

Perth and Kinross Council
Planning & Development Management Committee – 1 August 2018
Report of Handling by Interim Development Quality Manager (Report No. 18/239)

PROPOSAL: Formation of a borrow pit, vehicular access and track, storage yard and car parking, siting of ancillary processing equipment, 2 portable buildings for office and canteen use and associated works for a temporary period.

LOCATION: Land south of Loak Farm, near Bankfoot

Ref. No: 18/00395/MWM
Ward No: P5 Strathhtay

Summary

This report recommends **approval** of this application to extract the mineral resource and undertake site restoration at land south of Loak Farm near Bankfoot. The proposals are recommended for approval, subject to conditions, to ensure satisfactory restoration measures are secured.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The proposed development site is 16.9 hectares of agricultural (arable and grazing) land located approximately 1 km south of the village of Bankfoot directly to the west of the existing A9 Trunk Road. The site is bounded by agricultural land to the south, the Garry Burn and agricultural land to the North, a private road (old A9) and the existing A9 (T) to the east and the Ordie Burn and agricultural land to the west. The site itself is relatively flat but there are two glacial hummocks at the northern perimeter.
- 2 The proposal is to extract 400,000 tonnes of sand and gravel over a 30 month period to serve the Luncarty to Pass of Birnam section of the Scottish Governments A9 dualling project. The extraction will take place from a single quarry excavation between 3 and 7 metres below original ground levels
- 3 The sand and gravel will then be transported directly to a proposed processing area within the site where it will be crushed, screened and washed to produce the finished sands and gravel products. The finished product will then be retained in the processing area or transported to the stocking yard for subsequent use.
- 4 The plant and stocking yard comprises an area of 2.8 ha. Initial groundworks will be used to form landscape bunds and seeded to enclose the plant site and

stocking yard. Within the stocking yard the proposed asphalt plant, ready mix concrete plant, weighbridge, wheel cleaning facilities and site access road will be erected / constructed.

- 5 In addition to the excavation of sand and gravel, a limited tonnage of roadstone will be required to be imported to facilitate the construction of the upgraded A9 carriageway.
- 6 The supply of significant volumes of ready mix concrete required on a daily basis throughout the project will also be supported by the use of mobile ready mix concrete batching plant on site.
- 7 The site access will be surfaced, with vehicles exiting the site running on a bound/hard surface for circa 90m from the wheel cleaning facility to the site access.
- 8 A new temporary junction is proposed onto the A9 and will be in use for up to two and half years in order to allow the supply of construction materials to take place for the duration of the construction phase. During that time the A9(T) will be dualled past the site, so there will be a period of time when the junction will fall within the road dualling construction works, with traffic management measures and a potential need for consequent changes to the junction geometry. Until a contractor is appointed and a work programme prepared for the Luncarty to Pass of Birnam section exact details of traffic management proposals and changes to the borrow pit junction requirements, and their duration, are unknown.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 9 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.
- 10 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.
- 11 An EIA Screening Opinion (17/01115/SCRN) was provided in August 2017 and found that whilst an EIA would not be required in this instance, a significant range of background information reports would be required to support the planning application.

PRE-APPLICATION CONSULTATION

- 12 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. This requires pre-application consultation with the local community to be undertaken. The results of the community consultation have been submitted with the application as part of the Pre-Application Consultation (PAC) Report on Community Consultation. The Proposal of Application Notice (PAN) (reference 17/00008/PAN) outlined that a public exhibition was held locally and the Ward Councillors for the area were consulted as well as Auchtergaven Community Council.

NATIONAL POLICY AND GUIDANCE

- 13 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

- 14 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

- 15 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.
- 16 Of relevance to this application are;
- Paragraphs 24 – 35: Sustainability
 - Paragraphs 36 – 57: Placemaking
- 17 A Successful, Sustainable Place:
- Paragraphs 92- 108 Supporting Business and Employment

18 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

19 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 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

- 20 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

- 21 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

- 22 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:
- 23 *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.*
- 24 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

Policy 7: Energy, Waste and Resources

- 25 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

- 26 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

- 27 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.
- 28 The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 29 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

- 30 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

- 31 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

- 32 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

- 33 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

- 34 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

- 35 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

- 36 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

- 37 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

- 38 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

- 39 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

- 40 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

- 41 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

- 42 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

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

Policy EP3A - Water, Environment and Drainage

- 44 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

- 45 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

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

Policy EP5 - Nuisance from Artificial Light and Light

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

Policy EP8 - Noise Pollution

- 48 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

- 49 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)

- 50 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.
- 51 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.
- 52 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

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)

SITE HISTORY

54 **17/01115/SCRN** EIA Screening Request submitted June 2017 for creation of sand and gravel borrow pit. Screening Response provided August 2018. No EIA required.

55 **17/00008/PAN** Proposal of Application Notice submitted August 2017 for creation of sand and gravel borrow pit. Content of PAN noted at Planning & Development Management Committee September 2017.

CONSULTATIONS

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

EXTERNAL

Scottish Environment Protection Agency (SEPA)

57 No objection to the application. The operation of the site will require to be licenced under Pollution Prevention and Control (PPC) as activities involve road stone coating crushing and cement batching.

Scottish Natural Heritage (SNH)

58 No objection provided requested conditions are imposed and an Appropriate Assessment is carried out by the Planning Authority.

Health and Safety Executive (HSE)

59 No response within consultation period. Online PADHI+ assessment confirms the proposed development site does not lie within the consultation distance of a major hazard site or major accident hazard pipeline.

Historic Environment Scotland (HES)

- 60 No objection

Perth and Kinross Heritage Trust (PKHT)

- 61 Site is within area considered to be archaeologically sensitive and recommend conditions are applied for archaeological investigation works to be carried out.

Scottish Water

- 62 No objection.

Auchtergaven Community Council

- 63 No objection but do consider that the application is for quarrying rather than a borrow pit. It supports such a proposal so close to the actual A9 dualling project but does request that a condition is applied to any permission that the material is only used for the Luncarty to Pass of Birnam section

INTERNAL

Structures and Flooding

- 64 No objection.

Transport Planning

- 65 No objection.

Environmental Health

- 66 No objection following the submission of additional information.

Community Greenspace

- 67 No objection but care must be taken to ensure the core path (AGVN/115) that lies within the site on its eastern border and will be crossed by the access road to the site is not adversely affected.

REPRESENTATIONS

- 68 No letters of representation have been received. As indicated above, comments have been received from Auchtergaven Community Council.

ADDITIONAL STATEMENTS

69

Environment Statement	Not Required
Screening Opinion	Submitted
Environmental Impact Assessment	Not Required
Appropriate Assessment	Required & undertaken
Design Statement / Design and Access Statement	Not required for mineral works applications
Reports on Impact or Potential Impact	Noise, Ecology, Flood Risk, land & Visual Impact, Transport Assessment Submitted

APPRAISAL

- 70 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.
- 71 In this case I consider the main issues to be assessed are need, traffic, noise, air quality and dust, flood risk, ecology, cultural heritage as well as landscape and visual impact.

Need

- 72 TAYplan recognises the importance of resources and assets with potential to support economic growth. It 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.
- 73 LDP 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.
- 74 The proposed extraction of sand and gravel and processing on site is to supply material for the Scottish Government's A9 dualling project from Perth to Inverness. The principle of the proposal is therefore acceptable in planning terms.

Traffic and Transport

- 75 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. LDP Policy TA1B of the LDP requires the impact of the development to pedestrian and traffic safety to be assessed.
- 76 The applicant has submitted a Transport Assessment to support the proposal and this has been assessed by Transport Scotland as it directly affects the trunk road network. No objection is offered by Transport Scotland provided a number (7) of conditions are imposed with any planning permission. These conditions include a Traffic Management Plan, timescale of works, wheeling washing and cease of use. There is a need to maintain safe access and egress to the site and Transport Scotland's proposed conditions will ensure compliance with SPP, PAN 50 and Policy TA1B. (Conditions 16, 20-25).

Noise

- 77 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.
- 78 A Noise Impact Assessment (NIA) has been submitted to assess noise from the proposed sand and gravel borrow pit, asphalt and concrete batching plant. The NIA has been assessed by Environmental Health.
- 79 Background noise monitoring has been undertaken at 4 locations around the proposed site to the north, east and west. Noise prediction calculations have been produced at 5 locations around the site, including Watermill Cottage to the south. Due to no background noise monitoring being undertaken at Watermill Cottage, a worse-case background noise level of 32 dB LA90 has been used in the assessment at this location.
- 80 The applicant has provided additional information to demonstrate that the predicted noise levels using the plant and sound power levels from all noise sources i.e. asphalt and concrete plant, haulage road and vehicle movements operating together. Environmental Health are satisfied that noise predication calculations have been based on a worse-case scenario and takes into account the cumulative effect of noise from all sources.
- 81 PAN 50 advises that a daytime nominal limit at noise sensitive properties should normally be 55 dB LAeq. When assessing whether this limit is appropriate the background noise level LA90 of nearby noise sensitive properties should be assessed against the limit and if it exceeds it by more than 10 dB then a lower

nominal limit should be considered. It will therefore be necessary to set a lower level as houses where the background noise levels are 35 dB (A) or below.

- 82 The noise survey was undertaken over a short time period of 2 hours in the middle of the day and whilst this may not be representative of the baseline noise earlier in the morning or in the evening, it is based on the noise climate of the properties close to the A9 being predominately influenced by road traffic. Based on worse case operational noise and predicted noise levels at quiet rural locations being below the lower nominal noise level of 45 dB, the proposal will be in accordance with PAN 50. Environmental Health is satisfied that noise from the development can be adequately controlled by noise limits being attached to the consent. (Conditions 10-14).

Air Quality and Dust Management

- 83 A screening assessment has been undertaken by the applicant to assess the likely impact the development will have on local air quality using the Design Manual for Roads and Bridges (DMRB) screening method and an assessment of emissions from the quarry processing and concrete and asphalt plant has been taken into account.
- 84 A dust management plan has been submitted outlining mitigation measures that will be followed to ensure that dust is minimised. Environmental Health has confirmed this demonstrates that the development should not impact on local air quality objectives.

External Lighting

- 85 Policy EP5 of the LDP relates to light pollution, seeking to prevent statutory nuisance from occurring due to artificial lighting. Conditional control recommended by Environmental Health will minimise light spillage to an acceptable level beyond any boundaries of the site. (Condition 15).

Contaminated Land

- 86 Environmental Health have confirmed that after a search of historical maps no previous contaminative uses of the site have emerged.

Flood Risk

- 87 The applicant has submitted a Flood Risk Assessment (FRA) in support of the application and this has been reviewed by both SEPA and the Councils Structures and Flooding team. Neither party has an objection to the proposal on the grounds of flood risk.
- 88 The application site (or parts thereof) lies adjacent to the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map, and may therefore be at medium to high risk of flooding.

- 89 Within the FRA it shows predicted flood levels for the 1 in 200 year, 1 in 200 year plus 20% climate change and excavation levels. This shows that excavation levels on site are over one metre above the predicted 1 in 200 year plus climate change flood level. The site is a minimum of 3.58m above the modelled flood levels and therefore, a significant height difference between the predicated flood levels and the proposed excavation level.
- 90 As the site is adjacent, but above the predicted flood envelope, SEPA has no objection to the proposed development on flood risk grounds.

Hydrogeology and Groundwater

- 91 SEPA cannot identify any significant hydrogeological issues with the proposed development and no private water supplies or groundwater abstractions have been found within 250m of the site. There are no authorised groundwater abstractions within 250m of the site boundary.
- 92 One groundwater-dependent terrestrial ecosystem (GWDTE) has been found in the vicinity of the site. The River Tay SAC is a GWDTE, as it contains bog, marsh and fen habitat. The Ordie Burn, part of this SAC, is approximately 35 metres to the west of the site boundary. It is unlikely that significant dewatering will be required, as the proposed working will take place above the groundwater table. Should dewatering be required, it should be carried out in compliance with general binding rules of Controlled Activities Regulations (CAR).

Ecology

- 93 In support of the application an Ecology survey has been undertaken. Ordie Burn which is 35 metres to the west of the site forms part of the River Tay Special Area of Conservation (SAC). The SAC is designated for the following qualifying interests: Atlantic Salmon (*Salmo salar*), Brook Lamprey (*Lampetra planeri*), River Lamprey (*L. fluviatilis*), Sea Lamprey (*Petromyzon marinus*), Otter (*Lutra lutra*) and clear-water lochs with aquatic vegetation and poor to moderate nutrients levels.
- 94 SNH have assessed the proposal and consider it could be progressed with appropriate mitigation. However, because it could affect internationally important natural heritage interests such as the SAC it must be made subject to conditions so that the works are done strictly in accordance with their recommended mitigation.
- 95 SNH's view is that the proposal is likely to have a significant effect on the qualifying interests of the River Tay SAC; these are Atlantic salmon, brook lamprey, river lamprey and sea lamprey. Otter and clear-water lochs with aquatic vegetation and poor to moderate nutrients levels are also qualifying interest features of the River Tay SAC but will not likely be affected by the proposal.
- 96 Consequently, Perth and Kinross Council, as competent authority, is required to carry out an Appropriate Assessment in view of the site's conservation

objectives for its qualifying interests. If the proposal is undertaken strictly in accordance with the SNHs recommended mitigation, then the proposal will not adversely affect the integrity of the SAC. An Appropriate Assessment has been carried out by the Planning Authority and concluded that there should be no adverse impact on any species.

- 97 SNH recommends that a Construction Environmental Management Plan (CEMP) be a condition of planning, and this should detail mitigation measures to prevent any sediments and pollution from entering the SAC. (Condition 5)

Landscape, visual impact and restoration

- 98 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.
- 99 A Landscape and Visual Impact Assessment (LVIA) was submitted in support of the application. The LVIA states that the proposed development would not significantly adversely affect the key attractive and distinctive land use elements or the wider baseline pattern of the local landscape areas or prejudice the nature or integrity of the existing landscape pattern and the landscape character setting of the site.
- 100 The LVIA confirms there is potential for views from along the A9 corridor, but the number of places from which the entire site will be visible from is very limited. This is due to the screening influence of the intervening landform, vegetation and proposed bunding around the proposed planting and stocking yard. After the cease of use, the eastern portion of the site which contains the plant, stocking yard and access road will be restored back to the existing landform and land use. The impacts are considered to be not significant.

Cultural Heritage including Archaeology

- 101 Historic Environment Scotland (HES) have assessed the proposal and confirm that it potentially affects the adjacent Scheduled Monuments (SM) known as Court Hill Cairn (SM1524) and Loak Standing Stone (SM1562).
- 102 HES acknowledge that the applicant's cultural heritage appraisal confirms that there will not be any direct impacts on either of these monuments but does indicate that there will be an impact on their setting.
- 103 Given their function as prehistoric ritual and funerary monuments, the setting of these monuments includes the relationship between them and the landscape in which they sit. This includes extensive outward views from the monuments over the surrounding landscape and towards one another, and views towards the monuments. The landscape character that adds to their setting is currently open and rural, and devoid of large-scale development except for the A9 road to the east.

- 104 The extent of sand and gravel extraction would be located between 100m and 150m from the monuments and would be visible from it. The applicant's cultural heritage appraisal considers the impact on the setting of the monuments would be substantial during the lifetime of the development (i.e. two to three years), but this impact will cease upon decommissioning because the land will be restored back to its previous agricultural use.
- 105 On the basis of a temporary impact on the setting, HES do not object to the development proposal provided the land is restored sensitively back to its original condition and ground levels. (Conditions 6-8).
- 106 PKHT is in agreement with HES's requirement for full site reinstatement. PKHT recommend that the developer fence off both Scheduled Monuments along the red line boundary of development to avoid any accidental damage. (Condition 28).
- 107 In terms of archaeology, PKHT confirm that the proposed development site lies within an area considered to be archaeologically sensitive. The area is of known prehistoric activity, including two pit alignments - Marker Perth & Kinross (MPK 12534 and 2334), pit circle (MPK 7105) and former location of House of Nairne (MPK2337) in addition to designated heritage assets Loak Standing Stone (SM1562) and Court Hill barrow (SM1524).
- 108 Recent archaeological monitoring and geophysics undertaken as part of the A9 dualling project identified an enclosure and possible souterrain (MPK6337) at Northleys farm which confirmed crop mark data of the site. PKHT note in the Cultural Heritage Appraisal undertaken the applicant that crop mark evidence is variable across the area due to variations in bedrock geology but do suggest a strong potential for buried archaeological remains within the option area alongside mitigation of known sites.
- 109 Site MPK 2237, formerly thought to be the location site of House of Nairne (now MPK 18027) and currently unclear in date and type, is located close to the SW corner of the proposed borrow pit and in danger of being impacted. It is recommended that due to its close location that this site is fenced off during the development and protected in situ. (Condition 28).
- 110 It is also recommended that a programme of archaeological works is undertaken to assess the presence / absence of archaeological remains within all areas to be impacted (quarry site plus associated infrastructure) the scope and timescale of which will be agreed with PKHT. A field evaluation to consist of trial trenching at a 6% sample is recommended which will inform a mitigation strategy, if required, to either preserve significant deposits within the development or for further archaeological works, to consist of the excavation and post-excavation analysis / publication of these deposits. (Condition 27).

Core Paths

- 111 A core path (AGVN/115) lies at the eastern border of the site and will be crossed by the access road to the site. Community Greenspace have advised

that the development must not adversely impact public access either during construction or on completion. To ensure this they recommend conditional control. (Condition 26).

Restoration and Aftercare

- 112 The overall aim of the submitted restoration scheme is to reinstate the site to agriculture. The proposed restoration looks to soften the contours of the excavated borrow pit void, plant yard and stocking area and assimilate the site back into the surrounding landform.
- 113 This will be achieved by placing the available site derived restoration materials over the quarry floor, plant yard and stocking area to achieve the contours shown in the submitted Restoration Plan.
- 114 All restoration levels shown are at this stage indicative and will be subject to review as development proceeds conditional control will be required to ensure the site restoration is agreed and carried out in full. (Conditions 6-8).
- 115 In terms of aftercare, all restored areas will be closely monitored throughout an appropriate aftercare period so that the most suitable management regime can be defined and incorporated into the aftercare management plan. This management plan will be formulated in accordance with the recommendations made within Planning Advice Note 64: Reclamation of Surface Mineral Workings. (Condition 8)

Developer Contributions

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

Economic Impact

- 117 There will be a significant positive economic impact associated with the extraction of minerals supplying the A9 dualling project which is a nationally important Scottish Government project to improve travelling times between Perth and Inverness and road safety on the A9.

LEGAL AGREEMENTS

- 118 It is anticipated that a Section 75 will not be required to deal with restoration for the site and that the provision of a bond controlled by a condition (Condition 29) will adequately secure the terms associated with required site decommissioning, restoration and aftercare over the lifetime of the development and beyond.

DIRECTION BY SCOTTISH MINISTERS

- 119 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

- 120 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.
- 121 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 3 years of the commencement of development (as indicated on the 'Notice of Initiation of Development').
- 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 total volume of sand and gravel extracted from the mine shall not exceed 400,000 tonnes. On request, the Council as Planning Authority shall be provided with full details of the annual extraction volumes (through weighbridge records) from the date of commencement of development.
- Reason - To ensure that all associated mine operations do not exceed maximum volumes of extraction assessed and ensuring a satisfactory standard of local environmental quality is maintained.

- 4 The extraction of sand and gravel shall commence and proceed only in accordance with the submitted details of area and depth of working, as shown on the plans herewith approved. No deviations shall be permitted.

Reason - In the interests of visual and residential amenity.

- 5 Two months prior to the commencement of development a Construction Environment Management Plan (CEMP), incorporating a Construction Method Statement (CMS), a Site Waste Management Plan (SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures for all phases of construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Natural Heritage. Such details shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

Reason: In the interest of protecting environmental quality and of bio-diversity

- 6 Restoration shall be fully implemented within twelve months of the completion of extraction and shall be in accordance with the submitted restoration scheme to be approved under Condition 7 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.

- 7 With 6 months of the date of this consent, an updated restoration scheme shall be submitted to and be approved in writing by the Planning Authority. Thereafter the approved restoration scheme shall be implemented in full.

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

- 8 Prior to the commencement of restoration of the site a detailed scheme with final contours and an aftercare management plan for the site shall be submitted to and approved by the Planning Authority. Thereafter the approved scheme shall be implemented in full.

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 after use and to minimise adverse impacts on the landscape, nature conservation and amenity of the surrounding area (due to the intervening time period).

- 9 Mineral extraction and processing and the movement of vehicles shall only be carried out at the site between the hours of 0700-1900 Mondays to Fridays and 0700-1300 hours on Saturdays. No operations permitted on Sundays.

Reason - In the interests of residential amenity.

- 10 All vehicles, plant and machinery shall operate only during the permitted hours of operation, and shall at all times be silenced in accordance with the manufacturer's recommendations and so operated as to minimise noisy emissions. The Planning Authority reserves the right to insist on any reasonable additional measures to further minimise noise emissions, should it prove expedient to do so.

Reason - In the interests of residential amenity.

- 11 Only the plant machinery and equipment specified in the noise assessment submitted with this application (or similar plant which generates no greater sound power levels) shall be used.

Reason - In the interests of residential amenity.

- 12 If any aspects of the operation results in justified 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 satisfaction of the Planning Authority. The applicant shall be required to take any reasonable remedial measures recommended in such reports, unless otherwise agreed in writing with the Planning Authority.

Reason - In the interests of residential amenity.

- 13 Noise levels measured at 3.5m from the façade of noise sensitive properties shall not exceed the following limits (except during temporary operations as stipulated in condition below)

Loak Farm	LAeq, 1 Hour 45 dB (free field)
Jackstone Steadings and Farm	LAeq, 1 Hour 45 dB (free field)
Watermill Cottage	LAeq, 1 Hour 45 dB (free field)
House of Nairne	LAeq, 1 Hour 45 dB (free field)
Kilburn	LAeq, 1 Hour 45 dB (free field)
Barn House, East Mains	LAeq, 1 Hour 55 dB (free field)
Holm Cottage, East Mains	LAeq, 1 Hour 55 dB (free field)
Anvil Cottage, East Mains	LAeq, 1 Hour 55 dB (free field)
Westwood Farm	LAeq, 1 Hour 55 dB (free field)

* Where there is more than one property at the above sites noise limits apply to all properties at that location

Reason - In the interests of residential amenity.

- 14 To allow for temporary operations such as soil stripping, removing soil heaps, creating earth bunds, crushing operations and restoration, noise levels measured 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, unless otherwise agreed in writing by the Planning Authority. Perth and Kinross Council (Environmental Health) and all neighbouring noise sensitive dwellings shall be advised in advance of the aforementioned activities detailing the

timings, actual activities to be undertaken and any additional noise mitigation measures.

Reason - In the interests of residential amenity.

- 15 All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.

Reason - In the interests of residential amenity.

- 16 Wheel cleaning facilities shall be provided at the exits from the site for the entire duration of operations and restoration. All vehicles leaving the site will be required to use these facilities.

Reason- To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

- 17 Audible vehicle reversing alarms shall be operated on the method that they only emit the warning if necessary, e.g. on an infrared signal which detects persons to the rear of the vehicle.

Reason - In the interests of residential amenity.

- 18 No blasting shall take place on the site.

Reason - In the interests of residential amenity.

- 19 Prior to the development commencing a Traffic Management Plan (TMP) shall be submitted and approved by the Planning Authority, in consultation with Transport Scotland and the successful contractor for the A9 Luncarty to Pass of Birnam dualling scheme. The TMP will subsequently become part of the works documentation for the A9 Luncarty to Pass of Birnam dualling scheme.

Reason – To minimise interference with the safety and free flow of the traffic on the trunk road; To maintain safety for both the trunk road traffic and the traffic moving to and from the borrow pit to the A9 Luncarty to Pass of Birnam dualling scheme.

- 20 No part of the access road from the borrow pit shall extend beyond the parallel road to the west of the existing A9 until this is demonstrated to be necessary to allow the movement of material from the borrow pit to the works for the A9 Luncarty to Pass of Birnam dualling scheme.

Reason – To minimise interference with the safety and free flow of the traffic on the trunk road.

- 21 Prior to the development commencing detailed drawings of any link road, permitted as part of the Traffic Management Plan, between the parallel road to the west of the A9 and the existing A9 carriageway shall be submitted and

approved by the Planning Authority, in consultation with Transport Scotland and the successful contractor for the A9 Luncarty to Pass of Birnam dualling scheme.

Reason – To minimise interference with the safety and free flow of the traffic on the trunk road; To maintain safety for both the trunk road traffic and the traffic moving to and from the borrow pit to the A9 Luncarty to Pass of Birnam dualling scheme; To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

- 22 The detailed drawings shall show the construction and alignment of the link road and the connection to the existing A9. Any permitted junction shall be designed to prevent right turns to and from the link road to the existing A9.

Reason – To minimise interference with the safety and free flow of the traffic on the trunk road; To maintain safety for both the trunk road traffic and the traffic moving to and from the borrow pit to the A9 Luncarty to Pass of Birnam dualling scheme.

- 23 Prior to the development commencing the timing of any works necessary to allow the movement of material from the borrow pit to the dualling works for the Luncarty to Pass of Birnam dualling scheme, shall be agreed with the successful contractor.

Reason – To minimise interference with the safety and free flow of the traffic on the trunk road; To maintain safety for both the trunk road traffic and the traffic moving to and from the borrow pit to the A9 Luncarty to Pass of Birnam dualling scheme.

- 24 No works necessary to allow the movement of material from the borrow pit to the dualling works for the A9 Luncarty to Pass of Birnam dualling scheme, shall be undertaken without the approval of the successful contractor.

Reason - To minimise interference with the safety and free flow of the traffic on the trunk road.

- 25 The use of the borrow pit shall cease on the completion of the A9 Luncarty to Pass of Birnam dualling Scheme.

Reason - To restrict the use of the borrow pit to the duration of the contraction for the A 9 Luncarty to Pass of Birnam dualling scheme.

- 26 The development should not adversely impact public access particularly on core path AGVN/115 which must remain safely available for public access throughout construction and on completion. Any damage to the core path must be reinstated prior to completion.

Reason - To protect an existing core path.

- 27 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 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 – To protect known and potential archaeology in area.

- 28 Prior to the commencement of the development hereby approved, protective fencing shall be erected around MPK 2337 and along southern red line boundary at SM1562 and SM1524, and 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 Planning Authority in consultation with Perth and Kinross Heritage Trust.

Reason – To protect known archaeology and Scheduled Monuments in area.

- 29 Prior to the commencement of development on site, the following shall be submitted to the Council as Planning Authority:
- a) Details of a bond or other financial instrument which will ensure that sufficient funds are available to meet the cost of implementing the removal of all development granted by this permission and the approved restoration scheme (relating to Condition 7)
 - b) Confirmation by an independent Chartered Surveyor (whose appointment for this task has been approved by the Council as Planning Authority) that the amount of the bond or financial instrument is sufficient to meet the cost of the removal of all development granted by this permission and the site's restoration.

Reason - To ensure that at all times there are sufficient funds available to ensure that the removal of all development and site restoration can occur.

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

None required.

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.
- 5 The operation of this site will need to be licenced under SEPAs Pollution Prevention and Control (PPC) Certification as activities involve road stone coating and crushing and the cement batching.

Background Papers: None
Contact Officer: Steve Callan 01738 475337
Date: 19 July 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.

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