

## WEST DUNBARTONSHIRE COUNCIL

### Report by the Executive Director of Housing, Environmental and Economic Development

Planning Committee: 5 December 2012

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**WP98/076: Review of Minerals Permission (ROMP), Sheephill Quarry, Milton, Dumbarton by William Thompson & Son Ltd.**

#### **1. REASON FOR REPORT**

- 1.1** To advise the Committee of the updated set of conditions and to seek the approval of these.

#### **2. RECOMMENDATION**

- 2.1** That the Committee determine that it is **minded to accept the amended conditions** set out in Section 9, and that officers are authorised to issue these subject to receipt of confirmation that the site operator waives any right to compensation.

#### **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, but at present only around half of that area has been worked. 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 within the Glasgow and Clyde Valley area, and outstanding reserves in the quarry were estimated at 25.82 million tonnes in October 2011. There is a processing plant situated within the excavation area for the crushing of rock. At present there are 47 people employed at the quarry.
- 3.2** 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. This application is therefore for a Review of Minerals Permission (ROMP).

- 3.3** 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.
- 3.4** 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.
- 3.5** 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. The applicant has asked that the planning application be sisted until the ROMP has been approved, and therefore it is not being considered by the Planning Committee at this time.
- 3.6** 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. 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”.*

**3.7** Unfortunately, despite the passage of almost 8 years since the Planning Committee’s decision, and despite detailed discussions between the officers and the applicant’s agents, the required Section 75 Agreement has not yet been signed due to difficulties on the part of the applicant in securing all of the necessary signatures. Accordingly, neither the ROMP nor the planning permission for the extension area has been issued. Updates on the progress of the two applications were presented to the Planning Committee meetings in April 2008 and February 2012.

**3.8** In 2011, when the applicant advised that the legal agreement might be concluded shortly, the conditions which had previously been proposed following discussions between officers and the applicant were checked to ensure that they reflected recent legislative and procedural changes. However during this exercise it was noted that whilst the February 2005 Committee had authorised officers to amend the conditions, some of the amended conditions which officers at the time were minded to grant were substantially different from those presented to the Committee and therefore may have been beyond what the Committee had envisaged when granting delegated authority. Although the majority of the changes are either cosmetic or are not significant, a more significant change relates to the operating hours. The Planning Committee were advised of this matter in February 2012. Furthermore, the applicant has now suggested that the area of land adjacent to the properties on Miltonhill could be protected from quarrying through a planning condition on the ROMP rather than by way of a legal agreement as had previously been required. In view of this, and given the length of time which has passed since the conditions were considered by the Planning Committee, it is necessary for the Committee to consider these changes.

#### **4. CONSULTATIONS**

**4.1** West Dunbartonshire Council Environmental Health Service has since 2005 received complaints regarding noise when works on the top of the quarry are taking place. In order to protect residential amenity in the area they recommend that any noisy works take place on top of the quarry be limited to between 0800 and 1800 Monday – Friday with no weekend working except in emergencies.

- 4.2 Sheep Hill itself, in the southern part of the site which has not yet been quarried, is the site of a prehistoric vitrified hill fort which is a Scheduled Ancient Monument. Historic Scotland has advised that although Scheduled Ancient Monument Consent for the removal of Sheep Hill Fort was granted in 2002, this has since lapsed and will require to be renewed.

## 5. REPRESENTATIONS

- 5.1 There are 10 objectors to the ROMP including two from the Community Councils of Silverton and Overtoun and Milton and Bowling, one from Clydebelt and one from a Member of the Scottish Parliament. The grounds of objection are as follows:

### Archaeology

- Sheephill Fort is a poorly-understood but important iron-age or possibly older hill fort and is a Scheduled Ancient Monument of both national and international importance, which will be destroyed if that part of the site is quarried;
- There were at one time numerous cup and ring-marked stones around the site which are of also enormous historical importance and value. These were removed to safety several years ago, but if Sheep Hill was preserved these rock carvings could be restored to their original positions when the quarry ceases to operate in 2042 and this piece of prehistoric heritage preserved for future generations to visit.
- Although Scheduled Ancient Monument Consent was granted by Historic Scotland in 2002 for unclear reasons, this has now lapsed;
- The proposed conditions do not properly take into account amenity, environment and landscape matters as 'amenity' can be said to include the archaeological remains, which are of exceptional interest.

### Landscape and Natural Heritage

- Sheep Hill (a volcanic plug) is a dramatic landmark visible from miles around, particularly from the north-east. The quarry would turn this into a huge jagged hole;
- Whilst the current extent of the quarry is largely hidden from view, the void in the hillside resulting from removal of Sheep Hill would open up unobstructed views into the working quarry from locations within West Dunbartonshire, Renfrewshire and the Erskine Bridge;
- The Glasgow & Clyde Valley Structure Plan states that the south-west facing slopes of Sheep Hill should not be quarried;
- The main part of the quarrying site is a Site of Importance to Nature Conservation and is protected under the adopted West Dunbartonshire Council Local Plan;
- The trees on the slopes of the proposed quarry are covered by Tree Preservation Orders.

### Amenity Issues

- The requirement for works to be carried out below ground level within certain periods is insufficiently clear in its intention;
- If Sheep Hill is removed there will be no screening and local residents will be affected by quarry operations at all times of day;
- The applicant's proposal to increase the working hours of the quarry beyond even the Council's proposed hours is completely unacceptable due to the impact of this on local amenity;
- The Environmental Assessment's assessment of the impact upon Middleton Farm is extrapolated from analysis carried out at another location which is significantly lower than Middleton Farm, and it is questionable whether noise, dust and visual impacts would be comparable;
- The applicant's proposed Condition 5 again suggests that monitoring of noise would be Mattockhill rather than at Middleton, the location directly affected;
- Condition 9 requires that blast monitoring points be agreed with the Council. These locations should be representative of the properties likely to be affected;
- The applicant's proposal would effectively allow 24 hour a day 7 day a week operation of the quarry, which cannot be compliant with current good practice;
- Consideration should be given to restrictions on vehicle movements (laden or empty), noise monitoring to the nearest receptor, and requirements for white noise reversing sensors;
- The proposed artificial lighting and further noise disturbance late at night, would have an unacceptable impact on local residents;
- A noise monitoring station should be provided at Auchentorlie House;
- There are existing problems of dust pollution at Auchentorlie House, and the proposed conditions do not address this.

#### Planning Policy and Procedural Issues

- The site is within the Green Belt;
- The proposed condition seeks to extend the working hours beyond those previously approved by the 2005 Planning Committee;
- The applicant's prevarications for 13 years should not provide them with an opportunity to design their own conditions;
- The ROMP should be subject to the same scrutiny as would a completely new planning application presented to the Council today;
- Neither the North Bank Environmental Group or the general public were informed of 3 February 2005 Planning meeting or of the January 2005 pre-meeting and only Community Council objections were heard;
- Objectors were given to understand that in 2005 the Council's intention was to protect both Miltonhill and Sheep Hill from quarrying by allowing a larger area of new quarrying to the north east. However it is now only proposed to protect Miltonhill and it is not clear why protection of Sheep Hill is no longer proposed;
- The Scottish Government should be approached to intervene in this application due to the huge environmental loss that would result and the compensation that might be due;

- As none of the current Planning Service staff and few of the Planning Committee members were involved in the critical February 2005 Planning Committee decision, the ROMP application should be reconsidered afresh;
- The definitions for 'ground level' and 'quarry void' used in the conditions would require to be made clear.

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

- 6.1** Since the consideration of the ROMP in 2005 the former Glasgow & Clyde Valley Joint Structure Plan 2003 and Dumbarton District, District Wide Local Plan 1999 have both been replaced, by the Glasgow and Clyde Valley Strategic Development Plan 2012 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.

### Glasgow & the Clyde Valley Strategic Development Plan 2012 (SDP)

- 6.2** The SDP identifies a broad area of search for minerals and requires the Local Development Plans to refine these. There are no Areas of Search within West Dunbartonshire area. Mineral workings at Sheephill would not therefore be automatically supported by the spatial development strategy. Diagram 4, the sustainable location assessment, contains no specific reference to mineral workings. Accordingly, assessment sits largely with the Local Plan.

### West Dunbartonshire Local Plan 2010.

- 6.3** Sheephill Quarry lies entirely within the Green Belt. 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. It is therefore considered that the quarry is consistent with Green Belt policies.
- 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. Policy E3A protecting local nature conservation sites and BE5 protecting archaeological sites are also applicable. 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 this application 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.

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

### Scottish Planning Policy (SPP)

- 7.1** 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. This ROMP application is therefore in accordance the requirements of SPP.

#### Circular 34/1996

- 7.2** 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)

- 7.3** 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

- 7.4** 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 Section 75 or similar 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, this was not progressed, and the matter is discussed in Paragraph 7.13 below.

#### Changes to Proposed Conditions

**7.5** Most of the proposed changes to the conditions contained in the February 2005 Planning Committee report are relatively minor alterations to wording which do not significantly alter the meaning or effect of the conditions. Those which are more significant are as follows:

- Proposed condition 2 is a new condition which would prevent the quarrying of the area next to Miltonhill. This was previously intended to be dealt with by way of a Section 75 or other legal agreement;
- Proposed condition 3 (corresponding to condition 2 in the 2005 report) would alter the operating hours. The applicant and council officers differ on how these should be restricted, and two alternative versions of the condition are proposed;
- Proposed condition 19 has been expanded to add further dust mitigation measures including the maintenance of a diary of complaints;
- Proposed condition 20 (formerly also 20) has been changed to indicate that wheel cleaning equipment need only be installed if it is found to be necessary;
- Proposed condition 23 consolidates three previous conditions (24 to 26) into one, but is similar in its overall effect;
- Proposed condition 34 (formerly 37) would change the date for requiring a detailed restoration scheme within 2 years before the expiry of the permission whilst previously the condition required that a detailed restoration for the upper bench levels to be agreed and shown to be completed within 3 years of the start of excavations along the eastern boundary;
- The former condition 31 has been deleted. This related to waste management issues which are adequately controlled through SEPA regulations;
- Former conditions 44 and 45 have also been deleted. These related to archaeological investigations to be implemented prior to quarrying of the Sheep Hill area, but these are matters which can more effectively



be controlled by Historic Scotland through the Scheduled Ancient Monument Consent process.

- 7.6** Section 9 of this report contains the proposed conditions, all of which have been agreed with the applicant with the exception of condition 3 relating to operating hours which is addressed further below.

Means of Extinguishing Rights to Quarry Miltonhill

- 7.7** 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, due to the protracted difficulties which the applicant has had in securing all necessary signatures for such an agreement, the applicant is now willing to accept a planning condition on the ROMP instead. This would remove the link to the granting of the planning permission for the extension which the applicant had wanted, but from the Council's perspective it would be a simpler procedure which would have the same effect in terms of preventing the quarrying of Miltonhill. It is therefore considered that it would be appropriate to deal with the matter by way of a condition subject to the Council receiving a conclusive confirmation from the operator that this restriction is being offered by them and that all rights to compensation are thereby waived.

Operating and Blasting Hours Conditions

- 7.8** The operating hours condition presented to the 2005 Committee (Appendix 2, condition 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. Following the 2005 Committee, the applicant drafted an alternative operating condition which would allowed the quarry to operate from 0600-2200 hours Monday to Sunday, with the despatch of aggregates, water pumping, servicing, maintenance and testing of plant being permissible outwith these hours. This alternative condition was never issued, and when officers came to update the conditions in 2009 it was considered insufficient to protect residential amenity. This has led to detailed discussions with the applicant and has led to a compromise proposal that the operating hours for the quarry be limited to 0600-2100 hours and 0600-1400 hours on Saturday and Sundays. Within this restriction, between 0600-0700 hours and 1900-2100 hours all quarry operations would have to be undertaken below ground level within the quarry void. Furthermore, the applicant wishes to be able to work between 1400-2100 hours on Saturdays and Sundays occasionally if necessary to fulfil a short term requirement, and would like this to be allowed subject to prior notice of this work being given to the Planning Authority.

Officers also propose that any work during such periods must take place within the quarry void only, where there is less risk of it causing noise or other disturbance.

- 7.9** In order to determine the extent and frequency of such work outwith operating hours the applicant has been asked to give an indication of the number of times in the last 2 years that these extended operating hours would have been used. However they have been unwilling to give this information. Officers accept that some working on Saturday and Sunday afternoons, and also some loading and despatch of aggregates, would be acceptable on an occasional basis where this is necessary to fulfil a specific contract, and at present the quarry operates without any time restrictions whatsoever. However, the applicant and officers have not been able to reach an agreement on the means of controlling such out of hours working. Planning officers consider that any weekend afternoon working or loading or despatch of aggregates outwith the normal 0600-1900 hours working period should first require to be agreed in writing with the Council, whilst the applicant proposes that they simply be required to notify the Council and that the Council's agreement would not be necessary. The recommendation set out in Section 9 below is the officers' wording, whereas the applicant's preferred wording is set out in Appendix 3.
- 7.10** 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.
- 7.11** During the discussions regarding operating hours the applicant commissioned environmental consultants to undertake a noise assessment of the proposals for the processing and despatch noise levels. A series of noise predictions based upon BS5228 and PAN 50 have been made to three noise sensitive locations. The predicted noise levels have been assessed against the criterion in PAN 50. These indicate that the estimated worst case noise levels from reduced processing with associated despatch of materials or from the despatch of materials in isolation does not exceed the PAN50's 42dB LAeq, 1 hour night time criterion. The Environment Health Service has viewed that report, and have only raised concerns about such noise when quarrying is taking place on the lip of the quarry. The proposed condition would therefore prevent out of hours working above the quarry lip.

#### Restoration Scheme

- 7.12** The previous condition 37 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. The applicant has advised that there is very little restoration able to be undertaken in the first 10-15 years and that details have been submitted for interim restoration works. Final proposals closer to the time 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.

### Archaeology and Scheduled Ancient Monument Consent

- 7.13** 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 Scotland they have indicated that they would be likely to renew the consent should a new application be submitted.
- 7.14** One of the objectors has referred to discussions which took place with the then Director of Planning and Development in 2002, regarding 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, analysis and publication of details of the archaeology of Sheep Hill that the applicant would 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 and by the 2005 decision. 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 Scotland will exercise if they renew the Scheduled Ancient Monuments Consent for the removal of the fort. Scottish Government advice is that the planning system should not avoid such duplication of controls.

### Other Issues Raised by Objectors

- 7.15** A number of other issues have been raised by objectors, but many of these relate to the principle of the development or to matters which do not relate to the proposed changes to the conditions suggested in 2005. As such, many of the grounds of objection are not material to the current consideration. The principal issues raised are however addressed as follows.
- 7.16** Some objectors have challenged the locations where noise was monitoring carried out, and why other properties (i.e. Middleton Farm) were not selected.

The applicant has indicated that the background noise monitoring was undertaken at Mattockhill as this was considered to be similar in many characteristics to Middleton. Mattockhill is actually significantly closer to the quarry than Middleton and therefore impacts were likely to be greater there. Although Middleton is more elevated this should not make a difference in noise monitoring terms. The background monitoring which was carried out gives an indication of current noise levels in the area; it does not influence the calculation of noise. The actual noise calculations contained in the EIA refer specifically to Middleton as does the table referred to in the condition. Middleton was specifically assessed and is specifically covered by the planning condition. It is considered that the noise monitoring exercise which was undertaken was appropriate, and the conditions relating to noise have not changed materially from those which were agreed by the Planning Committee in 2005.

- 7.17** The residents of Auchentorlie House have raised the issues of noise, dust and monitoring. As required by proposed condition 6, noise monitoring shall be undertaken at the locations identified in condition 4. Auchentorlie House is one of the identified locations. Condition 18 requires the operators to ensure that all operations are controlled so as to prevent or minimise the release of dust into the atmosphere and requires the implementation of the dust mitigation measures listed in the Environmental Statement; this list makes provision for the utilisation of a portable water sprayer and the utilisation of dust suppression nozzle lines. The crushing and screening of materials is subject to separate control by SEPA under the PPC Regulations. With regard to Condition 19 the applicant has indicated that they would accept an addition to the condition requiring that they maintain a diary of weather conditions, visual assessment of dust, complaints and any mitigation measures implemented on a daily basis. Furthermore any individual can make a complaint regarding dust to the Council and this would be investigated by Environmental Health through their own environmental regulations.
- 7.18** Various objectors have referred to the potential landscape impact of the quarry. 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.

## **8. CONCLUSION**

- 8.1** This Review of Minerals Permission application has been with the Council for nearly 13 years and it by some margin the oldest outstanding application with this Council. In those years there have been many issues that have delayed its determination, but in 2005 the Planning Committee agreed to determine the ROMP in accordance with conditions similar to those that were set out in the then committee report. The consent was never issued due to legal issues, and some further changes to the conditions are now proposed, however the principle of granting the ROMP application subject to conditions covering these matters was established by the 2005 decision. The only matters currently before the Planning Committee are the changes to the proposed conditions and the omission of the legal agreement.
- 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, as it is a ROMP application such conditions require to be agreed with the applicant if possible claims for compensation are to be avoided. Whilst there is not complete agreement with regard to condition 3, 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 environment impacts, it is considered that through the new conditions and the associated mitigation measures that most such impacts can either be negated, lowered or reduced in probability.
- 8.3** The grant of the ROMP application and imposition of the conditions will be subject to the Council first receiving a conclusive confirmation from the operator that this restriction on the development of the quarry at Miltonhill is being offered by them and that all associated rights to compensation are thereby waived.

## **9. CONDITIONS**

- 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. No excavation of rock or quarrying operations (including WB1) 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/06.12/01.**

- 3. Subject to the details specified in subsections 3(a)-3(c) below, the operating hours for the quarry shall be 0600 hours to 2100 hours Monday to Friday and 0600 hours to 1400 hours on Saturday and Sundays and no operations including no despatch of aggregates other than emergency works, water pumping, servicing, maintenance and testing of plant shall take place outside these hours.**

  - (3a) Between 0600 hours-0700 hours and 1900 hours and 2100 hours all quarry operations shall be undertaken below ground level within the quarry void.**
  - (3b) Where prior notice has been agreed by the Planning Authority quarry operations below ground level within the quarry void shall be undertaken between 1400 hours and 2100 hours on Saturdays and Sundays.**
  - (3c) Loading and despatch of aggregates for specific contracts outwith 0600 hours to 1900 hours shall be agreed with the Planning Authority where no less than 48 hours written notice (excluding weekend days and public holidays) before such a request.**
- 4. Noise attributable to the operators at Sheephill quarry shall not exceed the limits specified in Tables 10.3.1–10.3.4 of the Sheephill Environmental Statement at Greenland Farm, Auchentorlie House, No. 9 Milton Hill, and Mattockhill (representative of 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 Section 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 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.**
- 12. 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.**
- 13. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 10 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.**
- 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.**

- 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 submitted to and approved by the Planning Authority.**
- 16. 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.**
- 17. The operator shall ensure that the Council's Environmental Health Section be given a minimum of 48 hours telephone notification excluding weekends and public holidays 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 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 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.**
- 20. 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.**
- 21. 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.**
- 22. 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.**



- 23. 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.**
- 24. 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 Planning Authority in writing of any changes or updates in the Certificate (or its equivalent) and its conditions within 14 days of authorisation by SEPA.**
- 25. 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 34.**
- 26. 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.**
- 27. 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.**
- 28. 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.**
- 29. 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.**
- 30. 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.**

- 31. 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.**
- 32. 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.**
- 33. 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.**
- 34. 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.**
- 35. The restoration scheme approved under the terms of condition 34 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.**
- 36. The restoration scheme approved under the terms of condition 34 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.**
- 37. 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 12 months of either event occurring, a revised restoration scheme that modifies and updates that required by conditions 33 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.**
- 38. Within 12 months of being approved any revised restoration scheme that may have been required under the terms of condition 36 above shall be implemented and the works completed.**

39. 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.
40. Within twelve months from the date of this planning 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.
41. 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.

#### **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.

**Elaine Melrose**  
**Executive Director of Housing, Environmental**  
**and Economic Development**  
**Date: 21 November 2012**

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**Person to Contact:** Pamela Clifford, Planning & Building Standards Manager,  
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**Appendices:** 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  
Appendix 3-Operating Hours Conditions recommended by officers and the Applicant

**Background Papers:**

1. Application forms, plans and Environmental Statement;
2. Consultation Responses;
3. Letters of representation;
4. Glasgow & Clyde Valley Strategic Development Plan 2012;
5. West Dunbartonshire Local Plan 2010;
6. Scottish Planning Policy;
7. Circular 34/1996;
8. Planning Advice Note 50 and Annexes;
9. Minutes of Planning Committee meetings 5/1/05 and 2/2/05;
10. Vibrock Report dated 27/1/12

**Wards affected:**

Ward 3 (Dumbarton)