

Perth and Kinross Council
Planning and Placemaking Committee – 23 November 2022
Report of Handling by Head of Planning & Development
(Report No. 22/283)

PROPOSAL:	Extension to quarry and associated works
LOCATION:	Land 750 metres north east of Marlee Quarry, Essendy, Blairgowrie

Ref. No: [21/02104/FLM](#)

Ward No: P3 – Blairgowrie and Glens

Summary

This report recommends approval of the application which proposes an extension to the Marlee Quarry, by forming an extraction area north of the B947, as well as providing for the continued use of ready-mix concrete plant, site access, processing and stock piling area located to the south of the B947. Provided works are undertaken in accordance with the recommendations of the Environmental Impact Assessment Report, supporting information and planning conditions, the development is considered to comply with the Development Plan. The application is therefore recommended for approval, subject to conditions and a S.75 Agreement with a bank guarantee to secure site decommissioning, restoration and aftercare.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 Marlee Quarry is an existing operational sand and gravel quarry situated in a rural location some 2.1 kilometres (km) to the west-south-west of Blairgowrie. The quarry is located adjacent to the B947 and occupies an area of approximately 40.1 hectares (ha). Existing extraction and processing activities are authorised by Planning Permission 17/01371/MWM. This permission expires on 2 April 2026 meaning that all quarrying activities must cease by this date. In 2017 the quarry operator confirmed there were 6 years of aggregate reserves remaining within the bounds of the existing quarry.
- 2 This application seeks an extension to the quarried area by an additional 29.54 ha, of which 14.44 ha will be proposed for sand and gravel extraction, with the balance used for soil storage and peripheral land around the extraction areas. The proposed extended extraction, or northern excavation, area would allow for the winning of up to approximately 1.1 million tonnes of sand and gravel and a supply rate of 75,000 tonnes per year. Quarrying would therefore occur for a period of 14 years and 8 months. However, allowing for enabling works to be completed, such as the installation of infrastructure prior to quarrying as well as restoration and aftercare works, following extraction, a term of 16 years and 2 months is sought. Extraction would be undertaken over 5 phases, with partial restoration/ topsoil dressing being carried out at the conclusion of each phase. Quarried material would be hauled by vehicle from

the new extraction area to be processed at the existing quarry site south of the B947. A full description of the extraction process is contained within the Environmental Impact Assessment Report (EIAR) Non-Technical Summary Dated November 2021.

- 3 The proposed northern extraction area occupies 3 arable fields located to the southwest of Leys of Marlee Farm, some 630 metres (m) to the northeast of the existing quarry and processing area. The B947 public road forms its southern boundary. The western boundary is defined by Palace Road and a narrow strip of established vegetation, whilst the northern boundary is defined by the access road to Leys of Marlee Farm. Within the red line site boundary is a single existing Scheduled Monument (SM) comprising the Leys of Marlee (SM7170) which is located between phase areas 1A and 1B. Immediately to the southeast and adjoining the red line site boundary is a second SM, being the Ring Ditch Leys of Marlee (SM7171). Having regard to the wider context of the site location, the Loch of Drumellie or Marlee Loch, part of the Blairgowrie Lochs, is located approximately 650 m to the west of the site. This water body is designated as a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI). Ardblair and Myreside Fens are located approximately 470 to the northeast of the site and are also designated a Site of Special Scientific Interest (SSSI). The land surrounding the quarry is predominantly in agricultural use with intermittent areas of woodland. There are individual residential properties located at varying distances around the site.
- 4 The existing quarry site sits to the south of and takes direct access off the B947, and this access will continue to be utilised. The proposed extension area is separated from the existing quarry and processing area by the B947. It is proposed to create a crossing point over the B947 to allow vehicles to haul material back to the existing quarry for processing. The site office, car park, welfare facilities, processing and stock piling areas and settlement ponds will remain in their existing locations. Soil stripping within the new extension area will be undertaken. All soils will be retained within the new extraction area. Soils stripped from the initial extraction areas would be used to form screening mounds. Thereafter, soils stripped shall be placed in storage or utilised in progressive restoration.
- 5 The design of the proposed excavations within the northern extraction area has been influenced by topography, the presence of public utilities, local geology and hydrogeology, engineering requirements, the market strategy with regards to quarry production and product type, and the minimisation of potential impacts (e.g., landscape, visual, noise, dust, ecology). The maximum extraction depth is within Phase 4 and will be 9m. However, Phases 1A and 1B will only be to a depth of 6 and 6.5m. The shallowest extraction depth will be in respect of Phase 2 at 3.1m.

Pre-Application Consultation

- 6 The proposed development is a 'Major' development, in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, due to the size of the development area/site exceeding 2 Ha in area. The applicant was therefore required to undertake formal pre-application consultation with the local community. Public concerns raised as part of this process identified issues over a lack of consultation, the scale of the operational area and timing, noise, dust, lighting, the effectiveness of restoration proposed and a loss of soil carbon, road safety, landscaping and visual assessment, and biodiversity values. These matters have been responded to in writing by the agent and included within a Pre-Application Consultation (PAC) Report submitted with this application.
- 7 The PAC Report notes that a letter drop to local properties (within a 300 m radius) was undertaken, outlining that a consultation event was to be held online, as permitted by the relevant regulations at the time. The online event was held on 30 March 2021 between 6pm and 8pm. In addition, residents were also directed to a website for information, with full contact details for the agent provided. Notice was also sent Blairgowrie and Rattray Community Council as well as to local members. A number of interested parties attended the online events and comments and concerns were reviewed and addressed within the PAC report and wider planning submission. The content and coverage of the community consultation exercise is considered sufficient and proportionate and in line with the aforementioned regulations.

Environmental Impact Assessment

- 8 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular large-scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed before 'development consent' can be given.
- 9 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. The EIA Report (EIAR) helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 10 The types of development subject to EIA are listed in Schedule 1 and 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. An EIA is required for all Schedule 1 projects, whilst Schedule 2 projects may only require an EIA, subject to factors such as their nature, size, location or where there is potential for significant effects on the environment. In respect of quarrying, where the surface area exceeds 25 ha the development falls within Schedule 1. In the case of this application, the application area extends to 29.55 ha which requires that EIA is mandatory.

- 11 The applicant sought a scoping opinion from the Planning Authority to inform the content of the EIAR. An opinion was issued on the 11 December 2020 which confirmed the 16 key matters which should be addressed within the EIA Report

NATIONAL POLICY AND GUIDANCE

- 12 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

National Planning Framework 2014

- 13 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. This is a statutory document and material consideration in any planning application. It provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

The Scottish Planning Policy 2014 (SSP)

- 14 The Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.
- 15 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability: paragraphs 24 – 35
 - Placemaking: paragraphs 36 – 57
 - Promoting Rural Development: paragraphs 74 – 91
 - Supporting Business and Employment: paragraphs 92 – 108
 - Valuing the Historic Environment: Paragraphs 137 - 151
 - Valuing the Natural Environment: paragraphs 193 – 218
 - Promoting Responsible Extraction of Resources: Paragraphs 234 - 248
 - Managing Flood Risk and Drainage: paragraphs 254 – 268

Planning Advice Notes

- 16 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:

- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 3/2010 Community Engagement
- PAN 1/2013 Environmental Impact Assessment
- PAN 40 Development Management
- PAN 50 Controlling the Environmental Effects of Surface Mineral Workings
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 64 Reclamation of Surface Mineral Workings
- PAN 73 Rural Diversification
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage
- PAN 81 Community Engagement: Planning with People

DEVELOPMENT PLAN

- 17 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2 (2019).

TAYplan Strategic Development Plan 2016-2036

- 18 TAYplan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plan states that:

“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”

- 19 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.
- 20 Policy 7: Energy Waste and Resources
- 21 Seeks to deliver a low/zero carbon future. Development proposals should ensure all areas of search, sites and routes for energy, waste and resource management infrastructure have been justified against a series of considerations including: the specific land take requirements, the proximity of resources, the sensitivity of the surrounding environment, health and safety considerations, cumulative impacts, strategic cross-boundary impacts, and consistency with the National Planning Framework.
- 22 Policy 9: Managing TAYplans Assets

- 23 Seeks to ensure responsible management of TAYplan's assets by: using the locational priorities of the Plan to identify and protect finite resources (mineral deposits and important soils); Protecting Natura 2000 sites; and safeguarding the integrity of natural and historic assets including habitats, wild land, sensitive green spaces, forestry, water environment, wetlands, floodplains (in-line with the Water Framework Directive), carbon sinks, species and wildlife corridors, and also geo-diversity, landscapes, parks, townscape, archaeology, historic battlefields, historic buildings and monuments and by allowing development where it does not adversely impact upon or preferably enhances these assets.

Perth and Kinross Local Development Plan 2 (2019)

- 24 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, *"Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth."* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 25 The principal relevant policies are, in summary;
- Policy 1A and 1B Placemaking
 - Policy 2 Design Statements
 - Policy 5 Infrastructure Contributions
 - Policy 8 Rural Business and Diversification
 - Policy 26A Scheduled Monuments
 - Policy 26B Archaeology
 - Policy 27A Listed Buildings
 - Policy 33A Renewables and Low Carbon Energy
 - Policy 33B Repowering and Existing Facilities
 - Policy 38A International Nature Conservation Sites
 - Policy 38B National Designations
 - Policy 38C Local Designations
 - Policy 39 Landscape
 - Policy 40B Forestry, Woodland and Trees
 - Policy 41 Biodiversity
 - Policy 48A Sterilisation of Mineral Deposits
 - Policy 48B Advance Extraction
 - Policy 49A Extraction
 - Policy 49B Restoration
 - Policy 50 Prime Agricultural Land
 - Policy 51 Soils
 - Policy 52 New Development and Flooding
 - Policy 53A Water Environment and Drainage: Water Environment
 - Policy 53C Water Environment and Drainage: Surface Water Flooding
 - Policy 56 Noise Pollution
 - Policy 57 Air Quality
 - Policy 60B Transport Standards and Accessibility Requirements

OTHER POLICIES

26 Supplementary Guidance – Air Quality, Adopted January 2020

- 27 Supplementary Guidance – Flood Risk and Flood risk Assessment, Adopted March 2021
- 28 Supplementary Guidance – Landscape, Adopted January 2020
- 29 Supplementary Guidance – Financial Guarantees for Minerals Development, Adopted February 2021

Non-Statutory Guidance

- 30 Planning Guidance – Loch Leven SPA, The Dunkeld-Blairgowrie Lochs SAC and the River Tay SAC
- 31 Supplementary Guidance – Planning and Biodiversity Planning for Nature and Wildlife Adopted April 2022

SITE HISTORY

- 32 [92/00830/FUL](#) Full Planning Permission was approved on 9 December 1994 for extraction of sand and gravel at Marlee.
- 33 [17/01371/MWM](#) Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to extend the life of the existing quarry. A variation to condition 1 of planning permission PK920831 (extraction of sand and gravel) was sought and approved on 2 April 2019.
- 34 [20/00909/SCOP](#) An opinion was issued on 11 December 2020 setting out matters to be considered within an EIA Report pertaining to an extension to the existing quarry.
- 35 [21/00002/PAN](#) A proposal of application notice was sought and issued on 7 April 2021 for an extension to the existing quarry.

CONSULTATIONS

- 36 As part of the planning application process the following bodies were consulted:

External

- 37 **Scottish Environment Protection Agency:** No objection. Commentary is provided in terms of ecology, disruption of groundwater and dependent ecosystems, impacts on private water supply, de-watering and waste. The risk to the Lochs SAC and Ardblair Fens SSSI in terms of dust, surface water runoff, water quality and groundwater impacts are considered sufficiently mitigated provided good practices in terms of site operations are implemented.

In terms of water quality and quantity there was not considered to be any impacts on the SSSI that feeds into Rae Loch or on wildlife and surrounding reedbeds. The matters raised by SEPA have been addressed in conditions 14, and 20.

- 38 **Scottish Government:** No objection.
- 39 **NatureScot:** No objection, subject to a condition that the development proposal be implemented strictly in accordance with the mitigation measures described within the Habitat Regulations Appraisal submitted. Conditions 14, 16, 19, 20 and 21 are recommended.
- 40 **Scottish Water:** No objection. Although the proposed extraction area is bisected by an existing Scottish Water asset, no concerns are raised in respect of impacts to this supply pipe.
- 41 **Historic Environment Scotland:** No objection. Initially an objection was raised as the development was considered to directly impact Schedule Monuments (SM) SM 7170 and SM 7171. Some impacts to SM 1560 (located approximately 150 west of SM7171) were also considered. (SM 7170 and SM 7171 are located within or immediately adjoining the new northern extraction area). The applicant subsequently provided a stability risk assessment and additional information (dated 17 February 2022) to satisfy HES concerns. Final HES comments were received on 16 March 2022, confirming no objection, subject to the mitigation measures noted within the risk assessment. This included the exclusion of operational machinery from near to the SM's by fencing (Conditions 24).
- 42 **British Geological Survey:** No objection.
- 43 **Perth And Kinross Heritage Trust:** No objection. Initially concerns were raised as the site is highly archaeologically sensitive, as is noted by its proximity to nationally important archaeological assets. However, PKHT having reviewed additional information, including the site risk assessment noted above, further visual assessment commentary, the timetable for works and further commentary from the applicant's archaeologist. Now raise no objection, subject to conditions regarding the securing of an implementation of archaeological works and protective fencing around existing heritage assets. Conditions 23 and 24 are recommended.
- 44 **Blairgowrie And Rattray Community Council:** Objection. Concerns raised regarding the effectiveness of any pre-application consultation by the applicant; that the site is not designated within LDP2 for mineral extraction; the scale of the development is disproportionate to the area in which it is situated; road safety issues; noise in respect of nearby properties; dust impacts in respect of Blairgowrie itself; impacts on carbon emissions from the quarry operations; impacts to nearby land designations and conservation sites; the loss of soil carbon; visual impacts; impacts to tourists. In addition, concerns are raised in respect of impacts to wildlife at Rae Loch, located c.200m to the northeast of the new quarry area.

Internal Consultees

- 45 **Environmental Health (EH):** No objection. EH have reviewed the supporting EIAR and raised no objections to the methodology or conclusions. Accordingly, no objection is raised subject to conditions regarding, operating hours, external lighting, noise, dust management and to ensure that no extracted material is processed onsite within the new extraction area. Conditions 9-15 are recommended.
- 46 **Planning And Housing Strategy:** No Objection, the development is adjacent to an existing quarry which is already supporting market reserves for sand and gravel. The proposal is therefore in compliance with this part of Policy 49A of the LDP2. However, the applicant must also demonstrate that “their impact on local communities and the environment has been assessed and does not have an adverse residual effect after appropriate mitigation”.
- 47 **Transport Planning:** No objection, subject to conditions pertaining to the engineering standards of the new vehicle access and a construction traffic management plan being submitted. Conditions 7 and 8 are recommended. Informatives advising of the need for a road opening permit and the disposal of surface water are noted.
- 48 **Structures And Flooding:** No objection. Upon initial review further clarification was requested in respect of flood risk and site drainage. Upon submission of further information those matters have now been addressed.
- 49 **Biodiversity/Tree Officer:** No objection, subject to conditions pertaining to the submission and implementation of an agreed landscape and planting scheme as well as a site restoration plan; the protection of existing trees onsite; the protection of nesting birds onsite; measures to protect animals from being entrapped onsite; and ensuring that the conclusions and recommendations of the submitted biodiversity survey are adhered to. Conditions 19 - 22 are recommended.
- 50 **Conservation Officer:** Concerns raised; The development type has the potential to be intrusive in spite of a negligible visual impact on listed buildings nearby, and the submitted EIAR does not specifically address this. Further work is therefore required to ensure that the listed buildings in proximity to the proposed development are protected. Despite concerns being raised these matters are addressed by conditions 9, 10, 11, 14 and 16. Furthermore, HES in their own response has stated that in their opinion the impacts on heritage assets within the Council’s remit and their settings are unlikely to significant.

Representations

- 51 103 objections have been received. The main issues raised are:
- Visual impact / scale of the activity
 - Noise
 - Road Safety

- Dust
- Impacts on nearby SSSI's and Special Areas of Conservation
- Impacts on climate change and CO2 emissions
- Loss of Prime Agricultural Land
- Non-compliance with Policy 49A of the LDP2
- Impacts on tourism / recreation in the area / Core Paths

52 These issues are addressed in the Appraisal section of the report.

ADDITIONAL STATEMENTS

53

Scoping Opinion	EIA Required
Environmental Impact Assessment Report (EIAR):	Submitted
Appropriate Assessment	Habitats Regulations Appraisal Submitted
Additional Supporting Reports Submitted	<ul style="list-style-type: none"> • Pre-Application Consultation Report • Waste Management Plan • Extended Phase 1 Habitat Survey • Summation of Information to Inform a Habitats Appraisal Assessment • Assessment of Environmental Impacts of Noise • Cultural Heritage Report • Scheduled Monument Stability Risk Assessment • Crossing Plan • Pipeline Stability Assessment • EIAR Non-Technical Summary • Restoration Bond Quantification

APPRAISAL

54 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2 (2019). The relevant policy considerations are outlined in the policy section above and are considered in more detail below.

55 In this instance, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities in determining such an application as this to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Principle

- 56 The location is a peripheral rural area approximately 2.1 km west south west of Blairgowrie. Policy considerations seeking to assess the developments suitability are Policies 1A / 1B Placemaking; 8 Rural Diversification; 26A, 26B, 27A Scheduled Monument, Archaeology, and Listed Buildings; 39 and 41 Landscape and Biodiversity; 49A and 49B Mineral Extraction and Restoration; 50 Prime Agricultural Land; 56 Noise; 57 Air Quality; and 60B Transport.
- 57 Objections have been raised questioning the need for this development proposal. Section 2.8.2 of the EIAR states *“it is accepted that the existing sand and gravel quarries within Perth and Kinross or from adjacent regions could potentially meet the demand currently met by Marlee Quarry. However, this would result in greater haulage of material within Perth and Kinross, increasing the carbon footprint of the industry. Furthermore, as set out within Policy 49(b) the requirement to source material from alternative locations would not resolve the landbank deficit”*. The applicant estimates the existing sand and gravel production within Perth and Kinross is approximately between 340,000 – 415,000 tonnes per annum (depending on operations at each of the 3 main quarries – including Marlee) equating to a reserve life of between 5.75 and 7 years. Both the SPP and Policy 49A(b) set out that maintaining a minimum of 10 years landbank of permitted reserves within a recognised market area is preferred. In this case the proposal is adjacent to and seeks to extend an existing quarry which already supports market requirements within Perth and Kinross. The proposal therefore accords with the first part of Policy 49A. However, it must be demonstrated that *“their impact on local communities and the environment has been assessed and does not have an adverse residual effect after appropriate mitigation”*. This is discussed further below.

Design and Layout

- 58 The design and layout essentially reflect the physical geology, location of material aggregate and engineering requirements for extraction of material at this location. The proposal is for the extraction of 1.1 million tonnes of sand and gravel at an average rate of 75,000 tonnes per annum for a defined period of 14 years and 8 months from commencement. Consideration has been given to limiting extraction volumes to no more than 75,000 per annum. However, if for any reason the applicant was unable to extract 75,000 in any given year this would preclude being able to access the full material volume over the term of consent. To allow for this discrepancy a maximum volume of 100,000 tonnes per annum is considered appropriate, although it is clearly stated this is not the applicant's intention. It is noted that even working at 100,000 tonnes per annum this is still significantly less than the presently permitted 250,000 tonnes per annum afforded to the existing quarry operations under Planning Permission 17/01371/MWM. The proposed worked quarry zone occupies some 14.44 ha of the total site area. Quarrying will occur over 5 phases referred to as Phases 1 (comprising two areas of ground opening – 1A and 1B), 2, 3, 4 and 5. Whilst primarily only one phase will be operational at a time, inevitably there will be periods of cross over as one is closed and restored with

a new phase opening – creating continuity of supply. The maximum depth of extraction will be 9m within phase 4, however, the depths of extraction are not uniform, with a 6.5m depth required for Phase 1B and only 3.1m in Phase 2. The development incorporates restoration at the conclusion of each phase, with stripped soil and other waste material, (that being unsuitable for aggregate use), being stored onsite and reused. Cross section restoration profiles have been provided, referenced as 21/02104/FLM/15. Soils stripped from the initial phases would be used to form screening mounds located at the Junction of Palace Road and the B947 as well as along the western boundary of the site, adjacent to the existing residential properties on Palace Road. Matters relating to the submitted design and time period of permission are set out in conditions 1-3. Account has been given within the conditions for an initial 6-month period for the implementation of enabling infrastructure (e.g., haulage routes) before quarrying commences.

- 59 Full details of the extraction profiles, soil bunds, restoration profiles and financial quantifications are contained within the Environmental Impact Assessment Report (EIAR), Restoration Bond Quantification and Drawing Reference 21/02104/FLM/15. Whilst restoration profiles and aftercare details have been submitted, Conditions 25 and 26 are recommended to secure implementation and completion, as part of an agreed aftercare management plan. In addition, a Section 75 Legal agreement is recommended to secure a financial bond to deliver any restoration and aftercare in the event this is not undertaken by the applicant. There is no doubting that the development will result in a significant visual change to this location, particularly during operations. However, it is concluded that those impacts to visual amenity are able to be sufficiently mitigated through the use of: phasing, to minimise the area of disturbance at any one time; the introduction of temporary soil bunds to reduce open views across the site; the use of existing peripheral vegetation as partial screening and by the position of extraction phase areas themselves, which are set back from the field boundaries affording a physical buffer between operational areas and those who live and or transition past this location. Restoration and aftercare will revert the site back to its pre-existing agricultural use at the conclusion of the consented term, being 16 years and 2 months after quarrying is initiated (condition 2).

Landscape and visual amenity

- 60 Safeguarding and enhancing landscape character forms part of policies 39 and 49B. In this instance, the position and means of extraction is based on local geology and location of material required, which will remain unchanged. Thus, landscape and visual impacts are inevitable given the openness of the site, particularly from sections of the B947 public road. Therefore, it is especially important to ensure robust landscaping, protection of existing trees along the southern boundary of the new extraction area and aftercare to soften the immediate and cumulative landscape impacts, whilst also improving biodiversity opportunities.
- 61 A full assessment of landscape character and impacts assessment is contained within Section 6 of the EIAR. Mitigation is proposed, such as phasing of the

development, the infilling of Phase 1A to original ground levels, utilising shallow final quarry slopes to form smooth landform transitions, soil bunds, tree planting along the western site boundary and the restoration of the landform to a similar landcover at present, being design led in consultation with NatureScot, HES and the Council. Overall, it is concluded from the EIAR that the landscape impacts of the proposal are moderate during the operational phase, reducing to slight upon final restoration. There is no identified potential for new significant cumulative visual impacts. Having regard to the existing baseline character of this location, which is predominately agricultural in nature, with the existing quarry to the south of the proposed new extraction area, the Planning Authority broadly accepts the conclusions of the EIAR.

62 Subject to conditions requiring landscape details to be submitted and agreed, the protection of existing trees, along with the implementation of restoration agreements, the impacts on landscape and amenity are considered acceptable. Conditions 15–22, 25 and 26 are all recommended to address these matters.

63 The development is considered to accord with policies 38A, 38B, 39 and 49B.

Roads and Access

64 The application has been reviewed by the Council's Transportation Planning Service who have confirmed that they do not believe the development will have a significant negative impact on the public road network. The data provided shows that the additional vehicular traffic generated would be minimal and should therefore not negatively impact the road network. Full visibility requirements for the access points have been met or can be met within land owned by the applicant subject to some minor vegetation clearance. The application states that a total of 8 HGV movements in and out of the new quarry area (i.e 16 movements per day). This is less than the number of vehicles movements occurring from the existing operation.

65 Whilst few concerns are raised by the area Roads Authority a condition has been recommended to secure the new vehicle access onto the public road in accordance with Perth & Kinross Council's Road Development Guide Type D Figure 5.7 access detail, of Type B Road construction detail. A further condition is recommended that the applicant supply a Construction Traffic Management Plan, to be agreed by the Roads Authority prior to works commencing. Conditions 7 and 8 are recommended.

66 Subject to conditions the development is considered to accord with Policy 60B of the LDP2.

Drainage and Flooding

67 The site is outwith the functional floodplain and there are no land drains/watercourses within the site hence fluvial flood risk is negligible. In terms of hydrogeology the site will be dry worked, meaning operations will be above the water table, with the exception during rain fall events when water

may filter through the exposed areas. No objections have been raised by SEPA or the Council's Flood Risk/Drainage Officer. The development is considered to accord with Policy 53 of the LDP2.

Dust and Noise

- 68 The development as proposed has the potential to generate noise and dust nuisance which may differ from any existing quarry activities particularly on residential receptors nearby, recreational users in a wider setting and on the SAC, including the Lunan Burn (being part of the River Tay Special Area of Conservation and SSSI, the Lochs Clunie and Marlee and The Ardblair and Myreside Fens). Accordingly, Policies 38A and 38B in particular are applicable in the assessment of this application.
- 69 The application has been reviewed by Environmental Health in terms of Noise, Air Quality and Dust, having regard to PAN 50 (Planning, Environmental Protection and Restoration) and Annex B 'The Control of Dust at Surface Mineral Workings 1998' and IAQM 'Assessment of Mineral Dust Impacts for Planning 2016' guidance. The EIAR concludes that noise levels at a worst case predicted scenario will be above background levels at Marlee Mill Lodge. However, the noise levels will remain within the acceptable level of 50dB(A) as set out in World Health Organisation: Guidelines for Community Noise 1999. Environmental Health have therefore raised no objection in respect of noise but recommended conditions to control absolute noise levels as well as limiting times of operation and any processing to be undertaken (Conditions 9-12).
- 70 In respect of dust and air quality Section 10 of the EIAR states that the assessment of the proposal as a new and additional source confirms that objectives PM10 - 18 g/m³ and PM2.5 - 10g/m³ are met at the worst-case scenario. The report states there are no operations in the vicinity of the site that could give rise to a potential cumulative dust impact. Environmental Health in their review confirm that operations can be undertaken without exceeding the Air Quality Objectives for PM10 and PM2.5 and dust impacts are negligible to slight, and no residual impacts have been identified. As such no objections are raised to the development. However, conditions are recommended to ensure no processing of material is carried out within the new northern extension area and that the applicant shall submit a Dust Management Plan for approval prior to the commencement of works. (Conditions 15 and 16).
- 71 Objections have been raised by residents relative to dust at their own properties and in terms of potential impacts to the SAC, Lochs Clunie and Marlee as well as the Ardblair and Myreside Fens. These concerns have been raised with both the Council's Biodiversity Officer and NatureScot who also confirmed in their consultee responses that subject to the mitigation measures outlined within the Phase 1 Ecological Survey and Habitat assessment and Habitat Regulations Appraisal being adopted, no objections are raised. Conditions 15, 16, 19, 20 and 21 are recommended. It is concluded that the development, subject to this mitigation, accords with Policies 39-41 and Policy 51 of the LDP2.

Tourism and Recreation

- 72 Whilst the development is a continuation of an existing quarry, by an established operator at the location, the proposed expansion and new extraction area has the potential for adverse impacts on recreational users in a wider setting, and in particular along existing core path routes nearby, namely Core Path BLAI/135.
- 73 The EIAR considers amenity effects on local sensitive receptors, including socio-economic receptors. None of the assessments identify significant effects on tourism or recreational receptors. Only limited views of the proposed operations (although those views will be open and extend across the whole extraction area) will be visible from the B947, and no significant views will be possible from the surrounding core paths. In terms of holiday lets or bed and breakfast activities the proposed development is not anticipated to lead to significant changes in the number of tourists visiting the local area or any investment in this sector, particularly in view of the proposed mitigation measures which will be adopted through conditions (as discussed above).
- 74 The primary impacts are considered to be from noise and or dust during operational activities. These have been assessed above are not considered to raise any significant impacts subject to conditions pertaining to; plant noise, operating times, ensuring the processing of material occurs at the existing processing area, and the implementation of a Dust Management Plan. Conditions 9-16 have been recommended.

Heritage Assets / Archaeology

- 75 The proposed new extraction area is referred to as being 'highly archaeologically sensitive', as it is located adjacent to known nationally important archaeological assets, including the Leys of Marlee Stone Circle Scheduled Monument (SM) 1560 as well as buried archaeological material identified during previous preliminary investigation work. In addition, in a wider setting, the Leys of Marlee Farmstead is located to the immediate north of the quarry extension area (being a Category C Listed Building) and Ardblair Castle (Category A Listed) is located approximately 560 m to the northeast.
- 76 Initially, the Perth and Kinross Heritage Trust (PKHT), Historic Environment Scotland (HES) and the Council's own Conservation Officer raised concerns regarding impacts from the development. PKHT raised concerns in respect of a lack of pre-commencement work and in terms of the visual impacts of the development. HES raised concerns more specifically in respect of Scheduled Monuments (SM) located within and or immediately adjacent to the site boundary being the Leys of Marlee, a ring-ditch 400m SSW of (SM7170) and the Leys of Marlee ring-ditch 450m S of (SM7171). Those concerns related to direct impacts on those monuments in terms of slippage caused by quarrying activities. The applicant has, following concerns being raised, submitted a Stability Risk Assessment, prepared by DAL, dated 17 February 2022 which has subsequently been reviewed by HES and PKHT. Both parties have now agreed that subject to works commencing in accordance with the details submitted and fencing being erected around the SMs to exclude operational works in their proximity (Condition 24), their objections are withdrawn. PKHT

has also requested an archaeological watching brief be submitted and agreed prior to works commencing (condition 23).

- 77 The concerns raised by the Council's Conservation Officer noted that the development may not directly impact nearby listed buildings in terms of visual impacts, but may have impacts in terms of noise, dust and vibration on their settings. These matters have also been addressed by HES in their final response. HES have confirmed that the Applicant's submission gives no analysis of potential impacts on the setting of the Leys of Marlee Farm or the stone circle, Blairgowrie-Lethendy Road, 460m SE of (SM1560) caused by noise and dust. That said, "we are content that these impacts would be of a limited magnitude and would not raise issues of national interest". Consequently, subject to conditions 9 - 16, 25 and 26 the development is considered to accord with policies 26A, 26B and 27A of the LDP2.

Natural Heritage and Biodiversity

- 78 The LDP contains a number of policies that seek to protect important species and sites designated for their natural heritage interest and to ensure that proposals that may affect them are properly assessed. Ardblair and Myreside Fens (SSSI) lies 470 m to the north-east. Loch Marlee, lies approximately 820m west of new extraction area, and forms part of the Dunkeld - Blairgowrie Lochs Special Area of Conservation (SAC). Lunan Burn, which flows from Marlee Loch and within 60m of the south-east corner of the existing consented quarry and stockpile area and is a tributary of the River Isla and as such is included within the River Tay SAC.
- 79 The applicant has undertaken a Phase 1 Ecological Survey and provided information to inform a Habitat Regulations Appraisal with mitigation measures outlined. These documents have been reviewed by NatureScot and the Council's Biodiversity Officer. Subject to the implementation in full of all mitigation measures, no objections have been raised. Furthermore, SEPA in their own consultation response have raised no objection relative to hydrology and or hydrogeology from the development. Conditions 19-22 are recommended
- 80 Whilst the development may be located within the catchment of such designations, subject to conditions to ensure mitigation measures are in place, the development is considered to accord with policies 38A, 38C, 40 and 41 of the LDP2.

Loss of Agricultural Land / Soil Carbon

- 81 Policy 50 sets out that development outwith settlements shall not be permitted on prime agricultural land, unless necessary to meet a specific need such as: a major infrastructure proposal, and that there is no other suitable site available on non-prime land.
- 82 Whilst the existing use of the site comprises agricultural land the Land Capability Classification for agriculture defines the soil type for this site as being

LCA Class 4, such a classification indicating that the land is capable of producing a narrow range of crops due to the soil acidity. The land is thus not defined as prime agricultural land. The reasons for selecting the location are clearly set out and considered within the EIAR, highlighting that this application represents an extension to an existing quarry where there are identified deposits. The close proximity of the new northern extraction area reflects the need to haul material from this location to the existing quarry for processing. The continuation of quarrying at this general location will reduce the haulage of material within Perth and Kinross whilst also meeting with the SPP and LDP2 land bank targets for maintaining 10 years of aggregate supply within a recognised market area.

- 83 Measures to manage, protect and reinstate soils have been set out within the EIAR which will be appropriately covered by conditions 25 and 26 satisfying the objective terms of Policy 50 of LDP2. On balance, noting the narrow range of crops able to be produced at this location, and therefore the limited production capacity that will be lost, and having regard to the fact that this is a temporary activity, (with a permission term of 16 years and 2 months from commencement) it is considered the loss of agricultural land will have only a negligible impact. Following restoration and aftercare the site will be returned to agricultural use.
- 84 Having regard to soil carbon loss, it is noted that the stripped soils will be wholly retained and managed onsite and reused following each phase. It is also confirmed that part of the site restoration plan proposes biodiversity improvements in the form of a small woodland and shrub planting as well as a wetland pond within part of the northern extraction area. Such improvements will remove and retire 2.4 ha from agricultural working permanently reducing carbon loss from such processes. The EIAR states that only a proportion of the site will actually be worked at any one time and as such the amount of carbon lost will be less than might otherwise be expected through arable cropping practices. Overall, it is considered any impacts to soil carbon loss will be acceptable, having regard to the restoration commitments and phasing of the development.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 85 A Section 75 legal agreement will be required to secure the terms of a bond or financial instrument to guarantee the delivery of site decommissioning and restoration over the lifetime of the development and beyond. A bond quantification document has been submitted and peer reviewed in accordance with the Council's Supplementary Guidance in relation to Financial Guarantees for Mineral Development. The restoration quantification has been based on the cost of bringing appropriate external contractors on-site to carry out the required works in the event the applicant is not able to deliver this restoration in accordance with the phased details submitted. Provision has been made for aftercare over a period of 5 years. In keeping with the estimation of potential restoration liability (including a contingency of 5% and accounting for the phased approach to excavation as proposed), it is recommended that the commencement bond be set at an initial value of approximately £241,000 to be

reviewed every 3 years. The financial guarantee offered by the applicant is a bank guarantee, the details of which will be reviewed and determined acceptable prior to the completion of any formal legal agreement.

DIRECTION BY SCOTTISH MINISTERS

- 86 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 87 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). Account has been taken of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan. Accordingly, the proposal is recommended for approval subject to the following conditions.

RECOMMENDATION

Conditions and Reasons for Recommendation

General

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

2. The term of approval for this permission shall be 16 years and 2 months from the date of Notification of Initiation of Development.

Reason - This is a Planning Permission in terms of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of the Planning (Scotland) Act 2019.

3. All sand and gravel extraction within the site shall be completed within 15 years and 2 months from the date of Notification of Initiation of Development. All plant and machinery shall be removed from the site and the land entirely reinstated to the satisfaction of the Council as Planning Authority at the termination of operations or the expiry of the term of approval specified by Condition 2, whichever is the earlier. Termination of operations shall be deemed to be on the cessation of sand and gravel extraction operations for a period of 6 consecutive months.

Reason - In accordance with the terms of the application and for the Planning Authority to maintain control of the period of application in the interests of visual and residential amenity.

4. The extraction of sand and gravel shall commence and proceed only in accordance with the submitted details of phasing, direction and depth of working, as shown on the plans herewith approved. No deviations from the phasing plan shall be permitted. No more than two phases shall be worked at any one time. Restoration of the land to the agreed 'after use' shall take place concurrently with extraction to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual and residential amenity.

5. The rate of extraction of material from the site shall not exceed 100,000 tonnes per annum.

Reason - To secure the proper development of the site.

6. A record of the quantity of material extracted shall be submitted to the Council as Planning Authority on an annual basis.

Reason - To secure the proper development of the site.

Transport and Planning

7. Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type D Figure 5.7 access detail, of Type B Road construction detail.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.

8. Prior to the commencement of the development hereby approved, the developer shall submit for the written agreement of the Council as Planning Authority, in consultation with the Roads Authority (Structures), a Construction Traffic Management Scheme (TMS) which shall include the following:

- (a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
- (b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
- (c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
- (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
- (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;

- (f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- (h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- (i) details of information signs to inform other road users of construction traffic;
- (j) arrangements to ensure that access for emergency service vehicles are not impeded;
- (k) co-ordination with other significant developments known to use roads affected by construction traffic;
- (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
- (m) the provision and installation of traffic counters at the developers expense at locations to be agreed prior to the commencement of construction;
- (n) monitoring, reporting and implementation arrangements;
- (o) arrangements for dealing with non-compliance; and
- (p) details of HGV movements to and from the site.

The TMS as approved shall be strictly adhered to during the entire site construction programme.

Reason: In the interests of Road Safety

Noise

9. The hours of operation for excavation works shall be restricted to between 0800 hours and 1600 hours Monday to Friday only, with no operations permitted on Saturdays and Sundays. All other operations will be restricted to 0700 hours and 1900 hours Monday to Saturday, with no operations permitted on Sundays.

Reason - In the interests of amenity; to ensure a satisfactory standard of local environmental quality.

10. Noise from quarry operations, excluding soil handling activity and other works in connection with landscaping shall not exceed 45 dB LAeq,1hr when measured and assessed in accordance with PAN 50 at any existing residential property, except for Marlee Mill Lodge.

Reason - In the interests of amenity; to ensure a satisfactory standard of local environmental quality.

11. Noise from quarry operations, excluding soil handling activity and other works in connection with landscaping shall not exceed 47 dB LAeq,1hr when measured and assessed in accordance with PAN 50 Marlee Mill Lodge.

Reason - In the interests of amenity; to ensure a satisfactory standard of local environmental quality.

12. Soil handling activity and other works in connection with landscaping shall not exceed 70 dB LAeq,1hr when measured and assessed in accordance with PAN 50 at any residential property and be limited to a period not exceeding 8 weeks.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

13. In the event of a justified noise complaint being received by the Council the operator shall, at its own expense, employ a consultant approved by the Planning Authority to carry out a noise assessment to verify compliance with conditions 10 -12 above. The assessment will be carried out to an appropriate methodology agreed in writing with the Planning Authority. If the noise assessment shows that the noise levels do not comply with conditions 10 -12 a scheme of noise mitigation shall be included with the noise assessment, specifying timescales for the implementation of the scheme and shall be submitted to the Planning Authority for written approval with 28 days of the assessment. The mitigation scheme shall thereafter be implemented in accordance with the approved scheme and timescales.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

14. No mineral processing operations at any time are permitted within the proposed extraction areas, referenced in Drawing 03 hereby approved.

Reason: In the interests of protecting amenity for nearby residential receptors, and to mitigate noise and or dust impacts on identified natural and historical interests located in proximity to extraction areas hereby approved.

Dust

15. A Site Dust Management Plan (SDMP) for the development hereby approved shall be submitted to and agreed in writing by the Council as Planning Authority, in consultation with Environmental Health. The SDMP shall set out dust control mitigation measures and a complaints procedure as outlined in Section 10.9 of the supporting Environmental Impact Assessment Report dated November 2021. All dust management onsite shall thereafter proceed in accordance with the approved scheme for the duration of this permission.

Reason: In the interests of protecting amenity for nearby residential receptors, and to mitigate noise and or dust impacts on identified natural and historical interests located in proximity to the northern excavation area hereby approved.

16. The stockpiling of any extracted and or processed material shall only occur within the Existing Stocking and Processing Area as defined by drawing 17 hereby approved. The maximum height of any stockpile shall not exceed 12 metres from existing ground level.

Reason - In the interests of the visual amenity of the area.

Lighting

17. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of residential property and that light spillage beyond the boundaries of the site is minimised. In association, the operation of the lighting shall be controlled so as to only be triggered by motion within the boundaries of the site.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

18. The operation of the silt ponds and settling beds required shall be on a closed-circuit system to ensure no discharge to the water environment to the satisfaction of the Planning Authority.

Reason - To secure the proper development of the site and avoid pollution.

Biodiversity

19. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

20. Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

Reason: In the interests of amenity and enhancement of local biodiversity values.

21. The conclusions and recommended action points within the supporting Extended Phase 1 Habitat Survey, prepared by Direct Ecology, dated 27.10.2021 Version 3 submitted and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.

Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

22. Measures to protect animals from being trapped in open excavations and/or pipe and culverts shall be implemented for the duration of the construction works of the development hereby approved. The measures may include creation of sloping escape ramps for animals, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

Archaeology

23. Development shall not commence until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

Reason: In the interests of protection the historical environment and in order to protect any archaeological assets that may be present within the site.

24. Prior to the commencement of the development hereby approved, protective fencing shall be erected where required around Leys of Marlee (SM7170), Ring Ditch Leys of Marlee (SM7171), Burnside enclosure (MPK18893) and potentially other sites dependent on the approved WSI in a manner to be agreed in advance with the Council as Planning Authority in consultation with Perth and Kinross Heritage Trust. No works shall take place within the area inside that fencing without prior written agreement of the Council as Planning Authority in consultation with Perth and Kinross Heritage Trust.

Reason: In the interests of protecting national significant Historical assets.

Aftercare and Restoration

25. Restoration shall be undertaken in a progressive manner in accordance with the restoration commitments detailed in Sections 4.3 and 4.4 of the Dalgleish Associates Ltd Environmental Impact Assessment Report dated 22 November 2021 and the indicative restoration plan Figure 4.1.

Reason - In the interests of visual amenity, landscape quality and ecological interest and diversity.

- 26 Within six months of final cessation of quarrying a scheme for final landform restoration and aftercare, shall be submitted for the prior approval of the Planning Authority and shall be based on the restoration and aftercare commitments detailed in Sections 4.3 and 4.4 of the Dalgleish Associates Ltd Environmental Impact Assessment Report dated 22 November 2021 hereby approved. Thereafter, the final landform restoration operations and aftercare scheme shall be implemented in accordance with the approved details.

Reason - To ensure that the final contours, updated restoration plans and any after care management for the site are adopted and that the site is capable of beneficial after use, whilst minimising impacts on the landscape, nature conservation and amenity of the surrounding area.

B JUSTIFICATION

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

C PROCEDURAL NOTES

Consent shall not to be issued until a Section 75 Agreement to secure the terms of the bond or financial instrument associated with site decommissioning, restoration and aftercare has been completed and signed along with that bond or financial instrument. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months may result in the planning application being re-assessed through failing to comply with the Minerals and Other Extractive Activities Policy 49B; Restoration and will be ultimately recommended for refusal under delegated powers.

D INFORMATIVES

1. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
2. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
3. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in

Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
4. The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency (SEPA).
 5. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
 6. The applicant is reminded that, should any protected species be present a licence may be required from NatureScot to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
 7. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wildbirds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.
 8. An updated ecology survey is required if work has not commenced within 2 years of date of last survey (September 2021) approved as part of this permission. The updated survey shall be submitted to the Council as Planning Authority for further written agreement.
 9. Results of restoration monitoring be sent to the Local Authority via Biodiversity@pkc.gov.uk
 10. The presence of protected species, and the extent to which they could be affected by the proposed development, should be established before works commence. Should protected species be identified within the site the developer should ensure that all appropriate measures required to comply with the relevant legislation are carried out.
 11. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.

Background Papers: 103 letters of representation
Contact Officer: Jamie Torrance
Date: 11 November 2022

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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