

	<h1>Report</h1>	<b>Agenda Item</b>  <h2>3</h2>
--	-----------------	--------------------------------------

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>23 March 2010</b>
Report by:	<b>Executive Director (Enterprise Resources)</b>

Application No	HM/09/0202
Planning Proposal:	Phased removal of Cadzow Bing: Phase 1 - Slope Stabilisation and associated works, and Phase 2 - Removal of Bing

## 1 Summary Application Information

- Application Type : Mineral Application
- Applicant : Cruden Estates
- Location : Cadzow Bing, Off Cadzow Industrial Estate, Hamilton

## 2 Recommendation(s)

### 2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant detailed planning permission (subject to conditions – based on conditions listed)

### 2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application.

In addition, the Committee should note that if the Council to grant consent the decision notice should not be issued until the following matters are concluded:

- A Section 75 Legal Agreement to control the following;
  - Off site monitoring programmes relating to noise, dust and vibration,
  - Establishment of a Cadzow Bing Community Liaison Group,
  - Contribution to the ongoing employment of a Minerals Planning Monitoring and Enforcement Officer,
  - To control the haul route and the conveying of vehicles to and from the site to the trunk road network,
  - Access to the site for the Council to carry out works or operations permitted by the consent, where necessary,
  - Responsibility of the applicant to meet the Council's legal costs associated with the legal agreements referred to.
- A Restoration and Aftercare Guarantee Bond to cover the full costs of restoring the site,

- A Section 96 legal agreement, for contributions towards the maintenance of the public road network where extraordinary wear and tear will be experienced as a result of the development.

### 3 Other Information

- ◆ Applicant's Agent: McInally Associates Limited
- ◆ Council Area/Ward: 19 Hamilton South
- ◆ Policy Reference(s): Scottish Planning Policy (SPP)  
PAN 33 – Development of Contaminated Land  
PAN 50 – Controlling the Environmental Effects of Surface Mineral Workings (Annex A to D)  
PAN 64 – Reclamation of Surface Mineral Workings  
Glasgow & Clyde Valley Structure Plan – Strategic Policy 8 “Sustainable Development of Natural Resources”  
Strategic Policy 9 “Assessment of Development Proposals”  
South Lanarkshire Minerals Local Plan (Adopted 2002)  
MP1: General Protection of the Environment  
MP4: Protection of Areas with Local Environmental Designations (Category 3 Areas)  
MP5: Visual Intrusion and Landscape Impact  
MP7: Watercourses, Surface and Groundwater  
MP11: Buffer Zones  
MP12: Impact on Communities  
MP18: Transportation of Minerals  
MP19: Restoration and Aftercare Provision  
MP20: Restoration Guarantee Bonds  
MP22: Bing Reclamation  
MP23: Mineral Conservation and Aggregate Recycling  
MP29: Assessment of Environmental Impact  
MP30: Protection of Landscape Features  
MP32: Noise Survey and Limits  
MP33: Dust Assessment Study  
MP37: Legal Agreements  
MP38: Monitoring of Mineral Workings  
MP39: Annual Progress Plan  
The adopted South Lanarkshire Local Plan 2009:  
Policy RES2: Proposed Housing Site  
Policy ENV2: Local Green Network  
Policy ECON1: Industrial Land Use  
Policy ENV19: Vacant and Derelict Land  
Policy ENV27: Local Nature Conservation  
Policy DM1: Development Management  
Policy DM3: General Monitoring

- ◆ Representation(s):

▶	43	Objection Letters
▶	111	Signature Petition
▶	0	Support Letters
▶	0	Comments Letters

◆ Consultation(s):

Scottish Executive Development Department, inc  
 Historic Scotland  
 Transport Scotland

Environmental Services

Roads and Transportation Services (Hamilton Area)

Roads and Transportation Services (HQ)

Roads & Transportation Services H.Q. (Flooding)

S.E.P.A. (West Region)

Coal Authority Mining Reports Office

Roads & Transportation Services H.Q. (Geotechnical)

TRANSCO (Plant Location)

Scottish Natural Heritage

## **Planning Application Report**

### **1 Application Site**

- 1.1 The application site relates to an existing bing located within Hamilton. The site measures approximately 7.74 hectares and is accessed from Low Waters Road, along a private access road through Cadzow Industrial Estate.
- 1.2 Residential properties are located immediately to the north, east and west of the application site and industrial buildings are located to the south. Chatelherault Primary School is located 70m to the north of the site and St Anne's Primary School is located 260m to the west of the site.
- 1.3 The site was used for the deposition of colliery spoil resulting from the previous Cadzow Colliery, from the late 1800s until 1944. Since 1944 the site has remained undeveloped and was colonised with scrub and trees. More recently, much of the trees on the site were cut down during 2002 and 2003.
- 1.4 The bing rises to 28m above the surrounding ground level and consists of a mixture of materials including shale, blaes, coal and ash.

### **2 Proposal(s)**

- 2.1 The applicant seeks planning permission for the phased removal of Cadzow Bing, to create a development platform suitable for built development. The proposed bing removal would be undertaken in 6 stages. The initial stage would involve the stabilisation of the outer faces of the bing, reducing the angle of the slopes to approximately 1:2.5 (22° slopes). The following 4 stages involve the 'hollowing out' of the bing, working from the inside out and the final phase involves the restoration of the site.
- 2.2 It is estimated that the proposed bing removal would take 22 months to complete, with the initial stabilisation works on the outer faces of the bing taking approximately 4 months, and the following stages including removal of material from within the bing taking approximately 18 months. This will involve between 12 and 20 loaded trucks leaving the site per hour.
- 2.3 The material extracted from the bing would be exported from the site, through the privately owned and maintained Cadzow Industrial Estate, onto the A723 (Low Waters Road, becoming Quarry Street, becoming Blackswell Lane) onto the M74 via junction 6. Vehicles travelling to the site would use the same route.
- 2.4 The applicant initially applied to operate the site from 08:00 – 18:00 hours on weekdays and 09:00 – 17:00 hours on weekends. Through negotiations with the Council however, it has been agreed that the site would operate from 08:00 – 18:00 hours on weekdays and 09:00 – 13:00 hours on Saturdays, with no operations on Sundays. This can be controlled through Condition 10. Further restrictions can be applied to the operation in relation to noise during certain times of the day. See Condition 12 for further details.
- 2.5 It is envisaged that the material from the bing will be used for large scale construction projects. It will not be possible, however, for the applicant to conclude contracts with potential purchasers until he can assure them that he is in a position to supply them with material, when it is required. This can not be done until the position regarding this application is resolved. Nevertheless, the applicant has confirmed that

he will transport material from the site via the A723 to the M74. He is also prepared to conclude a legal routing agreement with the Council requiring the lorries going to and from the site to follow the route described within paragraph 2.3 above.

### **3 Background**

#### **National Planning Policy Status**

- 3.1 Scottish Planning Policy (SPP) provides national advice on national planning policy issues. SPP highlights that the planning acts require planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. SPP provides policy advice on a number of issues, including landscape and natural heritage, minerals and transport. In terms of natural heritage, SPP requires the impact of development on the natural environment to be considered when determining planning applications, and where necessary, surveys should be carried out to reduce uncertainty. SPP also acknowledges the need for an adequate and steady supply of minerals to support economic growth. SPP identifies key issues to be considered when determining minerals planning applications, which include noise, vibration, the potential pollution of land air and water, effect on communities, transport impacts and restoration proposals. SPP also notes that planning authorities should facilitate the recycling and re-use of material in waste tips.
- 3.2 PAN 33 (Development of Contaminated Land) provides advice on a number of issues relating to contaminated land including advice on the determination of planning applications when the site is or may be contaminated.
- 3.3 PAN 50 (Controlling the Environmental Effects of Surface Mineral Workings) with Annex A (Noise), B (Dust), C (Traffic) and D (Blasting) provides advice on these issues and how they should be addressed when assessing mineral applications.
- 3.4 PAN 64 (Reclamation of Surface Mineral Workings) provides planning advice on ensuring that satisfactory reclamation procedures are in place before, during and after extraction to bring land back to an acceptable condition.
- 3.5 All national policy and advice is considered in detail in the assessment section of this report.

#### **Development Plan Status**

- 3.6 The Glasgow & Clyde Valley Structure Plan contains policies which are relevant to the consideration of this application. Strategic Policy 8 – Sustainable Development of Natural Resources supports developments which: (1) extend the supply of mineral workings at existing operational sites or in locations identified in Local Plans which are within the Structure Plan search areas for minerals; (2) safeguard and enhance the strategic environmental resource. In order to accord with the Structure Plan, all development proposals require to satisfy the criteria set out in Strategic Policy 9.
- 3.7 The adopted South Lanarkshire Local Plan 2009 contains the following policies against which the proposal should be assessed:
  - Policy RES 2 – Proposed Housing Sites
  - Policy ENV 2 – Local Green Network
  - Policy ECON 1 – Industrial land Use
  - Policy ENV 19 – Vacant and Derelict Land
  - Policy ENV 27 – Local Nature Conservation Sites
  - Policy DM 1 – Development Management
  - Policy DM3 – General Monitoring Policy

- 3.8 The adopted South Lanarkshire Minerals Local Plan 2002 contains the following policies against which the proposal should be assessed:
- Minerals Policy 1 (MP1) "General Protection of the Environment".
  - Minerals Policy 4 (MP4) "Protection of Areas with Local Environmental Designations".
  - Minerals Policy 5 (MP5) "Visual Intrusion and Landscape Impact".
  - Minerals Policy 7 (MP7) "Watercourses, Surface and Groundwater".
  - Minerals Policy 11 (MP11) "Buffer Zone".
  - Minerals Policy 12 (MP12) "Impact on Communities".
  - Minerals Policy 18 (MP18) "Transportation of Minerals".
  - Minerals Policy 19 (MP19) "Restoration and After-care Provision".
  - Minerals Policy 20 (MP20) "Restoration Guarantee Bonds".
  - Minerals Policy 21 (MP21) "Suitability of After-use Schemes".
  - Minerals Policy 22 (MP22) "Bing Reclamation".
  - Minerals Policy 23 (MP23) "Mineral Conservation and Aggregate Recycling".
  - Minerals Policy 29 (MP29) "Assessment of Environmental Impact".
  - Minerals Policy 32 (MP32) "Noise Surveys and Limits".
  - Minerals Policy 33 (MP33) "Dust Assessment Study".
  - Minerals Policy 37 (MP37) "Legal Agreements".
  - Minerals Policy 38 (MP38) "Monitoring of Mineral Workings".
  - Minerals Policy 39 (MP39) "Annual Progress Plan".
- 3.9 All of these policies are examined in detail in the assessment and conclusions section of this report.

### Planning History

- 3.10 Two applications were made to the Council for the removal of Cadzow Bing (HM/05/0461) and the erection of 108 houses and associated roads (HM/05/0292) in May and April 2005, respectively. These applications were subsequently withdrawn by the applicant in March 2007.
- 3.11 In addition to the above applications, an outline planning application for the erection of ten houses on ground to the north of Cadzow Bing and to the rear of Arran Gardens and Hutchison Street (Planning Application No. HM/03/0617) was refused planning permission in March of this year.

## 4 Consultations

- 4.1 **Scottish Gas Networks**: raise no objection to the proposed development and provided a plan which demonstrates the location of gas pipes within the local area. No gas pipes are shown within the excavation area.  
**Response**: Noted.
- 4.2 **Roads and Transportation (Area Office)**: raise no objection to the proposed development and request the use of conditions relating to wheel washing facilities and street cleaning. Furthermore, the R&T Area Office recommend that the routing of lorries to and from the site, and the potential for contribution to be made for extraordinary wear and tear caused as a result of the development should be discussed with the R&T Headquarters.  
**Response**: Noted. Conditions 10 & 26 are proposed to be attached to the consent to ensure a wheel wash is installed and street cleaning is undertaken. Consultation was also undertaken with R&T Headquarters, which is detailed below.

- 4.3 **Roads and Transportation (HQ)**: initially sought further clarification and comments regarding the destination of the material, the implementation of a traffic monitoring programme and the swept path analysis drawing of the mini-roundabout on Low Waters Road. These requests were satisfied by the applicant and R&T HQ requested that the final haul route be subject to condition.  
**Response**: Noted. It is proposed to control the haul route by a Section 75 agreement. Furthermore, the applicant has confirmed that they are willing to enter into a Section 96 legal agreement with the Council to ensure payment is made for excessive wear and tear of the public road created by the proposed operation.
- 4.4 **Roads and Transportation Geotech**: were consulted in relation to the stability of the bing slopes, as the applicant initially requested to commence stabilization of the bing for Health and Safety reasons, prior to the determination of this application. Following detailed discussions between the Council and the applicant, R&T Geotech confirmed that they remained unconvinced that there was an existing Health and Safety risk which necessitated the relaxation of planning controls.  
**Response**: Noted. The applicant was advised that no relaxation in planning control would be made unless evidence, corroborated by R&T Geotech, was provided that conclusively demonstrated that there was a Health and Safety risk due to slope instability.
- 4.5 **Roads and Transportation Flood Prevention Unit**: raise no objection to the proposed development and requested self certification documentation relating to sustainable drainage design and maintenance.  
**Response**: Noted. The applicant has completed and returned the various certification.
- 4.6 **Transport Scotland**: raise no objection to the proposed development and note that the development will cause minimal environmental impact on the trunk road network.  
**Response**: Noted.
- 4.7 **Historic Scotland**: raise no objection to the proposed development and note that the proposal will not have a significant impact on the historic environment assets of national importance.  
**Response**: Noted.
- 4.8 **Environmental Services**: raise no objections to the proposed development. Environmental Services have been involved in detailed discussions with the applicant in relation to the preparation of an Environmental Management Plan (EMP), which addresses issues such as noise, dust, vibration and contaminated land. As a result of these detailed discussions, the Council has negotiated trigger levels and procedures in relation to various environmental factors. The Council would seek to enter into a legal agreement with the applicant/operator to ensure development is carried out in accordance with the Environmental Statement and EMP, if the Planning Committee is minded to grant planning permission.  
**Response**: Noted. These comments can be addressed through the use of planning conditions and a Section 75 legal agreement.
- 4.9 **Scottish Natural Heritage**: raise no objection to the proposed development. SNH note the presence of badgers on site, and also note the content of the Badger protection plan and the work undertaken by the applicant to relocate the communities of badgers to artificial setts. SNH recommend the use of conditions to control certain aspects of the development to protect the interests of badgers and breeding birds.  
**Response**: Noted. These comments can be addressed, where appropriate, through the use of planning conditions.

- 4.10 **Scottish Environmental Protection Agency (SEPA):** initially raised concerns with regards to proposed methodologies for certain pollution prevention control methods to be utilised on site. The applicant has however addressed SEPA's concerns through the preparation of an EMP. SEPA has confirmed that the Environmental Statement and EMP have addressed all the issues which fall within SEPA's remit and therefore raise no objections to the proposed development.

**Response:** Noted.

- 4.11 **The Coal Authority:** initially advised against the planned increase of traffic along the access road through the private industrial estate due to a collapsed mine shaft causing subsidence in the road. Work has however been undertaken by the Coal Authority to address this issue and the traffic lights have now been removed from the road. The Coal Authority confirms that they no longer have concerns with regards to the use of this road for heavy traffic.

**Response:** Noted.

## **5 Representations**

- 5.1 The application was advertised in accordance with Article 12(5) (Application Requiring Advertisement due to Scale or Nature of Operation), and in accordance with the Environmental Impact Assessment Regulations. Neighbour notification was also carried out.

- 5.2 As a result of this publicity, 43 letters of representation and a petition with 111 signatures were received and the concerns raised are summarised below:

- (a) **The bing contains materials which, if disturbed, could be detrimental to the health of the local people as a result of dust.**

**Response:** The applicant has developed, through discussions with the Council, a methodology for identifying and dealing with contaminated materials which may be encountered. The applicant will undertake an ongoing trial pitting scheme to ensure fresh faces of untested bing material are not exposed. The samples taken from the trial pits will be subject to laboratory analysis, and the results will be subject to scrutiny by the Council, prior to the material being exposed. Condition 48 controls this process. Furthermore, the applicant has set-out measures for the continuous monitoring of dust levels which could cause a nuisance and which could cause an adverse impact on the health of local people. These levels are not permitted to exceed the National Air Quality objective level of  $18\mu\text{g}/\text{m}^3$ .

- (b) **Badgers are a protected species and should not be disturbed by the proposed works.**

**Response:** The applicant has been granted a badger license which permits the disturbance of badger setts on site. The applicant has also submitted a Badger Protection Plan, which details strategies and methodologies for the protection of badgers on site during the duration of the works. SNH have confirmed that they do not object to the proposed development, but request that the measures set out within the Badger Protection Plan are controlled by condition on consent. Condition 41 is therefore proposed to be attached, to ensure the interests of badgers are protected.

- (c) **Noise from the site would adversely affect the local amenity. The noise bund which will screen the workings from the neighbouring**



**residential properties will not significantly reduce noise etc generated by the workings.**

**Response:** The issue of noise has been considered in detail by the Council during the determination of this planning application. Following discussions with the Council, the applicant has prepared a draft EMP which sets out mitigation measures and trigger levels to minimise the impact of noise on the nearby properties. Furthermore, the height of the proposed bunds during certain phases of the development has been increased to reduce noise at sensitive receptors. Environmental Services have been involved throughout the application determination process and confirm that they are satisfied with the mitigation measures and action levels proposed to be employed on site. The applicant has detailed a proposed monitoring regime within the draft EMP. It is envisaged that monitoring will be undertaken over one hour periods, on a weekly basis, and will be reported to the Council. Condition 14 requires these details to be finalised and approved by the Council prior to works commencing. Furthermore, Conditions 13 to 17 seek to control site operations to minimise disturbance due to noise.

**(d) The proposed workings would result in vibration within the residential area surrounding the site.**

**Response:** The draft EMP, referred to above, also addresses the issue of vibration. Environmental Services confirm that the mitigation measures and action levels proposed to be employed on site within the EMP are acceptable. The monitoring regime will be undertaken over one hour periods, on a weekly basis, and will be reported to the Council. It is envisaged that this monitoring will be undertaken concurrently with the proposed noise monitoring. Condition 22 requires these details to be finalised and approved by the Council prior to works commencing. Conditions 23 & 24 seek to control site operations to minimise disturbance due to vibration.

**(e) The proposed hours of operation, which would involve 7 days a week operation, would create an unacceptable impact on local amenity.**

**Response:** Noted. The Council shared this concern regarding 7 day per week workings. Through negotiations between the Council and the applicant, it has been agreed that the site shall operate from 08:00 – 18:00 hours on weekdays and 09:00 – 13:00 hours on Saturdays, with no operations on Sundays. This will be controlled through Condition 11.

**(f) If planning permission for the removal of the bing is not approved, the owner should be made to return the bing to its former state.**

**Response:** The felling of trees located on the bing did not require the benefit of planning permission, and could not be controlled by the Council. The Council does not have powers to insist on the restoration of the bing to its former state.

**(g) Two years is a long time to live adjacent to the proposed workings.**

**Response:** It is noted that the proposed operations have the potential to adversely affect the local amenity of the area. Through discussions with the Council however, the applicant has developed a method of working which will minimise environmental impact on the surrounding area. Whilst there may be short periods where the operations appear noisy to neighbouring properties, the majority of the bing removal will be contained behind bunds within the site and thus reduce the impact on nearby properties.

**(h) The site is classified as a SINIC and a candidate as a Site of Special Scientific Interest (SSSI).**

**Response:** SINC's have been renamed as Local Nature Conservation Sites. The site is no longer a candidate as a SSSI. This issue is discussed in detail in relation to Policy ENV27 within the Assessment and Conclusion section below.

**(i) The traffic and transportation impact of the proposed development would cause major disturbance to the neighbouring residential area.**

**Response:** It is proposed to control the route of the associated traffic through a Section 75 agreement, ensuring the traffic is restricted primarily to the A723 and to the trunk road network. This route is currently used by heavy goods vehicles, and it is anticipated that the impact will be minimal.

**(j) The increase in traffic on Low Waters Road would result in additional traffic using Silvertonhill Avenue.**

**Response:** The impact of the proposed development on the local road network has been assessed during the determination of this application. It is predicted that the proposed development will result in between 12 and 20 loaded trucks per hour for the removal process. Roads and Transportation Services were consulted on the application and confirm they have no objection to the proposed development. The Transport Statement accompanying the EIA notes that the development will result in a marginal % increase of traffic on the route and will not significantly affect the capacity of the local road network.

**(k) Air Quality would require to be monitored if the works were to go ahead.**

**Response:** Noted. The applicant has developed an air quality monitoring and mitigation scheme within the draft EMP. Nuisance dust will be monitored at three locations around the site. Samples collected by the monitoring equipment will be sent for weekly laboratory testing and a monthly summary of the testing will be submitted to the Council for review. PM<sub>10</sub> dust will be monitored at 2 locations close to the site. The dust monitoring equipment will provide real-time results every 15 minutes which will be accessible, remotely by computer. Trigger levels for PM<sub>10</sub> dust will be determined following a period of baseline monitoring and a warning system will be put in place if PM<sub>10</sub> levels approach these trigger levels. Conditions 18 to 21 seek to control site operations and monitoring in relation to dust.

**(l) The applicant has requested a 3m wide strip to be cordoned off within resident's gardens as a health and safety measure.**

**Response:** Noted. This is outwith the control of the Council and the applicant and can only be implemented by the applicant with the consent of the relevant landowners. An informative is proposed to be attached to the decision notice, if this application is granted, advising that planning permission does not give the applicant the right to undertake works on land outwith their ownership.

**(m) The works would result in an increase in heavy traffic which would cause noise and dust problems within the industrial estate. This could adversely affect our trading due to disruption to deliveries.**

**Response:** The traffic and transportation impact of the proposed development has been assessed and the development would create a minimal increase in traffic on the public road network. The use of the road through the private industrial estate is a private matter between the owners of the estate. Nonetheless, having regard to the scale of the vehicle movement, I am satisfied that the development would not result in a significant impact on the trading of business' within the industrial estate.

- (n) **The roads within the industrial estate are privately owned and any damage caused would fall onto the owners/tenants of the estate.**

**Response:** Noted. The access road from the roundabout on Low Waters Road through the industrial estate to the site is privately owned and maintained. The applicant has confirmed that they have rights over this road to access the site for the purposes of the bing removal development. Any damage on the private road, caused as a result of this development, would be a private matter between the various owners of the access road and the applicant.

- (o) **The access road within the industrial estate has already subsided due to a mine shaft. The increase in heavy traffic could cause the remaining section of the road to collapse.**

**Response:** The Council has liaised with The Coal Authority with regards to this issue, who initially advised against the approval of development which would result in a significant increase in traffic along this section of road. The Coal Authority has however undertaken works on the road adjacent to the collapsed mine shaft to address this issue and have confirmed that two lanes of traffic is able to pass the shaft and that there is no longer issues regarding vehicle weight.

- (p) **South Lanarkshire Council will benefit financially by the proposed development.**

**Response:** There is no financial incentive for the Council to determine this application in a particular way.

- (q) **The proposed development would detract from the value of my property.**

**Response:** This is not a planning matter and cannot be considered when determining this application.

- (r) **The site is home to wild orchids which would be removed as a result of this proposal.**

**Response:** This matter will be considered in the Assessment and Conclusions section of the report.

- (s) **The bing material could self combust as a result of the coal contained within the bing.**

**Response:** Noted. There is a risk that material within the bing could self-combust when exposed, during the bing removal works. Condition 45 requires the applicant to submit, for the approval of the Council, a working methodology and emergency fire fighting plan, which will set out ways in which this issue will be mitigated against and managed should fire occur. Condition 46 requires the operator to comply with this plan, and notify the Council of the outbreak of any fire as soon as practicable. The removal of the bing, once completed, will remove the risk of self-combustion. It is also worth noting that if the bing is left in-situ, the risk of self-combustion remains.

- (t) **The Council should have stopped the felling of the trees on Cadzow Bing, stopping it getting into its current state.**

**Response:** The felling of trees does not require planning permission, unless they are protected through Tree Preservation Orders or other designations. The felling of the trees could not therefore be controlled by the Council.

- (u) **The removal of the bing could cause subsidence in the locality.**

**Response:** This issue has been considered in detail by the applicant who has confirmed that the removal of the bing material should not be subject to

structurally significant soil heave that could cause a material of noticeable effect on neighbouring buildings. I therefore consider that there is no evidence to indicate that these works will cause subsidence to properties within the locality.

**(v) The workings would result in a loss of privacy.**

**Response:** The ground levels of the bing are elevated above the neighbouring residential dwellinghouses. As a result, the bing, in its current form, can provide an elevated platform which could result in a loss of privacy. Whilst the stabilisation stage would result in workings on the outer face of the bing for a limited period of up to 4 months, the majority of the workings will be undertaken from within the bing, with a bund located between machine operatives and houses. The resultant development would result in ground levels which are either comparable, or below, ground levels of neighbouring houses.

**(w) Water from the site would create pollution through leachate of contaminants within the material.**

**Response:** The applicant proposes to construct three SUDS ponds in the north-eastern corner of the application site to treat surface water and groundwater. The ponds will be fed by swales which collect water along the perimeter of the site and direct the flow to the ponds. The water treatment system is considered to be satisfactory to deal with leachate and surface water.

**(x) The application has not been supported by a formal Environmental Impact Assessment.**

**Response:** An Environmental Impact Assessment was carried out for the proposed development, and has been used to assess the potential environmental impact of the proposed development.

The above letters of representation have been copied and are available for inspection in the usual manner.

## **6 Assessment and Conclusions**

- 6.1 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Glasgow and Clyde Valley Joint Structure Plan, the adopted South Lanarkshire Local Plan 2009 and the adopted South Lanarkshire Minerals Local Plan 2002.
- 6.2 In assessing any planning application it is also necessary to evaluate the proposals against the most up to date policies and criteria contained in the relevant national planning policy. There is specific national planning policy guidance and advice for workings such as the proposed are contained within SPP, PAN33, PAN 50 (together with its various annexes), and PAN 64.
- 6.3 In relation to relevant national planning policy and guidance, SPP promotes the sustainable recycling of mining waste materials, and the removal of mining dereliction. SPP therefore looks at the locational and operational considerations of mineral proposals, providing advice on a range of issues including visual impact, noise, dust and transportation. SPP also states that the protection of natural heritage may sometimes impose constraints on developments. However, it is recognised that through the imposition of measures to mitigate a proposal's impact that development can be allowed in certain circumstances. These and other issues

identified in the policy document have to be considered in the assessment of this application.

- 6.4 PAN33 (Development of Contaminated Land) provides advice on a number of issues relating to contaminated land including advice on the determination of planning applications when the site is or may be contaminated. These issues have been considered, where appropriate, in the processing of this application.
- 6.5 PAN 50 (Controlling the Effects of Surface Mineral Workings) provides advice on best practice with respect to mineral working in relation to the control of noise, dust, traffic, and blasting. These issues have been considered, where appropriate, in the processing of this application.
- 6.6 PAN 64 provides advice on best practice for reclamation of sites and relates specifically to restoration conditions, after care considerations, various uses of sites, planning conditions, agreements and after care schemes. These issues have been considered, where appropriate, in the processing of this application.
- 6.7 From the information received in respect of these matters, it is considered that the proposed works will not cause any significant environmental issues that cannot be addressed through the imposition of appropriate planning conditions and through a legal agreement. In this respect the proposal does not conflict with the provisions of SPP, PAN33, PAN 50 or PAN 64.
- 6.9 In relation to Structure Plan Policy, the proposed development can be assessed against Strategic Policy 9. Strategic Policy 9A relates to the need for the development in terms of the relevant demand assessment, 9B relates to the location of the development and its impact on strategic resources and 9C relates to provision by the developer in relation to infrastructure and remedial action required.

Strategic Policy 9A(v) requires any significant aggregates development (proposals where the site exceeds 2hectares or extraction quantities exceeds 50,000 tonnes) to be assessed against the 10 year supply and demand within the Structure Plan Area. This policy refers to mineral extraction operations where the primary purpose is to extract the mineral. In the case of the removal of Cadzow Bing however, the purpose of the bing removal is to remediate the site for use for future built development. In this respect, the proposed development is considered to be a remediation project to form a development platform for future housing, as opposed to a mineral extraction project where the sole purpose is for the sale of minerals. As a result, it is not considered appropriate to assess the development against the 10 year supply and demand within the Structure Plan area.

Strategic Policy 9B(iv) seeks to safeguard environmental resources, including landscape character and quality. Visual and landscape impact of the removal of the bing has been assessed within the ES, which concludes that there will generally be a beneficial impact to the area. The bing is an un-natural landform, which no longer accommodates attractive planting. As such, it is considered that the removal of the bing would create a positive impact on the locality. The proposed development is considered to accord with the Strategic Policy 9B.

Strategic Policy 9C(iii) requires remedial environmental action and maintenance to be provided. The applicant has indicated that the site will be developed for residential use once the bing has been removed. Figure 2.11 notes that the site is to be restored with a mixture of planting and seeding if an application for built development is not forthcoming. Condition 12 also requires a planting and aftercare plan to be

provided within 12 months of commencement of development. I am satisfied that this adequately addresses the issue of restoration and I am satisfied that the development accords with Strategic Policy 9C.

It is therefore concluded that the proposal is not a departure from Structure Plan policy.

- 6.10 At a local level, the application requires to be considered against the policies within the South Lanarkshire Minerals Local Plan (adopted 2002). This provides a range of detailed policies against which mineral applications are to be assessed. The issues raised by the specific policies are highlighted below:

Policy MP1: General Protection of the Environment seeks to minimise the impact on the environment and communities whilst ensuring that sufficient supplies of minerals are available to meet society's needs. The applicant has prepared a number of mitigation measures to minimise the impact of the proposed development on the surrounding residential and commercial environment, which are considered to satisfactorily address the impact of the proposed development on the environment.

Policy MP4: Protection of Areas with Local Environmental Designations (Category 3 areas). The site was classed as a Site of Importance for Nature Conservation (SINC) (now known as Local Nature Conservation Sites) within the South Lanarkshire Council (Hamilton District) Local Plan Adopted August 2000. A SINC, or Local nature Conservation Site, is a non-statutory designation identifying sites of local nature conservation importance for plants, animals and/or habitats. The qualifying interests of the site were the alleged presence of rare and protected orchids and presence of badgers. No formal ecological studies are however held by the Council detailing the assessment of the site as a SINC, and no evidence of the wild orchids was or subsequently has been recorded.

The ecological value of the site was substantially degraded when the trees on site were felled in 2002/03. This works did not fall within the remit of the Town and Country Planning (Scotland) Act 1997, and was not controlled by the Council. The applicant has also received a series of badger licenses from the Scottish Government and SNH. Whilst SNH will not grant a further badger licence, for the removal of the main badger sett within the site until planning permission is granted, they have confirmed that have no objection to the principle of the removal of the main sett.

In light of the above, the interests of the site which initially qualified it as a SINC/Local Nature Conservation site are no longer relevant. The proposed development will incorporate a degree of planting, the details of which are required by Condition 12.

Policy MP5: Visual Intrusion and Landscape Impact sets a presumption against development which is visually intrusive and seeks to ensure that visual impact is reduced to an acceptable level (this refers to siting, screening and restoration). As discussed in 6.9 above, the bing is a prominent, un-natural landform, which no longer accommodates attractive planting due to recent felling. The bing is surrounded on three sides by residential properties and represents a dominant and obtrusive feature on the immediate vicinity, with un-naturally steep slopes to the east, north and west. The bing is visible from greater distances, due to its elevated position within Hamilton. As such, it is considered that the removal of the bing would be beneficial to the visual amenity of the locality and the larger surrounding area. It is therefore considered that the proposal complies with the provisions of Policy MP5.

Policy MP7: Watercourses, Surface and Groundwater sets a presumption against proposals which have a detrimental impact on watercourses, surface or groundwater. The application includes details of a surface water treatment scheme, which includes the use of swales around the perimeter of the site to direct water to the three water treatment ponds in the north east of the site. Both SEPA and the Council's Flood Prevention Unit have confirmed that they accept the water treatment proposals put forward.

Policy MP11: Buffer Zones sets acceptable distances between excavation activities, which involve blasting and non-blasting activities and sensitive landuses such as residential properties. A buffer of 250m between sensitive properties and non-blasting extraction activities is sought by Policy MP11. Residential properties surround the site on three sides, and their rear gardens share a common boundary with the application site. The extraction activities will therefore encroach into the buffer. The inclusion of a buffer in this case is not therefore feasible and would result in the bing removal development being unachievable. The applicant, in consultation with the Council, has undertaken detailed assessments of the impact on neighbouring properties and communities and has set out detailed measures to minimise the developments impact on the surrounding locality. As discussed further within this section, the impacts of the development are not likely to create an unacceptable impact on local communities and therefore a relaxation of this policy is considered appropriate.

Policy MP12: Impact on Communities seeks applications for mineral extraction to be assessed with respect the impact of the operation in relation to traffic, roads, noise, dust, visual impact, etc. The environmental impacts of the proposed development have been given detailed consideration by the applicant in the form of the Environmental Statement and the draft EMP. The Council, particularly Planning and Environmental Services, has been closely involved in the preparation of the EMP, which has developed methods of working, mitigation measures and trigger levels to minimise the impact of the development. It is considered that through the imposition and effective monitoring of appropriate conditions, the impact on local communities, individual dwellings or the environment can be controlled and reduced to an acceptable level. Furthermore, the applicant has confirmed that they are willing to participate in a Community Liaison Group. This would be controlled through a Section 75 legal agreement. The proposal therefore complies with policy.

Policy MP18: Transportation of Minerals seeks a Traffic Impact Assessment (TIA) to be submitted to support applications for mineral developments. A Transport Statement has been provided which concludes that the proposed impacts from transportation are limited. As stated above, neither SLC Roads nor the Scottish Government's Roads Departments have any objections to the proposal.

Policy MP19: Restoration and After-care Provision seeks proper provision for the treatment of the site following completion of mineral extraction. The application includes details of areas to be planted and seeded following the removal of the bing material. It is also, however, anticipated that a further application will be submitted for built development on the site. In addition, the applicant has confirmed willingness to provide a restoration bond to safeguard the reinstatement of the site.

Policy MP20: Restoration guarantee bonds. As stated above, the applicant has confirmed willingness to enter into a restoration bond agreement. The bond would cover the removal of any structures on site, the remodelling and re-profiling of the site to an acceptable landform, the seeding and planting of the site and the provision

of a maintenance and aftercare programme of the site for 5 years. The value of the bond would be calculated based on 'worst case scenario', where the maximum amount of earthworks would be required.

Policy MP22: Bing Reclamation proposals for the reworking of old colliery spoil tips for coal or secondary materials will be permitted only where they are environmentally acceptable and in accordance with other policies in the development plan. This policy is therefore supportive of the proposed development, providing it can be carried out to an environmentally acceptable standard.

Policy MP23: Mineral Conservation and Aggregate Recycling promotes the re-use of waste materials from mineral workings provided that there will be no significant adverse environmental impacts and that the site is in an appropriate location. The proposed development would involve the removal and use of materials which have resulted from the historical mineral workings.

Policy MP29: Assessment of Environmental Impact requires the submission of an appropriately scoped Environmental Statement for every proposal which constitutes EIA development in terms of the EIA (Scotland) Regulations 1999. A scoping exercise was undertaken and a full ES accompanied the application in accordance with mineral plan policy requirements and the EIA (Scotland) Regulations 1999.

Policy MP32: Noise Survey and Limits requires a survey to be carried out to determine existing background noise levels and an estimate of the likely future noise which would arise from the proposed development. The Environmental Statement contains a chapter regarding Noise and Vibration, including details of baseline noise levels. The draft third EMP has further developed measures to mitigate against the creation of noise and monitor noise levels within the surrounding area. It is noted that Environmental Services have confirmed their acceptance of the applicant's proposals in relation to noise and Condition 14 requires the submission and approval of a detailed noise monitoring and mitigation scheme.

Policy MP33: Dust Assessment Study requires a dust assessment to be undertaken for all mineral development which should affect dust sensitive properties. The Environmental Statement contains a chapter regarding Air Quality and the draft EMP has further developed measures to mitigate against the generation of dust and monitor dust levels within the surrounding area. This addresses the issues identified in Policy MP33. Furthermore, Environmental Services confirm that they are satisfied with the assessment and mitigation measures and Condition 18 requires the submission and approval of a detailed dust monitoring and mitigation scheme.

Policy MP37: Legal Agreements seeks the use of legal agreements, where appropriate, to control aspects of the development which cannot be adequately controlled through the use of planning conditions. The applicant has confirmed their agreement to enter into a legal agreement in relation to a number of aspects of the development, as detailed on the front page of this report.

Policy MP38: Monitoring of mineral workings notes that the Council monitor minerals sites to ensure the highest standards of environmental practice is adopted. Should planning permission be granted, appropriate monitoring procedures will be put in place and the Minerals Monitoring and Enforcement Officer will undertake regular site visits to monitor progress and adherence to conditions of consent. It is worth noting that the applicant has agreed to the principle of partially contributing to the continued employment of the Minerals Monitoring and Enforcement Officer.



Policy MP39: Annual progress plans notes that the Council will require the provision of a progress plan to be provided annual basis. Due to the duration of the development, it is not considered an annual progress plan is appropriate. Condition 4 does however require the operator to notify the Council on the completion of each stage of the development, thereby ensuring the Council is informed of the progress of works. It is anticipated that Condition 4 will require the operator to notify the Council regarding the progress of works every 4 to 6 months, on average.

- 6.11 In light of the above assessment, the proposal accords with the Minerals Plan, with the exception of the detailed requirements set out in MP11 – Buffer Zones.
- 6.12 The adopted South Lanarkshire Local Plan 2009 (SLLP) identifies the majority of the application site as a housing land supply proposal site, where Policy RES 2 applies. This policy notes that the Council will support the development of housing on sites in the Housing Land Audit, as summarised in Appendix 1 and identified on the Proposals Map in the SLLP. Appendix 1 of the SLLP indicates that the site has an indicative capacity for 100 houses. The development of this site for housing would require the removal of Cadzow Bing. Policy RES 2 therefore supports the principle of the development.
- 6.13 The site is also controlled by Policy ENV 2 – Local Green Network of the SLLP. Policy ENV2 notes that the loss of an area in part or in whole will only be permitted where it can be demonstrated that development will enhance the existing situation in respect of wildlife, biodiversity, townscape quality and character, amenity and access. In the case of Cadzow Bing, the ecological value of the site is limited and the remaining vegetation is of poor quality. The proposed development will result in the provision of a landscaped area in the southern section of the site and a landscaped strip along the western boundary. These proposals are considered to improve the existing situation. The proposal is therefore considered to comply with Policy ENV 2.
- 6.14 The southern extent of the application site is zoned for industrial landuse, under Policy ECON 1 of the SLLP. The proposed operation is considered to be compliant with the industrial landuse designation and adheres to this policy.
- 6.15 Policy ENV 19 – Vacant and Derelict Land notes that the Council will work in partnership with Scottish Government, other agencies and private sector interests to develop and implement a programme for the remediation of contaminated sites and redevelopment, including greening, of vacant and derelict land. The application site is listed within the Vacant and Derelict Land register. This policy therefore supports the redevelopment of the site, which is dependant on the removal of the bing material.
- 6.16 Policy ENV 27 – Local Nature Conservation Sites sets a presumption against the development of local nature conservation sites. The impact of the development on a local nature conservation sites was discussed within 6.10 in relation to policy MP4 of the Minerals Local Plan. In light of the above, I am satisfied that the development will not adversely affect a valuable ecological resource and complies with Policy ENV 27.
- 6.17 The SLLP contains a general development management policy, Policy DM 1 (Development Management) which requires all development to take fully into account the local context and built form. The development is surrounded on three sides by residential properties. From the above assessment I am satisfied that the proposed operation will not unduly impact upon nearby residential properties and

that the other environmental impacts of the operation can be satisfactorily mitigated to an acceptable level. Furthermore, I am satisfied that the removal of the bing, on completion of the operation, will result in a beneficial impact in the locality. Therefore, it is considered that the proposal is consistent with policy.

- 6.18 Finally, Policy DM 3 – General Monitoring Policy notes that monitoring shall be undertaken to ensure that development is carried out in accordance with planning legislation, approved plans and conditions. Policy DM 3 notes that priority shall be given to those developments which are most likely to have an impact on the environment and/or on neighbours. The designated Minerals Monitoring and Enforcement Officer would prioritise the proposed bing removal operation, due to its nature, scale and proximity to sensitive properties.
- 6.19 In light of the above, it is considered that the proposal is consistent with the policy aims of the adopted South Lanarkshire Local Plan 2009.
- 6.20 To summarise, the application was accompanied by an Environmental Statement, as required by the Environmental Impact Assessment (Scotland) Regulations 1999. The applicant thereafter prepared an EMP, which, combined with the Environmental Statement, fully assesses the likely environmental impacts of the proposal.
- 6.21 The proposal involves the removal of a large bing, located within a built up area of Hamilton. Whilst it is considered that the removal of the bing would be a benefit to the area, planning permission should only be granted where it can be demonstrated that the environmental impacts of the operation will not create an unacceptable impact on the local community and therefore outweigh these benefits. The applicant, in consultation with the Council and other external organisations, has undertaken a substantial amount of work in assessing and addressing the potential environmental impacts of the proposed operation. It is considered that whilst the operation will create some impact on the surrounding locality, particularly during the initial stabilisation stage of the development, these impacts will reduce during the later stages.
- 6.22 In conclusion, I consider that the proposal complies with Council policy although not with the detailed requirements for buffer zones described in Policy MP11 – Buffer Zones in the South Lanarkshire Minerals Local Plan. In this respect, however, while the proposal will not fully meet the criteria that are set the proposals will satisfy the aims and objectives of the policy as:
- (i) Through the detailed assessment above, it is clear that the environmental impacts of the proposal can be mitigated to an acceptable level.
  - (ii) Significant measures have been identified and can be put in place to minimise the development's impact on the local community through the methods of working, mitigation and monitoring.
  - (iii) The proposed impacts from noise, dust, vibration and traffic movements are unlikely to significantly affect nearby residents.
- Taking account of the above I consider the development is not significantly or materially at odds with the development plan.
- 6.23 As the benefits of removing the bing are considered to outweigh the potential residual impacts of the removal operation I recommend that planning permission be granted subject to the imposition of suitable planning conditions and agreements to control site operations and restoration works.

## **7 Reasons for Decision**

- 7.1 The proposal complies with national planning policy and advice, and the adopted South Lanarkshire Local Plan 2009. Furthermore, the proposal complies with the adopted South Lanarkshire Minerals Local Plan 2002, with the exception of Policy MP11 – Buffer Zones and a departure from policy in this respect can be justified for the reasons set out in paragraph 6.22 above. .

**Colin McDowall**  
**Executive Director (Enterprise Resources)**

**16 March 2010**

### **Previous References**

- ◆ HM/05/0292
- ◆ HM/05/0461
- ◆ HM/03/0617

### **List of Background Papers**

▶ Application Form	
▶ Application Plans	
▶ Consultations	
Roads and Transportation Services (Hamilton Area)	21/05/2009
Environmental Services	21/05/2009
Scottish Executive Development Department	13/05/2009
Roads & Transportation Services H.Q. (Geotechnical)	07/07/2009
TRANSCO (Plant Location)	23/07/2009
Roads & Transportation Services H.Q. (Flooding)	09/06/2009
S.E.P.A. (West Region)	21/07/2009
Coal Authority Mining Reports Office	22/06/2009
Scottish Natural Heritage	05/06/2009
Historic Scotland	19/06/2009
Transport Scotland	13/05/2009

### **Representations**

- Representation from : Mrs Margo Pate, 2 Hawksland Walk  
Hamilton  
ML3 7NX, DATED 10/06/2009
- Representation from : Bryce Associates , 6 Newton Place  
Glasgow  
G3 7PR, DATED 10/06/2009

Representation from : Sandy Masser, 9 Hutchison Street  
Hamilton  
ML3 7LQ, DATED 10/06/2009

Representation from : Mr. William McNaught, 57 Hutchison Street  
Hamilton  
ML3 7LQ, DATED 05/05/2009

Representation from : Hugh McClelland & Son, Unit 7  
Block 1  
Cadzow Bridge Industrial Estate  
Hamilton  
ML3 7QU, DATED

Representation from : David Bryce Associates, (On behalf of Oticon Ltd)  
6 Newton Place  
Glasgow  
G3 7PR, DATED

Representation from : Hamilton TOA Radio Cabs, Block 5  
Cadzow Industrial Estate  
Hamilton  
ML3 7ZZ, DATED

Representation from : Miller Property Management, 27 Bothwell Road  
Hamilton  
ML3 0AS, DATED 14/05/2009

Representation from : Suzanne Main, 144 Silvertonhill Avenue  
Hamilton  
ML3 7PA, DATED 14/05/2009

Representation from : Mr & Mrs R. Main, 8 Avonbank Crescent  
Hamilton  
ML3 7PD, DATED 14/05/2009

Representation from : Allison Tedeschi, Mount Vernon Engineering Co. (GLGW)  
Ltd  
Block 1  
Unit 6  
Cadzow Industrial Estate  
Low Waters Road  
Hamilton  
ML3 7QU, DATED 15/05/2009

Representation from : Mr. Andrew Holmes, 144 Silvertonhill Avenue  
Hamilton  
ML3 7PA, DATED 02/06/2009

Representation from : Sheena Orr, 12 Avonbank Crescent  
Hamilton  
ML3 &PD, DATED 13/05/2009

Representation from : Robert Gibson (Partner), G&H Welding Specialists

Unit 1A, Cadzow Industrial Estate  
Low Waters Road  
Hamilton  
ML3 7QU, DATED 27/05/2009

Representation from : Mrs Struthers, 2 Covanburn Avenue  
Hamilton  
, DATED 24/06/2009

Representation from : Mrs Marion Orr , 49 Chatelherault Crescent  
Hamilton  
ML3 7PR, DATED 24/06/2009

Representation from : Susan Mitch via e-mail DATED 24/06/2009

Representation from : Mrs Duncan, 87 Avonbrae Crescent  
Hamilton  
ML3, DATED 24/06/2009

Representation from : Mrs Elizabeth McLeish , 131 Silvertonhill Avenue  
Hamilton  
ML3 , DATED 24/06/2009

Representation from : Mrs M McPheat, 92 Chatelherault Crescent  
Hamilton  
ML3 7PW, DATED 24/06/2009

Representation from : Mr Andrew G Cameron, 3 Caledonia Walk  
Hamilton  
ML3 7PU, DATED 24/06/2009

Representation from : Mr G M Paterson , Triholm  
115 Silvertonhill Avenue  
Hamilton  
ML3 7PA, DATED 22/06/2009

Representation from : Mrs Christine Smy, 2 Dungavel Gardens  
Hamilton  
ML3 7PE, DATED 22/06/2009

Representation from : Mrs Lynn Leitch, 26 Avonbank Crescent  
Hamilton  
ML3 7PD, DATED 22/06/2009

Representation from : Mr William Wilson , 25 Avonbank Crescent  
Hamilton  
ML3 7PB, DATED 22/06/2009

Representation from : Mr John Smy, 2 Dungavel Gardens  
Hamilton  
ML3 7PE, DATED 22/06/2009

Representation from : Mrs L Young, 18 Avonbrae Crescent  
Low Waters Estate  
Hamilton

ML3 7PS, DATED

- Representation from : Mrs L Young, 18 Avonbrae Crescent  
Low Waters Estate  
Hamilton  
ML3 7PS, DATED 01/07/2009
- Representation from : Mrs Catherine Boyd, 154 Silvertonhill Avenue  
Hamilton  
ML3 7PP, DATED 01/07/2009
- Representation from : Mrs Julie Dickson, 5 Aitken Road  
Hamilton  
ML3 7YA, DATED 01/07/2009
- Representation from : Isobel Graham, 39 Hutchison Street  
Hamilton  
ML3 7LQ, DATED 01/07/2009
- Representation from : Mrs Agnes McLuckie, 27 Covanburn Avenue  
Hamilton  
ML3 7PX, DATED 18/06/2009
- Representation from : Mr David F Donnelly, 19 Covanburn Avenue  
Hamilton  
ML3 7PX, DATED 18/06/2009
- Representation from : Anne Maxwell, 15 Dungavel Gardens  
Hamilton  
ML3 7PE, DATED 18/06/2009
- Representation from : Mrs Ann Hynds, 2 Moore Gardens  
Silvertonhill  
Hamilton  
ML3 7YB, DATED 16/06/2009
- Representation from : Siobhan Tammaro, 152 Silvertonhill Avenue  
Hamilton  
ML3 7PP, DATED 26/06/2009
- Representation from : Mr Stewart Dickie, 38 Avonbank Crescent  
Hamilton  
ML3 7PD, DATED 15/06/2009
- Representation from : Mr James Bannatyne, 62 Avonbank Crescent  
Hamilton  
ML3 7PD, DATED 15/06/2009
- Representation from : Mr George Copeland, 33 Arran Gardens  
Hamilton  
ML3 7NZ, DATED 15/06/2009
- Representation from : Mr Alan Simpson, 4 Dungavel Gardens  
Hamilton  
ML3 7PE, DATED 15/06/2009

Representation from : Mr William Mackie, 67 Avonbank Crescent  
Hamilton  
ML3 7PB, DATED 15/06/2009

Representation from : Mrs Caroline Logan, 24 Avonbank Crescent  
Hamilton  
ML3 7PD, DATED 15/06/2009

Representation from : Mr D Smeaton, 35 Arran Gardens  
Hamilton  
ML3 7NZ, DATED 08/09/2009

Representation from : Mr A McMenemy Jr, 37 Arran Gardens  
Hamilton  
ML3 7NZ, DATED 08/09/2009

**Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

Donald Wilkins  
(Tel : 01698 455903 )  
E-mail: [Enterprise.hq@southlanarkshire.gov.uk](mailto:Enterprise.hq@southlanarkshire.gov.uk)

## CONDITIONS

- 1 The development hereby permitted shall be started within three years of the date of this permission.
- 2 Unless otherwise directed by conditions or legal agreements attached to this consent, this decision relates to the following;
  - \* Drawings;
    - \* Location Plan
    - \* C SA 90 0100 A03 - Site Layout and Topographical Survey
    - \* C SA 90 0601 A01 - Badger Sett Locations (Confidential)
    - \* C SA 90 0602 A02 - Pollution Prevention Plan
    - \* C SA 90 0603 A01 - Slope Stabilisation Excavation Works
    - \* C SA 90 0604 A01 - Proposed Bing Removal Sections Sheet 1
    - \* C SA 90 0605 A01 - Proposed Bing Removal Sections Sheet 2
    - \* C SA 90 0606 A01 - Traffic Routing
    - \* C SA 90 0608 A01 - Topsoil and Clay Movement
    - \* C SA 90 0610 A02 - Proposed Bing Removal
    - \* C SA 90 0613 - Sections Through Proposed West Embankment
    - \* C SA 90 0614 A01 - Proposed Bing Removal Stages 4B & 5
    - \* C SA 90 0615 A02 - Pollution Prevention Owner/Maintenance Plan
  - \* Environmental Statement - Main Report, dated April 2009 which includes the following figures;
    - \* Figure 2.1 - Site Location Plan
    - \* Figure 2.2 - Site Plan
    - \* Figure 2.5 - Slope Stabilisation
    - \* Figure 2.6 - Slope Stabilisation - Sections
    - \* Figure 2.7 - Bing Removal - Stage 1
    - \* Figure 2.8 - Bing Removal - Stage 2
    - \* Figure 2.9 - Bing Removal - Stage 3
    - \* Figure 2.10 - Bing Removal - Stage 4
    - \* Figure 2.11 - Completion of Works - Stage 5
    - \* Figure 2.12a - Removal Works - Sections
    - \* Figure 2.12b - Removal Works - Sections
    - \* Figure 2.12c - Removal Works - Sections
    - \* Figure 2.12d - Removal Works - Sections
    - \* Figure 7.1 - Routing Plan
    - \* Figure 8.1 - Noise Monitoring and Assessment Locations
  - \* Environmental Statement - Technical Appendices, dated April 2009;
  - \* Environmental Statement - Confidential Technical Appendices, dated April 2009;
  - \* Draft Environmental Management Plan (Third draft), dated December 2009.
- 3 That prior to the commencement of works hereby approved, a finalised Environmental Management Plan, based on the Third Draft Environmental Management Plan prepared by the Waterman Group dated December 2009, shall be submitted for the approval of the Council as Planning Authority. Thereafter, the approved mitigation measures and action levels, described within the documents referred to in Condition 2 above, shall be adhered to for the duration of the works, unless otherwise approved in writing by the Council as Planning Authority.
- 4 The Council shall be notified in writing of the proposed date for starting work on



site, at least 7 days prior to the commencement of works. Thereafter, the Council shall be notified in writing by the applicant of the intended date for the commencement and the completion date of each subsequent stage, including Stages 4a & 4b, of development on site.

- 5 That the duration of the stabilisation stage, as described with paragraphs 2.19 to 2.24 of the Environmental Statement and illustrated within drawings CSA900610A02 & CSA900603A01, shall not exceed 18 weeks from the date of commencement, as notified in accordance with Condition 4, unless otherwise approved in writing by the Council.
- 6 The Council shall be notified in writing by the applicant within 7 days of the completion of landforming works for which planning permission has been granted.
- 7 That all operations authorised or required by this permission shall cease and all plant, machinery, equipment, structures and buildings (other than such plant, machinery, equipment, structures and buildings required during restoration) shall be removed from the site not later than 3 years from the date of commencement of development received by the Planning Authority in accordance with Condition 4 of this permission, and the site shall be fully restored in accordance with the approved restoration plan as required under Condition 12 (including the removal of any remaining plant, machinery, equipment, structures and buildings) not later than 12 months from the date of cessation of operations, as notified to the Council in accordance with Condition 6.
- 8 That if, due to unforeseen circumstances, it becomes necessary or expedient following commencement of works to materially amend the provisions contained within the approved documents or conditions, the developer shall submit for the consideration of the Council as Planning Authority, an amended application and statement of intent: the developer shall adhere to the approved plans until such time as an amended application may be approved by the Council as Planning Authority.
- 9 That from the date of commencement of works on the site until completion of the final restoration, a copy of this permission and all approved documents and subsequently approved documents, shall be available for inspection in the site offices during approved working hours.
- 10 Notwithstanding details shown on the stamped approved plans, and before any work commences on the site (including stabilisation works), the following details shall be submitted to and approved in writing by the Planning Authority, and such details as may be approved, shall be implemented to the full satisfaction of the Planning Authority prior to the commencement of bing removal works:
  - (a) Details of the location, style and height of all new fences, walls and gates, whether permanent or temporary, to be erected within or around the boundaries of the site;
  - (b) Details of the location and type of wheel washing facilities to be installed, and a system (which shall remain in place for the duration of operations at the site) to ensure that all vehicles using the site have to pass through the operational wheel washing facilities;
  - (c) Details of a site notice board (of durable material and finish) which shall be erected at the site entrance detailing the hours of when the site is open and giving the name, address and telephone number of the operator;
  - (d) Details, including elevations, floor plans and location plans, of all permanent

or temporary buildings or structures to be erected on site during the works;

(e) Details of any external lighting, including hours of operation;

(f) Details of on-site car parking provision.

- 11 That, without the prior written approval of the Council as Planning Authority, the site shall not operate outwith the hours stated below:

	Weekdays	Saturdays
Time of Opening	08.00 am	09.00 am
Time of Closing	18.00 pm	13.00 pm

There shall be no working on Sundays or local bank holidays as detailed on the Councils website (with the exception of essential maintenance work), unless otherwise agreed in writing with the Planning Authority.

- 12 That within 12 months of the date of this permission, a detailed restoration planting plan and aftercare scheme and programme of works shall be submitted for the written approval of the Council as Planning Authority and the restoration and aftercare of the site shall be carried out to the satisfaction of the Council as Planning Authority in accordance with the approved scheme and timescales described in the programme.

- 13 That with respect to the control of noise resulting from the operations at this site, the developer shall comply with the following:

(a) that during the initial stabilisation stage, as described with paragraphs 2.19 to 2.24 of the Environmental Statement and illustrated within drawings CSA900610A02 & CSA900603A01, and during the Stages 4b & 5, the nominal noise limit attributable to site operations between 10.00hrs and 17.00hrs at any noise sensitive properties within the vicinity of the site, shall not exceed 70dB(A) LAeq over any one hour period;

(b) that during Stages 1, 2, 3, 4a and the final restoration stage, the nominal noise limit attributable to site operations between 08.00hrs and 18.00hrs at any noise sensitive properties within the vicinity of the site, shall not exceed 55 dB(A) LAeq measured over the 10 hour period, and that no one hour period shall exceed 65dB(A) LAeq;

(c) notwithstanding (a) & (b) above, for the duration of the works hereby approved, the nominal noise limit attributable to site operations between 08.00hrs and 10.00hrs and 17.00hrs and 18.00hrs at any noise sensitive properties within the vicinity of the site, shall not exceed 55 dB(A) LAeq measured over a 1 hour period.

- 14 That prior to the commencement of any works on site the developer shall submit, for the approval of the Planning Authority, a detailed scheme of site noise monitoring and mitigation and thereafter shall abide by the terms of the approved scheme, unless otherwise agreed in writing by the Planning Authority.

The scheme of site noise monitoring and mitigation shall be in line with the relevant information contained in the Environmental Management Plan and shall advise on:

- the location of noise monitoring equipment
- monitoring frequency
- details of equipment to be used and experience of monitoring staff
- A programme of implementation

The noise survey results shall thereafter be submitted to the Planning Authority on a monthly basis for the duration of the works.

- 15 Efficient silencers shall be fitted to, used and maintained in accordance with manufacturer's instructions on all vehicles, plant and machinery used on the site. With the exception of maintenance, no machinery shall be operated with the covers open or removed.
- 16 That reversing alarms used on plant and vehicles shall be either non-audible, ambient related, or low tone devices.
- 17 That for the duration of stages 1, 2 and 3, a 4 metre high bund between the area of excavation and the north, east and western boundaries of the site shall be retained.

Notwithstanding the above, for the duration of stage 4a, a 6 metre high bund between the area of excavation and the north, east and western boundaries of the site shall be retained.

No openings shall be created through the bund unless approved in writing by the Council.

- 18 That prior to the commencement of any works on site the developer shall submit, for the approval of the Planning Authority, a detailed scheme of site dust monitoring and mitigation and thereafter shall abide by the terms of the approved scheme unless otherwise agreed in writing by the Planning Authority.

The scheme of site dust monitoring and mitigation shall be in line with the relevant information contained in the Environmental Management Plan and shall advise on:

- the location of dust monitoring equipment
- monitoring frequency
- details of equipment to be used and experience of monitoring staff
- A programme of implementation

The dust survey results shall thereafter be submitted to the Planning Authority on a monthly basis for the duration of the works.

- 19 That, in the event of dust nuisance problems being created by operations on site, the operator shall take all reasonable remedial measures to minimise the transmissions of dust, to the satisfaction of the Council as Planning Authority.
- 20 That the developer shall ensure that sufficient water is maintained at all times on site, to address the requirements for dust suppression.
- 21 That at all times during operations, water bowsters and sprayers, whether fixed or mobile, shall be used to minimise the emission of dust from the site. If the prevention of dust nuisance by these means is not possible, then the movement of soils, vehicles, etc. shall temporarily cease until such time as the weather conditions improve.
- 22 That prior to the commencement of any works on site the developer shall submit, for the approval of the Planning Authority, a detailed scheme for vibration monitoring and mitigation and thereafter shall abide by the terms of the approved scheme unless otherwise agreed in writing by the Planning Authority.

The scheme for vibration monitoring and mitigation shall be in line with the relevant information contained in the Environmental Management Plan and shall advise on:

- The location of monitoring equipment
- Monitoring frequency
- Details of equipment to be used and experience of monitoring staff
- A programme of implementation

The vibration monitoring survey results shall thereafter be submitted to the Planning Authority on a monthly basis for the duration of the works.

- 23 That ground vibration shall not exceed a particle velocity of 8mm/s over any one month period, measured during operational hours, and shall not exceed a peak particle velocity of 15mm/s as measured at any residential premises in the vicinity of the site.
- 24 That no blasting shall take place at any time on site.
- 25 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development)(Scotland) Order 1992 (or of any order revoking, amending or re-enacting that Order), no buildings, structures or fixed plant, including that required for lighting the site shall be erected or installed within the site, without the prior written approval of the Council as Planning Authority.
- 26 The applicant or subsequent operator(s) shall at all times be responsible for the removal of mud or other materials deposited on the public highway or shared private access by vehicles entering or leaving the site, to the satisfaction of the Council and Planning Authority.
- 27 That all laden lorries leaving the site shall be sheeted before exiting the site.
- 28 That at intervals of three months from the date of this permission and until the development hereby approved is complete, the operator shall submit to the Council as Planning Authority a collated summary of the consignment notes for all laden vehicles leaving the site indicating the total quantities of material that has been exported from the site over the period and shall provide, if requested by the planning authority, copies of all records for any specified days within the three month period.
- 29 That prior to the dispatch of any material from site, the section of the access road between the wheel washing equipment, required by Condition 10, and site exit shall be surfaced in bitumen or concrete, or an alternative material to be approved in writing by the Council as Planning Authority, and this road shall be maintained in such a condition as to prevent ruts, potholes and ponding of water and kept clear of mud and dirt at all times, to the satisfaction of the Council Planning Authority.
- 30 All vehicles travelling to/from the site shall travel to/from the M74, via the A723, following the access route as detailed within Figure 7.2 of the Environmental Statement - Technical Appendices. No vehicles are permitted to use any other form of access to the site unless in an emergencies or if otherwise agreed in writing by the Council as Planning Authority.
- 31 That, within 3 months of the date of completion of the development, as notified to

the Council through Condition 6, a topographical survey of the site shall be submitted for the approval of the Council as Planning Authority.

- 32 That any stripping, stacking and replacement of topsoil shall be carried out when conditions are dry enough to avoid unnecessary compaction of the soils at any stage. The applicant shall give at least 7 days notice to the Council as Planning Authority prior to the commencement of any period of soil movements and the Council as Planning Authority reserves the right to suspend operations during adverse weather conditions or to impose such conditions as it sees fit for the safekeeping of the topsoil.
- 33 That the movement of plant, vehicles and machinery on the site shall be carried out in such a manner as to avoid, as far as possible, the crossing of undisturbed, reclaimed or restored land.
- 34 No operations involving soil lifting/replacement shall take place between the months of October to March inclusive except with the prior written approval of the Council as Planning Authority.
- 35 That soils shall only be stripped when they are in a suitably dry and friable condition (suitably dry means that the top soil can be separated from the sub soil without difficulty so that it is not damaged by machinery passage over it).
- 36 That no soil shall be removed from the site.
- 37 That no burning of material shall take place at any time on site.
- 38 That there shall be no screening or crushing on site, unless otherwise approved by the Council as Planning Authority.
- 39 That, in the event of extraction operations on site ceasing for a period of 6 months or more, the Council as Planning Authority shall deem operations on site to have permanently ceased, and shall require immediate restoration of the site, unless otherwise agreed in writing with the Council as Planning Authority.
- 40 That unless otherwise approved in writing by the Council as Planning Authority, no material shall be imported to or deposited at the site.
- 41 That all soil storage mounds (temporary and permanent) shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during site restoration. They shall be graded and seeded with a suitable low maintenance grass seed mixture immediately following their formation. The sward shall be managed in accordance with the appropriate agricultural management techniques throughout the period of storage.
- 42 That the mitigation measures and undertakings set-out within the Badger Protection Plan, contained within the Environmental Statement: Confidential Technical Appendices dated April 2009, shall be carried out to the satisfaction of the Council as Planning Authority.
- 43 The removal of any trees or vegetation that could provide habitat for nesting birds will take place outside the bird breeding season (April to July inclusive), unless a survey to establish the presence or otherwise of nesting birds has been undertaken and, where required, appropriate mitigating measures, to be agreed in

writing by the Council, have been carried out to the satisfaction of the Council.

- 44 All containers being used to store liquids (which have the potential to cause pollution) within the application site shall be labelled clearly to show their contents and located in a bund which shall be at least 110% of the capacity of the largest container stored within it.

Bunds shall conform to the following standards:

- \* The walls and base of the bund shall be impermeable
- \* The base shall drain to a sump
- \* All valves, taps, pipes and every part of each container shall be located within the area served by the bund when not in use;
- \* Vent pipes shall be directed down into the bund;
- \* No part of the bund shall be within 10 metres of a watercourse;
- \* Any accumulation of any matter within the bund shall be removed as necessary to maintain its effectiveness.

- 45 That prior to the commencement of development hereby approved, a working methodology and emergency fire fighting plan shall be submitted to and approved in writing by the Council as Planning Authority.
- 46 That in the event of an outbreak of fire within the bing, the operator shall immediately comply with the emergency fire fighting plan, as required by Condition 45, and shall notify the Council as soon as practicable.
- 47 That prior to the commencement of works, a ground investigation interpretative assessment report shall be submitted for the written approval of the Council as Planning Authority.
- 48 That details of the periodic sampling and laboratory testing of the bing material, as set out within the Third Draft Environmental Management Plan, or within any revised and approved version of the plan as required by Condition 3 above, shall be submitted to the Council at least 1 week prior to the exposure, excavation or exportation of material from site. The operator shall undertake further investigation, analysis or interpretation of the material or results, where deemed necessary by the Council.
- 49 That site operations shall cease, in strict accordance with the Councils instructions, where materials or quantities of materials are encountered within the bing which could be harmful to human health or the environment, as determined by the Council, or operator. Where such materials are encountered, the operator shall take immediate action, in consultation with the Council and SEPA, to address the situation.
- 50 That within 2 weeks of commencing excavation operations on site, a traffic monitoring programme shall commence and the results of the monitoring programme shall be submitted to the Council.
- 51 That prior to the commencement of development hereby approved, a site drainage plan, detailing the site drainage infrastructure, referred to within 3.8.5 of the third draft Environmental Management Plan, shall be submitted to and approved by the Planning Authority. Thereafter, the drainage infrastructure shall be implemented and maintained to the full satisfaction of the Planning Authority for the duration of works.

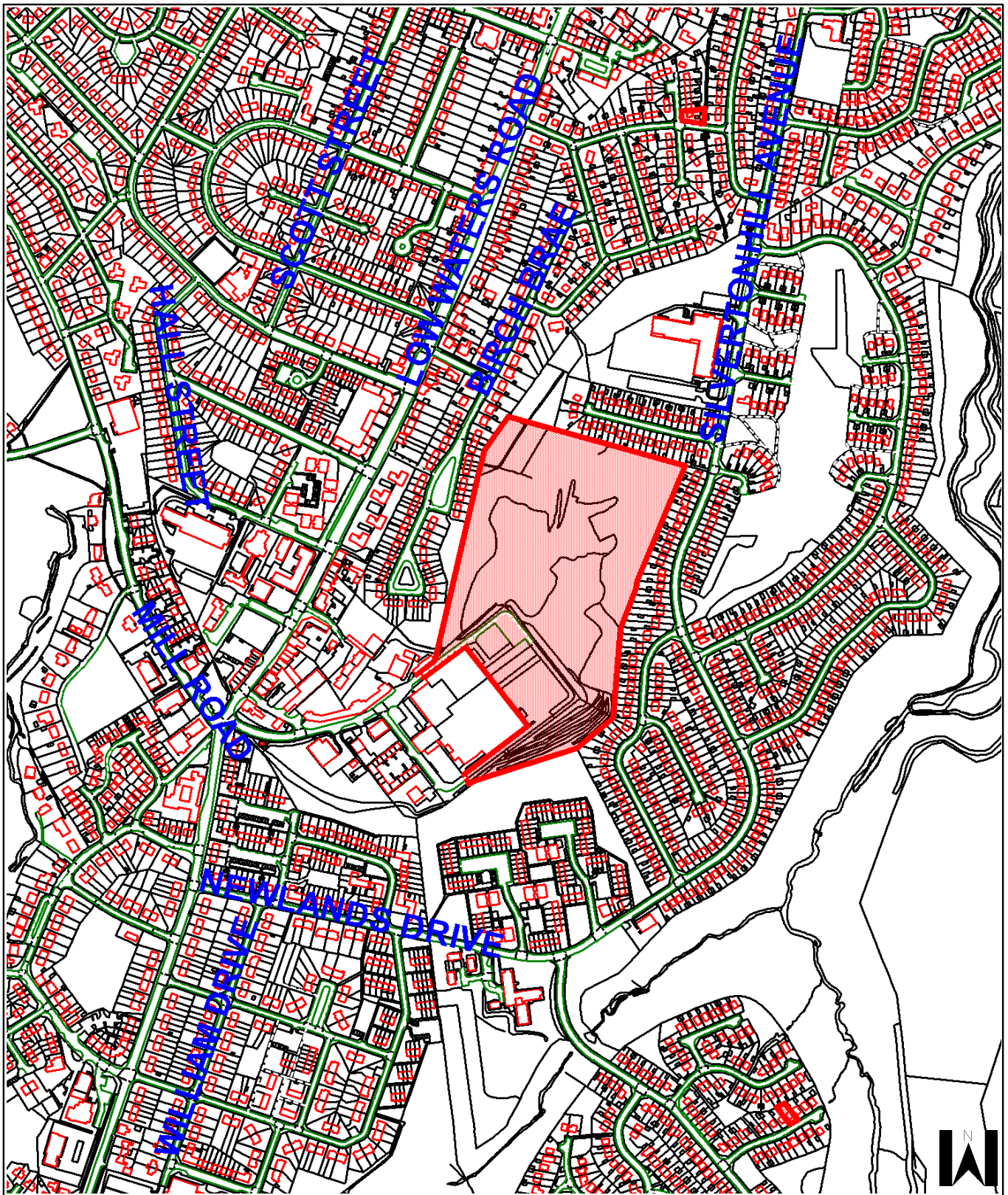
- 52 That prior to the commencement of development hereby approved, measures to protect the east, north and west boundaries of the site shall be submitted and approved by the Planning Authority. For avoidance of doubt, the measures should include a boundary treatment to protect the existing common boundary treatment from materials disturbed during the excavation and from plant and machinery during the works.

## REASONS

- 1 To comply with section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 2 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 3 To ensure satisfactory mitigation measures are in place to minimise potential environmental impacts.
- 4 To ensure that the Planning Authority retains effective planning control of the development.
- 5 To ensure that the Planning Authority retains effective control of the development, minimise any nuisance and to protect the amenity of neighbouring properties.
- 6 To ensure that the Planning Authority retains effective planning control of the development.
- 7 To provide for a comprehensive scheme of restoration enabling the land to be returned to the specific restoration after-use.
- 8 In order that the terms of consent may be reconsidered should a change in operation become necessary.
- 9 To ensure the site operator and visiting officials are aware of the approved details.
- 10 To ensure control over such development on the site so as to minimise the potential impact of the development.
- 11 In the interests of amenity and in order to retain effective planning control.
- 12 o provide for a comprehensive scheme of restoration enabling the land to be returned to the specific restoration after-use.
- 13 To minimise the risk of nuisance from noise to neighbouring properties.
- 14 The details were not submitted at the time of the application and are required.
- 15 To ensure that the Planning Authority retains effective control of the development, minimise any nuisance and to protect the amenity of neighbouring properties.
- 16 To ensure that the Planning Authority retains effective control of the development, minimise any nuisance and to protect the amenity of neighbouring properties.
- 17 To ensure that the Planning Authority retains effective control of the development, minimise any nuisance and to protect the amenity of neighbouring properties.
- 18 The details were not submitted at the time of the application and are required.
- 19 To ensure that the Planning Authority retains effective control of the development, minimise any nuisance and to protect the amenity of neighbouring properties.
- 20 To ensure that the Planning Authority retains effective control of the development, minimise any nuisance and to protect the amenity of neighbouring properties.
- 21 To ensure that the Planning Authority retains effective control of the development, minimise any nuisance and to protect the amenity of neighbouring properties.
- 22 The details were not submitted at the time of the application and are required.
- 23 To safeguard the amenity of the area.
- 24 To safeguard the amenity of the area.
- 25 In the interests of amenity and in order to retain effective planning control.
- 26 In the interest of road safety.
- 27 In the interest of road safety and amenity.
- 28 In order to retain effective planning control.
- 29 To prevent deleterious material being carried into the highway.



- 30 In the interests of amenity.
- 31 To ensure the Planning Authority retains effective control of the development and to ensure the finished ground levels are consistent with the approved plans.
- 32 To ensure the Planning Authority retains effective control of the development.
- 33 To ensure the Planning Authority retains effective control of the development.
- 34 To ensure the Planning Authority retains effective control of the development.
- 35 To ensure the Planning Authority retains effective control of the development.
- 36 In the interests of amenity.
- 37 In the interests of amenity.
- 38 In the interests of amenity.
- 39 To ensure that the Planning Authority retains effective control of the development.
- 40 For the avoidance of any doubt over what is approved.
- 41 To preserve the quality of the soils, and in the interests of the visual appearance of the site.
- 42 To ensure that provision is made to safeguard the ecological interest on the site.
- 43 To ensure that provision is made to safeguard the ecological interest on the site.
- 44 To ensure the safekeeping of such liquids.
- 45 To ensure that provision is made to address the potential self combustion of material on-site.
- 46 To minimise adverse affects of fire.
- 47 To ensure the Planning Authority retains effective control of the development.
- 48 To ensure the Planning Authority retains effective control of the development.
- 49 To ensure the Planning Authority retains effective control of the development.
- 50 To ensure the Planning Authority retains effective control of the development.
- 51 The details were not submitted at the time of the application and are required.
- 52 The details were not submitted at the time of the application and are required.



For information only

For information only