



# Agenda

## Planning Committee

**Date:** Wednesday, 11 November 2020

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**Time:** 10.00

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**Venue:** Zoom Video Conference

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**Contact:** Craig Stewart, Committee Officer  
craig.stewart@west-dunbarton.gov.uk

Dear Member

The Convener has directed that the powers contained in Section 43 of the Local Government in Scotland Act 2003 will be used and so Members will attend this meeting of the **Planning Committee** remotely. The business is shown on the attached agenda.

Yours faithfully

**JOYCE WHITE**

Chief Executive

Distribution:-

Councillor Jim Finn (Chair)  
Bailie Denis Agnew  
Councillor Gail Casey  
Councillor Karen Conaghan  
Councillor Ian Dickson  
Councillor Diane Docherty (Vice Chair)  
Councillor Daniel Lennie  
Councillor Douglas McAllister  
Councillor Marie McNair  
Councillor Lawrence O'Neill

All other Councillors for information

Date of Issue: 29 October 2020

**PLANNING COMMITTEE**  
**WEDNESDAY, 11 NOVEMBER 2020**

**AGENDA**

**1 APOLOGIES**

**2 DECLARATIONS OF INTEREST**

Members are invited to declare if they have an interest in any of the items of business on this agenda and the reasons for such declarations.

**3 MINUTES OF PREVIOUS MEETING 5 – 8**

Submit for approval as a correct record, the Minutes of Meeting of the Planning Committee held on 30 September 2020.

**4 OPEN FORUM**

The Committee is asked to note that no open forum questions have been submitted by members of the public.

**5 PLANNING APPLICATION 9 – 21**

Submit report by the Strategic Lead – Regulatory in respect of the following planning application:-

DC20/135 – Part change of use of indoor sports facility and associated external hardstanding area to street food market including the siting of five containers and formation of 12 parking spaces at Unit 1, Gavinburn Business Park, 223 Dumbarton Road, Old Kilpatrick by Mr J. Steel.

**6 WP98/076: REVIEW OF MINERALS PERMISSION (ROMP) 23 - 94  
AND DC02/447: EXTENSION TO QUARRY, SHEEPHILL  
QUARRY, MILTON, DUMBARTON**

Submit report by the Strategic Lead – Regulatory providing the Committee with further information relevant to the consideration of the Review of Minerals Permission application (ROMP) and the extension application.

**7      REVIEW OF THE PLANNING ENFORCEMENT CHARTER      95 - 114**

Submit report by the Strategic Lead – Regulatory seeking approval of the Planning Enforcement Charter.

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## **PLANNING COMMITTEE**

At a Meeting of the Planning Committee held by Video Conference on Wednesday, 30 September 2020 at 10.04 a.m.

**Present:** Bailie Denis Agnew and Councillors Gail Casey, Karen Conaghan, Ian Dickson, Diane Docherty, Jim Finn, Daniel Lennie and Lawrence O'Neill.

**Attending:** Pamela Clifford, Planning, Building Standards and Environmental Health Manager; Erin Goldie, Team Leader – Development Management; Antony McGuinness, Team Leader – Forward Planning; Ross Lee, Lead Planning Officer; John Walker, Assistant Engineering Officer, Roads & Transportation; Nigel Ettles, Section Head – Litigation (Legal Officer) and Craig Stewart, Committee Officer.

**Apologies:** Apologies for absence were intimated on behalf of Councillors Douglas McAllister and Marie McNair.

**Councillor Jim Finn in the Chair**

### **CHAIR'S REMARKS**

Councillor Finn, Chair, welcomed everyone to the September meeting of the Planning Committee which was being held remotely, in terms of Section 43 of the Local Government in Scotland Act 2003.

Accordingly, the Chair advised that a process/procedure had been developed for the meeting (a copy of which had previously been circulated to Members). Thereafter, the Committee agreed to note the procedure in place for the conduct of the meeting and the meeting then continued by video conferencing.

### **DECLARATIONS OF INTEREST**

Councillor O'Neill advised that he had a non-financial interest in Item 6 - Development Plan Scheme and Participation Statement, as Chair of Clyde Plan, and he would take part in any decision on this item.

## MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Planning Committee held on 19 August 2020 were submitted and approved as a correct record.

## OPEN FORUM

The Committee noted that no open forum questions had been submitted by members of the public.

## PLANNING APPLICATION

A report was submitted by the Strategic Lead – Regulatory in respect of the following planning application:-

**DC20/116 – Erection of outbuilding for use as a commercial gym to operate a personal training business at 5 Gilmour Avenue, Hardgate, Clydebank, by Ms Caroline Jones.**

Reference was made to a site visit which had been undertaken in respect of the above application. The Team Leader – Development Management was then heard in further explanation of the report.

Councillor Finn, Chair, invited Mr James Rankin, objector, to address the Committee. Mr Rankin was heard in respect of his representation and in answer to Members' questions.

The Chair then invited Ms Caroline Jones, applicant, to address the Committee. Ms Jones was heard in support of the application and in answer to Members' questions.

After consideration and having heard the Team Leader – Development Management in clarification of certain matters and in answer to Members' questions, Bailie Agnew, seconded by Councillor Docherty, moved:-

That the Committee agrees to refuse grant full planning permission subject to the conditions set out in Section 9 of the report, as detailed within Appendix 1 hereto. It was also noted that the Economic Regeneration Section would be requested to look at possible alternative sites in Clydebank, which might be suitable for the applicant's proposed personal training business, and liaise with her in this regard.

As an amendment, Councillor O'Neill, seconded by Councillor Casey, moved:-

That the application be granted.

On a vote being taken, 3 Members voted for the amendment and 5 Members voted for the motion which was accordingly declared carried.

## **DEVELOPMENT PLAN SCHEME AND PARTICIPATION STATEMENT 2020**

A report was submitted by the Strategic Lead – Regulatory providing an update on the progress of the Development Plan and seeking approval of the annual review of the Development Plan Scheme and Participation Statement.

The Planning & Building Standards Manager advised the Committee that she had heard from the Chief Planning Officer of the Scottish Government who had confirmed an extension of the timeframe to 22 October 2020, to allow for relevant legal and appeal decisions.

After discussion and having heard the Planning & Buildings Standards Manager in further explanation and in answer to Members' questions, the Committee agreed to approve the Development Plan Scheme and Participation Statement contained in Appendix 1 to the report.

## **QUEENS QUAY DESIGN CODES**

A report was submitted by the Strategic Lead – Regulatory advising of the outcome of the consultation on the draft Queens Quay Design Codes and seeking approval to adopt the Guidance.

After discussion and having heard the Planning & Buildings Standards Manager in further explanation and in answer to Members' questions, the Committee agreed to approve the proposed changes to the guidance and agreed that the Design Codes be adopted as non-statutory planning guidance.

## **QUEENS QUAY DESIGN CODES: SUSTAINABILITY ANNEX**

A report was submitted by the Strategic Lead – Regulatory seeking approval of the sustainability annex for the Queens Quay site.

After discussion and having heard the Planning & Buildings Standards Manager in further explanation and in answer to Members' questions, the Committee agreed to approve the sustainability annex, set out in Appendix 1 of the report, for consultation.

The meeting closed at 11.48 a.m.

**DC20/116 – Erection of outbuilding for use as a commercial gym to operate a personal training business at 5 Gilmour Avenue, Hardgate, Clydebank, by Ms Caroline Jones.**

**REFUSE planning permission for the following reasons:-**

1. The proposal is contrary to Policies LE7 and GD1 of the Adopted Plan (2010), Policy BC4 of the Local Development Plan 1: Proposed Plan and Policies CP1 and H4 of Local Development Plan 2: Proposed Plan (LDP2 2018) as the proposed gym for personal training business is considered to be incompatible and will adversely impact on the amenity of the surrounding residential area by virtue of noise, increased footfall and activity and disturbance beyond what would ordinarily and typically be considered acceptable for an established residential area and environment.
2. The proposals are contrary to Policy SC1 and SC3 of Local Development Plan 2: Proposed Plan (LDP2 2018) as the proposals fail to sufficiently demonstrate and evidence any reasonable assessment and consideration of available town centre sites and locations and other alternative preferred sites within the West Dunbartonshire area to sufficiently discount their suitability in favour of the proposed residential setting as proposed.
3. The proposal is contrary to Policy GD1 of the Adopted Local Plan (2010) and Policy CON1 of Local Development Plan 2: Proposed Plan (LDP2 2018) as the proposed gym for use as a personal training business would adversely impact upon and exacerbate existing on street parking.

**WEST DUNBARTONSHIRE COUNCIL****Report by Strategic Lead - Regulatory****Planning Committee: 11 November 2020**

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**DC20/135: Part change of use of indoor sports facility and associated external hardstanding area to street food market including the siting of five containers and formation of 12 parking spaces at Unit 1, Gavinburn Business Park, 223 Dumbarton Road, Old Kilpatrick by Mr J Steel.**

**1. REASON FOR REPORT**

- 1.1** The application raises issues of local significance and is subject to a number of representations including one from a Community Council. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

**2. RECOMMENDATION**

- 2.1** **Grant temporary** planning permission for a period of two years subject to the conditions set out in Section 9.

**3. DEVELOPMENT DETAILS**

- 3.1** The application site forms part of a unit within a large warehouse-type building that was originally used as a bus depot. Following the bus depot's closure the building was subdivided into a number of individual units. The unit that is the subject of the current application is located on the north eastern side of the building, and the entrance and hardstanding area to the front faces out towards Dumbarton Road, residential properties and Gavinburn Primary School beyond. To the south there is a wooded area and a row of detached garages separating the site from the Forth and Clyde Canal. To the east there is a disused building that once formed part of the bus depot, and some residential properties. To the west of the site lies the other units within the building. The site lies within the boundary of the Roman Fort associated with the Antonine Wall. In 2008, the unit subject to this application was granted planning permission for an indoor sports facility with a multi-purpose sports pitch. This consent was implemented, however, the sports pitch is no longer in use. The rest of the building, which is also owned by the applicant, is used for storage and distribution purposes.
- 3.2** The current application relates only to the front part of the unit which is around 500 square metres and part of the parking/hardstanding area located to the front/ north of the unit, adjacent to Dumbarton Road. The area inside the unit will be used to site 3 converted shipping containers, each measuring approximately 6 metres by 2.4 metres. The converted shipping containers will

operate as 'pop up' fast food service units with food being cooked and sold from each unit. Each vendor operating from a container will specialise in different 'street food' such as pizza and pakora. The local food bank currently operates from the application site to store and prepare food parcels and they have shown an interest in potentially operating a hot food service from one of the containers. An informal seating area with picnic tables for customers will be formed inside the unit, although the applicant has stated that these could also be positioned outside on the hardstanding area. A further two food container units will be located on the hardstanding area, one measuring 2.4 metres by 12 metres and positioned slightly to the east of the unit, and a second measuring 2.4 metres by 6 metres and positioned adjacent to the front boundary fence, near the entrance to the site. These units would be occupied by vendors selling less/non-odorous food and drinks such as coffees, sandwiches and desserts. All of the food units will be connected to the existing electricity supply and some will have small gas grills.

- 3.3 A total of 12 parking spaces will be provided on the hardstanding area immediately in front of the unit and will accommodate customers eating on the premises and ordering food to take away. Entry into the development will be via the existing vehicular access on Dumbarton Road. The proposed hours of operation are 8am to 8pm 7 days per week. It is anticipated that there will be 3 staff members for each converted container unit (a total of 15) and an additional 2 'floating' members of staff covering the general area inside and outside. Ventilation will be in the form of an extract fan system from each converted container, ducted through a 14 inch fan in the roof apex of the unit/building. The external containers will not require ventilation due to the type of food being prepared. The existing sliding doors on the front of the unit will be kept open during hours of operation to provide ventilation to the general area.
- 3.4 The converted containers are already on site and had begun trading in May this year without planning permission. This was brought to the Council's attention and the vendors were contacted and advised to stop trading by the Council's Compliance Officer, which they did. The owner of the site subsequently submitted the current planning application for consideration. It is understood that the units have not traded since they were advised of the need for planning permission.

#### 4. CONSULTATIONS

- 4.1 West Dunbartonshire Council Roads Service has no objections subject to the provision of two of the twelve parking spaces for disabled badge holders.
- 4.2 West Dunbartonshire Council Environmental Health Service has no objections subject to conditions relating to ventilation, noise and grease traps.
- 4.3 West of Scotland Archaeology Service has no objections as no ground disturbance would be required to facilitate the development.

## **5. REPRESENTATIONS**

- 5.1** A total of twelve representations have been received in response to this application, comprising eleven objections from local residents and one letter of support from Old Kilpatrick Community Council. A summary of the points raised in the representations are as follows:

### Points of Objection:

- Increased traffic and noise disturbance will affect local residents;
- Customers arriving on foot rather than in cars, leading to an increased footfall in a residential area with potentially undesirable people and also an increased risk from COVID-19;
- Concerns over increased litter and how food waste will be disposed of, and how this could attract rats and sea gulls. Sea gulls already a problem for several months a year;
- Odours from food affecting amenity e.g. unable to sit in garden, hang washing out etc;
- Taking business away from existing cafes, restaurants and take-away premises;
- Premises have not been maintained affecting appearance of local area, broken fencing, overgrown vegetation, fly-tipping, premises not secure, previous fires, building is falling apart;
- Increased risk of fire from food outlets;
- Parking and containers will affect visual amenity;
- Site is accessed from a very busy main road, how would emergency vehicles access the site;
- Mains services such as gas, electricity, water should be up to current safety standards;and
- Drawings are inaccurate and show office buildings that have been knocked down.

### Points of Support:

A representation has been received from Old Kilpatrick Community Council in favour of the application. The community Council supports the proposal for the following reasons:

- The development will enable the site to be commercially viable;
- It will enable the village to become a destination point;
- Noise and smells from cooking can be monitored by the relevant Council departments;

- Food safety and hygiene can be addressed by adhering to Environmental Health requirements;and
- Applicant already supports the local community by providing a storage container on the site for the Old Kilpatrick Food Parcels sub-group, and the group hopes to develop their base within the building in the future.

**5.2** The concerns raised in the representations are addressed in section 7 below.

## **6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

### West Dunbartonshire Local Plan 2010

**6.1** Policy GD1 seeks to ensure that all new development is of a high quality design, of an appropriate and compatible land use and that it respects the character and amenity of the surrounding area. The site is identified as a Redevelopment Opportunity under Policy GD2, which encourages the redevelopment of underused, vacant and/or derelict land and buildings for appropriate uses, which for this particular site are identified as heritage, residential and public services. Proposals for alternative uses will be considered on their merits, having regard to adjoining uses, site planning, land supply considerations and compliance with other Local Plan policies.

**6.2** Policy H5 relates to development within existing residential areas and aims to protect and where possible enhance the character and amenity. Policy LE7 specifically addresses business development in mixed use or residential areas. This policy sets a requirement that any such commercial or business uses can only be supported where the Council is satisfied that residential amenity or surrounding uses are not adversely affected. Policy BE6A states that there will be a presumption against development which would have an adverse impact on the Frontiers of the Roman Empire (Antonine Wall) World Heritage Site.

**6.3** The proposal would involve the re-use of a currently vacant unit, and it is considered that it would not have a detrimental impact on other uses within the building or on the amenity of the surrounding residential area. The development would not have an adverse impact on the Antonine Wall, and over all it is considered to comply with Policies GD1, GD2, H5, LE7 and BE6A. This is covered in more detail in Section 7 of this report.

## **7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

### West Dunbartonshire Local Development Plan (LDP1) Proposed Plan

**7.1** On 27 April 2016, the Planning Committee took a final decision not to accept the Local Development Plan Examination Report recommended modification in respect of including the Duntiglennan Fields site in Clydebank as a housing development opportunity, and therefore, as a result of the Scottish Ministers'



Direction, the Local Development Plan has remained unadopted but continues to be a material consideration in the determination of planning applications.

- 7.2** The application site is identified as Existing industry and business. Policy GE2 states that development of Use Classes 4,5 and 6 uses will be supported and proposals for alternative uses will be assessed against a number of criteria including the impact on the operations of existing uses in the area; impact on the availability of land and buildings for business, industry or storage and distribution uses; the availability of other locations for the proposed use; and the positive contribution the proposed use can make to the area.
- 7.3** Policy DS1 states that all development should avoid unacceptable impacts on adjoining uses including those of noise, vibration, invasion of privacy and traffic implications. Policy BH1 relates to the Antonine Wall World Heritage Site, which the application site sits within. It states that development that would have an adverse impact on the Antonine Wall or its setting will not be permitted.
- 7.4** The proposal is considered to comply with the aforementioned policies and this is discussed further in Section 7.9 below.
- West Dunbartonshire Local Development Plan (LDP2) Proposed Plan
- 7.5** The modified Plan and associated documents was approved by the Council on 19 August 2020. The Council has now advised the Scottish Ministers of its intention to adopt the Plan. Local Development Plan 2 is therefore the Council's most up to date policy position and is afforded significant weight in the assessment and determination of planning applications.
- 7.6** The site is identified as Existing industry and business. Policy E2 relates to alternative uses of land or premises which are currently, or have previously been used, for business, industrial or commercial uses. It states that such uses will be supported where it can be demonstrated that they meet a number of criteria including: no adverse impact on the operation of existing uses or the potential for future business, industrial or employment use within the area; the proposal protects and enhances the attractiveness of the area as an industrial and business location; the proposal is ancillary to the industrial and business uses; there is no unacceptable detrimental impact on the availability of employment land; and the economic benefit that the proposal can bring to the area is demonstrated.
- 7.7** Policy ENV8 seeks to ensure that developments do not have a significant impact on surrounding uses and properties by way of air, noise and light pollution. Where required proposals that have the potential to impact these will require to demonstrate that their impact is not significant and provide adequate mitigation where necessary. Policy AW1 seeks to protect the Antonine Wall and states that development that would have an adverse impact on the Antonine Wall or its setting will not be permitted.

- 7.8** The proposal is considered to comply with the aforementioned policies and this is discussed further in Section 7.9 below.

#### Principle of Development and Site Selection

- 7.9** The site is identified as a Redevelopment Opportunity under Policy GD2 of the adopted local plan, which encourages the redevelopment of underused, vacant and/or derelict land and buildings for appropriate uses, which for this particular site are identified as heritage, residential and public services. The proposed use as a street food market is not strictly 'redevelopment' in that no demolition or new buildings are proposed, and the proposed food market use does not fall within any of the use categories identified for this site. The proposal is therefore contrary to this part of the policy. However, Policy GD2 also supports alternative uses and the proposal would bring a currently vacant unit back into use. It is considered that the principle of this alternative food market use is appropriate in the context of the site and area and this is discussed further below. Within LDP1 and LDP2, the site is identified as Existing business and industry, however alternative uses will be supported where they meet a number of criteria. In considering this, the proposal will not have an adverse impact on the existing storage and distribution uses operated from the other two units within the building. Vehicles will still be able to access these and the parking area in front of the other units will be unaffected by the development. The application unit and proposed use will involve only a small part of the overall building and can therefore be seen as ancillary to the other primary storage and distribution uses within the building. The proposals will have a negligible impact on the availability of industrial and business units in the Old Kilpatrick and wider area. Further to this, the unit has previously been granted planning permission to operate as an indoor sports facility therefore there is a history of non-industrial/business use on this site. It is understood that the previous tenant of the sports facility vacated after the expiry of their lease (2018) stating that it was not profitable enough. The applicant has stated that it has been difficult to find uses for the building through marketing due to its size, condition and the archaeological status of the land on which it sits. The unit is currently vacant and by bringing it back into use it will have an economic benefit by providing a space for small business-owners to operate.
- 7.10** 'Pop up' food businesses selling a variety of food and drinks from converted containers are becoming more common with successful examples throughout the country. They provide a relatively low-cost, portable retail space for small businesses. Finding a suitable location can be difficult as such businesses need to be visible to attract customers, and a single container unit at the side of a road can look out of place, however, by grouping them together as proposed, the businesses can benefit from becoming a small food market, which is likely to draw more customers than a stand alone unit would and brings these use types together to suitable locations. By siting the units at this former bus depot, which has a strong industrial appearance, the use of former shipping containers can be regarded as 'in keeping' with the site. Overall, the principle of the proposal is considered to be acceptable.

### Compatibility of Use and Impact upon Residential Amenity

- 7.11** The unit is currently unused and therefore any new use will bring with it an increase in activity. It is acknowledged that there will be an increase in the number of cars and people visiting the site, however, this in itself does not mean that there will be a detrimental impact on the amenity of nearby residential properties. The nearest residential properties are located to the north and east of the site. The nearest house would be around 22 metres away from the nearest converted container. The proposed operating hours are 8am to 8pm, Monday to Sunday therefore there would not be any late night activity on the site.
- 7.12** Ventilation of the converted containers inside the unit will be provided by a 14 inch fan installed in the roof apex of the unit, which will have conduits leading to each converted container. The unit is part of a large warehouse building and so it has a large internal volume. This along with the ventilation fan and the large front door, which will remain open while vendors are trading, will allow air to circulate within and through the unit and will minimise odours. The applicant proposes to locate the containers that sell more odorous foods such as pizza, pakora, burger etc. inside the unit, and the proposed ventilation will prevent cooking smells from affecting nearby residential properties. A condition can be attached requiring the submission of further ventilation details to ensure that the equipment installed is sufficient at dealing with odours. The two containers located outside the unit will be occupied by vendors selling less odorous food such as sandwiches and hot drinks. The type of food sold from outside can also be controlled by condition. The Council's Environmental Health Service are satisfied with the proposals subject to conditions regarding the ventilation and management of the type of cooking from the containers sited outside the unit on the hardstanding area.
- 7.13** The existing lighting outside the building will remain as it is with only low-level garland bulb style lighting added for decoration. The applicant has stated that the picnic tables to be used for the seating area could be used inside or outside the unit. There is a potential for seating outside to cause more noise and disturbance for neighbouring residential properties than seating inside. A condition can therefore be used requiring the applicant to submit further details of any proposed outdoor seating so that the potential impact of this can be considered and the number of tables outside appropriately limited and managed. The applicant proposes background music for customers to enjoy and the principle of this is acceptable, however the volume must be appropriate to ensure that neighbouring residential properties are not adversely affected and this can be managed by condition through consultation with the Council's Environmental Health Service. Live music is not considered appropriate at this time and this can also be addressed through a condition. The Environmental Health Service is satisfied with this approach and that noise from background music sources can be adequately controlled and mitigated. With regard to the management of waste, the applicant has confirmed that they have a waste licence and 20 wheelie bins on site. This is considered to be appropriate for the proposed use, and it would be the applicant's responsibility to ensure that waste on the site is managed and disposed of appropriately. The two additional 'floating' staff as described in section 3.2 above would be responsible for this. Considering the

above, the proposed use is considered to be acceptable and any potential impacts on residential amenity can be adequately mitigated and safeguarded.

#### Parking and Traffic Impacts

- 7.14** Vehicles would enter and exit the site through the existing access on Dumbarton Road. A total of 12 parking spaces for customers would be provided immediately in front of the unit, four of which would be reserved for customers waiting on items to take away. The Council's Roads Service has no objections to the proposal but has advised that two of the twelve parking spaces nearest the entrance should be increased in size and reserved for disabled badge holders. There is sufficient space on the site to do this and it can be dealt with by condition.
- 7.15** It is acknowledged that there will, due to the operational nature of the development, be an increase in the number of vehicles entering and leaving the site than is currently the case as the unit is vacant. However, the existing access is wide enough to easily accommodate traffic entering and leaving the site at the same time, as well as emergency vehicles. There is also good visibility in both directions along Dumbarton Road for traffic leaving the site. Within the site the hardstanding area is large enough to accommodate vehicles manoeuvring and there is also space to form additional parking spaces if required in the future. The former use of the site as a bus depot had regular traffic movements and it is not considered that the traffic movements associated with the proposed use would impact adversely on the site or surrounding area. The site is easily accessible within Old Kilpatrick and it is therefore expected that some trade will be generated by people arriving on foot.

#### Other Matters Raised in Representations

- 7.16** A number of other points have been raised in the representations that are not material planning considerations, however, they are still a concern to local residents and therefore captured below. The existing problem with sea gulls on the roof of the building has been mentioned in many of the representations. The introduction of food outlets within and outside could attract birds and vermin such as rats. However, if litter and waste are managed correctly then the proposed use should not exacerbate any existing problem. The applicant has stated that they have purchased a seagull distress alarm which, for example, can emit the sound of a bird of prey when the seagulls approach which is known to act as a deterrent. As noted above, adequate bin provision and staff to manage waste is proposed and considered to be acceptable by the Council's Environmental Health Service.
- 7.17** Concern has also been raised about the condition of the building and its grounds, with broken fencing, overgrown vegetation and fly-tipping at the rear of the building mentioned in the representations. It has been claimed that the building is not secure and that fires have previously been set. These are not material planning considerations and responsibility for the maintenance and security of the building lies with the owner. The unit is currently empty and

therefore does not generate any income, however the proposed use would provide the applicant with the opportunity to re-invest in the building which the applicant is committed to doing. Other concerns relate to the proposed use taking business away from existing cafes, restaurants and take-aways in the local area. While competition is not a material planning consideration, this proposal is considered to be a bespoke and unique food offering that does not currently exist within Old Kilpatrick or the Council area with exception to similar food markets that come and go from Lomond Shores in Balloch. Increased fire risk from food outlets has been raised as a concern and would be the responsibility of the applicant to ensure the business operates in accordance with fire safety regulations for this type of use. While concerns have been raised regarding the draw of people to the site, it is unlikely given the scale and set-up that the village would be inundated with people and cars. With regards comments referring to Covid-19, the Scottish Government has provided guidance on how businesses must operate and it is the responsibility of the vendors and site owner to ensure that these are followed. Reference has been made to the drawings being inaccurate and showing office buildings that have been demolished. The applicant has confirmed that an office building was demolished around 3 years ago.

- 7.18** Old Kilpatrick Community Council have expressed their support for the application. They believe that the use will enable the building that the unit forms a part of to become commercially viable, and they are keen to see the building retained as the applicant currently provides storage for the Old Kilpatrick Food Parcels sub-group. They also hope to create an information base within the building in the future to promote local points of interest such as the Antonine Fort/Wall. It does acknowledge that some local residents are concerned about potential noise and smells from the proposed use but considers that it is possible for such issues to be managed. The Community Council is supportive of the proposal and considers that it will enable the village to become a destination point.

## **8. CONCLUSION**

- 8.1** The proposal would bring an existing vacant unit back into use and would provide a space for local small businesses to operate. While there would be an increase in noise and general activity as a result of the use it is not considered that this would be any greater than if an industrial or other business use were to occupy the premises, and potential issues caused by cooking odours and noise can be addressed through adequate ventilation and mitigated through conditions. It is considered that the proposed development would not have a significant detrimental impact on residential amenity and is a suitable alternative use for this site and will provide a bespoke food offering within the area. It is acknowledged that the proposal is unique and the first of its kind in West Dunbartonshire and it is recommended that a temporary permission is granted for a two year period which allows the applicant adequate time to establish the food market business, build a reputation and customer base but also provides a monitoring and review period for the

development. It would be open to the applicant to re-apply for planning permission when the permission is due to expire.

## **9. CONDITIONS**

- 1. The permission hereby granted is for a temporary period of 2 years only and shall expire on 11<sup>th</sup> November 2022.**
- 2. Notwithstanding the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any other future enactment, only a street food market use shall be permitted to operate from the application site and no other use shall be permitted without the prior written consent of the Planning Authority.**
- 3. The converted containers shall trade only between the hours of 08.00 and 20.00.**
- 4. Notwithstanding the submitted details, no more than 5 converted containers in the positions shown on drawing number 2020/915/01 shall trade at any one time on the premises. Any change to the location of any of the converted containers must first be approved in writing by the planning authority.**
- 5. Prior to the commencement of the use, an amended parking plan including two parking spaces for disabled badge holders, each measuring 6.5 metres by 3.9 metres, shall be submitted for the further written approval of the planning authority. All of the parking spaces shown on the approved plan shall be delineated on the site before the commencement of the use and retained thereafter.**
- 6. Prior to the commencement of the use, details of an adequate sized grease trap shall be submitted to and approved in writing by the Planning Authority. It shall be installed as approved and maintained thereafter.**
- 7. Prior to the commencement of the use, specific details of the proposed method of ventilation shall be submitted to and approved in writing by the Planning Authority. The proposed development shall not be brought into use until the ventilation systems are operational in accordance with the approved details.**

**The ventilation system shall:**

- a) Incorporate systems to reduce the emission of odours and pollutants and shall thereafter be maintained as necessary.**
- b) Be constructed by employing best practical means to minimise noise and vibration transmission via plant and the container structure.**

- c) Noise associated with the ventilation shall not give rise to a noise level, assessed with the windows open, within any dwelling or noise sensitive building, in excess of the equivalent to Noise Rating Curve 35, between 07:00 and 20:00 hours, and Noise Rating Curve 25 at all other times.
8. Prior to the commencement of the use, full details of any proposed outdoor customer seating shall be submitted for the further written approval of the planning authority and implemented as approved. Thereafter, any changes proposed to the details as may approved under the terms of this condition shall require the further written consent of the Planning Authority.
9. Prior to the commencement of the use, full details of any previously recorded background music to be played from the unit as part of the development shall be submitted for the further written approval of the planning authority in consultation with the Council's Environmental Health Service. Such details shall include the maximum volume of music and the location of any speakers. Thereafter, the development shall be implemented as approved and the maximum volume of music shall not be exceeded and there shall be no changes to the location of speakers without the prior written consent of the Planning Authority. No music shall be played from outside the unit and no live music shall be played at any time.
10. Prior to the commencement of the use, details of the menu(s)/ those foods to be prepared and sold from outside the unit/ building subject to this application shall be submitted to and agreed in writing by the Planning Authority through consultation with the Council's Environmental Health Service. Thereafter only the menu(s)/ those foods as may be agreed under the terms of this condition shall be prepared and sold from outside the unit/building and there shall be no changes without the prior written consent of the Planning Authority.
11. Prior to the commencement of the use, full details of the number and location of bins within the site and the management of waste shall be submitted for the approval in writing of the Planning Authority and implemented as approved.

**Peter Hessett**  
**Strategic Lead - Regulatory**  
**Date: 11 November 2020**

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**Person to Contact:** Pamela Clifford, Planning, Building Standards and Environmental Health Manager

Email: [Pamela.Clifford@west-dunbarton.gov.uk](mailto:Pamela.Clifford@west-dunbarton.gov.uk)

**Appendix:** None

**Background Papers:**

1. Application documents and plans
2. West Dunbartonshire Local Plan 2010
3. West Dunbartonshire LDP - Proposed Plan
4. West Dunbartonshire LDP - Proposed Plan 2
5. Consultation responses
6. Representations

**Wards affected:** Ward 6 (Clydebank Waterfront)



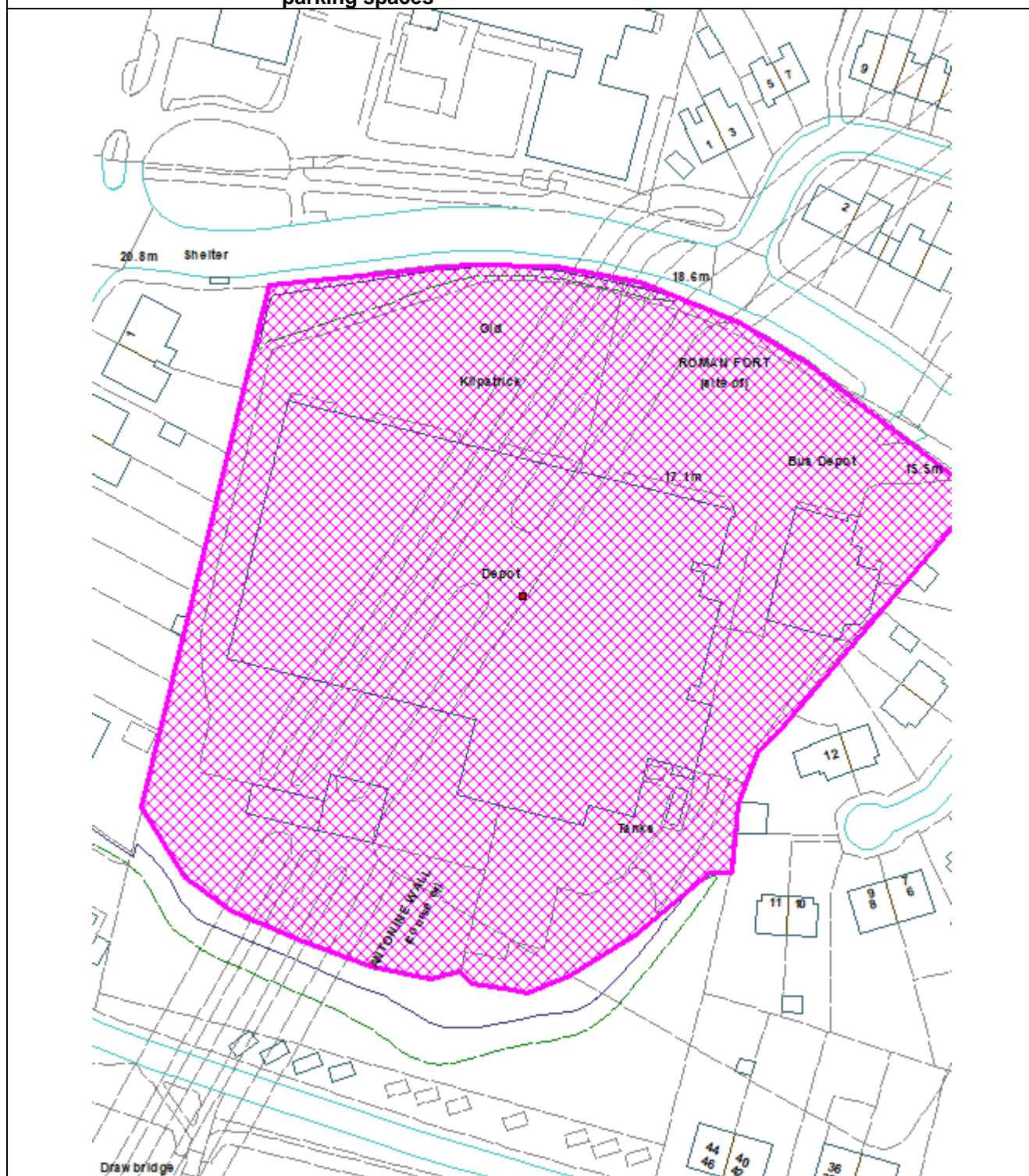
Map Register No: HQ647

Date: 28 October 2020

DC20/135

Part change of use of  
indoor sports facility and  
associated external  
hardstanding area to street  
food market including the  
siting of five containers  
and formation of 12  
parking spaces

Unit 1  
Gavinburn Business Park  
223 Dumbarton Road  
Old Kilpatrick  
G60 5NB





## WEST DUNBARTONSHIRE COUNCIL

### Report by the Strategic Lead Regulatory

**Planning Committee: 11 November 2020**

**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 **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)
- 2.2** 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).

#### **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, extension application and the Scheduled Monument. The following issues were raised by the Committee requiring further clarification and comment:

- The Review of Minerals application process and how it relates to the extension application.
- Further details of Scheduled Monument (SM) process and the role of the Council in that process
- The proposed hours of working and how it relates to modern standards.

## **4. Main Issues**

### Refusal of the ROMP

- 4.1** It was suggested that if the application for new conditions was refused that the application be handed over to the Scottish Ministers for determination on appeal. The guidance and legislation is clear that the planning authority, and only the planning authority is obliged to determine new conditions; the planning authority cannot refuse to determine the conditions. The Committee therefore requires to consider the conditions proposed by the applicant and either agree to approve these conditions or agree to determine conditions that differ from those set before them. There is no legal right to refer the conditions to the Scottish Ministers for determination. The ROMP is not granting a new permission but is reviewing the 1949 permission and agreeing to a new set of conditions which meets modern standards and working practices. The application for the extension is a normal planning application and the Committee can approve or refuse the application and if the application is refused there is the right to appeal to the Scottish Ministers.
- 4.2** In terms of the conditions recommended in the ROMP. 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. Where the Planning Authority determine conditions different from those submitted by the applicant and the effects of the conditions is to restrict working rights further than the existing conditions attached to the permission relating to the site the planning authority must provide a separate notice for determination. This should identify the working rights further restricted and state whether or not in our 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 for compensation will arise. The applicant has a right of appeal to the Scottish Ministers against the planning authority's opinion. Scottish Government advice considers that conditions which would restrict working rights to the extent of unreasonable prejudice should not be imposed except in exceptional circumstances.
- 4.3** The applicant has provided the asset values for the overall site, the Scheduled Monument area, the Milton Hill area and the proposed extension area which was to be exchanged for the Milton Hill Area. This information demonstrates the loss in asset value in the event that working was restricted within the Scheduled Monument and Milton Hill areas. The asset values of Milton Hill and the proposed Extension area are not significantly different and the proposal does represent a reasonable exchange for restricting operations at Milton Hill and allowing the quarrying of the extension area.
- 4.4** If the Council were to restrict operations to retain the Scheduled Monument the level of compensation payable would be in the region of several million pounds. From the figures provided, it is clear that there is a significant reduction in asset value and that the imposition of any condition that restricted development in the Scheduled Monument area which would prejudice to an unreasonable degree the asset value of the site, the Council would be liable to pay compensation. The planning permission granted in 1949 for Sheephill Quarry allows the full excavation of the whole site, which includes the rock

under Sheep Hill Scheduled Monument. If the Council was to impose a planning condition which restricted development so as to retain the Sheep Hill Scheduled Monument, then the Council would be directly responsible for the reduction in the asset value of the quarry and would require to compensate the operator.

#### 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 repeatedly established and Historic Environment Scotland have suggested that it would not seem reasonable to recommend refusal of any subsequent application for SMC at this stage.
- 4.6** Since the March Planning Committee Historic Environment Scotland have provided further details of the Scheduled Monument Consent process. They have indicated that while works to the scheduled area would require consent, there is a long established permission in place to extract minerals in this area which would be a significant consideration for any application for scheduled monument consent (SMC). SMC has previously been issued for the excavation and removal of Sheep Hill Fort and although the consent has now expired, the principle of its excavation has been established. Therefore there would be a presumption that Historic Environment Scotland would grant consent for a new application for excavation and subsequent removal of the monument were it to be made. All applications for scheduled monument consent are public and are lodged on their portal and anyone can comment on them. Any material comments would be taken into account in making the decision. They have indicated that the Council is not a statutory consultee and does not have a right to make an objection, but is free to comment on the application
- 4.7** Historic Environment Scotland have indicated that they would expect the applicants to consult them well before they submitted the application for SMC. These pre-application discussions would clarify their expectations of the archaeological work on the hill fort. For a large and complex case such as this, they would expect to have long discussions with the applicants and with their archaeological contractors, who would prepare detailed plans for the necessary archaeological work, which would be funded by the applicant. A project design with appropriate supporting documentation and agreements would then form part of the application for consent. It can take up to 8 weeks to process an application for consent, or more time by agreement between HES and the applicant. This case would also be referred onwards to Scottish Ministers for review and final decision.

- 4.8** The Council will have the opportunity to make representations to both Historic Environment Scotland and the Scottish Ministers asserting that the Scheduled Monument is an important archaeological site which should be retained and that the SMC application be refused. As the 1949 planning permission pre-dates the scheduling of the Sheep Hill SM site, if the Scottish Government were to refuse SMC then the Scottish Government would under the Ancient Monuments and Archaeological Areas Act 1979 be liable to pay compensation to the operator.

Hours of working

- 4.9** The Quarry can work unrestricted and can operate 7 days a week, 24 hours a day, at present due to 1949 permission. The agreed conditions as part of the ROMP would allow the quarry to operate under more restricted and modern conditions which take into account amenity, environmental and landscape matters. The current operations are undertaken on a double shift worked 6am to 10pm Monday to Friday, 6am to 1pm on a Saturday and 8am to 4:30pm on a Sunday. Working at weekends may be extended for specific contracts or where delays have been experienced.

- 4.10** The Committee had commented about the long hours of working and how they can meet modern standards. Planning Circular 34/1996: Environment Act 1995 gives advice to planning authorities and the minerals industry on the statutory procedures to be followed for the consideration of updated planning conditions in the review process. In terms of hours of working it states: "that it is not the hours of working themselves which cause disturbance but the environmental effects associated with the operation - e.g. traffic, noise, dust etc. Restricting working hours may not therefore achieve environmental improvements if production is intensified during the shortened working period."

It is proposed that Sheephill Quarry is to operate from 0600-2200 hours Monday to Sunday, and no operations other than emergency works, water pumping, servicing, maintenance and testing of plant being permissible outside these hours. Outwith 0700–1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturday and Sunday (with the exception of haulage vehicles entering and leaving the site), all operations would be undertaken below ground level within the quarry void where there is less risk of it causing noise or other disturbance. A similar condition would be applied to the extension permission.

- 4.11** There are no 'standard times' for operational hours within the quarrying industry. This is reflected in the guidance in Circular 34/1996 as it advises that the precise nature of the condition and times specified will depend upon the circumstances of the particular case. Longer or shorter hours may be appropriate. Therefore it would be unreasonable to set operational hours at a quarry purely on the basis that these hours were the same as another operation elsewhere.

- 4.12** A detailed noise assessment was undertaken with the Environmental Statement and recently an updated noise report from noise consultants, based upon BS5228 and PAN 50, was submitted with respect to the locations of noise sensitive receptors. The assessment contains operational limits for both the ROMP and extension area. The predicted noise levels have been assessed against the criterion in PAN 50 based on the hours of working specified in Condition 3 contained in the Committee report in Appendix 1 and a noise criteria table, which is referenced in condition 4 in both the ROMP and extension application in relation to noise limits, has been agreed with the applicant. Whilst concern was expressed by the Committee at the length of the proposed hours of working, the guidance contained in Circular 18/1996 advises that longer working hours, including 24 hour working, may be acceptable where the location of the site and/or other conditions can ensure that residential and other sensitive property do not suffer adverse effects. PAN 50 includes recommended noise levels for working 1900-0700hrs, designed to ensure that quarries can operate 24hrs if need be, but without causing noise disturbance at nearby residences. This proposal complies with this 'night time' noise level including for daytime working on Sundays. The noise levels agreed by condition 4 complied with the recommendations of both PAN 50 Annex A and the World Health Organisation (WHO).

- 4.13** The current and proposed future operations have appropriate distances from residential properties. It has been agreed that early morning and evening operations will be restricted to areas below ground level, where reduced noise levels can be achieved; and it has been demonstrated to the satisfaction of Environmental Health that operations can be undertaken without any amenity impact in relation to noise, dust, or traffic movement. The extension area would have no significant impacts on any sensitive receptors and that appropriate separation distances are being maintained from all properties. The setting of specific noise levels enables any noise complaints to be assessed in terms of strict adherence to the specified noise criteria set out in Condition 4. The operator is required to routinely monitor these levels to ensure they are being achieved. Should a resident complain of noise disturbance, even when it was within the specified noise limit, Environmental Health would investigate and potentially may require a reduction in the output noise level in terms of the Environmental Protection Act 1990 if it is deemed to be a statutory nuisance.

Link between ROMP Permission and Extension Application

- 4.14** The applicants had confirmed that they would accept ROMP Condition 2, which removes the Milton Hill area from the quarrying.

*ROMP Condition 2 states "No excavation of rock or quarrying operations or the storage of any materials/aggregates, equipment or the parking or servicing of any vehicles or equipment shall take place within the area coloured green on ROMPS Development Plan Figure REVDEV/06.12101 . "*

The applicant has indicated that this condition was 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 Sheephill Extension application they will no longer accept Condition 2 and that development proposals will revert to

those submitted with the ROMP application whereby the area adjacent to Milton Hill can be quarried as per 1949 permission or the applicant seeks compensation for the asset loss of this part of the quarry site. Condition 4 on the ROMP application would require to be revisited as noise limits will require to be reviewed and uplifted to correspond with the levels that will be experienced at Milton Hill during the development of this phase of operations.



### Letters of Representations

- 4.15** In the March Committee report there were eight letters of representations including Bowling and Milton Community Council and Silverton and Overtoun Community Council and one letter of support which supports the extension application. At the Committee, the objectors and the applicants agent addressed the Committee. Since the Committee a further objection has been received and they believe that the work has already been carried out and there has been significant rock fall onto a 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. They believe that there is another ancient structure directly below and will be contacting Historic Environment Scotland and West of Scotland Archaeology Service.
- 4.16** In response to the above issues raised the applicant has advised that any rock movement was attributable to on-going works within the quarry boundary and health and safety protocols were in place to ensure that all works were being undertaken safely. Surface water runoff from a significant proportion of the surrounding hillside has historically been channelled through the area below Sheephill. There is no potential for flooding of the A82 from this source. They are unaware of any previously unrecorded archaeological features in the area and much of the hillside below Sheephill is disturbed ground with derelict man-made structures for during the war. Historic Environment Scotland or West of Scotland Archeology Service have not raised any issues regarding other ancient structures.

### Other Issues

- 4.17** The Environment Statement (ES) supporting the application was prepared in 2002. It has been suggested that the contents of the ES are out of date. The various aspects of the ES have been discussed with the applicant and that in relation to the assessment and the principle of the methodology for assessing landscape and visual impact, this has not changed since the original assessment was undertaken. No significant changes have occurred in the management of dust and no change in relation to archaeology. A number of matters have been updated since the ES was submitted such as the water management plan, updated noise and blast vibration assessments and an updated ecological survey is required by condition to be undertaken prior to commencement of operations and, if required, that appropriate mitigation is implemented on site. The consultation process has not raised issues which have not been addressed or can be dealt with by condition.

## **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 objectors have been consulted through the planning process.

## **10. Strategic Assessment**

**10.1** The ROMP supports the Councils strategic priorities of the Council.

**Peter Hessel**  
**Strategic Lead- Regulatory**  
**Date: 11<sup>th</sup> November 2020**

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<b>Person to Contact:</b>	Pamela Clifford, Planning, Building Standards and Environmental Health Manager Email: <a href="mailto:Pamela.Clifford@west-dunbarton.gov.uk">Pamela.Clifford@west-dunbarton.gov.uk</a>
<b>Appendices:</b>	Appendix 1 – Planning Committee Report – 11 <sup>th</sup> March 2020
<b>Background Papers:</b>	<ol style="list-style-type: none"><li>1. Application forms, plans and Environmental Statement;</li><li>2. Consultation Responses;</li><li>3. Letters of representation;</li><li>4. Glasgow &amp; Clyde Valley Strategic Development Plan 2012;</li><li>5. Clydeplan</li><li>6. Scottish Planning Policy;</li><li>7. West Dunbartonshire Local Plan 2010;</li><li>8. West Dunbartonshire Council Proposed Plan 1 and 2</li><li>9. Planning Circular 34/1996;</li><li>10. Planning Advice Note 50 and Annexes;</li></ol>
<b>Wards affected:</b>	Ward 3 (Dumbarton)

## WEST DUNBARTONSHIRE COUNCIL

### Report by Strategic Lead- Regulatory

Planning Committee: 11<sup>th</sup> March 2020

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#### WP98/076: Review of Minerals Permission (ROMP)

#### DC02/447: Extension to Quarry, Sheephill Quarry, Milton, Dumbarton

### 1. REASON FOR REPORT

- 1.1 The Planning Committee in 2005 were minded to approve the planning application for the extension and agree the conditions for the Review of Minerals Permission (ROMP) subject to the signing of a Legal Agreement. The decisions on the respective applications for the ROMP and the planning permission for the extension area were not issued as the required Legal Agreement had not been signed due to difficulties on the part of the applicant in securing all of the necessary signatures. The applicant is now in a position to conclude the legal agreement and given the passage of time the applications require to be agreed by the Planning Committee.

### 2. RECOMMENDATION

- 2.1 That the Committee **accept the agreed conditions** set out in Section 9 and authorise officers to issue the Review of Minerals Permission(WP98/076)
- 2.2 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 and to the satisfactory conclusion of a legal agreement in terms of the restoration bond(DC02/447).

### 3. DEVELOPMENT DETAILS

- 3.1 The quarry site is on the north side of the A82 between Milton and Bowling, and is accessed directly from the Dunglass roundabout. The approved area of the quarry extends to 32.5 hectares and was granted permission (on appeal) by the then Secretary of State on 3<sup>rd</sup> November 1949. It is located behind Sheep Hill and Auchentorlie Woods and is otherwise bounded mainly by field boundaries to the east and north, and by the residential properties of Miltonhill which abut the site to the west. The quarry produces crushed rock aggregate for an established client base from Argyll and Bute to North Lanarkshire and Ayrshire to Stirling /Falkirk. Outstanding reserves in the quarry were estimated at 22.3 million tonnes in January 2020. There is a processing plant situated within the excavation area for the crushing of rock. At present the quarry has 75 employees.
- 3.2 This conjoined report considers two applications - the Review of Minerals Permission (ROMP) and a planning application for an extension to the operational quarry. The Review of Minerals Permission (ROMP) is not a normal application for planning permission as a normal planning permission is

being sought. The main purpose is to allow quarries to work under modern conditions with a set of conditions to be agreed between the operator and the Planning Authority. 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 Sheephill 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. No work has commenced on the extension area.

### Background

- 3.3** Planning permission for Sheephill Quarry was granted on appeal by the then Secretary of State for Scotland on 3 November 1949, subject to seven conditions which are contained in Appendix 1. That planning permission allows the quarry to operate until 2042. At the time of the permission the planning system was in its infancy, and the permission included far fewer conditions to safeguard environmental and amenity interests than would be normal today. In order to address the issue of old minerals consents such as Sheephill Quarry, the Environment (Scotland) Act 1995 required that all operating quarries be identified by Planning Authorities and that quarry operators apply for a review of their planning conditions known as a "Review of Minerals Permission" (ROMP).
- 3.4** A ROMP application is not an application for planning permission, and it does not seek permission for any new works beyond those which were authorised by the original permission. Rather, the purpose of the ROMP is to bring the planning conditions up to date, with the new conditions being agreed between the operator and the Planning Authority based on current best practice methods and environmental procedures. The ROMP application does not revisit the principle of whether the quarry should be allowed, as this has been established by the existing permission, and the new conditions should not affect the economic viability of the quarry. In the event of a Planning Authority imposing new conditions which did impact upon the viability of the quarry, the Council may be required to compensate the quarry operator accordingly.
- 3.5** In the case of Sheephill Quarry, the Council gave notice to the operator on 10 March 1997 that the quarry had been classified as an Active Phase 1 Site and that an application for a ROMP would therefore be required. This application was duly submitted on 26 April 1998, and following discussions the Council indicated on 15 December 1998 that an Environmental Impact Statement should be carried out. The Environmental Statement was not submitted until March 2003. The consideration of the ROMP application highlighted the fact that the original 1949 permission has a site boundary which immediately adjoins the Miltonhill residential area which was built in the 1960s. Under the terms of the 1949 permission, the quarry could continue to operate right up to the edge of Miltonhill, which would be likely to adversely impact upon the amenity of the neighbouring houses, and this relationship between an operational quarry and a residential development would not accord with current good practice.
- 3.6** Meanwhile, a separate application for planning permission to further extend the potential extraction area of Sheephill Quarry was submitted in 2002 (application

DC02/447). The proposed new extension would enlarge the quarry boundary by approximately 1.53ha on its north western boundary, but this area would include buffer zones and the actual excavation area would only be extended by 1.07ha. The intention behind the planning application for the new extension was that the existing permission to develop next to Miltonhill would be “swapped” for the new consent to develop the north western extension.

**3.7** Both the ROMP and the planning application for the extension were presented to the January 2005 Planning Committee, and were continued until the February 2005 Committee to enable a site visit and hearing to take place. At that meeting a hearing took place and objectors and the agent for the applicant addressed the Committee. The report into the ROMP application was prepared for the January committee meeting and recommended a set of new conditions, but it is understood that these proposed conditions had not been agreed with the applicant. A meeting then took place between the applicant and officers prior to the February Planning Committee meeting, at which a number of amendments to the recommended conditions were discussed, but the report was not updated for the February committee meeting, and the discussion was reported to the Committee orally. A copy of the planning application reports are contained in Appendix 2. The Committee’s decision was as follows:

- *“That amended conditions similar to those outlined in the Director’s report, details of which are contained in the Appendix hereto, be imposed for the future quarry operations;*
- *That authority be delegated to the Director of Development and Environmental Services to finalise the conditions to the Review of Minerals Permission to the quarry extension; and*
- *That the planning consent would not be issued until the existing planning consent was revoked by either a Section 75 Agreement or a Section 65 Order and until a restoration bond was signed and delivered or otherwise provided for”.*

**3.8** The decisions on the respective applications for the ROMP and the planning permission for the extension area were not issued as the required Legal Agreement had not been signed due to difficulties on the part of the applicant in securing all of the necessary signatures. Updates on the progress of the two applications were presented to the Planning Committee meetings in 2008, 2012 and 2013. It is only recently that the applicant’s agent has advised that all necessary signatures can be secured and the legal agreement can be signed so the restoration bond can be delivered. In October 2019, all neighbours within 20 metres of the quarry site, all previous objectors, and Community Councils were notified that the Council were now in a position to return the ROMP and the extension applications back to Committee. In the notification, the background to both applications was explained and a 21 day period was given to submit comments. The applications were also advertised in the local press.

## **4. CONSULTATIONS**

- 4.1** West Dunbartonshire Council Roads Service have no objection to the applications.
- 4.2** Transport Scotland have no objections and is satisfied that the development will not give rise to any significant environmental impacts associated with an increase in traffic on the trunk road.
- 4.3** West Dunbartonshire Council Environmental Health Service has no objections subject to conditions requiring noise levels to meet the terms of PAN 50.
- 4.4** SEPA are satisfied with the updated surface water management plan and have no objections to the applications.
- 4.5** Historic Environment Scotland have no comments on the conditions associated with the ROMP. The proposed extension area will have an impact on the setting of the scheduled ancient monument of Sheephill fort but do not object. The extension will read as part of the existing quarry and it does not raise issues of national significance.
- 4.6** Scottish Water and Scottish Natural Heritage have no comments to make on the proposal.
- 4.7** West of Scotland Archaeology Service have indicated that in terms of the ROMP application that any sites discovered during the soil stripping will be "excavated, analysed and published". In terms of the extension the necessary archaeological investigation should be secured by the attachment of a condition requiring the implementation of a programme of archaeological works.

## **5. REPRESENTATIONS**

- 5.1** Eight letters of representations including Bowling and Milton Community Council and Silvertoun and Overtoun Community Council have been received. One letter of support has been received which supports the extension application. The reasons for objection are summarised as follows:
- 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;

- 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 Ministers;
- 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.

## **6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

- 6.1** Since the consideration of the ROMP and extension application in 2005 the former Glasgow & Clyde Valley Joint Structure Plan 2003 and Dumbarton District, District Wide Local Plan 1999 have both been replaced by Clydeplan 2017 and the West Dunbartonshire Local Plan 2010 respectively. The relevant policies of the new plans are however generally similar to those which were in force in 2005.

### Clydeplan

- 6.2** Policy 15 states that an adequate and steady supply of minerals must be maintained with a land bank for construction aggregate equivalent to at least 10 years extraction being required and notes that there are sufficient hard rock operational reserves to meet demand in the city region. Policy 14 relates to development in the Greenbelt and states that the objectives in para 8.15 of Clydeplan should be met, of which ensuring that rural industries, such as mineral extraction in this case, is located in a sustainable location.

#### Adopted Local Plan 2010

- 6.3** Sheephill Quarry lies partly within the Green Belt and partly with Wider Countryside designations of the Local Plan; therefore policies GB 1 and WC 1 are applicable in this instance. Policy GB1 presumes against development in the Green Belt, subject to specified exceptions which include development which has a specific locational need for the site. Quarries are considered to have a specific locational need, because they obviously require to be located where there are workable mineral resources, and they cannot be located within built up areas. Policy GB 1 also states that any proposals must not have an adverse impact on the landscape character of the area. Policy WC 1 has similar criteria to Policy GB1 but relates to the wider countryside.
- 6.4** Policy DC8 (Minerals) presumes against new mineral working, extensions or renewal of operations that would adversely affect nature conservation sites, landscape conservation or built heritage and that conditions are imposed to secure the reinstatement of the land and that a bond is provided to ensure that reinstatement is satisfactorily completed. Policy E3A protects local nature conservation sites and Policy BE 5 relates to the protection of Scheduled Monuments. Policy GD 1 contains criteria which is applicable to the consideration of this application, namely residential amenity, traffic, and air quality.
- 6.5** Policy E1 relates to the biodiversity when considering the impacts of development. Policy E3A seeks to protect Local Nature Reserves from adverse impacts on their character and integrity. Sheephill Quarry is partially covered by a local nature conservation site and contains archaeological interests, and therefore the quarry as approved in 1949 is not consistent with these policies. However, the principle of the quarry is not under consideration in terms of the ROMP as it already has full planning permission. Any new conditions imposed to protect archaeological, landscape or nature conservation interests require to be agreed with the applicant. These matters are addressed in Section 7 below. A quarry already exists and the small extension can be accommodated within the terms of the adopted plans and the Planning Committee of 2005 were also minded to agree the ROMP and extension application.

Clydeplan and the Adopted Local Plan (2010) do not raise any issues which have not been previously assessed.

## **7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

#### West Dunbartonshire Local Development Plan 1 (LDP) Proposed Plan (2016)

- 7.1** On 27 April 2016, the Planning Committee took a final decision not to accept the Local Development Plan Examination Report recommended modification in respect of including the Duntiglenan Fields site in Clydebank as a housing development opportunity, and therefore, as a result of the Scottish Ministers' Direction, the Local Development Plan has remained unadopted but continues to be a material consideration in the determination of planning applications.
- 7.2** Policy SD 4 supports the continuation of aggregates expansion at Sheephill Quarry and provides criteria which any expansion must accord with. The policy also requires proposals to be accompanied by acceptable and fundable restoration proposals. The criteria within the policy also covers some of the requirements of the policies identified below.



The consideration of policies DS1, DS2, GN 3, GN 4, GN5, BH 2, SD1, with regards to development in the greenbelt and wider countryside, local nature conservation sites, landscape, trees, schedule monuments and transport, are similar to that of the Adopted Plan.

Local Development Plan 2: Proposed Plan (2018)

- 7.3** On 19<sup>th</sup> September 2018 the Planning Committee approved Local Development Plan 2: Proposed Plan for consultation. It is therefore the Council's most up to date policy position and it is a material consideration in the assessment of planning applications.

- 7.4** The consideration of policies GB1, CP 1, ENV 1, ENV 2, ENV 4, BE 1, CON 1 with regards to development in the greenbelt and wider countryside, local nature conservation sites, landscape, trees, schedule monuments and transport, are similar to that of the Adopted Plan and Local Development Plan 1: Proposed Plan (2016). Policy ENV8 requires developments to address air quality, lighting and noise as part of the planning process.

Local Development Plan 2 continues to support the working of minerals at Sheephill Quarry. Policy MIN 1 is similar to Policy SD 4 of the Local Development Plan 1. Policy MIN 2 requires a financial guarantee to be provided to ensure that all restoration, aftercare and any other mitigation requirements are met in full.

- 7.5** Both Proposed Plans do not raise any further new issues which were not previously assessed and therefore the development complies with the Proposed Plans.

Scottish Planning Policy (SPP)

- 7.6** Since the ROMP was considered by the Planning Committee in 2005, the previous Scottish Planning Policies documents have been simplified and consolidated into a single SPP document. In terms of minerals, this advises that planning authorities should ensure that arrangements are in place to monitor the conditions attached to planning permissions, and that authorities are required to review conditions attached to mineral permissions every 15 years. This provides an ongoing means of ensuring that up to date operating and environmental standards are in place. The applications are therefore in accordance the requirements of SPP.

Circular 34/1996

- 7.7** This circular advises that the purpose of the ROMP is to ensure that mineral sites will be subject to appropriate conditions, having regard to the safe, efficient and economic operation of the site and the suitable and timely restoration of the site once it ceases to be worked. In determining new conditions, the planning authority should consider whether the resulting restriction on working rights would prejudice the asset value or economic viability of the site or operation to an unreasonable degree, having regard to the expected remaining life of the site. Conditions dealing with measures to prevent dust, mud and spillages on the public road will be appropriate to all sites. Working programmes should be produced for all sites to ensure that operations are designed in such a way as to protect areas of environmental and ecological importance and the amenity of nearby residential and other sensitive property. It is important that permissions should be subject to conditions governing working hours, but in determining what conditions are appropriate, the circular advises that it is not the hours of working themselves which cause disturbance but the environmental effects associated with the operation i.e. traffic, noise and dust. Applicants and planning authorities

should therefore have regard both to the illustrative guide to conditions on working hours contained in the annex to the circular, and to the circumstance of the particular case including current working hours of the site and of other mineral sites in the area. Longer working hours (including 24 hour working) may be acceptable where the location of the site and/or other conditions can ensure that residential and other sensitive property do not suffer adverse effects. The proposed conditions have been agreed with the applicant, having regard to the advice of the circular.

#### Planning Advice Note 50 (Controlling the Environmental Effects of Surface Mineral Workings)

- 7.8** PAN50 provides advice on the more significant environmental effects which can arise from mineral working operations. It contains a series of annexes which deal with the environmental effects of surface mineral working in terms of noise, dust, traffic, etc. The proposed new conditions have been agreed with the applicant, taking into account the advice given in the PAN and its annexes.

#### Principle of the Quarry and Extent of Working Area

- 7.9** As explained above, the existing quarry boundaries were approved in 1949. The area which has already been worked is located away from existing houses and has relatively little impact on the landscape. However, the two main parts of the site, which have not yet been developed, do have potential to have much more of an impact. Quarrying of the western part of the site adjacent to Miltonhill would bring the quarry very close to existing housing, with potential to adversely affect residential amenity. Quarrying of the southern part of the site (Sheep Hill) would have a significant impact on the landscape by opening up views into the quarry from the south, and would also result in the loss of some notable archaeological features. Hypothetically, if the 1949 permission did not exist, it seems unlikely that quarrying of either area would be allowed if a new application was received today. However, permission to quarry these areas cannot be removed without the agreement of the applicant or the payment of very substantial compensation. The solution which was agreed by the Planning Committee in 2005 was that permission for an extension to the north-west would be granted in exchange for the applicant entering into a legal agreement to the effect that the Miltonhill area would not now be quarried. Whilst at some stage during the lengthy consideration of the ROMP, the possibility of a similar arrangement to preserve Sheep Hill may well have been raised; however, this was not progressed and the matter is discussed below. The applicant has advised both Miltonhill and Sheephill have not been quarried to date.

- 7.10** Current operations are focussed within the western void on the 100m level and the eastern void on the 135m level. It has been advised that working within the extension area would commence immediately following the grant of planning permission. It is anticipated that quarrying might start on Sheephill within the next couple of years with future development thereafter being downwards in both that area and the extension. At the present time, the applicant has advised that they are assessing the future phasing of the quarry works and have requested that this be conditioned for submission. Since the phasing works will not have environmental or amenity impacts this is considered acceptable.

#### Means of Extinguishing Rights to Quarry Miltonhill

- 7.11** As explained above, the Council cannot impose a condition which would prevent the quarrying of parts of the site which already have permission for quarrying without either having the agreement of the applicant or paying compensation. The applicant is however willing to accept a restriction on quarrying and other

operations at Miltonhill subject to the planning application for the north-western extension area being approved to provide an equivalent workable area. Previously the applicant wished this to be dealt with by a legal agreement, whereby the applicant agreed not to quarry the Miltonhill area and the Council agreed to issue the planning permission for the extension, and the Committee approved this arrangement in 2005. However, the applicant is now willing to accept a condition on the ROMP instead to address this matter with no requirement now to include this within the legal agreement.

#### Operating and Blasting Hours Conditions

- 7.12** The operating hour's condition presented to the 2005 Committee (Appendix 2) proposed that the quarry operate 0800-2000 hours Monday to Friday, 0800-1200 hours on Saturday and not at all on Sundays or public holidays. This restriction was not agreed with the applicant, and the applicant is unwilling to accept it as they consider that it would severely restrict their operation. The applicant is now proposing an alternative operating condition which would allowed the quarry to operate from 0600-2200 hours Monday to Sunday, and no operations other than emergency works, water pumping, servicing, maintenance and testing of plant being permissible outside these hours. Outwith 0700–1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturday and Sunday with the exception of haulage vehicles entering and leaving the site all operations shall be undertaken below ground level within the quarry void where there is less risk of it causing noise or other disturbance. A similar condition would be applied to the extension permission.
- 7.13** In order to determine the extent and frequency of such work outwith operating hours, the applicant has advised that over the last 2 years, the quarry has regularly worked 6am to 10pm Monday to Friday, 6am to 1pm on a Saturday and 8am to 4:30pm on a Sunday without complaints being received. Working at weekends may be extended for specific contracts or where delays have been experienced due to plant breakdown.
- 7.14** The applicant has now accepted the restrictions on blasting hours which were agreed by the 2005 Planning Committee, and the proposed condition relating to this is therefore in accordance with the previous decision.

#### Noise Levels

- 7.15** Whilst a detailed noise assessment was undertaken with the Environmental Statement, recently an updated noise report from noise consultants, based upon BS5228 and PAN 50, was submitted with respect to the locations of noise sensitive receptors - Auchentorlie House, Greenland Farm, Middleton Farm and Milton Hill. The assessment contains operational limits for both the ROMP and extension area and a noise criteria table, which is referenced in condition 4 in both the ROMP and extension application in relation to noise limits, has been agreed with the applicant. The predicted noise levels have been assessed against the criterion in PAN 50 based on the hours of working specified in Condition 3. PAN 50 defines "daytime normally as 0700 -1900 hours and night-time as 1900 - 0700 hours. In some areas 0800 may be more appropriate than 0700 hours. The working week should generally be regarded as Monday to Friday, and Saturday morning, while Saturday afternoons, Sundays and Public/Bank Holidays would normally be regarded as periods of rest. Variations

on these may be appropriate in some circumstances if agreements can be reached”.

The daytime working noise limits have all been set as either 55dB or the background noise level plus 10dB, whichever is the lower level, down to a minimum of 45dB as defined in PAN 50.

- 7.16** For the ROMP application the applicant intends to work from 0700 –1400 on Sundays as normal daytime working as this is in line with the hours they have been operating for some time. Applying normal daytime hours during this period would mean that one property, Auchentorlie House, would have a noise limit of 45dB during this period rather than the 42dB out of hours level. A 3dB difference is regarded as just perceptible to the human ear. A 45dB level would still be less than 10dB above the background level at this location, and is the lowest recommended daytime level within PAN 50. The applicant has agreed that the noise limit will be 42dB for all locations (except Greenland farm which is in their ownership) outwith normal working hours. For the extension application the applicant has agreed that 0700-1400 on Sundays will be regarded as out of hours working and the 42dB limit will apply.
- 7.17** If noise complaints arise due to quarry operations Environmental Health would investigate in terms of the Environmental Protection Act 1990 and would serve notice in terms of “statutory nuisance” if complaints are considered to be justified and nuisance conditions exist. It should be noted that Mattock Hill has been used in lieu of Middleton Farm in terms of assessing the background levels and in terms of monitoring noise levels at this receptor. This is a perfectly reasonable approach, particularly where there may be issues with gaining access to a receptor, and it is a straight forward process to extrapolate noise levels from 1 monitoring location to the actual receptor of interest.

#### Restoration Scheme and Restoration Bond

- 7.18** The previous condition 37 on the ROMP has been replaced by a new condition regarding the timescale for a detailed scheme of restoration including aftercare and maintenance as the terms of the previous condition would have been difficult to implement. As with most hard rock quarries, operations are continuously focussed in the same place with operations going progressively deeper. The majority of restoration will only take place once operations are completed. The exception to this situation is where upper faces are completed and they can be progressively restored; this situation has not happened at the quarry to date. This restoration would commence once the first couple of benches have been developed within the extension at which point some hydroseeding could commence. Final proposals closer to the cessation of quarry operations will be submitted which give due acknowledgement to environmental and restoration standards at that time. As the ROMP requires to be reviewed every 15 years this can be monitored as the site progresses.
- 7.19** The applicant has agreed to provide a restoration bond for the extension area but is unwilling to provide a restoration bond for the wider quarry site despite being asked on several occasions. They consider that the maintenance of a restoration bond over the extended period that Sheephill will be operational is an unnecessary cost. Presently an assessment of the breakdown of restoration

work costs against the submitted restoration plans for the extension area is underway by independent specialist consultants acting for the Council. This work will determine the suitability of the restoration proposals and adequacy of the restoration figures. The outcome of the review will determine a revised updated bond figure which will be sufficient at all stages of the quarry development. As this review work is still ongoing the extension application, if agreed by the Committee, would not be issued until this review is complete and the updated restoration bond figure is included within a signed legal agreement.

#### Archaeology and Scheduled Ancient Monument Consent

**7.20** In 1970, the part of the site containing the vitrified fort of Sheep Hill was designated as a Scheduled Ancient Monument (SAM) by the Secretary of State for Scotland. This area is within the area which the 1949 planning permission allows to be quarried, but the SAM designation means that an additional Scheduled Ancient Monument Consent will be required if this area is to be worked. The applicant applied to Historic Scotland in 2000 for Scheduled Ancient Monument Consent to quarry Sheep Hill and thus remove the vitrified fort and associated archaeological features. Such consent was granted by Historic Scotland on 18 March 2002, 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. A desk-based archaeological assessment of the area of the proposed site was undertaken in March 2003. Although the Scheduled Ancient Monument Consent has lapsed, recent discussion with Historic Environment Scotland have indicated that they would be likely to renew the consent should a new application be submitted. The applicant has indicated that they are likely to submit the Scheduled Ancient Monument Consent in the forthcoming year .

**7.21** Reference has been made in the past that the then Director of Planning and Development in 2002 would investigate a possible excambion arrangement, whereby an additional extension area might be approved in exchange for the retention of Sheep Hill Fort. There was reference to this in the desk-based archaeological assessment, in which it was suggested as an alternative to the full excavation of the Fort and the publication of the analysis and details of the archaeology of Sheep Hill, the applicant would be prepared to accept an extension to the area of planning consent together with some element of financial compensation. It is understood that the applicant did some initial work on this proposal but it was found that the quality of the rock was poorer than that in the Sheep Hill area, and it was also considered that there would be even greater visual impact. The proposal was therefore never taken forward, and there is no reference in 2005 committee report to this proposal. Therefore, whilst the loss of Sheep Hill and its archaeological features is to be regretted, this has already been accepted by both the 1949 permission, by the 2005 decision and by the grant of SAMC in 2002 by Historic Environment Scotland. The 2005 report suggested two conditions relating to archaeological investigations prior to quarrying of Sheep Hill, but it is considered that these are not necessary as they would duplicate the controls which Historic Environment Scotland will exercise if they renew the Scheduled Ancient Monuments Consent for the removal of the fort.

#### Landscape Impact and Ecology

**7.22** Presently the excavated area is located within the hills above wooded slopes and has limited visibility. As the excavated area expands the landscape impact will increase, especially when the flank of Sheep Hill is removed and the hillside is

opened up. It would be expected through time that the quarry would weather and the impact would be subdued somewhat, but it is recognised that in the future as development proceeds it is likely to have an impact on the landscape and would be much more visible from viewpoints to the south, west and east. In the longer term this impact should lessen once the top faces have been subject to restoration works, and the operations fall below the sight line from the front edge of the excavation. The issues relating to quarrying in the Sheep Hill area have been addressed above in relation to the archaeological impact, and the proposed changes to the conditions since 2005 do not relate to the landscape impact.

- 7.23** The extension area is grassland and there are no trees. The previous badger survey did not record any badger activity in the survey area and that the potential for badger setts were limited due to geological factors such as very thin soils and overlying solid rock. This continues to be the case. The only potential impacts would be if badgers had been able to dig a sett within the proposed excavation area or that breeding birds were present. The applicant has agreed that a condition be attached to both the ROMP and extension application requiring an updated ecological survey to be undertaken in advance of any soil stripping and that, in the event of any protected species being identified, no works would be undertaken until appropriate mitigation measures have been agreed with the Planning Authority in consultation with Scottish Natural Heritage and implemented thereafter.

#### Access Arrangements

- 7.24** The quarry is well sited adjacent to Dunglass roundabout and A82 trunk road. The quarry has an extensive surfaced access road which ensures that vehicles leaving the site are clean and no deleterious materials are carried onto the public highway. Condition 20 on the ROMP and extension application makes provision for the paved area of road to be swept/ washed as required and in the event that mud did prove to be an issue in the future Condition 19 makes provision for cleaning facilities if this is required. The access road to Sheephill Quarry is also used by vehicles accessing the Rigangower landfill site.

## **8. CONCLUSION**

- 8.1** The Review of Minerals Permission and extension application have been with the Council for nearly 15 years and by some margin are the oldest outstanding applications with this Council. In those years there have been many issues that have delayed their issue, but in 2005 the Planning Committee agreed to the Review of Minerals Permission and to approve the extension application in accordance with conditions similar to those that were set out in the then committee report. The permissions were never issued due to legal issues, and some further changes to the conditions are now proposed; however, the principle of granting the ROMP application and the extension application, subject to conditions covering these matters, was established by the 2005 decision.
- 8.2** The current permission dating from 1949 is subject to very few conditions. This Review of Minerals Permission will allow the quarry to operate under modern conditions with controls on hours of working, blasting, dust, restoration and other environmental matters. Whilst the Council might have imposed some more restrictive conditions if this was a new application for planning permission, it cannot in this instance as this is a ROMP application and such conditions require to be agreed with the applicant if possible claims for compensation are to be avoided. The suggested conditions are considered by officers to be reasonable, and the limitations which are proposed represent a very substantial improvement

over the present situation. Whilst no quarry development can ever be designed to have no adverse environmental impacts, it is considered that through the new conditions and the associated mitigation measures that such impacts can either be negated, lowered or reduced in probability. The small extension to the quarry is also considered acceptable in both policy and environmental grounds.

## **9. Conditions**

### **WP98/076 – Review of Minerals Permission**

1. The development hereby permitted within the area identified on plan reference Figure 2 of the Environmental Statement shall endure until 21 February 2042 and at the end of the period of permission, all quarrying operations, including the crushing of rock and the transfer of aggregates from the site, shall cease.
2. No excavation of rock or quarrying operations or the storage of any materials/aggregates, equipment or the parking or servicing of any vehicles or equipment shall take place within the area coloured green on ROMPS Development Plan Figure REVDEV/06.12101.
3. Subject to the details specified in subsections 3(a)-3(b) below the normal daytime operating hours for the quarry shall be 0600 hours to 2200 hours daily and no operations other than emergency works, water pumping, servicing, maintenance and testing of plant shall take place outside these hours.
  - 3(a) Outwith 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturday and Sundays, with the exception of haulage vehicles entering and leaving the site, all operations shall be undertaken below ground level within the quarry void.
  - 3(b) Loading and despatch of aggregates for specific contracts may be undertaken outwith the specified hours where no less than 24 hours written notice (excluding weekend days and public holidays) has been given to the Planning Authority.
4. Noise attributable to the operators at Sheephill quarry shall not exceed the limits specified in Table A – Noise Criteria (attached to these conditions) at Greenland Farm, Auchentorlie House, No. 9 Milton Hill, and Middleton.
5. A request for the relaxation of the noise limits identified in condition 4 above shall be submitted in writing a minimum 14 days prior to the commencement of the operations requiring the relaxation and shall include time periods and noise limits for the temporary relaxation, all for the consideration and written approval of the Planning Authority.

6. The applicant shall undertake a noise monitoring program at the locations as described in condition 4 above and the frequency and times of such monitoring shall be agreed by the Planning Authority and the results shall be submitted in writing to the Planning Authority on a frequency to be agreed with the Authority. The noise monitoring shall be carried out in accordance with the methods specified in PAN50: Annex A – The control of Noise at Surface Mineral Working and in so far as is reasonably practical, the operation shall ensure that the best practice methodologies set out in PAN50 are adopted.
7. Blasting operations shall be carried out between 1000 hours and 1600 hours Monday to Friday, with no blasting permitted at weekends and on public holidays and the quarry operator shall endeavour to ensure that as far as is practicable, blasting should be carried out between 1000 and 1300 hours.
8. Within 4 weeks of this approval details of the methods employed to minimise air overpressure from blasting operations shall be submitted to the Planning Authority for written approval. 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 Planning Authority.
9. Notwithstanding the requirements of condition 6 and 7 above, if as a result of any emergency situation or need to ensure safe quarry practices, blasting is required to take place outside the specified hours, the times and reasons for such an event shall be notified in writing to Council's Environmental Health Service within two days of the occurrence.
10. Within four weeks of the date of this approval, the operator shall submit a blast monitoring scheme that will record all blasts within the quarry area, with the monitoring points to be set at locations to be agreed by the Planning Authority.
11. The operator shall monitor all blasts and records shall be maintained so the peak particle velocity can be identified and these records shall be made available for inspection by any authorised party during office hours at the quarry with copies being supplied to Planning Authority on a three monthly basis. In the event that recorded values exceed the agreed level, the operator shall notify the Planning Authority of the event within one working day and shall provide an assessment of its implication with respect to future blasting activity and the site's vibration limit.
12. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mm/s in 95% of all blasts measured over any period of 12 months and no individual blast shall exceed a peak particle velocity of 12 mm/s as measured at any nearby vibration sensitive property. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface at any vibration sensitive building; all to the satisfaction of the Planning Authority.



13. Blasting shall be carried out using the best practicable means available to ensure that the resultant noise, vibration and air overpressure are minimised in accordance with current British Standards and Mineral Guidelines and the best practice methodologies as set out in PAN50.
14. For the duration of this permission and up to the completion of all aftercare works warning signs shall be erected and maintained by the operator next to all publicly accessible areas within or adjacent to the quarry. Details of the locations of these signs shall be submitted to and approved by the Planning Authority.
15. Blasting shall only be carried out after suitable audible and visible warnings have been given and the method of such warnings shall be submitted to the Planning Authority. Thereafter the approved warnings shall be given in writing by the operator to the occupiers of all the properties around the site.
16. The operator shall ensure that the Council's Environmental Health Service be given a minimum of 48 hours email notification, excluding weekends and public holidays, before every blast at the quarry.
17. The quarry operator shall ensure that all operations are controlled so as to prevent or minimise the release of dust in the atmosphere and the dust mitigation measures listed in the Environmental Statement shall be implemented and in a method which ensures that the best practice methodologies as set out in PAN50 are adopted.
18. Visual assessments of dust emissions from all plant and operations shall be made at least once per day during operations and remedial actions taken as may be required. The operator shall maintain a diary of weather conditions, visual assessment of dust and any mitigation measures implemented on a daily basis. The diary shall also record any complaints relating to dust, any investigations undertaken in respect of complaints and any remedial actions undertaken as a result of the investigation. The diary shall be retained on-site and made available to the Planning Authority on request.
19. Should future monitoring of the A82(T) prove that lorries from the site are carrying deleterious material onto the trunk road then the applicant provide wheel and undercarriage cleaning facilities within the site.
20. The paved area of road within the site shall be swept/washed where required in order to ensure that no debris from the quarry is carried onto the public highway.
21. Within 3 months of the date of this approval, the operator shall submit for approval details of anticipated phasing for the duration of operations. The Planning Authority shall be notified and agree any future revisions in respect of phasing.

22. In the event that the discharge of water from the site becomes necessary the operator shall apply to SEPA for Consent to Discharge. No discharge shall commence until Discharge Consent has been obtained and thereafter the control of water run-off from the site shall be in accordance with the conditions contained therein. The Planning Authority shall be notified in writing of any changes or updates in the control of site water.
23. The topsoil and subsoils to be removed shall be stored as described in the applicant's written submission and shall be retained on site for eventual reuse as part of the restoration works as described in conditions 31 and 32.
24. If it becomes necessary to relocate any of the existing or new soil storage mounds within the site then such soils cannot be relocated until the Planning Authority gives written approval of the new storage locations and methods of storage.
25. If it becomes necessary to relocate the mineral stock piles from the location indicated in the applicant's submission, then such relocation cannot take place until the Planning Authority gives written approval of the new storage locations and methods of storage.
26. Details of all boundary walls and fences for the full extent of the application site shall be submitted to and approved in writing by the Planning Authority and shall be implemented as approved.
27. No materials shall be imported to the site for the purposes of storage, crushing, screening, processing, manufacturing or onward transportation. This condition does not apply to materials imported in relation to the mobile concrete batching plant or vehicles traversing the site to access Rigangower landfill site and recycling facility.
28. Any chemical, oil or diesel storage tanks installed within the application site shall be sited on impervious bases and surrounded by impervious boundary walls and the bunded areas shall be capable of containing 110% of the tank volume and should enclose all fill and draw pipes.
29. All artificial lighting units installed at the quarry shall have a purpose and shall be sited and directed as to minimise the potential for light pollution and glare outside the quarry boundary.
30. No later than 6 months after the permanent cessation of quarrying or the date set by condition 1 above, whichever is the sooner, all buildings plant, machinery and areas of hardstanding, including the internal access roads, shall be removed and the ground reinstated in accordance with the conditions of this permission relating to restoration. For avoidance of doubt this condition does not relate to the main access route used for the landfill site and estate management purposes.

31. Within six months of the date of this consent, a restoration masterplan for the whole of the quarry area and including details of the restoration or replanting of dilapidated features such as boundary hedges and drystone dykes, as well as, details showing how recreational access and links to the local path network would be achieved, along with details of aftercare and afteruse, shall be submitted to and approved in writing by the Planning Authority. This shall include how the restoration of the approved extension area is integrated within the overall restoration proposals of the full quarry area.
32. Not later than 2 years before the expiry of this permission or permanent cessation of quarrying, whichever is the sooner, a detailed final restoration scheme for the site including aftercare and maintenance shall be submitted for the written approval of the Planning Authority. The approved scheme shall be implemented before the expiry of this permission
33. The restoration scheme approved under the terms of conditions 31 and 32 above shall include a bird hazard management plan to be approved in writing by the Planning Authority in consultation with Glasgow Airport. The submitted plan shall include details of the design, maintenance and management of any water bodies and wetlands to minimise birdstrike hazard.
34. The restoration scheme approved under the terms of conditions 31 and 32 above shall be implemented and the works completed within 12 months of the completion of all quarrying operations or the date stated in condition 1 above, whichever is the sooner.
35. In the event that during the life of this permission mineral extraction ceases for a continuous period in excess of two years or the use is discounted for a like period, then unless as may otherwise be agreed in writing by the Planning Authority, within 6 months of either event occurring, a revised final restoration scheme including details of aftercare and afteruse, that modifies and updates that approved by conditions 30 above, shall be submitted for the written approval of the Planning Authority, including any modifications, as may be required, detailing the steps to be taken to restore the site.
36. Within 12 months of being approved any revised restoration scheme that may have been required under the terms of condition 34 above shall be implemented and the works completed.
37. The approved aftercare scheme shall be implemented following cessation of mineral extraction and in accordance with the approved timetable as required by condition 34 above, unless as may otherwise be agreed in writing by the Planning Authority.

38. Within twelve months from the date of this permission, and thereafter at twelve monthly intervals, the applicant shall submit a plan to a scale of not less than 1:2500 indicating the progress of quarrying operations. The plan will indicate the current position of the extraction areas, the extent of spoil disposal and any landscaping or restoration works that have been implemented.
39. Prior to any tree felling work taking place, all trees that require to be felled shall be inspected by an experienced bat surveyor to check for the presence or otherwise of bats. If bats are found then no tree felling work shall take place until the relevant license is obtained.
40. The applicant shall ensure that the footpath from Milton Brae via Greenland Farm to Loch Humphrey, where it passes close to the quarry, is kept open to the public (other than during any times of blasting in the quarry) or that an alternative appropriate footpath is provided.
41. Prior to any soil stripping taking place on site, an updated ecological survey shall take place and the report shall be submitted to and approved by the Planning Authority. In the event of any protected species being identified no works shall be undertaken within the identified area until appropriate mitigation measures have been submitted to and approved by the Planning Authority and the approved mitigation measures implemented on site.
42. Any archaeological site discovered during soil stripping excluding the area of the Scheduled Ancient Monument, shall be excavated, analysed and published to the satisfaction of the Planning Authority in agreement with West of Scotland Archaeology Service.

## INFORMATIVE

1. **Ground level relates to original ground surface level and reference to 'operations undertaken below ground level' should be taken to relate to plant operating at sufficient depth below ground level such that there is no clear line of sight between the plant and the sensitive property.**

**Condition 4 - Table A : Noise Criteria**

Receptor	Noise Criteria			
	ROMP			
	Soils and overburden handling*	Routine operations including drilling	Routine operations	Out of hours operations**
Milton Hill	70	55	55	42
Greenland	70	55	55	55
Middleton	70	45	45	42
Auchentorlie	70	49	#49	42

\* For a period of up to 8 weeks in any 12 month period. These temporary works shall not start until 0800 hours and not on Sundays or Bank Holidays.

# maximum of 45dB for 0700-1400 on Sundays.

\*\* Out of hours operations are those outwith 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturday and Sundays and include Bank Holidays.

### DC02/447: Extension

1. **The excavation works hereby permitted within the area identified on plan reference Figure 2 of the Environmental Statement as the proposed extension area shall start within two years of the date of this permission.**
2. **The development hereby shall endure until 21 February 2042 and at the end of the period of permission, all quarrying operations, including the crushing of rock and the transfer of aggregates from the site, shall cease.**

- 3. Subject to the details specified in subsections 3(a)-3(b) below, the normal daytime operating hours for the quarry shall be 0600 hours to 2200 hours daily and no operations other than emergency works, water pumping, servicing, maintenance and testing of plant shall take place outside these hours.**

  - 3(a) Outwith 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturday and Sundays, with the exception of haulage vehicles entering and leaving the site, all operations shall be undertaken below ground level within the quarry void.**
  - 3(b) Loading and despatch of aggregates for specific contracts may be undertaken outwith the specified hours where no less than 24 hours written notice (excluding weekend days and public holidays) has been given to the Planning Authority.**
- 4. Noise attributable to the operators at Sheephill quarry shall not exceed the limits specified in Table B (Noise Criteria) attached to this permission at Greenland Farm, Auchentorlie House, No. 9 Milton Hill, and Middleton.**
- 5. A request for the relaxation of the noise limits identified in condition 4 above shall be submitted in writing a minimum of 14 days prior to the commencement of the operations requiring the relaxation and shall include time periods and noise limits for the temporary relaxation, all for the consideration and written approval of the Planning Authority.**
- 6. The applicant shall undertake a noise monitoring programme at the locations as described in condition 4 above and the frequency and times of such monitoring shall be agreed by the Planning Authority and the results shall be submitted in writing to the Planning Authority on a frequency to be agreed with the Authority. The noise monitoring shall be carried out in accordance with the methods specified in PAN50: Annex A - The Control of Noise at Surface Mineral Working and in so far as is reasonably practical, the operation shall ensure that the best practice methodologies set out in PAN50 are adopted.**
- 7. Blasting operations shall be carried out between 1000 and 1600 hours Monday to Friday, with no blasting permitted at weekends and on public holidays and the quarry operator shall endeavour to ensure that as far as is practicable, blasting should be carried out between 1000 and 1300 hours.**
- 8. Prior to the commencement of blasting operations details of the methods employed to minimise air overpressure from blasting operations shall be submitted to the Planning Authority for written approval. 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 Planning Authority.**

- 9. Notwithstanding the requirements of condition 7 and 8 above, if as a result of any emergency situation or need to ensure safe quarry practices, blasting is required to take place outside the specified hours, the times and reasons for such an event shall be notified in writing to Council's Environmental Health Service within two days of the occurrence.**
- 10. Within four weeks of the date of this approval, the operator shall submit a blast monitoring scheme that will record all blasts within the quarry area, with the monitoring points to be set at locations to be agreed by the Planning Authority.**
- 11. The operator shall monitor all blasts and records shall be maintained so that peak particle velocity can be identified and these records shall be made available for inspection by any authorised party during office hours at the quarry with copies being supplied to Planning Authority on a three monthly basis. In the event that recorded values exceed the agreed level the operator shall notify the Planning Authority of the event within one working day and shall provide an assessment of its implication with respect to future blasting activity and the site's vibration limit.**
- 12. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mm/s in 95% of all blasts measured over any period of 12 months and no individual blast shall exceed a peak particle velocity of 12 mm/s as measured at any nearby vibration sensitive property. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface at any vibration sensitive building; all to the satisfaction of the Planning Authority.**
- 13. Blasting shall be carried out using the best practicable means available to ensure that the resultant noise, vibration and air overpressure are minimised in accordance with current British Standards and Mineral Guidelines and the best practice methodologies as set out in PAN 50.**
- 14. For the duration of this permission and up to the completion of all aftercare works warning signs shall be erected and maintained by the operator next to all publicly accessible areas within or adjacent to the quarry. Details of the locations of these signs shall be submitted to and approved by the Planning Authority.**
- 15. Blasting shall only be carried out after suitable audible and visible warnings have been given and the method of such warnings shall be submitted to the Planning Authority. Thereafter the approved warnings shall be given in writing by the operator to the occupiers of all the properties around the site.**
- 16. The operator shall ensure that the Council's Environmental Health Service be given a minimum of 48 hours email notification, excluding weekends and public holidays, before every blast at the quarry.**

- 17. The quarry operator shall ensure that all operations are controlled so as to prevent or minimise the release of dust into the atmosphere and the dust mitigation measures listed in the Environmental Statement shall be implemented and in a method which ensures that the best practice methodologies as set out in PAN50 are adopted.**
- 18. Visual assessments of dust emissions from all plant and operations shall be made at least once per day during operations and remedial actions taken as may be required. The operator shall maintain a diary of weather conditions, visual assessment of dust and any mitigation measures implemented on a daily basis. The diary shall also record any complaints relating to dust, any investigations undertaken in respect of complaints and any remedial actions undertaken as a result of the investigation. The diary shall be retained on-site and made available to the Planning Authority on request.**
- 19. Should future monitoring of the A82(T) prove that lorries from the site are carrying deleterious material onto the trunk road then the applicant shall provide wheel and undercarriage cleaning facilities within the site.**
- 20. The paved area of road within the site shall be swept/washed where required in order to ensure that no debris from the quarry is carried onto the public highway.**
- 21. The methods of working within the quarry shall be as described within the approved documents forming part of this consent and any changes to the operating procedures or methods shall be submitted to and approved in writing by the Planning Authority and shall be implemented as approved.**
- 22. The topsoil and subsoils to be removed shall be stored as described in the applicant's written submission and shall be retained on site for eventual reuse as part of the restoration works as described in condition 31.**
- 23. If it becomes necessary to relocate any of the existing or new soil storage mounds within the site then such soils cannot be relocated until the Planning Authority gives written approval of the new storage locations and methods of storage.**
- 24. If it becomes necessary to relocate the mineral stock piles from the location indicated in the applicant's submission, then such relocation cannot take place until the Planning Authority gives written approval of the new storage locations and methods of storage.**
- 25. Details of any boundary walls and fences to be erected for the full extent of the application site shall be submitted to and approved in writing by the Planning Authority and shall be implemented as approved.**
- 26. No materials shall be imported to the site for the purposes of storage, crushing, screening, processing, manufacturing or onward transportation. This condition does not apply to vehicles traversing the site to access Rigangower landfill site.**



27. Any chemical, oil or diesel storage tanks installed within the application site shall be sited on impervious bases and surrounded by impervious bunded walls and the bunded areas shall be capable of containing 110% of the tank volume and should enclose all fill and draw pipes.
28. All artificial lighting units installed at the quarry shall have a purpose and shall be so sited and directed as to minimise the potential for light pollution and glare outside the quarry boundary.
29. No later than 6 months after the permanent cessation of quarrying or the date set by condition 1 above whichever is the sooner, all buildings, plant, machinery and areas of hardstanding including the internal access roads shall be removed and the ground reinstated in accordance with the conditions of this permission relating to restoration.
30. Within six months of the date of this consent, a restoration masterplan for the whole of the quarry area and including details of the restoration or replanting of dilapidated features such as boundary hedges and drystone dykes, as well as details showing how recreational access and links to the local path network would be achieved, along with details of aftercare and afteruse, shall be submitted to and approved in writing by the Planning Authority. This shall include how the restoration of the extension area is integrated within the overall restoration proposals of the full quarry area.
31. Not later than 2 years before the expiry of this permission or permanent cessation of quarrying whichever is the sooner, a detailed final restoration scheme for the site including aftercare and maintenance shall be submitted for the written approval of the Planning Authority. The approved scheme shall be implemented before the expiry of this permission.
32. The restoration scheme approved under the terms of conditions 30 and 31 above shall include a bird hazard management plan to be approved in writing by the Planning Authority in consultation with Glasgow Airport. The submitted plan shall include details of the design, maintenance and management of any water bodies and wetlands to minimize birdstrike hazard.
33. The restoration scheme approved under the terms of condition 32 above shall be implemented and the works completed within 12 months of the completion of all quarrying operations or the date stated in condition 2 above, whichever is the sooner.
34. In the event that during the life of this permission mineral extraction ceases for a continuous period in excess of two years or the use is discontinued for a like period, then unless as may otherwise be agreed in writing by the Planning Authority, within 6 months of either event occurring, a revised final restoration scheme that modifies and updates that approved by condition 30 above, shall be submitted for the written approval of the Planning Authority, including any modifications as may be required, detailing the steps to be taken to restore the site.

- 35. Within 6 months of being approved any revised restoration scheme that may have been required under the terms of condition 34 above shall be implemented and the works completed.**
- 36. The approved aftercare scheme shall be implemented following cessation of mineral extraction and in accordance with the approved timetable as required by condition 34 above, unless as may otherwise be agreed in writing by the Planning Authority.**
- 37. Within twelve months from the date of this permission, and thereafter at twelve monthly intervals, the applicant shall submit a plan to a scale of not less than 1:2500 indicating the progress of quarrying operations. The plan will indicate the current position of the extraction areas, the extent of spoil disposal and any landscaping or restoration works that have been implemented.**
- 38. Prior to any tree felling work taking place, all trees that require to be felled shall be inspected by an experienced bat surveyor to check for the presence or otherwise of bats. If bats are found then no tree felling work shall take place until the relevant licence is obtained.**
- 39. The applicant shall ensure that the footpath from Milton Brae via Greenland Farm to Loch Humhrey , where it passes close to the quarry, is kept open to the public ( other than during any times of blasting in the quarry) or that an alternative appropriate footpath is provided.**
- 40. Within 3 months of the date of this consent an updated plan and programme of the anticipated phasing of the extension quarry operations shall be submitted and approved by the Planning Authority. Any changes to the approved phasing programme and plan shall be notified and approved by the Planning Authority.**
- 41. No development shall commence on the extension area, including any soil stripping, until an updated ecological survey has taken place. The ecological report shall be submitted to and approved by the Planning Authority. In the event of any protected species being identified no works shall be undertaken within the identified area until appropriate mitigation measures have been submitted to and approved by the Planning Authority and the approved mitigation measures implemented on site.**
- 42. No development shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with the written scheme of investigation which has been submitted for approval of the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the site is undertaken to the satisfaction of the Planning Authority in agreement with West Of Scotland Archaeology Service.**

## INFORMATIVE

1. **Ground level relates to original ground surface level and reference to ‘operations undertaken below ground level’ should be taken to relate to plant operating at sufficient depth below ground level such that there is no clear line of sight between the plant and the sensitive property.**
2. **In the event that the discharge of water from the site becomes necessary the operator shall apply to SEPA for Consent to Discharge. No discharge shall commence until Discharge Consent has been obtained and thereafter the control of water run-off from the site shall be in accordance with the conditions contained therein. The Planning Authority shall be notified in writing of any changes or updates in the control of site water.**

Table B – Noise Criteria – Condition 4

Receptor	Noise Criteria			
	Extension			
	Soils and overburden handling*	Routine operations including drilling	Routine operations	Out of hours operations**
Milton Hill	70	55	55	42
Greenland	70	55	55	55
Middleton	70	48#	45	42
Auchentorlie	70	49	49	42

\* For a period of up to 8 weeks in any 12 month period. The temporary works shall not start until 0800 hours and not on Sundays or Bank Holidays.

# Only when drilling to upper bench, 45dB for all other benches.

\*\* Out of hours operations are those outwith 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1400 hours on Saturday, and include Bank Holidays.

<b>Person to Contact:</b>	Pamela Clifford, Planning, Building Standards and Environmental Health Manager Email: <a href="mailto:Pamela.Clifford@west-dunbarton.gov.uk">Pamela.Clifford@west-dunbarton.gov.uk</a>
<b>Appendices:</b>	Appendix 1 – Planning permission granted 3 <sup>rd</sup> November 1949 on appeal  Appendix 2- Report to Planning Committee 5 January 2005, Minutes of January and February Committee 2005
<b>Background Papers:</b>	<ol style="list-style-type: none"><li>1. Application forms, plans and Environmental Statement;</li><li>2. Consultation Responses;</li><li>3. Letters of representation;</li><li>4. Glasgow &amp; Clyde Valley Strategic Development Plan 2012;</li><li>5. Clydeplan</li><li>6. Scottish Planning Policy;</li><li>7. West Dunbartonshire Local Plan 2010;</li><li>8. West Dunbartonshire Council Proposed Plan 1 and 2</li><li>9. Circular 34/1996;</li><li>10. Planning Advice Note 50 and Annexes</li></ol>
<b>Wards affected:</b>	Ward 3 (Dumbarton)

Copy

Department of Health for Scotland,  
St. Andrew's House,  
EDINBURGH, 1.  
3rd November, 1949

Our Ref: DH/TCF/C/1/U

Gentlemen,

Town and Country Planning (Scotland) Act, 1947  
Dumbarton County Council  
Appeal by Keir & Gauder Limited, Auchentorlie

I am directed by the Secretary of State to refer to the appeal lodged by you on behalf of Messrs. Keir & Gauder Limited against the decision of Dumbarton County Council, as local planning authority, refusing permission under the Town and Country Planning (Scotland) Act, 1947, to work a whinstone quarry at Auchentorlie, Bowling.

The Secretary of State has carefully considered the subject matter of the appeal and the report of the Hearing on 21st and 22nd June, 1949, and he has come to the conclusion that the national interest would best be served if quarrying operations were allowed, subject to certain safeguards. He has accordingly decided to sustain and hereby sustains the appeal and consents to the development proposed, subject to the following conditions:-

- (1) The layout generally and particularly the siting of (a) stock piles, (b) loading bays for vehicles, (c) internal road or roads and (d) plant and equipment shall be adjusted with the County Council of Dumbarton and in so far as the layout may affect the protection and improvement of the line of Trunk Road A.12 and conditions (2) and (3) hereunder with the Divisional Road Engineer of the Ministry of Transport.
- (2) The access road shown on Messrs. Keir & Gauder's Drawing K.C.111/48A dated 17th November, 1948, shall be adhered to subject to the longitudinal profile being approximately level for not less than 100 feet back from the North side of the existing trunk road carriage-way.
- (3) A belt of trees of adequate density shall be preserved or provided on the Southernmost boundary of the site to a depth of 100 feet from the existing trunk road to screen, as far as possible, the stockpiles, loading bays and plant from the trunk road.

2.

- (4) No trees shall be felled within 30 feet on each side of (a) the conveyor between the primary and secondary crushers, (b) the reject conveyor and (c) the conveyor between the secondary crusher and the vibrating screens.
- (5) All reasonable steps shall be taken to reduce dust during breaking and screening operations and all deposits, whether temporary or permanent, of overburden and waste material to be agreed with the County Council of Dunbarton.
- (6) Plant, buildings and machinery shall be removed when no longer required for quarry purposes.
- (7) The developers shall collaborate with the Ministry of Works (Inspectorate of Ancient Monuments) with a view to the preservation and/or recording of any archaeological remains which may exist on the site.

Any question arising out of the conditions aforesaid shall, at the instance of either party, be referred to the Secretary of State. Subject to any further reference which may be made to him in this respect, this decision is by the terms of Section 13(3) as applied by Section 14(2) of the Town and Country Planning (Scotland) Act, 1947, final.

A copy of this letter is being sent to-day to the County Clerk for the information of the County Council.

I am, Gentlemen,  
Your obedient Servant,

(Sgd.) J.H. McGuinness.

Messrs. Moncrieff Warren Paterson & Company,  
45, West George Street,  
GLASGOW, C.2.



## **WEST DUNBARTONSHIRE COUNCIL**

### **Report by the Director of Development and Environmental Services**

**Planning Committee : 5 January 2005**

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**Subject: Sheephill Quarry, Milton**

#### **1.0 Purpose:**

- 1.1** To explain the context of an application for review of minerals permission (ROMP) and a planning application for an extension to the quarry at Sheephill Quarry, Milton. These applications are part of a package and it is considered prudent that they be determined concurrently.

#### **2.0 Background:**

- 2.1** The ROMP application has been with the Authority since March 1998. The main reason for delay has been over the submission of further supporting information from the applicant. The situation has been complicated by changes in legislation and in Scottish Executive guidance which has a bearing on determination of the application.
- 2.2** The 1949 consent for Sheephill Quarry shows a site boundary which basically adjoins residential properties at Milton Hill. As a part of the processing of the ROMP application, it has been recognised that quarrying to this western boundary would be unacceptable and, as a consequence, an application for an extension to the north of the quarry has been submitted on the basis that this area, if approved, will be "swapped" for the westward expansion of the quarry towards Milton Hill. This intimate relationship between the two proposals is a driver for the applications to be considered concurrently.
- 2.3** The intention in this report is to be as clear and concise as possible in informing Members of a complex set of circumstances. This report puts forward two options for action, with a recommendation. Thereafter, should that recommendation be accepted, Members require to give consideration to the ensuing reports on the ROMP application and the extension application.

### **3.0 Main Issues:**

- 3.1** The ROMP application is not an application for planning permission which can be granted or refused. It is an application for review of the seven 1949 conditions, the aim of which is to consider and apply up-to-date planning conditions which recognise modern quarrying practice and environmental standards and require proper consideration of aftercare and reinstatement once quarrying is complete.
- 3.2** The applicant was required to submit, amongst other material, a set of proposed conditions which could be granted and/or replaced/amended by the Local Planning Authority.
- 3.3** As the application has progressed, so different requirements have been made under new regulations. An Environmental Statement was required and was submitted on 21 March 2003. Following consultation, Scottish Natural Heritage (SNH) indicated a need for further information to be submitted on the visual and landscape baseline information. The applicant has resisted submitting this information, arguing that it could not reasonably be required. The applicant has gone to the extent of claiming deemed consent for the submitted conditions. This assertion is not accepted because the applicant has not supplied all of the information requested by the Planning Authority.
- 3.4** In the circumstances two main options for action present themselves:
- (A) approve a new set of conditions (similar to those agreed for the adjacent Dumbuck Quarry) and approve the associated extension application after the lodging of an appropriate restoration bond and the signing of a Section 75 Agreement relinquishing rights to quarry westwards towards Milton Hill; or
  - (B) indicate to the applicant that the application will not be determined until the required information has been submitted and assessed and set a revised date by which this information must be submitted. There are new Regulations which give a Planning Authority the power to suspend the operation of a quarry but this application is being dealt with under the old legislation which does not contain such a power.
- 3.5** The main impediment to Option A is that the applicant has not submitted certain baseline information sought by Scottish Natural Heritage in relation to visual and landscape impact. However, SNH did not ask for such information in connection with Dumbuck Quarry and the environmental statement for that Quarry therefore did not include such information. Where information is sought in connection with such an application, it must be reasonable for the Planning Authority to request that information. It could be argued that, as the information was not requested in connection with the Dumbuck application, it would not be reasonable to request the information in connection with the Sheephill application.



- 3.6 The main concern over Option B is that without the sanction of suspending the operation of the quarry, if a date for submission of environmental information is not met it is likely that the applicant would continue to work the quarry under the existing, very limited planning conditions. This could even result in quarry workings in a westerly direction towards the housing at Milton Hill. There is no reason to believe that the applicant would meet any new deadline for submission given the applicant's stated position.
- 3.7 Taking all relevant matters into account, it is recommended that Members proceed with Option A and determine a new set of conditions for the quarry. If this is accepted, then the following reports on the ROMP and extension applications need to be considered in detail.

#### **4.0 Recommendation:**

- 4.1 Taking all relevant matters into account, it is recommended that Members proceed with Option A, namely to consider the following two reports on the ROMP application and the application for extension to the quarry.

**Dan Henderson**  
**Director of Development and Environmental Services**  
**22 December 2004**

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**Background Papers:** Report to Regulatory Committee (Planning) meeting on 3 October 2001  
Following two reports and their background papers

**Wards Affected:** Ward 11

**Person to Contact:** Alasdair Gregor, Planning & Development Manager  
Development and Environmental Services  
Council Offices, Garshake Road, Dumbarton G82 3PU  
Tel. No.: (01389) 737415.

## PLANNING COMMITTEE

At a Meeting of the Planning Committee held in the Council Chambers, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 5 January 2005 at 9.30a.m.

**Present:** Provost Alistair Macdonald and Councillors Denis Agnew, Dennis Brogan, Jack Duffy, Linda McColl and Duncan McDonald.

**Attending:** Dan Henderson, Director of Development and Environmental Services; Alasdair Gregor, Planning and Development Manager; Nigel Ettles, Principal Solicitor; Kevin Neeson, Section Head, Planning and Building Control and Shona Barton, Administrative Assistant.

**Apology:** An apology for absence was submitted on behalf of Councillor Connie O'Sullivan.

**Councillor Jack Duffy in the Chair**

### MINUTES OF PREVIOUS MEETING

4687 The Minutes of Meeting of the Committee held on 1 December 2004 were submitted and approved as a correct record.

### NOTE OF VISITATION

4688 A Note of Visitation carried out on 29 November 2004, a copy of which forms Appendix 1 hereto, was submitted and noted.

### PLANNING APPLICATIONS

4689 Reports were submitted by the Director of Development and Environmental Services in respect of various planning applications as detailed below.

#### Continued Applications

(a) **DC02/372 – Erection of 12 flats, vehicular access and car parking at Cross Cottage/1-3 William Street, Duntocher, Clydebank**

4690 After discussion and having heard the Section Head, Planning and Building Control in further explanation and in answer to Members' questions, the Committee agreed that it was minded to grant planning permission subject to:-

- (1) satisfactory comments being received from Housing and Technical Services regarding the applicant's proposed reduction in sightline splay; and
- (2) the conditions specified in the Director's report, details of which are contained in Appendix 2 hereto.

4691 It was also agreed that authority to grant planning permission be delegated to the Director of Development and Environmental Services.

**(b) DC04/204 – Conversion of lounge bar and disco into 3 flats at 9 Quay Street, Dumbarton**

4692 A copy of a letter submitted by the Agent for the Applicant detailing proposed flood prevention measures was circulated to Members for information. Having heard the Section Head, Planning and Building Control in further explanation, the Committee agreed that it was minded to grant planning permission subject to:-

- (1) a satisfactory response being received from Housing and Technical Services in relation to the proposed flood prevention measures; and
- (2) the conditions specified in the Director's report, details of which are contained in Appendix 2 hereto.

4693 It was also agreed that authority to grant planning permission be delegated to the Director of Development and Environmental Services.

New Applications

**(c) DC03/338 – Erection of dwellinghouse (outline) at Cleddans Farm, Hardgate, Clydebank**

4694 Having heard the Planning and Development Manager in further explanation, the Committee agreed that the application be refused for the reasons specified in the Director's report, details of which are contained in Appendix 2 hereto.

**SHEEPHILL QUARRY, MILTON**

4695 A report was submitted by the Director of Development and Environmental Services explaining the context of the following applications and requesting that the applications be determined concurrently.

- (a) WP98/076 – review of minerals permission at Sheephill Quarry, Milton; and
- (b) DC02/447 – Extension to Quarry at Sheephill Quarry, Milton.

- 4696 A letter of representation from an objector to the applications, Mrs. Frances Walker, was circulated to Members for their information. After discussion and having heard the Planning and Development Manager in further explanation, and having heard representations from two objectors to the application who were in the Public Gallery and who were concerned about the amount of time which they had had to consider the matter, the Committee agreed to continue consideration of the above report and applications until the next meeting of the Committee to allow a site visit and hearing to take place.

### **LITTMILL DISTILLERY, BOWLING**

- 4697 A report was submitted by the Director of Development and Environmental Services informing of demolition works carried out at the former Littlemill Distillery buildings and of the proposals for future development.
- 4698 After discussion and having heard the Planning and Development Manager and the Section Head, Planning and Building Control in further explanation and in answer to Members' questions, the Committee agreed:-
- (1) to note the previous history of the site and the current planning applications and listed building applications for the site and adjacent sites;
  - (2) to note the involvement of Historic Scotland in the process and their support for the rebuilding of the two towers;
  - (3) to instruct the Director of Development and Environmental Services to send a report to the procurator fiscal in relation to the removal of the East Tower;
  - (4) that should the remaining tower be in jeopardy that appropriate enforcement action be taken if necessary; and
  - (5) that the rebuilding of the two towers form an essential part in any redevelopment of the site.

### **GLASGOW AIRPORT**

- 4699 A report was submitted by the Director of Development and Environmental Services informing of two consultation documents issued by the British Airports Authority (BAA) Glasgow entitled "Protecting Against Airport Noise" and "Protecting Against Blight" and recommending the Council's formal response.

4700 The Committee noted that an additional paper detailing issues relevant to the report had been circulated to Members before the meeting. After discussion and having heard the Planning and Development Manager and the Director of Development and Environmental Services in further explanation and in answer to Members' questions, the Committee agreed:-

- (1) in relation to the consultation paper "Protecting Against Airport Noise", that BAA Glasgow be informed of the Council's concerns over:-
  - (i) the exclusion of houses from the definition of noise sensitive buildings; and
  - (ii) the lack of justification for the choice of the 63dB noise contour for eligibility for assistance;
- (2) in relation to the consultation paper "Protecting Against Blight", that BAA Glasgow be informed of the Council's concerns over the lack of justification for the choice of the 66dB noise contour;
- (3) that in addition to the responses to the consultation that the recommendations from the additional paper be added as follows:-
  - (i) the present noise levels for the existing single runway be reviewed by BAA with a view to reducing them;
  - (ii) that BAA be asked to consider restricting night time flying to essential movements only and asked to clarify the definition of "essential movements";
  - (iii) that BAA be asked to arrange for an independent economic appraisal assessing the benefit of night flight against disturbance to the local community and in the meantime at least reduce night time take offs and landings;
  - (iv) that BAA be asked to consider the provision of resources to noise sensitive premises outside the existing qualifying noise contours and that domestic premises should be included in the noise sensitive category;
  - (v) that BAA be asked to install a noise monitoring point within the West Dunbartonshire area to provide more relevant data to residents most likely to be affected by airport noise; and
  - (vi) that a report should be provided by BAA detailing their proposed actions in relation to points (i) to (v) above; and

- (4) to note that a report would be submitted to the next meeting of the Community Safety and Environmental Services Committee which would cover in more detail the issues raised by Members and would contain further recommendations in relation to representations which the Council could make to BAA.

### **STRATEGIC REVIEW OF SCOTTISH NATURAL HERITAGE – RESPONSE TO QUESTIONNAIRE**

- 4701 A report was submitted by the Director of Development and Environmental Services advising of the Strategic Review of Scottish Natural Heritage and seeking homologation of the Council's response to a questionnaire issued by the Scottish Executive.
- 4702 Having heard the Planning and Development Manager in further explanation, the Committee agreed to homologate the responses to the questionnaire, as shown in the Appendix to the report, as the Council's response to the strategic review of Scottish Natural Heritage.

### **BUDGETARY CONTROL**

- 4703 A report was submitted by the Director of Development and Environmental Services showing how the budgets controlled by the Development and Environmental Services Department were performing against projections for the period up until 15 November 2004.
- 4704 The Committee agreed to note the contents of the report.

### **APPEAL DECISIONS – 661 DUMBARTON ROAD, DALMUIR, CLYDEBANK; THE KEEP INN, CASTLEHILL ROAD, DUMBARTON; PLANNING APPEAL – DRUM HOUSE, OLD KILPATRICK**

- 4705 A report was submitted by the Director of Development and Environmental Services informing of the outcome of two appeals to the Scottish Executive Inquiry Reporters Unit and the submission of an appeal to the Scottish Executive Inquiry Reporters Unit.
- 4706 The Committee agreed to note:-
- (1) that the appeal against the refusal of a retrospective application for advertisement consent for the display of an internally illuminated pole mounted advertisement within the grounds of a petrol station located at 661 Dumbarton Road, Dalmuir, Clydebank had been dismissed;

- (2) that the appeal against the refusal of an application for planning permission for the erection of a 15m high telecom mast and ancillary equipment at The Keep Inn, Castlehill Road, Dumbarton had been sustained; and
- (3) that an appeal against an Enforcement Notice served in relation to engineering works at Drum House, Old Kilpatrick had been submitted and would be dealt with by way of written submissions.

### **STREET NAMING FOR NEW DEVELOPMENT OFF MANSE DRIVE, HALDANE, BALLOCH**

4707 A report was submitted by the Director of Development and Environmental Services seeking to allocate a street name for a new housing development in Haldane.

4708 The Committee agreed that the name Manse Court be adopted.

### **SITE VISIT**

4709 It was agreed that the site visit referred to in the item relating to Sheephill Quarry would be undertaken in the morning of Tuesday, 1 February 2005.

The meeting closed at 10.21 a.m.

**PLANNING COMMITTEE****NOTE OF VISITATION – 29 NOVEMBER 2004**

**Present:** Provost Alistair Macdonald and Councillors Jack Duffy and Duncan McDonald.

**Attending:** Alasdair Gregor, Planning and Development Manager and Craig Stewart, Administrative Assistant - Legal and Administrative Services.

**SITE VISIT**

With reference to the Minutes of the Meeting of the Planning Committee held on 3 November 2004, a site visit was undertaken in connection with the undernoted planning application:-

DC02/372 – Erection of 12 flats, vehicular access and car parking at Cross Cottage, 1-3 William Street, Duntocher, Clydebank.





## APPENDIX 2

**APPLICATIONS FOR PLANNING PERMISSION CONSIDERED BY THE  
PLANNING COMMITTEE ON 5 JANUARY 2005**

**DC02/372 – Erection of 12 flats, vehicular access and car parking at Cross  
Cottage/1 – 3 William Street, Duntocher, Clydebank**

**Minded to GRANT permission subject to the following conditions:-**

1. The development hereby permitted shall commence within a period of 5 years from the date of this permission.
2. Exact details and specifications of all proposed external finishing materials (including roofing materials) shall be submitted for the further approval of the Director of Development and Environmental Services prior to any work commencing on the site.
3. Prior to the occupation of any flat in this development all roads and footpaths within and serving the development shall be completed to the level of bottoming and bitmac base course, to the satisfaction of the Director of Development and Environmental Services.
4. Prior to occupation of the last flat in the development all roads and footpaths within and servicing the development shall be completed to their final specification and adoptable standard to the satisfaction of the Director of Development and Environmental Services.
5. Details of design and construction of all fences and walls to be erected on the site shall be submitted to the Director of Development and Environmental Services and no work on the site shall be commenced until the permission of the Director has been granted for these details and that the boundary treatments approved shall be completed within timescale to be agreed with the Director of Development and Environmental Services.
6. The stone-dyke wall indicated on the approved plan shall be retained as part of the development, with no section of it being removed, without the written consent of the Director of Development and Environmental Services.
7. Before any work commences on the site, a landscaping scheme for the site shall be submitted to and approved by the Director of Development and Environmental Services and such a scheme shall include:
  - a) details and specification of all trees, shrubs, grass mix etc;
  - b) details of all top-soiling or other treatment to the ground;
  - c) sections and other necessary details of any mounding or earthworks;
  - d) proposals for the initial maintenance of the landscaped areas;

and no work shall be undertaken on the site until approval has been given to these details.

8. Before any of the units hereby approved are completed the landscaping scheme required in terms of condition 7 shall be completed to the satisfaction of the Director of Development and Environmental Services and thereafter all of the landscaping shall be maintained and replaced where necessary to the satisfaction of the Director of Development and Environmental Services.
9. Prior to commencement of development, the developer shall submit a detailed survey of all trees and hedging on the site. This survey shall be displayed on a site layout plan and include an identification of the existing tree species, an estimation of their height and spread of branches and their location within the site accurately plotted (any trees around the perimeter which over-hang onto the site shall also be included). Those trees which it is proposed to fell or remove shall be separately identified.
10. The existing trees and shrubs on site shall not be lopped, topped, felled, lifted, removed or disturbed in any way without the prior written consent of the Director of Development and Environmental Services.
11. During the construction period, all works and ancillary operations which are audible at the site boundary or at such other places to be approved by Director of Development and Environmental Services, shall be carried out only between 0800 and 1800 hours Monday to Saturday inclusive, and not at all on Sundays or Public Holidays.
12. The developer shall ensure that the method of working and the use of constructional plant shall not cause the noise level at adjacent residential dwellings or other noise sensitive properties to exceed the levels to be agreed in writing with the Director of Development and Environmental Services prior to any development taking place on site.
13. Any piling operations on the site must be carried out in accordance with the requirements of BS5228: Part 4: 1992. Code of Practice for Noise and Vibration Control applicable to piling operations.
14. To minimise nuisance in the surrounding area from noise and vibration, during all demolition and construction works, the plant and machinery used shall be in accordance with the relevant Codes of Practice specified in the Control of Noise (Codes of Practice for Construction and Open Sites) (Scotland) Order 2002 and all reasonably practicable steps shall be taken to minimise the formation of dust in the atmosphere and in the surrounding area.
15. No works shall commence on site until a suitable scheme for the drainage of surface water has been submitted and approved by the Director of Development and Environmental Services.
16. The applicant/operator shall provide and maintain on the site suitable means for the washing of vehicle wheels at all times during the hours of operation to prevent mud being deposited on the public road.

17. The consent hereby granted shall not enure until details of appropriate sightlines of 4.5 x 90 x 1.05 onto Dumbarton Road and 4.5 x 50 x 1.05m for the private access to the development site have been submitted and approved in writing by the Director of Development and Environmental Services, prior to any development commencing on site.
18. The consent hereby granted is not inclusive of the binstore area identified on drawing no. 553 302D and a revised bin store layout should be submitted to the Director of Development and Environmental Services for his approval, prior to any development commencing on site.

**DC04/204 – Conversion of lounge bar and disco into 3 flats at 9 Quay Street, Dumbarton**

**Minded to GRANT permission subject to the following conditions:-**

1. The development hereby permitted shall commence within a period of 5 years from the date of this permission.
2. Exact details and specifications of all proposed external finishing materials (including roofing materials) shall be submitted for the further approval of the Director of Development and Environmental Services prior to any work commencing on the site.
3. The permitted maximum noise level emanating from construction/redevelopment shall be relative to the pre-contract ambient noise level for the area. The contractor shall ensure that the method of working and the use of constructional plant shall not cause the noise level at adjacent residential properties, schools, offices or libraries to exceed the levels agreed in writing with the Director of Development and Environmental Services. The applicant is required to contact the Public Health and Pollution Section of Environmental Services not less than 14 days prior to works commencing on the site.
4. During the period of construction/redevelopment, all works and ancillary operations which are audible at the site boundary, or at such other places as may be agreed with the Council, shall be carried out only between 0800 and 1800 hours, Monday to Saturday inclusive and not at all on a Sunday or Public Holiday.

**DC03/338 – Erection of dwellinghouse (outline) at Cleddans Farm, Hardgate, Clydebank**

**Permission REFUSED for the following reasons:-**

1. The development would be contrary to Policy GB1 of the Clydebank Local Plan as it would be development in the green belt and the requirement for a dwellinghouse has not been sufficiently justified for the purposes of agriculture.

2. The development falls within Strategic Policy GB1 of the Glasgow and the Clyde Valley Structure Plan and is therefore a departure from the Development Plan for which insufficient justification has been submitted to warrant an approval under Strategic Policy 10.
3. The development would be contrary to Policy E7 of the Clydebank Local Plan and National Planning Policy Guideline 5 because it would have an adverse effect on the remains and setting of the Antonine Wall, a Scheduled Ancient Monument.

## PLANNING COMMITTEE

At a Meeting of the Planning Committee held in the Council Chambers, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 2 February 2005 at 9.30a.m.

**Present:** Provost Alistair Macdonald and Councillors Denis Agnew, Linda McColl\*, Duncan McDonald and Connie O'Sullivan.

**Attending:** Dan Henderson, Director of Development and Environmental Services; Alasdair Gregor, Planning and Development Manager; Nigel Ettles, Principal Solicitor; Kevin Neeson, Section Head, Planning and Building Control and Shona Barton, Administrative Assistant.

**Apology:** An apology for absence was intimated on behalf of Councillor Dennis Brogan.

\* Attended later in the meeting

## COUNCILLOR JACK DUFFY

4838 After hearing the Director of Development and Environmental Services, the Committee was upstanding to observe a short period of silence in remembrance of Councillor Jack Duffy, Convener of the Planning Committee, who died suddenly on the 22 January 2005 after a short illness.

## APPOINTMENT OF CHAIR

4839 The Director of Development and Environmental Services invited the Committee to appoint a Chair for this meeting of the Committee. It was agreed that Councillor Duncan McDonald be appointed Chair. Accordingly Councillor McDonald assumed the Chair.

## URGENT ITEM

4840 The Chair, in terms of Section 50B(4) of the Local Government (Scotland) Act 1973, as inserted by the Local Government (Access to Information) Act 1985, asked the Committee to agree to consider an additional item namely "Glasgow & Clyde Valley Joint Structure Plan Review" as a matter of urgency on the grounds that the action to be taken required early consideration. The Committee agreed that this item be considered at the end of the agenda.

### MINUTES OF PREVIOUS MEETING

- 4841 The Minutes of Meeting of the Committee held on 5 January 2005 were submitted and approved as a correct record.

### SHEEPHILL QUARRY, MILTON

- 4842 With reference to the Minutes of Meeting of the Planning Committee held on 5 January 2005 (page 1341, paragraph 4696 refers) a report was resubmitted by the Director of Development and Environmental Services explaining the context of the following applications and requesting that the applications be determined concurrently:-

(a) WP98/076 – Review of minerals permission at Sheephill Quarry, Milton; and

(b) DC02/447 – Extension to Quarry at Sheephill Quarry, Milton.

- 4843 Having heard the Planning and Development Manager in further explanation and update, the Committee agreed to consider the reports on the Review of Minerals Permission and the proposed extension to the Quarry at Sheephill Quarry, Milton concurrently.

- 4844 Reference was made to the site visit undertaken in respect of this application. The Planning and Development Manager also made reference to a recent meeting with the applicant at which details of the proposed conditions had been discussed and a series of amendments agreed. The Chair, Councillor McDonald, invited the objectors to the application to address the Committee. The Committee heard representations from Mr. Francis McNeill, representing the Community Councils Forum and Mrs. Elizabeth Meechie, representing Bowling and Milton Community Council. The Chair then invited the agent for the applicant, Ms. Karen Dalglish, to address the Committee and she was heard in support of the application.

- 4845 After discussion and having heard officers in further explanation and in answer to Members' questions, the Committee agreed:-

- (1) that with regard to the Review of Minerals Permission, amended conditions similar to those outlined in the Director's report, details of which are contained in the Appendix hereto, be imposed for the future quarrying operations;
- (2) that they were minded to grant planning consent for the extension to the quarry subject to amended conditions similar to those outlined in the Director's report, details of which are contained in the Appendix hereto;

- (3) that authority be delegated to the Director of Development and Environmental Services to finalise the conditions relating to the Review of Minerals Permission and the extension to the quarry;
- (4) that the planning consent would not be issued until the existing planning consent was revoked by either a Section 75 Agreement or a Section 65 Order and until a restoration bond was, to the satisfaction of the Director of Development and Environmental Services, signed and delivered or otherwise provided for; and
- (5) that authority be delegated to the Director of Development and Environmental Services to grant planning consent for the extension to the quarry.

NOTE: Councillor McColl entered the meeting during discussion of the above item.

### **PLANNING APPLICATIONS**

4846 Reports were submitted by the Director of Development and Environmental Services in respect of various planning applications as detailed below.

#### New Applications

**(a) DC01/068 – Demolition of lodge at Dalmonach North Lodge, Main Street, Bonhill**

4847 The Committee agreed to grant listed building consent for the demolition of the Lodge subject to the conditions specified in the Director's report, details of which are contained in the Appendix hereto.

**(b) DC04/103 – Two storey side extension to dwellinghouse at 73 Oronsay Crescent, Old Kilpatrick**

4848 The Planning and Development Manager provided an update on the application. It was noted that there had been two objections submitted in relation to this application, and that the applicant and the objectors had been invited to attend the meeting in order that a hearing could take place. Reference was also made to the site visit undertaken in respect of the application. The Chair, Councillor McDonald, invited Mr. Thomas Kelly, an objector to the application, to address the Committee and he made his views on the application known. The applicant, Mrs. Allison McKirdy, was then invited to address the Committee and spoke in support of the application.

4849 After discussion, the Committee agreed that the application be refused for the reasons specified in the Director's report, details of which are contained in the Appendix hereto.



**(c) DC04/226 – Erection of 3 detached dwellinghouses at Third Avenue, Bonhill**

4850 The Planning and Development Manager provided an update on the application. It was noted that there had been two objections submitted in relation to this application, and that the applicant and the objectors had been invited to attend the meeting in order that a hearing could take place. The Committee noted that the agent for the applicant had advised that he would not be in attendance. Reference was also made to the site visit undertaken in respect of the application.

4851 The Chair, Councillor McDonald, invited Mr. Roddy Mackenzie, an objector to the application, to address the Committee and he made his views on the application known. A copy of a briefing note and supporting photographs were circulated to Members for their information. Mr. McDiarmid, another objector to the application, was then invited to address the Committee and he made his views on the application known.

4852 After discussion and having heard the Planning and Development Manager in further explanation and in answer to Members' questions, the Committee agreed that consideration of the application be continued until the next meeting of the Committee to allow the applicant the opportunity to consider making adjustments to the plans.

**(d) DC04/252 – Erection of office development and associated car parking at the site adjacent to 199 Dumbarton Road, Clydebank**

4853 The Committee agreed to grant planning permission subject to the conditions specified in the Director's report, details of which are contained in the Appendix hereto.

**(e) DC04/338 – Erection of dwellinghouse at 53 Dumbarton Road, Bowling**

4854 The Committee noted that this application had been withdrawn.

**UNAUTHORISED SITING OF CARAVAN AT THE DRUMS,  
OLD KILPATRICK**

4855 A report was submitted by the Director of Development and Environmental Services informing of a breach of planning control in the form of the unauthorised siting of a static caravan in a field at The Drums, Old Kilpatrick, and seeking authority to take enforcement action to have the breach remedied.

- 4856 The Committee agreed to authorise the Director of Development and Environmental Services to serve an Enforcement Notice requiring that the caravan be removed from the site and the land restored to its original condition.

### **CONSULTATION ON TREE PRESERVATION ORDERS**

- 4857 A report was submitted by the Director of Development and Environmental Services informing of a consultation on Tree Preservation Orders issued by the Scottish Executive Development Department in December 2004 and recommending the Council's formal response.

- 4858 The Committee agreed:-

- (1) to note the contents of the report; and
- (2) that authority be delegated to the Director of Development and Environmental Services to respond to the consultation supporting the proposed changes to the Town and Country Planning (Scotland) Act 1997 regarding Tree Preservation Orders.

### **APPEAL DECISION – DUNCLUTHA, PARKHALL ROAD, CLYDEBANK; PLANNING APPEAL – 93 HIGH STREET, DUMBARTON**

- 4859 A report was submitted by the Director of Development and Environmental Services informing of the outcome of an appeal to the Scottish Executive Inquiry Reporters Unit and the submission of an appeal to the Scottish Executive Inquiry Reporters Unit.

- 4860 The Committee agreed to note:-

- (1) that the appeal against the refusal of planning consent for the erection of 25 flats with ancillary works at Dunclutha, Parkhall Road, Dalmuir in Clydebank had been dismissed; and
- (2) that an appeal against the refusal under delegated powers of a proposed change of use from a Class 1 shop to a Class 2 Licensed Betting Shop at 93 High Street, Dumbarton had been submitted and would be dealt with by way of written submissions.

### **GLASGOW & CLYDE VALLEY JOINT STRUCTURE PLAN REVIEW**

- 4861 A report was submitted by the Director of Development and Environmental Services advising of the publication of a discussion document entitled „The Future of the Glasgow & Clyde Valley“ which sets out the general approach to the Review of the Glasgow and the Clyde Valley Joint Structure Plan and recommending the Council's formal response.

4862 Having heard Councillor McDonald the Committee agreed:-

- (1) to note the contents of the report;
- (2) that the report should form the basis of the Council's formal response to the discussion document; and
- (3) that the Council's response to the discussion document should highlight the following:-
  - (i) a growth scenario that continues to improve the area is supported;
  - (ii) a continued commitment to utilising brownfield land;
  - (iii) new housing be located in existing urban areas as the first preference;
  - (iv) it is recognised that both Dumbarton and Clydebank perform a regional/sub-regional role and a development framework is set out which safeguards and enhances this role;
  - (v) any additional retail floorspace should as first preference be located in existing centres and should be able to be supported by the relevant population and not have an adverse impact on existing centres; and
  - (vi) an evaluation of the suitability of areas for windfarm development is undertaken and local implications are suitably considered.

The meeting closed at 10.21 a.m.

## **APPLICATIONS CONSIDERED BY THE PLANNING COMMITTEE ON 2 FEBRUARY 2005**

### **WP98/076 – Review of Minerals permission at Sheephill Quarry, Milton**

#### **Conditions similar to the following to be imposed for the future quarrying operations:-**

1. The development hereby permitted within the area identified on plan reference Figure 2 of the Environmental Statement shall enure until 21 February 2042 and at the end of the period of permission, all quarrying operations, including the crushing of rock and the transfer of aggregates from the site, shall cease.
2. The normal daytime operating hours for the quarry are to be 0800 hours to 2000 hours Monday to Friday, 0800 hours to 1200 hours (noon) on Saturday and not at all on Sundays or Public Holidays and no heavy goods vehicles shall arrive at or leave the site and no operations, including the loading and transportation of minerals or operation of quarry plant shall take place outside these hours. Permission to operate outside these hours must be agreed in writing with the Director of Development and Environmental Services, prior to such operations taking place.
3. Noise attributable to the operators at Sheephill quarry shall not exceed the daytime limits of 59 dB  $L_{Aeq\ 1\ hour}$  during the working of phase 1 and 55 dB  $L_{Aeq\ 1\ hour}$  during the working of all other phases at Greenland Farm; and 55 dB  $L_{Aeq\ 1\ hour}$  during the working of all phases at Auchentorlie House, No. 9 Milton Hill, and Mattockhill (representative of Middleton); all as specified in the Environmental Statement and to the satisfaction of the Director of Development and Environmental Services.
4. A request for the relaxation of the noise limits identified in condition 3 above must be submitted in writing a minimum of 14 days prior to the commencement of the operations requiring the relaxation and must include time periods and noise limits for the temporary relaxation, all for the consideration and written approval of the Director of Development and Environmental Services.
5. The applicant shall undertake a noise monitoring programme at the locations as described in condition 3 above and the frequency and times of such monitoring must be agreed by the Director of Development and Environmental Services and the results shall be submitted in writing to the Director of Development and Environmental Services on a frequency to be agreed with the Authority. For the avoidance of doubt, the noise monitoring shall be carried out in accordance with the methods specified in PAN50: Annex A - The Control of Noise at Surface Mineral Working and in so far as is reasonably practical, the operation shall ensure that the best practice methodologies set out in PAN50 are adopted.

6. Blasting operations shall be carried out at regular times between 1000 and 1600 hours Monday to Friday, with no blasting permitted at weekends and on public holidays and the quarry operator shall endeavour to ensure that as far as is practicable, blasting should be carried out between 1000 and 1300 hours.
7. Blasting shall be avoided, where possible, under weather conditions likely to direct or focus the blast air overpressure towards noise sensitive properties and no blasting shall be carried out during a temperature inversion; all to the satisfaction of the Director of Development and Environmental Services.
8. Notwithstanding the requirements of condition 6 and 7 above, if as a result of any emergency situation or need to ensure safe quarry practices, blasting is required to take place outside the specified hours, the times and reasons for such an event shall be notified in writing to West Dunbartonshire Council's Environmental Health Section within two days of the occurrence.
9. Within four weeks of the date of this approval, the operator shall submit a blast monitoring scheme that will record all blasts within the quarry area, with the monitoring points to be set at locations to be agreed by the Director of Development and Environmental Services.
10. The occupiers of neighbouring properties that have been identified as part of the monitoring scheme to be vibration sensitive, shall be notified in writing of the intended blasting programme and any subsequent changes to the programme; all to the satisfaction of the Director of Development and Environmental Services.
11. The operator shall monitor all blasts and records shall be maintained so that peak particle velocity can be identified and these records shall be made available for inspection by any authorised party during office hours at the quarry; and on the last working day of each month the monitoring records shall be submitted to the Director of Development and Environmental Services.
12. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mm/s for 95% of all blasts over any 12 months and no individual blast shall exceed a peak particle velocity of 12 mm/s. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface at any vibration sensitive building; all to the satisfaction of the Director of Development and Environmental Services.
13. The operator shall adopt appropriate blasting practices that have regard to safe quarrying practices and be such that under normal atmospheric conditions, the peak linear and air overpressure level of 120 dB shall not be exceeded as measured at any noise sensitive properties; all to the satisfaction of the Director of Development and Environmental Services.

14. Blasting shall be carried out using the best practicable means available to ensure that the resultant noise, vibration and air overpressure are minimised in accordance with current British Standards and Mineral Guidelines and the best practice methodologies as set out in PAN 50; and to the satisfaction of the Director of Development and Environmental Services.
15. For the duration of this permission and up to the completion of all aftercare works warning signs shall be erected and maintained by the operator next to all publicly accessible areas within or adjacent to the quarry. Details of the locations of these signs shall be made known to the Director of Development and Environmental Services.
16. Blasting shall only be carried out after suitable audible and visible warnings have been given and the method of such warnings must be submitted and approved in writing by the Director of Development and Environmental Services; and must be given in writing by the operator to the occupiers of all the properties around the site.
17. The operator shall ensure that the Environmental Health Section of West Dunbartonshire Council be given a minimum of 48 hours telephone notification before every blast at the quarry.
18. The quarry operator shall ensure that all operations are controlled so as to prevent or minimise the release of dust into the atmosphere and the dust mitigation measures listed in the Environmental Statement shall be implemented to the satisfaction of the Director of Development and Environmental Services and in a method which ensures that the best practice methodologies as set out in PAN50 are adopted.
19. Visual assessments of dust emissions from all plant and operations shall be made at least once per day during operations and remedial actions taken to the satisfaction of the Director of Development and Environmental Services.
20. Wheel cleaning facilities shall be used on the site by every vehicle entering/leaving the operations area and must be maintained in operation throughout the life of the quarry.
21. The paved area of road within the site must be swept/washed where required in order to ensure that no debris from the quarry is carried onto the public highway, all to the satisfaction of the Director of Development and Environmental Services.
22. The methods of working within the quarry must be as described within the approved documents forming part of this consent and any changes to the operating procedures or methods must be submitted to and approved in writing by the Director of Development and Environmental Services.
23. The gradient of the quarry floor shall be maintained at 1:250 and in such a manner as to ensure that throughout the life of the quarry, all internal water

run-off is directed out of the excavation area and towards the settlement ponds and to ensure that no flooding takes place within the quarry area.

24. The operator of the quarry shall grade all benches and work areas to drain towards the quarry floor and ultimately towards the settlement ponds and no water or run-off shall be directed out of the quarry area unless it is within the current discharge process area as consented by SEPA.
25. The operator of the quarry shall continue to control water run-off from the site according to the Discharge Consent and the conditions contained therein, as issued by SEPA and shall inform the Director of Development and Environmental Services in writing of any changes or updates in the Discharge Consent (or its equivalent) and its conditions.
26. The operator of the quarry shall continue to carry out the crushing, grading and screening of the minerals on the site according to the Certificate of Authorisation of a Prescribed Process as issued by SEPA and shall inform the Director of Development and Environmental Services in writing of any changes or updates in the Certificate (or its equivalent) and its conditions.
27. The topsoil and subsoils to be removed must be stored on as described in the applicant's written submission and must be retained on site for eventual reuse as part of the restoration works as described in conditions 36 and 37, all to the satisfaction of the Director of Development and Environmental Services.
28. If it becomes necessary to relocate any of the existing or new soil storage mounds within the site then such soils cannot be relocated until the Director of Development and Environmental Services gives written approval of the new storage locations and methods of storage.
29. If it becomes necessary to relocate the mineral stock piles from the location indicated in the applicant's submission, then such relocation cannot take place until the Director of Development and Environmental Services gives written approval of the new storage locations and methods of storage.
30. Details of all boundary walls and fences for the full extent of the application site must be submitted to and approved in writing by the Director of Development and Environmental Services.
31. In the event that any waste products are produced on the site, the operator of the quarry must obtain a licence under the Waste Management Licensing Regulations 1994 and details of any waste products and the licence, must be submitted to the Director of Development and Environmental Services as soon as they are identified or received.
32. No materials shall be imported to the site for the purposes of storage, crushing, screening, processing, manufacturing or onward transportation.
33. Any chemical, oil or diesel storage tanks installed within the application site shall be sited on impervious bases and surrounded by impervious bunded

walls and the bunded areas shall be capable of containing 110% of the tank volume and should enclose all fill and draw pipes.

34. All artificial lighting units installed at the quarry shall be so sited and shielded to be incapable of direct sight from any residential property outside the quarry boundary.
35. No later than 6 months after the permanent cessation of quarrying or the date set by condition 1 above whichever is the sooner, all buildings, plant, machinery and areas of hardstanding including the internal access roads shall be removed and the ground reinstated in accordance with the conditions of this permission relating to restoration.
36. Within six months of the date of this consent, a restoration masterplan for the whole of the quarry area and including details of the restoration or replanting of dilapidated features such as boundary hedges and drystone dykes, as well as details showing how recreational access and links to the local path network, would be achieved, along with details of aftercare and afteruse, must be submitted to and approved in writing by the Director of Development and Environmental Services.
37. As part of the restoration masterplan as described in condition 36 above, a detailed restoration scheme for the upper bench levels (shown to be completed within 3 years of the start of excavations along the eastern boundary) shall be submitted to and approved in writing by the Director of Development and Environmental Services and shall include details of restoration works to add rock and soil to reprofile blast faces and trees and other planting to assist natural regeneration, all in order to replicate the appropriate key characteristics of the surrounding landscape.
38. The restoration scheme approved under the terms of condition 36 above shall be designed with due consideration to minimise any resulting birdstrike hazard and shall take into account relevant guidance provided by the Civil Aviation Authority/Airport Operators Association.
39. The restoration scheme approved under the terms of condition 36 above shall be implemented and the works completed within 12 months of the completion of all quarrying operations or the date stated in condition 1 above, whichever is the sooner.
40. In the event that during the life of this permission mineral extraction ceases for a continuous period in excess of two years or the use is discontinued for a like period, then unless as may otherwise be agreed in writing by the Director of Development and Environmental Services, within 12 months of either event occurring, a revised restoration scheme that modifies and updates that required by conditions 36 and 37 above, shall be submitted for the written approval of the Director of Development and Environmental Services, including any modifications as may be required, detailing the steps to be taken to restore the site.



41. Within 12 months of being approved any revised restoration scheme that may have been required under the terms of condition 40 above shall be implemented and the works completed.
42. The approved aftercare scheme shall be implemented following cessation of mineral extraction and in accordance with the approved timetable as required by condition 36 above, unless as may otherwise be agreed in writing by the Director of Development and Environmental Services.
43. Except as may otherwise be agreed in writing by the Director of Development and Environmental Services, at the expiry of twelve months from the date of this planning permission, and thereafter at twelve monthly intervals, the applicant will submit a plan to a scale of not less than 1:2500 indicating the progress of quarrying operations. The plan will indicate the current position of the extraction areas, the extent of spoil disposal and any landscaping works that have been implemented.
44. Prior to any work taking place within or affecting the scheduled area of Sheephill Fort, the operator of the quarry must prepare a written scheme of investigation for the preservation and/or recording of the scheduled area and this must be submitted to and approved in writing by the Director of Development and Environmental Services and the Council's Archaeology Service.
45. Prior to any work taking place within or affecting the scheduled area of Sheephill Fort, the operator of the quarry shall implement the approved scheme of investigation to the satisfaction of the Director of Development and Environmental Services and the Council's Archaeology Service.
46. Prior to any tree felling work taking place, all trees that require to be felled shall be inspected by an experienced bat surveyor to check for the presence or otherwise of bats. If bats are found then no tree felling work shall take place until the relevant licence is obtained.

#### **DC02/447 – Extension to Quarry at Sheephill Quarry, Milton Dumbarton**

**Minded to GRANT planning permission subject to conditions similar to the following:-**

1. The excavation works hereby permitted within the area identified on plan reference Figure 2 of the Environmental Statement as the proposed extension area, shall start within two years of the date of this permission and prior written notice of the start of such works must be given to the Director of Development and Environmental Services no later than 7 days prior to the commencement of quarrying in this area.
2. The development hereby permitted shall enure until 21 February 2042 and at the end of the period of permission, all quarrying operations, including the crushing of rock and the transfer of aggregates from the site, shall cease.

3. The normal daytime operating hours for the quarry are to be 0800 to 2000 hours Monday to Friday, 0800 to 1200 hours (noon) on Saturday and not at all on Sundays or Public Holidays and no heavy goods vehicles shall arrive at or leave the site and no operations, including the loading and transportation of minerals or operation of quarry plant shall take place outside these hours. Permission to operate outside these hours must be agreed in writing with the Director of Development and Environmental Services, prior to such operations taking place.
4. Noise attributable to the operators at Sheephill quarry shall not exceed the daytime limits of 59 dB  $L_{Aeq\ 1\ hour}$  during the working of phase 1 and 55 dB  $L_{Aeq\ 1\ hour}$  during the working of all other phases at Greenland Farm; and 55 dB  $L_{Aeq\ 1\ hour}$  during the working of all phases at Auchentorlie House, No. 9 Milton Hill, and Mattockhill (representative of Middleton); all as specified in the Environmental Statement and to the satisfaction of the Director of Development and Environmental Services.
5. A request for the relaxation of the noise limits identified in condition 4 above must be submitted in writing a minimum of 14 days prior to the commencement of the operations requiring the relaxation and must include time periods and noise limits for the temporary relaxation, all for the consideration and written approval of the Director of Development and Environmental Services.
6. The applicant shall undertake a noise monitoring programme at the locations as described in condition 4 above and the frequency and times of such monitoring must be agreed by the Director of Development and Environmental Services and the results shall be submitted in writing to the Director of Development and Environmental Services on a frequency to be agreed with the Authority. For the avoidance of doubt, the noise monitoring shall be carried out in accordance with the methods specified in PAN50: Annex A - The Control of Noise at Surface Mineral Working and in so far as is reasonably practical, the operation shall ensure that the best practice methodologies set out in PAN50 are adopted.
7. Blasting operations shall be carried out at regular times between 1000 and 1600 hours Monday to Fridays with no blasting permitted at weekends or on public holidays and the quarry operator shall endeavour to ensure that so far as is practicable, blasting should be carried out between 1000 and 1300 hours.
8. Blasting shall be avoided, where possible, under weather conditions likely to direct or focus the blast air overpressure towards noise sensitive properties and no blasting shall be carried out during a temperature inversion; all to the satisfaction of the Director of Development and Environmental Services.
9. Notwithstanding the requirements of condition 7 and 8 above, if as a result of any emergency situation or need to ensure safe quarry practices, blasting is required to take place outside the specified hours, the times and reasons for

such an event shall be notified in writing to West Dunbartonshire Council's Environmental Health Section within two days of the occurrence.

10. Prior to excavation works taking place within the application site, the applicant shall submit for the written approval of the Director of Development and Environmental Services, a list of properties considered to be vibration sensitive at which the monitoring of blasts shall be carried out.
11. Prior to excavation works taking place within the application site area, a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be submitted to the Director of Development and Environmental Services for written approval. 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 Director of Development and Environmental Services.
12. The occupiers of neighbouring properties that have been identified as part of the monitoring scheme to be vibration sensitive, shall be notified in writing of the intended blasting programme and any subsequent changes to the programme; all to the satisfaction of the Director of Development and Environmental Services.
13. The operator shall monitor all blasts and records shall be maintained so that peak particle velocity can be identified and these records shall be made available for inspection by any authorised party during office hours at the quarry; and on the last working day of each month the monitoring records shall be submitted to the Director of Development and Environmental Services.
14. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mm/s for 95% of all blasts over any period of 12 months and no individual blast shall exceed a peak particle velocity of 12 mm/s. The measurement shall be the maximum of three mutually perpendicular directions taken at the ground surface at any vibration sensitive building all to the satisfaction of the Director of Development and Environmental Services.
15. The operator shall adopt appropriate blasting practices that have regard to safe quarrying practices and be such that under normal atmospheric conditions, the peak linear and air overpressure level of 120 dB shall not be exceeded as measured at any noise sensitive properties; all to the satisfaction of the Director of Development and Environmental Services.
16. Blasting shall be carried out using the best practicable means available to ensure that the resultant noise, vibration and air overpressure are minimised in accordance with current British Standards and Mineral Guidelines and the best practice methodologies as set out in PAN 50 and to the satisfaction of the Director of Development and Environmental Services.
17. For the duration of this permission and up to the completion of all aftercare works warning signs shall be erected and maintained by the operator next to

all publicly accessible areas within or adjacent to the quarry. Details of the locations of these signs shall be made known to the Director of Development and Environmental Services.

18. Blasting shall only be carried out after suitable audible and visible warnings have been given and the method of such warnings must be submitted and approved in writing by the Director of Development and Environmental Services; and must be given in writing by the operator to the occupiers of all the properties around the site.
19. The operator shall ensure that the Environmental Health Section of West Dunbartonshire Council be given a minimum of 48 hours telephone notification before every blast at the quarry.
20. The quarry operator shall ensure that all operations are controlled so as to prevent or minimise the release of dust into the atmosphere and the dust mitigation measures listed in the Environmental Statement shall be implemented to the satisfaction of the Director of Development and Environmental Services and in a method which ensures that the best practice methodologies as set out in PAN50 are adopted.
21. Visual assessments of dust emissions from all plant and operations shall be made at least once per day during operations and remedial actions taken to the satisfaction of the Director of Development and Environmental Services.
22. Wheel cleaning facilities shall be used on the site by every vehicle entering/leaving the operations area and must be maintained in operation throughout the life of the quarry.
23. The paved area of road within the site must be swept/washed where required in order to ensure that no debris from the quarry is carried onto the public highway, all to the satisfaction of the Director of Development and Environmental Services.
24. The methods of working within the quarry must be as described within the approved documents forming part of this consent and any changes to the operating procedures or methods must be submitted to and approved in writing by the Director of Development and Environmental Services.
25. The extent of the quarrying operations area shall be as outlined on plan reference Figure 5: excavation boundary following excambion of the approved application Environmental Statement.
26. The gradient of the quarry floor shall be maintained at 1:250 and in such a manner as to ensure that throughout the life of the quarry, all internal water run-off is directed out of the excavation area and towards the settlement ponds and to ensure that no flooding takes place within the quarry area.
27. The operator of the quarry shall grade all benches and work areas to drain towards the quarry floor and ultimately towards the settlement ponds and no

water or run-off shall be directed out of the quarry area unless it is within the current discharge process area as consented by SEPA.

28. The operator of the quarry shall continue to control water run-off from the site according to the Discharge Consent and the conditions contained therein, as issued by SEPA and shall inform the Director of Development and Environmental Services in writing of any changes or updates in the Discharge Consent (or its equivalent) and its conditions.
29. The operator of the quarry shall continue to carry out the crushing, grading and screening of the minerals on the site according to the Certificate of Authorisation of a Prescribed Process as issued by SEPA and shall inform the Director of Development and Environmental Services in writing of any changes or updates in the Certificate (or its equivalent) and its conditions.
30. The topsoil and subsoils to be removed from the application site area must be stored on site as described in the applicant's written submission and must be retained on site for eventual reuse as part of the restoration works as described in conditions 40 and 41, all to the satisfaction of the Director of Development and Environmental Services.
31. No extraction or quarrying operations shall be carried out within the application site area until all topsoil and subsoil is fully stripped to the full available depth and the stripping of such soils shall only take place when they are dry.
32. If it becomes necessary to relocate any of the existing or new soil storage mounds within the site then such soils cannot be relocated until the Director of Development and Environmental Services gives written approval of the new storage locations and methods of storage.
33. If it becomes necessary to relocate the mineral stock piles from the location indicated in the applicant's submission, then such relocation cannot take place until the Director of Development and Environmental Services gives written approval of the new storage locations and methods of storage.
34. Details of all boundary walls and fences for the full extent of the application site must be submitted to and approved in writing by the Director of Development and Environmental Services.
35. In the event that any waste products are produced on the site, the operator of the quarry must obtain a licence under the Waste Management Licensing Regulations 1994 and details of any waste products and the licence, must be submitted to the Director of Development and Environmental Services as soon as they are identified or received.
36. No materials shall be imported to the site for the purposes of storage, crushing, screening, processing, manufacturing or onward transportation.
37. Any chemical, oil or diesel storage tanks installed within the application site shall be sited on impervious bases and surrounded by impervious bunded

walls and the bunded areas shall be capable of containing 110% of the tank volume and should enclose all fill and draw pipes.

38. All artificial lighting units installed at the quarry shall be so sited and shielded to be incapable of direct sight from any residential property outside the quarry boundary.
39. No later than 6 months after the permanent cessation of quarrying or the date set by condition 2 above whichever is the sooner, all buildings, plant, machinery and areas of hardstanding including the internal access roads shall be removed and the ground reinstated in accordance with the conditions of this permission relating to restoration.
40. Within six months of the date of this consent, a restoration masterplan for the whole of the quarry area and including details of the restoration or replanting of dilapidated features such as boundary hedges and drystone dykes, as well as details showing how recreational access and links to the local path network, would be achieved, along with details of aftercare and afteruse, must be submitted to and approved in writing by the Director of Development and Environmental Services.
41. As part of the restoration masterplan as described in condition 40 above, a detailed restoration scheme for the upper bench levels (shown to be completed within 3 years of the start of excavations along the eastern boundary) shall be submitted to and approved in writing by the Director of Development and Environmental Services and shall include details of restoration works to add rock and soil to reprofile blast faces and trees and other planting to assist natural regeneration, all in order to replicate the appropriate key characteristics of the surrounding landscape.
42. The restoration scheme approved under the terms of condition 40 above shall be implemented and the works completed within 12 months of the completion of all quarrying operations or the date stated in condition 2 above, whichever is the sooner.
43. The restoration scheme approved under the terms of condition 40 above shall be designed with due consideration to minimise any resulting birdstrike hazard and shall take into account relevant guidance provided by the Civil Aviation Authority/Airport Operators Association.
44. In the event that during the life of this permission for mineral extraction ceases for a continuous period in excess of two years or the use is discontinued for a like period, then unless as may otherwise be agreed in writing by the Director of Development and Environmental Services, within 12 months of either event occurring, a revised restoration scheme that modifies and updates that required by conditions 40 and 41 above, shall be submitted for the written approval of the Director of Development and Environmental Services, including any modifications as may be required, detailing the steps to be taken to restore the site.

45. Within 12 months of being approved any revised restoration scheme that may have been required under the terms of condition 44 above shall be implemented and the works completed.
46. The approved aftercare scheme shall be implemented following cessation of mineral extraction and in accordance with the approved timetable as required by condition 40 above, unless as may otherwise be agreed in writing by the Director of Development and Environmental Services.
47. Except as may otherwise be agreed in writing by the Director of Development and Environmental Services, at the expiry of twelve months from the date of this planning permission, and thereafter at twelve monthly intervals, the applicant will submit a plan to a scale of not less than 1:2500 indicating the progress of quarrying operations. The plan will indicate the current position of the extraction areas, the extent of spoil disposal and any landscaping works that have been implemented.
48. The applicant shall ensure that the footpath from Milton Brae via Greenland Farm to Loch Humphrey, where it passes close to the quarry, is kept open to the public (other than during any times of blasting in the quarry) or that an alternative, appropriate footpath is provided, all to the satisfaction of the Director of Development and Environmental Services.

**DC01/068 – Demolition of lodge at Dalmonach North Lodge, Main Street, Bonhill**

**Listed building consent GRANTED subject to the following conditions:-**

1. The development hereby permitted shall commence within a period of 5 years from the date of this permission.
2. The demolition shall only operate between the hours of 8.00am and 6.00pm, Monday to Saturday.
3. No material of any kind shall be brought onto the site and tipped as part of any reinstatement works without the express written consent of the Director of Development and Environmental Services.
4. Prior to the start of demolition on the site and until all buildings have been demolished and materials removed from the site, a security fence shall be erected round the demolition site and details of the fence shall be submitted to and approved in writing by the Director of Development and Environmental Services.
5. The red sandstone including the corniced and capped stone which forms the external walls and chimneyhead of the building shall be salvaged from the demolition and stored for use in any future development of the former Dalmonach dye works site and details of where and how this storage should take place shall be submitted to the Director of Development and

Environmental Services for his written approval, prior to any demolition works commencing on site.

6. Any other materials resulting from demolition on the site, excepting those covered under condition 5, shall be removed to a recognised and registered infill site, details of which shall be submitted to and approved in writing by the Director of Development and Environmental Services prior to demolition work commencing on site.
7. Upon completion of the approved demolition, the surface of the demolition site shall be levelled, well-compacted and free of all extraneous materials, and shall be kept weed and litter free, all to the satisfaction of the Director of Development and Environmental Services.
8. In the event that any contaminated materials or any other materials requiring a specialist contractor (e.g. asbestos) are found to be on site then details of the materials, their method of removal and supervision of their removal, must be submitted to and approved in writing by Director of Development and Environmental Services prior to the materials being disturbed on site or removed from the site.

**DC04/103 – Two storey side extension to dwellinghouse at 73 Oronsay Crescent, Old Kilpatrick**

**Permission REFUSED for the following reasons:-**

1. The proposed two storey side extension is considered to be contrary to Policies H5 and GD1 of the Clydebank Local Plan as its scale, height and proximity to the boundary would have an adverse effect on the amenity of the neighbouring properties.
2. The proposed two storey side extension is considered to be contrary to Policy GD1 of the Clydebank Local Plan as the applicant has not demonstrated that the site can be provided with two off street parking places (measuring 5.0 x 2.5m) to accord with the requirements of West Dunbartonshire Councils Roads Development Guidelines.

**DC04/252 – Erection of office development and associated car parking adjacent to 199 Dumbarton Road, Clydebank**

**Permission GRANTED subject to the following conditions:-**

1. The development hereby permitted shall commence within a period of 5 years from the date of this permission.
2. Exact details and specifications of all proposed external finishing materials (including roofing materials) shall be submitted for the further approval of the



Director of Development and Environmental Services prior to any work commencing on the site.

3. No consent is granted to the boundary fence/walls shown on the approved plan and before work commences on site all boundary details shall be submitted for the approval of the Director of Development and Environmental Services and shall be implemented within a timescale to be approved by the Director of Development and Environmental Services
4. The car parking area and internal roads and footpaths shall be designed and constructed to the specification of West Dunbartonshire Council and shall be fully completed before the units are brought into use.
5. Prior to commencement of works, full details of all hard surfacing to be provided on the site shall be submitted for the consideration and written approval of the Director of Development and Environmental Services.
6. The development shall be landscaped in accordance with a scheme which shall be submitted to and approved by the Director of Development and Environmental Services before development commences. The scheme shall indicate the siting, numbers, species and heights (at the time of planting) of all trees, shrubs and hedges to be planted and the extent of any areas of earthmounding, and shall ensure:-
  - (a) completion of the scheme during the planting season next following the completion of the building(s), or such other date as may be agreed in writing with the Director of Development and Environmental Services; and
  - (b) the maintenance of the landscaped areas for a period of five years or until established, whichever may be longer. Any trees or shrubs removed, or which in the opinion of the Director of Development and Environmental Services, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.
7. The roof element of the development site shall be constructed to allow access to all areas by foot using permanent access hatches details of which shall be submitted to the Director of Development and Environmental Services, prior to the building being occupied and the owner/occupier of the building shall ensure that at no time will the flat roof be allowed to support breeding or roosting birds.
8. No works shall commence on the site until details of a sustainable urban drainage system has been submitted and approved by the Director of Development and Environmental Services.



**WEST DUNBARTONSHIRE COUNCIL****Report by the Strategic Lead, Regulatory****Planning Committee: 11 November 2020**

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**Subject: Review of the Planning Enforcement Charter****1. Purpose**

- 1.1** To seek approval of the Planning Enforcement Charter.

**2. Recommendation**

- 2.1** That the Committee approves the updated Planning Enforcement Charter.

**3. Background**

- 3.1** All planning authorities require to have an Enforcement Charter which details how the Planning Authority will deal with enforcement complaints and to provide details of their enforcement powers. The Scottish Government expect the Enforcement Charter to be reviewed every two years to ensure that it reflects the up to date view of the Council of how it deals with enforcement matters and also to reflect any changes in enforcement legislation. One of the performance markers within the annual Planning Performance Framework (PPF), to be submitted to the Scottish Government, is an up to date Enforcement Charter. The Council's Enforcement Charter was last updated and approved by the Planning Committee in June 2018.

**4. Main Issues**

- 4.1** The updated Planning Enforcement Charter is contained in Appendix 1. The changes include a new paragraph on the appointment of an additional Compliance Officer in September 2019 on a two day basis, updated links to further information and minor changes to wording within the document. The general focus and content of enforcement procedures and guidance remain the same and have not been changed by any new legislation in the interim. The Charter still explains, as required, how the enforcement process works in West Dunbartonshire, the current powers available to the Council and the service standards that the Council sets itself. The aims of the charter are to explain the enforcement process and to ensure that the adopted procedures are fair and reasonable; that all interested parties are kept informed at each stage of the process; and that they are clearly made aware of anything which is required of them.
- 4.2** Since the publication of the 2018 Charter a number of positive changes have been implemented within planning enforcement including the appointment of the additional Compliance Officer as noted above. This post primarily monitors the conditions associated with the large regeneration sites such as

Queens Quay and Dumbarton Waterfront. This has facilitated a swifter discharge of conditions for the major sites along with a physical presence on the sites enabling a robust compliance/resolution in response to issues and/or complaints. This new post has positively influenced the number of planning breaches identified requiring no further action. Service improvements have also been undertaken since the last Enforcement Charter was published including the introduction of a dedicated mailbox for members of the public to email enforcement related complaints direct along with a quarterly compliance/ monitoring report. The report covers in depth the work undertaken by the officers, highlighting any key issues and contentious enforcement cases.

**4.3** The Covid-19 situation has had a significant impact on enforcement and since March 2020 there has been an unprecedented rise in enforcement related complaints. 114 enforcement related complaints have been received since 1<sup>st</sup> March 2020 to date compared with 45 for the same period in 2019. By the end of July 2020 the number of enforcement related complaints received since the beginning of the year exceeded the total number received for the whole of 2019. This rise in enforcement related work has presented additional challenges for the Compliance Officers and wider Development Management team. Despite these challenges complaints have been acknowledged and investigations initiated within the service standard timescales as set out in the Enforcement Charter and this has strongly demonstrated our organisational resilience in enforcement related matters.

**4.4** The updated Enforcement Charter again recognises the important role that the public play in reporting potential breaches of planning control and in monitoring the conditions that are imposed on certain planning consents. It also highlights the key points on Planning Enforcement as:

- ***Category of priorities;***
- ***Enforcement is a discretionary power, and any enforcement action must be in the public interest;***
- ***That the planning service will work to resolve the problem, not punish the breach;***
- ***Any enforcement action will be proportionate to the scale of the breach;***
- ***The Council will not act as an arbiter for neighbour or boundary disputes.***

**4.5** The updated Enforcement Charter will ensure the Council's approach to enforcement fulfils legislative requirements and is consistent and proportionate. It will also ensure our communities are well informed about the role of enforcement.

## **5. People Implications**

**5.1** There are no people implications.

## **6. Financial and Procurement Implications**

**6.1** There are no financial or procurement implications.

## **7. Risk Analysis**

**7.1** The Council are required to have an up to date approved Enforcement Charter so that the public are aware of their enforcement powers.

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

**8.1** An Equalities Impact Assessment has been carried out for the updated Enforcement Charter. This concludes that the updated Charter should be introduced. The Council has adopted guidance on communication with disabled people and those for whom English is not a first language which can assist members of the public in accessing alternative formats of the Enforcement Charter such as large print, braille, audio tape or a in a different language.

## **9. Environmental Sustainability**

**9.1** A Strategic Environmental Assessment is not required.

## **10. Consultation**

**10.1** None

## **11. Strategic Assessment**

**11.1** The Enforcement Charter is considered to support the strategy priorities of the Council.

**Peter Hessett**  
**Strategic Lead, Regulatory**  
**Date: 11<sup>th</sup> November 2020**

**Person to Contact:** Pamela Clifford, Planning and Building Standards Manager,  
Email: [pamela.clifford@west-dunbarton.gov.uk](mailto:pamela.clifford@west-dunbarton.gov.uk)

**Appendices:** Enforcement Charter updated September 2020

**Background Papers:** Screening for Equalities Impact Assessment

**Wards Affected:** All wards.





# **PLANNING ENFORCEMENT CHARTER**

**Planning and Building Standards Service**



**September 2020**



# Planning Enforcement Charter

## What is Planning Enforcement?

Many types of development require planning permission or other related consents. Sometimes, either by accident or intentionally, developers or householders undertake work without the necessary permission, or fail to implement correctly the permission they have been given. This is called a breach of planning control.

Possible breaches of planning control can include:

- Carrying out physical work or changes of use of property without the required planning permission;
- Failure to comply with conditions attached to a planning permission;
- Carrying out development otherwise than in accordance with the approved plans or specifications;
- Works in breach of special planning controls, including those relating to listed buildings, conservation areas, tree preservation orders and advertisement control

Recent examples of breaches of planning control have included:

- Erection of a satellite dish on a listed building
- Developers working outwith the times specified on a condition of consent
- Non-compliance with a High Hedge Notice
- Decking in the garden of a flat without planning permission

The aims of this charter are to explain the enforcement process, and to ensure that our adopted procedures are fair and reasonable; that all interested parties are kept informed at each stage of the process; and that they are clearly made aware of anything which is required of them.

Councils have powers to take enforcement action, if it is in the public interest to do so. The Council's planning enforcement function is administered by the Development Management team. Building Standards have separate powers under the Building (Scotland) Act 2003.

## Key points on Planning Enforcement:

- Category of priority given to case;
- Enforcement is discretionary, any enforcement action must be in the public interest;
- We work to resolve the problem, not punish the breach unless the seriousness of the breach warrants action;
- Any enforcement action will be proportionate to the scale of the breach;
- The council will not act as an arbiter for neighborhood disputes

The Planning Compliance team consists of two part time Compliance Officers. One of the officers focuses on general enforcement matters and monitoring of quarry and landfill sites and the other, who was recruited in September 2019, principally monitors the planning conditions and development on the ground associated with the major development and large regeneration sites at Queens Quay and Dumbarton Waterfront to ensure compliance as well assisting with general enforcement matters.



### About this Charter

This charter explains how the enforcement process works in the West Dunbartonshire Council's planning authority area\*, including the enforcement powers available to the Council and the service standards which developers and objectors can expect from the Council.

The aim of the charter is to explain the enforcement process, to ensure our adopted processes are fair, reasonable and all interested parties are kept informed at each stage of the process.

Breaches of planning control are an issue concerning members of the public. We welcome any comments or suggestions on this charter on how we could improve the planning enforcement services further.



We will monitor the delivery of planning enforcement function to ensure the charter's standards are met.

\* With the exception of the High Hedges Scotland Act 2003 planning enforcement within the boundaries of the Loch Lomond and the Trossachs National Park is the responsibility of the Loch Lomond and the Trossachs National Park Planning Authority.

## Identifying Breaches of Planning Control

Members of the public have an important role in reporting potential breaches of planning control including the monitoring of planning conditions. Due to the large number of permissions granted each year it is not possible for the Council to actively monitor every site. Any concerns about unauthorised work or breaches of conditions can be raised with the Council by email, telephone or in person at one of the Council's offices (all contact details can be found at the end of this Charter).



When reporting a potential breach of planning control it is important to provide the following information:

- The address of the property concerned;
- The name and address of the person carrying out the breach (if known);
- Details of the alleged breach of planning control (including any times and dates if relevant);
- An explanation of any problems arising from the alleged breach; and
- Your own name, address and contact details

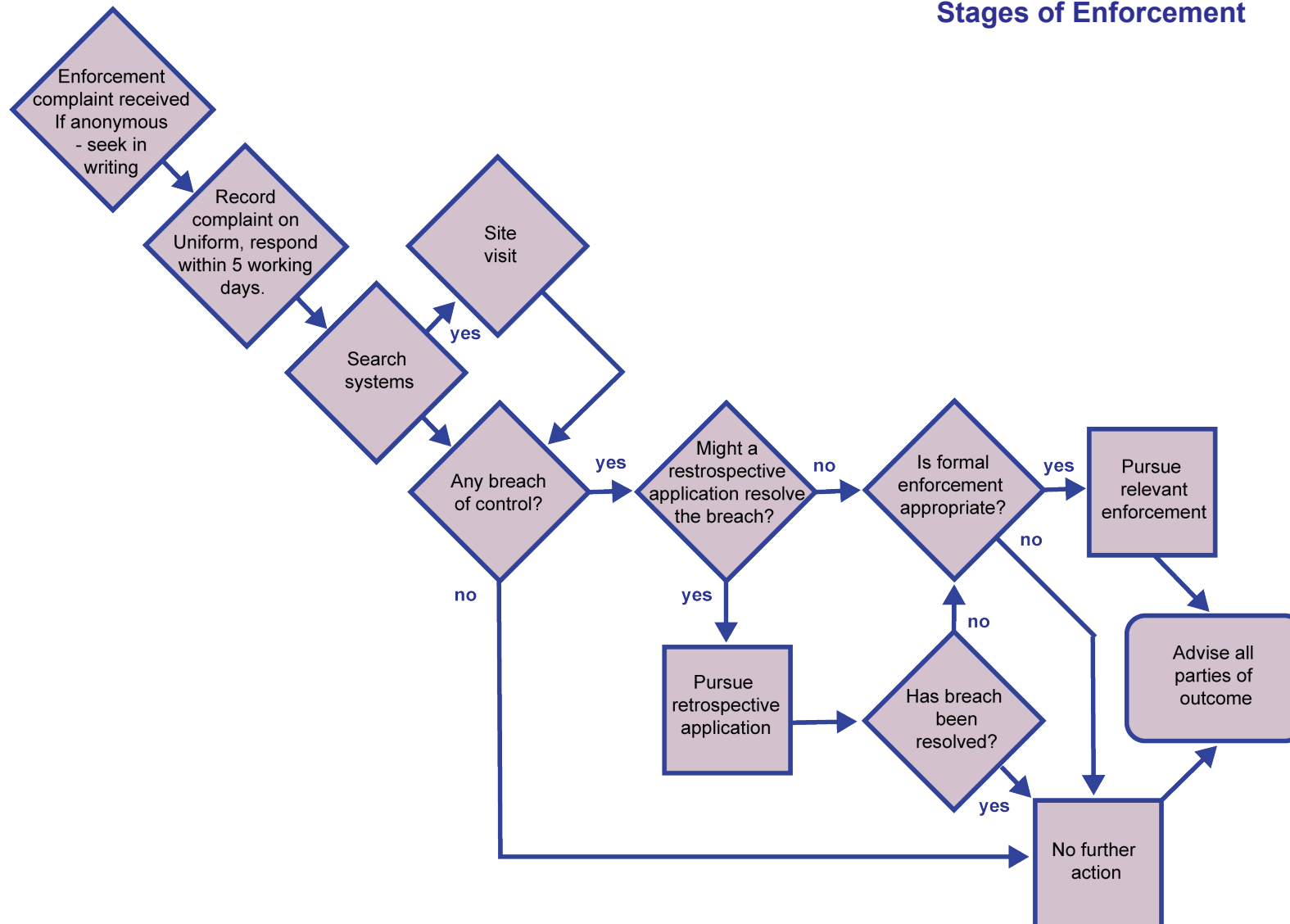


Anonymous complaints will not normally be investigated. The Council will not normally disclose who has made a complaint without that person's agreement, however developers do have the right to access certain information about their cases under the Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002, and that information may include complaints correspondence.

Sometimes complaints arise over matters such as disputes over ownership boundaries, rights of access or damage to property. These are private legal matters over which the Council has no remit, in which case we will not investigate further. However, the Council operates a Mediation Service which may be of assistance in such situations, and details can be found at:

<https://www.west-dunbarton.gov.uk/contact-us/other-council-services/neighbourhood-mediation-service/>

## Stages of Enforcement



## Investigating Possible Breaches of Planning Control

The extent to which enforcement action will be pursued will depend on whether the development complies with the policies of the local development plan. The decision to pursue enforcement action rests with the Council.

The information received will be first checked to ensure that it involves a possible breach of planning control. It is important that members of the public reporting breaches provide as much information about it as possible in order to help speed up the investigation. The Council will acknowledge receipt of enforcement complaints by email or letter within 5 working days, providing contact details for the Compliance Officer.

For most enforcement cases it is necessary for the Compliance Officer to visit the site and to discuss the situation with the developer. How quickly this happens will depend on the priority status given to the case (see 'Service Standards' section of this Charter).

Priority will be given to urgent situations such as a clear public safety concern or damage to

a listed building. In cases where we have not been provided with the developer's contact details it can take time to track down and make contact with whoever is responsible for the alleged breach, especially in the case of vacant sites and absentee landlords.

In many cases the investigation can be concluded fairly quickly as it will be clear whether or not a breach of planning control has taken place, but in some situations this will take significant longer. Officers may have to monitor a site over an extended period to establish what is taking place or to gather evidence for any enforcement proceedings. Depending on the circumstances, occasionally complainants may be asked to keep a diary of events. The Council will keep interested parties informed of the priority status given to the case and progress made and they should feel free to contact the Compliance Officer for an update. Progress made at each stage of the process and the decisions which have been reached will be recorded by the Compliance Officer.

Due to a high number of enforcement inquiries, each inquiry is prioritised depending on the significance of the breach to ensure an effective service is provided. The priority

category depends on the nature of the breach, the significance of its effects and the relative sensitivity of the site. (Priorities are not influenced by the complainant, the subject of the complaint or the number of complaints received). The below category lists are not exhaustive but aims to provide examples of how a particular breach might be dealt with.

The Town and Country Planning (General Permitted Development (Scotland) Order 1992 (as amended) permits some small works to be undertaken without the requirement for planning permission. Advice should always be sought from the planning authority to establish if proposed works benefit from permitted development rights or require planning permission. In some cases works may require planning permission but may be considered 'de minimus .' This means there has been a technical breach of planning regulations, however the breach is so minor that is not proportionate nor in the public interest to pursue a retrospective application nor take any further action. Further information is provided in links at the end of this document.



## Service Standards

**Category A – High Priority (visit the site within 5 working days unless the impacts of the breach are regraded as potentially significant and in such cases the Compliance Officers will visit the site as a matter of urgency)**

- Works that contravene an Enforcement Notice or otherwise counter any enforcement action already taken.
- Unauthorised works, including demolition, affecting a Listed Building or a building in a Conservation Area.
- Unauthorised works that harm, or potentially harm, sites of international or national importance, such as Sites of Special Scientific Interest or Scheduled Ancient Monuments.
- Unauthorised works that harm or remove trees protected by a Tree Preservation Order or within a Conservation Area.
- Unauthorised development that endangers members of the public.

**Category B – Medium Priority (visit the site within 10 working days)**

- Lesser breaches of Listed Building or Conservation Area control
- Non-compliance with High Hedge Notices
- Breaches, including breaches of planning conditions particularly those imposed on regeneration, housing, quarry and landfill sites
- Unauthorised development associated with quarry and landfill sites
- Unauthorised advertisements causing significant visual harm or compromising highway safety
- Unauthorised development resulting in adverse landscape and visual impacts

**Category C – Low Priority (visit the site within 15 working days)**

- Minor or technical breaches with little or no impact on public amenity
- Lesser breaches of advertisement control
- Untidy land not affecting public amenity.
- Any other alleged breach of planning control not falling into Category A or B



## Follow up response

We understand someone may simply want to alert us to a breach and leave it at that and other times someone who may be affected may want more contact and feedback on the Council's progress with the investigation. It is usually difficult to predict how long it will take to resolve a case and how this might happen. Each one is different. The outcome of each enforcement complaint will be advised to the complainant.



## Exercising Enforcement Powers

The pursuit of formal enforcement action is only considered once the existence of the breach has been established and the possibility of resolving the problem by other means has been explored. It is preferable to resolve problems through negotiation in the first instance. In general, the Council will only pursue enforcement where there is a clear breach of planning control and significantly affects public safety and public amenity. In many cases this approach is successful, so only a relatively small proportion of cases result in formal enforcement action.

The Council's Compliance Officers has powers to enter land or buildings to:

- Establish whether there has been a breach of planning control;
- Check if there has been compliance with a formal notice;
- Check if a breach has been satisfactorily resolved.





## Time Limits for Enforcement

In determining whether a breach of planning control has taken place, the Council is bound by statutory time limits. If an unauthorised development or activity has existed for a long period of time it effectively becomes immune from enforcement action.

The main time limits are known as the **Four Year Rule** and the **Ten Year Rule**:

**The Four Year Rule** applies to “unauthorised operational development” (i.e. the carrying out of building, engineering, mining or other physical works), and also the change of use to a single dwellinghouse.

**The Ten Year Rule** applies to all other development, including other changes of use and breaches of conditions.

If there has been no formal enforcement action during this time, after these time periods expire the development becomes Lawful and no further enforcement action can be taken. However, these rules may not apply in cases where there has been deception on the part of the developer (such as deliberate efforts to hide an unauthorised development or to mislead the planning authority about its use), and development which becomes lawful under these rules may not be able to intensify or expand without the need for further planning permission.

These time limits for enforcement **do not apply** to breaches of listed building, conservation area or advertising controls.







## Retrospective Applications

The outcome of many enforcement cases may be the submission of a retrospective application to regularise a breach. These are dealt with in the same way as other planning applications and are subject to the same consideration.

The invitation to submit a retrospective application in no way implies that permission will necessarily be granted. There is scope for third parties, for example, neighbours to comment if a retrospective planning application is made. A retrospective application may be submitted to regularise a breach otherwise legal and time difficulties may be experienced if sell the property.

In cases where it is considered that a development is clearly unacceptable or that it is giving rise to negative impacts upon the environment or local amenity which require to be addressed immediately a retrospective application will not normally be sought. Instead, the breach will require to be removed and enforcement action will be taken to resolve this. However the Council cannot prevent a developer submitting a retrospective application should they so wish.



## Enforcement of Advertisement Control

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements are displayed with 'deemed consent' which means they do not require consent provided they meet the various criteria and conditions set out in the regulations. One of these conditions is that the landowner has given permission for the advertisement to be displayed on their land.

Where advertisements are displayed without the required advertisement consent, or in breach of the conditions of such consent, the Council can serve an advertisement enforcement notice. This specifies what is required (such as removal of the advertisement) and the time period for compliance (usually at least 28 days, although this can be reduced to 7 days where the advertisement is detrimental to public safety or where it can be removed without any other work being required). There is a right of appeal against the notice to the Scottish Ministers.



An advertisement enforcement notice can also require that a particular piece of land should not be used to display advertisements. This remains in force even after the original advertisement is removed, so any subsequent advertising on this site would amount to a breach of the notice.

In the event of failure to comply with advertisement enforcement notice the Council has powers to remove the advertisement concerned and to seek recovery of the costs of so doing from the owner as a civil debt.

Where ad hoc banners and signs are displayed remotely from the business premises or activity to which they relate, limited opportunity will be given to the party responsible to remedy the matter voluntarily, if they can be readily identified. Direct action may be taken as the first response if there are



## Monitoring of our Quarries and Landfill Sites

Quarries and landfill sites have major impacts on the landscape and restoration requirements require regular monitoring. There are two quarries within the Council area (Sheephill and Dumbuckhill) and two landfill sites (Auchencarroch and Rigangower) it has been agreed by the Council that these sites will be formally monitored on an annual basis during the month of May, in order to allow the preparation of an annual report.

These sites would be visited more frequently should this be needed, for example if complaints are received or if compliance issues come to light during the formal monitoring visit. During these site visits the current progress of the operations will be recorded and compliance with the conditions of the relevant permissions will be monitored. Also the progress of the restoration scheme will be recorded and discussed with the operator. Notes of the site visit and updated information on the compliance with conditions will be recorded in the case records.







### **Tree Preservation Orders (TPO) and Trees in Conservation Areas**

It is an offence to wilfully cut down, uproot, destroy or damage a tree which is subject to a Tree Preservation Order or within a conservation area. Prosecution may be sought in serious cases, in which case the offence is punishable by a fine of up to £20,000 on summary conviction or an unlimited fine if convicted on indictment.

Any person who has removed or damaged a protected tree without the necessary consent must plant a replacement tree of an appropriate size and species as soon as reasonably possible, unless otherwise agreed with the Council. Should they fail to do so, the Council may serve a notice requiring appropriate re-planting. There is a right of appeal against such a notice. Failure to comply with the notice may result in the Council taking direct action to carry out the re-planting and recovering the costs of doing so from the owner. Wilful obstruction of this would be an offence liable to a fine of up to £1,000 on summary conviction.



## High Hedges (Scotland) Act 2013

Anyone considering applying for a High Hedge Notice must have tried to settle the issue with their neighbour before making an application. If the Council receives an application where there is no evidence that the applicant has tried to do this, it will be rejected. The steps people should have taken before applying to the local authority will depend on the circumstances of the case. However, it is not enough for an applicant to simply claim that their neighbour is unapproachable.

The following link is a guide to high hedges.  
<https://www.west-dunbarton.gov.uk/planning-building-standards/high-hedges/>



## Responsibility for Exercise of Enforcement Powers

The majority of enforcement proceedings are undertaken by the Planning Compliance officer under delegated powers; however in a small number of more significant cases authority may be sought from the Planning Committee.

Appeals against enforcement proceedings are to the Scottish Ministers, but in most cases the determination of appeals is delegated to Reporters from the Scottish Government's Directorate of Planning & Environmental Appeals.

## Information on Current Enforcement Proceedings

Details of outstanding enforcement notices, Breach of Condition Notice and Stop Notices and other formal enforcement proceedings are recorded in the Council's Enforcement Register. You can inspect the register and the documents online <https://www.west-dunbarton.gov.uk/planning-building-standards/planning-decision-notices-appeals-and-enforcement/planning-enforcement/>

## Enforcement Powers

The Planning Enforcement powers available to the Council are set out in Part IV of the Town and Country Planning (Scotland) Act 1997 and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The Planning Acts are available from The Office of Public Sector Information (OPSI) at [www.opsi.gov.uk](http://www.opsi.gov.uk).

**For ease of reference, a summary of all relevant planning legislation and associated enforcement powers is provided in Appendix 1 at the end of this document.**

Further information about enforcement can be found in the Scottish Government Circular 10/2009 [www.scotland.gov.uk/Publications/2009/09/16092848/1](http://www.scotland.gov.uk/Publications/2009/09/16092848/1) and Planning Advice Note 54 - Planning Enforcement [www.scotland.gov.uk/Publications/1999/03/pan54](http://www.scotland.gov.uk/Publications/1999/03/pan54)

## Enforcement Contacts

Contact details for reporting suspected breaches of Planning control:

Development Management Team

West Dunbartonshire Council

Email: [compliancemonitoring@west-dunbarton.gov.uk](mailto:compliancemonitoring@west-dunbarton.gov.uk)

Tel: 0141 951 7941

Address:

16 Church Street

Dumbarton

G82 1QL

Contact details for general enquiries on Planning issues:

Planning & Building Standards West

Dunbartonshire Council

Email: [development.management@west-dunbarton.gov.uk](mailto:development.management@west-dunbarton.gov.uk)

Tel: 0141 951 7941

## Enquiries regarding building warrants:

Building Standards Team

West Dunbartonshire Council

Email: [building.standards@west-dunbarton.gov.uk](mailto:building.standards@west-dunbarton.gov.uk)

Tel: 0141 951 7941

## Contact details for complaints regarding the level of service:

Inquiries about unauthorised development are not formal complaints. The Planning Service is committed to providing a high quality service but if you have a concern about the way your enforcement inquiry was dealt with, please email the Planning Manager:

Ms Pamela Clifford

Manager of Planning & Building Standards

Email: [pamela.clifford@west-dunbarton.gov.uk](mailto:pamela.clifford@west-dunbarton.gov.uk)

Tel: 0141 951 7938

## For general enquiries regarding the Planning system:

The Scottish Government – Planning helpline

Tel: 0845 774 1741

Planning Aid for Scotland provides a free and independent advice Service for individuals and community groups across Scotland -

<https://www.pas.org.uk/>

or call the helpline 0845 603 7602.

## Enquiries for planning or enforcement matters within Loch Lomond and the Trossachs National Park Planning Authority:

Email: [planning@lochlomond-trossachs.org](mailto:planning@lochlomond-trossachs.org)

Tel: 01389 722 024

## Planning Legislation / Guidance

Permitted Development Rights (Householder)

<https://www.legislation.gov.uk/ukxi/1992/223/contents/made>

Scottish Government advice

<https://www.gov.scot/publications/guidance-householder-permitted-development-rights-9781780456836/pages/3/>

## CONTACT DETAILS

Planning and Building Standards

Council Offices

16 Church Street

Dumbarton

G82 1QL

Telephone: 0141 951 7948

Email: [development.management@west-dunbarton.gov.uk](mailto:development.management@west-dunbarton.gov.uk)

## OTHER FORMATS

This document can be made available on request in alternative formats such as large print, Braille, audio tape or computer disc as well as in five community languages.

本文件也可應要求，製作成其他語文或特大字體版本，也可製作成錄音帶。

अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है

ਇਹ ਦਸਤਾਵੇਜ਼ ਹੋਰ ਭਾਸ਼ਾਵਾਂ ਵਿਚ, ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਆਡੀਓ ਟੇਪ 'ਤੇ ਰਿਕਾਰਡ ਹੋਇਆ ਵੀ ਮੰਗ ਕੇ ਲਿਆ ਜਾ ਸਕਦਾ ਹੈ।

درخواست پر یہ دستاویز دیگر زبانوں میں، بڑے حروف کی چھپائی اور سننے والے ذرائع پر بھی میسر ہے۔

هذه الوثيقة متاحة أيضا بلغات أخرى والأحرف الطباعية الكبيرة وبطريقة سمعية عند الطلب.

