

Perth and Kinross Council  
Planning & Development Management Committee – 14 March 2018  
Report of Handling by Interim Development Quality Manager

**PROPOSAL:** Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land without complying with Condition 2 (period of extraction) of planning permission 04/01322/MW (extraction and processing of sand and gravel)

**LOCATION:** Balado Quarry Balado

Ref. No: 17/01441/MWM  
 Ward No: P8- Kinross-shire

**Summary**

This report recommends **approval** of this application to extend the time to extract the mineral resource and undertake site restoration at Balado Quarry. If works proceed in accordance with the recommendations of the Environmental Statement (ES), supporting information and planning conditions the proposal will comply with the Development Plan and National Planning Policy and there are no material considerations which are considered to outweigh the Development Plan. The proposals are recommended for approval, subject to conditions, including associated conclusion of a legal agreement to ensure satisfactory restoration measures are secured.

**BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 This application relates to Balado Quarry which is located at Balado Home Farm, 2km to the west of Kinross. The southern boundary is adjacent to the A977 and the small settlements of Balado and Balado Crossroads are located on the other side of this road. The site is within the Loch Leven Catchment, the River South Queich located along the northern boundary of the site flows into Loch Leven.
- 2 The quarrying of sand and gravel at the site has been undertaken under planning consent 04/01322/MW granted in August 2006. The operations involve wet processing under a closed system involving the use of storage ponds which contain silt. The planning permission area associated with the 2006 consent to quarry at Balado extends to some 36.4 hectares of which some 24.2ha is consented for sand and gravel extraction.
- 3 The agent has confirmed that there are still some 10 years of aggregate reserves within the planning permission area that remain to be extracted. This is partially due to an over estimation of the potential market demand prior to submission of the application in 2004 and partially due to the economic

recession which saw a significant downturn in demand between 2008 and 2014.

- 4 This section 42 application therefore seeks an extension in the duration of operations at Balado Quarry to provide sufficient time to allow the extraction of the full consented mineral reserve. The proposal if approved would allow the extraction of the remaining reserve, the continued processing of sand and gravel and the final restoration of the site.
- 5 No operational changes are proposed to the existing consented operations. At the time of submission the agent has confirmed that the landuse at the quarry can be split into the following categories:-
  - land retained in agriculture (13.0ha);
  - Phase 1 waterbody (5.7ha);
  - ongoing Phase 2 excavation dry working (1.0ha);
  - ongoing Phase 2 excavation wet working/waterbody (3.0ha);
  - site compound, processing and stocking areas, access routes, soil mounds and land under reinstatement (11.7ha)
  - and mixed woodland (2.0ha).
- 6 A reserve of approximately 1.1 million tonnes of sand and gravel remains. This application seeks approval to extract that the remaining reserve at a rate of 110,000 tonnes per annum over a period of 10 years with a further year required to complete restoration.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 7 Directive 2011/92/EU 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 for certain types of project before 'development consent' can be given.
- 8 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. This 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.
- 9 An Environmental Statement has been submitted with the proposal following a scoping exercise 16/01815/SCOP. The content and the associated background information of the ES are considered to meet the requirements of the associated Regulations.

## **PRE-APPLICATION CONSULTATION**

- 10 Due to the size of the application site, which is over 2 hectares, this proposal is classed as a Major Application as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. The amended Regulations, which came into force on the 30 June 2013, removes the requirement for Pre-application Consultation for Section 42 applications (which relates to a 'major planning application') made on, or after the 3 February 2013. Accordingly there is not a requirement to carry out a pre-application public consultation on this major application due to the inclusion of Regulation 49(5) in the above Regulations.

## **NATIONAL POLICY AND GUIDANCE**

- 11 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**

- 12 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. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document 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.

### **Scottish Planning Policy 2014**

- 13 The SPP was published on 23 June 2014. It 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.
  - The determination of planning applications and appeals.
- 14 Of relevance to this application are;
- Paragraphs 24 – 35: Sustainability
  - Paragraphs 36 – 57: Placemaking

- 15 A Successful, Sustainable Place:
- Paragraphs 92- 108 Supporting Business and Employment
- 16 A Natural, Resilient Place:
- Paragraphs 193 – 218 The Natural Environment
  - Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
  - Paragraphs 254 – 268 Managing Flood Risk & Drainage
- 17 The following Scottish Government Planning Advice Notes (PAN) are also of interest:
- Air Quality and Land Use Planning (2004)
  - 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 75 Planning for Transport
  - PAN 79 Water and Drainage
  - PAN 81 Community Engagement: Planning with People

### **National Roads Development Guide 2014**

- 18 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

### **DEVELOPMENT PLAN**

- 19 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

### **TAYPlan Strategic Development Plan 2016-2036**

- 20 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 plans states that:
- 21 *“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.”*

- 22 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

**Policy 7: Energy, Waste and Resources**

- 23 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.

**Policy 9: Managing TAYplans Assets**

- 24 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, townscapes, 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 2014**

- 25 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP 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.
- 26 The principal policies are, in summary:

**Policy PM1A - Placemaking**

- 27 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

**Policy TA1B - Transport Standards and Accessibility Requirements**

- 28 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public

transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **Policy CF2 - Public Access**

- 29 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

### **Policy HE1A - Scheduled Monuments and Non Designated Archaeology**

- 30 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

### **Policy NE1A - International Nature Conservation Sites**

- 31 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

### **Policy NE1B - National Designations**

- 32 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

### **Policy NE1C - Local Designations**

- 33 Development which would affect an area designated as being of local nature conservation or geological interest will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of local importance.

### **Policy NE2A - Forestry, Woodland and Trees**

- 34 Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

### **Policy NE2B - Forestry, Woodland and Trees**

- 35 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

### **Policy NE3 - Biodiversity**

- 36 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

### **Policy ER3A - Minerals and Other Extractive Activities**

- 37 Development which would sterilise important economically workable mineral deposits will not be allowed unless there is an overriding need for the development and prior extraction of the mineral cannot reasonably be undertaken; or extraction of the mineral is unlikely to be practicable or environmentally acceptable.

### **Policy ER3B - Minerals and Other Extractive Activities**

- 38 The extraction of proven mineral deposits in advance of other planned development will be permitted provided that it accords with the criteria set out.

### **Policy ER4A - Minerals and Other Extractive Activities**

- 39 Favourable consideration will be given to proposals for the extraction of minerals where they are in accordance with the criteria set out and where they do not have an adverse effect on local communities and the environment.

### **Policy ER4B - Minerals and Other Extractive Activities**

- 40 Restoration, after use and aftercare proposals will require to be agreed in advance of mineral and other extractive operations. Financial bonds for restoration will be required.

### **Policy ER4C - Minerals and Other Extractive Activities**

- 41 Greater efficiency in the use of primary mineral resources is encouraged.

### **Policy ER5 - Prime Agricultural Land**

- 42 Development on prime agricultural land will not be permitted unless it is necessary to meet a specific established need such as a major infrastructure proposal, there is no other suitable site available on non prime land or it is small scale development (generally single buildings) linked to rural business.

### **Policy EP3A - Water, Environment and Drainage**

- 43 Proposals which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans will be refused unless they are considered to be of significant specified benefit to society and / or the wider environment.

### **Policy EP3B - Water, Environment and Drainage**

- 44 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

### **Policy EP3C - Water, Environment and Drainage**

- 45 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **Policy EP5 - Nuisance from Artificial Light and Light**

- 46 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

### **Policy EP8 - Noise Pollution**

- 47 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

### **Policy EP12 - Contaminated Land**

- 48 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

### **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 49 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved, subject to amendments, at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and



beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.

- 50 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 51 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

## **OTHER POLICIES**

### **Perth & Kinross Corporate Plan 2013-2018**

- 52 Corporate Plan Vision includes – Promoting a prosperous, inclusive and sustainable economy. Creating safe and sustainable places for future generations.
- 53 The following supplementary guidance and documents are of particular importance in the assessment of this application:
- Tayside Landscape Character Assessment (TLCA)
  - Flood Risk and Flood Risk Assessments – Developer Guidance (June 2014)
  - Green Infrastructure Supplementary Guidance (Draft) (July 2014)
  - BS 4142: 2014 Methods for rating and assessing industrial and commercial sound

## **SITE HISTORY**

- 54 91/02150/FUL Leisure & Residential development (in principle) Application Refused under Delegated Powers 6 August 1992
- 55 92/01764/FUL Leisure & Residential development (in principle) Application Refused under Delegated Powers 10 August 1995
- 56 03/01143/MW Extraction and processing of sand and gravel on Application Withdrawn 10 March 2004

- 57 04/01322/MW Extraction and processing of sand and gravel. Application Approved by committee on 10 March 2004. Decision issued on 23 August 2006 after completion of Section 75 Agreement with regard to restoration.
- 58 08/01648/FLL Modification of condition 10 (hours of operation) of previous consent (04/01322/MW) Application Withdrawn 24 February 2010
- 59 11/00001/WMP Extractive Waste Management Plan Application Approved under Delegated Powers 10 October 2011
- 60 16/01815/SCOP Request to extend the operational life of the quarry to allow extraction of remaining consented reserves - Section 42 application to vary Condition 2, Scoping Opinion Issued on 13 March 2017.

## **CONSULTATIONS**

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

### **EXTERNAL**

#### **Scottish Environment Protection Agency (SEPA)**

- 62 No objection to the application. Advice provided on pollution prevention and site drainage, the groundwater environment, flood risk as well as regulatory advice for the applicant.

#### **Scottish Natural Heritage (SNH)**

- 63 No objection. The application is for an extension of the working period of an existing consented sand and gravel quarry, where the current method of operation will continue. This ensures that there is no discharge from the quarry operations to the South Queich or the Killoch Burn. Therefore there is no pathway which could link the operations at the quarry with the features of Loch Leven SPA.

#### **Health and Safety Executive (HSE)**

- 64 No response within consultation period.

#### **Historic Environment Scotland (HES)**

- 65 We have considered the information received and do not have any comments to make on the proposals. You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

#### **Royal Society for the Protection of Birds (RSPB)**

- 66 No response within consultation period.

### **Scottish Water**

- 67 No objection.

### **National Grid Plant Protection Team**

- 68 No response within consultation period.

### **BP Consultations**

- 69 The safety and integrity of the BP Forties Pipeline will not be affected.

### **Kinross Community Council**

- 70 No objection.

### **INTERNAL**

### **Local Flood Prevention Authority**

- 71 No objection. However clarification regarding the restoration of the site is required as the SEPA fluvial flood maps indicate that the northern part of the site is part of the floodplain (1:200 year event). As such land should not be raised as part of any restoration measures to avoid transferring flood risk elsewhere.

### **Transport Planning**

- 72 No objection.

### **Biodiversity Officer**

- 73 An extended Phase 1 Ecological Survey has been provided to support the application. A number of recommendations are made in the survey report which should be conditions of any approval.

### **Environmental Health**

- 74 No adverse comments. Reference made to conditional control on previous application which related to dust and noise.

### **Strategy and Policy**

- 75 No response within consultation period.

### **REPRESENTATIONS**

- 76 One letter of support has been received however no detailed reasons are provided.

## 77 ADDITIONAL STATEMENTS

Environment Statement	Submitted
Screening Opinion	ES Submitted
Environmental Impact Assessment	Required
Appropriate Assessment	Not Required
Design Statement / Design and Access Statement	Submitted
Reports on Impact or Potential Impact	Submitted

### APPRAISAL

- 78 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 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.
- 79 In this case I consider the main issues to be assessed are need, traffic, noise, lighting, air quality and dust, hydrology, ecology as well as landscape and visual impact.

### Requirement for the Proposal

- 80 The Strategic Development Plan recognises the importance of resources and assets with potential to support economic growth. The Plan highlights that development and growth in the economy should occur in a way that does not place unacceptable burdens on environmental capacity and should not increase the exposure of users or inhabitants to risks. Policy 9: Managing Tayplan's Assets deals with finite resources and specifically refers to mineral deposits of economic importance; while emphasising the protection of prime agricultural land, forestry areas and carbon rich soils.
- 81 Perth and Kinross Local Development Plan Policy ER4 applies to proposals for the extraction of minerals. It gives support for the proposed development, provided the proposal complies with the criteria in the policy; and with other national, strategic and local planning policy.
- 82 The earlier application at the site accepted the need to work the mineral reserve at Balado. The agent notes that Balado has consistently served a local and wider market for sand and gravel over the last 11 years. The site forms part of the consented sand and gravel reserves within the current Perth and Kinross and TAYplan landbank and there has been a significant depletion of the sand and gravel landbank over the last 11 years within Perth and Kinross (both through usage and through the refusal to continue the permission at Glendevon which removed some 3.5 million tonnes from the landbank).

- 83 The agent notes there have been no significant additions to the landbank with the sand and gravel permissions that have been granted being small scale and generally dedicated to specific engineering projects. Having regard to existing consented reserves in the wider area, I agree with the agent that a demand within this market area will continue and this can be supplied by allowing an extension in time to extract the material at Balado.

### **Traffic and Transport**

- 84 Paragraph 271 of SPP 2014 requires Development Plans and development management decisions to take account of the implications of development proposals on traffic, patterns of travel and on road safety. PAN 50 Controlling the Environmental Effects of Surface Mineral Workings is also relevant, providing good practice advice, including the assessment of traffic at mineral working sites, which has been reflected in the ES. While Policy TA1B of the LDP requires the impact of the development to pedestrian and traffic safety to be assessed.
- 85 Traffic and transport was previously assessed under application 04/01322/MW as being acceptable due to its direct connection to the major road network. This resulted in conditional control to deal with road access construction, geometry, gradient, visibility splays, turning facilities and the instillation of wheel wash facilities at the exit. There is a need to maintain safe access and egress to the site accordingly conditional control should be updated to ensure the measures previously secured by condition and installed are maintained to enable compliance with the SPP, the PAN and Policy TA1B (See conditions 18-22).

### **Noise**

- 86 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission.
- 87 Under the earlier application there was a significant concern about the proximity of the quarry to houses at Balado Cross Roads and Balado. This resulted in a wider buffer being proposed between locations of extraction and processing as well as higher bunds and the testing of reversing alarms. This resulted in the removal of the of Environmental Health's earlier objection
- 88 The case officer's assessment also concluded that with the majority of the houses located to the south of the quarry and close to noise generated by the A977 this resulted in compliance with noise criterion contained within Government's PAN 50 Controlling the Environmental Effects of Surface Mineral Workings. The zoning of housing development at Balado (reference H51) in the Local Development Plan does not alter the acceptability of the quarry, it should be noted that there is a site specific requirement for the H51 zoning requires to take account of noise generation from external sources.

- 89 The houses around Balado Home farm were noted to have a quieter background noise environment but this still did not warrant refusal of the earlier application. A number of noise conditions were attached to the 2004 application and there is still a need to maintain conditional control on noise to ensure compliance with the SPP, the PANs and Policy EP8 (See conditions 9-14 and 17).

### **External Lighting**

- 90 Policy EP5 of the LDP relates to light pollution, seeking to prevent statutory nuisance from occurring due to artificial lighting. Conditional control was previously utilised to minimise light spillage beyond the boundaries of the site. This conditional control is still required (see condition 15).

### **Air Quality and Dust**

- 91 The site has previously been subject to Environmental Impact Assessment and all aspects of dust/air quality have been fully addressed. The site currently operates under the Site Dust Management Strategy which was approved as part of the 2004 application.
- 92 There have been changes to the Air Quality Objectives in recent years. The ES has reviewed this focusing on fine airborne dust particles, especially the smaller size fractions e.g. PM<sub>10</sub> and PM<sub>2.5</sub> (small particles, 10 microns and less in diameter) and vehicle emissions in the form of nitrogen oxide (NO<sub>2</sub>). The review has confirmed that the existing quarry is operating comfortably within the Air Quality Objectives and that operations can continue without any significant reduction in air quality. Environmental Health has no objection subject to the operation continuing in compliance with the approved Dust Management Strategy for the site (see condition 16).

### **Hydrology**

- 93 The works will continue to be wet-working. Mains water will be used as washing and processing water. It will then be treated and recycled on site by settling ponds in closed circuit system. Sediment will settle out naturally with no chemicals used. The runoff from plant processing is connected to settling ponds. The pumping of groundwater into the nearby watercourse will not take place.
- 94 The agent has confirmed that the operations on site will continue to adhere to the approved Site Water Management Plan which was required by planning condition on the earlier consent to ensure that there are no surface or ground water issues.
- 95 SEPA has reviewed the drainage maps, waste water layout and restoration including buffers and bunds and has offered no objection. Taking this into account there are no concerns associated with the pollution prevention measures, flood risk or site drainage measures deployed at the site. However there is a requirement to ensure conditional control is applied to secure

adherence to the Site Water Management Plan as well as associated monitoring and surface water management (see conditions 25-27).

### **Ecology**

- 96 Loch Leven, which is 2.5km to the east is a Site of Special Scientific Interest (SSSI), a Special Protection Area (SPA) and a Ramsar site. As there is no discharge from the site into the South Queich, there is no potential for impact on Loch Leven and its designations.
- 97 With the implementation of the earlier application the central section of the site is now an active sand and gravel quarry. The eastern section is the former extraction area which was 'wet worked' leaving a waterbody. The north- west and west parts of the site are still arable farmland, currently growing cereal crops. There are a number of semi-mature trees and scattered trees around the boundaries of the site. The southern parts within the site boundary have grassed earth screening mounds and this boundary has young trees and scrub along the whole length.
- 98 In support of the application Habitat and Species surveys have been undertaken. While badger dung was found at one location within the site no badger setts were present. There is evidence that otters use the land adjacent to the South Queich Burn outwith the site boundary however this area will remain unaffected by the existing operations at the site. There was no indication of water vole being present within the survey area. The agent notes that the habitats within the survey area offer good foraging, nesting and roosting opportunities for a variety of bird species. There is also an abundant amount of suitable habitat immediately adjacent the survey area.
- 99 Due to the small-scale loss of habitat, no significant effects are predicted on protected species however mitigation measures are proposed in the ES and where necessary these have been integrated into conditional control (see 15, 26, 28 and 29).

### **Landscape, visual impact and restoration**

- 100 Scotland's landscape is one of its most valuable assets it is therefore essential that this quality is maintained and enhanced. Development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscape. Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross, as detailed in policy ER6. The site is located within the Loch Leven Lowland Basin character unit of the Tayside Landscape Character Assessment.
- 101 Loch Leven was formed at the end of the last Ice Age as retreating icesheets, which had scoured a hollow between the Lomonds, Cleish Hills and the Ochils, deposited a mass of sand and gravel, impounding a shallow loch surrounded by extensive areas of marsh and wetland. The overall impression is of a very broad, shallow basin within which, particularly at the eastern end, water and sky, together with the enclosing hills are the dominant landscape element.

- 102 The earlier assessment confirmed that during the operational period the quarry operations and equipment will be hidden from close public views with the provision of bunding. It acknowledged that the bunding would appear as a strident and alien feature in the flat arable landscape of the Lowland Basin.
- 103 This bunding has now been formed along the A977 with the associated offset and landscaping. This has reduced the landscape impact. As works proceed into the second phase there is the requirement to install further bunding (see condition 17).
- 104 While there has been a change to landscape character associated with the operation of the quarry contrary to ER6 I agree with the earlier assessment that the restoration of the site has the opportunity to provide a net benefit to the countryside by enhancing the interest of the landscape, increasing bio-diversity and taking advantage of public and recreation opportunities at the site. The restoration plans will also need to take account of potential future footpath links as well as the Flooding Team's commentary on the re-contouring of the site. Conditional control will be applied to this permission to retain these long-term benefits associated with restoration and aftercare to comply with Policy ER6 and ER4B, see conditions 4, 5 and 6.

#### **Developer Contributions**

- 105 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

#### **Economic Impact**

- 106 There will be a positive economic impact associated with the extraction of minerals from the quarry through the continuation of employment at the site as well as supplying the local market leading to a reduction in transport mileage.

#### **LEGAL AGREEMENTS**

- 107 It is anticipated that a Section 75 will be required in order to adequately secure the terms of the bond or financial instrument associated with required site decommissioning, restoration and aftercare over the lifetime of the development and beyond.

#### **DIRECTION BY SCOTTISH MINISTERS**

- 108 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**

- 109 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 110 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **Approve the application**

### **Conditions and Reasons for Recommendation**

- 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 All sand and gravel extraction within the site shall be completed within ten years of the date of this Decision Notice.

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

- 3 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 one phase shall be worked at any one time. The land awaiting extraction shall remain in agricultural use.

Reason - In the interests of visual and residential amenity.

- 4 Restoration shall be fully implemented within twelve months of the completion of extraction and shall be phased in accordance with the restoration scheme to be approved under condition 5 below and shall thereafter be maintained to the satisfaction of the Planning Authority.

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

- 5 A progressive phasing plan shall be submitted within 6 months of the date of this consent to the Planning Authority illustrating how the restoration scheme shall be implemented at the site. No more than one phase or sub-phase shall

be worked at any one time and restoration of each phase and sub-phase shall take place as soon as is practical.

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

- 6 Prior to the commencement of the final restoration of the site associated with this consent a detailed scheme with final contours and an updated restoration plan and an updated aftercare plan for the site shall be submitted to and require the approval of the Planning Authority. The restoration and aftercare scheme shall set out the means of reinstating the site following the removal of components of the development. Thereafter the approved restoration and aftercare scheme shall be implemented.

Reason - To ensure that final contours, an updated restoration plan and an updated aftercare plan for the site are adopted prior to the site ceasing operation thereby ensuring the site is capable of beneficial afteruse and to minimise adverse impacts on the landscape, nature conservation and amenity of the surrounding area (due to the intervening time period).

- 7 Topsoil stripping shall only be carried out when the soil is reasonably dry and friable (usually May to September), and shall not take place during or immediately after periods of heavy rain.

Reason - In order to aid the restoration of the site in the interests of visual amenity, landscape quality and ecological interest and diversity.

- 8 Topsoil shall not be stripped by bulldozer, but by means of boxscraper, towed scraper or excavator. The applicant shall give at least 7 days notice to the planning authority before topsoil is to be stripped, and the planning authority reserves the right to suspend operations during adverse weather conditions, or to impose such conditions as it sees fit for the safe keeping of the topsoil.

Reason - In order to aid the restoration of the site in the interests of visual amenity, landscape quality and ecological interest and diversity.

- 9 Mineral extraction and processing and the movement of vehicles shall only be carried out at the site between the hours of 0800-1800 Mondays to Fridays and 0800-1300 hours on Saturdays. However, in addition, between the hours of 0630-0800 Mondays to Saturdays operations associated with loading and dispatch only may take place. Only essential maintenance work shall be carried out on Saturday afternoons and Sundays.

Reason - In the interests of residential amenity.

- 10 Only the plant machinery and equipment specified in the Planning and Environmental Statement submitted with the application (or similar plant which generates no greater sound power levels) shall be used and all plant shall be operated and maintained in accordance with the manufacturer's instructions.

This shall include servicing and the provision of suitable exhaust systems to minimise noise emissions.

Reason - In the interests of residential amenity.

- 11 Should any aspect of the proposed operations result in justified nuisance complaints the applicant shall – if required by the planning authority – have recognised consultants carry out monitoring for noise or dust and provide reports to the planning authority. The applicant shall be required to take any reasonable remedial measures recommended in such reports.

Reason - In the interests of residential amenity.

- 12 Noise levels measured at 3.5m from the façade of noise sensitive properties shall not exceed the following limits during the specified times (except during temporary operations - see condition 14):

Between the hours of 0630-0800 Monday to Saturday:

At all noise sensitive properties – 45dB LAeq, 1 hour (free field);

Between the hours of 0800-1800 Monday to Friday and 0800-1300 on Saturdays:

At Balado Home Farm Cottages - 50dB LAeq, 1 hour (free field);

At all other noise sensitive properties – 55dB LAeq, 1 hour (free field).

Reason - In the interests of residential amenity.

- 13 To allow for temporary operations such as soil stripping, removing soil heaps, creating earth bunds, crushing operations and restoration, noise levels measures at 3.5m from the façade of any noise sensitive dwelling shall not exceed 70dB LAeq, 1 hour (free field) for more than 8 weeks in any one year.

Reason - In the interests of residential amenity.

- 14 Audible vehicle reversing alarms fitted to vehicles operating within the extraction area shall be Brigade Electronics BBS-97 type or have a similar specification.

Reason - In the interests of residential amenity.

- 15 All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighboring land and ecologically sensitive habitats and that light spillage beyond the boundaries of the site is minimised.

Reason - In the interests of residential and visual amenity.

- 16 The existing Dust Management Strategy for the site shall be submitted to the Planning Authority within 14 days of this decision notice and thereafter implemented in full throughout the duration of the development.

Reason - In the interests of residential amenity.

- 17 The height of the soil mound between the farm road and Phase 2A shall be increased from 4 metres to 5 metres and the section to the north of this from 3 metres to 4 metres.

Reason - In the interests of residential amenity.

- 18 Wheel cleaning facilities shall be maintained at the exits from the site until the restoration of the site has been complete. All vehicles leaving the site will be required to use these facilities.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 19 The vehicular access at the site entrance shall be maintained in accordance with the 'Design Manual for Roads and Bridges, Volume 6, Section 2, Figure 1/2: Ghost Island Junction' together with appropriate signing all to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 20 The gradient of the access shall not exceed 3% for the first 15.00 metres measured back from the edge of the carriageway and the access shall be constructed and maintained so that no surface water is discharged to the public highway.

Reason - In the interests of road safety; to ensure the provision of an adequate gradient of the access.

- 21 Turning facilities shall be retained within the site to enable all vehicles to enter and leave in a forward gear to the satisfaction of the Council as Planning Authority.

Reason - In the interests of road safety; to ensure the provision of acceptable manoeuvring space within the curtilage of the site to enable a vehicle to enter and leave the site in forward gear.

- 22 Visibility splays of 6.00 metres by 215.00 metres measured from the centre line of the new access shall be maintained in both directions along the nearside channel of the A977 and free from any obstruction of a height exceeding 1.05 metres above the adjacent road channel level.

Reason - In the interests of road safety; to ensure the provision of adequate visibility of the vehicular access.

- 23 There shall be at all times an adequate unexcavated corridor between the toe of the bund and the proposed workings, to the satisfaction of the planning authority in consultation with SEPA, in order to reduce the risk of lateral erosion.

Reason - In order to protect watercourses and water quality in accordance with the advice of SEPA.

- 24 The existing approved closed drainage system details shall be submitted to the Planning Authority within 14 days of this decision notice and thereafter implemented in full throughout the duration of the development.

Reason - In order to protect watercourses and water quality in accordance with the advice of SEPA.

- 25 The existing approved water quality and quantity monitoring programme covering the operation and restoration phases of the development site shall be submitted to the Planning Authority within 14 days of this decision notice and thereafter implemented in full throughout the duration of the development.

Reason - In order to protect watercourses and water quality in accordance with the advice of SEPA.

- 26 There shall be at all times a buffer strip of at least 25m between any watercourses and the site operations.

Reason - In order to protect watercourses and water quality in accordance with the advice of SEPA.

- 27 The proposed car park surfacing will be suitable to provide infiltration, in accordance with the principles of Sustainable Urban Drainage System (SUDS).

Reason - In order to protect watercourses and water quality in accordance with the advice of SEPA.

- 28 All trenches and excavations on the site shall be fitted with measures to prevent animals from being trapped. This can include the creation of sloping escape ramps or by using planks within the excavations to allow animals to escape.

Reason – In order to prevent animals being trapped in open excavations.

- 29 Should any soil stripping works be proposed during the bird nesting season a suitable qualified and experienced person at the developers' expense shall check the area to be worked for nesting birds immediately before works begin with the demarcation of areas which should not be disturbed. The suitably qualified and experienced person will have the ability to stop operations, make changes to demarcated areas and working practices as necessary.

Reason – To take account of the bio-diversity resource on the site.

## **B JUSTIFICATION**

- 111 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**

- 112 Consent shall not to be issued until a Section 75 Agreement to secure the terms of the bond or financial instrument associated with required site decommissioning, restoration and aftercare over the lifetime of the development and beyond has been completed and signed. 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 will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and will be ultimately recommended for refusal under delegated powers.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2 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.
- 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. In accordance with 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 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.

Background Papers: 1 letter of representation  
Contact Officer: John Russell 01738 475346  
Date: 1 March 2018

**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

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