

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEALS

BY

HANSON UK

**AGAINST THE DECISIONS OF
THE RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

TO REFUSE PLANNING PERMISSION FOR

- 1. 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 Hseg Quarry, including an extension of the end date for quarrying and an overall restoration scheme (APP/L6940/A/20/3265358);
and**
- 2. 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 (APP/L6940/A/21/3282880)**

AT

LAND AT CRAIG YR HESG QUARRY, BERW ROAD, PONTYPRIDD, CF37 3BG

**STATEMENT OF CASE
ON BEHALF OF: RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL as LOCAL
PLANNING AUTHORITY**

**PLANNING INSPECTORATE REFERENCES:
APP/L6940/A/20/3265358 & APP/L6940/A/21/3282880**

LOCAL AUTHORITY REFERENCES: 15/0666/10 & 21/0720/15

DATE: 26 January 2022

Appeals to be determined by Public Inquiry

1. BACKGROUND AND PLANNING HISTORY

- 1.1 The LPA will set out the background to the applications the subject of the Appeals and the relevant planning history in order to provide a context. Reference will also be made to the context set out by the Planning & Compulsory Purchase Act 2004 with specific reference to the plan-led system expressed by section 38(6) of that Act, and to the Well-being of Future Generations (Wales) Act 2015 with specific reference to the sustainable development duty and the well-being goals expressed by Part 2 of that Act.
- 1.2 For convenience, the LPA will refer to the first appeal to be submitted (APP/L6940/A/20/3265358) as Appeal A and the second appeal to be submitted (APP/L6940/A/21/3282880) as Appeal B. The LPA notes that all of the development proposed by Appeal B is subsumed within the development proposed by Appeal A, both as regards the physical extent of the sites and as regards the periods of the proposed minerals operations. As a result, the LPA proceeds on the basis that if Appeal A were to be allowed, Appeal B would serve no purpose.
- 1.3 The LPA acknowledges that if Appeal A were to be dismissed, Appeal B would still serve a purpose and that, consequently, it is necessary for this Inquiry to consider the planning merits of both appeals. However, given the overlap between the two appeals, the LPA considers that it is convenient to address the issues arising in a single Statement. To avoid undue repetition, the LPA proposes to address Appeal B first, followed by Appeal A, on the basis that the issues arising under Appeal B will also arise under Appeal A (but the converse is not true).
- 1.4 For the avoidance of doubt, the LPA considers that both Appeal A and Appeal B should be dismissed, notwithstanding officer recommendations to the contrary.

2. POLICY FRAMEWORK

2.1 The LPA will set out the relevant National, Regional and Local Policy Framework with particular reference to the following:

- Rhondda Cynon Taf Local Development Plan up to 2021 – March 2011 (including background papers)
- Future Wales: The National Plan 2040 – February 2021
- Planning Policy Wales (Edition 11) – February 2021 (especially Chapters 2, 5.14, and 6.7)
- Minerals Technical Advice Note 1: Aggregates (MTAN1) – March 2004
- Natural Resources Policy – August 2017
- Regional Technical Statement for the area covered by the South Wales Regional Aggregates Working Party (RTS) – October 2008
- Regional Technical Statement - for the North Wales and South Wales Regional Aggregates Working Parties - First Review (RTS1) – August 2014
- Regional Technical Statements for the North Wales and South Wales Regional Aggregates Working Parties – Second Review (RTS2) – September 2020

2.2 The LPA will seek to set out the need and supply position and will seek to agree this quantitative aspect within a Statement of Common Ground as it is not part of the LPA's case that there is no established need for crushed rock aggregates, including sandstone suitable as High Specification Aggregates ("HSA"). The LPA's case revolves around the balance of planning judgement and the weight to be attached to the established need as opposed to the other relevant considerations.

3. THE CASE FOR THE LPA

(APP/L6940/A/21/3282880) – Continuation of Quarrying at the existing site (APPEAL B)

- 3.1 The LPA refused the planning application for the following reason, contrary to officer advice:

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.

- 3.2 The officer reports to the Planning and Development Committee on 26th August 2021 and 7th October 2021 are a matter of public record and set out the background to the officer recommendation. The content of these reports will be referred to in the LPA evidence.

- 3.3 Where planning applications are of a nature that they are referred to the Planning and Development Committee for determination, it is the proper role of officers to give advice and it is the proper role of the Members of the Committee to consider that advice and make the decision. It is the Committee and not the officers which acts as decision maker on behalf of the LPA in such a case. The LPA did not accept the recommendation of officers, in the exercise of its own planning judgment, and refused the application. In the light of the divergence from the officer advice, and with the making of an appeal against the LPA decision to refuse planning permission, the LPA has subsequently sought independent external planning advice from a planning consultancy. Preliminary advice has been given, subject to some ongoing further work. That initial external advice is that the LPA reached a conclusion that was justified on planning grounds, albeit that the consultants consider that those grounds cover some wider matters than set out in the

Reason for Refusal, including the question of non-compliance with policies of the Local Development Plan. In the light of that fact, the LPA is to be asked, at the next available meeting of the Planning and Development Committee on 10 February 2022, whether it shares the views of the consultants or not. The LPA is also to be asked, at the same Committee meeting, to clarify its position in the light of matters raised in the Appellant's Statement of Case/Supplementary Statement of Case where it is suggested that the LPA has acted inconsistently between Appeal A and Appeal B.

- 3.4 Necessarily, the LPA will not be able to set out the results of that further consideration until after the meeting on 10 February 2022 has taken place. In the circumstances, the LPA therefore proposes to provide an update, relaying the results of that meeting, in its Final Comments on 16 February 2022.
- 3.5 However, the LPA is able to outline the planning matters that have been raised by its consultants, based on their initial review of the application and appeal documentation for Appeal B.
- 3.6 The issues that have been identified (and which, subject to the outcome of the forthcoming Committee meeting, the LPA expects to address in its evidence) are as follows:
- 3.7 It will be evidenced that the supporting information prepared on behalf of the appellant does not satisfactorily demonstrate that quarry operations at the site could be extended from 2022 to 2028 without giving rise to an adverse impact upon the amenity of occupiers/users 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.
- 3.8 In relation to noise, Chapter 9 of the Environmental Statement (May 2021) for Appeal B ("ES-B") does not present comprehensive and up to date background noise data (i.e. the noise conditions prevailing in the absence of any activity at the appeal site). What is described as "background noise levels" in ES-B in the surveys undertaken in December 2020 includes site activity. Whilst some additional noise measurements were undertaken in March 2021, for those taken at 26 Conway Close during the working week "the quarry

was operating normally” (Appendix 9-6 of ES-B), and no measurements were taken at Rogart Terrace. In the absence of comprehensive background noise data, there is no robust assessment of the impact of site operations on nearby sensitive properties and uses. Whilst it is noted that noise limits are proposed to be secured by a condition, the acceptability of those limits cannot be assessed without comprehensive and up to date background noise data. Any alternative limits would suffer from the same shortcoming.

- 3.9 In relation to dust, Chapter 11 of ES-B does not present comprehensive and up to date dust monitoring data. Reliance is placed on monitoring undertaken in 2014, supplemented by a “short term” monitoring exercise in 2021. 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. Whilst it is noted that mitigation measures are proposed to be secured by a condition, the acceptability of those measures cannot be assessed without comprehensive and up to date monitoring data. Any alternative measures would suffer from the same shortcoming. Furthermore, the results presented in Chapter 11 of ES-B do identify that there will be a risk of “adverse effects” from dust on high sensitivity residential receptors. Whilst ES-B expresses the judgment that such effects will be “slight” or “negligible”, this is a matter for planning judgment and the LPA considers there will be substantial adverse impacts on residential amenity by reason of dust.

Local Development Plan

- 3.10 Policy CS10 relates to minerals and seeks to “*protect resources and to contribute to the local, regional and national demand for a continuous supply of minerals, without compromising environmental and social issues*”. The policy identifies a number of criterion to be met in order to achieve these goals including, of particular relevance in this instance:
1. *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;*
 6. *Ensuring that impacts upon residential areas and sensitive land uses from mineral operations and the transportation of minerals are limited to an acceptable proven safe limit.*

- 3.11 The supporting text to Policy CS10 identifies that “National policy in respect of aggregates, describes distances from mineral operations where residential and other sensitive use developments may not take place. These principles also apply to the restriction of aggregate extraction within these prescribed distances from settlements i.e. no Sandstone or Limestone extraction within 200 metres...” (para 4.96). It goes on to clarify “there is, however, some scope identified within national guidance where *exceptional* circumstances of a particular proposal *may* allow for the reduction in the above standard distances.” (added emphasis) (para 4.97). It also confirms that minerals applications are subject to other area wide LDP policies, including AW5 and AW10 (para 4.98).
- 3.12 It is acknowledged that the proposed extension of quarry operations from 2022 to 2028 would contribute towards the Council’s requirements in respect of rock aggregate and consequently would accord with criterion (1). In failing to evidence the ability to satisfactorily preserve the amenity of adjacent sensitive uses however the appeal scheme does not accord with criterion (6) and, as a result, the development represents a conflict with LDP policy CS10.
- 3.13 Policy AW5 relates to new development and advises that development proposals will be supported where they meet certain criteria relating to design and accessibility. Amongst these criteria is the requirement that “(c) there would be no significant impact upon the amenities of neighbouring occupiers” and that “(d) the development would be compatible with other uses in the locality”. In failing to evidence the ability to satisfactorily preserve the amenity of adjacent sensitive uses the appeal scheme does not accord with criterion (c) and (d) and, as a result, the development represents a conflict with LDP Policy AW5.
- 3.14 Policy AW10 relates to environmental protection and public health and identifies 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” as a result of, amongst other matters, “(1) Air pollution”, “(2) Noise pollution”, “(9) or any other identified risk to... local amenity and public health... 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.”

3.15 The supporting text to Policy AW10 states:

“5.63 Pollution may cause significant damage to human health, quality of life and residential amenity, as well as impact upon both the natural and built environment. This policy will ensure that developments that would result in unacceptably high levels of noise, light, water and / or air pollution are located away from residential areas and other sensitive uses. The policy will also ensure that new development is not located in close proximity to existing sources of pollution. Amenity is defined as the pleasant or satisfactory aspects of a location, or features which contribute to its overall character and the enjoyment of residents or visitors.”

3.16 In failing to evidence the ability to satisfactorily preserve of the amenity of adjacent sensitive uses the appeal scheme represents a conflict with LDP Policy AW10.

3.17 Policy AW14 relates to the safeguarding of minerals. It states that certain mineral resources shall be safeguarded from any development “which would unnecessarily sterilise them or hinder their extraction”. Part 5 of Policy AW14 states that “(5) The Limestone and Sandstone quarries at Forest Wood, Hendy and Craig yr Hesg, will be further safeguarded from development that would adversely affect their operations by 200 metre buffer zones as shown on the proposals maps.”

3.18 The supporting text for Policy AW14 clarifies that “the identification of safeguarding areas for the above minerals in Rhondda Cynon Taf does not carry any presumption that planning permission would be granted for their extraction.”

3.19 The proposed development would not represent a conflict with Policy AW14, however the clarification that the safeguarding of a mineral does not provide any favourable presumption in favour of extraction should be noted.

3.20 Policy SSA25 identifies Craig Y Hesg Quarry as a Preferred Area of Known Mineral Resource. The supporting text to the policy advises that “A Minerals Background Paper has been prepared for the LDP to outline current and future minerals circumstances in Rhondda Cynon Taf. Further detail on the landbank process, safeguarding intentions and

buffer zones, amongst other minerals issues, are set out in this Paper.” No conflict with Policy SSA25 would arise as a result of the development.

- 3.21 Para 1.46 of the LDP confirms that “The LDP should be read as a whole, many of the Plans objectives, strategies and policies are cross-cutting and inter-related. Decisions on development proposals will have regard to the relevant policies in the Plan and the requirements of National Planning Policy.”
- 3.22 Having regard to the above, whilst the development proposals are considered to accord with the minerals safeguarding and supply criteria of Policies CS10, AW14, and SSA25, the development fails in its requirement to balance this against the requirement to preserve amenity as set out in Policies CS10, AW5 and AW10 and, as such, the proposals are not in accordance with the development plan.
- 3.23 Given that the proposed development does not accord with the development plan then, by virtue of Section 38(6) of the Planning & Compulsory Purchase Act 2004, it is necessary to establish whether any over-riding material considerations exist. Material considerations in this instance include:
- Planning Policy Wales (Edition 11)
 - Minerals Technical Advice Note (Wales) 1: Aggregates
 - Wellbeing of Future Generations (Wales) Act 2015
 - RAWP Second Review (September 2020)
 - LDP Minerals Background Paper (December 2009)

Planning Policy Wales

- 3.24 Planning Policy Wales Para 1.9 of PPW confirms that “PPW should be read as a whole, as aspects of policy and their application to a particular development proposal could occur in several parts of the document.”
- 3.25 Para 1.2 of PPW identifies its primary objective as ensuring “that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, as well as the Well-being of Future Generations (Wales) Act 2015 and other key legislation.”

- 3.26 Sustainable development is defined within PPW as follows (Introduction): “Sustainable Development” means 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.
- 3.27 Figure 4 of PPW identifies five key planning principles for achieving the right development in the right place as follows:
- Growing our economy in a sustainable manner
 - Making best use of resources
 - Facilitating accessible and healthy environments
 - Creating & sustaining communities
 - Maximising environmental protection and limiting environmental impact
- 3.28 With regard to maximising environmental protection and limiting environmental impact Fig.4 states that “Negative environmental impacts should be avoided in the wider public interest. This means acting in the long term to respect environmental limits and operating in an integrated way so that resources and/ or assets are not irreversibly damaged or depleted. The polluter pays principle applies where pollution cannot be prevented and applying the precautionary principle ensures cost effective measures to prevent environmental damage”.
- 3.29 Para 3.21 of PPW states that “Planning authorities have a role to play in the prevention of physical and mental illnesses caused, or exacerbated, by pollution, disconnection of people from social activities (which contributes to loneliness) as well as the promotion of travel patterns which facilitate active lifestyles. The planning system must consider the impacts of new development on existing communities and maximise health protection and well-being and safeguard amenity... Health impacts should be minimised in all instances, and particularly where new development could have an adverse impact on health, amenity and well-being. In such circumstances, where health or amenity impacts cannot be overcome satisfactorily, development should be refused.”
- 3.30 Section 5.14 of PPW relates to minerals. It identifies that “society needs, and will continue to need for the foreseeable future, a wide range of materials” (para 5.14.1). It advises 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” (para 5.14.2). It identifies the key principles as including:

- 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;
- 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

3.31 Para 5.14.3 states:

“In certain areas, mineral extraction may not be acceptable. For example, where a proposal for mineral extraction would cause demonstrable harm to the environment, including designated sites, or amenity, which cannot be overcome by planning conditions or agreements, planning permission should not be granted.”

3.32 With regard to the safeguarding of mineral resources and infrastructure, para 5.14.7 advises that it is “important that access to mineral resources... is safeguarded in order to prevent sterilisation...” but that “safeguarding does not indicate an acceptance of mineral working...”

3.33 With regard to ensuring supply, para 5.14.10 of PPW states 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 and their best and most appropriate use, subject to relevant environmental and other planning considerations”. Para 5.14.11 states 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. Seeking to meet only local needs or ruling out all forms of mineral working within an area will only rarely be acceptable on the basis of significant adverse impacts.”

3.34 Para 5.14.19 of PPW refers to areas of future working and states “Where necessary, planning authorities should provide a clear guide to where non-energy mineral extraction

is likely to be acceptable and include policies which protect sensitive environmental designations or historic features and environmental and resource protection... These should be clearly identified on a proposals map and should... take the form of:

- Preferred Areas which will be areas of known resources with some commercial potential and where planning permission might reasonably be anticipated.”

3.35 With specific regard to aggregates, para 5.14.22 of PPW advises 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... The importance to the UK of aggregates should be taken into account when planning applications are being considered together with other policies in this guidance and relevant Minerals Technical Advice Notes (MTANs) and Technical Advice Notes (TANs). In order to conserve natural resources, particular emphasis should be given to increasing the use of alternative products to primary materials where appropriate”.

3.36 Para 5.14.23 states “Aggregates suitable for road surfacing construction and maintenance, where high specification aggregates are required for skid resistance, are of importance to the UK and significant resources occur in Wales. The UK and regional need for such minerals should be accorded significant weight provided environmental impacts can be limited to acceptable levels.”

3.37 Para 5.14.42 states that “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.”

3.38 With regard to buffer zones around mineral works PPW states:

“5.14.44 There is often conflict between mineral workings and other land uses as a result of the environmental impact of noise and dust from mineral extraction and processing and vibration from blasting operations. Buffer zones should be used by planning authorities to provide areas of protection around permitted and proposed mineral workings where new development which would be sensitive to adverse

impact, including residential areas, hospitals and schools, should be resisted. Within the buffer zone there should be no new mineral extraction or new sensitive development, except where the site of the new development in relation to the mineral operation would be in a location remote from the active mineral site or on the far side of an existing built up area which already encroaches into the buffer zone. Other development, including industry, offices and some ancillary development related to the mineral working, which are less sensitive to impact from mineral operations, may be acceptable within the buffer zone on a case by case basis.

5.14.45 To avoid conflict between mineral workings and other land uses buffer zones should be identified in development plans around existing or proposed minerals sites. The maximum extent of the buffer zone would depend on a number of factors: the size, type and location of workings, the topography of the surrounding area, existing and anticipated levels of noise and dust, current and predicted vibration from blasting operations and availability of mitigation measures.

5.14.46 Buffer zones will of necessity vary in size depending on the mineral being extracted and the nature of the operation, but must be clearly defined and indicated on development plan proposals maps. This will ensure that there is unequivocal guidance on the proximity of mineral operations to sensitive land uses and that the potential impact of existing and future mineral workings is recognised and planned for in the area around the mineral operations. Further guidance on the factors that should be taken into account when defining buffer zones for particular minerals is provided in the MTANs. Whilst the primary purpose of buffer zones is to limit the impact of mineral working their wider beneficial role as part of green infrastructure provision and protecting and enhancing biodiversity should be explored.”

3.39 Taken as a whole therefore Planning Policy Wales reflects the requirements of the LDP in seeking to safeguard mineral resource and supply, whilst preserving the amenity of sensitive development. It promotes the provision of buffer zones around minerals development as the most appropriate mechanism to achieving this.

Minerals Technical Advice Note (Wales) 1: Aggregates

- 3.40 Section C of MTAN1 identifies mechanisms for the reduction of the impact of aggregates production. With regard to buffer zones, it identifies that “Development plans are required to indicate the boundary of the buffer zone. Within the buffer zone, no new sensitive development or mineral extraction should be approved” (para 70). It goes on to define sensitive development as “any building occupied by people on a regular basis and includes housing areas, hostels, meeting places, schools and hospitals where an acceptable standard of amenity should be expected” (para 70). The purpose of the buffer zone is identified as “to protect land uses that are most sensitive to the impact of mineral operations by establishing a separation distance between potentially conflicting land uses. With regard to hard rock quarries it identifies that a “minimum” buffer zone of 200m should be adopted “unless there are clear and justifiable reasons” for reducing this.
- 3.41 Again, MTAN1 reflects the requirement to safeguard minerals resource and supply, whilst preserving the amenity of sensitive development, and again promotes the use of buffer zones around minerals development as a means to achieve this.
- 3.42 Neither PPW nor MTAN1 consequently provide over-riding material considerations which would indicate that the development of the site in conflict with the development plan should be supported.
- 3.43 With regard to other material considerations, the policy documents and related guidance cover issues on need and impacts that are already addressed within the policies of the LDP. Having applied those policies to the appeal proposal, the LPA does not consider that the other material considerations carry sufficient weight to justify a decision that is not in accordance with the development plan. The well-being goals set out in the 2015 Act also cover the same issues, and involve balancing competing factors of economic goals and environmental and social goals, and the LPA considers that the goal of a healthier Wales is a material consideration which supports a decision in line with the development plan. On balance, the LPA does not consider that the development would constitute sustainable development.

- 3.44 The LPA refused the planning application for the following reason, contrary to officer advice:

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

- 3.45 The officer reports to the Planning and Development Committee on 6th February 2020 and 9th July 2020 are a matter of public record and set out the background to the officer recommendation. The content will be referred to in the LPA evidence.
- 3.46 As with Appeal B, the LPA did not accept the advice of its officers and refused planning permission. The LPA has subsequently sought independent external planning advice, which advised that its conclusion was justified on planning grounds, albeit wider issues have also been raised by the consultants. The advice is to be placed before the Planning & Development Committee at its next meeting on 10 February 2022 and an update to reflect the outcome of that meeting will be provided in the LPA's Final Comments on 16 February 2022.
- 3.47 However, the LPA is able to outline the planning matters that have been raised by its consultants, based on their initial review of the application and appeal documentation for Appeal A.
- 3.48 The issues that have been identified (and which, subject to the outcome of the forthcoming Committee meeting, the LPA expects to address in its evidence) are as follows:

- 3.49 The supporting evidence prepared on behalf of the appellant does not satisfactorily evidence that the extension of quarry 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.
- 3.50 In relation to noise, the LPA repeats the shortcomings of ES-B, which are not satisfactorily resolved by any of the information presented in Chapter 3 of the Supplementary Environmental Statement (April 2021) for Appeal A (“the SES-A”). In addition, those shortcomings also apply to the extra survey locations at Cefn Heulog and Cefn Primary School.
- 3.51 In relation to dust, the LPA repeats the shortcomings of ES-B, which are not satisfactorily addressed by Chapter 4 of SES-A. In addition, the LPA considers that the identified impacts on sensitive receptors is substantial rather than “slight” or “negligible”.
- 3.52 Moreover, 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 LPA 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 MTAN1.
- 3.53 These adverse impacts give rise to conflicts with policies CS10, AW5, and AW10 of the LDP (for the same reasons as explained in relation to Appeal B) and, notwithstanding that there is no conflict with policies AW14 and SSA25, and the proposal can claim support from policy CS10(1) in relation to meeting needs, the LPA considers that in overall terms the proposal is not in accordance with the development plan. Nor, for the same reasons as explained in relation to Appeal B, does the LPA consider that there are other material considerations of sufficient weight to justify a decision not in accordance with the development plan. Th LPA also considers that the well-being goal of a healthier Wales further supports a decision in accordance with the development plan. On balance, the LPA

does not consider that the development would constitute sustainable development.

4. SUMMARY AND CONCLUSIONS

- 4.1 It is the LPA's case that these Appeals fall to be determined on the basis of the relative weight to be attached to an economic need for the mineral on the one hand and the impacts on residential and local amenity arising as consequence of the separation distance between quarry operations and sensitive development on the other.
- 4.2 In relation to the continuation of quarrying at the existing site – the LPA considers that 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 the deprived community of Glyncoch. The LPA considers that the continuation of quarrying (including processing and haulage) 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 LDP and to the well-being goal of a healthier Wales as set out in the Well-being of Future Generations (Wales) Act 2015. The LPA considers that the need for the mineral does not outweigh the amenity and well-being impacts and on balance the refusal of planning permission is justified.
- 4.3 In relation to the 'western extension' application - the LPA is of the view that in addition to the points arising under Appeal B a reduced separation distance below the minimum 200m set out in MTAN1 is not evidenced by clear and justifiable reasons. This conflict with Welsh Government Guidance, together with the conflicts with the LDP, must be balanced against the accepted need for the mineral. In this case the LPA has afforded greater weight to the conflict with the LDP and Welsh Government Guidance and considers that on balance the refusal of planning permission is justified.
- 4.4 The LPA respectfully requests that the Appeals be dismissed.
- 4.5 Without prejudice to the above, the LPA will seek to agree matters relating to conditions and planning obligations with the Appellant, noting that certain matters canvassed at the application stage would need to be secured by planning obligations rather than conditions.