

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

**SUPPLEMENTARY 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: 16 February 2022

Appeals to be determined by Public Inquiry

1. **CONTEXT**

- 1.1 This Supplementary Statement of Case should be read alongside the Council's Statement of Case (26 January 2022). For the purpose of this document, 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.
- 1.2 As set out in the Council's Statement of Case (paragraphs 3.3, 3.4, 3.6 for Appeal B and paragraph 3.46, 3.47 for Appeal A), the Council needed to seek the views of the Planning & Development Committee before it was able to confirm that the matters set out in that Statement of Case were endorsed by the Committee (which was the authorised part of the Council responsible for making the decisions under appeal). Clarification was also sought from the Committee in response to certain matters raised in the Appellant's appeal documentation. The Committee can only express its views by collective decision making at formal Committee meetings where it makes resolutions to record its views or decisions on matters brought before it.
- 1.3 The first Committee meeting after the preparation of the Statement of Case was held on 10 February 2022. Since this event took place after the date for the submission of the Statement of Case (26 January 2022), it was not possible, as a simple matter of chronology, for the Statement of Case to set out the Committee's views on the matters above. Hence, the Council has taken the opportunity to provide a Supplementary Statement of Case setting out the matters that were reported to the Committee and the Committee's views on those matters. This has been done as soon as practicable after the Committee meeting.
- 1.4 The Council notes that it is suggested in the letter dated 10 February 2022 from the Appellant's agent that neither the 2003 Rules (applicable to Appeal A) nor the 2017 Regulations (applicable to Appeal B) make provision for an update to a Statement of Case after its due date for submission. The Council does not agree that this is correct. Rule 16(10) of the 2003 Rules clearly gives the Inspector a discretion to allow any party to add to or alter a Statement of Case so far as may be necessary for the purposes of the Inquiry (with a safeguard to allow other parties an adequate opportunity to consider any fresh matter or document). Whilst Rule 16(10) does not have a direct parallel in the 2017

Regulations, there is a more general discretion in Regulation 45(13) of the 2017 Regulations for the Inspector to take into account any written representation or other document received before the Inquiry (provided it is disclosed at the Inquiry).

- 1.5 In circumstances where the event which is addressed in the Supplementary Statement of Case had not occurred at the time of the Statement of Case, and where that event is directly concerned with the case to be advanced by the local planning authority defending the appeals against its decisions, the Council suggests that it is both necessary for the purposes of the Inquiry and of assistance to both the Inspector and the Appellant for the supplementary Statement of Case to be submitted. The Supplementary Statement of Case is being submitted within a week of the event to which it relates, on a date which coincides with the deadline already established for the receipt of Final Comments. That date (16 February 2022) is 4 months before the likely date of the Inquiry in mid-June 2022 and 3 months before the deadline for the submission of any proofs of evidence. The Council therefore suggests that both the Appellant and other parties will have an ample opportunity to consider the matters set out in the Supplementary Statement of Case. The Inspector is therefore respectfully requested to exercise their discretion to accept the document.

2. POLICY FRAMEWORK

2.1 In addition to the Policy Framework identified at paragraph 2.1 of the Council's Statement of Case, the LPA will refer to the following:

- Minerals Guidance - Guidance on the Planning for Mineral Extraction in plan making and the application process (October 2014)
- BS7445 - Description and measurement of environmental noise
 - Part 1 Guide to quantities and procedures (December 2003)
 - Part 2 Guide to the acquisition of data pertinent to land use (June 1991)
 - Part 3 Guide to application to noise limits (1991)
- Guidance on the Assessment of Mineral Dust Impacts for Planning (Institute of Air Quality Management (IAQM) - 2016).

3. THE CASE FOR THE LPA

- 3.1 As the applications subject to both Appeal A and Appeal B were refused contrary to officer advice the Local Planning Authority (LPA) engaged the services of an independent external planning consultancy to represent its case in respect of these two appeals. The advice from the external consultancy is that the LPA has reached a conclusion that is justified on planning grounds. However, the consultants did advise that, in their professional opinion, those planning grounds covered wider matters than set out in the stated reason for refusal in the case of both applications. Specifically, the appointed consultant advised that it would be appropriate to make reference to specific policies of the Rhondda Cynon Taf Local Development Plan (RCTLDP).
- 3.2 It was also recognised by the consultant that the Appellant's Statement of Case did suggest an inconsistency in the Council's consideration and subsequent scope of the reason for refusal between the two applications, the subject of these appeals.
- 3.3 In order to address these issues a further report was taken to the 10 February 2022 meeting of the Council's Planning and Development Committee, asking the Committee to consider the issues raised by the appointed consultant and to clarify the matters in respect of the appellants suggested issues of inconsistency of their earlier decisions. At that meeting the Committee resolved to agree the recommendations/approach as set out in the report, to the effect that:
- (a) Members clarified 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;
 - (b) Members clarified 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;
 - (c) Members clarified that the imposition of a condition to preclude extraction or processing within 200m of sensitive development would not address their concerns; and
 - (d) Members endorsed the views of the planning consultancy as set out in the

Statement of Case in respect application 15/0666 and 21/0720 as summarised in the report.

- 3.4 The scope of this Supplementary Statement of Case submitted on behalf of the LPA notes and incorporates the further resolutions of the Council's Planning and Development Committee from the 10 February 2022 meeting.
- 3.5 A copy of the Committee Report for the 10 February 2022 Planning and Development Committee is enclosed at Appendix 1, and a copy of the draft minutes (these will be ratified at the next Planning and Development Committee) of the meeting of 10 February 2022 are enclosed at Appendix 2.