

## WEST DUNBARTONSHIRE COUNCIL

### Report by the Chief Officer - Regulatory and Regeneration

Special Planning Committee: 26<sup>th</sup> January 2021

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**Subject: WP98/076: Review of Minerals Permission (ROMP) and DC02/447: Extension to Quarry, Sheephill Quarry, Milton, Dumbarton**

#### **1. Purpose**

- 1.1** To provide the Committee with further information relevant to the consideration of the Review of Minerals Permission application(ROMP) and the extension application.

#### **2. Recommendations**

- 2.1** That the Committee indicate that it is **Minded to Grant** full planning permission for an extension area, and delegate authority to the Planning, Building Standards and Environmental Health Manager to issue the decision subject to the conditions set out in Section 9 in Appendix 1:Planning Committee Report dated 11<sup>th</sup> March 2020 and to the satisfactory conclusion of a legal agreement in terms of the restoration bond(DC02/447).
- 2.2** That the Committee **accept the agreed conditions** set out in Section 9 in Appendix 1: Planning Committee report dated 11<sup>th</sup> March 2020 and authorise officers to issue the Review of Minerals Permission(WP98/076).

#### **3. Background**

- 3.1** The circumstances of the application for a ROMP and the extension application were set out in the report to the March Planning Committee meeting (Appendix 1). At that meeting, the Committee agreed to continue the application for consideration at a future meeting so that members could be provided with additional information regarding the Review of Minerals application process and how it relates to the extension application, the Scheduled Monument process and the proposed hours of working.
- 3.2** A report was presented to November Planning Committee addressing the above matters. At that meeting the Committee agreed to continue the applications to a future meeting of the Committee in order to allow a fresh hearing to take place. The Committee also requested that an officer from Historic Environment Scotland attend the Committee meeting to provide

further details regarding the Sheephill Fort and the Scheduled Ancient Monument Process.

#### **4. Main Issues**

##### Review of Minerals Permission (ROMP) and Extension Application

- 4.1** Appendix 1 contains the planning report presented to the March Planning Committee. It contains the development details, the background to the applications, consultations, representations, assessment against the Development Plan and material considerations as well as recommendations and proposed conditions. Members will be aware that there is a long history to these applications and this has been fully detailed in this report. The Review of Minerals Permission (ROMP) is not a normal application for planning permission as no planning permission is being sought. It is reviewing the 1949 permission for the quarry and agreeing to a new set of conditions which meet modern standards and working practices. Presently the Quarry can work unrestricted and can operate 7 days a week, 24 hours a day. The agreed conditions would allow the quarry to operate under more restricted and modern conditions which take into account amenity, environmental and landscape matters.

The second application (DC02/447) is to extend the existing operational extraction area of the quarry. The extension would measure approximately 1.53ha at the north western boundary of which some 1.07ha relates to the proposed excavation area. This application is to allow for an area of land which would be 'swapped' with the western part of the existing quarry consent to the rear of the residential properties in Miltonhill.

- 4.2** In the report to the November Planning Committee contained in Appendix 2 further details was provided of the ROMP process in Section 4 of the report. It advises that the Committee requires to consider the ROMP conditions proposed by the applicant and either agree to approve these conditions or to agree to determine conditions that differ from those set before them. The planning authority can determine conditions that differ from those proposed. However if these conditions adversely affect the asset value of the site then the Planning Authority would require to compensate the quarry operator accordingly and provide a separate notice for determination and state whether or not in their opinion in the effect of that restriction would be such as to prejudice adversely to an unreasonable degree either the economic viability of operating the site or the asset value of the site; a liability of compensation will arise. The applicant would have a right of appeal to the Scottish Ministers against the planning authority's opinion.
- 4.3** The applicant have confirmed that they would accept ROMP Condition 2 which removes the Milton Hill area from excavation or quarrying operations. This has been agreed on the understanding that the Council was minded to grant the extension area as an alternative development area to Milton Hill. The applicant has advised that if the Council is minded to refuse the extension

application they will no longer accept Condition 2 and that the development proposals will revert to those submitted with the ROMP application whereby the area adjacent to Milton Hill can be quarried as per the 1949 permission or the applicant seeks compensation for the asset loss of this part of the quarry site.

- 4.4** A fresh hearing for the ROMP and extension applications is to take place at this Special Committee as per the Council's agreed hearing procedures whereby the applicants agent, supporters and objectors can address the Committee. There are now nine letters of representations including Bowling and Milton Community Council and Silverton and Overton Community Council. There are a further four letters of support from residents of Miltonhill which support both the ROMP application and extension application and welcome the removal of uncertainty over quarrying adjacent to Miltonhill. They also indicate that the supply of stone from Sheephill will reduce the Council's carbon footprint and could be used for projects such as the Exxon site and the new relief road.

The reasons for objection are summarised below and have been updated to include additional comments received since the March Planning Committee Report.

- The proposed operating hours are not in keeping with modern standards and are excessive and unnecessary. The operating hours presented to the Planning Committee in 2005 are reasonable;
- The proposed operating hours would result in the significant loss of amenity for local residents in the form of noise and light pollution early in the morning and late in the evening;
- The requirement for works to be carried out below ground level within certain periods is insufficiently clear in its intention;
- The proposed operating hours exceed those granted for the neighbouring Dumbuckhill Quarry;
- The applicant should ensure that the levels stipulated in the assessments are met and that regular checks are carried out;
- No noise survey was carried out at Middleton Farm, the property closes to the proposed quarry extension;
- The renewal and proposed extension would be contrary to local planning policies in particular GB1- Greenbelt, KH1- Kilpatrick Hills, MIN 1 – Mineral Extraction, CON3 –Core Path;
- The proposed extension is in the Greenbelt and would involve the removal of a large section of a hillside in a countryside location;
- There would be a major permanent and detrimental impact on the landscape and scenic skyline and it would restrict access to the Kilpatrick Hill;
- Part of the quarry site is a Site of Importance to Nature Conservation and is protected under the adopted Local Plan;
- The extension borders with a designated Core Path and it would be impossible to maintain safe public access to the path if consent is granted;

- Blasting operations would require the path to be closed either intermittently or permanently;
- Middleton Farm was not neighbour notified when the current planning application was submitted in 2002 nor residents of Treedom Cottage or Milton Brae and therefore they were denied the opportunity to object to the planning application prior to 2005 Planning Committee;
- The landscape information, national environmental standards and planning requirements in the Environmental Statement prepared in 2002 needs updated and does not reflect changes in the adjacent area;
- The arguments presented to justify the extension are meagre and contradictory such as providing employment, enhanced safety, benefits to the residents of Milton Hill;
- It is never been shown that the proposed extension area and Milton Hill are of equal value;
- There are practical challenges to excavating Milton Hill making it extremely doubtful whether the operator would ever be able to do so;
- The ROMP and extension application are legally distinct, with the latter being presented as a solution to the issue of excluding the Miltonhill buffer area from future quarrying;
- An application for significant changes to the area worked at Dumbuckhill Quarry was rejected by the Planning Committee and rejected by the Scottish Minsters;
- There should be no quarrying within the immediate proximity of the Sheephill Fort;
- The historic remains of the vitrified fort which is a Scheduled Ancient Monument should not be destroyed until a proper professional archaeological exploration and documentation is carried out.
- Work has commenced on the extension and there has been significant rock fall onto the path below.
- Water is coming from the extension and new access road to the quarry which has been channelled down the hillside potentially flooding the A82.
- There is another ancient structure below .

Response to these issues are addressed fully in the March Planning Committee report and the November Planning Committee report.

#### Scheduled Monument Consent

- 4.5** The vitrified fort of Sheephill was designated as a Scheduled Ancient Monument by the Secretary of State in 1970. Scheduled Ancient Monument Consent (SAMC) was granted in 2002 by Historic Scotland subject to a condition that the archaeological excavation be carried out in strict accordance with a Written Scheme of Investigation and that the loss of the fort shall be mitigated by the excavation, recording and publishing of findings. Although the 2002 SAMC has since lapsed, the principle of removing the fort has been established. A new application will required to be submitted and Historic Environment Scotland have indicated that it would not seem reasonable to recommend refusal of any subsequent application for SMC at this stage.

- 4.6** As requested by the Committee, officers from Historic Environment Scotland will attend the Special Planning Committee and will provide further details about the Scheduled Monument and the Scheduled Monument process. Further details of the Sheephill fort and the Scheduled Monument process is provided in sections 7.20-7.21 of the March Report (Appendix 1) and sections 4.5 – 4.8 of the November Committee Report (Appendix 2).

**5. People Implications**

- 5.1** There are no personnel issues.

**6. Financial and Procurement Implications**

- 6.1** Financial implications may arise if the proposed conditions are altered or additional conditions added without the agreement of the applicant.

**7. Risk Analysis**

- 7.1** A risk assessment is not required.

**8. Equalities Impact Assessment (EIA)**

- 8.1** There are no equalities issues identified.

**9. Consultation**

- 9.1** Neighbours and those with an interest in the applications have been consulted through the planning process.

**10. Strategic Assessment**

- 10.1** The ROMP and extension application supports the strategic priorities of the Council.

**Peter Hessett**  
**Chief Officer – Regulatory and Regeneration**  
**Date: 26<sup>th</sup> January 2021**

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**Appendices:**

Appendix 1 – Planning Committee Report  
– 11<sup>th</sup> March 2020  
Appendix 2 – Planning Committee Report  
– 11<sup>th</sup> November 2020

**Background Papers:**

1. Application forms, plans and Environmental Statement;
2. Consultation Responses;
3. Letters of representation;
4. Glasgow & Clyde Valley Strategic Development Plan 2012;
5. Clydeplan
6. Scottish Planning Policy;
7. West Dunbartonshire Local Plan 2010;
8. West Dunbartonshire Council Proposed Plan 1 and 2
9. Planning Circular 34/1996;
10. Planning Advice Note 50 and Annexes;

**Wards affected:**

Ward 3 (Dumbarton)