

## RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

### MUNICIPAL YEAR 2021-2022:

	Agenda Item No. ....
<p><b>PLANNING AND DEVELOPMENT COMMITTEE</b> <b>10<sup>th</sup> FEBRUARY 2022</b></p> <p><b>REPORT OF: DIRECTOR AND PROSPERITY DEVELOPMENT</b></p>	<p><b>APPLICATION NO: 15/0666</b> - Western extension to existing quarry to include the phased extraction of an additional 10 million tonnes of pennant sandstone, construction of screening bunds, associated works and operations, and consolidation of all previous mineral planning permissions at Craig Yr Hesg Quarry, including an extension of the end date for quarrying and an overall restoration scheme (additional information submitted "Wellbeing and Environmental Health Issues" report), Craig Yr Hesg Quarry, Berw Road, Pontypridd</p> <p><b>APPLICATION NO: 21/0720</b> - Continuation of quarrying and related operations without complying with conditions 1-4 inclusive and conditions 45 &amp; 46 imposed on the Environment Act ROMP schedule of conditions issued by Rhondda Cynon Taf County Borough Council on 24th April 2013 ref:08/1380/10, Craig Yr Hesg Quarry, Berw Road, Pontypridd</p>

#### 1. PURPOSE OF THE REPORT

Members are asked to consider this report in light of the recent advice received by a planning consultancy engaged by the Council to support the Local Planning Authority's refusal of the two applications at appeal and to determine whether the Planning and Development Committee shares the views of the planning consultancy. Members are also asked to clarify certain matters which have been raised by the Appellants as part of the appeals process.

#### 2. RECOMMENDATION

That Members consider the report in respect of these applications, both of which are the subject of an appeal currently lodged with PEDW. Members are asked to determine whether it shares the views of the consultants and to clarify its position in light of matters raised in the Appellant's Statement of Case/Supplementary Statement of Case where it is suggested that the Local Planning Authority has acted inconsistently between the two Appeals.

- That the appeals be contested in the manner prescribed by the Council's engaged planning consultant, and;
- That the alleged (by the appellant) inconsistency between the reason/s for refusal of each application, the subject of the appeals, be addressed as suggested below

### 3. BACKGROUND

Application 15/0666 sought planning full permission both for a western extension to the existing quarry to include the phased extraction of an additional 10 million tonnes of pennant sandstone, construction of screening bunds, associated works and operations and for consolidation of all previous mineral planning permissions at the quarry including an extension of end date for quarrying to 2047 and an overall restoration by 2049. Planning permission was refused on 23 July 2020. Reports to Committee regarding this application form Appendix B to this report

Application 21/0720 sought consent under s.73 for the continuation of quarrying and related operations without complying with conditions 1-4 inclusive and conditions 45 & 46 imposed on the Environment Act ROMP schedule of conditions issued by the Council on 24<sup>th</sup> April 2013 under application reference 08/1380. Revised conditions were proposed which would have allowed continued operations to 2028 (instead of December 2022 as currently authorised). The application was refused on 8 October 2021. Reports to Committee regarding this application form Appendix C to this report

Each application was refused for a different single reason, as set out below:

#### 15/0666

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

#### 21/0720

1. *The additional period of 6 years proposed for the working of the quarry unacceptably extends the period of mineral operations within 200m of sensitive development within Glyncoch. Glyncoch is a deprived community, and such communities are acknowledged as being disproportionately affected by health problems. The continuation of quarrying within 200m of that community extends the impacts of quarrying (especially in terms of noise, dust, and air quality) to the detriment of the amenity and well-being of residents contrary to the well-*

*being goal of a healthier Wales as set out in the Well-being of Future Generations (Wales) Act 2015. The need for the mineral does not outweigh the amenity and well-being impacts.*

Both applications were refused contrary to officer advice. The applicants have appealed against both decisions and to support the decision of the Local Planning Authority at appeal officers have sought independent external planning advice from a planning consultancy. The advice from the planning consultancy is that the Local Planning Authority has reached a conclusion that is justified on planning grounds, albeit that the consultants consider that those grounds cover some wider matters than set out in the reasons for refusal, including the question of non-compliance with policies of the Local Development Plan. Specifically, the appointed agent is of the opinion that in defending the decision of Members it would be appropriate to make reference to Local Development Plan Policies CS10, AW5, AW10, AW14 and SA25. These policies are fully referenced in the attached Statement of Case which forms 'Appendix A' to this report.

In the Appellant's Statement of Case for the Extension Appeal, the appellant has suggested an inconsistency in the second Committee report (9 July 2020) in that it is said that a condition could be imposed to regulate the annual output of the quarry (400,000 tonnes per year), which would be accepted by the appellant, but a condition was not proposed to preclude working within 200 metres of sensitive development. The appellant disputes the need for such a condition but argues (as an alternative) that such a condition could be imposed if the Inspector considers it necessary.

Furthermore, the Appellant's Statement of Case for the Extension Appeal contends that since the Reason for Refusal does not specify any LDP policies it can be deduced that the Council is not relying on any alleged conflict with the policies and proposals of the LDP.

Additionally, in a Supplementary Statement of Case the appellant has suggested that there is some inconsistency between the reasons for refusal for the two applications inasmuch as the reason for refusal of the western extension and consolidation proposals (15/0666) is confined to concerns regarding the encroachment of quarrying operations within 200m of sensitive development and there is no reference or concern expressed with regard to issues associated with the ongoing quarrying or processing in the existing quarry with respect to health amenity or well-being issues; or, to the need for the mineral not outweighing amenity and well-being impacts.

It is considered that there is a need to address this suggested inconsistency and Members are therefore asked to confirm that with regard to the western extension application (15/0666) whilst clear encroachment on to sensitive properties was at the forefront of their thinking, they were also mindful of the wider health and well-being issues and indeed this is reflected in the reports that they based their decision on. Members are also asked to clarify whether their concerns in relation to that application (15/0666) were limited to the new western extension area or also applied to the site overall. Members are also

asked to clarify whether they consider that a condition to preclude extraction or processing within 200 metres of sensitive development would address their concerns.

Members are asked to determine whether they agree with the views on the planning consultancy that: -

In respect of Application 21/0720 – Continuation of Quarrying

- It has not been demonstrated that the quarry operations on the site could be extended from 2022 to 2028 without giving rise to an adverse impact upon the amenity of sensitive development in the immediate proximity of the site, or that suitable controls or compensatory measures could mitigate these amenity impacts to a satisfactory degree.
- In relation to noise, in the absence of comprehensive background noise data, there is no robust assessment of the impact of site operations on nearby sensitive uses and whilst it is noted that noise limits are proposed to be secured by a condition the acceptability of those limits cannot be assessed without up to date background noise data. Any alternative limits would suffer from the same shortcoming.
- In relation to dust, in the absence of comprehensive and up to date monitoring data, there is no robust assessment of the impact of site operations on nearby sensitive properties and uses and whilst it is noted that mitigation measures are proposed to be secured by a condition the acceptability of those limits cannot be assessed without comprehensive and up to date monitoring data. Any alternative measures would suffer from the same shortcoming. Furthermore, it has been identified in the Environment Statement that there will be a risk of “adverse effects” from dust on high sensitivity residual receptors and the Local Planning Authority considers there will be a substantial adverse impact on residential amenity by virtue of dust.
- In failing to evidence the ability to satisfactorily preserve the amenity of adjacent sensitive uses the appeal scheme does not accord with the following policies of the Local Development Plan
  - Criterion (6) of Policy CS10 minerals.
  - Criterion (c) and (d) Policy AW5 new development.
  - Policy AW10 environmental protection and public health.
- To note that whilst the development would not reflect a conflict with Policy AW14 the safeguarding of a mineral does not provide any favourable presumption in favour of extraction.
- To acknowledge that whilst the development proposals are considered to accord with the minerals safeguarding and need criteria of LDP Policies CS10, AW14 and SSA25 the development fails in its requirement to balance this against the requirement to preserve amenity and on balance is not in accordance with the Local Development Plan and that the conflict is not outweighed by other material considerations (as set out in the Statement of Case at Appendix A).

In respect of application 15/0666 – Western Extension

- It has not been demonstrated that the extension of quarrying operations at the site from 2022 to 2047 together with new operations within the proposed western extension area could be satisfactorily undertaken without giving rise to adverse impacts upon the amenity of occupiers/users of sensitive development in the immediate proximity of the site in respect of noise and dust or that suitable controls or compensatory measures could mitigate these amenity impacts to a satisfactory degree.
- In relation to noise, In the absence of comprehensive background noise data, there is no robust assessment of the impact of site operations on nearby sensitive uses and whilst it is noted that noise limits are proposed to be secured by a condition the acceptability of those limits cannot be assessed without up to date background noise data. Any alternative limits would suffer from the same shortcoming. These shortcomings also apply to the extra survey locations at Cefn Heulog and Cefn Primary School.
- In relation to dust, in the absence of comprehensive and up to date monitoring data, there is no robust assessment of the impact of site operations on nearby sensitive properties and uses and whilst it is noted that mitigation measures are proposed to be secured by a condition the acceptability of those limits cannot be assessed without comprehensive and up to date monitoring data. Any alternative measures would suffer from the same shortcoming. Furthermore, it has been identified in the Environment Statement that there will be a risk of “adverse effects” from dust and the Local Planning Authority consider the identified impacts on sensitive receptors is substantial rather than “slight” or “negligible”.
- Having regard to the deficiencies in relation to the assessment of noise and dust impacts, and the failure to demonstrate that the amenities of nearby residents and other sensitive receptors can be adequately protected the Local Planning Authority does not consider that clear and justifiable reasons have been provided for mineral extraction and the related processing and haulage activities to encroach within the 200 metre buffer zone identified in MTAN 1.
- In failing to evidence the ability to satisfactorily preserve the amenity of adjacent sensitive uses the appeal scheme does not accord with the following policies of the Local Development Plan
  - Criterion (6) of Policy CS10 minerals.
  - Criterion (c) and (d) Policy AW5 new development.
  - Policy AW10 environmental protection and public health.
- To note that whilst the development would not reflect a conflict with Policy AW14 the safeguarding of a mineral does not provide any favourable presumption in favour of extraction.
- To acknowledge that whilst the development proposals are considered to accord with the minerals safeguarding and need criteria of LDP Policies CS10, AW14 and SSA25 the development fails in its requirement to balance this against the requirement to preserve amenity and on balance is not in accordance with the Local Development Plan and that the conflict is not outweighed by other material considerations (as set out in the Statement of Case at Appendix A).





## **RHONDDA CYNON TAF COUNCIL PLANNING AND DEVELOPMENT COMMITTEE**

Minutes of the hybrid meeting of the Planning and Development Committee held on  
Thursday, 10 February 2022 at 3.00 pm

### **County Borough Councillors - Planning and Development Committee Members in attendance: -**

#### **Council Chamber**

Councillor S Rees (Chair)

Councillor R Williams

Councillor G Hughes

Councillor W Lewis

#### **Zoom**

Councillor D Grehan    Councillor J Barton

Councillor P Jarman    Councillor S Powderhill

Councillor W Owen    Councillor D Williams

Councillor J Williams

#### **Officers in attendance: -**

#### **Council Chamber**

Mr J Bailey, Head of Planning

Mr S Humphreys, Head of Legal Services

Mr A Rees, Senior Engineer

#### **County Borough Councillors in attendance: -**

#### **Zoom**

Councillor Sheryl Evans

### **189    DECLARATION OF INTEREST**

In accordance with the Council's Code of Conduct, the following declarations of interest were made:

- County Borough Councillor S. Evans declared a personal and prejudicial interest in respect of Application 21/0752 - Change of use from stores and office to one bed dwelling. D G Love Garage, rear of 362 Cardiff Road, Aberaman, Aberdare.

"I live in close proximity to the application site"

- County Borough Councillor D. Williams declared a personal and prejudicial interest in respect of Applications 15/0666 and 21/0720 -

15/0666 - Western extension to existing quarry to include the phased extraction of an additional 10 million tonnes of pennant sandstone, construction of screening bunds, associated works and operations, and consolidation of all previous mineral planning permissions at Craig Yr Hesg Quarry, including an extension of the end date for quarrying and an overall restoration scheme (additional information submitted "Wellbeing and Environmental Health Issues" report). Craig Yr Hesg Quarry, Berw Road, Pontypridd

21/0720 - Continuation of quarrying and related operations without complying with conditions 1-4 inclusive and conditions 45 & 46 imposed on the Environment Act ROMP schedule of conditions issued by Rhondda Cynon Taf County Borough Council on 24th April 2013 ref:08/1380/10. Craig Yr Hesg Quarry, Berw Road, Pontypridd

"I am a member of the action group that is against the development of the quarry"

## **190 HUMAN RIGHTS ACT 1998 AND DEVELOPMENT CONTROL DECISIONS**

It was **RESOLVED** to note that when Committee Members determine the development control matters before them, they should have regard to the Development Plan and, so far as material to applications, to any other material considerations and when taking decisions, Members have to ensure they do not act in a manner that is incompatible with the convention on Human Rights as incorporated into legislation by the Human Rights Act 1998.

## **191 WELLBEING OF FUTURE GENERATIONS (WALES) ACT 2015**

It was **RESOLVED** to note that the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle and to act 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.

## **192 MINUTES 16.12.21**

It was **RESOLVED** to approve as an accurate record, the minutes of the meeting of the Planning and Development Committee held on the 16<sup>th</sup> December 2021.

## **193 APPLICATION NO: 21/0752**

**Change of use from stores and office to one bed dwelling. D G Love Garage, rear of 362 Cardiff Road, Aberaman, Aberdare**

In accordance with adopted procedures, the Committee received Mr J Sexton (Applicant) who was afforded five minutes to address Members on the above-mentioned proposal.

Having earlier declared a personal and prejudicial interest in the application (Minute No. 189), Non-Committee/ Local Member, County Borough Councillor S. Evans exercised the right to address the Committee under 14(2) of the Code of



Conduct on the application and put forward her concerns in respect of the proposed development and left the meeting for its deliberation.

The Head of Planning outlined the contents of 7 'late' letters received from local residents in support of the application.

The Head of Planning presented the application to Committee and following consideration it was **RESOLVED** to approve the application in accordance with the recommendation of the Director, Prosperity and Development.

**194 APPLICATION NO: 21/1573**

**Change of use from commercial to convenience store with a single storey extension & alterations - Resubmission of 21/0883/10. Trealaw Tyres, Brithweunydd Road, Tonypandy**

In accordance with adopted procedures, the Committee received Ms T John (Objector) who was afforded five minutes to address Members on the above-mentioned proposal.

The Head of Planning presented the application to Committee and following consideration it was **RESOLVED** to approve the application in accordance with the recommendation of the Director, Prosperity and Development subject to the inclusion of three additional conditions. The first additional condition requiring vehicle restraint barriers and/or bollards to protect safe pedestrian movement on the highway, the second additional condition requiring the provision and operation of a one-way 'In and Out' arrangement for access on the site frontage and the final additional condition requiring the submission to and agreement of a Delivery Management Plan to the Local Planning Authority before the development is brought into beneficial use.

**195 APPLICATION NO: 15/0666 and 21/0720**

**15/0666 - Western extension to existing quarry to include the phased extraction of an additional 10 million tonnes of pennant sandstone, construction of screening bunds, associated works and operations, and consolidation of all previous mineral planning permissions at Craig Yr Hesk Quarry, including an extension of the end date for quarrying and an overall restoration scheme (additional information submitted "Wellbeing and Environmental Health Issues" report). Craig Yr Hesk Quarry, Berw Road, Pontypridd**

**21/1573 - Continuation of quarrying and related operations without complying with conditions 1-4 inclusive and conditions 45 & 46 imposed on the Environment Act ROMP schedule of conditions issued by Rhondda Cynon Taf County Borough Council on 24th April 2013 ref:08/1380/10. Craig Yr Hesk Quarry, Berw Road, Pontypridd**

Members were asked to consider the report in light of the recent advice received by a planning consultancy engaged by the Council to support the Local Planning Authority's refusal of the two applications at appeal and to determine whether the Planning and Development Committee shared the views of the planning consultancy. Members were also asked to clarify certain matters which have been raised by the Appellants as part of the appeals process.

Members gave consideration to the report of the Director, Prosperity and Development and confirmed:

- With regard to the western extension (15/0666), whilst clear encroachment on to sensitive properties was at the forefront of their thinking, Members were also mindful of the wider health and well-being issues and indeed this is reflected in the reports they based their decision on;
- that their concerns in relation to the western extension application (15/0666) were not limited to the new extension area but applied to the site overall;
- that the imposition of a condition to preclude extraction or processing within 200m of sensitive development would not address their concerns; and
- that they endorsed the views of the planning consultancy as set out in the Statement of Case in respect of applications 15/0666 and 21/0720 as summarised in the report.

(**Note:** Having earlier declared a personal and prejudicial interest in the above-mentioned application (Minute No.189), County Borough Councillor D. Williams left the meeting for this item).

**196 INFORMATION FOR MEMBERS, PERTAINING TO ACTION TAKEN UNDER DELEGATED POWERS**

Members **RESOLVED** to receive the report of the Service Director, Planning in relation to Planning and Enforcement Appeal Decisions received, Delegated Decisions Approvals and Refusals with reasons, Overview of Enforcement Cases and Enforcement Delegated Decisions received for the period 7/01/2022 and 28/01/2022.

**This meeting closed at 4.02 pm**

**CLLR S REES  
CHAIR.**