

Perth and Kinross Council
Planning & Development Management Committee – 6 December 2017
Report of Handling by Interim Development Quality Manager

Proposal: Siting of a mobile crusher and screener

Location: Land south of 1 Deans Park, Deans Park, Dunkeld, PH8 0JH

Ref. No: 17/00992/FLL

Ward No: 5– Strathtay

Summary

This report recommends approval of a detailed planning application for the temporary siting of a mobile crusher and mobile screener unit on an active waste slate extraction area at the former Newtyle Farm quarry, Dunkeld as the development is considered to comply with the relevant provisions of the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 Planning permission is sought for the temporary siting of a mobile crusher and a mobile screener on an area which is subject to ongoing slate waste extraction. The waste slate was generated by historical slate quarries in the area.
- 2 In support of the planning application, the applicant has provided photographs of both the mobile crusher and mobile screener, and provided details of the model number of both units. The crusher unit will measure approx. 15m in length, 3m in width and 5m in its height, whilst the smaller screener measures approx. 4m in length, 2m in width and 2.5m in height – the two units will be located side by side. The siting of these units would allow for the existing waste slate to be crushed on site, and then sorted into variable sizes prior to it being removed from site via HGVs for use in the construction industry. It is envisaged that the majority of the processed material would be used at local infrastructure projects, such as the A9 dualling but not exclusively. Permission is sought for a temporary period of five years, upon which time the extraction area to the east of the A984 will be exhausted, and the already approved restoration programme will commence thereafter.
- 3 The equipment is to located on an area of raised ground at Newtyle Farm, which is located east of the A984 public road (which runs to the east of the River Tay), and to the south-east the residential cul-de-sac of Deans Park - which is located some 2km to the south east of Dunkeld. The closest residential property at Deans Park would be approx. 140m away from the proposed equipment. The applicant has indicated that as the extraction advances throughout the area, the altitude of the units would decrease as the ground on which it sits on lowers, but their location will remain the same.

- 4 A retrospective planning application for the siting of similar equipment on the opposite (west) side of the A984 was approved in 2011 (11/02014/FLL). The extraction of slate waste from that area has now ceased, the equipment removed and the final restoration of the area now underway.
- 5 Notwithstanding the comments made within the representations, it must be noted that this planning application relates solely to the siting, and operation of the mobile crusher and mobile screener units only. The physical removal of the waste slate material from the former mineral working deposits is permitted development under the terms of Part 19, Class 66 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (GPDO), and is subject to the specific conditions stated within that class – which includes control over the eventual restoration and details of the vehicular access.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 6 Directive 2011/92/EU requires the ‘competent authority’ (in this case Perth and Kinross Council) when giving a planning permission for certain 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.
- 7 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.
- 8 As a result of the scale of the development proposed, an Environmental Statement was not required to be submitted as the scale of development falls below the EIA thresholds.

PRE-APPLICATION CONSULTATION

- 9 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore the applicant was not required to undertake not any formal pre-application consultation with the local community.

NATIONAL POLICY AND GUIDANCE

- 10 The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.
- 11 Of specific relevance to this planning application are;

Scottish Planning Policy 2014

- 12 The SPP was published in June 2014 and 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.
- 13 Of relevance to this proposal are;
- Paragraphs 74 - 83, which relates to Promoting Rural Development
 - Paragraphs 92 - 108, which relates to Supporting Business & Employment

PAN 50 ANNEX B - Controlling the Environmental Effects of Surface Mineral Workings Annex B: The Control of Dust at Surface Mineral Workings

- 14 Whilst this PAN is aimed primarily at offering advice in relation to surface mineral workings the document is nevertheless a good source of information and guidance for other proposals which may generate dust emissions and requires measures to keep them within environmentally acceptable limits

PAN 1/2011 - Planning and Noise

- 15 This PAN provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. It supersedes Circular 10/1999 *Planning and Noise* and PAN 56 *Planning and Noise*.

DEVELOPMENT PLAN

- 16 The Development Plan for the area consist of the Approved TAYplan Strategic Development Plan 2016-2036 and the and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2016 – 2036 - Approved October 2017

- 17 Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *"By 2036 the TAYplan region 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 and visit and where businesses choose to invest and create jobs."*

Perth and Kinross Local Development Plan 2014

- 18 The Local Development Plan (LDP) was adopted by Perth and Kinross Council

on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

- 19 Within the LDP, the site lies within the landward area where the following policies are applicable,

Policy PM1A – Placemaking

- 20 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 PM3 - Infrastructure Contributions

- 21 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy NE3 – Biodiversity

- 22 The Council will seek to protect and enhance all wildlife and wildlife habitats, whether formally designated/protected or not, taking into account the ecosystems and natural processes in the area.

Policy EP8 - Noise Pollution

- 23 There will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses and similarly against the locating of noise sensitive uses near to sources of noise generation.

Policy ER4C - Efficiency and Waste

- 24 Encourages greater efficiency in the use of primary mineral resources. Minerals and other extractive development will minimise the production of waste. Construction activities will be encouraged to use recycled aggregate/other materials wherever possible.

Policy ED3 – Rural Business and Diversification

- 25 The Council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas. There is a preference that this will generally be within or adjacent to existing settlements. Sites outwith settlements may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity. This is provided that they will contribute to the local economy through the provision of permanent employment, or visitor accommodation, or

additional tourism or recreational facilities, or involves the re-use of existing buildings. New and existing tourism-related development will be supported where it can be demonstrated that it improves the quality of new or existing visitor facilities, allows a new market to be exploited or extends the tourism season

OTHER COUNCIL POLICIES

Developer Contributions and Affordable Housing 2016

- 26 This document sets out the Council's policy for securing contributions from developers in relation to new developments which may have an impact on existing infrastructure and require improvements as a direct consequence of the development proposed.

CONSULTATIONS

External

- 27 **Dunkeld & Birnam Community Council** have objected to the proposal. The main concerns which they raised relate to,
- Non-compliance with Policy ER4A of the Local Development Plan 2014, insofar as a) it has not been demonstrated that there is an existing demand for the material which cannot be met by other sources and b) that it has not been demonstrated that the material is required to maintain a suitable land bank of material within the market area.
 - Adverse impact on existing residential amenity via Dust and Noise nuisance

These issues are addressed in the main Appraisal section.

Internal

- 27 **Environment Health** have commented on the proposal in terms of dust and noise nuisance, and have raised no objections to the proposal subject to conditions being attached to any consent which controls these potential nuisances.

REPRESENTATIONS

- 29 Seven letters of representations from individuals have been received objecting to the proposal. In addition to these, an objection from the Dunkeld and Birnam Community Council has also been received. The main issues relevant to this planning application raised within the letters of representations are;
- Road safety concerns at the access to the site, and on the public road
 - Noise pollution
 - Dust pollution

30 These issues are considered in the Appraisal section of this report. It must however be noted that other concerns regarding;

- The capacity/standard of the public road to accommodate HGV's
- Damage to public roads/bridges
- Issue concerning the physical extraction process (such as possible landslides/surface water run-off),

are not relevant to this planning application as they relate to the extraction process which is permitted development, and not under consideration as part of this planning application. These issues cannot therefore be considered to be material considerations as part of the current planning application proposal.

ADDITIONAL STATEMENTS

31	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	None
	Report on Impact or Potential Impact	A noise and dust assessment was submitted in support of the previous planning application and these are still considered to be relevant.

APPRAISAL

31 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the application to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

32 The Development Plan for the area comprises the approved TAYPlan 2017 and the adopted Perth and Kinross Local Development Plan 2014. The relevant policies are outlined in the policy section above, and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies, namely those which relate to Developer Contributions.

Policy

33 In terms of land use policies, the key policies are found within the Local Development Plan 2014 (LDP). Within the LDP, the site lies within the landward area where land use Policies PM1A (placemaking), ED3 (rural business and diversification) and ER4C (efficiency and waste) are directly applicable.

- 34 Policy PM1A of the LDP seeks to ensure that all new developments do not have an adverse impact on the local environment, which includes visual and residential amenity impacts. In terms of Policy ED3 of the LDP, this policy supports the expansion of existing businesses and the creation of new ones in rural areas. This policy states that there is a preference for such developments to be within or adjacent to existing settlements, however sites outwith settlements (such as this) may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity – providing that the proposal contributes positively to the local economy through (*amongst other things*) the provision of permanent employment.
- 35 Policy ER4C of the LDP promotes greater efficiency in the use of primary mineral resource and seeks to minimise waste as part of mineral extraction activity and encourages the use recycled aggregate / other material where ever possible.
- 36 Policy EP8 of the LDP states that there will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses, and similarly against the locating of noise sensitive uses near to sources of noise generation.
- 37 For reasons stated below, I consider the proposal (subject to conditions) to be in accordance with the aforementioned policies.

Land Use Acceptability

- 38 As stated previously, this planning application is not seeking to regulate or control the physical extraction of any material from the site. The extraction of the waste slate is considered to be permitted development under the explicit terms *Part 19, Class 66* GPDO. The proposed land use which is under consideration is the further processing of the onsite waste material, to effectively make it more usable (and suitable) for use in the construction industry.
- 39 *Policy ER4C* of the LDP seeks to provide greater efficiency in the use of primary resources, and to ensure that as part of extractive developments the production of waste is minimised. The primary resource associated with this site is slate, which has been quarried and exhausted. From that process the slate waste was subsequently produced and remains on the site. The applicant is currently in the process of removing that waste via permitted development rights associated with *Part 19, Class 66* of the GDPO, and could transport the waste material off the site without the need for any formal planning consent.
- 40 However, as per the site on the opposite side of the road, the applicant is proposing via the use of mobile crusher and screener units, to create a more usable product before transporting it off site and it is this element (the siting of the crusher / screener) which requires planning consent. I consider the proposal to be entirely in line with *Policy ER4C* as the proposed processing and re-use of the slate waste to make it into a more usable product is considered to

be the ultimate end process of the slate quarrying as it would ensure that no waste has occurred from the original quarrying process. It would also be the case that the waste onsite which was a consequence of the initial extraction would be removed entirely from the site.

- 41 The proposal also falls to be considered against *Policy ED3* of the LDP, which relates to rural businesses and diversification. This policy supports the expansion of existing businesses within the landward area where the proposal offers opportunities to diversify an existing business or are related to a site specific resource or opportunity – providing that the proposal contributes positively to the local economy through (*amongst other things*) the provision of permanent employment.
- 42 The proposed siting of the units to process onsite waste material (with no need to import), and to make it more suitable for local businesses to use for their construction projects aligns itself positively with the aims and objectives of *Policy ED3*. It is accepted that the principle of processing the waste slate onsite before transporting it off site is not new, and does not constitute a diversification of the existing business - as the applicant has already carried out a similar operation on the site opposite. However, it would be the case that the proposal would be a continuation and expansion of an existing business, and be a business opportunity to use a one off specific site resource. I therefore consider the proposal to be in line with *Policy ED3* of the LDP.

Noise and Dust Pollution

- 43 It is accepted that there is some noise and dust generation from the removal of the slate waste from the site, and there is likely to be more of each generated by the operation of the crusher and screener. However, it is important to note that the scope of the planning application under consideration relates solely to the proposed siting of the crusher and screener units and not to any impacts from the associated removal of material from the site. The potential for noise and dust generation by the proposed equipment has been assessed fully by my colleagues in Environmental Health and subject to a number of conditions (3 - 6), they have no concerns regarding what is effectively the continued operation of the crusher/screener – albeit on a different site than previously approved.

Residential Amenity

- 44 In terms of overlooking or loss of privacy to neighbouring residential properties, the proposal raises no concerns. The proposed location of the equipment is approx. 140m away from the closest residential dwelling, and approx. 120m from the closest residential garden.
- 45 In terms of nuisance from dust and noise, as stated in paragraph 43, I also have no concerns.
- 46 It is accepted that there is likely to be noise and dust generation from the removal of the slate waste from the site regardless of the use of proposed equipment. However, in the event that this proposal was to be approved and

then brought into use, it is likely that there would be more noise and dust generated by the operation of the proposed unit.

- 47 The potential for noise and dust generation by the proposed unit has been assessed fully by Environmental Health and in terms of the dust, they are of the view that as per the previous planning application, due to the relatively large particulate size of particles, most of the dust arising from the direct use of the equipment would be deposited within the immediate vicinity of the equipment - which sits within the larger area of slate waste working, and would not affect the residential properties directly. In terms of noise, subject to noise and operational time conditions being imposed on any planning permission noise nuisance should not occur to any existing residential property as a direct result of the use of either the crusher or screener.
- 48 Subject to these proposed conditions, the use of the equipment can be adequately controlled so that there is no adverse impact on the residential amenity when the equipment is in use.

Dust on the Local Road Network

- 49 Although the removal of material from the site does not require express planning permission and cannot be limited through the terms and conditions of this planning application, it is the case that the proposed crushing and screening process may create additional dust, over and above that which would be created just by collecting, loading and transporting the waste material unprocessed. Accordingly, vehicles leaving the site therefore have the potential to transfer this dust onto the public roads.
- 50 The general state of the public road and its ability to accommodate HGV movements associated with the removal of the slate waste from this site is not a matter open for consideration under the limits of this planning application. However, controlling the transfer of dust (which is directly caused from the crushing process) onto the public road is a consideration due to the potential for the dust to cause nuisance to residential properties near the site and also properties which are located road side to the haulage routes.
- 51 On this basis it is considered reasonable to try to minimise the level of additional dust nuisance arising from this proposal by seeking the further submission and approval of a Dust Management Plan (Condition 6) which will contain dust management procedures. The approved plan shall thereafter be implemented while the equipment is on site and during the reinstatement period. It is expected that the dust management procedures will include measures such as the wetting of exposed material and internal roadways during dry weather, regular use of a road sweeper and the need for wheel wash facilities when leaving the site.

Appropriateness of Vehicular Access to and from the site

- 52 Within the letters of representations, road safety concerns have been raised regarding the existing vehicular access. These concerns related to both the

visibility of the vehicles leaving the site, and also the ability for road users to see vehicles idling /waiting at the access point.

- 53 The site has an existing vehicular access which has recently been lawfully widened by the applicant to accommodate the intended movements of HGVs to and from the site. As part of the ongoing permitted development activities on the site associated with the removal of the waste slate, an acceptable means of vehicular access to the site is an explicit requirement, and whilst the principle of what is required has been agreed it has yet to be fully delivered on site. It is however the case that matters relating to the vehicular access are not within the scope of this planning application, but are being addressed through other means.

Trees

- 54 There are no trees which are affected directly by the siting of either the crusher or screener unit.

Relevance of Policy ER4A of the Local Development Plan 2014

- 55 Within the letter of representation from Dunkeld & Birnam Community Council, they have made an assessment of the proposal against Policy ER4A of the LDP - which is applicable for proposals that relate to the extraction of materials. The extraction of the waste material is permitted development, and is not under consideration as part of this planning application. Policy ER4A of the LDP is not considered to be a material consideration in the assessment of this planning application so there is no requirement to seek further information on marketing requirements or current supplies in the market area – both of which is explicitly referred to in the Community Councils submission.

Impact on Bio-diversity

- 56 The siting and use of the proposed equipment would have little impact on any local habitats or wildlife species. The areas where the proposed units are to be located are man-made ground, which has little in the way of habitat value. Noise arising from the use of the crusher and screener would be in combination with existing noise associated the extraction of the material, and would not result in any disturbance to wildlife in isolation.

Ongoing Public Complaints

- 57 In relation to the siting of similar equipment on the site on the opposite side of the road, during its use, my colleagues in Environmental Health did not receive any formal complaints regarding noise or dust. A formal complaint has however been received recently from a local resident concerning dust accumulation on the local roads, which in turn affects the complainer's property. The timing of this complaint relates to the reinstatement of the site and not the actual use of crusher / screener or indeed the removal of the material from the site.

- 58 Under the terms of the Part 19, Class 66 of the GDPO the Council has no formal planning controls in relation to traffic movements connected to the reinstatement. We only have controls over the physical reinstatement itself. However, as part of the requirements of Condition 6 (dust management) of this planning consent, the applicant has offered to provide details of mitigation measures to control dust during the reinstatement process, which will take into account issues which have arisen during the restoration of the adjacent site.

Developer Contributions

- 57 Due to the nature of the proposal and its location, there are no requirements for any Developer Contributions in relation to Affordable Housing, Primary Education, Transport Infrastructure and A9 Junction Improvements.

LEGAL AGREEMENTS

- 58 None required.

DIRECTION BY SCOTTISH MINISTERS

- 59 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 EIA screening opinion, call in, or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 60 In conclusion, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, whilst I acknowledge the comments received from neighbouring residents and the local Community Council, subject to conditions, the proposal is considered to comply with the adopted Local Development Plan 2014 and on that basis the application is recommend for a conditional approval.

RECOMMENDATION

A Approve the planning application subject to the following conditions:-

- 1 Permission is hereby granted for a limited period until 1 December 2022. Prior to this date, the use of all plant and machinery associated with this development shall cease, and all associated equipment removed from the site.
- 2 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.
- 3 Noise from any plant and machinery associated with this development shall be controlled so that noise levels do not exceed 55dB LAeq, 1 hour (free field) at any adjacent dwellinghouse.

- 4 Prior to the commencement of any development, confirmation of the model of both crusher and screener shall be submitted to the Council as Planning Authority for approval. Any change from the approved model(s) shall be agreed with the Council before being brought into site. All plant and equipment shall thereafter be operated and maintained according to the manufacturer's recommendations. This includes all necessary servicing and the provision of satisfactory exhaust systems to ensure that noise emissions are minimised. Records regarding all services and modifications made to all plant and equipment shall be kept on site and shall be available for inspection by the Council as Planning Authority.
- 5 The hours of operation of the plant and equipment hereby approved shall be limited to 0700 hours to 1900 hours Monday to Friday and 0800 to 1300 on Saturdays, with no operation on Sunday.
- 6 Prior to the development commencing, a Dust Management Plan must be submitted for the approval in writing by the Council as Planning Authority. The plan must include adequate precautions to ensure that all times and at all stages of the process (including reinstatement), dust generation on the site and outwith, is minimised by implementing agreed dust prevention measures e.g. wheel washing facilities. The plan shall also provide details of future monitoring and reporting on the successfulness of the plan. The approved plan shall thereafter be implemented in full to the satisfaction of the Council as Planning Authority.

Reasons:-

- 1 In view of the nature of the proposed development and to enable the Planning Authority to review the circumstances pertaining to the proposal within a reasonable period of time.
- 2 To ensure the development is carried out in accordance with the approved drawings and documents
- 3-6 To ensure a satisfactory standard of local environmental quality.

B JUSTIFICATION

- 61 The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

- 62 None

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. 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.

Background Papers: 7 Letters of representation
Contact Officer: Andy Baxter, 475339
Date: 23 November 2017

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.
--

All Council Services can offer a telephone translation facility.
--