply of minerals, without compromising environmental and social issues by *'maintaining a minimum 10 year landbank of permitted rock aggregate reserves throughout the plan period together with an extended landbank in the form of a Preferred Area of Known Mineral Resource'*. (An area within the identified 'preferred area of known mineral resources' was the subject of the May 2015 proposed western extension planning application, which was refused by RCT in July 2020 and which, as noted above, is the subject of an appeal).
- 4.8 MTAN1 also confirms that the Pennant Sandstone in South Wales should be treated as a **'special case'** in terms of supply, and where, as noted above, MTAN1 urges planning authorities to recognise the UK importance of the resource (ref para 42).

Planning Policy Wales Edition 11 February 2011 (PPW11)

- 4.9 Similar advice is set out in PPW11 which notes that high specification aggregates are of importance to the UK and that *'the UK and regional need for such minerals should be accorded significant weight provided environmental impacts can be limited to acceptable levels'* (ref para 5.14.23). It is the Appellants case that environmental impacts are currently being limited to *'acceptable levels'* via the comprehensive schedule of planning conditions imposed by the ROMP Review (and the separate controls in place via the Environmental Permit), and that the need for such minerals which the request for a time extension seeks to address should be accorded the *'significant weight'* referred to.
- 4.10 PPW11 also confirms that it is *'essential to the economic health of the country that the construction industry is provided with an adequate supply of the minerals it needs'* (para 5.14.22).
- 4.11 In terms of ensuring supply' PPW11 confirms that:
'Ensuring the sustainable supply of minerals is a strategic issue which plays a fundamental underpinning role in supporting non-minerals development. Each mineral planning authority should ensure that it makes an appropriate contribution to meeting local, regional and UK needs for primary minerals which reflects the nature and extent of resources in the area and their best and most appropriate use, subject to relevant environmental and other

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planning considerations. For aggregates this should be done under the aegis of the North and South Wales Regional Aggregates Working Parties, whose role is to provide a regional overview of supply and demand and through the framework provided by the Regional Technical Statements for Aggregates' (ref para 5.14.10).

4.12 It continues by noting that:

'The contribution that a resource could make to UK demand where the mineral is of limited or restricted supply or regional demand must be taken into account when taking planning decisions.....' (ref para 5.14.11).

4.13 This is of relevance to the HSA available at Craig yr Hesg Quarry, and the importance of ensuring that the remaining permitted reserves are not sterilised.

Regional Technical Statement (RTS)

4.13 MTAN 1 requires the two Regional Aggregate Working Parties (RAWPS) in Wales to produce a Regional Technical Statement (RTS) to ensure that adequate supply can be maintained, taking into account the sustainability objectives set out in MTAN1. The relevant parts of the RTS should then be incorporated into the individual development plans of the respective Authorities (reference paragraph 50).

4.14 A RTS for the area covered by the South Wales RAWP was produced in October 2008. The RTS considered future demand in the region based upon the existing permitted reserves at the RTS base date (December 2005), using both existing consumption patterns and a 'per capita' / population approach. The regional assessment of demand was then 'apportioned' / subdivided between the constituent MPA's as the minimum contribution towards regional aggregate demand which they should make via existing planned reserves and / or new allocations in their LDPs.

4.15 It is important to emphasise that the assessment of future requirements set out in the original RTS and subsequent revisions (discussed below) all assume the availability of the permitted reserves in existing quarries.

4.16 In relation to RCT, the RTS concluded that early consideration should be given to the need to allocate additional reserves likely to be required in the later part of the 15-year plan period (ref recommendation in section 4.28).

4.17 Consistent with the context provided by the RTS, the adopted LDP (2011) makes provision for a western extension to the Quarry within a 'preferred area of known mineral resources' (ref Policy SSA 25).

4.18 A First Review of the RTS (RTS1) was published in August 2014 and provides a general strategy for the future supply of aggregates based on a minimum

4.0 THE NEED FOR THE DEVELOPMENT

supply requirement of 25 years (15 year period of the RTS + 10 year minimum crushed rock landbank at the end of the 15 year period). It then includes recommendations to each Mineral Planning Authority regarding the minimum quantity of crushed rock aggregate which needs to be provided for within their area (minimum provision), and the total tonnage for any new allocations which need to be made in their Local Development Plans to meet that minimum provision.

- 4.19 These calculations are based upon average sales over a 10-year period (2000 - 2010) and the amount of permitted reserves (landbank) available at 31st December 2010, again noting that for RCT this included the full permitted reserve at Crag yr Hesg Quarry.
- 4.20 Particular mention is made in RTS1 of 'high specification aggregate' (HSA) which serves different markets and is required for distribution over greater distances, notably the skid resistance aggregates derived from the Pennant Sandstone which are essential for road surfacing applications throughout England and Wales (ref RTS1 para 2.8).
- 4.21 In relation to circumstances in RCT, the Regional Annex does not differentiate between general rock aggregate from limestone quarries within RCT (Forest Wood and Hendy Quarry), and the high specification aggregate (HSA) from Craig yr Hesg but assumes combined ongoing sales of some 0.69m tonnes of rock per annum (sandstone and limestone). This results in a requirement as at December 2010 for a minimum provision of 17.25m tonnes of rock, calculated over the 25-year time horizon. When compared with a landbank of 13m tonnes at December 2010, this gave a residual requirement for a minimum allocation in the RCT LDP of 4.25m tonnes (again assuming the availability of the full permitted reserve at Craig yr Hesg).
- 4.22 The RTS1 Regional Annex further noted that a new permission for an extension to Forest Wood Quarry had been granted since December 2010 and a preferred area has been identified in the LDP (Craig yr Hesg). It thus concluded that the crushed rock shortfall is already covered by the permission and allocation and that no further allocations are specifically required by the RTS.

(It is to be noted Forest Wood Quarry straddles the administrative boundary between RCT and the adjoining Vale of Glamorgan Council. The extension to Forest Wood Quarry referred to in RTS1 lay entirely within the administrative area of the Vale of Glamorgan. It was thus incorrect to state that reserves from a new permission in an adjoining Authority had assisted in addressing the identified reserve shortfall in RCT. In fact, only the RCT LDP 'preferred area' allocation at Craig yr Hesg Quarry was relevant in meeting the RTS1 minimum required provision for RCT. This anomaly was addressed in RTS2 which

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calculated landbanks for each Authority based upon reserves present within the administrative areas of the respective Authorities).

- 4.23 MTAN1 requires the RTS to be reviewed at 5 yearly intervals, and a final version of an RTS Second Review (RTS2) was issued in October 2020. It was endorsed by the Minister on 24th March 2021, and when endorsed by the LPAs it will form the basis of mineral resource provision to be made in LDP reviews, noting that a LDP review for RCT is scheduled to progress during 2021.
- 4.24 RTS2 indicates an annual requirement for RCT of 0.753m tonnes of crushed rock, which for the 25-year provision period of RTS2 (15 years plus a minimum 10-year landbank at the end of the period), requires a minimum provision for RCT of 18.816m tonnes. With permitted reserves of 9.83m tonnes as at the RTS2 base date of 31st December 2016, this equates to a residual requirement to make an allocation for 8.986m tonnes of new crushed rock reserves in the forthcoming review of the RCT LDP.
- 4.25 Again, it should be emphasised that the calculation included in RTS2 is based upon an availability of the full remaining permitted reserve at Craig yr Hesg Quarry. If a reserve of some 2.5m tonnes is sterilised at Craig yr Hesg by virtue of being unworked at December 2022, then the residual requirement identified in RTS2 would increase by circa 2.5m tonnes to 11.486m tonnes.
- 4.26 It should be further noted that the currently identified 8.896 mt requirement is a minimum required allocation as at the end of 2016. The replacement LDP for RCT is scheduled for adoption in 2024, by which time the Authority's crushed rock landbank will have reduced by 8 years from the position at 2016 which equates to some 6.0m tonnes if consumption remains at around 0.75mt per annum.
- 4.27 This re-enforces the importance of ensuring that existing permitted reserves are fully utilised in making a contribution to supply requirements, with added importance at Craig yr Hesg in terms of the HSA which the quarry provides.
- 4.28 Finally, in May 2021 the South Wales Aggregates Working Party (SWAWP) published a 2019 Annual Report setting out information on sales and reserves as at 31st December 2019.
- 4.29 The Report indicates a landbank of permitted reserves in RCT of 11 years as at December 2019 based upon average sales over a 3-year period (2017 – 2019), or 12 years based upon average sales over a 10 year period (2010 – 2019). In the absence of the release of any additional crushed rock reserves in RCT in the subsequent period, the landbank will have reduced to below the minimum of 10 years either at the end of 2020 or the end of 2021 depending

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on whether a 3-year or 10-year sales average is used (and the precise sales in this period which will influence the average).

- 4.30 These calculations are broadly consistent with information set out in RTS2 which indicated a permitted reserve of crushed rock in RCT of 9.83m tonnes as at December 2016, and a resulting landbank of 13.1 years at the required apportionment rate for RCT of 0.753m tonnes per annum. From this RTS2 base date, the permitted reserves will have declined over the subsequent 4-year period to some 6.82 m tonnes at December 2020 (based upon the apportionment figure), giving a landbank of 9 years at December 2020.
- 4.31 With a continuation of this apportionment figure, the permitted reserves in RCT would reduce to some 5.3m tonnes at December 2022, giving a landbank of 7 years. With the removal of the sterilised reserves at Craig yr Hesg Quarry of some 2.5m tonnes from December 2022 (if a time extension is not granted), the permitted reserve would reduce to some 2.8m tonnes and a landbank of only 3.7 years.
- 4.32 This is evidently very substantially below the MTAN1 requirement to maintain a landbank of at least 10 years throughout the life of the development plan, and, as discussed below, would be contrary to policy in the adopted RCT LDP.
- 4.33 This is a compelling reason in its own right to ensure that the currently permitted remaining reserves at Craig yr Hesg are not sterilised from December 2022 and thereby removed from the landbank, particularly in the context of the HSA quality of the reserves involved.

RCT Local Development Plan (LDP)

- 4.34 The content of the LDP is discussed in section 5.0 below but suffice to note here that in the context of the advice on aggregate resource requirements set out in the original RTS (2008) and cross referenced in RTS1 (2014), the adopted LDP (2011) makes provision for a western extension to Craig yr Hesg Quarry, as a means of meeting RCT's contribution towards long-term future aggregate supplies. Implicit in that provision is a continuation of operations at Craig yr Hesg Quarry beyond December 2022
- 4.35 In the shorter term, the LDP also includes a commitment to maintain a landbank of permitted crushed rock reserves sufficient for at least 10 years (policy CS10). The current landbank position falls short of that minimum landbank requirement, and the shortfall would be exacerbated if the remaining reserves at Craig yr Hesg Quarry are sterilised from December 2022.

5.0 PLANNING POLICY

The Development Plan

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 introduced a requirement that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise: in effect a presumption in favour of granting planning permission for developments which are in accordance with the development plan. This principle has continued through subsequent planning policy iterations, and as discussed below, is at the heart of the most recent version of Planning Policy Wales, Edition 11 (PPW11).
- 5.2 The development plan in relation to the appeal site is the Rhondda Cynon Taf Local Development Plan (LDP) adopted in March 2011.
- 5.3 As part of the preparation of the LDP, Hanson promoted an extension to Craig yr Hesg quarry as a candidate 'preferred area' for future quarrying on the basis that reserves at the existing quarry were likely to be exhausted during the Plan period, and additional reserves needed to be released to allow continuity of production of this important aggregate material. These representations were accepted, and the adopted Plan makes provision for a western extension to the quarry within a 'preferred area of area of known mineral resources' (ref Policy SSA 25).
- 5.4 The accompanying text confirms that Craig yr Hesg is the only operating sandstone quarry in RCT, and that the existing quarry currently produces high specification polished stone value (PSV) or 'skid resistance' Pennant Sandstone. It notes that *'the resource is in high demand and is recognised as being an important high specification aggregate (HSA), i.e. a material suitable for the highly demanding use of road surfacing materials'* (ref para 6.184). The Plan also cross refers to the Regional Technical Statement (2008) which *'identifies the need to allocate additional rock reserves in Rhondda Cynon Taff, to ensure a supply of general hardstone resources over the period of the LDP....'*(ref para 6.185).
- 5.5 The identification in the LDP proposals map of the 'preferred area' as an extension to Craig yr Hesg Quarry is the only allocation of land for future aggregates extraction made in the LDP, which the Plan relies upon as part of RCT's contribution to regional supplies as required by MTAN1 and the RTS. Continuity of extraction at Craig yr Hesg Quarry thus represents the primary minerals strategy of RCT via the LDP. It follows that it would be wholly inconsistent with this strategy for RCT to resist the requested S73 time extension which itself is central to ensuring the required continuity of aggregate supply assumed by the LDP.

5.0 PLANNING POLICY

- 5.6 In the context of the requirements of Section 38(6) of the Planning Act there is a presumption in favour of permission being granted for developments which are in accordance with the development plan. The Craig yr Hesg application is entitled to this favourable presumption. This is re-enforced by the ‘implementation’ section of the LDP (Chapter 7) which confirms that the Plan ‘*provides a framework for rational and consistent decision making*’ and that ‘*it will be the key document in determining development and land use changes in the County Borough in the period up to 2021*’ (ref para 7.1)
- 5.7 The resolution of the Planning Committee on 26th August 2021 to refuse the S73 application against the advice of the RCT Officers does not represent ‘*rational and consistent decision making*’ nor is it consistent with a commitment to the delivery of the land use developments promoted by the Plan.
- 5.8 Policy CS10 includes a commitment to contribute to the local, regional and national demand for a continuous supply of minerals, without compromising environmental and social issues by ‘*maintaining a minimum 10 year landbank of permitted rock aggregate reserves throughout the plan period (to 2021) together with an extended landbank in the form of a Preferred Area of Known Mineral Resource*’ (i.e. the Craig yr Hesg extension area).
- 5.9 The accompanying text notes that minerals impact upon all aspects of our lives, providing resources for construction, roads, energy and our household and commercial needs (ref para 4.90). It continues by recognising that ‘*quarrying can have major impacts upon the environment and landscape and yet are crucial to the nation’s economy*’ (para 4.91). It thus confirms that ‘*the LDP minerals policies will balance the need for safeguarding of nationally, regionally and locally important mineral resources whilst considering their appropriate extraction against the potential impact of such development on residential and sensitive receptors, the landscape and on sites of nature conservation importance*’ (ref para 4.92).
- 5.10 The ‘balance’ in this case should recognise that detailed environmental and amenity controls are in place via a relatively recent ROMP Review and imposition of a comprehensive schedule of 49 conditions. RCT must have been satisfied at the time of determining the ROMP application that these conditions were adequate to regulate the development and that the conditions can be enforced. If as part of the ROMP Review RCT had taken the view that the environmental and amenity impacts of the development were not acceptable, then the opportunity was available to RCT to impose conditions to address any such unacceptable impacts.
- 5.11 No such steps were taken as part of the determination of the ROMP application which re-enforces (a) the conclusion that the environmental and amenity effects can be adequately controlled in accordance with planning policy and (b) that such controls (or similar) could be imposed as part of an approval of the S73 time extension application which would similarly adequately control

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the ongoing development for the relatively short S73 time extension which has been requested.

- 5.12 Core Strategy Policy CS10 also seeks to ensure that impacts upon residential areas and sensitive land uses from mineral operations and transportation are limited to an *'acceptable proven safe limit'*. Such impacts are and can continue to be limited to *'an acceptable proven safe limit'* in this case.
- 5.13 This is re-enforced by Policy AW5 which requires that there should be *'no significant impact upon the amenities of neighbouring occupiers'*.
- 5.14 A similar theme is included in policy AW10, which confirms that development proposals will not be permitted where they would cause or result in a risk of unacceptable harm to health and / or local amenity because of, inter alia, air and noise pollution, *'unless it can be demonstrated that measures can be taken to overcome any significant adverse risk to public health, the environment and / or impact upon local amenity'*. Again, the identified issues have been fully considered as part of the EIA, and measures are in place and can continue to be in place to ensure that the ongoing development will not give rise to *'significant adverse risk'*.
- 5.15 In that context, the S73 time extension does not present any material risk to public health given that all objective environmental limits set to be protective of the most vulnerable members of society are and will continue to be met. The environmental and amenity impacts of the continuation of the operations for the requested S73 time extension period are orders of magnitude lower than would be required to quantify any manifest health outcome. It is considered that this is why no health objection has been submitted by any health technical consultee, and why the Planning Officer advised the Planning Committee that: *'impacts can be controlled to nationally set standards by planning conditions'* and *'there is an overriding need for the mineral which is not outweighed by any potential environmental and amenity issues'*.
- 5.16 The theme of policy designed to protect the amenities of sensitive properties is not that amenity impacts should be eliminated, but that impacts should be minimised to an *'acceptable proven safe limit'* (LDP policy CS10), ensuring no *'significant'* impact or *'adverse risk'*. Similar themes are set out in MTAN1 and PPW11 with reference to ensuring that effects are mitigated to within *'acceptable levels'* (MTAN1 para 85); to *'acceptable limits'* (PPW11 para 5.14.2); and to an *'acceptable standard'* (PPW11 para 5.14.42).
- 5.17 It is the Appellant's case that these requirements are fully discharged via the mitigation measures enshrined within the permitted development scheme and the planning conditions which are in place. In a similar vein, MTAN1 emphasises the need to ensure that any necessary extraction is kept to a level that avoids *'demonstrable harm'*. There is no *'demonstrable harm'* in this case.

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- 5.18 Given that the appeal has been lodged against the non-determination of the application within the prescribed period, it is unclear whether RCT will wish to cite any other planning policies in support of a case which they may wish to advance. Attempts will be made to deal with planning policy via a Statement of Common Ground (SoCG) but the Appellants reserve the right to comment on any other planning policy issues which RCT may wish to raise.

National Planning Policy Context

- 5.19 The Well Being of Future Generations (Wales) Act 2015 (WBFGA) places a duty on public bodies that they must carry out sustainable development. The principle of sustainable development has been at the heart of planning policies since Planning Policy Wales (PPW) was first published in 2002. However, the concept has been expanded and reinforced under the WBFGA to require a process of improving the economic, social, environmental and cultural wellbeing of Wales (Section 2), by taking action in accordance with the sustainable development principle (defined in Section 5), aimed at achieving the well-being goals (listed in Section 4). The WBFGA (Section 3.0) also requires public bodies to set well-being objectives designed to maximise their contribution towards achieving each of the wellbeing goals.
- 5.20 The seven well-being goals seek to secure a prosperous Wales, a resilient Wales, a healthier Wales, a more equal Wales, a Wales of cohesive communities, a Wales of vibrant culture and thriving Welsh language, and a globally responsible Wales. The relevance of the goals will vary depending on the function being exercised by the public body, but they guide the overarching requirements for public bodies to exercise their functions in order to achieve sustainable development.
- 5.21 Section 2 of the WBFGA defines sustainable development as the process of improving the economic, social, environmental and cultural well-being of Wales by taking action in accordance with the sustainable development principle aimed at achieving the well-being goals. Section 5 of the WBFGA defines the sustainable development principle as acting in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. In order to act in that manner, account must be taken of
- (i) the importance of balancing short-term needs, with the need to safeguard the ability to meet long term needs especially where things done to meet short term needs may have detrimental long-term effect.
 - (ii) the need to take an integrated approach by considering how the wellbeing objectives of the public may impact on each of the wellbeing goals.

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- (iii) the importance of involving other persons with an interest in achieving the wellbeing goals.
 - (iv) the need to act in collaboration to meet wellbeing objectives; and
 - (v) deploying resources to prevent problems occurring or getting worse.
- 5.22 These are referred to as the ‘five ways of working’, with elaboration in Planning Policy Wales Edition 11 (PPW11) highlighting the need for policy and development plans to consider the long-term; the integration of policy issues to ensure balanced decisions; collaboration with public bodies and interested parties to secure availability of evidence and assessments; involvement of the public and stakeholders through the planning system; and limiting environmental impacts in the wider public interest.
- 5.23 At the Planning Committee on 26th August 2021 several members of the Committee contended that the development was contrary to the WBFGA but with no explanation as to the basis of the alleged conflict. No reference was made to an underlying sustainability issue in this case of avoiding the sterilisation of currently permitted reserves (which are of UK importance), or to meeting short term needs described in the Planning Officers Report as being ‘clearly demonstrated’ and ‘overriding’, or to the fact in this case that meeting an identified short-term need would not have any detrimental long-term effects. In this case, rather than being contrary to the WBFGA, the Planning Committee’s unfounded contention that the development would be contrary to the WBFGA is itself inconsistent with the WBFGA overarching requirement for public bodies to exercise their functions in order to achieve sustainable development. The extraction of the remaining permitted reserves would also align with the goals of a prosperous Wales, a resilient Wales, and a globally responsible Wales.
- 5.24 The Planning (Wales) Act 2015 introduced a statutory requirement for any statutory body carrying out a planning function to exercise those functions as part of carrying out sustainable development in accordance with the WBFGA for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales. The planning system is therefore necessary and central to achieving sustainable development in Wales.
- 5.25 The Environment (Wales) Act 2016 introduces the concept of ‘Sustainable Management of Natural Resources’ (SMNR) and sets out a framework to achieve this as part of decision making. Natural Resources as defined, includes animals, plants and other organisms, minerals and geological features (reference Part 1 Section 2). Sustainable management of natural resources is defined as using natural resources in a way and at a rate that promotes the achievement of sustainable objectives to meet the needs of

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current generations without compromising the ability of future generations to meet their needs, and to contribute to the achievement of the wellbeing goals in Section 4 of the WBFGA Act.

- 5.26 The Planning and Compulsory Purchase Act 2004 (Section 38 (6)), sets a now well-established requirement that planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. It is also relevant to note that sustainable development requirements are re-enforced by Section 39(2) of the Planning and Compulsory Purchase Act which places a duty on plan makers to exercise their function with the objective of contributing to sustainable development. The adopted RCT LDP (2011) was thus prepared in accordance with that duty. In that respect, whilst the preparation, examination and adoption of the RCT LDP pre-dates the 2015 and 2016 Welsh legislation referred to above, and PPW11 (discussed below), the requirement to act in a sustainable way was well established by the 2004 Act and previous iterations of Planning Policy Wales. The need to maintain a minimum landbank of permitted reserves of 10 years (and the allocation of the Craig yr Hesg preferred area in the RCT LDP) are thus to be regarded as contributing to sustainable development.

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General Principles

- 5.27 PPW11 issued on 11th February 2011 follows the re-drafting of the previous PPW10 in ensuring that it is fully aligned with the sustainable development requirements of the Planning (Wales) Act 2015 and the well-being goals defined in the WBFGA which underpin sustainable development. It seeks to build upon the five ways of working set out in the WBFGA, noting that the planning system is one of the key policy decision-making and delivery mechanisms, and it should seek to maximise the delivery of outcomes against all aspects of well-being/sustainable development, thus seeking to maximise the contribution towards the goals of the WBFGA.
- 5.28 It sets 5 key principles for planning of:
- (i) Growing our economy in a sustainable manner
 - (ii) Making the best use of resources
 - (iii) Facilitating accessible and healthy environments
 - (iv) Creating and sustaining communities
 - (v) Maximising environmental protection and limiting environmental impact (ref PPW11 Figure 3).
- 5.29 PPW11 indicates that these principles enable the goals and ways of working set out in the WBFG Act and Environment (Wales) Act to be realised through planning, and they provide a context and catalyst for the positive delivery of the planning system across Wales (para 2.14).

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- 5.30 PPW11 is structured around the themes of sustainable ‘place making’, with four elements of ‘strategic and spatial choices’, ‘active and social places’, ‘productive and enterprising places’, and ‘distinctive and natural places’. It emphasises that in responding to the key principles for the planning system, development proposals must seek to deliver development that addresses the national sustainable placemaking outcomes, albeit recognising that *‘not every development will be able to demonstrate they can meet all of these outcomes’* (ref para 2.20).
- 5.31 The approach of PPW11 is to firstly to assess proposals against the ‘strategic and spatial choices’ issues and the ‘national sustainable placemaking outcomes’; then to consider the detailed impact and contribution to ‘active and social places’, ‘productive and enterprising places’, and ‘distinctive and natural places’, noting that the consideration within each of these themes will vary on a case-by-case basis depending on the proposal concerned. Finally, the process should result in a proposal which contributes to the creation or sustaining of sustainable places, and which delivers on the national sustainable placemaking outcomes (ref PPW11 Figure 6).
- 5.32 It also confirms that in assessing the sustainable benefits of development, “social, economic environmental and cultural benefits” should be considered in the decision-making process to ensure a balanced assessment in carried out and to implement the WBF GA and sustainable development principles. There may be occasions when one type of benefit of a development proposal outweighs others.
- 5.33 PPW11 seeks to ensure that decisions on development proposals take place in the context of securing sustainable development based on achieving economic, social, cultural and environmental benefits, with development to be designed to achieve ‘sustainable places’, and where development can contribute to the seven wellbeing goals of the WBF GA, and the ‘sustainable management of natural resources’ required by the Environment (Wales) Act 2016.
- 5.34 These are complex inter-relationships, but they are capable of being distilled as part of a consideration of the S73 time extension application.
- 5.35 In terms of the WBF GA goals, it would not be in the interest of sustainability for the currently permitted reserves to be sterilised based upon the fact that the reserve cannot be fully exploited within what is ultimately an arbitrary end-date. In contrast, the completion of extraction of the HSA and the use of that material for high specification uses contributes to the globally responsible, prosperous and resilient goals of the WBF GA. Moreover, by continuing to comply with all objective environmental limits which are protective of health (via continued adherence to the ROMP planning conditions or similar conditions which can be imposed) potential local health impacts would continue to be prevented, noting that no objective evidence of harm impact has

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been presented by any party, and no health objection has been submitted by any health technical consultee or the Planning Officer.

- 5.36 The comprehensive restoration scheme and the nature conservation focus of that scheme contribute to the globally responsible and resilient goals, but also expands and enhances local amenity of value to health and wellbeing, and facilitating healthy, vibrant and sustainable communities.
- 5.37 The economic activity associated with the development contributes to the prosperous, more equal and cohesive communities goals, and specifically in maintaining existing direct, indirect, induced and catalytic income and employment, with significant local and regional socio-economic health ramifications.
- 5.38 The restoration scheme contributes to facilitating the delivery of a more resilient, healthier, more equal and cohesive community goals. However, these benefits would be compromised if a time extension is not granted since the approved restoration strategy is based upon the extraction of the reserves as permitted, which would then create the landform upon which the restoration strategy is based. If the time extension is not granted, then the currently approved restoration after uses are unlikely to be capable of being fully delivered as per the currently approved strategy.
- 5.39 The mitigation measures in terms of air quality and dust controls (including the Dust Mitigation Plan) remove any material impact on public health and contribute towards the delivery of the resilient and healthier goals.
- 5.40 The development would deliver sustainability benefits in terms of economic considerations via the use of a resource of HSA which is a resource of UK importance for which there is an acknowledged need. The environmental considerations include the mitigation of effects to 'acceptable levels'
- 5.41 PPW11 sets 5 key principles for planning, which enables the goals and ways of working set out in the WBFGA to be realised. Of particular relevance is the way in which the time extension and extraction of the remaining reserves would assist with '*growing our economy in a sustainable manner*', with the continued availability of crushed rock aggregate particularly important as the country emerges from the economic recession induced by the Covid pandemic. It would also '*make the best use of resources*' as opposed to unsustainably sterilising those resources if the S73 time extension is not approved.
- 5.42 The continuation of operations via the S73 time extension could be undertaken whilst '*maximising environmental protection and limiting environmental impact*'. The environmental effects of the development have been identified and are capable of continuing to be regulated to '*acceptable levels*' via planning conditions.

5.0 PLANNING POLICY

Minerals Planning Policy (PPW11 Chapter 14)

5.43 PPW11 confirms that:

'Society needs, and will continue to need for the foreseeable future, a wide range of minerals. Minerals are the principal constituents of most construction products, many pharmaceutical, chemical, agricultural, automotive, metallurgical, electronics, aerospace, plastics ceramic and paper products. Construction related minerals and mineral products are particularly important in Wales and are essential for housing and infrastructure, such as schools, roads, railways, airports and flood defences and a steady and adequate supply of materials is necessary' (para 5.14.1)

5.44 It further emphasises that:

'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:

- provide positively for the safeguarding and working of mineral resources to meet society's needs now and in the future, encouraging the efficient and appropriate use of high quality materials;*
- protect environmental and cultural characteristic of places, including those highly cherished for their intrinsic qualities, such as wildlife, landscapes, ancient woodlands and historic features, and to protect human health and safety and general well-being;*
- reduce the impact of mineral extraction and related operations during the period of working by ensuring that impacts on relevant environmental qualities caused by mineral extraction and transportation, for example air quality and soundscape, are within acceptable limits; and*
- 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'* (para 5.14.2).

5.45 In response, a permission for a S73 time extension which would allow the currently permitted reserves to be extracted would *'provide positively for... the working of mineral resources to meet society's needs now'*. The mitigation measures in place would *'protect human health and safety and well-being'*. The impact of mineral extraction can continue to be maintained to *'within acceptable limits'*. A *'high standard of restoration'* can be achieved via the implementation of the approved restoration strategy, but this would become uncertain if the S73 time extension is not approved, meaning that all reserves will not have been worked and an alternative restoration scheme would need to be devised based upon circumstances which would exist in December 2022.

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5.46 As further context, PPW11 notes that:

Mineral working is different from other forms of development in that:

- *extraction can only take place where the mineral is found to occur*
- *it is transitional and cannot be regarded as a permanent land use even though operations may occur over a long period of time; and*
- *when operations cease land needs to be reclaimed to a high standard and to a beneficial and sustainable after-use so as to avoid dereliction and to bring discernible benefits to communities and/or wildlife’ (para 5.14.4).*

5.47 Additional context is provided by paragraph 5.14.42, namely:

‘Mineral workings should not cause unacceptable adverse environmental or amenity impact. Where this is not possible working needs to be carefully controlled and monitored so that any adverse effects on local communities and the environment are mitigated to acceptable limits. Any effects on local communities and the environment must be minimised to an acceptable standard’ (re para 5.14.42).

5.48 It is the Appellants case, supported by responses from the technical consultees at the application stage that continued working within the existing quarry footprint is capable of continuing to be ‘*carefully controlled*’; effects on the local community and the environment can continue to be mitigated to ‘*acceptable limits*’; and in the same way, effects on local communities and the environment can continue to be minimised to an ‘*acceptable standard*’. In this respect, it is important to note that the national planning policy requirement is not to eliminate effects, but to ensure that they are mitigated and minimised to acceptable limits and standards. This requirement has been discharged in this case.

Minerals Technical Advice Note 1: Aggregates (MTAN1)

5.49 MTAN1 provides further advice on the means by which the five key sustainable principles for minerals planning originally set out in Minerals Planning Policy Wales 2000 are to be delivered, and which are now enshrined in the wider sustainability requirements set out in PPW11.

5.50 The first of the first key principles (A) is to provide aggregate resources in a sustainable way to meet society’s needs for construction materials. Resisting the S73 time extension request would not be consistent with this principle.

5.51 MTAN 1 also sets out detailed advice on the mechanisms for delivering the ‘key principle’ of reducing the impact of mineral extraction and related operations during the period of mineral working. This advice was reflected in the drafting of the ROMP Review planning conditions which have proven to be effective in regulating effects to within objective ‘*acceptable limits*’.

Future Wales: The National Plan 2040

- 5.52 Future Wales: The National Plan 2040 was issued by Welsh Government in February 2021 and comprises a national development framework, setting the direction for development in Wales to 2040. As the national development framework, Future Wales is the highest tier of development plan and is focused on solutions to issues and challenges at a national scale. Its strategic nature means that it does not allocate development to all parts of Wales, nor does it include policies on all land uses. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans at local authority level. These plans will identify the location of new infrastructure and development. Strategic and Local Development Plans are required to be in conformity with Future Wales and must be kept up to date to ensure they and Future Wales work together effectively. Future Wales emphasises that planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.
- 5.53 In this respect, Future Wales does not include specific policies relating to mineral extraction or aggregate supply, but it does emphasise the value and importance of the mineral industry at the local, regional and UK levels. It confirms that in 2015 the minerals products industry supported 3,800 jobs directly, almost £650 million of sales/turnover and over £220 million of GVA in Wales. It also confirms that the industry plays a vital role in supporting the Welsh construction sector, which represents 6% of the Welsh economy, provides 88,000 jobs and has a turnover of £3 billion.
- 5.54 It further notes that:
- Aggregates underpin economic growth, providing construction related products essential for the delivery of placemaking, housing and infrastructure. When construction leads to a spike in demand, caused for instance by major infrastructure projects, pressures are placed on the minerals industry to provide the necessary materials. Effective planning ensures that a reliable supply of minerals, which is capable of simultaneously meeting demand in all regions of Wales, is always available. This is vital for our economy and future growth.*
- 5.55 In this respect, it would not be in accordance with Future Wales to restrict the supply of permitted reserves of aggregate from Craig yr Hesg Quarry, where ‘effective planning’ should be ensuring that supply to meet demand is always available.
- 5.56 In terms of future growth, Future Wales identifies Cardiff, Newport and the Valleys as one of three national growth areas (ref Policies 1 and 33) with the Valleys area identified as a priority for a Strategic Development Plan and a national growth area to where development will be directed. Within this strategic framework it is evident that the identified national growth area will

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require aggregate material to support the construction industry to meet the demands of the growth agenda, and thus restricting supply of aggregate from Craig yr Hesg would be wholly inconsistent with this strategy.

Planning Policy Conclusions

- 5.57 PPW11 recognises that mineral extraction can only take place where the mineral is found to occur; it is transitional even though operations may occur over a long period of time; and any adverse effects on local amenity and the environment need to be mitigated to ‘acceptable levels’ and ‘acceptable standards’ (paras 15.14.42 and 15.14.42). A similar test is set out in the development plan with the requirement to mitigate effects to within an ‘acceptable proven safe limit’ (ref policy CS10) and to avoid ‘significant’ impact (policy AW5) and ‘significant adverse risk’ (policy AW10).
- 5.58 The language of the development plan and PPW11 recognise that it is unlikely that the environmental effects of mineral extraction can be fully eliminated, and the requirement is thus to mitigate the environmental impacts of mineral extraction and to ‘carefully control and monitor’ effects (PPW11 para 5.14.42).
- 5.59 The potential amenity and environmental effects have been considered in detail in the ES which accompanied the S73 time extension application, and previously within an ES which accompanied the ROMP Review application. The existing schedule of ROMP conditions have successfully regulated the environmental and amenity effects in a way which is and continues to be in accordance with these policy requirements.
- 5.60 Notwithstanding this conclusion on the way in which environmental effects can be ‘carefully controlled’, planning policy requires that the determination of a planning application needs to consider wider issues as part of an overall planning balance. Uppermost in this is the acknowledged need set out in PPW11 to provide mineral resources to meet society’s needs and to maintain a steady and adequate supply of minerals’ (para 5.14.1). Moreover, and of significance to the HSA available at Craig yr Hesg Quarry, is the requirement that the *UK* and regional need for such minerals should be accorded ‘*significant weight*’ *provided environmental impacts can be limited to acceptable levels*’ (ref para 5.14.23). It is the Appellants case that environmental impacts can continue to be limited to ‘*acceptable levels*’ in this case, they do not present any material risk to public health, and the requested time extension and the sustainable extraction of the remaining permitted reserves is entitled to be accorded the ‘*significant weight*’ referred to.
- 5.61 PPW11 also requires Planning Authorities to ‘*provide positively for the working of mineral resources*’ (para 15.14.2), and ‘*each mineral planning authority should ensure that it makes an appropriate contribution to meeting local, regional and UK needs for primary minerals which reflects the nature and extent of resources in the area*’ (ref para 15.14.10).

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- 5.62 A permission for the requested S73 time extension would '*provide positively*' for the working of the permitted mineral resource and it would assist towards RCTs contribution to local, regional and UK needs. A refusal of the S73 time extension application would be contrary to these policy requirements.
- 5.63 The underlying requirement of the development plan and PPW11 is to ensure that a proper balance is struck between the need for minerals and the protection of existing amenity and the environment. In this case, the need for the mineral is recognised and acknowledged at both a national and local level and is re-enforced by the separate LDP 'preferred area' allocation.
- 5.64 The other element of the balance – protection of amenity and the environment is fully catered for via the existing comprehensive suite of planning conditions which regulate the environmental and amenity effects of the development, and these or similar conditions would be capable of being maintained in place for the requested period of the S73 time extension. With the experience of these existing conditions, the conclusion reached is that the environmental effects can continue to be successfully minimised to within '*acceptable limits*', and they do not constitute any material risk to public health.
- 5.65 The overall planning policy conclusion is that the development would be in accordance with the development plan in term of the sustainability benefits it would bring, the need to maintain a landbank of permitted reserves (and in this case not to unnecessarily sterilise existing reserves which form part of the landbank), and the ability to continue to regulate the development to within acceptable limits. The development is thus entitled to a presumption in favour of planning permission being granted (ref Section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 5.66 In addition, in terms of a wider planning balance, the weight to be afforded to the need for the development; the importance of continuity of supply; the special quality of the high specification aggregate; the economic importance of the development in terms of supply of the high specification aggregate; the absence of any material public health impact, and the socio economic benefits of the development through maintained direct, indirect, induced and catalytic income and employment, are such that the balance should fall heavily in favour of the S73 time extension being approved.

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6.0 DETERMINATION OF THE APPLICATION

6.1 The Application was reported to the meeting of RCT's Planning & Development Committee on 26th August 2021. The Planning Officers Report to Committee is listed as Document 3 within the list of documents set out in Section 8.0 of this Statement of Case (SOC).

6.2 The Application was recommended for approval, with the Planning Officer's reasons for the recommendation set out in paragraph 1.21 above.

6.3 In arriving at the recommendation for approval, the Planning Officer noted that:

"It is important to recognise that this application, if granted, would extend the life of the existing operational area of the quarry by 6 years. Therefore, the continuing impacts of the operation of the existing area are the main consideration in this case and consideration of whether the existing environmental and amenity controls imposed as planning conditions via the ROMP Review remain appropriate for the extended duration of the operation, or whether additional or amended controls are required".

6.4 In considering the acceptability of impacts arising from extending the life of the development, the Planning Officer concluded that the key issues for health, well-being, and amenity in respect of this application are the impacts on air quality due to fine and very fine particulate matter and 'nuisance' dust, blasting and operational noise. These issues were addressed in turn within the Report, where the Planning Officer concluded that *"the effects of the proposal can be mitigated and managed to an acceptable level where they have a minimal impact on sensitive developments surrounding the site"*.

6.5 In relation to 'need', the Planning Officer concluded that:

"There is a clear need for additional reserves of crushed rock to be released in RCT to meet the RTS requirements and comply with policy CS10(1) of the LDP. If existing reserves are no[t] maintained at Craig yr Hesg that need will be exacerbated significantly".

6.6 The Report also summarised responses from objectors and statutory consultees which are considered in Section 7.0 below.

6.7 The recommendation of the Planning Officer was clear and unequivocal. However, all members of the Committee were opposed to the scheme, where the key points raised in opposition were, in summary:

- (i) The development would be contrary to the WBFGA (basis not provided)

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- (ii) Planning policy has not been re-written to reflect the WBFGA (not correct in terms of PPW10 and PPW11)
 - (iii) Planning conditions are not being adhered to (no evidence provided)
 - (iv) The development would be contrary to a Clean Air Act
 - (v) If the development requires a Dust Management Plan then there must be an unacceptable dust problem
 - (vi) The development would provide no economic benefit
 - (vii) There is to be no new road building in Wales and there is thus no need for the stone
 - (viii) Quarries elsewhere can provide supply; and
 - (ix) RCT has done enough historically in terms of coal and sandstone extraction.

6.8 The Committee resolved to refuse the application on the basis of '*detriment to the amenity and well-being of the area*'.

6.9 It was intended that the precise reason for refusal would be reported back to a future Committee at which point the application would be formally determined and a decision notice issued.

6.10 Given the uncertainty with regard to the timing of a formal determination, but also having regard to the clear intent of the Committee to refuse the application, the Appellants have concluded that in the interest of time they should lodge an appeal against non-determination. This SoC accompanies that appeal.

6.11 It is assumed that RCT will formalise their position on the application and confirm a reason for refusal if the application had progressed to a formal determination.

6.12 In the circumstances, the Appellants reserve the right to supplement this SoC depending on issues raised by RCT in a 'position statement' or in their SoC.

7.0 RESPONSE TO CONSULTEE AND THIRD-PARTY COMMENTS

7.0 RESPONSE TO CONSULTEE AND THIRD-PARTY COMMENTS

7.1 The comments from the key statutory consultees are summarised in the 'Consultation' section of the Report presented to Committee on 26th August, with the representations submitted following publicity of the application summarised in the 'Publicity' section of the Report.

7.2 Unfortunately, the link to the planning application available on the 'planning applications' section of the RCT Planning web site does not include copies of the representations from the consultees, as summarised in the Committee Report, nor does it contain copies of the public representations. For the purposes of this SoC and pending the issuing by RCT of the 'appeal questionnaire', reliance is thus placed upon the summary of responses set out in the Committee Report. However, in these circumstances, the Appellants reserve the right to make further comments via either a supplement to this SoC or in evidence to be presented at the inquiry.

7.3 Of particular relevance to the Appellant's case are the absence of objections from the technical consultees as set out below (drawing upon the summary of the response set out in the Committee Report).

7.4 The Public Health, Protection & Community Services Division of RCT confirmed that they had:

"...provided advice on what measures are required to ensure potential impacts from the quarry in terms of air quality, noise and well-being can be prevented, mitigated, or ameliorated as far as reasonably practicable - including a dust management plan and monitoring programme; noise limits, noise management scheme and monitoring programme; limitations on the duration of certain activities and a scheme for communicating with the local community".

7.5 This response highlights four key issues:

- (i) It is apparent from this summary response that the technical advice from RCT's Public Health Division is that the impact from an ongoing operations can be successfully mitigated, and in effect meet the PPW11 planning policy tests of mitigating impacts to an 'acceptable level' and to within 'acceptable standards', and the development plan tests of mitigating effects within an 'acceptable proven safe limit' (ref policy CS10) and to avoid 'significant impact' (policy AW5) and 'significant adverse risk' (policy AW10).

7.0 RESPONSE TO CONSULTEE AND THIRD-PARTY COMMENTS

- (ii) The Public Health Division are satisfied that planning conditions can be enforced to mitigate effects arising from dust and noise, and contrary to the views expressed by some members of the Planning Committee, there is no suggestion that existing planning conditions are not being complied with or that they are ineffective in adequately regulating the development.
- (iii) The comments include a cross reference to a Dust Management and Monitoring Plan (DMMP) which accompanied the application, and which draws together a comprehensive suite of dust management measures which are implicitly acceptable to the Public Health Division.
- (iv) The Report is accompanied by a detailed schedule of proposed conditions which generally mirror the existing ROMP conditions, and which re-enforces the conclusion of the Public Health Division that the development can (continue to) be controlled to within acceptable limits.

7.6 The response from the Cwm Taf Morgannwg University Health Board and Public Health Wales who appear to have made identical comments confirmed that:

“Local air quality is compliant with the relevant PM10 AQO (as measured near the existing site operations) but there is a need for continued air quality monitoring at existing locations. Crucial is the continued implementation of a dust management plan.

Subject to satisfactory checks of the underpinning data used to inform the impact assessments supplied by the applicant, then we have no grounds for objection based upon public health considerations and provided the site is operated using best available techniques to control emissions.

Given that the application seeks to extend the life of quarry operations by years, we would also recommend that the operator seeks to engage proactively with local community residents with regard to information on the monitoring and mitigation of impacts e.g. noise and air quality”.

7.7 This raises three issues:

- (i) The need for continued air quality monitoring is noted, and this is to be catered for via a continuation of monitoring undertaken by RCT at locations in the vicinity of the quarry, with a Section 106 Agreement to be concluded which will make provision for the Appellants to make a defined financial contribution towards the cost of that monitoring.

7.0 RESPONSE TO CONSULTEE AND THIRD-PARTY COMMENTS

- (ii) The Appellants are committed to the continued implementation of dust management controls and included a Dust Management Plan (DMP) as part of the ES accompanying the S73 application (ref ES Appendix 11.7). This draws together the existing dust management controls into a single document, albeit the DMP is also be read in conjunction with the dust minimisation measures set out in the existing ROMP condition 30 which the August 2021 Committee Report recommended to be re imposed as condition 15 within the schedule of conditions accompanying the Report. That condition represents the *'best available techniques to control emissions'* as referred to by Cwm Taf Health Board and Public Health Wales.

There would thus be no issue with these controls continuing in place for the S73 extended duration of operations, and it is noted that the August 2021 Committee Report included a reference to the DMP as condition 12 within the schedule of conditions accompanying the Report. (It should however be noted that this incorrectly refers to a DMP dated 16th August 2017 rather than the DMP which accompanied the S73 application. The August 2017 DMP was submitted as part of the western extension application and includes dust management issues relevant to development in the extension area. The DMP submitted as part of the S73 application is a generally similar document but has been re-drafted to make it relevant to the existing quarry only, and thus relevant to the S73 application area only).

- (iii) The Appellants have committed to engage with the community, but this will require the cooperation of the community. The Appellants have offered to engage, but community representatives have confirmed that they do not wish to engage while the determination of the western extension application is ongoing (now via an appeal process), albeit it is unclear as to whether this is a view shared by the overall community. However, ultimately, dialogue is a two-way process, and the Appellants cannot take positive steps to involve the community without the cooperation of the community.

In the meantime, the Appellants have taken the initiative to set up an enhanced Craig yr Hesg Quarry website which allows for the regular posting of information regarding operations at the quarry. It is intended that it will be of assistance in providing advanced notification of activities, and thereby avoid operations taking place which may give rise to concern simply because they are unannounced. The intention is also to attempt to generally reduce any anxiety founded on a lack of knowledge of the quarry and related activities. (These issues are set out in more detail in Section 16.1 of the ES).

7.0 RESPONSE TO CONSULTEE AND THIRD-PARTY COMMENTS

- 7.8 The response from the RCT Transportation Section confirmed that they raise no objections to the development subject to the developer entering into a legal agreement to provide a financial contribution towards the additional maintenance liability resulting from the heavy goods vehicle movements.
- 7.9 In response, the Planning Officer correctly advised that this was inappropriate on the basis that other and more appropriate avenues are available to recover costs for damage to a public highway (Section 59 of the Highways Act).
- 7.10 Elsewhere, it is noteworthy that no objections have been made by any of the technical consultees, including NRW, CADW, and the Glamorgan Gwent Archaeological Trust. This absence of any technical objection underlines the inherent acceptability of the S73 time extension request based upon objective analysis.
- 7.11 It is however recognised that the application has generated 14 x objections from local residents (and Pontypridd Town Council), who have raised a very wide range of policy, blast vibration, noise, dust and air quality, access and highway issues, concerns regarding potential effects on Glyncoch Primary School, and other issues. Where relevant in terms of material planning issues, each of the topics and issues have been considered in the ES, and related submissions, and the Appellants will draw upon this submitted information in refuting the concerns which have been raised noting, importantly, that the concerns are not supported by RCT officers or the statutory consultees.
- 7.12 As an overview, PPW11 recognises that minerals can only be worked where they are found to occur (para 5.14.4) and by virtue of the nature of mineral extraction operations there will always be some impact on the environment and amenity. The requirement is thus not to provide for mineral development to take place with no impact, but to *'reduce the impact of mineral extraction and related operations during the period of working by ensuring that impacts on relevant environmental qualities caused by mineral extraction and transportation for example air quality and soundscape (noise), are within acceptable limits'* (ref para 5.14.2).
- 7.13 PPW11 further requires that when operations cease, land needs to be reclaimed to a high standard and to a beneficial and sustainable after-use, so as to avoid dereliction and to bring discernible benefits to communities and/or wildlife (para 5.14.2). The requirements are thus to carefully control impacts to within *'acceptable limits'* and to provide reclamation to *'high standards'* with sustainable after uses which bring *'discernible benefits'*.
- 7.14 In this case, the S73 time extension application is confined to a request to extend the duration of operations by 6 years to allow for the extraction of the

7.0 RESPONSE TO CONSULTEE AND THIRD-PARTY COMMENTS

remaining permitted reserves. There would be no changes to the footprint of the quarry development scheme, and no changes to the existing working practices. The current operations are controlled by a comprehensive schedule of planning conditions, which the RCT Public Health Division and Planning Division consider are adequate to regulate the development. The approved restoration scheme would provide a beneficial and sustainable after use with discernible landscape and bio-diversity benefits, but where that scheme could not be implemented as planned if the remaining reserves are not worked.

- 7.15 The extent to which the ongoing development and requested S73 time extension can meet the test of remaining within acceptable limits can be judged from both the responses from statutory consultees and the detailed appraisal in the Planning Officers Report, leading to the recommendation of the Planning Officer that planning permission should be granted.
- 7.16 The Appellant's case is that notwithstanding objections raised by third parties, all environmental and amenity issues relevant to the proposed development can be appropriately regulated by planning conditions. In this regard, the conditions recommended in the Committee report generally mirror those included in the existing ROMP schedule of conditions which have been proven to work effectively, and which RCT were satisfied were adequate at the time of the ROMP determination. There have been no material changes in circumstances since that determination which would justify a refusal of the requested S73 time extension. It is hoped that these issues can be agreed with RCT as part of a Statement of Common Ground (SoCG).
- 7.16 In the event that third parties are represented at an inquiry and secure 'Rule 6' status, then attempts will also be made to agree a SoCG with the Third Parties.

7.0 RESPONSE TO CONSULTEE AND THIRD-PARTY COMMENTS

8.0 DOCUMENTS TO BE REFERRED TO IN EVIDENCE

8.0 DOCUMENTS TO BE REFERRED TO IN EVIDENCE

8.1 The Appellants will refer to the following documents:

1. Application Documents

- a) Application plans (listed in paragraph 2.3 of this SOC); Environmental Statement (ES), Volume 1; ES Appendices, Volume 2; and Non-Technical Summary (NTS) of ES, Volume 3: May 2015.

2. Planning policy and related documents

- Planning Policy Wales Edition 11
- MTAN1
- RTS (2008)
- RTS First Review (2014)
- RTS Second Review (2020)
- RCT LDP and supporting background documents
- RCT LDP Review documents
- SWRAWP Annual Reports
- Relevant legislation

3. Planning Officers report to Committee: 26th August 2021

4. **Responses from Consultees** (to be provided by Planning Authority as part of appeal questionnaire)

5. Other documents, guidance, research and publications

- Craig yr Hesg Quarry ROMP Review schedule of conditions April 2013
- Environmental Permit for processing plant and asphalt plant
- General Permitted Development Order approval of asphalt plant November 2013 (ref. 13/0825/23).
- Planning permission for quarry two-way site entrance and access road: March 2014 (ref 13/1039/10).

8.0 DOCUMENTS TO BE REFERRED TO IN EVIDENCE

- BS 7385-2:1993 Evaluation and measurement for vibration in buildings - Part 2: Guide to damage levels from groundborne vibration.
- BS 6472-2:2008 Guide to evaluation of human exposure to vibration in buildings Part 2: Blast-induced vibration.
- Blast Vibration Monitoring, Prediction and Control at Old Cliffe Hill Quarry. Dr Rob Farnfield Technical Services Manager, EPC-UK and Dr Mark Pegden Technical Services Engineer, EPC-UK. Published by the International Society of Explosives Engineers. 2010
- Welsh Government, Local Air Quality Management in Wales, Policy Guidance, June 2017.
- Defra, Local Air Quality Management, Technical Guidance (TG16), February 2018.
- Institute of Air Quality Management, Guidance on the Assessment of Mineral Dust Impacts for Planning, May 2016 (v1.1)
- All other relevant policy and guidance documents and monitoring reports
- Craig yr Hesg Quarry extension appeal documents, as appropriate (appeal ref APP/L6940/A/20/3265358)
- Appropriate case law and legislation

9.0 CONCLUSIONS

- 9.1 The S73 application is a straightforward request for the currently permitted quarrying and related operations to be allowed to continue for an additional period of 6 years to provide time for the remaining permitted reserves to be extracted.
- 9.2 Other than changes necessary to reflect the requested revised end dates for quarrying and restoration activities, no changes are proposed to any of the remaining existing planning conditions, and no material changes are proposed to the currently approved quarry development scheme or restoration strategy (other than minor updates to the approved plans accompanying the 2013 ROMP determination).
- 9.3 The current quarrying and related operations are successfully controlled by a schedule of up-to-date modern planning conditions imposed via the ROMP Review, which regulate the existing operation to within acceptable limits, and where these or similar conditions could be imposed as part of a S73 time extension permission.
- 9.4 The Quarry is producing HSA which is a resource of UK importance. It would not be in the interest of sustainable minerals planning to unnecessarily sterilise this currently permitted reserve.
- 9.5 PPW11 requires that the UK and regional need for such minerals should be accorded 'significant weight' provided environmental impacts can be limited to 'acceptable levels'. Impacts are and can continue to be limited to 'acceptable levels' in this case, and 'significant weight' should thus be given to the benefits associated with the extraction of the remaining permitted reserves.
- 9.6 PPW11 also requires Planning Authorities to '*provide positively for the working of mineral resources*' and that '*each mineral planning authority should ensure that it makes an appropriate contribution to meeting local, regional and UK needs for primary minerals which reflects the nature and extent of resources in the area*'. This requirement has been embraced by RCT via LDP policy CS10. A permission for the requested S73 time extension would '*provide positively*' for the working of the permitted mineral resource and it would assist towards RCT's contribution to local, regional and UK needs. A refusal of the S73 time extension application would be contrary to these policy requirements.
- 9.7 In addition to the specific importance of the HSA available at the quarry, the general need for RCT to contribute to the supply of crushed rock aggregate is not being met, as highlighted by the absence of a required minimum 10-year landbank of permitted reserves (ref LDP policy CS10 and MTAN1 para 49). The current shortfall below the minimum 10-year landbank would be

9.0 CONCLUSIONS

exacerbated by the removal of the remaining reserves at Craig yr Hesg Quarry from the landbank if the quarry ceases operation in December 2022.

- 9.8 The unnecessary sterilisation of currently permitted reserves which would arise if the requested S73 time extension is not granted would be contrary to sustainable mineral planning and to the sustainability principles enshrined in PPW11 and the WBFGA.
- 9.9 There are no technical objections to the time extension request, which reinforces the objective view that there is no reasonable basis for resisting the request for the quarry to continue in operations for the requested additional time period.
- 9.10 The Planning Officer has offered his professional judgment to the Planning Committee that the economic need for the mineral has been clearly demonstrated, the effects of quarrying can be controlled to nationally set standards by planning conditions, and that the economic need for the mineral is not outweighed by any potential environmental and amenity issues.
- 9.11 The overall planning policy conclusion is that the development would be in accordance with the development plan in term of the sustainability benefits it would bring, it would assist in maintaining a landbank of permitted reserves, and the operation can continue to be regulated to within acceptable limits. The development is thus entitled to a presumption in favour of planning permission being granted (ref Section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 9.12 In addition, in terms of a wider planning balance, the weight to be afforded to the need for the development; the importance of continuity of supply; the special quality of the high specification aggregate; the economic importance of the development in terms of supply of the high specification aggregate; the absence of any material public health impact or 'demonstrable harm', and the socio economic benefits of the development are such that the balance should fall heavily in favour of the S73 time extension being approved.
- 9.13 If, as is assumed, the Appeal proceeds my means of Public Inquiry, evidence will be presented in support of the issues presented in this SoC.
- 9.14 In addition, as noted in paragraphs 2.26 and 2.27 above, the lodging of this non-determination appeal is accompanied by a request to conjoin the S73 appeal with the extension and consolidation application appeal (ref APP/L6940/A/20/3265358), and for both appeals to be heard at the same inquiry. Discussions will be held with the Planning Inspectorate and the successor authority 'Planning and Environment Decisions Wales' at the appropriate time regarding the administrative arrangements associated with this.