

Report

Report to:	Planning Committee
Date of Meeting:	21 November 2017
Report by:	Executive Director (Community and Enterprise Resources)

Application No	CL/17/0234
Planning Proposal:	Extension of Sand and Gravel Quarry and Restoration of Working Area (Section 42 Application to amend conditions of Planning Permission Ref: CL/98/0432)

1 Summary Application Information

- Application Type : Further applications
- Applicant : Tarmac Trading Ltd
- Location : Garvald Quarry
Dolphinton
West Linton
EH46 7HJ

2 Recommendation(s)

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

- (1) Approve the planning application subject to Conditions (based on the conditions overleaf)

2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application
- (2) The Committee should note that the decision notice should not be issued until the following matters are concluded:

A Section 75 Legal Agreement securing:

- contributions to the South Lanarkshire Rural Communities Trust Fund
- the provision of a right hand turn lane on the A702
- a routing agreement to ensure vehicles use the A702

A Section 96 Legal Agreement securing:

- financial contributions to cover extraordinary wear and tear on the public road network

- (3) The applicant will be responsible for meeting SLC's reasonably incurred legal expenses in respect of the Section 75 and Section 96, restoration guarantee quantum and other related agreements.
- (4) In accordance with agreed procedure, should there be no significant progress, on behalf of the applicant, towards the conclusion of the Legal Agreement

within 6 months of the date of the Committee, the proposed development may be refused on the basis that, without the planning control/ developer contribution which would be secured by the Legal Agreement, the proposed development would be unacceptable.

If, however, this matter is being progressed satisfactorily the applicant will be offered the opportunity to enter into a Processing Agreement, if this is not already in place. This will set an alternative agreed timescale for the conclusion of the Legal Agreement.

3 Other Information

- ◆ Applicant's Agent: Stephenson Halliday
- ◆ Council Area/Ward: 03 Clydesdale East
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan (adopted 2015)**

Policy 1 - Spatial Strategy

Policy 2 - Climate Change

Policy 3 - Green Belt and Rural Area

Policy 4 - Development Management and Placemaking

Policy 14 - Green Network and Greenspace

Policy 15 - Natural and Historic Environment

Policy 16 - Travel and Transport

Policy 17 - Water Environment and Flooding

Supplementary Guidance 1: Sustainable Development and Climate Change

SDCC 3 - Sustainable drainage systems

Supplementary Guidance 2: Green Belt and Rural Area

GBRA 1 - Economy/business related developments

Supplementary Guidance 3: Development Management, Placemaking and Design

Policy DM1 - Design

Non-Statutory Planning Guidance for Minerals

Policy MIN1 – Spatial framework

Policy MIN2 – Environmental protection hierarchy

Policy MIN3 – Cumulative impacts

Policy MIN4 – Restoration

Policy MIN5 – Water environment

Policy MIN7 – Controlling impacts from extraction sites

Policy MIN8 - Community benefit

Policy MIN11 – Supporting Information

Policy MIN12 – Transport

Policy MIN13 – Legal agreements

Policy MIN15 – Site monitoring and enforcement

◆ Representation(s):

◆	11	Objection Letters
◆	0	Support Letters
◆	0	Comments Letters

◆ Consultation(s):

Black Mount Community Council

Scottish Government

Countryside & Greenspace

RSPB Scotland

Roads & Transportation Services (Flood Risk Management Section)

Scottish Water

West of Scotland Archaeology Service

SP Energy Network

British Telecom

S.E.P.A.

National Grid UK Transmission

Environmental Services

Scottish Borders Council

Historic Environment Scotland

Scottish Natural Heritage

Roads Development Management Team

Planning Application Report

1 Application Site

- 1.1 The application is located approximately 500m to the north of the settlement of Dolphinton and extends to 72.3 hectares. The site is located wholly within South Lanarkshire, but its boundary lies approximately 10m from the western boundary of the Scottish Borders. The site is some 5 km to the south west of West Linton and 11 km to the north east of Biggar.
- 1.2 The site is located in land designated as rural within the Adopted South Lanarkshire Local Development Plan (SLLDP) (2015) and is also within land designated as a Special Landscape Area.
- 1.3 The application site is a dormant sand and gravel quarry which is split into 2 distinct areas, separated by Robertson Back Road (the U107). The extraction area is the north-west portion of the site and mainly comprises agricultural land. To the south-east of Robertson Back Road is the processing and stockpiling area which sits on previously worked ground. Access to the application site is from Robertson Back Road and then onto the A702 Edinburgh to Biggar Road.

2 Proposal(s)

- 2.1 The application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) and is an application for planning permission for the development of land but without compliance with a condition or conditions attached to a previous planning permission.
- 2.2 In this instance the applicant wishes to remove condition 3 and vary conditions 4 and 23 that are attached to planning permission CL/98/0432. Planning permission CL/98/0432 granted approval for an 'extension of sand and gravel quarry and restoration of working area'. This application was granted permission subject to 52 conditions.
- 2.3 Condition 3 of planning permission CL/98/0432 states:

'That prior to the commencement of development, and notwithstanding Condition 2 above, a revised version of Drawing G5/65 - Restoration Sections shall be submitted to and approved in writing by the Council as Planning Authority. The drawing shall be revised to reflect stand off areas identified within drawing G5/102.'
- 2.4 Condition 4 of planning permission CL/98/0432 states:

'That the development hereby approved shall commence within five years from the date of this permission.'
- 2.5 Condition 23 of planning permission CL/98/0432 states:

'That the operator shall reinstate or lay ditches and field drains as required by the Council as Planning Authority for a period of up to five years after the completion of the laying of the topsoil.'
- 2.6 This Section 42 application (CL/17/0234) requests that condition 3 be deleted from the planning permission as Restoration Sections have now been approved for the site. The applicant has requested that condition 4 is varied to allow a further ten years

before the planning permission expires. Finally it has been requested that condition 23 is amended to state:

‘That the operator shall reinstate or lay ditches and field drains where reasonably necessary in order to reinstate land to its previous condition.’

- 2.7 If successful, the effect of a Section 42 application to modify a planning condition or conditions is to grant a further planning permission for the whole development again but with the amended condition or conditions replacing those that were previously issued, or with conditions removed if required. All other conditions, if relevant, are also required to be attached to any new planning permission. As a new planning permission would then be issued for the whole development, any legal agreements attached to the previous permission would not be valid for the new permission and therefore a new legal agreement reflecting the new planning permission would be required to be entered into. If the proposed changes to the condition or conditions are deemed unacceptable, then Section 42 of the Act requires the application to be refused. Any refusal of an application under Section 42 of the Act does not have any effect on the original planning permission which remains intact.
- 2.8 In summary the Section 42 application is a request to allow the commencement date of the sand and gravel extraction to be postponed for a further 10 years with a suite of updated conditions, which would result in the removal of condition 3 and an amendment to conditions 4 and 23.
- 2.9 Sections 58 (1) and (2) of the Town and Country Planning (Scotland) Act 1997 (as amended) state that there is no longer a requirement for expiration periods to be attached to planning permissions as conditions and instead a direction is to be attached to planning permissions stating that permission lapses on a certain date, normally 3 years from the date of the permission but this can be extended if requested. Therefore, in this instance, if it is considered acceptable to allow a further extension of the planning permission by 10 years, the new permission would not have a time condition attached but instead the expiry period would take the form of a direction attached to the ‘informatives’ section of the decision notice but would have the same effect as the previous time condition. In short it would allow an extension to the expiry date but would not appear in the suite of conditions attached to any permission but instead appear under the informatives section.
- 2.10 The applicant does not propose to alter the method of working of the quarry and it would be worked in a series of seven phases with only two phases being excavated at any one time and progressive restoration of each phase once exhausted. The majority of the extraction is to be above the water table, with only phase two being below and therefore involving wet working. The extraction is expected to last 21 years with a final year of aftercare. Following all extraction and restoration the site shall be a mixture of agricultural land and wildlife habitat.

3 Background

3.1 National Policy and Guidance

- 3.1.1 Scottish Planning Policy 2014 (SPP), Planning Advice Note 64 (PAN 64) ‘Reclamation of Surface Mineral Workings’ and PAN 50 ‘Controlling the Environmental Effects of Surface Mineral Workings’ are of particular relevance to the determination of this application. PAN 1/2011 ‘Planning and Noise’ also provides additional advice on best practice for developments that may generate noise but should be read in tandem with PAN 50 for mineral developments.

- 3.1.2 Scottish Planning Policy (SPP) states that when assessing mineral proposals, the planning authority should consider aspects such as landscape and visual impacts, transportation impacts, the effect on communities, cumulative impact, environmental issues such as noise and vibration, and potential pollution of land, air and water.
- 3.1.3 PAN 50 (Controlling the Environmental Effects of Surface Mineral Workings) with Annex A (Noise), B (Dust), C (Traffic) and D (Blasting) provides advice on all these issues and how they should be addressed when assessing mineral applications.
- 3.1.4 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.
- 3.1.5 PAN 1/2011 also establishes best practice, and the planning considerations that should be taken into account with regard to developments that may generate noise or developments that may be subject to noise.
- 3.1.6 All the national policy advice has been considered in the assessment section of this report.

3.2 Development Plan

- 3.2.1 The Glasgow and the Clyde Valley Strategic Development Plan 2017 (GCVSDP) is a strategic plan with a strong focus on future growth with a broad spatial framework and a lesser focus on detailed area/ site specific policy criteria. Nonetheless, the GCVSDP recognises its position within the Development Plan process relative to development management. As such, Policy 15 Natural Resource Planning: Mineral Resources Spatial Framework states that an adequate and steady supply of minerals will be maintained and minerals development will be supported where they are in accordance with, inter alia, Local Development Plans.
- 3.2.2 The adopted South Lanarkshire Local Development Plan 2015 (SLLDP) contains the following policies against which the proposal should be assessed:
- Policy 1 Spatial Strategy
 - Policy 2 Climate Change
 - Policy 3 Greenbelt and Rural Area
 - Policy 4 Development Management and Placemaking
 - Policy 14 Green Network and Greenspace
 - Policy 15 Natural and Historic Environment
 - Policy 16 Travel and Transport
 - Policy 17 Water Environment and Flooding
 -
- 3.2.3 The following approved Supplementary Guidance documents support the policies in the SLLDP and were also considered:
- Supplementary Guidance 1: Sustainable Development and Climate Change
 - Supplementary Guidance 2: Green Belt and Rural Area
 - Supplementary Guidance 3: Development Management, Placemaking and Design
- 3.2.4 The approved Non-statutory Planning Guidance – Minerals (2017) contains the following policies against which the proposal should be assessed:
- Policy MIN1 – Spatial framework
 - Policy MIN2 – Environmental protection hierarchy
 - Policy MIN3 – Cumulative impacts

- Policy MIN4 – Restoration
- Policy MIN5 – Water environment
- Policy MIN7 – Controlling impacts from extraction sites
- Policy MIN11 – Supporting Information
- Policy MIN12 – Transport
- Policy MIN13 – Legal agreements
- Policy MIN15 – Site monitoring and enforcement

3.2.6 All these policies and guidance are examined in the assessment and conclusions section of this report.

3.3 Planning History

3.3.1 The extraction of sand and gravel has taken place at the Garvald site since planning permission was first granted in 1964 (Planning Reference: P/LK/01940495P).

3.3.2 An extension to the sand and gravel extraction area of the original quarry was granted in September 2012 (Ref: CL/98/0432). This permission allowed the further extraction of 4,500,000 tonnes of sand and gravel over a period of 21 years. In August 2017, this development commenced and is therefore extant. It is this application (CL/98/0432) that is the subject of the Section 42 planning application. It should be noted that whilst the permission has been secured by the commencement of certain pre-start works no works have begun to soil strip or to extract sand and gravel. If this Section 42 application is successful the applicant does not intend to proceed with the current application and would instead 'mothball' the site until they have a demand for the sand and gravel in 10 years time.

3.3.3 A Section 75 legal agreement was attached to permission CL/98/0432 to secure financial contributions to the local community benefit fund and the provision of a right hand turn lane on the A702. A Section 96 Roads Agreement was also attached to the permission to ensure financial contributions were received for extraordinary wear and tear on the Public Road Network. These agreements would require to be entered into again if planning consent is granted.

4 Consultation(s)

4.1 **Environmental Services** – have no comments to make subject to all conditions relating to noise, working hours and dust management on the original permission being replicated should any new permission be issued.

Response: Noted. If this Section 42 application is successful, all noise and dust conditions from the original permission will be replicated on any new permission.

4.2 **Roads and Transportation Services** – have no objections so long as the existing roads related conditions and legal agreements tied to planning permission CL/98/0432 are maintained.

Response: Noted. The original application required visibility splays to be maintained as well as ensuring the public road was kept free of any mud and other debris. These conditions would be attached to any new permission if issued. The original permission also had a legal agreement for the provision of a right hand turn lane and a Roads Agreement to control a routing agreement and provide a financial contribution to cover the extraordinary wear and tear on the public road network. Before any permission could be issued, these agreements would have to be concluded again.

4.3 **Roads and Transportation (Flood Risk Management Services)** – would require Sustainable Drainage and Flood Risk assessments to form part of any permission.

Response: Noted. The original application did not have sustainable drainage or flood risk conditions attached and it is therefore an opportunity to ensure these conditions are attached, if planning consent is granted.

- 4.4 **Scottish Environmental Protection Agency (SEPA)** – originally objected on lack of information. Following receipt of additional information from the applicant, SEPA have no objections to the Section 42 proposals subject to the use of updated conditions relating to hydro-morphology, surface water management and flood risk.

Response: Noted. The original application did not have conditions relating to hydro-morphology, surface water management or flood risk attached and it is therefore an opportunity to ensure these conditions are attached if planning consent is granted.

- 4.5 **Scottish Natural Heritage (SNH)** – have no objection to the proposed changes to the conditions of CL/98/0432 subject to the replication of the previous ecological conditions.

Response: Noted. The original permission was deemed not to have a detrimental impact upon the ecology of the area subject to the use of mitigation measures through the planning conditions. The ecological conditions would be replicated if planning consent is granted.

- 4.6 **Black Mount Community Councils** – no comments submitted.

Response: Noted.

- 4.7 **Scottish Borders Council** – have no objections to the proposed changes to the conditions of CL/98/0432 in relation to Historic Environment, Ecology and Public Access. Have no objections in respect to noise and air quality, subject to the previous environmental mitigation conditions being replicated on any new permission if issued. Request an assessment of any potential impact on private water supplies is undertaken.

Response: Noted in terms of Historic Environment, Ecology and Public Access. The environmental mitigation conditions covering noise and air quality form part of the recommendation if granted. In relation to the private water supplies, SEPA have no issue with regard private water supplies in the area and it has not been raised as an issue through this application nor the original planning permission (CL/98/0432). It is nevertheless a matter that could be dealt with via a suspensive condition requiring a private water supply assessment to be submitted prior to any works starting on site. Any information submitting in relation to this condition would be reviewed in tandem with SEPA as they are the lead authority on these matters. A condition (No. 55) has therefore been added to the recommendation to reflect the comments raised by the Scottish Borders Council.

- 4.8 **Countryside and Greenspace** – no objections to the proposals and offer advice on type of planting to be used as part of the site's restoration.

Response: The original permission required further details of the restoration, including planting, and it is considered that this condition would be replicated if planning consent is granted.

- 4.8 **Historic Environment Scotland** – have no objections or comments regarding this Section 42 application.

Response: Noted.

- 4.9 **West of Scotland Archaeological Service** – no objections to the proposals subject to the replication of the previous permission's archaeological condition.

Response: If approved, the archaeological condition would be replicated on the new permission.

4.10 **Scottish Government** – no comments to make.

Response: Noted.

4.11 The following consultees made no comments in relation to this planning application:

Scottish Water
SP Energy Network
National Grid
British Telecom
RSPB

5 Representation(s)

5.1 The application was advertised as both a Schedule 3 and EIA development as well as for non-notification of neighbours in accordance with Regulation 20 of the Development Management Regulations, within the Lanark Gazette on 14th June, 2017. 4 No. Mineral site notices were also posted on 6th June, 2017.

5.2 Eleven letters of representations have been received from nine separate third parties following this publicity. The points raised in these letters are summarised below.

a) Impact on recreation in the surrounding countryside, loss of access and Rights of Way.

Response: Whilst this Section 42 application cannot revisit the acceptability of the principle of development, it should be noted that the application proposals will not result in any re-routing or stopping up of any Rights of Way, Local Footpaths or result in a change to any other recreational use within the area.

b) Impact on wildlife and habitats

Response: CL/98/0432 was granted with several ecological conditions requiring mitigation as set out within the approved Environmental Statement. Should this Section 42 application be granted all ecological conditions would be attached to any new permission if granted.

c) Impact on Residential Amenity (Noise and Dust).

Response: CL/98/0432 was granted with several environmental controls conditioned to minimize impact on any residential properties. These included dust suppression and noise management. Should this Section 42 application be granted all environmental conditions would be attached to any new permission if granted.

c) Road Safety and increased traffic

Response: CL/98/0432 was granted with several transportation conditions relating to road safety such as visibility splays for accesses. The Section 75 legal agreement also requires the creation of a new right hand turn lane from the A702 onto Robertson Back Road before any material is extracted from site and the Section 96 Roads Agreement requires, inter alia, a routing agreement to be implemented for HGVs to ensure they immediately join the A702 from Robertson Back Road and do not travel west from the site to the villages of Walston or Dunsyre. Should this Section 42 application be granted all transportation conditions would be imposed and both legal agreements would require to be entered into again.

d) Loss of Agricultural Land

Response: Whilst this Section 42 application cannot revisit the acceptability of the principle of development, it should be noted that the restoration of the site

will involve a mixture of agriculture and wildlife habitat creation. The agricultural land being lost is not prime agricultural land. and the benefits of wildlife habitat creation ensure that the restoration of the quarry improves the biodiversity of the local area and negates the loss of any non prime farm land.

e) Impact upon the Historic Environment.

Response: CL/98/0432 was granted with a condition requiring a full programme of archaeological works, including site investigations, to be carried out as part of the development to ensure that any archaeological interest within the site is fully investigated. Should this Section 42 application be granted all archaeological conditions would be attached to any new permission if granted. Again, whilst this Section 42 application cannot assess the acceptability of the principle of the development, there are no Historic Buildings within the application site and Historic Environment Scotland have stated that they have no concerns that the proposals would impact upon the setting of any listed building in the vicinity of the site.

f) Impact on Rural business.

Response: Whilst this Section 42 application cannot revisit the acceptability of the principle of development, it should be noted that all environmental controls that were conditioned to the original planning permission would be replicated to ensure the proposals impact on the surrounding area would be minimized if planning consent is granted. It is considered that a delay to the start date of the development would not result in any tangible impact upon any business within the area.

g) Health and Safety of a working quarry and waterbody created by the restoration plan.

Response: Whilst this Section 42 application cannot revisit the acceptability of the principle of development, it should be noted that any working quarry must abide by Health and Safety Legislation that is enforced outwith the planning system. Natural water bodies are not uncommon in rural areas and the man made nature of the restoration water body does not directly result in more of a risk, especially as it will have benched sides. Once completed the water body, unlike naturally occurring ones, will require to meet Health and Safety Regulations.

- 5.3 These letters have been copied and are available for inspection in the usual manner and on the Planning portal.

6 Assessment and Conclusions

6.1 Section 42 of the Town and Country Planning Act (Scotland) 1997 as amended

- 6.1.1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). Section 42 of the Act states that:

'On such an application, the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted.'

- 6.1.2 This type of application therefore does not revisit the principle of development on the site but only considers the appropriateness of the conditions attached to the previous consent and whether it is acceptable to amend or delete as requested. Whilst in essence a Section 42 is an application to vary condition(s) on an existing permission, the process requires a new, stand alone planning permission to be issued for the

original development but with a new suite of conditions, including all those still thought to be relevant as well as the varied condition(s). Should the proposed amendment to the condition(s) not be acceptable a Section 42 application is to be refused but without affecting the status of the original permission.

- 6.1.3 In assessing whether any condition is still relevant there would be the requirement to consider certain aspects of the development. In this instance the applicant has requested that condition 3 be removed and conditions 4 and 23 be amended. However it is noted that the nature of the legislation would require all conditions to be revisited as they may be linked or connected to these specific conditions.
- 6.1.4 The original application, as approved, has commenced and therefore some pre-start conditions have previously been discharged and this Section 42 application allows an opportunity, if granted, to ensure only relevant conditions are attached to any new permission. Planning Authorities, if minded, under Section 42, may also attach new or updated conditions if a further planning permission is granted. The removal, addition or amendment of any condition can only be done where it is considered that it is necessary, relevant to planning and the development permitted, enforceable, precise and reasonable in all other aspects.
- 6.1.5 The main matters for consideration are therefore whether the proposed amendment to the conditions proposed would undermine the reasons for the original conditions or the Development Plan position; and if it is considered this Section 42 application does undermine either of these, whether there are material considerations which would outweigh this.
- 6.1.6 In this instance, it is therefore considered that should a new permission be issued it is acceptable to remove condition 3 given it relates to a drawing that has now been approved. Condition 2 of the original decision listed all drawings and plans that had been approved as part of the permission. If successful this schedule of plans condition would be replicated on any new planning permission and it is considered prudent to add the title of the drawing previously approved under condition 3 of CL/98/0432 to this schedule to ensure future compliance. The amendment to condition 3 therefore needs no further assessment within this report subject to condition 2 being updated as stated should a new permission be issued.
- 6.1.7 The proposed amendment to condition 23 requests that field drains only be installed where necessary in order to return the land to its previous condition rather than drainage being laid at the recommendation of the Council. It is considered that the proposed amendment to the condition transfers the onus from the Council to the operator (and subsequent land owner) to direct the suitable laying of field drainage during the quarry's aftercare period following restoration. It is considered to be prudent to allow the operator and or land owner to dictate the drainage of the site as they will be the future custodian of the land. It is therefore considered appropriate that they take the field drainage forward rather than the Council directing the works. Consequently the condition proposed is therefore suitable in principle but it would be prudent to add an element of control into the condition by requiring the proposed drainage plan to be approved by the Council. It is therefore proposed that if the Section 42 application is approved the condition be amended to state:

'That before the aftercare period, hereby approved, is implemented details of all field drainage to be laid shall be submitted for the written approval of the Council, as Planning Authority, and thereafter carried out and maintained to the satisfaction of the Council for the lifetime of the aftercare period as approved.'

- 6.18 This further amended condition allows the design of the field drainage to be tailored appropriately by the operator and or the future land owner but allows the Council to ensure the proposals are suitable. Given this amendment would strengthen the aims of condition 23 of the original permission it is considered that the amendment to condition 23 needs no further assessment within this report subject to the wording of the above condition being used, should planning permission be granted.

6.2 **Section 25 of the Town and Country Planning (Scotland) Act 1997**

- 6.2.1 Under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the approved Glasgow and the Clyde Valley Strategic Development Plan (GCVSDP), the adopted South Lanarkshire Local Development Plan 2015 (SLLDP) and its associated Supplementary Guidance and the approved Non- Statutory Planning Guidance on Minerals.

6.3 **National Planning Policy**

- 6.3.1 Scottish Planning Policy (SPP) promotes the use of the plan-led system to provide a practical framework for decision making on planning applications thus reinforcing the provisions of Section 25 of the Act.
- 6.3.4 Scottish Planning Policy (SPP) states that when assessing mineral proposals, the planning authority should consider aspects such as landscape and visual impacts, transportation impacts, the effect on communities, cumulative impact, environmental issues such as noise and vibration, and potential pollution of land, air and water.
- 6.3.3 PAN 50 'Controlling the environmental effects of surface mineral workings' provides detailed advice relevant to this application. PAN 50 takes a prescriptive approach in suggesting best practice for controlling such environmental effects. Accordingly, PAN 50 sets out an agenda for the most important issues that need to be satisfactorily addressed. These are: road traffic; blasting; noise; dust; visual impact and water contamination. It sets out quantitative and methodological requirements in terms of: noise, dust, road traffic impact and blasting within its respective Appendices.
- 6.3.4 PAN50 (Annex A) provides advice and guidance on the control of noise at minerals sites. PAN 50 Annex B advises on the control of dust at such sites and Annex C advises on the control of traffic at surface mineral sites. Annex D advises on the control of blasting at surface mineral sites.
- 6.3.5 PAN 1/2011 'Planning and Noise' also establishes the best practice and the planning considerations to be taken into account with regard to developments that may generate noise, or developments that may be subject to noise. It provides further detailed guidance, to be read in tandem with PAN 50, on noise assessments and noise mitigation measures.
- 6.3.6 PAN64 advises that Planning Authorities ensure that mineral operators treat reclamation of sites as an integral part of the overall planning process to be addressed comprehensively through a planning application submission.
- 6.3.7 Whilst the application requires the granting of a new planning permission for sand and gravel extraction, it is in essence a request to alter the planning conditions of an existing permission. The principle of the development has therefore previously been established and not considered contrary to National Policy.

- 6.3.8 The existing permission has conditions covering the environmental control of site operations and any approval of this proposed application would also have these environmental controls attached, if issued. It is therefore considered that, subject to the replication of the existing environmental controls, the proposals would be in accord with national policy and advice.
- 6.3.9 It is therefore considered that the proposal, complies with National Planning Policy. The overall acceptability of such a development must however also meet the other detailed advice within PANs 50, 64 and 1/2011 as well as other Policy and Development Management criteria. These issues are considered in further detail in the report below.

6.4 Strategic Development Plan

- 6.4.1 The Glasgow and the Clyde Valley Strategic Development Plan 2017 (GCVSDP) is a strategic plan with a strong focus on future growth with a broad spatial framework and a lesser focus on detailed area/site specific policy criteria. Nonetheless, the GCVSDP recognises its position within the Development Plan process relative to development management. As such, Policy 15 Natural Resource Planning: Mineral Resources Spatial Framework states that an adequate and steady supply of minerals will be maintained and minerals development will be supported where they are in accordance with, inter alia, Local Development Plans. The GCVSDP is a strategic document and apart from supporting delivery of sustainable mineral extraction, it does not provide a level of detail for the assessment of a specific site of this nature and location but instead defers to the Local Development Plan in this respect.
- 6.4.2 Allowing a postponement of the sand and gravel extraction by a further maximum of 10 years is considered to comply with the terms of Policy 15 as it ensures permitted reserves are safeguarded within the 10 year landbank.

6.5 South Lanarkshire Local Development Plan

- 6.5.1 At a local level the application requires to be assessed against the policy aims of both the adopted South Lanarkshire Local Development Plan 2015 (SLLDP) and the approved Non Statutory Planning Guidance – Minerals (2017). As there is Non Statutory Planning Guidance for Minerals, there are no specific policies relating to mineral site restoration within the SLLDP. However there are other relevant policies which the proposal requires to be assessed against within the SLLDP.
- 6.5.2 SLLDP Policy 1 ‘Spatial Strategy’ states that developments that accord with the policies and proposals of the development plan will be supported. The application is for development within the Rural Area as designated within the SLLDP and is therefore required to be assessed against Policy 3 below.
- 6.5.3 SLLDP Policy 3 ‘Green Belt and Rural Area’ states that support will not be given for development proposals within the Rural Area, unless they relate to uses which must have a countryside location. Policy 3 allows a relaxation for, inter alia, an extension of existing premises or uses. Supplementary Guidance 2: ‘Green Belt and Rural Area’ (SG2) further expands and supports the objectives of SLLDP Policy 3. SG2 Policy GBRA1 ‘Economy/ Business Related Developments’ states that new developments within the Rural Area may be acceptable where it is shown they respect existing landscape form, enhance the surrounding landscape, and involve the re-development of previously developed land.
- 6.5.4 It is considered that the principle of the development has already been deemed acceptable within the Rural Area and the proposed alterations to the planning

conditions have no further implications for the countryside strategy set out within the Development Plan. The postponement of the development for a maximum of a further 10 years is consistent with the landbank requirement as it ensures the quarry's permitted reserve is still included in the next 10 year's assessment whilst active reserves are worked. It is therefore considered that the proposal complies with the Development Plan in this regard.

- 6.5.5 SLLDP Policy 2 'Climate Change' states that new developments should minimise and mitigate against the effects of climate change by being sustainably located, having no significant adverse impacts on the water and soils environments, air quality and Biodiversity (including Natura 2000 sites and protected species). The proposals do not affect any of the quarry's ecological or air and soil quality conditions. SEPA and Roads and Transportation (Flood Risk Management Services) have recommended additional water management, flooding and hydromorphology conditions to be attached to any new permission if issued. This Section 42 application therefore provides an opportunity to further enhance the suite of conditions attached to the sand and gravel extraction. If planning consent is granted appropriate conditions shall be imposed to control these matters. On this basis it is therefore considered that the proposed changes to the original permission comply with the relevant criteria of the Development Plan in this regard.
- 6.5.6 SLLDP Policy 4 'Development Management and Placemaking' states that development proposals should have no significant adverse impacts on the local community, landscape character, habitats or species including Natura 2000 sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates. Policy 4 also states that development should be integrated with the local context and landscape. This advice is supported within Development Management, Placemaking and Design Supplementary Guidance under Policy DM1 – Design.
- 6.5.7 Whilst related, landscape impacts and visual impacts are separate. Landscape impact relates to changes in the characteristics, character and qualities of the landscape whilst visual impact relates to the appearance of these changes. A landscape change is the physical effect a proposal has on the landscape whilst visual amenity relates to the perception of the change. A landscape impact has no visual impact effect if there are no views of the development. For the purposes of this report's assessment, the 2 issues are collectively examined as they are inter-related in terms of the proposed development and the criteria of the Development Plan.
- 6.5.8 The proposals are to postpone the commencement of the sand and gravel extraction by a maximum of 10 years. It is considered that, in terms of both landscape and visual impact, 10 years is not a length of time that would have an adverse impact upon the landscape. The original planning permission is for a well screened proposal within the landscape and there are no proposals involved that would reduce this screening. Again all ecological and environmental conditions would be replicated within any new permission if granted. With regard to the ecological conditions, these require further surveys to be carried out no longer than six months before any works are implemented which ensures that a postponement of, up to a maximum of 10 years for commencement will ensure all ecological information is updated and all mitigation measures reflect the survey results. The other environmental conditions require further reports to be submitted for approval prior to works commencing and therefore again, this ensures the most up to date background data is used to inform these reports and subsequent approval, if gained.
- 6.5.9 It is therefore considered that the postponement to the start date as requested would be in accordance with the Development Plan.

- 6.5.10 SLLDP Policy 14 'Green Network and Greenspace' states that any Green Networks and Greenspace identified within the Local Development Plan should be protected from development unless they include opportunities for enhancement. There are no identified Green Networks or Greenspaces identified within the application site and therefore the proposals accord with the SLLDP in this regard.
- 6.5.11 Policy 15 'Natural and Historic Environment' sets out a 3 tier category of protected designations. Table 6.1 of the SLLDP defines the designations within each category but they can generally be summarised as Category 1 (International), Category 2 (National) and Category 3 (Local). Policy 15 states that development within or likely to affect the integrity of Category 1 sites will not be permitted. Development which will have an adverse affect on Category 2 sites or a significant adverse affect on Category 3 sites will only be permitted where it adheres to a number of tests.
- 6.5.12 The site is adjacent to the Dolphinton – West Linton Fens and Grassland, Site of Special Scientific Interest (SSSI) which is located approximately 500m to the south west of the application site, with the A702 in between. This site's SSSI designation is based on it comprising valley fen (wetland), calcareous (alkaline) grassland and bryophytes (mosses and wort) flora and not for any wildlife designations. Therefore the original permission was not considered to impinge upon this SSSI. It is therefore considered that a further 10 year postponement to operations would again not impinge on any interest at the SSSI. A habitat survey was carried out as part of the original application and the presence of protected species (namely badgers) was evidenced and a condition requiring further survey work and mitigation measures to be drawn up in consultation with SNH was attached to the original permission. This survey work was required to be carried out not more than 6 months before sand and gravel extraction started. This included providing buffer zones/standoff areas around known otter and badger habitats to ensure they were up to date and in line with the proposed extraction starting. It is considered that the use of the same condition ensures that protected species will be properly protected.
- 6.5.13 It is therefore considered that the proposals are in accordance with the Development Plan in this regard.
- 6.5.14 SLLDP Policy 16 'Travel and Transport' states that new development must conform to South Lanarkshire Council's 'Guidelines for Development Roads'.
- 6.5.15 The proposals are to postpone the mineral extraction for up to a maximum of 10 years. It is considered that this postponement would not create any additional impact on the public road network. The quarry was granted with certain conditions relating to road safety, such as achieving visibility splay requirements and wheel cleaning facilities being provided. Legal agreements were also attached to ensure the provision of a right hand turn lane from the A702, a routing agreement to ensure all vehicles use the A702 rather than the local road network and to provide a financial contribution to maintain the public road network. It is considered that a postponement of the permission is only acceptable subject to the same conditions, and the terms of these previous legal agreements. Therefore if permission is granted all Road Safety conditions have been replicated and form part of this recommendation and in order for a permission to be granted 2 new agreements to meet Roads and Transportation requirements will have to be entered into by the applicant.
- 6.5.16 It is therefore considered that the postponement will not be detrimental to Road Safety and therefore accords with the Development Plan, subject to the imposition of appropriate roads conditions and entering into 2 new legal agreements.

6.5.17 SLLDP Policy 17 'Water Environment and Flooding' states that, in relation to the water environment, development proposals outwith flood risk areas must accord with supplementary guidance. In this instance the relevant Supplementary Guidance (SG) is 'Sustainable Development and Climate Change'. Policy SDCC 3 – Sustainable Drainage Systems of the SG states that any new development shall be drained by an appropriately designed sustainable drainage scheme (SuDS).

6.5.18 Part of the application site is noted as having a medium to high risk of flooding. This area contains Phases 1 and 2 of the 7 phase extraction plan. Phases 1 and 2 will be the earliest extraction areas and it should be noted that both these phases occur on the same area of the application site but phase 2 is identified separately from phase 1 as it is when the excavations are below the water table and involve dewatering as part of the works. Therefore the area with potential medium to high flood risk is a small portion of the site and in an area where water management will be employed. Again the principle of the quarry has already been established through the previous permission. This Section 42 application has however, allowed a review of the original conditions and in this instance SEPA and Roads and Transportation Services (Flood Risk Management Services) have noted that this affords an opportunity to update the suite of conditions to make them consistent with current legislation. Both consultees have no objections to the proposed amendments under Section 42 of the Act but have requested the addition of conditions requiring further details of hydro-morphology, a site specific water management plan, sustainable drainage plan and Flood Risk Assessment. The Flood Risk Assessment is to ensure that the restoration levels of the site do not exceed that of existing site levels to ensure that water run-off does not vary due to changing topography. It is considered that by permitting this Section 42 application these matters can be further addressed by the imposition of conditions requiring the submission and subsequent approval of the requested information. The 10 year postponement therefore offers an opportunity to further enhance the original permission in relation to hydrology by adding the aforementioned conditions to any new permission, if issued.

6.5.19 It is therefore considered that, subject to the imposition of these conditions, the proposals comply with the relevant criteria of the Development Plan in this regard.

6.6 Non-Statutory Planning Guidance – Minerals 2017

6.6.1 NSPG Policy MIN 1 'Spatial Framework' states that South Lanarkshire Council will balance the economic benefit from all mineral development against the potential impacts on the environment and local communities and will seek to ensure that impacts are minimised and mitigated.

6.6.2 The proposal is to postpone the commencement of sand and gravel extraction for a maximum of 10 years. Planning conditions are currently attached to the site to ensure environmental controls over noise, dust, etc. are employed and any recommendation for approval is only acceptable should these conditions and controls be attached to any new permission if issued. Subject to these conditions the proposals would accord with the provisions of the Guidance in this regard.

6.6.3 NSPG Policy MIN 2 'Environmental Protection Hierarchy' sets out a 3 tier category of protected designations. Table 3.1 of the NSPG defines the designations within each category but they can generally be summarised as Category 1 (International), Category 2 (National) and Category 3 (Local). MIN2 states that development within or likely to affect the integrity of Category 1 sites will not be permitted. Development which will have an adverse affect on Category 2 sites or a significant adverse affect on Category 3 sites will only be permitted where it adheres to a number of tests.

- 6.6.4 SLLDP Policy 15 set out the assessment in relation to Environmental Protection in relation to SLLDP Policy and it is considered that in this instance the assessment is the same within the NSPG. It is therefore considered that the proposals meet with this policy criteria.
- 6.6.5 NSPG Policy MIN3 'Cumulative Impacts' states that in assessing all mineral proposals SLC will consider the cumulative impact that the development may have on communities (and other isolated receptors), natural and built heritage designations, sensitive landscapes, the existing road network and other resources as prescribed within MIN2 in relation to other existing mineral developments and permissions.
- 6.6.6 It is considered that this application relates to an extant permission and that the assessment solely rests on whether the postponement of sand and gravel extraction is acceptable. The quarry is not in close proximity to any other quarries within the immediate area. The nearest quarry is Newbigging Quarry which is approximately 7km from Garvald Quarry. It is therefore considered that this is an adequate separation distance to ensure there are no cumulative impacts. It should also be noted that Newbigging Quarry is operated by the same operator that is the applicant for this application. The operator has requested the postponement of works at Garvald Quarry to allow sand and gravel reserves to be exhausted at Newbigging and then meet demand by using the reserves at Garvald. This would further ensure that there is no cumulative impact and gives weight to the postponement of winning minerals at Garvald. Should the postponement be allowed the quarry would still be considered to be extant and therefore any new mineral proposals within the area would have to take account of the cumulative impact of an extant quarry. It is therefore considered that the application accords with the relevant criteria of the Development Plan in this instance.
- 6.6.7 NSPG Policy MIN4 'Restoration' states that planning permission will only be granted for mineral extraction where proper provision has been made for the restoration and aftercare of the site, including financial guarantees being put in place to secure restoration. Restoration proposals should not be generic and should relate to the specific characteristics of the site and the locale. Restoration proposals should consider providing opportunities for enhancing biodiversity, community recreation and access where at all possible. The proposed restoration plan for the site is to create a mixture of wildlife habitat and agricultural land. There are no proposals to change the restoration proposals and a condition is attached to this recommendation requiring full details of the final restoration scheme to ensure it is in line with the previous approval.
- 6.6.8 The current planning permission has a bond for the site to cover restoration should the operator not fulfil their duties. This bond is secured via a planning condition. Any new permission would be required to have a new bond to take account of the new planning permission issued and again the current bond condition would be replicated on any new permission if issued. It is therefore considered that, subject to the imposition of a bond condition, the proposals can accord with the relevant provisions of the Development Plan in this regard.
- 6.6.9 NSPG Policy MIN 5 'Water Environment' states that mineral proposals which will have a significant adverse impact on the water environment will not be permitted. Consideration should be given to water levels, flows, quality, features, flood risk and biodiversity within the water environment. Flood Risk and the Water Environment have been addressed under SLLDP Policy 17 within paragraphs 6.5.17 to 6.5.19 of the report above.
- 6.6.10 NSPG Policy MIN 7 'Controlling Impacts from Extraction Sites' seeks to ensure all mineral development will not create an unacceptable impact through the generation of

noise, dust, vibration and air pollution. Mineral Operators are to ensure that appropriate monitoring regimes are proposed and if permitted shall be carried out for the lifetime of the mineral operations. The existing permission had several environmental controls attached to ensure noise and dust was mitigated for and did not cause any disamenity to the surrounding area. It is therefore appropriate to replicate these conditions if any new permission is issued. Subject to the replication of these conditions, it is considered that the proposals comply with the Development Plan in this instance.

6.6.11 NSPG Policy MIN 8 'Community Benefit' states that SLC will encourage operators to contribute to the South Lanarkshire Rural Communities Trust (SLRCT), Quarry Fund or the Council's Renewable Energy Fund or similar mechanism. Through the current planning permission (CL/98/0432), the applicant would provide a contribution per tonne of sand and gravel to the SLRCT and this was secured by a legal agreement attached to this permission. If planning permission is granted for this Section 42 application a new planning permission would be issued and therefore a new legal agreement would be required to be entered into and attached to the new permission. It is therefore recommended that a new legal agreement is entered into to secure these payments prior to issuing planning permission.

6.6.12 NSPG Policy MIN 11 'Supporting Information' states that planning application submissions shall be accompanied by sufficient information and supporting documents to enable an application to be assessed and determined. This information should include, but not be limited to, a statement of intent, a method of working, measures to protect local amenity, landscape and visual impact assessment, details of restoration and aftercare and any ecological surveys necessary. The applicant submitted the original Planning documents that received approval and updated information to take account of the request to alter the planning conditions. It is considered that it is an appropriate submission in terms of allowing a planning assessment of this nature to be carried out.

6.6.13 NSPG Policy MIN 12 'Transport' requires an assessment of potential traffic and transportation impacts of any new proposal to accompany the application for planning permission, including any cumulative impact. Proposals will not be supported by SLC if they are considered to create significant adverse traffic and transportation impacts. This assessment has been carried out under Policy 16 of the SLLDP within paragraphs 6.5.14 to 6.5.16 above and the proposals are also in compliance with this policy subject to the recommended conditions outlined and a new legal agreement to ensure the provision of a right hand turn lane on the A702 and routing management and the provision of a new roads agreement to ensure financial contributions for extraordinary wear and tear of the public road are provided for.

6.6.14 NSPG Policy MIN 13 '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 is aware that new legal agreements would require to be entered into to control the matters detailed in paragraph 6.6.13 above before any consent could be issued and is agreeable to this.

6.6.15 NSPG Policy MIN 15 'Site Monitoring and Enforcement' states that SLC will monitor minerals sites to ensure that they are carried out in accordance with planning legislation, approved plans, conditions and where appropriate, legal agreements. If planning permission is granted, appropriate monitoring procedures would be put in place.

6.7 Conclusion

- 6.7.1 In conclusion, the deletion of condition 3 of the original permission is deemed acceptable subject to the approved drawing being attached to the schedule of plans outlined in condition 2 of any new permission. The proposed amendment to condition 23 is deemed acceptable subject to approval of the drainage plans by the Council. Furthermore it is considered that a postponement to the commencement of sand and gravel extraction for a maximum further 10 years, by direction through an informative would not have a significant adverse impact on residential and visual amenity or that of the landscape. The amendments would not cause any detrimental impacts in terms of road safety or the environment and do not alter the appropriate mitigation measures for protected species.
- 6.7.2 Therefore, on the above basis the amendments to the planning conditions are considered acceptable subject to new legal agreements being issued for the site. The new permission would take account of all previous site requirements and require them to be maintained for the lifetime of the quarry.

7 Reasons for Decision

- 7.1 The deletion of condition 3, deletion of condition 4, amendment to condition 23 and the use of a direction through an informative to allow a further 10 year time period before the planning permission expires are considered acceptable and the updated suite of approved documents appropriate. Extending the lifetime of the expiry of the planning permission by a further 10 years, accords with National Policy and the relevant provisions of the Development Plan subject to the imposition of the attached environmental conditions which have been updated to take account of this planning assessment as allowed under Section 42 and Section 58 of the Town and Country Planning Act (Scotland) 1997 as amended.

Michael McGlynn
Executive Director (Community and Enterprise Resources)

7 November 2017

Previous References

- ◆ P/LK/01940495P
- ◆ CL/98/0432

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan (adopted 2015)
- ▶ Supplementary Guidance 1: Sustainable Development and Climate Change
- ▶ Supplementary Guidance 2: Green Belt and Rural Area
- ▶ Non Statutory Planning Guidance on Minerals
- ▶ Supplementary Guidance 3: Development Management, Placemaking and Design
- ▶ Neighbour notification advert dated 14 06 2017

- ▶ Consultations

S.E.P.A. (West Region)	25/07/2017
Countryside & Greenspace	14/06/2017
Scottish Natural Heritage	23/06/2017
Environmental Services	22/06/2017
Roads & Transportation Services (Flood Risk Management Section)	15/06/2017
West of Scotland Archaeology Service	22/06/2017

Roads and Transportation Services	27/10/2017
-----------------------------------	------------

► Representations

Representation from : Andrew & Kerry Abernethy, Karecole Farm Stables
Garvald Road
Dolphinton
Peeblesshire
EH46 7HQ
DATED 02/07/2017

Representation from : Patricia Field, Drumelzier
Dolphinton
West Linton
Peeblesshire
EH46 7HQ, DATED 29/09/2017

Representation from : Judith Gray
Callands Steading East
By Mountain Cross
West Linton
Peeblesshire
EH46 7DE
DATED 03/07/2017

Representation from : Patrick Maclean
Garvald Trust
3 Morningside Place
Edinburgh
EH10 5ES
DATED 03/07/2017

Representation from : Mrs Polly Sword
Rogersrigg House
Carlops
EH26 9NG
DATED 02/07/2017

Representation from : Garvald Trust
3 Morningside Place

Edinburgh
EH10 5ES
DATED 03/07/2017

Representation from : Claire Hardie
16 Binny Park
Ecclesmachan
West Lothian
EH52 6NP
DATED 03/07/2017

Representation from : D Miller
Whinny Knowe
DATED 04/07/2017

Representation from : David Miller
Whinny Knowe
Edinburgh
EH46 7HJ,
DATED 05/07/2017

Representation from : Iona Gray
Callands Steading East
West Linton
DATED 03/07/2017

Representation from : William Walker
16 High Street
DATED 03/07/2017

Contact for Further Information

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

James Wright, Minerals Officer, Montrose House, Hamilton

Ext 5903, (Tel : 01698 455903)

E-mail: james.wright@southlanarkshire.gov.uk

14 November 2017

Further applications

PAPER APART – APPLICATION NUMBER : CL/17/0234

CONDITIONS

- 1 This decision relates to the development described and assessed within the following documents;
 - Written Statement and Plans,
 - Environmental Statementtitled a Planning Application for the proposed extension to Garvald Quarry

All mitigation measures set out within the documents listed above shall be fully implemented, unless otherwise agreed in writing by the Council as Planning Authority.
- 2 That the development hereby approved shall be implemented strictly in accordance with the following plans, unless otherwise directed by these conditions, associated legal agreements or approved in writing by the Council as Planning Authority;
 - G5/61 Site Location
 - G5/49 Planning Application Boundary
 - G5/50 Working and Restoration Phase 1
 - G5/51 Working and Restoration Phase 2
 - G5/52 Working and Restoration Phase 3
 - G5/53a Working and Restoration Phase 4
 - G5/54a Working and Restoration Phase 5
 - G5/55a Working and Restoration Phase 6
 - G5/56a Working and Restoration Phase 7
 - G5/57a Restoration
 - G5/65 Restoration Sections (Revised)
 - G5/66 Geological Sections
 - G5/78 Plant Details
 - G5/102 Additional Stand-off Areas
No change to the design or layout of the proposed development shall take place without the prior written approval of the Council as Planning Authority.
- 3 That all mineral extraction operations on the site shall cease not later than 21 years from the commencement of development and the entire site shall be restored in accordance with the approved restoration scheme, including the removal of all plant, machinery, equipment, structures and buildings, to the satisfaction of the Council as Planning Authority, not later than 22 years from the commencement of development.
- 4 Notwithstanding the terms of Condition 3 above, that in the event extraction operations permitted by this consent are completed prior to the expiry of the consent the site shall be restored within a period of 12 months from the cessation date in accordance with the approved restoration plan to the satisfaction of the Council as Planning Authority.
- 5 That no details of the restoration scheme are hereby approved, and that, prior to the commencement of work on any phase of extraction or any other works on the site, a detailed restoration plan for the phase concerned shall be submitted to and approved in writing by the Council as Planning Authority and that the

restoration scheme shall be carried out to the satisfaction of the Council as Planning Authority in accordance with the approved restoration plan and timescale. For avoidance of doubt, each restoration phasing plan shall illustrate the details of the previously approved phases of restoration to provide a full picture of the overall restoration strategy.

- 6 That the operator shall at all times deal with the areas forming the subjects of this consent in accordance with the provision of this application, statement of intentions and plans submitted except as otherwise provided for by this consent, and shall omit no part of the operations provided for therein except with the prior consent of the Planning Authority.
- 7 That if, by reason of any circumstances not foreseen by the operator, it becomes necessary or expedient during the continuance of the operations hereby approved to amend or abandon to a material extent any of the provisions contained in the various documents comprising the statement of intent, the operator shall forthwith submit an application with an amended statement of declared intent, but shall adhere to and comply with the present consent until such time as the amended application and statement of intentions have been approved.
- 8 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 additional 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.
- 9 That prior to the commencement of development hereby approved, details of all buildings, structures or fixed plant, including those required for lighting the site, shall be submitted to and approved in writing by the Council as Planning Authority.
- 10 That the 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 Council, as Planning Authority, reserves the right to suspend soil stripping operations during adverse weather conditions or to impose such conditions as deemed appropriate for the safekeeping of the topsoil.
- 11 That the extraction operations shall proceed in a phased manner, with the areas marked 1, 2, 3, 4, 5, 6 and 7 on the application plans, referred to in Condition 2, being worked progressively in that order. The extraction operations shall be controlled in such a manner as to ensure that the area disturbed by the workings at any time is kept to a minimum to the satisfaction of the Council as Planning Authority.
- 12 That the areas marked 1, 2, 3, 4, 5, 6 and 7 on the application plans shall be progressively restored in accordance with the approved restoration plan with restoration works being undertaken on a phased basis concurrently with the excavation works, to the satisfaction of the Council as Planning Authority.
- 13 That the site shall be kept clear of noxious weeds during extraction and restoration works to the satisfaction of the Council as Planning Authority.
- 14 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

or reclaimed land.

- 15 That no materials shall be worked or deposited in such a way that they may fall or be carried into any watercourse and the operator shall be responsible for the immediate treatment of any contamination of water which arises as a result of the operations.
- 16 That all contaminated surface and ground water arising either directly or indirectly from the development hereby approved shall be treated to the satisfaction of the Scottish Environment Protection Agency and the Council as Planning Authority, prior to discharge to any watercourse.
- 17 That the washing plant shall operate on a closed cycle arrangement with no direct discharge into any watercourse.
- 18 That each topsoil, subsoil or baffle mound shall be grassed to the satisfaction of the Council as Planning Authority during the first planting season following its formation.
- 19 That during soil stripping operations appropriate records shall be kept of the existing soil profile indicating the nature, depth and type of materials removed to the satisfaction of the Council as Planning Authority. This information shall be referred to during the restoration of the site to ensure that, where appropriate, the original soil profile is replaced.
- 20 That on completion of restoration works, a final topographical survey of the site shall be submitted to and approved in writing by the Council as Planning Authority. In the event the Council are unsatisfied with the final profile of the site, the operator shall undertake re-profiling works necessary to comply with the approved restoration plan, all to the satisfaction of the Council as Planning Authority.
- 21 That before the aftercare period, hereby approved, is implemented details of all field drainage to be laid shall be submitted for the written approval of the Council, as Planning Authority, and thereafter carried out and maintained to the satisfaction of the Council for the lifetime of the aftercare period as approved
- 22 That aftercare schemes requiring such steps as may be necessary to bring each phase of the site after restoration to the required standard for agriculture, woodland, moorland, habitat or other specified after-use shall be submitted for the approval of the Council as Planning Authority within one year from the commencement of work on each phase of operations and shall thereafter be fully implemented to the satisfaction of the Council as Planning Authority.
- 23 That every area occupied for any purposes associated with the development hereby approved shall be enclosed by an appropriate fence. The details of all fences to be erected on the site shall be submitted to and approved in writing by the Council as Planning Authority prior to the commencement of work, within the relevant phase of operations and that said fences, shall be maintained thereafter to the satisfaction of the Council as Planning Authority.
- 24 That during the hours of operation, as specified with Condition 43, the nominal noise limit attributable to site operations at all noise sensitive premises in the vicinity of the site shall be 55dB LAeq over anyone hour period.
- 25 That during baffle mound construction, the nominal daytime noise limit during the

working week (as defined in Condition 43 below) shall be increased to 70dB LAeq over any one hour period for a maximum of 8 weeks per year, or for some other period to be agreed in writing with the Council as Planning Authority.

- 26 That prior to the commencement of baffle mound construction, detailed sound attenuation calculations shall be submitted to and approved in writing by the Council as Planning Authority.
- 27 That the performance of all baffle mounds constructed to reduce noise shall be measured after construction, and the necessary modifications shall be carried out to the satisfaction of the Council as Planning Authority if the required sound attenuation is not provided.
- 28 That reversing alarms used on all plant and vehicles, including HGV's, shall be either non-audible, ambient related, low tone or broadband devices to the satisfaction of the Council as Planning Authority.
- 29 That prior to the commencement of the development hereby approved, a detailed scheme of site noise monitoring and mitigation shall be submitted to and approved in writing by the Council as Planning Authority and thereafter the site operator shall abide by the terms of the approved monitoring and mitigation scheme unless otherwise agreed in writing with the Council as Planning Authority.

This monitoring and mitigation scheme shall provide details of:

- Location of noise monitoring equipment;
- Mitigation measures;
- Monitoring frequency;
- Details of equipment to be used and experience of monitoring staff;
- A programme of implementation;
- Frequency of reporting the results to the Council as Planning Authority;
- The process and steps to be taken in the event of a complaint regarding noise.

- 30 That the operator shall minimise dust emissions from the site by every practicable means.
- 31 That prior to the commencement of the development hereby approved, a detailed scheme of dust and air quality monitoring and mitigation shall be submitted to and approved in writing by the Council as Planning Authority and thereafter the site operator shall abide by the terms of the approved monitoring and mitigation scheme unless otherwise agreed in writing with the Council as Planning Authority.

This monitoring and mitigation scheme shall provide details of:

- A dust management plan;
- Mitigation measures;
- Location of monitoring points;
- Monitoring frequency;
- Details of equipment to be used and experience of monitoring staff;
- A programme of implementation;
- Frequency of reporting the results to the Council as Planning Authority;
- The process and steps to be taken in the event of a complaint regarding dust.

- 32 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 transmission of dust, to the satisfaction of the Council as Planning Authority.

- 33 That the operator shall ensure that an adequate water supply is provided and maintained to meet the watering needs of the site.
- 34 That the operator shall provide and utilise water bowser or spray facilities to control dust emissions from the site from haul roads and mineral stockpiles.
- 35 That the operator shall ensure that vehicles used for the movement of materials within the site do not have downward pointing exhaust pipes.
- 36 That prior to the commencement of development, details of wheel washing facilities shall be submitted to and approved in writing by the Council as Planning Authority. Thereafter, the approved wheel washing facilities shall be installed at the entrance to the site prior to the dispatch of any minerals, to the satisfaction of the Council as Planning Authority.
- 37 That all road-going mineral carrying vehicles shall pass through the operational wheel wash facilities prior to entering the public road. The operator shall at all times be responsible for the removal of mud or other materials deposited on the public highway by vehicles entering or leaving the site.
- 38 That provision shall be made at all times to ensure the site is adequately drained and that all reasonable steps shall be taken to ensure that drainage from areas adjoining the site is not interrupted or rendered less efficient by the operations hereby approved.
- 39 That not more than 6 months prior to the commencement of development, a survey shall be carried out to the satisfaction of the Council as Planning Authority, in consultation with Scottish Natural Heritage. The survey will investigate the presence of badgers on site and within a suitable buffer and shall set out appropriate mitigation measures and an implementation programme, as required, which shall be carried out to the satisfaction of the Council as Planning Authority.
- 40 That prior to the commencement of any works on site the developer shall secure the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the operator, in consultation with the West of Scotland Archaeological Service and approved in writing by the Council as Planning Authority.

Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Council as Planning Authority in consultation with the West of Scotland Archaeology Service.

- 41 That prior to the commencement of the development hereby approved, a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent will be submitted for the written approval of the Council as Planning Authority. Such guarantee must, unless otherwise approved in writing by the Council as Planning Authority;
 - i) be granted in favour of the Council as Planning Authority
 - ii) be granted by a bank or other institution which is of sound financial standing and

capable of fulfilling the obligations under the guarantee;

iii) be for a specified amount which covers the value of all site restoration and aftercare liabilities as agreed between the developer and the planning authority at the commencement of development

iv) either contain indexation provisions so that the specified amount of the guarantee shall be increased on each anniversary of the date of this consent by the same percentage increase in the General Index of Retail Prices (All Items) exclusive of mortgage interest published by or on behalf of HM Government between the date hereof and such relevant anniversary or be reviewable to ensure that the specified amount of the guarantee always covers the value of the site restoration and aftercare liabilities

v) come into effect on or before the date of commencement of development, and expire no earlier than 12 months after the end of the aftercare period.

No works shall begin at the site until (1) written approval of the Council as Planning Authority has been given to the terms of such guarantee and (2) thereafter the validly executed guarantee has been delivered to the Council as Planning Authority.

In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed in accordance with the terms of this condition is lodged with the Council as Planning Authority.

42 That all laden lorries leaving the site shall be sheeted before entering the public road.

43 That hours of site operation shall be restricted to:

07.00hrs -19.00hrs Mondays to Fridays

08.00hrs - 13.00hrs Saturdays

and no operations, with the exception of water management, site security or emergency operations shall be undertaken outwith these hours, unless otherwise approved in writing by the Council as Planning Authority.

44 That all road-going mineral carrying vehicles shall only depart the site by turning right from the site at the 'Existing Site Access' onto the U107 Robertson Back Road (identified on Drawing G5/50 Working and Restoration Phase 1), unless otherwise approved in writing by the Council as Planning Authority.

45 That all minerals extracted from within the site shall be transported, via conveyor, from the extraction area to the processing area (identified as 'Proposed New Plant' on Drawing G5/50) prior to the dispatch of those minerals from the site.

46 That from the commencement of development until completion of restoration, a copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with any conditions of this permission shall be kept available for inspection on the site during the approved working hours.

47 That within one month of the date of commencement of development, the operator shall confirm in writing to the Council as Planning Authority the date of commencement of development.

48 The removal of any trees and the cutting of rough grasslands that could provide habitat for nesting birds will take place outside the bird breeding season (March to July inclusive), unless a survey to establish the presence or otherwise of nesting birds has been undertaken and, where required, appropriate mitigating measures have been carried out to the satisfaction of the Council as Planning

Authority.

- 49 That prior to the dispatch of any minerals, the internal access road between the site access/ egress onto the U107 Robertson Back Road (identified on Drawing G5/50 Working and Restoration Phase 1) and the wheel wash approved through Condition 36 shall be paved in tarmacadam, concrete, asphalt or an alternative material approved in writing by the Council as Planning Authority.
- 50 That land levels as part of the restoration shall not be increased from existing site levels unless otherwise agreed in writing by the Council as Planning Authority.
- 51 That before any work starts on site, a geomorphic assessment shall be carried out and submitted for the written approval of the Council, as Planning Authority in consultation with SEPA. The assessment shall include, but not be limited to:
- A geomorphic assessment regarding likely interactions between the channel and the new loch waterbody and demonstrating that the mine has been designed so it will not downgrade hydromorphological status and therefore WFD status now or in the future.
 - This should consider how the channel has adjusted in the past, how it is likely to adjust in the future and assess how the mine might alter that adjustment and impact the habitat and geomorphological condition of the river.
 - Information about the width of the zone between the quarry edge and the bank of the current South Medwin River. The wider this is, the lower the risk of pit capture, and the lower the impact on the river if it still retains some floodplain.
 - Designs that demonstrate that mitigation has been planned that would stop the river from connecting with the pond over long timeframes, not just the length of time the quarry is expected to operate.
- All mitigation methods within the geomorphic assessment shall be incorporated within the mineral extraction phasing and maintained for the lifetime of these operations as approved. All restoration designs within the approved geomorphic assessment shall be incorporated within the restoration plan as required by condition 5.
- 52 That before any work starts on site, a site specific surface water management plan shall be submitted for the written approval by the Council as Planning Authority, in consultation with SEPA. The site specific surface water management plan will thereafter, be implemented as approved and maintained for the lifetime of the development hereby approved.
- 53 That before any work starts on site, the Council's Sustainable Drainage Design Certificates, including Flood Risk Assessment, shall be completed and returned to for the written approval of the Council, as Planning Authority. The development, hereby approved, will thereafter be in complete compliance with the certificates as approved for the lifetime of the operations.
- 54 That within one year from the date of commencement (and annually thereafter), an annual progress plan shall be submitted to the Council as Planning Authority. The annual progress plan shall detail:
- The extent of extraction operations undertaken that year;
 - Areas prepared for extraction, including any soil stripping;
 - The extent of backfilling;
 - The extent of restoration operations carried out;
 - Recent topographical site survey undertaken within 1 month prior to the

- submission of the annual progress plan;
 - Current and anticipated production figures;
 - Total tonnage dispatched within the proceeding year;
 - Estimation of remaining mineral reserves;
 - Compliance with statutory permissions and legal agreements;
 - Site complaint logs and actions taken.
- 55 That before any work starts on site, an assessment identifying all private water supplies with the immediate area of the quarry, hereby approved, shall be submitted for the written approval of the Council, as Planning Authority, in consultation with SEPA and thereafter carried out as such. The assessment shall include, but not be limited to:
- Details of all private water supplies within a maximum 500 metres radius of the quarry , hereby approved.
 - Details demonstrating that the quarrying shall not impact upon the identified private water supplies
 - Details of any mitigation required to maintain the integrity of private water supplies in relation to the quarrying activity.

REASONS

- 1.1 For the avoidance of doubt and to specify the documents upon which the decision was made.
- 2.1 For the avoidance of doubt and to specify the drawings upon which the decision was made
- 3.1 To ensure that the Council as Planning Authority retains effective control of the development.
- 4.1 To secure the satisfactory reinstatement of the site.
- 5.1 Insufficient details of this aspect of the proposal have been submitted.
- 6.1 To ensure that the Council as Planning Authority retains effective control of the development.
- 7.1 In order that the terms of consent may be reconsidered should a change of intention become necessary.
- 8.1 To ensure that the Planning Authority retains effective control of the development.
- 9.1 To ensure that the Council as Planning Authority retains effective control of the development.
- 10.1 To secure satisfactory reinstatement of the site.
- 11.1 To ensure that the minimum amount of land is disturbed by extraction at any one time.
- 12.1 To ensure that the Council as Planning Authority retains effective control of the

development.

- 13.1 In the interests of amenity.
- 14.1 To secure satisfactory reinstatement of the site.
- 15.1 In the interests of amenity to protect water courses from pollution.
- 16.1 In the interests of amenity to protect water courses from pollution.
- 17.1 In the interests of amenity to protect water courses from pollution.
- 18.1 In the interests of the visual amenity of the environment.
- 19.1 To secure satisfactory reinstatement of the site.
- 20.1 To secure satisfactory reinstatement of the site.
- 21.1 To secure satisfactory reinstatement of the site.
- 22.1 To secure satisfactory aftercare of the site.
- 23.1 To ensure that there is adequate security to prevent unauthorised entry of stock onto the site.
- 24.1 In the interests of amenity.
- 25.1 In the interests of amenity.
- 26.1 In the interests of amenity.
- 27.1 In the interests of amenity
- 28.1 In the interests of amenity.
- 29.1 To minimise noise nuisance resulting from the operations and to enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.
- 30.1 In the interests of amenity.
- 31.1 To minimise dust nuisance resulting from the operations and to enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.
- 32.1 In the interests of amenity.
- 33.1 In the interests of amenity.
- 34.1 In the interests of amenity.
- 35.1 In the interests of amenity.
- 36.1 In order that all vehicles leaving the site are kept clear and free of debris.
- 37.1 To prevent mud and deleterious material being carried out onto the public road.

- 38.1 In the interests of amenity.
- 39.1 In the interests of wildlife conservation.
- 40.1 In the interests of amenity.
- 41.1 To ensure that provision is made for the restoration and aftercare of the site.
- 42.1 In the interests of amenity.
- 43.1 To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.
- 44.1 In the interests of road safety.
- 45.1 In the interests of amenity.
- 46.1 To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.
- 47.1 To ensure that the Planning Authority retains effective control of the development.
- 48.1 In the interests of bird species.
- 49.1 In the interests of road safety.
- 50.1 In the interests of water drainage
- 51.1 In the interests of hydrology
- 52.1 In the interests of surface water management.
- 53.1 In the interests of drainage.
- 54.1 To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.
- 55.1 In the interests of protecting private water supplies.

For information only

For information only

