

Report to:	Planning Committee
Date of Meeting:	23 August 2011
Report by:	Executive Director (Enterprise Resources)

Application No	HM/09/0009
Planning Proposal:	Proposed restoration of former reservoir to provide rough grazing land with associated ecological improvements through the formation of earthworks by placement, processing and grading of imported materials.

1 Summary Application Information

- Application Type : Mineral Application
- Applicant : Doonin Plant Ltd
- Location : Former Wellbrae Reservoirs, Muttonhole Road, Hamilton

2 Recommendation(s)

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

- (1) Refuse minerals planning permission (for the reasons listed below)

2.2 Other Actions/Notes

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

3 Other Information

- ◆ Applicant's Agent: DPP
- ◆ Council Area/Ward: 18 Hamilton West and Earnock
- ◆ Policy Reference(s): Scottish Planning Policy
PAN 50 – Controlling the Environmental Effects of Surface Mineral Workings (Annex A to D)
PAN 64 – Reclamation of Surface Mineral Workings

South Lanarkshire Minerals Local Plan (Adopted 2002)

Policy MP1: General Protection of the Environment

Policy MP2 – Protection of Areas with International Environmental Designations (Category 1 Areas)

Policy MP3 - Protection of Areas with National/Regional Environmental Designations (Category 1 Areas)

Policy MP5: Visual Intrusion and Landscape Impact
 Policy MP7: Watercourses, Surface and Groundwater
 Policy MP11: Buffer Zones
 Policy MP12: Impact on Communities
 Policy MP15: Concentration of Mineral Operations
 Policy MP18: Transportation of Minerals
 Policy MP19: Restoration and Aftercare Provision
 Policy MP20: Restoration Guarantee Bonds
 Policy MP21: Suitability of After-use Schemes
 Policy MP32: Noise Survey and Limits
 Policy MP37: Legal Agreements
 Policy MP38: Monitoring of Mineral Workings
 Policy MP39: Annual Progress Plan

South Lanarkshire Local Plan (Adopted 2009):

Policy STRAT5: Rural Investment Area
 Policy CRE2: Stimulating the Rural Economy
 Policy ENV4: Protection of the Natural and Built Environment
 Policy ENV21: European Protected Species
 Policy ENV34: Development in the Countryside

Proposed Minerals Local Development Plan

Policy MIN 1 – Spatial Framework
 Policy MIN 2 – Environmental Protection Hierarchy
 Policy MIN 3 – Cumulative Impacts
 Policy MIN 4 – Restoration
 Policy MIN 5 – Water Environment
 Policy MIN 7 – Controlling Impacts from Extraction Sites
 Policy MIN 10 – Aggregate Recycling
 Policy MIN 12 – Transport
 Policy MIN 13 – Legal Agreements
 Policy MIN 15 – Site Monitoring and Enforcement

◆ Representation(s):

▶	10	Objection Letters
▶	0	Support Letters
▶	0	Comments Letters

◆ Consultation(s):

Environmental Services

Roads and Transportation Services (Hamilton Area)

Roads & Transportation Services H.Q. (Flooding)

Scottish Water

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

Roads & Transportation Services H.Q. (Traffic and Transportation)

Scottish Natural Heritage

Planning Application Report

1 Application Site

- 1.1 The application site is located approximately 650m south west of Earnock, Hamilton and 2.2km east of East Kilbride. The site access is taken from Muttonhole Road. Agricultural land bounds the site on all sides.
- 1.2 The application site is irregular in shape and extends to approximately 11.5ha. The site is currently disused but formally accommodated reservoirs which served the Hamilton area. The site is currently covered in grasses, shrubs and small trees. The site also contains areas of hard standing, which have been subject to unauthorised infill activities in the past. The site also accommodates the remnants of the reservoirs, in the form of concrete hard standings.
- 1.3 The closest individual residential properties are Laigh Muirhouses, located 150m to the west of the application site, Muirmains, located 300m to the northeast of the application site, Stewartfield Farm, located 390m to the west of the application site and Kennedies, located 500m to the east of the application site.
- 1.4 The site is located within the Greenbelt. The Earnock Burn and Cadzow Burn run through the site in an easterly direction. Blantyre Muir Site of Special Scientific Interest (SSSI) is located 1.4km to the west of the application site and Waukenwae Moss SSSI and Special Area of Conservation (SAC) is located 1.8km to the south of the site.

2 Proposal(s)

- 2.1 The applicant seeks planning permission for the infill of the site with approximately 675,000 m³ of material, which equates to approximately 1,000,000 tonnes. The material would be deposited in a series of 4 phases (each phase taking approximately 250,000 tonnes of material), working from the west of the site in an easterly direction. The applicant anticipates that on average 3,000 to 4,000 tonnes of material would be imported to site on a weekly basis. It is anticipated that it would take between 5 to 7 years to complete the infill operation. The site would be progressively restored.
- 2.2 Material would be transported to site by 20 tonne load HGV's via the local road network. The route for delivery vehicles would be from the M74 - A725 – Sydes Brae – Parkneuk Road – Newhousemill Road – Muttonhole Road. It is predicted that there would be a minimum of 60 deliveries of material per day Monday to Friday, reducing on Saturdays. No delivery of material would take place on Sundays. The applicant also proposes to install wheel washing facilities on the access road into the main site.
- 2.3 It is proposed that the site be worked between the hours of 08.00 – 18.00 hours, Monday to Friday and 08.00 – 13.00 hours on Saturdays.

3 Background

3.1 Relevant Government Advice/Policy

- 3.1.1 Scottish Planning Policy (SPP) states that when assessing mineral proposals, planning authorities 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.

3.1.2 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.

3.1.3 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.

3.1.4 All national policy and advice is considered in the assessment section of this report.

3.2 Development Plan

3.2.1 The adopted South Lanarkshire Minerals Local Plan 2002 contains the following policies against which the proposal should be assessed:

- Policy MP1 – General Protection of the Environment
- Policy MP2 – Protection of Areas with International Environmental Designations (Category 1 Areas)
- Policy MP3 - Protection of Areas with National/Regional Environmental Designations (Category 1 Areas)
- Policy MP5 – Visual Intrusion and Landscape Impact
- Policy MP7 – Watercourses, Surface and Groundwater
- Policy MP11 – Buffer Zones
- Policy MP12 – Impact on Communities
- Policy MP15 – Concentration of Mineral Operations
- Policy MP18 – Transportation of Minerals
- Policy MP19 – Restoration and After-care Provision
- Policy MP20 – Restoration Guarantee Bonds
- Policy MP21 – Suitability of After-use Schemes
- Policy MP32 – Noise Surveys and Limits
- Policy MP37 – Legal Agreements
- Policy MP38 – Monitoring of Mineral Workings
- Policy MP39 – Annual Progress Plan

3.2.2 The adopted South Lanarkshire Local Plan 2009 contains the following policies against which the proposal should be assessed:

- Policy STRAT3 – The Green Belt and Urban Settlements in the Greenbelt
- Policy CRE2 – Stimulating the Rural Economy
- Policy ENV4 – Protection of the Natural and Built Environment
- Policy ENV21 – European Protected Species
- Policy ENV34 – Development in the Countryside

3.2.3 In addition, the Proposed Minerals Local Development Plan (MLDP) is a material consideration in the determination of this planning application. The following proposed policies are considered relevant to this development proposal:

- 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 MIN10 – Aggregate Recycling
- Policy MIN12 – Transport
- Policy MIN 13 – Legal Agreements
- Policy MIN15 – Site Monitoring and Enforcement

3.2.4 All of these policies are examined in detail in the Assessment and Conclusions section of this report.

3.3 Planning History

3.3.1 The applicant commenced unauthorised works on the site during March 2003 which comprised the excavation of remnant materials on site and the deposit of waste materials.

3.3.2 A Planning Contravention Notice (PCN) was served on the owner/occupier/lessee of the land on the 28 March 2003. Thereafter, operations were undertaken infrequently but at times intensely. The last recorded activity on site was recorded in July 2004.

3.3.3 A planning application for the 'Regeneration of former reservoirs to provide recreational and amenity facilities' (HM/04/0610) was placed on the agenda for Planning Committee in July 2006 with a recommendation for refusal. The application was withdrawn by the applicant the day prior to the scheduled planning committee.

4 Consultation(s)

4.1 **Roads and Transportation:** entered into detailed discussions with the applicant's agent in relation to the potential impact of the proposed development in terms of traffic and transport. Of particular concern were the proposed access arrangements to the site and the ability to achieve an acceptable turning radii into the junction. R&T object to the proposed development on the basis that the applicant has failed to demonstrate that they control land which is necessary to achieve a satisfactory turning radii capable of safely accommodating HGVs.

Response: Noted. The applicant has been given over a year to gain control or an agreement with the neighbouring land owner to gain control of land required for the proposed access arrangements. To date this has not been provided. This issue is discussed in detail in Section 6 below.

4.2 **Scottish Environment Protection Agency (SEPA):** initially objected to the proposed development on the grounds that the development would handle waste and that the proposal had not been justified against SPP10 and the National Waste Plan/Area Waste Plan. SEPA withdrew their objection following the submission of further information. SEPA confirmed that the activities could be undertaken under the auspices of the Waste Management Licensing Regulations 1994 (as amended), as they would be processing the waste prior to its final disposal.

Response: Noted.

4.3 **Scottish Natural Heritage:** raise no objections to the proposed development. Within their initial response, SNH recommended that a number of surveys for protected species should be carried out. These surveys were undertaken and SNH confirmed that they were in general agreement with the findings of the surveys, in that the habitat for Great Crested Newts is such that no survey is required, that water voles will not be affected by the proposal, that there are no badger setts within the site and that there is no evidence of bats utilizing the site. SNH do however acknowledge that otters may use a water course within the site. SNH recommend conditions are used, if planning permission is granted, to ensure re-surveys for protected species are undertaken and that mitigation measures are implemented.

Response: Noted. Conditions could be used to satisfactorily control the aspects requested by SNH.

4.4 **Flood Prevention Unit:** do not object to the proposed development. The Flood Prevention Unit notes that the proposal would provide approximately 11,000m³ of flood storage capacity. The FPU welcomed this proposal however as a result of flooding taking place downstream on the Earnock Burn; the FPU suggested that further capacity of 20,000m³ be requested.

Response: Noted. FPU comments are noted; however the proposal would increase the flood attenuation of the site in its current form and thereby reduce the chances of flooding downstream. The current proposals, in terms of flood attenuation are therefore considered generally satisfactory.

4.5 **Environmental Services:** raise no objection to the proposed development and request advisory notes be placed any permission approved relating to noise.

Response: Noted.

4.6 **Scottish Water:** did not respond to the consultation request.

Response: Noted.

5 Representation(s)

5.1 The application was advertised in accordance with Article 12(5) (Application Requiring Advertisement due to Scale or Nature of Operation) and as non-notification of neighbours. Neighbour notification was also carried out for properties whose ownership was known. As a result of this publicity, 10 representations were received.

(a) **The proposed access route to the site is inappropriate, often used by young children, does not accommodate footpaths along sections of it and would result in additional noise and dust, to neighbouring properties.**

Response: The Roads and Transportation Service has been consulted in relation to this application and has confirmed that the proposed route itself would not cause significant concern. Furthermore, the proposed route is frequently used by HGV's.

(b) **The proposed development will have a negative impact on the value of our property.**

Response: This is not a material planning consideration.

(c) **The application states that there will be a minimum of 60 lorries per day, but also states that there will be on average 3,000 to 4,000 tonnes of infill being imported per week, which would equate to 30 lorries per day, based on a 20 tonne lorry load.**

Response: It is noted that the figures put forward within the planning application are contradictory. However, the assessment of the development was undertaken based on the higher volume of lorries.

(d) **The development has the potential to result in mud and debris being carried out onto the public road, causing road safety issues.**

Response: Noted. If planning permission were granted, the Council would seek the applicant to install measures, such as wheel cleaning facilities, to ensure mud and debris is not carried out onto the public road.

(e) **The local road network would suffer as a result of the proposed development, resulting in a poor driving surface and additional potholes.**

Response: If planning permission was approved, the Council would seek to enter into a Section 96 agreement to ensure that the applicant contributed

towards the extraordinary wear and tear on the local road network as a result of the proposed development.

- (f) **The site should be left to regenerate into a natural ecological resource. Restoration of the site could be achieved without any infill of the site.**
Response: It is noted that the restoration of the site could physically be achieved without infill activities. However, each application must be determined on its own merits and the Council must therefore determine whether the proposed development can be deemed acceptable.
- (g) **The infill activity may cause flooding to the western extent of Muttonhole Road.**
Response: The Flood Prevention Unit were consulted in relation to the proposed development and noted that the development would provide additional flood attenuation.
- (h) **Newhousemill Road is an accident black spot and the proposed development will worsen the situation.**
Response: The Roads and Transportation Service has been consulted in relation to this application and has confirmed that the proposed route would not cause significant concern.
- (i) **Scottish Water has had a problem with a water main rupturing at a certain section of the route. Increased HGV's will increase this problem.**
Response: Scottish Water is responsible for the maintenance and protection of their infrastructure. Scottish Water was consulted in relation to the application and did not comment.
- (j) **The applicant has a proven track record of not restoring sites properly and has been investigated by SEPA in the past.**
Response: This is not a material planning consideration.
- (k) **The scope of the ecological investigations of the site were insufficient.**
Response: The applicant commissioned further ecological survey work to address issues raised by SNH. This survey work was deemed acceptable by SNH. It is concluded that the ecological investigations were acceptable.
- (l) **The proposed development creates a significant risk to the Earnock Burn from the deposit on infill material in the water course.**
Response: Noted. If planning permission was granted for this development, mitigation measures would require to be put in place to protect the Earnock Burn.

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 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 adopted South Lanarkshire Minerals Local Plan (2002) (MLP) and the adopted South Lanarkshire Local Plan (2009) (SLLP). The Proposed Minerals Local Development Plan (PMLDP) is also a material planning consideration.

- 6.2 In assessing any application for mineral development it is also necessary to evaluate the proposals against the most up to date policies and criteria contained in national planning policy and guidance. There is specific national planning policy guidance for mineral workings contained within SPP, PAN 50 (together with its various annexes), and PAN 64. The requirement of the relevant national policy and guidance is set out in Section 3 above. Greater policy detail is however provided at a local level within the development plan.
- 6.4 The development plan provides a range of policies against which mineral applications should be assessed. The PMLDP is also a material planning consideration when determining this application. The issues raised by the individual policies of the MLP and the PMLDP are discussed below.
- 6.5 Policy MP1 of the MLP seeks to minimise the impact on the environment and communities whilst ensuring that sufficient supplies of minerals are available to meet society's needs. Policy MIN1 of the PMLDP notes that the Council will balance the economic benefit from mineral development against the potential impacts on the environment and local communities. The environmental impact of the proposed development is considered in detail below.
- 6.6 Policy MP2 of the MLP seeks to protect internationally protected site, including SAC's. Policy MP3 of the MLP states that the Council will prohibit mineral development which will cause significant adverse impact on National/Regional sites, including SSSI's, unless certain tests are met. Policy MIN 2 of the PMLDP notes that development likely to significantly adversely affect category 1 sites, which include SAC's will not be permitted. Policy MIN 2 also notes that development likely to significantly adversely affect category 2 sites, which includes SSSI's, will only be permitted where they meet certain tests. As discussed above, the Blantyre Muir SSSI is located 1.4km to the west of the application site and Waukenwae Moss SSSI and SAC is located 1.8km to the south of the site. SNH was consulted in relation to the application and stated that they were satisfied that the development would not cause an adverse effect on these natural resources. The development is therefore in accordance with this policy.
- 6.7 Policy MP5 of the MLP seeks to ensure that proposals are not visually intrusive and/or seek to ensure that visual impact is reduced to an acceptable level (reference is made to siting, screening, and restoration in this regard). The proposed operation would be visible from certain section of the public road network, particularly from Newhousemill Road to the north west of the site and from sections of Muttonhole Road to the west and south of the site. It is anticipated that views of the operation would be possible for the duration of the operation however this would be limited to certain locations. In addition, the raised landform (parts of the site would be raised by up to 24m) would increase the prominence of the operation. No proposals have been put forward to assist in reducing the visual impact of the development. Nevertheless, it is considered that the proposed development would not create a sufficient visual impact on the surrounding area to merit the refusal of this planning application.
- 6.8 Policy MP7 of the MLP sets a presumption against proposals which have a detrimental impact on watercourses, surface or groundwater. Policy MIN5 of the PMLDP notes that development proposals which will have a significant adverse impact on the water environment will not be permitted. A Hydrological Survey and Drainage Assessment has been submitted in support of the planning application which sets out the baseline hydrological conditions of the site, and the applicant's intentions in relation to the management of watercourses, runoff and water

attenuation etc during the infill operation and post development. The Earnock Burn runs along the northern boundary of the application site and there is therefore potential for infill material to enter the water course if mitigation measures are not proposed and implemented. Satisfactory mitigation measures could be subject to planning conditions, if permission was granted.

- 6.9 Policy MP11 of the MLP set acceptable distances between mineral activities, which involve blasting and non-blasting activities and sensitive land uses such as residential properties. Non-blasting mineral activities should be located at least 250m from the nearest occupied dwelling. Policy MIN2 of the PMLDP identifies settlements and their buffers as category 2 sites, within which development proposals which significantly adversely affect the designation will only be permitted where they meet certain tests. The closest sensitive property (Laigh Muirhouses) is located 150m to the west of the application site. No other properties are located within 250m of the application site.
- 6.10 The background noise environment at Laigh Muirhouses was recorded by the applicant during the week as being 39.4 LA90 (dB). However the predicted noise environment at this property, when the development is operation, increases by almost 10dB to 49.1 dB LAeq,T. In addition, the background weekend noise environment was recorded at 33.0 LA90 (dB), whereas the predicted noise level on a weekend at the end of Phase 1 is 49.1dB LAeq,T (an increase of 16.1dB). PAN50 states that *“BS 4142 rates the likelihood of complaints in terms of how far the intruding noise is above the background noise level. It concludes that complaints will be likely if the new development will lead to noise levels, of 10 decibels LAeq,T³ above the background noise level (LA90,T), while a difference of 5 dB is of marginal significance”*.
- 6.11 On this basis, the development is considered likely to lead to complaints due to the increase in the noise. It is therefore considered that a relaxation of the 250m buffer zone between the development and sensitive properties in this case should not be granted. The development is therefore considered to be contrary to Policy MP11 of the MLP.
- 6.12 Policy MP12 of the MLP seeks applications for mineral development to be assessed with respect the impact of the operation in relation to traffic, roads, noise, dust, visual impact, etc. Policy MIN7 of the PMLDP seeks to ensure all mineral development will not create an unacceptable impact through the generation of noise, dust, vibration and air pollution. As discussed in paragraphs 6.9 to 6.11 above and 6.18 below, the proposed development is predicted to create a noise environment which is likely to lead to complaints from a nearby residential property (Laigh Muirhouses). In addition, and as discussed in paragraph 4.1 and 6.14, the proposed development would also have an unacceptable impact on the local road network because the access arrangements are substandard. On this basis, the development is considered to be contrary to Policies MP12 and MIN7.
- 6.13 Policy MP15 of the MLP and Policy MIN3 of the PMLDP require the cumulative impact that a concentration of mineral developments may have on a particular area or on existing road networks to be assessed. The application seeks permission for the infill and eventual restoration of an existing mineral site. Edge Farm is currently subject to an infill operation and the removal of fireclay stockpiles. It is located approximately 1.5km to the west of the application site. The HGV's travelling to and from Edge Farm from Raeburn Brickworks located in Blantyre also travel along Sydes Brae, and there is the potential to create a cumulative impact on the local road

network. Roads and transportation do not however object to this development on this basis and the application is not therefore deemed to be contrary to this policy.

- 6.14 Policy MP18 of the MLP notes that the Council will require an appropriate Transport Impact Assessment to be submitted for mineral development. Policy MIN12 of the PMLDP requires an assessment of the potential traffic and transportation impact to accompany a planning application. Policy MIN12 notes that proposals will not be supported if they are considered to create a significant adverse traffic and transportation impact. A route access report has been submitted in support of the proposed development which considers the suitability of the route from the M74 to the site. The route and report are considered to be generally acceptable by Roads and Transportation Service. The report notes that in order to allow vehicles to safely negotiate the access to the site it would need to be via a priority controlled junction, with a 10.5m entry radii and a minimum of a 7.3m throat width. The application site boundary does not however include sufficient land to accommodate such a junction and the applicant does not have sufficient land under his control to widen the access. The applicant was made aware of this issue in a letter dated 25 June 2010, and was asked to demonstrate control of sufficient land to accommodate an acceptable turning radii into the site. Further letters were sent to the applicant's agent requesting a response to the initial letter. To date the applicant has failed to respond to the Council and has not demonstrated control of land to accommodate an acceptable junction. On this basis, the planning application is considered to be contrary to Policy MP18 and MIN12.
- 6.15 Policy MP19 of the MLP and Policy MIN4 of the PMLDP seek proper provision for the restoration and aftercare of the site following completion of mineral extraction. The proposed development seeks to restore the site to an agriculture use. However, in a letter dated 25 June 2010 the Planning Service requested that consideration should be give to the planting of trees within the site, to enhance local biodiversity and improve the visual amenity of the site and its surroundings. No response to this letter was received. Nevertheless, appropriate planning conditions could be placed on the consent, requiring the submission of a planting plan if the application were to be approved.
- 6.16 Policy MP20 of the MLP and Policy MIN4 of the PMLDP seeks the provision of a restoration and aftercare guarantee bond, where appropriate. In a letter dated 25 June 2010, the Planning Service requested the applicant to confirm that they were in a position and agreeable to provide a restoration and aftercare bond for the site. Letters were sent on the 2 November 2010 and the 18 March 2011 requesting a response to the initial letter. No response to this letter was received. On this basis, it is assumed that the applicant is either unwilling or unable to provide a restoration and aftercare bond. The application is therefore considered to be contrary to Policies MP20 of the MLP and MIN4 of the PMLDP.
- 6.17 Policy MP21 of the MLP encourages operators to consider innovative proposals for after use schemes. Policy MIN4 of the PMLDP notes that restoration proposals should take account of specific characteristics of the site and its locality and that any opportunities for enhancing biodiversity and community recreation should be considered. As detailed above, details of planting for the site were requested from the application on the 25th June 2010. No response to this letter was received. The general landform of the development is considered generally acceptable and the submission and implementation of a planting plan could be achieved through condition, if planning permission was granted.

- 6.18 Policy MP32 of the MLP 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. A noise assessment has been submitted in support of the planning application. The noise assessment predicts that the development would result in an increase in the noise levels experienced at two residential properties (Muirmains Farm and Laigh Muirhouses). It is predicted that Muirmains Farm would experience up to a 6.4db increase in the noise environment as a result of the proposed development and Laigh Muirhouses would experience up to a 9.7db increase during the week. Weekend operations would result in a greater impact for Muirmains Farm and Laigh Muirhouses, resulting in an increase of noise of 9.1db and 16.1db respectively. In addition, the noise environment at Kennedies would increase by up to 2.1db and Newfields by 1.5db on the weekends. PAN50 Annex A states that *'complaints will be likely if the new development will lead to noise levels of 10 decibels LAeq,T³ above the background noise level (LA90,T), while a difference of 5 dB is of marginal significance'*. Based on the above it is considered that if planning permission was granted for this development, complaints regarding the level of noise are likely.
- 6.19 Policy MP37 of the MLP 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. If planning permission were granted, the Council would seek to enter into legal agreements with the site operator to control aspects of the development. This would include an agreement under Section 96 of the Roads (Scotland) Act 1986 to cover the extraordinary wear and tear on the public road and an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) to cover certain aspects of the development which cannot be appropriately controlled through conditions. These would cover, amongst other items, the provision of a restoration and aftercare bond and the routing of HGV's to and from site etc.
- 6.20 Policy MP38 of the MLP notes that the Council will monitor minerals sites to ensure proper standards of environmental practice are adopted. Policy MIN15 of the PMLDP also notes that the Council 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 were granted, appropriate monitoring procedures would be put in place.
- 6.21 Policy MP39 of the MLP notes that the Council will require to provision of a progress plan to be provided annual basis. If planning permission were granted, the requirements of an annual progress plan could be subject to a planning condition.
- 6.22 In light of the above assessment, the proposal is contrary to Policies MP11, MP12, MP18, MP20 and MP32 of the adopted South Lanarkshire Minerals Local Plan 2002 and Policies MIN4, MIN7, MIN12 of the Proposed South Lanarkshire Minerals Local Development Plan 2010 as a result of the development impact on the local noise environment, road safety and the local road network, due to substandard access arrangements, and the inability or unwillingness to provide a restoration and aftercare bond.
- 6.23 The South Lanarkshire Local Plan identifies the sites as being within the Greenbelt, where Policy STRAT3 applies. This states that there will be a presumption against development in the greenbelt, unless it is considered necessary for uses which are considered to be appropriate for the Greenbelt. Policy CRE2: 'Stimulating the Rural Economy' is also applicable and states that the Council will endeavor to maximise job creation in rural areas by encouraging development of an appropriate form and in

appropriate locations. Whilst this form of development within the greenbelt is considered to be generally acceptable, the specific characteristics of this development will have a negative impact to the amenity of the area through noise generation and the safe use of rural roads.

- 6.24 Policy ENV4: Protection of the Natural and Built Environment notes that the Council will assess the developments effect on the character and amenity of the natural and built environment. In addition, Policy ENV4 sets out a hierarchy of protection for sites of international, national and local/regional importance. It is considered unlikely that the proposed development will create an unacceptable impact on the resources referred to in Table 9.1 of the SLLP.
- 6.25 Policy ENV21: European Protected Species notes that European protected species will be given full consideration in the assessment of development proposals that may affect them and developments that are judged to have significant detrimental effects shall not accord with the plan. As discussed in relation to SNH's comments in Section 4 above, protected species surveys were undertaken in relation to the development. Subject to the use of certain conditions requested by SNH, the development is not considered likely to cause an unacceptable impact on protected species.
- 6.26 Policy ENV34: Development in the Countryside sets out a number of assessment criteria relating to design to be used when determining planning applications for development within rural areas. These assessment criteria include issues such as impact on the natural and built environment and landscape and visual impact. The development is therefore consistent with this policy.
- 6.27 Turning to national policy, SPP paragraph 232 states that planning authorities should, when determining applications for mineral operations such as the proposed, consider the potential disturbance and disruption from noise and the transport impacts. As discussed above, these issues have been considered in detail and the development is considered to be unacceptable on this basis. In addition, SPP states that *'Planning authorities should ensure that consents are associated with an appropriate financial bond'*. As discussed above, confirmation that the applicant was both willing and able to provide a restoration bond was requested, however no response was received.
- 6.28 In summary, the proposed development, if approved, would result in an unacceptable impact on the local noise environment, road safety and the local road network, due to substandard access arrangements, and result in development within 250m of an occupied dwelling, adversely affecting its amenity through the creation of noise. Furthermore, the applicant has either been unable or unwilling to confirm that they are able to provide a restoration and aftercare bond.
- 6.29 In consideration of all the above, it is considered that the proposed development be refused for the reasons set out below.

7 Reasons for Decision

- 7.1 The proposal cannot be assessed favourably against the provisions of SPP. The proposal is also contrary to Policies MP11, MP12, MP18, MP20 and MP32 of the adopted South Lanarkshire Minerals Local Plan 2002 and Policies MIN4, MIN7, MIN12 of the Proposed South Lanarkshire Minerals Local Development Plan 2010.

Colin McDowall
Executive Director (Enterprise Resources)

15 August 2011

Previous References

- HM/04/0610

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶
- ▶ Consultations
 - Roads and Transportation Services (Hamilton Area) 04/02/2009
 - Scottish Natural Heritage 05/02/2009
 - Roads & Transportation Services H.Q. (Flooding) 08/04/2009
 - Environmental Services 22/01/2009
 - S.E.P.A. (West Region) 16/07/2009
&
08/03/2010
 - Roads & Transportation Services H.Q.(Traffic and Transportation) Various inc
12/07/2011
 - Scottish Natural Heritage 04/02/2009
10/07/2009
- ▶ Representations
 - Representation from : T Gibson, Greystones
33 Parkneuk Road
Auchentibber
High Blantyre
G72 0TK, DATED 11/02/2009
 - Representation from : Alex Zachary, 18 Sydes Brae
Blantyre
G72 0TL, DATED 11/02/2009
 - Representation from : Mary Zachary, 18 Sydes Brae
Blantyre
G72 0TL, DATED 11/02/2009
 - Representation from : Mr. A. Morton, Braehead Cottage
Auchentibber
High Blantyre
G72 0TP, DATED 09/02/2009
 - Representation from : George Paton, Dunrowan

Newhousemill Road
East Kilbride
G74 2LE, DATED 09/02/2009

Representation from : Catherine Houldsworth, 4 Lairds Gate
Uddingston
G71 7HR, DATED 09/02/2009

Representation from : Bridget McKain, 32 Sydes Brae
High Blantyre
Glasgow
G72 0TL, DATED 18/02/2009

Representation from : Margaret C Hamilton, Springpark
Auchentibber Road
Auchentibber
Blantyre
G72 0TP, DATED 26/02/2009

Representation from : Gordon Anderson, Springbank
Auchentibber Road
High Blantyre
G72 0TP , DATED 26/03/2009

Representation from : Kemp A Meikle, on behalf of Mid Clyde Angling Association
5 Cedar Crescent
Hamilton
ML3 7LW, DATED 30/03/2009

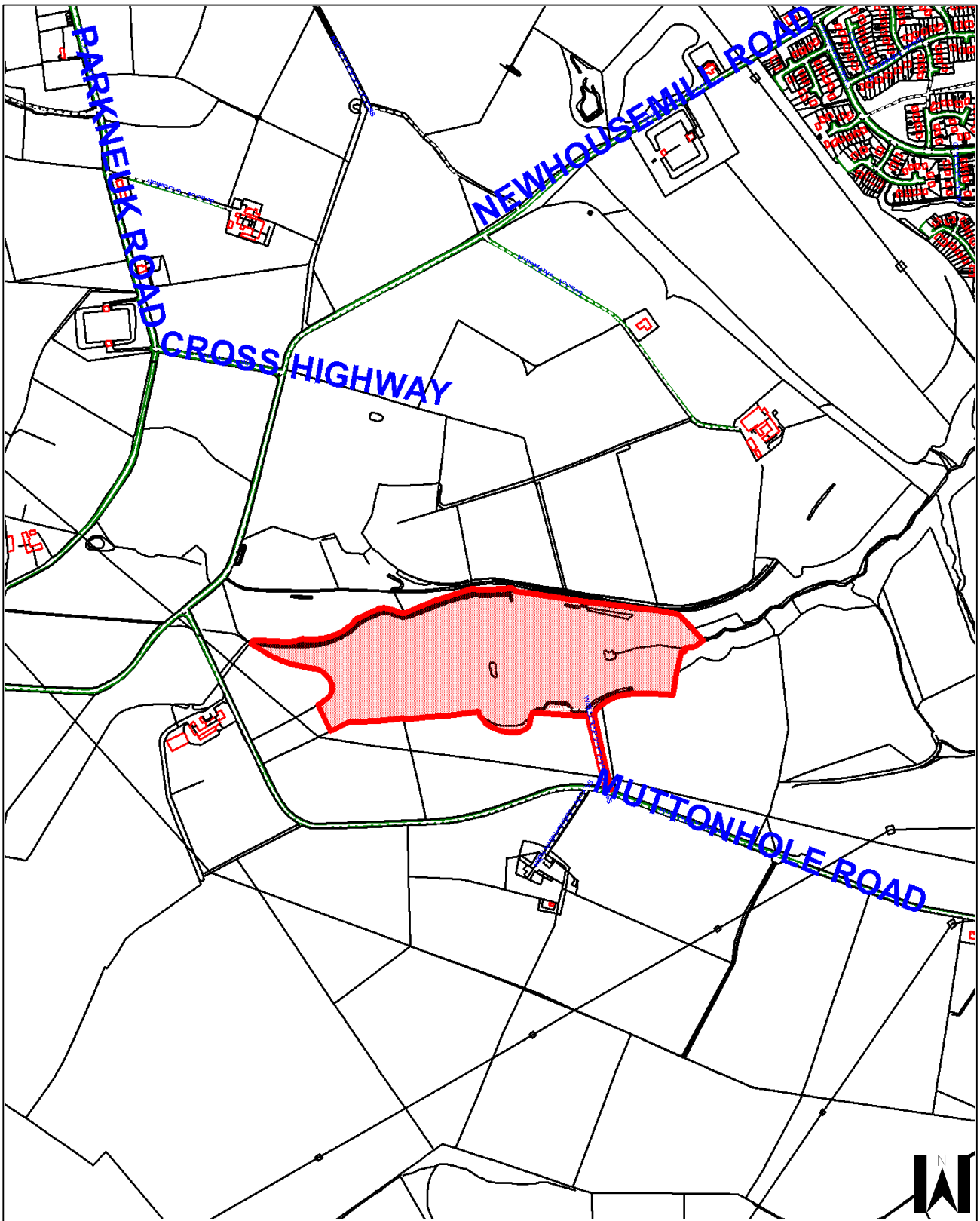
Contact for Further Information

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

REASONS FOR REFUSAL

- 1 This decision relates to the following documents;
 - ▶ Planning Statement dated 5 January 2006
 - ▶ Engineering Support Statement dated November 2008
 - ▶ Environmental Management Plan dated 23 December 2008
 - ▶ Route Access Statement dated 14 July 2008
 - ▶ Hydrological Survey and Drainage Assessment dated 23 December 2008
 - ▶ Wellbrae Extended Phase 1 Habitat Survey dated May 2008
 - ▶ Environmental Noise Impact Assessment dated September 2008
 - ▶ Wellbrae: Ecological Survey Work dated May 2008
 - ▶Including the following drawings;
 - ▶ IG709/PA/F/01 – Site Location Plan
 - ▶ 864407/02 – Domestic Neighbour Notification Plan
 - ▶ IG709/PA/F/02A – Topographic Survey April 2008
 - ▶ IG709/PA/F/03 – Proposed Restoration Landform
 - ▶ IG709/PA/F/04B – Cross Sections (Phased Operations)
 - ▶ IG709/PA/F/05 – Phased Operations
 - ▶ IG709/PA/F/06 – Cross Sections (Phased Operations)
 - ▶ IG709/PA/F/07 – Cross Sections (Phased Operations)
 - ▶ IG709/PA/F/08 – Cross Sections (Phased Operations)
 - ▶ SCT3036/I/NET/001 – 6.5m Radius Entry Tracks
 - ▶ 864407/06 – Location Plan
- 2 The planning application is contrary to the terms of Scottish Planning Policy and Policies MP12 and MP32 of the adopted South Lanarkshire Minerals Local Plan (2002) and Policy MIN 7 of the Proposed South Lanarkshire Minerals Local Development Plan in that it would create an unacceptable impact on the amenity of the surrounding area as a result of noise generation.
- 3 The planning application is contrary to the terms of Policies MP11 of the adopted South Lanarkshire Minerals Local Plan (2002) in that it would result in mineral development within a 250m of an occupied dwelling.
- 4 The planning application is contrary to the terms of Scottish Planning Policy, Policy MP18 of the adopted South Lanarkshire Minerals Local Plan (2002) and policy MIN 12 of the Proposed South Lanarkshire Minerals Local Development Plan in that, based on the information submitted, the development would have an adverse effect on the local road network and create road safety implications as a result of unacceptable access/egress arrangements due to the inability to achieve turning radii.
- 5 The planning application is contrary to the terms of Scottish Planning Policy, Policy MP20 of the adopted South Lanarkshire Minerals Local Plan (2002) and Policy MIN 4 of the Proposed South Lanarkshire Minerals Local Development Plan in that the applicant has failed to confirm that they are willing and able to lodge a restoration guarantee bond to ensure full restoration and reinstatement of the site.



For information only

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