

Perth and Kinross Council  
Development Management Committee – 14 September 2016  
Report of Handling by Development Quality Manager

Formation of mine for the extraction of minerals, erection of associated service buildings, formation of transfer site (including processing operations), access track, haul road and borrow pits and associated restoration at Land at Duntanlich, Logierait.

Ref. No: 15/01972/FLL  
Ward No: N4 – Highland

**Summary**

This report recommends **approval** of an application to form a Barite mine with associated works, including a 14 km vehicular access, above ground mine platform, borrow pits, transfer and processing site and all associated follow up restoration as the proposed development, providing it follows the recommendations of the Environmental Statement (ES), and supporting information and is subject to appropriate planning conditions, complying 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 financial Bond to ensure satisfactory restoration measures are secured.

**BACKGROUND AND PROPOSAL**

- 1 The site is located approximately 7.5km west of Pitlochry and 7km north of Aberfeldy. The proposed mine site lies within the upper reaches of the catchment of the Middleton Burn, flowing north from just below the Farragon Ridge down to Loch Tummel. The site is currently accessed by an all-terrain vehicle track, from a short spur leading from the private estate track from Netherton, above Loch Tummel.
- 2 The proposed mine site portal (opening) sits at 490m, with the highest part of the proposed access track sitting at 577m. The general surrounding site characteristics are generally that of upland heath and moorland, currently managed by Pitlochry Estate for limited sporting purposes. The Farragon Ridge and the associated river valleys are defined as transitional in landscape terms, an intrusion into the more rugged character of the Grampians to the north and west, with the more undulating, settled lowlands to the south-east, onto Perth and the eastern coast.
- 3 The site incorporates the mine itself, with associated service buildings, a transfer site, access track and haul road, and borrow pits. The overall above ground mine site area extends to approximately 1.6ha. The above ground operational area of the mine site extends to 0.63 hectares, including the mine portal, site office, vehicle workshop, stores and mineral ore bins. A plan is included (extracted from ES – plan 15/01972/3) showing the maximum extent of underground mining operations at the site. The lateral and vertical underground operations, within that the detailed extents of mining, would be influenced by geological features and economic factors encountered for the duration of the mine operation.

- 4 Currently, a Barite mine is operated at Foss, approximately 4.5km to the west-south-west of the proposed Duntanlich site, operated by the same applicants. This mine produces in the region of 42,000 tonnes of domestic oilfield grade barite mineral, which is milled into a powder form and then used primarily as a weighting agent in drilling fluids in oil and gas wells. The current mine at Foss employs 18 men directly, with a further 30 employed by a local haulier, who transport the ore via road from the mine site and crush the raw barite production at their yard in Aberfeldy, before being trucked to operations in Aberdeen. Barite is also shipped from Perth harbour to a mill at Great Yarmouth.
- 5 It has been quantified that a third of the UK demand for barite currently comes from the Foss mine, with the rest mainly sourced from Morocco. However Foss, which has been operational since 1985, is a small mine with a complex geology. As it gets deeper this useful mineral is becoming harder and less economical to obtain.
- 6 Historically, exploratory drilling was undertaken into the barite deposit at Duntanlich on the northern side of the Faragon Ridge, undertaken in the 1980's, which identified a clean stratiform resource exceeding 7.5 million tonnes. Unlike Foss mine with a complex folded structure, the Duntanlich deposit is a simple, sub-vertical sheet, contiguous with the surrounding metasedimentary rocks with a layer thickness varying from 5 – 13 metres. The applicants have identified this resource as the only significant barite orebody resource considered economically viable to operate within the UK.

### **Planning Site History - Original Duntanlich Planning Application**

- 7 Following initial site investigation in the 1980's, a planning application was originally submitted to Perth and Kinross District Council in 1991, and subsequently recommended for refusal in October 1992. A planning appeal was also ultimately unsuccessful.
- 8 Key issues at appeal are summarised as:
  - Impacts from the development on landscape and visual amenity within and outwith the National Scenic Area, in particular from Queens View.
  - Impacts on the local road network from barite transport to Aberdeen via a cross country route.
  - Concerns regarding surface and groundwater quality, the latter with respect to private water supplies in Strathtay.
  - Effects on the natural environment long term – inadequate restoration proposals and mine closure plans.
- 9 It should be noted that the extent and overall red site line boundaries of this scheme are notably different to that of the original planning submission, with the mine portal situation one of the key consistent elements. Informing the current proposal, environmental studies have taken place over a 3 year period, seeking in part to address the issues, which led to the historic application refusal, including visual impact and impact on the wider road network.

## **The Proposal Elements**

- 10 The applicants have applied for a 50 year total project life, with an estimated average of 120,000 tonnes per annum, resulting in the region of 6 million tonnes of barite being mined during the lifetime of the project. The applicants have also set out through the ES, a commitment to decommissioning the Foss mine and undertaking associated area restoration, following Duntanlich mine being operational.
- 11 In summary, the proposed mine operation comprises a small mine site platform, linked by 13.9km of access track to a transfer site where the barite ore is crushed and stored, then loaded and transferred by a 1.3km haul road to the A827 and then onwards to the A9.

## **Site Establishment**

- 12 Existing tracks would be utilised, including at Netherton on the south shore of Loch Tummel, at the Fonab forestry access on the northern side of Strath Tay and Logierait. These points allow initial access for plant to the proposed mine site, borrow pit locations and transfer site. A dedicated power supply is proposed via cable trenching alongside the existing Netherton Track.

## **Construction**

- 13 It is proposed that the construction elements will concur simultaneously to the mine site, transfer site and on the access routes. Sectional construction of the access track and haul road can also be carried out simultaneously from key locations to reduce the construction duration and movement of plant and materials.

## **Ongoing Restoration of Construction Works**

- 14 Ground, which is affected by construction elements, would be reinstated where practical as works progress, through a rolling restoration programme overseen by an appointed Clerk of Works.

Principal elements of restorative construction works identified include:

- Landscaped bund and earthworks associated with the mine site
- Cut and fill faces of the mine site earthworks
- Access track
- Transfer site
  - Haul road
  - Individual contractors compounds

## **Mine site Platform – Infrastructure and Plant**

- 15 The mine site platform is proposed to include:
  - Four combined barite ore storage bays with a capacity equivalent of approximately one month production,

- A workshop, separate office and welfare facilities.
- Also proposed at the platform are water treatment facilities controlling and treating site run off and any associated groundwater discharges.
- A 20,000 litre capacity diesel tank and substation will also be in situ with a back-up generator
- An isolated explosive store situated at minimum separation distance (set out in The Explosive Regulations 2014).

### **Borrow Pits**

- 16 Two borrow pits have been identified in Forestry Commission land, providing on-site hard rock for use in track surfacing and also sand and gravel, intended for fill and as a base course.

### **Haul Road and Mine Access**

- 17 Both the proposed haul road and access track elements with a combined length of approximately 14km have gone through a number of assessments and iterations in coming to the final scheme as presented for consideration.
- 18 A number of factors accounted for and sought to be addressed in the final route options which included:
- Potential flooding at Logierait
  - Interface with recreational routes
  - Proximity to cultural heritage features
  - Requirement for an intermediate gas pipe crossing
  - Existing alignment of the old Pitlochry road (C452)
  - Proximity to residential properties
  - Requirement to achieve suitable gradients to accommodate Heavy Goods vehicles
  - Effects on natural heritage, including minimising development footprint and consideration for species specific sensitivities.

### **Site Access**

- 19 The 1991 proposal for an access to Duntanlich routed vehicles onto the public road network at Ballechin. Alternative access points directly onto the A9 were all considered and subsequently discounted with Transport Scotland, advising that there should be neither a new vehicle access created or associated intensification of any minor junction directly onto the A9 through the proposal.
- 20 Access onto the A827 in very close proximity to the A9 junction at Ballinluig was the identified preferred option. The old Aberfeldy road onto the A827 was originally investigated and subsequently discounted at preliminary site investigation stages in consultation with the Council as Roads Authority, with the current proposed junction providing enhanced visibility for vehicles accessing and egressing the site, improved alignment to navigate the embankment north of Ferry cottage and retention of the majority of the field to the south of Ferry cottage.

## **Mineral Extraction**

- 21 As mentioned, the proposed quantity of minerals to be extracted is anticipated to be in the region of 120,000 tonnes of barite per annum. It should be noted however that the ES has based its calculations on a worst case scenario extraction of up to 180,000 tonnes per annum, based on identified vehicle movements for up to 50 weeks a year. This upper limit realistically accounts for cyclical changes, with the actual annual extraction volumes fluctuating, depending largely on market conditions at the time.
- 22 The proposed mine portal would be an opening of approximately 4 m x 4m, cut from surface on the north site of the ore resource. This is designed to drop at 1:7 for 370m in a spiral decline. From the initial ramp, a spur will travel south, intersecting the ore body at 37m below the surface of solid rock. The principal decline will spiral down on an initial loop of 300m to the access to the crown pillar drive in the ore, 50m below rock surface, establishing 152m loops to provide access to the ore at 15m intervals. The ore will be blasted in 2 or 3m slices daily, progressing from the raise, back east. Following a 40m extraction, a 10m pillar will be left in situ and the sequence re-established with a new raise.
- 23 Drill rigs will be diesel powered with an electro-hydraulic power pack for drilling operations. Underground loaders and trucks will all be diesel powered with the ore transported via the portal to the ore bins on the mine platform, with no processing undertaken at the mine itself.
- 24 This type of selective mining results in no requirement for a tailings impoundment. Any waste rock from mining the access tunnels would be stored then either used to backfill old workings or for road repairs.

## **Haulage from the mine**

- 25 Barite ore would be loaded into 39 tonne articulated off-road dump trucks (Volvo A40 vehicle or similar) and then transported to the proposed transfer site along the access track. A fleet of 3 trucks are anticipated to be on site, each making a total of 12 return trips (36) within a working day.

## **Transfer Site**

- 26 The proposed transfer site incorporates ore bins, a transfer/crushing building, turning and loading area and a weighbridge alongside office and welfare facilities. The proposed transfer/crushing building dimensions are included within the Figures background information, section 16.
- 27 The proposed building is currently identified to be constructed in a mixture of concrete panel and box profile sheeting finished in recessive colour/s. The building would also be partially bunded on the eastern aspects, providing both visual and acoustic screening primarily. Both the size and layout of the transfer building were identified to have been proposed with the specific design criteria of minimising disturbance to both recreational and residential amenity.

28 The transfer site would be serviced via a generator due to the limited power network in the area; with the crushing plant also diesel powered. Both elements will be served by a 4,000 litre diesel tank, situated to the west of the transfer building.

### **Processing**

29 Initial crushing processes would be undertaken solely within the designated plant building, down to an ore size suitable for graded despatch to Aberdeen and Great Yarmouth for additional processing.

30 Alternative transfer and crushing locations were all considered at the pre-submission stage, including:

- Forested sites higher up the ridge, discounted due to the additional haul road requirements and the increased visibility.
- At Logierait, providing an easier access for road hauliers but would conversely be highly visible from the public highway and extend the access track and mine truck activities closer to the public highway.

31 Alternative detailed site layouts were also considered, including the alignment of the site and building layout, the weighbridge and access in and out of the transfer site.

32 The current layout proposed seeks to optimise reduction on noise receptors, particularly on neighbouring residential properties and associated amenity effects on recreational visitors.

### **Despatch**

33 The processed ore would then be loaded onto 30 tonne articulated lorries, including 'walking floor' models in some cases, seeking to apply best practice measures to achieve quiet loading of the material. The applicant has however clarified that 'walking floor' models cannot be guaranteed on every occasion.

34 The 1991 proposals included despatch via cross-country routes of the A923 and A984, which was deemed unsatisfactory. The current proposal seeks to simply despatch directly via the trunk road network. The proposed routing includes the dedicated haul road to the A827 and then directly onto the A9. All vehicles shall join the A9 south and route around Perth on the A9 and M90 exiting onto Dundee road for Perth Harbour or onto the A90 for vehicles continuing on up to Aberdeen.

### **Project Timescales**

35 It should be noted of the 50 years applied for; this is set out and confirmed to include:

- Initial 18-24 month period for associated enabling and construction works.
- Up to 2 years for final restoration (with some elements seasonally dependent).

36 The ES sets out that the overall operational mining life will be reduced from these elements.

## **Proposed hours of working**

### 37 *Initial Construction*

Surface construction	0700-1900	Monday to Friday
Mine establishment	24 hours	Monday to Friday

### 38 *Ongoing Operations*

Processing Operations	0700 – 1900	Monday to Friday
Despatch	0700 – 1900	Monday to Friday
Mining Operations *	24 hours	Monday to Friday

\*anticipated that mining shifts will generally follow a standard 12 hour shift from 0700-1900 but 24 hour proposal builds in flexibility for emergency contingency for maintenance and production recovery (machine failure etc).

## **Decommissioning and Site Restoration**

39 At the time of the mine being decommissioned, the mine portal would be secured, all associated mine site buildings and ancillary structures shall be removed and the surrounding mine platform shall be regraded and landscaped. The majority of access track is proposed to be removed and portions of the haul road and the whole transfer site. Pre-existing forestry tracks will be returned to the estate and it is proposed that a section of new access track over the ridge shall also be retained for estate use. This new track section extends to approximately 1.7km and runs between the basin at the head of Drumchaber Burn and the eastern end of Locahn Sgaradh Gobhair. The section of sealed haul road within the woodland is also proposed to be retained for forestry uses.

40 The ES sets out the site restoration rationale as follows:

- Respect the intrinsic character of the local area, conserving and regenerating where possible;
- Address the stability and safety of the areas that have been subject to excavation or the effects of excavation;
- Create a topography in keeping with the surrounding area; and
- Maintain and enhance existing habitat where possible.

## **Advertisement and Re-advertisement**

41 The application was originally advertised as an EIA development within the Perthshire Advertiser (20<sup>th</sup> November 2015). The application was also advertised within the Edinburgh Gazette (20<sup>th</sup> November 2015) as required for all EIA developments. Further re-advertisement took place on the 3<sup>rd</sup> June 2016 and re-notification letters were sent out first class on the 31<sup>st</sup> May 2016 in relation to supplementary environmental information (SEI).

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

- 42 Directive 2011/92/EU requires the ‘competent authority’ (Perth and Kinross Council) when giving planning consent for particular large scale projects, to do so in the knowledge of any likely significant effects on the environment. This Directive therefore sets out a procedure that must be followed for certain types of project before ‘development consent’ can be given.
- 43 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.
- 44 Part II, Schedule 4 of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information required to be included in any EIA.
- 45 A screening exercise in accordance with the EIA (Scotland) Regulations 2011 (as amended) was undertaken by the Planning Authority and in this case due to the projects size, nature and location an Environmental Statement was deemed to be required. Mineral workings fall within Category 19: ‘Quarries and open-cast mining where the surface of the site exceeds 25 hectares’ of Schedule 1. A scoping exercise was also undertaken to assist in scoping out the principal elements.

### **Scope of the ES**

- 46 The scope of the ES was defined by the Planning Authority and associated statutory consultees. This recommended the following issues were addressed:
1. Introductions and Background
  2. Consideration of Alternatives
  3. Landscape and Visual Assessment
  4. Surface Water and Groundwater
  5. Peat Stability
  6. Ecology and Restoration
  7. Noise
  8. Emissions – Air Quality and Lighting
  9. Blast Vibration
  10. Access and Traffic
  11. Archaeology (Heritage)
  12. Management of Waste
  13. Summary of Effects

### **Points of clarification and Supplementary Environmental Information (SEI) from the applicant**

- 47 Following the initial consultation period, there were several background items of correspondence submitted from the applicant to answer queries and clarify points raised during the processing and assessment of the application, in particular from items raised in consultation responses. Much of this was already set out within the supporting background documents. Additional points are summarised below:
- Impact on protected birds (raptor surveys)
  - Impact in relation to noise anticipated from transfer site
  - Peat management and borrow pit assessment
  - Presence of ground-water dependent terrestrial ecosystems (GWDTE)
  - Updated draft of construction environmental management plan (CEMP)
  - Cultural Heritage Assessment
  - Flood risk and surface water management at the haul road in proximity of Ferry Cottage.
- 48 The basic content and the associated background information of the ES are considered to meet the requirements of the associated regulations. SEI was formally submitted on request by the Council, addressing an identified shortfall in the flooding assessment and associated impacts through the haul road section at Logierait. Both internal and external consultees are now satisfied with the baseline findings submitted.

## **APPROPRIATE ASSESSMENT**

- 49 The proposal parameters are located within the catchment of the River Tay Special Area of Conservation (SAC), with a section of the proposal in close relative proximity to the Shingle Islands SAC. The Tay SAC is designated for its Annex I freshwater habitats and for the Annex II species *Salmo salar* (Atlantic Salmon), *Lampetra fluviatilis* (River Lamprey), *Lampetra planeri* (Brook Lamprey), *Petromyzon marinus* (Sea Lamprey), and *Lutra lutra* (Otter). SNH identified at the scoping stages of the proposal that the proposed development has the potential to impact on both construction and operational stages, specifically through surface water run-off and the release of sediments and pollutants upon the qualifying interests of the SAC. An appropriate assessment has been undertaken by the Council, agreeing with the conclusions of the ES that if the project design and mitigation measures are respected and applied, there would be no consequential adverse impact on the nature conservation objectives of the SAC.

## **WASTE MANAGEMENT REGULATIONS 2010**

- 50 The Management of Extractive Waste (Scotland) Regulations 2010 came into effect on 1<sup>st</sup> April 2010. The Regulations transpose the EC Mining Waste Directive, which was in response to serious accidents at mine tailings ponds, causing considerable environmental damage. The regulations make Planning Authorities determining mineral planning applications, the Competent Authority for issuing associated permits as envisaged in the Mining Waste Directive. Mineral planning permissions therefore serve as a permit under the Mining Waste Directive.

- 51 A plan concerning extractive waste management has been submitted in respect of the above hard rock quarry as required by the Management of Extractive Waste (Scotland) Regulations 2010.
- 52 The tests in the Scottish Government Guidance Note on The Management of Extractive Waste (Scotland) Regulations 2010 are considered to be met, consistent with established best practice at the current Foss mine operation. There are therefore no further requirements under these Regulations. Conditions regarding the stability and prevention of pollution must however continue to be met during the storage, use and aftercare of any material.
- 53 There are no other inert or non-inert waste facilities at the site, which will not be utilised for approved restoration operations. The applicant has recognised and followed the Scottish Government Guidance in relation to the above Regulations and as such I am satisfied with the submission. No formal waste management plan is therefore required in respect of this site.

## **NATIONAL POLICY AND GUIDANCE**

- 54 The Scottish Government expresses its planning policies through the National Planning Framework 3, Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

### **National Planning Framework 3**

- 55 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**

- 56 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.

Of relevance to this application are;

- Paragraphs 24 – 35: Sustainability
- Paragraphs 36 – 57: Placemaking

A Successful, Sustainable Place:

- Paragraphs 92- 108 Supporting Business and Employment

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

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)**

- 57 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 proposed motorised vehicle movement's at a local and regional level, including parking provision.

### **DEVELOPMENT PLAN**

- 58 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012-2032 (Approved June 2012) and the Perth and Kinross Local Development Plan 2014 (Approved February 2014).

## **TAY plan Strategic Development Plan 2012**

- 59 TAYplan sets out a vision for how the region will be in 2032 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:

*“By 2032 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, study and visit, and where businesses choose to invest and create jobs”*

- 60 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application:

### **Policy 2: Shaping Better Quality Places**

- 61 Seeks to ensure that climate change resilience is built into the natural and built environment, integrating new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

### **Policy 3: Managing TAYplan's Assets**

- 62 A salient section on Finite Resources identifies that land should be identified through Local Development Plans to ensure responsible management of TAYplan's assets by using the location priorities set out in Policy 1 of this Plan to:
- safeguard minerals deposits of economic importance and land for a minimum of 10 years supply of construction aggregates at all times in all market areas; and
  - protect prime agricultural land, new and existing forestry areas, and carbon rich soils (where identified) where the advantages of development do not outweigh the loss of productive land.

### **Policy 8: Delivering the Strategic Development Plan**

- 63 States:

*“To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010”.*

## **TAYPLAN MAIN ISSUES REPORT APRIL 2014**

- 64 *Main Issue 7: Planning for Resource Security*  
*“Food, minerals, oil, gas and timber, amongst others, are all traded on the international commodities markets. Many of these resources are finite or finite within economic viability. This means that there is global competition for a limited supply of available resources. Their price is affected by global demand and supplies”*
- 65 *“The British Geological Survey’s Risk List (2012) identifies economically important chemical elements or element groups for which the UK and EU are almost wholly reliant on imports. These same materials cannot easily be substituted for recycled products. There are some deposits of Barytes, Gold, Silver and Zine in western Perth & Kinross. This suggests some need to ensure that these nationally important materials are not lost as a result of where development takes place”.*

## **TAYPLAN PROPOSED STRATEGIC DEVELOPMENT PLAN (2016-2036)**

### **Policy 9 Managing TAYplan’s Assets**

- 66 *Land should be identified through Local Development Plans to ensure responsible management of TAYplan’s assets by:*

#### *A. Finite Resources*

*Using the location priorities set out in Policy 1 of this Plan to:*

- i. identify and protect known deposits of solid, liquid and gas minerals of economic importance;*
- ii. maintain a minimum of 10 years supply of construction aggregates at all times in all market areas;*
- iii. identify and protect deposits of nationally important minerals identified on the British Geological Survey’s Critical List; and,*
- iv. protect prime agricultural land, new and existing forestry areas, and carbon rich soils where the advantages of development do not outweigh the loss of this land.*

#### *B. Protecting Natura 2000 sites*

*Ensuring development likely to have a significant effect on a designated or proposed Natura 2000 site(s) (either alone or in combination with other sites or projects), will be subject to an appropriate assessment. Appropriate mitigation must be identified, where necessary, to ensure there will be no adverse effect on the integrity of Natura 2000 sites in accordance with spp.*

#### *C. Safeguarding the integrity of natural and historic assets*

- i. Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through 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.*

- ii. Protecting and improving the water environment (including groundwater) in accordance with the legal requirements in the Water Framework Directive 2000/60/EC and the Water Environment and Water Services (Scotland) Act 2003 which require greater integration between planning and water management through River Basin Management Plans.*

## **PERTH & KINROSS LOCAL DEVELOPMENT PLAN FEBRUARY 2014**

67 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.

68 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.”*

69 Under the LDP, the following policies are of particular importance in the assessment of this application:

### **PM1: Placemaking**

70 PM1A: Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.  
PM1B: All proposals should meet the placemaking criteria set out.

### **PM2: Design Statements**

71 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use, which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

### **PM3: Infrastructure Contributions**

72 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.

### **ED3: Rural Business and Diversification.**

- 73 This policy states that the Council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas. It is, however, important that the proposal meets the criteria set out within this policy, specifically in terms of its contribution to the local economy.

### **TA1: Transport Standards and Accessibility Requirements**

- 74 TA1A: Encouragement will be given to the retention and improvement of transport infrastructure identified in the plan.
- 75 TA1B: 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.

### **CF2: Public Access**

- 76 Development proposals that would have an adverse impact upon the integrity of any (proposed) core path, disused railway line, asserted right of way or other well used route will be refused. Development proposals that would affect unreasonably public access rights to these features will be refused unless these adverse impacts are adequately addressed in the plans and suitable alternative provision is made.

### **NE1: Environment and Conservation Policies**

- 77 National, local and European protected species should be considered in all development proposals.
- 78 NE1A: International Nature Conservation Sites  
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.
- 79 NE1B: National Designations  
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.
- 80 NE1C: Local Designations

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.

## **NE2: Forestry, Woodland and Trees**

- 81 NE2A:  
Support will be given to proposals 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.
- 82 NE2B:  
Where there are existing trees on a development site, any application should be accompanied by a tree survey. Where the loss of individual trees or woodland cover is unavoidable, mitigation measures should be provided.

## **NE3: Biodiversity**

- 83 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out.

## **NE4: Green Infrastructure**

- 84 Development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

## **ER3: Minerals and other Extractive Activities – Safeguarding**

- 85 ER3A: Sterilisation of Mineral Deposits  
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.
- 86 ER3B: Advance Extraction  
The extraction of proven mineral deposits in advance of other planned development will be permitted provided that it accords with the criteria set out.

## **ER4: Minerals and Other Extractive Activities – Supply**

- 87 ER4A: Extraction  
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.
- 88 ER4B: Restoration

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.

- 89 ER4 C: Efficiency and Waste  
Greater efficiency in the use of primary mineral resources is encouraged.

#### **ER5: Prime Agricultural Land**

- 90 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.

#### **ER6: Managing Future Landscape Change**

- 91 Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes. Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross.

#### **EP1: Climate Change, Carbon Reduction and Sustainable Construction**

- 92 Sustainable design and construction will be integral to new development within Perth & Kinross.

#### **EP2: New Development and Flooding**

- 93 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

#### **EP3: Water Environment and Drainage**

- 94 EP3A: 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.
- 95 EP3B: 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.
- 96 EP3C: All new development will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **EP5: Nuisance from Artificial Light and Light Pollution**

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

### **EP8: Noise Pollution**

- 98 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.

### **Policy HE1: Scheduled Monuments and Non-Designated Archaeology**

- 99 Policy HE1A: 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.
- 100 Policy HE1B: Seeks to protect the integrity of areas or sites of known archaeological interest and their settings.

### **OTHER POLICIES**

- 101 The following supplementary guidance and documents are of particular importance in the assessment of this application:

- Tayside Landscape Character Assessment (TLCA)
- Perth and Kinross Local Landscape Areas (2014)
- Flood Risk and Flood Risk Assessments – Developer Guidance (June 2014)
- Sustainable Design and Zero Carbon Development Supplementary Guidance (May 2014)
- Green Infrastructure Supplementary Guidance (Draft) (July 2014)
- BS 4142: 2014 Methods for rating and assessing industrial and commercial sound

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

- 102 Corporate Plan Vision includes – Promoting a prosperous, inclusive and sustainable economy. Creating safe and sustainable places for future generations.

## SITE HISTORY

103 91/01276/FUL at Duntanlich - Pitlochry Estates by Pitlochry. Extraction of Barytes/erect Minehead Yard/Form Access Road 27 October 1992 - Application Refused.

Public local inquiry appealing refusal of planning permission (91/01276/FUL). 11 May – 21 October 1993 - Appeal dismissed.

14/02206/SCRN Screening Opinion: proposed barite mine 8 January 2015

14/02197/SCOP Scoping Opinion: proposed barite mine 27 January 2015

## CONSULTATIONS

104 During the first consultation period for the application, the following responses were received:

## EXTERNAL

105 **Transport Scotland (TS) –**

No objection and no comments made or conditions proposed on the proposal.

106 **Scottish Environment Protection Agency (SEPA)–**

Objected on the grounds of lack of information in relation to:

- flood risk information affecting lowest section of haul road.
- draft construction method statement (CMS).
- peat management.

107 **Scottish Water (SW) -**

No objection, concluding that due to the distance of the mine to the Scottish Water intake and associated dilution of any discharge within Loch Tummel and Loch Faskally prior to the discharge entering the River Tay, it is considered that the risk of any effect on the Scottish Water intake is low. Similarly, any pollution from the borrow pits and transfer area are likely to be mitigated due to the distance to the intake. Request that SW were notified of any pollution incident taking place as a result of the works to ensure that water quality can be protected.

108 **Scottish Natural Heritage (SNH) –**

Initial response (two stage response received) confirmed no objection to the proposal in relation to the ecological interests; it did however set out some concerns in relation to peat and carbon rich soil information and the details of schedule 1 bird breeding sites in the area, seeking further clarification.

109 A secondary follow up position of formal objection was then received, specifically relating to the impact on the landscape, stating insufficient information to determine

whether the proposal will have an adverse effect on the integrity of the National Scenic Area or the qualities for which it has been designated.

**110 Historic Environment Scotland (HES) –**

No objection, confirming that the proposal was not considered to raise issues of national significance such that HES would object. There were some background comments made in relation to the contents of the ES, whereby there was some disagreement over the terminology used and the associated significance placed on certain features. This is discussed further within the Appraisal Archaeology and Cultural Heritage.

**111 Royal Society for the Protection of Birds (RSPB) –**

Initial objection received in relation to lack of information in the following areas:

- Impacts on peat. Insufficient information has been provided to demonstrate that alternative options have been explored to avoid areas of deep peat and minimise carbon store losses.
- Restoration proposals.
- Breeding birds and lack of detail of mitigation to prevent impacts.

112 Follow up information was submitted by the applicant, clarifying aforementioned points. RSPB subsequently removed its objection with recommended suspensive conditions attached to any recommendation of approval.

**113 Forestry Commission Scotland (FCS) –**

No objection received, further clarification was initially sought in relation to the requirement for compensatory planting of the 1.2ha of trees on site, which are proposed to be felled. Suitable compensatory planting proposals were identified by the applicant allowing FCS to support the application, subject to the inclusion of a suspensive condition to ensure the compensatory planting is undertaken.

**114 Dull And Weem Community Council –**

No response received.

**115 Mid Atholl Strathtay And Grandtully Community Council -**

Objection comments received, setting out the following:

*1. Location of Junction between A827 and proposed new road towards ferry cottage*

The proposed location for this junction now appears to be much closer to Clais-an-deor than shown in original proposals. Those present at the meeting felt that the junction should be situated further east than currently proposed i.e. closer to the River Tummel and further away from Clais-an-deor. This would move the junction further from nearby properties and closer to the junction between the A827 with the A9.

*2. Earth banking on which proposed new road to Ferry Cottage would be constructed*

Understood proposal involves the provision of culverts under the earth banking that would carry the proposed road up the incline to join with the A827. Those present saw no merit in there being culverts - as this would allow water to cross the field in the

direction of Clais-an-deor and other properties. Instead the Community Council suggest that measures should be taken to improve the flow of the River Tummel under the A827 Road Bridge and down towards the confluence with the River Tay.

*3. Dispersal of surface water from disturbed fields/wood area due to proposed construction*

Should the development be approved, the resulting disturbance to the fields and wood above Logierait will reduce the ability of the land to absorb and hold water and there is a concern that this will increase the amount of surface water flowing off the hill down to Logierait.

- 116 **Pitlochry And Moulin Community Council -**  
No response received.

## **INTERNAL**

117 **Environmental Health (EH) –**

Several environmental factors were closely considered by the EH team, including dust, air pollution impacts through particulates, noise, vibration and impact on private water supplies. The associated impacts of dust, air pollution through particulates and vibration were all considered sufficiently addressed from the outset and were recommended to be controlled through suspensive condition.

A principal concern was however set out in relation to the associated noise from operations at the transfer station. The original response set out a preference to see further mitigation identified at the transfer site to reduce noise levels at specified, affected properties.

Further clarification and discussion between the applicants' noise consultants and EH led to follow up comments confirming the detailed nature of the assessment in relation to BS 4142, which states "*Where background sound levels and rating are low, absolute levels might be as, or more, relevant than the margin by which the rating level exceeds the background.*"

EH accepted this approach as reasonable and competent, clarifying the background level and rating levels were low, with the transfer station being considered an ancillary element to the mine (as interpreted in PAN 50) . A follow up consultation memo recommended that associated suspensive noise conditions were included on any granting of consent, including the requirement for a noise management plan.

*Private Water Supply*

No objection, but initial assessment and proposed conditional approach was re-evaluated following clarification on the additional extent of background assessments undertaken. A recommended suspensive condition was fundamentally recommended for the applicant to establish baseline monitoring position for all affected private water supplies.

**118 Local Flood Prevention Authority**

**Flood Risk and Structures –**

No objection received in relation to proposals affecting watercourse crossing along the access track and the proposed surface water drainage details of the access track. There were however further questions posed in relation to the surface water drainage of the haul road section and an objection regarding the detailing of the proposed section of haul road directly between ferry cottage and the proposed junction with A827 effectively considered as land raising within the 1:200 year flood plain without suitable background information pertaining to and addressing the proposed flood risk mitigation.

**119 Transport Planning –**

No objection following some additional clarification in relation to identifying the relevant sections within the ES. The response states the development is proposed to generate a relatively low number of vehicle trips once operational. The response also clarified that extensive pre-application enquiry discussions took place, particularly in relation to the preferred route options to the site from the A827 and improvements required to the affected section of the public road network (C452) at Logierait. Suspensive conditions proposed for all phases of development, particularly in relation to management of construction traffic.

**120 Perth and Kinross Heritage Trust (PKHT) –**

No objection to the proposals, with suspensive archaeological conditions proposed relating to the pre-commencement and construction phases of the development. The response stated that the methodology and mitigation measures set out in Section 14 of the ES were considered robust.

**121 Policy and Strategy Team –**

Considered the principle of the mine to remain in accordance with the regional and local development plan, subject to meeting specific policy criteria.

**122 Community Greenspace Access Officers -**

No objection, identifying that whilst a number of core paths and access tracks would be affected by the proposals, particularly during the construction elements, sufficient consideration of the associated impacts were set out in ES and it was acknowledged that management of public access during and post construction could be appropriately controlled by the requirement for an access management plan through suspensive condition.

**123 Biodiversity –**

No objection, subject to conditional control at all stages of the development, including pre-commencement, during the construction periods and follow up survey monitoring and review during operation.

**124 Supplementary Environmental Information (SEI)**

Following the formal submission of SEI in May, which included the procedural re-advertisement of the EIA, relevant consultees were re-consulted, responding as follows:

## EXTERNAL

### 125 **SEPA –**

All initial objections were removed subject to assurance that suspensive conditions would be applied and following the associated recommendations of the ES.

Post submission dialogue included:

- Addressing the flood risk at section of haul road at Logierait.
- Redressing the draft construction method statement, which was not initially considered to conform to relevant environmental regulations.
- Further clarification required in relation to sustainable peat management.

### 126 **SNH –**

All initial objections removed, subject to application of suspensive conditions, including the requirement for the suitable appointment of an independent Landscape Clerk of Works and following the associated recommendations of the ES. The applicant, agent, case officer and SNH met to discuss the points of objection requiring clarification.

Clarification and agreed additional information was submitted by the applicant via the agent, seeking to address and remove initial objection included further detailing of:

- The landscape and visual mitigation for the design, construction and operation of the permanent access route and the mine site, including their use by vehicles.
- The proposed grading works on the Netherton track and its restoration.
- The proposed installation of the 33 kV grid connection adjacent to the Netherton track.
- Clarification on noise information in relation to associated impact of “peacefulness and tranquillity” at Queens View.

### 127 **Dull And Weem Community Council -**

No response received.

### 128 **Mid Atholl Strathtay And Grandtully Community Council -**

No response received.

## INTERNAL

### 129 **Local Flood Prevention Authority Flood Risk and Structures –**

Advised no further comment to make regarding this application, setting out that through ongoing extensive correspondence with the applicant, the flood risk and structures team (FRST) are now satisfied with associated detail proposed and relevant background material, with one additional suspensive condition proposed in relation to SUDS.

## REPRESENTATIONS

- 130 A total of 44 representations were received during the first advertisement/consultation period, including 5 indicating support. No additional comments were received during the secondary advertisement period.
- 131 The summary of the objection representations are set out below:
- 132 General Points
- Out of character with village of Logierait
  - Setting a precedent for development in the area
  - Inadequacy of community consultation
- 133 Water Quality
- Inadequate assessment of private water supplies
- 134 Flooding
- Formation of haul road adjacent to Clais an Deor Place, with culverts perpetuating flooding at Logierait.
- 135 Landscape Impact
- Impact on Area of Outstanding Beauty
  - Excessive height
  - Loss of trees
  - Loss of open space
  - Screening of proposed access road
  - Inaccurate visual impact assessment
  - Impacting on a SSSI (adverse impact on dragonfly ponds)
  - Visual impact of the junction of the new haul road
- 136 Access
- Haul road from crushing depot to A827
  - Traffic congestion
  - Safety concerns for pedestrians and motorised vehicles
  - Lighting of the junction
  - Current speed limit at this section of road.
- 137 Noise
- General noise pollution, including substantial noise from any above ground operations, particularly haulage vehicles.
  - Surrounding Logierait with noisy roads
- 138 Amenity
- Fields to be used for half road peaceful and quiet – backdrop for residents, walkers and cyclists to enjoy.
  - Loss of open space.
  - Loss/disturbance to community greenspace.
  - Site should not be gated.

- Transit shed – major industrial process with major environmental issues
- Inappropriate hours of operation.

139 Objection Recommendations

- Route should go under C452 and east, maintaining no visible road haulage vehicles.
- Crushing to road by conveyor (below surface) to Ferry cottage, located in enclosed building – removing eyesore and reducing noise.
- Soil removed from cutting could be used for new access track.
- Operational times should be 0800 – 1800.
- Imposition of condition imposing weekly or monthly tonnage.
- Provision of community benefit on a pro-rata tonnage basis.
- Retention of greater areas of track at the decommissioning and restoration stages.
- Track finishing material specification of a recessive colour.
- Reference to the retention of existing tracks at the Foss Mine
- Points of clarification offered in relation to refinement of assessment on ecology section, with particular reference to fauna its impact and the associated recommendations, seeking to ensure that best practice is sought and achieved, including appropriate species selection.

Support

140 Support for the proposed project was also provided in the representations, set out as:

- Welcoming positive impact of investment in local economy in relation to maintenance and creation of long-term employment opportunities.
- Diversification of existing skills base.
- Sensitive approach to environmental and visibility concerns.
- Reduced surface footprint on current Foss mine operation.
- Proposed haul route will bypass much of the Tay valley, currently used by the Foss mine traffic, minimising local traffic impacts.
- Ensuring self-sufficiency in mineral resource within the UK.
- Only known significant barite orebody in the UK.

**Response to representation's**

141 The Appraisal section of this report seeks to respond to the material planning concerns.

**ADDITIONAL STATEMENTS**

Environment Statement	Submitted and updated.
Screening Opinion	Previously Undertaken confirming EIA required.

Environmental Impact Assessment	Required
Appropriate Assessment	Undertaken
Design Statement / Design and Access Statement	Submitted
Report on Impact or Potential Impact	Various sections of ES responding to impact or potential impact of development including landscape and visual impact.

## APPRAISAL

### Policy Appraisal

- 142 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 143 The most relevant policies of the Development Plan are TAYplan Strategic Development Plan 2012 and Perth and Kinross Local Development Plan 2014 including Supplementary Guidance.
- 144 In terms of assessing the principle of a development of this nature at this location, specific mineral resource policies and land designation policies must be reviewed and considered first of all.

### TAYplan Strategic Development Plan (Approved 2012)

- 145 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.
- 146 Policy 3 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.
- 147 TAYplan Proposed SDP was published in May 2015, and it is a material consideration as it represents the Planning Authority's settled view, subject to the outcome of any examination into the plan's unresolved issues. The Proposed SDP Policy 7 on Energy, Waste and Resources allows Local Development Plans to ensure appropriate safety regimes and post-operational restoration of land, particularly for extraction of minerals.

### Perth and Kinross Local Development Plan (Adopted 2014)

- 148 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.

- 149 The other main relevant policy is ED3, which supports rural businesses subject to important safeguards including a specific locational need or site-specific resource.

### **Public Consultation**

- 150 The application has been criticised by objectors as having undertaken inadequate community consultation at the pre-application stage.
- 151 Prior to formal submission, the application was considered by the Planning Authority to be a local rather than a major development proposal. Notwithstanding this, a full Pre-application Consultation (PAC) Report was undertaken in line with Circular 4/2009 and submitted in support of the application, set out in Appendix 1 of the ES. The contents of this report were considered to be comprehensive and sufficiently adequate in terms of the frequency, timing, venue choice and content. In addition, the case officer also noted a live website was available whereby the public could readily get background information on the mine proposals, with contact details to pose questions directly to the applicants.
- 152 On this basis, it is considered that an appropriate level of pre-application consultation has been undertaken.

### **General Points of Objection**

- 153 The proposed physical elements and ongoing operations are not considered to impact directly to the existing character of the village of Logierait. Whilst the haul road requires to be gated for health and safety and liability reasons, the applicant has identified a willingness to allow the use of the haul road for other large vehicles on request, including large deliveries and forestry operations within the estate. This is considered to provide a direct community benefit in taking large vehicles off the Logierait C452 junction.
- 154 The proposed barite mine is a unique development proposal and it is not considered to set any sort of precedent for wider development in the area.

### **Requirement for the Proposal**

- 155 Policies specific to proposed mineral extraction within the LDP includes Policies ER3, and policy ER4 minerals and other extractive activities, safeguarding and supply and associated restoration. As set out in the ES, the underlying proposal justification is through its categorisation as a strategic mineral requirement that cannot be met elsewhere
- 156 This is the only known significant barite orebody in the UK that has been identified to be currently economically viable to mine. The proposed mine is identified as having the capacity to produce three times the average output of Foss, with the Duntanlich mine proposal calculated to have the potential to supply the whole of the UK's

requirements for more than 50 years at planned production rates, ensuring a guaranteed indigenous supply of barite for the UK North Sea oil and gas industry.

- 157 The existing Foss mine operation is experiencing increased difficulty in viably continuing mining operations longer term, largely down to associated complexities of the folded seam, a geological characteristic which Duntanlich does not suffer from.

### **Restoration and Aftercare**

- 158 A conceptual decommissioning overview and restoration plan proposals for Duntanlich have been set out in section 10 of the ES. In addition, whilst not being directly assessed as part of this application, a restoration plan commitment for the Foss site has also been included in Appendix 15 of the ES, setting out the approach in line with the associated conditions of planning consent PKD 84/375 MW.

- 159 Different stages include:

- Progressive Restoration
- Reinstatement and final restoration following decommissioning

- 160 Final restoration scheme overview:

- Monitoring will continue for a minimum of five years post closure.
- Continuing Monitoring and Management

- 161 Aftercare is proposed to vary in relation to each restored area, depending on level of attention and management required, supervised by ECow, anticipated to follow:

#### Year 1

- Completion of site restoration and soil replacement
- Appraisal of restored areas undertaken during operational phase to establish if any remedial action required.
- Sampling and analysis of water in Middleton burn and Duntanlich Lochan with remedial action as required.

#### Year 2 – 5

- Monitor the establishment of grassland/heathland areas undertaking remedial action as necessary.
- Removal of undesirable species
- Re-sample and analyse water as in year 1.

- 162 The applicant concludes that the proposed restoration will make a positive statement with respect to landscape, conservation status, habitat and amenity value, with associated areas being returned to relevant estate use and management.

163 It is recommended that the associated detailed restoration will be adequately controlled via suspensive condition.

### **Adequacy of Financial Guarantees**

164 A bond will be required to give financial security throughout the 50 year life of the development, ensuring decommissioning is undertaken and more importantly the agreed appropriate restoration measures and associated monitoring and management of that restoration can be fully resourced at all times. A draft bond is currently being worked up by the applicant for consideration by the Council as Planning Authority.

### **Design, Layout and consideration of Alternatives**

165 Relevant policies include PM1A & PM1B of the LDP, which set out a range of policy criteria. The scale, form and situation of the proposed structural elements, both at the mine platform and transfer site, are broadly considered to be optimal in terms of their operational requirements, versus the impact and contribution to the surrounding natural environment and aim of respecting important views and the landscape character of the area. The structures have been identified to be designed in such a way as to retain a rural feel and scale; they will nonetheless be introduced in areas with little or no physical structures at the moment and certainly not on the scale proposed. A specific standalone design statement (policy PM2) was not considered necessary in this case, because it was dealt with concurrently through the ES.

166 Overall, a best fit for the individual site parameters, characteristics and the associated operational requirements is considered to have been broadly achieved, including a sound environmental approach to investigating and assessing alternatives (where appropriate) and should be further detailed and mitigated through the recommended suspensive conditions to control associated landscaping proposals, tree protection and building finishing materials.

### **Landscape and Visual Impact**

167 Generally, the associated landscape policies within the SPP, Tayplan and the LDP seek to protect areas of landscape value and only support development where it can be accommodated without adversely affecting the quality of the landscape.

168 In this case, Policy NE1B, which relates to the National Park and National Scenic Area and Policy ER6, which seeks to ensure effective management of future landscape change directly apply. Policies PM1A and PM1B are also relevant in considering the proposal relationship to the surrounding built and natural environment and assessing whether it respects important views and the landscape character of the area.

169 The overall assessment in respect of landscape and visual impact has to be considered in three distinct development phases of

- construction,
- operation and
- restoration,

alongside the three distinct proposal sections of:

- Haul Road, transfer site and associated infrastructure
- Access track between the transfer site and the mine site
- The mine site platform and associated infrastructure.

- 170 The landscape and visual impact assessment (LVIA) was prepared as part of the ES seeking to address the landscape and visual impact of the site establishment and all associated construction works as well as the ongoing operational phase of the scheme. Given the nature of the mineral extraction proposal in its associated situation, appropriate assessment to consideration of the impacts of these elements and the associated mitigation concerning these elements is crucial in assessing the overall acceptability and in relation to key policy criteria.
- 171 Due to the potential visual interrelationship from higher vantage points, the impact on Cairngorms National Park has also been considered in the assessment with the applicants consulting the Park on key viewpoints.
- 172 Viewpoints were agreed in consultation with a number of parties, set out in table 7.4 of the ES. A zone of theoretical visibility mapping (ZTV) was produced using 3D modelling software, which calculates the areas from which the proposed development components are potentially visible. This exercise is based on a 'bare ground' baseline and does not take account of potential screening from man-made structures or associated filtering by vegetation. The baseline was set at 1.8m above ground level, accounting for eye-line viewing parameters of an average height person (from standing). The model was also set with an access track height +3m, to account for the anticipated visibility of vehicles using the tracks.
- 173 The development proposals include the introduction of the access track, which is acknowledged as being a potentially significant feature in the landscape. An agreed zone of theoretical visibility (ZTV) of 20km from the site boundaries was deemed reasonable to take into account more distant viewpoints as proposed.
- 174 Several objections were received in relation to the associated impact on landscape and visual amenity as already set out. Principally, the impact of the haul road, access tracks and associated physical structures caused greatest concern to the general public comments received.
- 175 SNH also stated concerns relating to the impact on the character and qualifying interests of the national scenic area (NSA), specifically with regards to impact through the initial use of the estate track at Tummel for construction and the associated longer term relationship of sections of the proposed track within the NSA in particular ensuring no adverse impact through associated cut and fill, which could result in up to 8m differences, which if not sensitively designed with professional landscape input, could result in an adverse impact on the landscape and within the NSA.
- 176 Following the unsuccessful 1991 planning application, key elements and considerations of this submission include:

- Re-orientating the mine platform to be hidden from key viewpoints, respecting the sensitivity of the popular Queen's View at the eastern end of Loch Tummel.
- The underground operation, which includes a surface footprint of under 1 hectare – less than a quarter that of the current Foss mine
- The proposed access route has been designed to closely work with existing site topography wherever possible, maximising natural screening opportunities whilst avoiding site specific sensitivities including for instance deeper peat areas.
- The transfer site has been purposefully situated within afforested land in Logierait Wood, which also assists reduction in overall vehicle numbers along the main track.

177 *Impact on Cairngorms National Park*

Lying to the north of the application site, the views from the higher southern peaks of Beinn Dearg and Beinn a' Ghlo massif were considered. No objection was received from the Park. In summary, none of the identified special qualities of the park were considered to be adversely affected by the proposal, lying in excess of 5km from the park boundary and a further 5km to the closest intervisible features.

178 *Loch Tummel NSA*

Although there has been concluded to be an effect on the 'scenic splendour' of the NSA from individual viewpoints, the scale and overall visibility of the proposal is not considered to directly influence or impact on the special quality across the NSA.

179 *Peacefulness and Tranquillity*

SNH identified concerns regarding the peacefulness and tranquillity of the NSA, particularly in relation to the Queens View. The applicants sought to address this concern, further clarifying that, given the associated noise levels calculated to be experienced from the mine site at Queens View and the nearby noise receptors out with the control of the mine site operator, the overall impact was considered negligible and not harmful to the peacefulness or tranquillity currently experienced at this particular site within the NSA.

180 *Strath Tay SLA*

The assessment has concluded no direct impact on the immediate or wider setting of Strath Tay as a result of the proposals.

181 *Wild Land/Wildness*

Wild land character areas lie at some distance from the development site, albeit there is acknowledged intervisibility with the Cairngorms. The key characteristic impact on this landscape character relates to *the visible lack of buildings, roads, pylons and other modern artefacts*. Whilst the impact to this characteristic has been designed to be minimised, it is not entirely avoidable, with the impact acknowledged as long term but overall temporary and reversible.

182 *Landform*

The potential impact magnitude of the proposed development in relation to landform has been assessed low-medium, with the current sensitivity relating to the proposed development considered low impact in terms of landform.

- 183 *Land Cover*  
Land cover in the Highland Summits and Plateaux is open moorland with bare rock and peat. Value portioned to the land cover has been assessed as medium through its sensitivity to change at this scale. Alterations may be noticeable at points.
- 184 *Wider Landscape Character*  
Overall, the sensitivity of the wider landscape is considered medium-high, with most of the development lying within a moderately valued landscape; there are elements within Loch Tummel NSA. Overall the magnitude has been assessed a low-medium within the context of the wider landscape area.
- 185 The establishment and construction phases are considered to introduce a short term moderate-major landscape impact on the Shiehallion landscape area, with subsequent operations considered to represent a slight-more impact with a slight impact on the Strath Tay area.
- 186 Proposed mitigation is considered throughout all phases of the development, including the application of progressive restoration as much as possible.
- 187 *Visual impacts through assessment of viewpoints*  
Through assessing the viewpoints, the impact considered to be moderate in most cases through the residual operational significance (see table 7.6 of the ES) crucially, none of the specific viewpoints assessed are considered to be affected to an extent that their visual integrity is compromised.
- 188 *Sequential and cumulative impacts*  
A cumulative impact assessment was also undertaken looking at hill tracks, wind farms or other neighbouring structures which have been built, benefit from permission, are the subject of undetermined applications or have had a scoping opinion issued.
- 189 The principal cumulative impact considered in this regard was the introduction of a new hill track at the mine access to the track leading onto the Farragon Ridge from Netherton. The total impact is assessed as being limited to the specific section of the ridgeline and the combination of old and new tracks only being apparent between the mine platform and Meall nan Uan, with the cumulative effect on the landscape concluded as low impact. Over the combined track length however, there is considered to be moderately significant.
- 190 The ES concludes that there will be direct impacts on the Highland Summits and Plateaux and also the Highland Glen character types. A low magnitude of impact will be experienced to landform and land cover within the overall footprint of the development area. The landscape character was assessed in relation to all elements, including NSA and SLA designations and wild land characteristics. Due to landscape designations and expectations of viewers, the landscape has an increased inherent sensitivity, with the resultant impact considered slight-moderate in the long term. Given the wider landscape relationship, beneficial impacts of the Foss mine restoration are cited.

- 191 Two of the closer viewpoints are altered to an extent that the impact is considered moderate-major, with the majority of viewpoint impacts considered slight or negligible.
- 192 The proposals are considered to remain compliant with specific landscape and visual policy, including Policy ER6 of the LDP, through an agreed conclusion that the distinctive character of the area will not be eroded.
- 193 The control of this development through key stages of construction, operation and decommissioning/restoration will however be fundamental to ensuring no adverse impact on the landscape and visual amenity. Additional details in relation to the construction phases and detailed landscape plans are recommended, alongside the SNH recommendation for the crucial appointment of an independently appointed landscape clerk of works, both during the construction phases and then as a retainer for, which is recommended to thereafter undertake bi-annual visits to the site throughout its operation.

### **Ecology and Biodiversity**

- 194 Policy NE3 of the LDP requires new development to take account of any potential impact on natural heritage including protected species and states that the Council should seek to protect and enhance all wildlife and wildlife habitats whether formally designated or not.
- 195 When determining applications the Planning Authority is required to have regard to the Habitats Directive and the Habitats Regulations. Consideration of how 'European Protected Species' (EPS) are affected must be included as part of the consent process, not as an issue to be dealt with at a later stage. Three tests must be satisfied before the Scottish Government can issue a license under regulation 44(2) of the Habitats Regulations so as to permit otherwise prohibited acts.
- 196 The mine site and access track running from the mine site on the lower slopes of Beinn Eagagach to Creag a' Choire lie within an upland area with high precipitation and a mosaic of habitats including dry and wet dwarf shrub, heath, mire, flush, running water and bare ground.
- 197 The remaining stretches of access track, transfer site and upper reaches of haul road are located within dense commercial conifer plantations (Fonab forest, Ballechin, Killichangie and Logierait woods). The remainder of the haul road is predominantly across agricultural fields.
- 198 A number of schedule 1 species of birds were observed in the vicinity of the proposed development. The Council biodiversity officer concluded that there is unlikely to be any impact on any of these birds as a result of the proposals.
- 199 Some areas of woodland will be affected by the haul route through Ballechin Woods, which could have an impact on protected species such as bats, red squirrels and pine martens as well as woodland birds.

- 200 RSPB, SEPA and the Council biodiversity officer all identified concerns in relation to impacts on peat through the proposed access track elements. Detailed sections on peat stability and management have been produced in appendix 10 and 11 of the ES. Clarification was submitted by the applicant in relation to carbon balance and detailed approach to peat management within the track sections, to a level of certainty and comfort that RSPB and SEPA were in a position to remove formal objections.
- 201 A detailed objection letter suggested that the proposed access track was routed closer than it needed to be in relation to a designated SSSI. The associated consultation responses and the ecological assessment have not identified any adverse impact on the integrity of the SSSI, only suggesting that opportunities exist for the applicant to augment existing habitat through the creation of additional dragonfly ponds, in consultation with the British Dragonfly Association. The red site line boundary allows for flexibility in relation to micro-siting of the proposed track if pre-commencement surveys did consider there to be justification in moving the track further from the SSSI. It is not considered reasonable however in relation to the associated assessments, to oblige the applicant to move the track at this stage.
- 202 *Groundwater Dependent Terrestrial Ecosystems (GWDTE's)*  
A detailed assessment of GWDTE's was undertaken and set out in Appendix 9 of the ES. The proposed track route sits adjacent to the Logierait Mires SSSI has been addressed to ensure an appropriate separation from the SSSI boundary. Impact on track works adjacent to wetland areas within Fonab Forest is minimal with much of the track sections already existing.
- 203 Moorland sections of the proposed track route have been assessed and are found not to be directly associated with any groundwater source and would therefore not be classified as groundwater dependent.
- 204 The ES states that careful construction measures will be considered and employed to ensure that the current flow of groundwater across the proposed site tracks will not be compromised or radically altered to ensure minimal impacts on any affected wetland habitats. Both SNH and SEPA have concluded that no adverse impact on GWDTE's to be anticipated in assessing the findings of the ES.
- 205 I am satisfied with the findings of the ecological impact assessment overall, concluding that the development will potentially have negligible to minor adverse impacts upon the ecological status of the proposed site. Through the appointment of an independent Ecological Clerk of Works (ECoW) and associated recommended suspensive conditions, including habitat surveys re-visited every 10 years of the 50 year consent; it is considered that the ecology and biodiversity of the site can be appropriately addressed and managed to ensure no adverse impact on associated interests, consistent with policy objectives of Policies NE1A, NE1B and NE3.

### **Impact on Trees/Forestry**

- 206 Policy NE2A and NE2B relate to consideration on the impact to trees, and Policy NE2A supports proposals where forests, woodland and trees are protected or where existing woodland is expanded or new areas delivered. Policy NE2B sets out that

where there are existing trees on a development site, the application should be accompanied by a tree survey.

- 207 The ES looked at the impact on trees, with a detailed survey in relation to the proposed transfer site, but did not undertake a tree survey across wider key sections, including in behind Ferry cottage. I am comfortable that sufficient detail and assessment has been undertaken at this stage, but recommend that full detailed surveys of key sections will be required to be undertaken through suspensive conditions, appropriately addressing impact on trees, biodiversity and habitat and wider impact on landscape.
- 208 Compensatory planting of 1.2ha of felled trees was identified as a requirement by FCS. In principle compensatory planting proposals were identified by the applicant and signed off with FCS, with the details controlled via suspensive condition.

### **Loss of Prime Agricultural Land**

- 209 Policy ER5 states that development on prime agricultural land will not be permitted unless it is necessary to meet a specific established need; there is no other suitable site available.
- 210 Approximately 0.5 ha of class 3.1 prime agricultural land is proposed to be lost in order to accommodate the proposed haul road. On the basis of the overall volume, situation and nationally significant development requirement, the proposals are considered to remain in general compliance with policy ER5.

### **Ground Conditions**

- 211 Policy EP12 of the LDP indicates that any potential contaminated land on an application site requires to be considered. There is not considered to be any significant existing contamination issues relating to this site.

### **Traffic and Transport**

- 212 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.
- 213 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.
- 214 Policy TA1B of the LDP requires a full assessment of the impact of the development to pedestrian and traffic safety to be undertaken. The submission included a Transport Statement (TS) which outlines the implications on the road network of the proposed development.

- 215 The existing Foss mine site dispatches materials onto the B846, continuing for 16km to Aberfeldy and then a further 16km along the A827 onto the A9. This route currently passes through several settlements. Despite additional traffic movement, the overall impact on the local road network is a reduction in approximately 31km per vehicle trip made. Through traffic count data, it has been established that the additional 22 HGV movements proposed at Duntanlich equates to 0.66% of an increase in overall vehicle movements and 10.28% increase in HGV movements at the A827, which has been identified by local representation as significant.
- 216 Representation from objectors suggested that the haul road junction onto the A827 should be lit for safety and review of the permissible speed along this section of road into Logierait.
- 217 In response to these points, there was no reasonable justification to reduce the speed of this section of road as set out in the ES or through the associated Council Transport Planning dialogue, both at pre-application and post submission stages. Neither is there considered to be a requirement to light the junction within its proposed location.
- 218 The TS and review from transport planning colleagues' centres on the principal sections of the haul road and junction access onto the A827 and beyond. There has been less significance placed on the assessment of initial phases of construction and specifically how the proposed construction points of access are assessed to be fit to cope with the type and volume of construction vehicles proposed. This element was considered to be adequately covered in relation to recommended suspensive condition for a construction traffic management plan.
- 219 In relation to cumulative impact, provided that the Foss mine ceases operation as is proposed, the overall cumulative impact on the road network is calculated to be negligible.
- 220 Further pre commencement consideration is required in relation to construction traffic at the different access points. Particular attention will be required to the existing Foss road and Netherton track where a sensitive balance is required in relation to the impact on existing designated landscape characteristics, against ensuring safe transfer of construction material and equipment to the mine portal in the interests of pedestrian and traffic safety, whilst not compromising the condition of this section of public road long term.
- 221 Overall, I am satisfied that the proposals meet the terms of SPP paragraph 271 and the associated requirements of Policy TA1B of the LDP, provided the best practice measures of the ES are adopted and appropriate conditions applied.

### **Impact on the water environment**

- 222 One of the identified failings of the original planning submission was a lack of assessment on the impact on ground water and private water supplies. This criticism was maintained through private objection to the current proposals.

- 223 As part of the ES, there is considered to be comprehensive analysis undertaken in relation to the wider water environment and specific impact on ground water and private water supply.
- 224 As set out in the ES, there will be no adverse impacts on the water environment, including the River Tay Special Area of Conservation, as a consequence of mining operations, associated discharges and site run-off will be treated and have to comply with SEPA requirements, which they routinely monitor.
- 225 Scottish Water's consultation response set out that they were comfortable with the findings and did not consider any adverse impact on their existing operations. In addition the Council Environmental Health officer commenting on private water matters considered the only failing of the ES to be a lack of baseline monitoring information affecting the private water supplies, which is recommended to be addressed through a suspensive condition.

### **Drainage and Flooding**

- 226 Policy EP2 relates to flooding and states that there is a general presumption against proposals for built development or land-raising on a functional flood plain and in areas where there is a significant possibility of flooding from any source.
- 227 There was no objection from consultees or public in relation to the access track or individual elements of the mine platform and transfer site, including FRST stating they were satisfied with the proposals for the watercourse crossings along the new access track, particularly given the remote location, which was proposed to be designed to allow a 1 in 200 year flood event to pass through.
- 228 A section within the ES seeks to directly address surface water and groundwater, including a paragraph on flooding potential, which stated no risk of flooding from the mine and transfer site, but a small risk of localised surface water flooding within the forestry area. More fundamentally, the first 60m of the haul road, joining onto the A827 was acknowledged to have a medium likelihood of flooding from a river source, sitting within the 1:200, 2015 SEPA flood risk maps.
- 229 A number of concerns were raised through the initial consultation and advertisement period regarding drainage and flooding, specifically in relation to the proposed formation of the haul road section from the C452, down past Ferry cottage and onto a new junction with the A827. Whilst compensatory storage and connective culverts through the road embankment have been proposed, there were no specific details of the proposed mitigation measures (e.g. FRA/modelling) to sufficiently demonstrate no negative impacts on the existing flood situation, with SEPA and FRST objecting on the principle of land raising within the 1 in 200 year floodplain, and on the grounds of associated lack of information to the proposed mitigation
- 230 Public objections included:

- Impact from dispersal of surface water from disturbed fields/wood area due to proposed construction
- Formation of haul road adjacent to Clais an Deor Place, with culverts perpetuating flooding at Logierait.

- 231 Following a meeting with SEPA, FRST, the applicant and the case officer in March 2016, there was an agreed position on the scope of supplementary flood risk information required regarding flood risk and associated mitigation at this section of the proposed haul road. This formed the basis for the submission of SEI received in May 2016 by the applicants.
- 232 Both SEPA and FRST were content with the additional information received in relation to the wider flooding position affecting the haul road, crucially identifying no net displacement of flood water through proposed land raising with a permeable embankment and associated culverts proposed to allow floodwater to pass both ways through the affected haul road section and potential compensatory storage area identified. This approach is considered the appropriate solution at this location and that recommended by the consultant flood engineers and consultees, but is acknowledged to contrast with local objectors who considered it most appropriate to design a solid embankment structure to prevent flood water reaching Clais an Deor Place.
- 233 Given the above, it is considered the proposed development of this site and the associated elements fully accord with Policy EP2 of the LDP and the wider national policy position of the SPP.

### **Developer Contributions**

- 234 The Council Transport Infrastructure Developer Contributions Supplementary Guidance, which relates directly to Policy PM3, requires a financial contribution towards the cost of delivering the transport infrastructure improvements, which are required for the release of all development sites in and around Perth.
- 235 There is no policy requirement for developer contributions at this location for this proposal, other than through securing a bond, assuring appropriate restoration for the life of the scheme.
- 236 In addition, whilst there have been requests from local residents to push for direct community investment from the applicant and the Planning Authority would welcome consideration of the applicant to do so, but it cannot reasonably request or require that the applicant does so through the planning process.

### **Neighbouring & Recreational Amenity**

- 237 The proposal has a number of environmental considerations associated with it such as dust, air pollution impacts through particulates, noise and vibration. In assessing the impact on amenity, the 2 main functional base elements are considered separately; the mine itself, which is very remote, and the transfer station, which is much closer to residential receptors at Kings Stables (180m) and Woodend of Logierait (250m) as well as the village of Logierait.

238 *Noise*

Policy EP8 of the LDP relates to noise pollution, stating there is a presumption against the siting of development, which will generate high levels of noise in the locality of existing noise sensitive land uses.

- 239 A number of objections were received from surrounding properties relating to the potential noise generation of the proposed use, particularly in relation to haulage lorries and the siting of the transfer station and the impact this would have on both recreational and residential amenity, specifically in and around Logierait.
- 240 Environmental Health (EH) indicated in their first consultation response that they were concerned about noise arising from the proposal, particularly in relation to the impact from the transfer site, requesting the consideration of extra mitigation. This was undertaken via a noise model, with the model identifying a very slight improvement in levels at nearby properties.
- 241 Further clarification was set out, including the nature of the noise likely to arise and identifying that the assessment of the transfer site had been undertaken in line with BS4142:2014 parameters, which allows for the correction of noise levels by the application of factors due to acoustic features. The transfer site is deemed an ancillary element to the mine. BS4142 states *“Where background sound levels and rating are low, absolute levels might be as, or more, relevant than the margin by which the rating level exceeds the background.”*
- 242 EH still remained cautious to the assessment recommendations, particularly regarding the +3dB correction. In association, PAN 50 also recommends an upper limit of 45dBA in exceptionally quiet rural areas. EH were more comfortable with this approach, recommending a condition to limit absolute noise levels. The requirement for a noise management plan to be submitted for written approval by condition was also recommended, removing EH objection.
- 243 In summary, the findings, associated calculations and conditional recommendations are considered to remain within the reasonable tolerances of associated guidance and policy.

244 *Vibration from Blasting*

This is addressed in the ES along with best practice advice set out in PAN 50 Annex D on its control; Appendix 13 of the addresses this issue fully. Blasting is required during construction and operation of the mine, which is considered to have been assessed accordingly.

- 245 Based on the anticipated 35Kg explosive charge for the construction of the transfer site, the aforementioned closest receptors may be able to perceive the vibrations but it is below the PAN 50 Annex D criterion of  $6\text{mms}^{-1}$  at a 95% confidence level.
- 246 The assessment from EH sets out that they are satisfied that blasting would not be unacceptable at this site as long as advice in the Blasting Assessment and PAN 50 Annex D is followed, alongside associated suspensive condition recommendations.

247 SNH also queried the associated impact on existing “*peacefulness and tranquillity*” (an identified characteristic of the NSA and specifically the Queens View) in relation to mining operations. The applicant sought to address this query with the associated noise assessment calculations. Ultimately, the levels of noise experienced at the Queens View from mining operations versus existing associated background noises from closer proximity noise generators (including cars and coaches visiting the Queens View) was such that the direct impact was deemed de minimis. On this basis, I consider that the proposed mining operations will not have an adverse impact on the peacefulness and tranquillity of the Queens View within the NSA.

#### 248 *Air Quality and Dust*

An assessment of potential dust generating sources was undertaken to determine the best methods of limiting or suppressing dust attributable to the proposals. No adverse impact is considered to impact on neighbouring or recreational amenity providing that the recommendations within the ES are strictly adhered to. This will be followed through within the detailed environmental management plan; the details of which will be agreed and controlled through suspensive condition. It should also be noted that the existing Foss mine crushing plant, currently situated within the settlement boundary of Aberfeldy will be decommissioned for Barite crushing purposes in tandem with the decommissioning of Foss mine.

#### **Lighting**

249 Policy EP5 of the LDP relates to light pollution, seeking to prevent statutory nuisance from occurring due to artificial lighting. Full lighting details have not been provided at this stage for comment, but it is generally assessed, considered and set out in the ES and through proposed suspensive conditions that lighting requirements shall be restricted to a minimum; avoiding unnecessary light pollution or adverse impact on either ecological interests or on the visual amenity and character of the area.

#### **Recreational Access and Tourism Impact**

250 Policy CF2 relates to public access, advising acceptable development proposals shall not have an adverse impact upon the integrity of any (proposed) core path, disused railway line, asserted right of way or other well used routes. Development proposals that would unreasonably affect public access rights to these features will be refused unless these adverse impacts can be adequately addressed in the supporting plans and suitable alternative provision is made.

251 Section 15 of the ES sets out its assessment on recreational access throughout all stages of the proposed development. In their consultation response, the Community Greenspace Team confirm that a number of core paths are affected (MASG/6, MASG/100, MASG/101 and MASG/103), and there are other routes used by access takers on these hills, including the route between the proposed mine and Netherton, which is likely to be affected. The needs of access takers should be considered in the

usual way. Core path MASG/6 is also a right of way (51/6); forming part of the Rob Roy Way, and is potentially quite busy over the summer months.

- 252 The development would have an effect on paths in Logierait Woods especially core path MASG/103 (impact on local users, but the route only crosses and does not use this core path). The access track to the mine crosses the Rob Roy Way and core path MASG/103 referred to as 'Granny Pines Trail'. In consultation with the estate, the applicant has also identified recommended mitigation of adding a different, additional loop route 'Curling pond Trail' an additional loop route.
- 253 Community Greenspace advise that where the access road is shared with core path MASG/101 for 900m (Top of the Hill Trail) it is important that the safety of access takers (cyclists and horse riders as well as pedestrians) is not compromised. Potential mitigation solutions include refuges, which could be put in at appropriate intervals, a verge kept open into which access takers can step, or the track made sufficiently wide along this section for vehicles to pass access takers without danger.
- 254 It is considered that through adherence to the recommendations of the ES and the recommended conditional requirement for a detailed access management plan to be provided, the policy requirements of policy CF2 can be achieved with no resultant adverse impact on tourism and associated recreational access to all users.

### **Archaeology and cultural heritage**

- 255 Policy HE1B seeks to protect the integrity of areas or sites of known archaeological interest and their settings.
- 256 The methodology, results and mitigation measures set out in Section 14 of the ES are described by PKHT and a Council conservation officer as robust. Both the direct and indirect impact of the development was assessed. The assessment consisted of desk based research, a walk over survey, assessment of indirect impact on five Scheduled Monuments, a geophysical survey and a trial trench evaluation.

#### *Direct Impact*

- 257 The proposed development impacts on three distinct zones, described from West to East as open moorland, commercial forestry and the Logierait terraces. The moorland and commercial forestry are considered to have low archaeological potential and no further mitigation is required other than the protective demarcation of Meall nan Uan shieling huts (ES site S16). For the Logierait terraces, where trial trenching and, to a lesser extent, the geophysical survey have demonstrated the potential for simple, discrete archaeological features, a further programme of archaeological works is proposed. This will consist of a combination of a strip-map-sample (SMS) exercise on the line of the haul road and monitoring of its construction where SMS is impractical. In regard to the impact of the haul road on a small part of Scheduled Monument 9525 (ES site S5), PKHT were content this impact is of a minor magnitude given that the evaluation has demonstrated this part of the Scheduled Monument to be void of complex archaeology. It is noted that Historic Environment Scotland will require Scheduled Monument Consent for the construction of the haul road.

### *Indirect Impact*

- 258 As outlined above, five Scheduled Monuments (numbered sites S2, S4-6, S9, S11 and S12 in the ES) were visited and an assessment made as to the indirect impact of the haul road, primarily visual, on these nationally significant monuments. The significance of indirect effects was found to be minor. This is a result of the design of the haul road that maintains the landscape form of the Logierait terraces and will not introduce elements such as street lighting into the vicinity of the Scheduled Monuments. Protective demarcation of Scheduled Monuments. 2638 (ES S2) and 9525 (ES S5 and S6) is recommended to ensure no accidental damage during the construction phase of the development.
- 259 PKHT confirmed their support for the enhancement options presented of a number of heritage assets for public benefit. These include vegetation management at Tom na Croiche castle and the Atholl Memorial, as well as interpretation boards for visitors at this location and at Clachan an Diridh stone circle, on the Rob Roy Way. PKHT have indicated they may be able to assist the applicant in some of the enhancement opportunities identified.
- 260 In summary, both HES and PKHT conclude that the proposed development (inclusive of the mine, the transfer site, borrow pits and the haul road), does not constitute an adverse effect on the historic environment, with the policy criterion of Policy HE1B considered to be satisfied.

### **Socio-Economic Benefits**

- 261 Policy ED3 encourages appropriate rural economic development opportunities and diversification and Policy ER4, which seeks to address extraction of minerals and subsequent restoration are considered directly relevant in the assessment of the socio-economic assessment. Perth and Kinross Council identifies sustainable economic growth as a key vision statement, recognising that its rural areas provide a valuable platform for food and raw material production, but equally through supporting tourism through the areas environmental assets and associated economic enterprises.
- 262 The ES section on socio-economic benefits has looked at key Council policy objectives of economy, place and biodiversity in relation to the mine proposals within its proposed situation. The assessment investigated the value of the mine proposal to the local, regional and national economy. With a fluctuation in the price of Barite as a raw mineral, based on a number of factors, a crude calculation of £525.27 million benefit to the economy as a result of the mining operations over its anticipated 50 year life (based at today's prices) is predicted.
- 263 It is acknowledged within the assessment that the UK's oil and gas opportunities may tail off in coming decades through a gradual exhaustion of oil and gas resources from the continental shelf but also contrastingly global dependency on hydrocarbon based energy is anticipated to remain in strong demand over the next 25-50 years, during a gradual rather than rapid transition to a low carbon economy.

- 264 It is considered that the extraction of barite ore minerals from the quarry would ensure the continuation of employment at the site over a number of years both through the identified transfer of workforce from the Foss operation as well as generating additional indirect employment to the area. The local area currently has 13% of its workforce employed in the tourism industry, in many cases dependant on seasonal trade.
- 265 The identified provision of sustainable employment opportunities in the area is therefore considered a tangible benefit with additional side benefits in relation to rural diversification of the estates on which the development is proposed, both directly and indirectly, which is consistent with objectives of LDP policy ED3.
- 266 In addition, the proposed routing for HGVs carrying barite will remove the current Foss mine traffic from over 33km of the Tay Valley, leading to villages, other settlements and minor roads bypassed. Additionally, the proposed haul road will also be made available to Atholl Estate for its own HGV movement, including timber haulage, reducing their need to use the poor junction arrangement with the C452 and the A827 at Logierait village.
- 267 The economic impact of the proposed development is considered to be significant at a local and national, strategic level. As previously set out, Duntanlich has the potential to supply the total UK requirement of barite for more than 50 years at planned production rates, providing both an indigenous and secure long-term source of this mineral, which can be used in other applications, but in this case is primarily identified for the offshore oil and gas industry.

### **PLANNING PROCESSING AGREEMENT**

- 268 In line with best practice working arrangements, the applicant and the planning authority have entered into a planning processing agreement.

### **LEGAL AGREEMENTS**

- 269 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**

- 270 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion.

## CONCLUSION AND REASONS FOR RECOMMENDATION

- 271 Following the original Duntanlich mine planning proposal received and assessed in the first half of the 1990's; the current planning application is the result of over 3 years' worth of assessment of all associated environmental factors, culminating in significant amendments to the original scheme identified and presented. This includes a more visually sensitive approach, seeking to address understood concerns over the potential significant visual impact of the proposed development alongside associated access and haulage challenges. Overall, it is acknowledged that this current proposal is significantly different to the original planning submission considered and assessed. The applicants also acknowledge the considerable foundation of knowledge gleaned through the experience of operating and managing ongoing operations of the Foss barite mine for almost 30 years. The associated proposed decommissioning and site restoration of Foss mine is considered to have tangible beneficial outcomes to the immediate and wider area in relation to landscape impact, visual amenity and positive impact on local communities through removal of haulage vehicles travelling through the local road network.
- 272 The application has been assessed in parallel with EIA regulations. The proposal and its parameters are known to include a number of sensitive environmental receptors, which were required to be considered and assessed, as set out in the associated ES. The proposals are assessed as having no significant adverse impacts in terms of noise, dust, traffic, archaeology, ecology and the qualifying features of the River Tay SAC. The ES identifies elements of the proposed development, which was assessed to categorise landscape and visual impact as significant, principally due to the known landscape designation of heightened landscape sensitivity. Reasonable mitigation is considered to have been identified and set out in the ES addressing this.
- 273 There has also been a potential short term significant impact identified in relation to a private water supply, proposed to be adequately mitigated with no adverse impact on residents predicted. There will be significant impact on groundwater flow paths at a local scale, specifically around the mine workings, which is proposed to be managed with no associated adverse impact on the wider water environment anticipated, which is accepted by both SEPA and Scottish water.
- 274 The 2014 LDP offers conditional policy support for the proposed extraction of an important mineral resource provided other salient policy criteria are satisfied including conserving the natural and water environment, protection of environmental assets and public safety, transport and access, waste management, and protection of the historic environment.
- 275 The proposed mine site has been identified as a resource of national importance, with an associated significant socio-economic impact quantified. As previously mentioned and set out in the ES, the economic impact of the proposed development is considered to be significant at a local and national, strategic level. A mine at Duntanlich has the known potential to supply the total UK requirement with barite for more than 50 years at planned production rates, providing both an indigenous and secure long-term source of this valuable mineral resource, primarily serving the oil and gas industry.

276 The proposals are considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the Development Plan.

## **RECOMMENDATION**

### **A Approve subject to the following conditions:**

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

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

2. All mining operations and associated decommissioning and restoration shall be completed not more than 50 years from the date of commencement of the development (as indicated on the 'Notice of Initiation of Development'). For the avoidance of doubt, the 50 years associated with this condition includes construction, mining operations, restoration, decommissioning and removal of all associated ancillary development.

*Reason - To reflect the nature of development contained in the planning application, and assessed in the Environmental Statement.*

3. Prior to the commencement of the development hereby approved, full details of all proposed building structures above ground at the mine platform and the transfer site shall be submitted to and agreed in writing by the Council as Planning Authority. The detailing as agreed shall be thereafter implemented prior to the operational use of the development.

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

4. Haulage of ore to the transfer site, processing at the transfer site and despatch shall be limited to 07.00 to 19.00 Monday to Friday.

*Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained and to*

*remain within the parameters of the scope assessed within the Environmental Statement.*

5. The total volume of mineral extracted from the mine shall not exceed 180,000 tonnes of ore in any calendar year. 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 within the parameters of the Environmental Statement, ensuring a satisfactory standard of local environmental quality is maintained.*

6. The underground mining operations shall not advance beyond the extent of underground working parameters identified on plan reference (15/01972/3), figure 2.3 dated 15/10/15.

*Reason - To accurately define the development extent and remain within the parameters of the scope assessed within the Environmental Statement.*

7. For the avoidance of doubt, the mine portal as identified on approved plan (Figure 3.3) shall remain the only vehicular point of access and egress to the mine and there shall be no new or additional entrances created without prior approval.

*Reason - In the interest of visual amenity within a sensitive landscape setting and to remain within the parameters of the scope assessed within the Environmental Statement.*

8. A minimum of two months prior to the commencement of development, a detailed Environment Management Plan (EMP) incorporating an Aftercare Monitoring Plan (AMP) addressing all phases of the construction and mining operations will be submitted to the Council as Planning Authority for approval in writing, in consultation with key stakeholders as deemed appropriate. The EMP shall incorporate:
  - Detailed construction methods of compounds and tracks.
  - Detailed plans and sections of the access track at chainages identified in Annex 3.5 (May 2016).
    - Detailed routing location of bridges.
    - Detailed Location and extent of the construction corridor.
  - Detailed Site Waste Management Plan (SWMP), including details of the disposal of surplus excavated material (as necessary).
  - Detailed Site Access Management Plan (SAMP).
  - Detailed Drainage Management Plan (DMP).
  - Detailed progressive restoration proposals for all habitats.

- An AMP providing a methodology for developing avoidance and mitigation measures to address any adverse landscape effects during construction. Restoration Monitoring Reports shall be submitted by July in years 1, 3 and 5 and shall include recommendations for any further restoration and/or intervention to be implemented by September in that year.
- A methodology for developing avoidance and mitigation measures to address any adverse landscape effects identified during the course of monitoring.
- Detailed design of mitigation measures, including mitigation measures outlined in Annex 3.5 (May 2016)

Thereafter, the development shall be undertaken fully in accordance with the EMP unless otherwise agreed in writing by the Council as Planning Authority.

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

9. The development hereby approved shall not commence until independent and suitably qualified Ecological/Landscape/Environmental Clerk of Works (E/L/EnvCoW) professional/s have been appointed at the developers' expense. Details of this/these appointment/s shall be subject to the prior written agreement of the Council as Planning Authority. The person or persons appointed shall only be replaced in full cognisance of this condition and the post/s shall not be vacant at any time, for the duration and subsequent restoration of the proposed development. The E/L/EnvCoW shall have responsibility for the following:
  - a) Implementation of the Environmental Management Plan (EMP) required by this permission.
  - b) Implementation of the Aftercare Monitoring Plan (AMP) required by this permission, including specific measures for environmental monitoring post construction, shall be submitted for the further written approval of the Council as Planning Authority in consultation with SNH and/or SEPA. The AMP shall include:
    - Submission of a Restoration Monitoring Report to be carried out by the end of July in years 1, 3 and 5.
    - Recommendations for further restoration and/or intervention should be implemented in full by the end of September in years 1, 3 and 5.
  - c) An empowered watching brief and involvement in decisions over key development stages directing the micro-siting of significant elements of the scheme to minimise impact on natural heritage and visual amenity.
  - d) Authorisation to stop operations or amend working practices in the interests of natural heritage. Any amendments which result in a required revision of the EMP

shall be submitted to the Council as Planning Authority within 1 calendar month of the revision date.

- e) Notifying the Council as Planning Authority in writing of any requirement to halt construction in relation to this condition as soon as reasonably practicable.
- f) Providing an ecological/ landscape and environmental tool box talk for staff prior to the commencement of development (with follow up sessions as deemed appropriate throughout the duration of the development).
- g) Identifying supplementary landscaping mitigation opportunities in and around sensitive and publicly visible locations in consultation with the Council as Planning Authority, to feed into detailed landscaping plans.
- h) Undertaking weekly visits to the development site at a time of their choosing for the duration of the construction elements. No notification of this visit is required to be given to the developer or contractor.
- i) With regard to the construction phase, within 10 working days of the end of each calendar month, submission of a detailed monthly report (augmented by photographic record evidencing findings) for the review of the Council as Planning Authority in consultation with SEPA and SNH.
- j) Upon completion of construction elements, the E/L/EnvCoW can restrict visits to bi-annual (spring and autumn) to inform the ISPP and assess ongoing development impact.
- k) Upon completion of construction elements the E/L/EnvCoW shall submit annual reports, including a photographic record to the Council as Planning Authority for consultation with appropriate stakeholders.

The above shall be adhered to throughout the construction, mineral extraction, de-commissioning and restoration phases of the development hereby approved unless otherwise agreed in writing with the Council as Planning Authority.

*Reason - In the interest of protecting environmental quality and of bio-diversity. To minimise any associated adverse landscape and visual impact of the above ground elements, and protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.*

10. Prior to the haulage of any barite ore from the proposed mine site to the transfer site, details of the colour and lighting of operational haulage vehicles shall be agreed in writing with the Council as Planning Authority, in consultation with SNH. Thereafter, the details as agreed shall be implemented for the duration of the mining operations, unless otherwise agreed in writing by the Planning Authority.

*Reason - In the interests of neighbouring recreational and residential amenity;*

*To ensure a satisfactory standard of local environmental quality is maintained within a sensitive landscape setting and remain within the parameters of the scope assessed within the Environmental Statement.*

11. Prior to the commencement of the development hereby approved, detailed landscaping and planting schemes for individual key agreed areas (in consultation) shall be submitted for the further written approval of the Council as Planning Authority, in consultation with SNH and SEPA (as required), including as a minimum:
- the mine site platform,
  - transfer site,
  - access and haul road sections;

The schemes shall include details of the height and slopes of any mounding or re-contouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The schemes as approved shall be carried out and completed within the first available planting season (October to March) and prior to the operational phase of development. The date of practical completion of the landscaping schemes shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The schemes as agreed and implemented shall thereafter be maintained for the duration of this planning permission unless otherwise agreed in writing with the Council as Planning Authority.

*Reason - To minimise any associated adverse landscape and visual impact of the above ground elements, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.*

12. Prior to the commencement of development, detailed tree surveys relating to pre-agreed key sections of the haul road, access track and transfer site shall be undertaken, identifying the extents of felling required, and submitted for approval in writing by the Council as Planning Authority, in consultation with SNH.

*Reason - In the interests of visual amenity, to establish the detailed extents of tree felling at key locations and to ensure that the proposed development does not adversely prejudice the appearance of the locality long term and to account for nature conservation interests.*

13. Affected trees identified for retention following the satisfactory conclusion of condition 12, shall be protected in accordance with BS 5837: 2012 '*Trees in relation to design, demolition and construction*'. Approved tree protection measures shall not be removed breached or altered without prior written authorisation from the Council as Planning Authority but shall remain in a functional condition throughout the entire phase of

construction. If agreed protection measures are damaged beyond effective functioning then works that may compromise the protection of trees shall cease until the protection can be repaired or replaced with a specification that shall provide a similar degree of protection.

*Reason- To prevent avoidable harm to trees identified for retention within visually sensitive sections of the site.*

14. Prior to commencement of development, details identifying a minimum of 1.2Ha of compensatory tree planting shall be submitted to the Council as Planning Authority for approval in writing, in consultation with Forestry Commission Scotland. The compensatory planting measures as agreed shall thereafter be undertaken within 3 years of the commencement of development.

*Reason –In ensuring appropriate accordance with national reforestation and afforestation strategies.*

15. No construction works, including vegetation clearance, tree felling or subsequent decommissioning shall take place without pre-felling/construction surveys of protected species being undertaken as required. Survey results and any necessary mitigation or licensing measures shall be incorporated into a Species Protection Plan (SPP) and submitted for written approval by the Council as Planning Authority, in consultation with RSPB and SNH. The initial SPP as agreed shall thereafter be adhered to throughout the period of construction works taking place.

*Reason- In the interests of minimising impacts on protected species and priority habitats.*

16. Prior to the commencement of development a Species Protection Plan (SPP) shall be submitted to and approved in writing by, the Council as Planning Authority. The purpose of the SPP shall be to ensure that protected species are taken into account throughout the development. The content of the SPP shall include the following:

- Aims and objectives of monitoring to match the stated purpose.
- Identification of baseline conditions prior to the start of development.
- Appropriate targets against which the effectiveness of the SPP can be judged.
- Methods for data gathering and analysis.

- Species monitoring for 3 years.
- Location of monitoring.
- Identification of responsible persons and lines of communication.
- Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Council as Planning Authority after the initial 3 years of monitoring. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) contingencies and/or remedial action as appropriate, for written agreement with the Council as Planning Authority. Such agreed measures shall be implemented so that the development remains in full compliance with wildlife legislation and best practice. Thereafter, an Interim Species Protection Plan (ISPP) shall be submitted every 10 years after the commencement of development to ensure continued compliance and provide the opportunity to monitor the introduction of any new species. Agreed actions from each ISPP shall be implemented within 6 months of each ISPP being submitted.

*Reason – In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as a result of and throughout the life of the development hereby approved.*

17. Prior to the commencement of development a Habitat Management Plan (HMP) shall be submitted to and approved in writing by the Council as Planning Authority in consultation with SNH and SEPA. Thereafter, the approved HMP shall be implemented and adhered to throughout the development. The HMP shall include measures to minimise impacts on peat and priority habitats.

*Reason – In the interests of minimising impacts on priority habitats.*

18. All works shall be undertaken in a manner which considers wildlife, including measures to prevent access for wildlife or provide escape from operations, should be considered and incorporated at all times. As part of their remit, the appointed ECoW shall undertake toolbox talks to ensure operatives are aware of dangers to wildlife.

*Reason – In order to prevent animals from being trapped within any open excavations.*

19. Prior to decommissioning of the site a Decommissioning Method Statement and Restoration Plan shall be submitted to and approved by the Council as Planning Authority in consultation with SNH and SEPA. The agreed method statement and plan shall be implemented in full as part of the agreed decommissioning programme.

*Reason – To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.*

20. The approved Decommissioning Method Statement and Restoration Plan shall be overseen by an independent E/L/EnvCoW appointed under the same terms as specified in Condition 9.

*Reason - To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.*

21. Mining operations shall have begun within 3 years of the date of commencement of development (as indicated on the 'Notice of Initiation of Development'). If mining operations have not commenced within this period, Condition 19 shall be discharged in full within 18 calendar months, in cognisance of Condition 20.

*Reason - To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.*

22. If at any time after the commencement of mineral extraction, mining operations cease for more than a continuous calendar month, the site operator must notify the Council as Planning Authority in writing within one week, and thereafter notify in writing the subsequent date of re-commencement, within one week of the date of the re-commencement taking place. If at any time after the commencement of mineral extraction, the site is not mined for a continuous period of 12 months, the mine and all associated elements shall be regarded as abandoned. Should the mine be abandoned, Condition 19 shall be discharged in full within 18 calendar months, in cognisance of Condition 20.

*Reason - To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.*

23. Prior to any despatch of the approved development, all matters associated with the new haul road and junction and improvements to the existing road network will be in accordance with the standards required by the Council as Roads Authority.

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

24. Prior to the commencement of development, an agreement addressing liability for remedial work required as a result of damage to the C452 local road directly attributable to the construction phase of the development, and providing for pre and post-construction surveys of the said local road, shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with the Roads Authority.

*Reason – In the interest of road safety; to ensure an acceptable standard of construction within the public road boundary.*

25. White noise alarms and/or audible vehicle reversing alarms, which only emit a warning if necessary (e.g. on an infrared signal which detects moving bodies to the rear of the vehicle), shall be employed on all on-site vehicles, until such times as alternative suitable measures are proposed, subject to the written approval of the Council as Planning Authority.

*Reason – In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.*

26. Should any aspect of the development result in formal complaints from nearby residential properties, within 14 days of written request by the Council as Planning Authority, the developer shall instigate monitoring for noise vibration, dust or light pollution using independent specialist consultants as required (the scope of such monitoring to be agreed in advance). The report findings shall be submitted for the written approval of the Council as Planning Authority, in consultation with Environmental Health and must draw conclusions and make recommendations as necessary. Any recommendations contained within the report and approved by the Council as Planning Authority shall be implemented by the developer within 28 days of written notification of such approval to the developer.

*Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.*

27. A Dust Management Strategy as outlined in section 12.2.7.2 of the Environmental Statement shall be put in place prior to the operation of the mine, defined as the first movement of barite ore from the mine platform to the transfer site. Records of inspection and maintenance should be kept and made available on request in relation to this strategy.

*Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.*

28. Prior to the commencement of any blasting operations, a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be

submitted to the Council as Planning Authority for written approval, in consultation with Environmental Health. All blasting operations shall take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the Council as Planning Authority.

*Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.*

29. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mm -1 in 95% of all blasts measured and no individual blast shall exceed a peak particle velocity of 12 mm -1 as measured at vibration sensitive buildings. The measurement to be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

*Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.*

30. Any permanent external lighting fixtures shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land or on surrounding watercourses and woodland, and that light spillage beyond the boundaries of the site is minimised.

*Reason - In the interests of neighbouring recreational and residential amenity and biodiversity; to ensure a satisfactory standard of local environmental quality is maintained and to avoid unnecessary light pollution.*

31. Noise levels measured at 3.5m from the façade of noise sensitive properties shall not exceed the following limits: LAeq, 1 Hour 45 dB (free field).

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

32. Only the plant machinery and equipment specified in the supporting Noise Assessment R15.8847/2/RK (dated 17 September 2015) (or similar plant which generates no greater sound power levels) shall be used, unless otherwise agreed in writing with the Council as Planning Authority.

*Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.*

33. Prior to the commencement of operations, a Noise Management Plan (NMP) must be submitted to and approved in writing by the Council as Planning Authority, in consultation with Environmental Health. Thereafter the measures contained within the

approved NMP shall be implemented, with records kept and made available on request by the Council as Planning Authority.

*Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.*

34. The developer shall ensure during the construction of the development that all surface water is controlled, treated and discharged under best practice principles of SUDS, all to the satisfaction of the Council as Planning Authority, in consultation with the Council as Flood Authority.

*Reason - In the interests of best practice surface water management; to avoid undue risks to public safety and flood risk.*

35. Prior to commencement of mining operations, a Water Environment Monitoring and Mitigation Plan (WEMP) shall be submitted for the written approval of the Council as Planning Authority, in consultation with SEPA. Any approved recommendations of the WEMP shall thereafter be implemented by the developer, within a timescale agreed in writing by the Council as Planning Authority. .

The WEMP shall set out monitoring parameters to measure the response of groundwater, in terms of level and quality to the proposed mining activity, both during development and following site abandonment.

Relevant surface water monitoring should also be included.

The WEMP shall detail:

- The number of proposed groundwater and surface water monitoring points,
- Defined monitoring locations,
- Frequency of level monitoring and chemistry sampling,
- The suite of proposed chemical analysis,
- The collection, interpretation and reporting of data, and
- Provide mechanisms to secure mitigation of impacts should they occur.

*Reason - In the interests of best practice surface water management; to avoid undue risks to public safety and flood risk.*

36. Within 6 months of cessation of mine operations and prior to closure (defined as completion of restoration and sealing of mine access), a revised WEMP shall be submitted for the written approval of the Council as Planning Authority in consultation with SEPA.

*Reason - In the interests of best practice surface water management; to avoid undue risks to public safety and flood risk.*

37. Prior to the commencement of any development on site, the applicant shall provide details of the proposed nature and frequency of private water supply and drainage monitoring to the Council as Planning Authority in consultation with Environmental Health for written approval, covering the following:

- Primary baseline survey (prior to commencement),
- During operations,
- Subsequent to development completion,
- The proposed methods of alerting affected individuals in the event of any contamination and alternative water supply arrangements identified should the development result in pollution or contamination.

*Reason - To ensure existing private water supplies and drainage infrastructure is not compromised.*

38. Prior to the commencement of any 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 19)
- 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.*

39. The approved bond or financial instrument shall be maintained throughout the duration of the operation of the development hereby approved. At five-yearly intervals (as a minimum) from the commencement of the development, an independent review of the approved bond or financial instrument shall be carried out and submitted to the Council as Planning Authority. The Council as Planning Authority may direct that the approved bond or financial instrument be amended if this is necessary to ensure that funds remain sufficient to cover 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 considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

## **C PROCEDURAL NOTES**

1. Consent shall not be issued until a Section 75 Agreement is in place to enable a financial guarantee to secure delivery of a Habitat Management Plan and the associated decommissioning of the mine and site restoration over the associated lifetime of the development. The legal agreement should be concluded and registered within 4 months of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed.

This agreement shall include

- i) the maximum sum required
- ii) details of the financial guarantee which can either be by way of an ESCROW facility, restoration bond or bank guarantee,
- iii) requirement for the review of the maximum sum every five years (as a minimum) to ensure sufficient funds.

## **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 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.
- 4 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 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft

notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development.
  - Readily available to the public
  - Printed on durable material.
- 5 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.
- 6 The applicant shall ensure the private water supply for the development complies with the Water Scotland Act 1980 (Section 63) and the Private Water Supplies (Scotland) Regulations 2006. Detailed information regarding the private water supply, including the nature, location and adequacy of the source, any storage tanks / pipework and the filtration and disinfection treatment proposed to ensure provision of an adequate and consistently wholesome water supply shall be submitted to Perth and Kinross Council Environmental Health in line with the above legislation.
- 7 The applicant is advised to contact Perth and Kinross Heritage Trust as soon as possible to discuss the procedure of the archaeological works required and, as necessary have a written Terms of Reference prepared.
- 8 The applicant is advised that the archaeological response prepared is based on information held on the Perth and Kinross Historic Environment Record of archaeological sites and historic buildings, which is regularly updated.
- 9 The applicant is advised to pay due regard to PKC Flooding and Flood Risk Guidance Document (June 2014).
- 10 The applicant is advised to refer to Management of Extractive Waste (Scotland) Regulations 2010, where mandatory or 'deemed' conditions apply to this development.
- 11 No work associated with the approved building elements shall be commenced until an application for building warrant has been submitted and approved.
- 12 In the interest of clarity, the following terms referred to in the attached conditions of consent are intended to mean the following:
- a) Construction – referring to all physical construction elements, including (but not exclusively);
    - Mine site platform
    - Transfer site

- Haul road
  - Access Track
- b) Operations – all matters relating to mining, transfer, processing and despatch of the barite mineral.
- c) Restoration and Decommissioning - referring to the initial ongoing progressive restoration of the site during construction and final site restoration of all agreed matters following the cessation or abandonment of mining operations.
- d) Development – covering absolutely all matters pertaining to the consent, including construction, operations, restoration, decommissioning and post development monitoring.

Background Papers: 44 letters of representation  
Contact Officer: Callum Petrie Ext 75353  
Date: 31 August 2016

Nick Brian  
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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