



Notice by David Liddell, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-160-2034
- Site address: Sheephill Quarry, Milton, G82 2RN
- Appeal by William Thompson & Son (Dumbarton) Ltd against the decision by West Dunbartonshire Council
- Application for planning permission DC02/447 dated 28 March 2003 refused by notice dated 26 March 2021
- The development proposed: Quarry Extension
- Application drawings: see Schedule 2 of this Notice
- Date of site visit by Reporter: 31 August and 26 November 2021

Date of notice: 18 January 2022

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission in principle subject to the 39 conditions listed in Schedule 1 of the notice and following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, securing a bond sufficient to cover the expected restoration and aftercare works for the quarry extension.

The appellant made a claim against the council for the award of its expenses in making this appeal. I will deal with that claim at the same time as determining the appeal

Background

1. The planning application to which this appeal relates was made in 2002 and determined by the council in 2021. It will therefore be helpful to explain the context in which the appeal has been made.
2. Planning permission for Sheephill Quarry was first granted on appeal by the Secretary of State for Scotland in 1949. In the late 1960s Dunbartonshire County Council granted planning permission for a residential development at Milton Hill. These houses would be (and now are) close to the western edge of the consented extraction area. It appears that the quarry may not have been operational at that time and the County Council was perhaps not cognisant of the full terms of the permission for the quarry when it approved the housing development.
3. In 1997 West Dunbartonshire Council gave notice, under the statutory arrangements for the 'Review of Old Minerals Permissions' (ROMP), that the quarry was an active site



and an application must be made to provide for new planning conditions for the quarry. Around this time the close proximity between the houses at Milton Hill and the edge of the consented extraction area became apparent.

4. It seems that the quarry operator and council officers then discussed how to resolve the potential conflict between extraction at the quarry and housing in close proximity. It was proposed that the quarry operator would forego its rights to extract the westernmost part of the quarry (the part closest to the houses at Milton Hill – ‘the excambion area’) in return for a proposal to extend the quarry to the northwest – the extension area which is the subject of this appeal. Not working the excambion area would preserve a distance of about 150 metres between the quarry workings and the houses at Milton Hill. Therefore there were two concurrent planning applications – one for the ROMP (where council officials recommended a condition preventing extraction in the excambion area) and one for the proposed quarry extension.

5. Councillors had been minded, in 2005, to approve both applications subject to a planning agreement to ensure restoration of the land in the extension area following extraction. However it seems that the applicant could not obtain all the necessary consents for the agreement, so it could not be entered into. Both applications remained dormant until, in 2019, the land ownership issues seem to have been resolved.

6. Given the long hiatus between the council’s initial consideration of the applications and their resurrection in 2019, the council re-notified the neighbouring properties of the applications in 2020. A number of letters of representation were made in respect of the applications. Both applications then went back to the planning committee and then to a full meeting of the council in 2021. The council approved the updated ROMP conditions (one of which precludes extraction in the excambion area) but refused the application for extraction in the extension area. The current appeal is against that refusal.

7. An EIA Report (as we would now call it) was submitted with the 2003 application. This addressed the environmental effects of operating the quarry on the working assumption that the proposed extension area would be worked instead of the excambion area. Prior to the applications being determined in 2021 updated environmental information had been provided on ecological effects (2021) and effects from noise and vibration (2020).

8. The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 were replaced with new EIA regulations in 2017. However because of the date the original application was made the statutory position is that it is the 2011 Regulations, as they applied on the day before the 2017 Regulations came into force, which have force for this appeal. As an extension to a quarry, Schedule 2 of the 2011 Regulations identifies the appeal development as EIA development.

9. Following my initial review of the evidence before me and immediately after my accompanied site inspection, on 1 September 2021 I issued a request for further evidence on a number of matters. All of those who had made representations to the council in 2020 and who had, by 1 September 2021, made representations to DPEA following the appeal were included in that request.

10. As part of that exercise, I asked the appellant to clarify which environmental effects, if any, the EIA Report identifies as significant. I also asked the appellant to update the landscape and visual assessment in the EIA Report, including visualisations and other

supporting information in line with currently available technology and good practice. That additional information was subject to publication, consultation and neighbour notification in accordance with the requirements of the 2011 Regulations. Since updated assessments had recently been submitted on ecological effects and on effects from noise and vibration, I did not ask for further updates in relation to these matters.

11. I am required to examine the environmental information, reach a reasoned conclusion on the significant environmental effects of the proposed development and integrate that conclusion into my final decision. In that respect I have taken the following into account:

- the EIA report submitted to the council on 21 March 2003;
- the additional information submitted to the council in 2021 on ecological effects and in 2020 on effects from noise and vibration;
- consultation responses from internal and statutory consultees made to the council in 2019 and 2020;
- representations from members of the public made to the council in 2020 and to DPEA following the appeal;
- the response to my 1 September 2021 request for further evidence;
- responses to my subsequent request for further evidence in relation to noise effects; and
- the additional information on landscape and visual effects provided by the appellant at my request, and the subsequent comments on this information following its publication and notification to neighbours of the site.

Reasoning

12. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the Glasgow and Clyde Valley Strategic Development Plan and the West Dunbartonshire Local Plan 2010. I have not been directed to any provisions of the Strategic Development Plan as having a significant bearing on the appeal.

13. The council had, following its examination, proposed to adopt a replacement local development plan in 2016 but ultimately chose not to do so for reasons which are not relevant to this appeal. The council has a new 2020 proposed local development plan, modified after its examination. The council intends to adopt the 2020 plan but the Scottish Ministers have directed it not to do so until certain changes (again unconnected to the appeal proposal) are made to it.

14. In my view the modified 2020 plan, having been found to be suitable for adoption insofar as it relates to the appeal proposal, can be treated as an important material consideration and as representing the council's most recent policy position. Having never been adopted and now, in effect, replaced by the 2020 plan by having reached an equivalent stage, I see little justification for paying regard to the policies of the 2016 plan.

15. Sheephill Quarry lies to the east and northeast of the village of Milton. It is accessed from the Dunglass Roundabout on the A82 trunk road, which lies to the south. There is a large quarry void, but much of the area which would be extracted under the 1949 consent is yet to be worked. This includes most of Sheep Hill itself, which is to the southeast of the

current void. Auchentorlie Wood lies to the south of the quarry, between it and the A82. The excambion area covers the northwestern corner of Auchentorlie Wood, with the houses at Milton Hill lying immediately to the southwest and downhill of this area.

16. Greenland Farm (in the same ownership as the quarry) lies to the northeast of the quarry. To the northwest of the quarry void is the proposed extension area. The access track to Greenland Farm, a core path, runs along the northern part of the appeal site. The track continues westwards, downhill to join Milton Brae where the houses of most of the objectors to the appeal are located.

17. The excambion area is 2.33 hectares in size of which, says the appellant, an area of 1.76 hectares would be extracted if it were to be worked. The size of the extension area is 1.53 hectares with a proposed extraction area of 1.07 hectares. The appellant advises that, although less rock could be won from the extension than from the excambion, it would facilitate the removal of more rock from the main quarry area. Overall, if there was to be a 'swap' the net effect would be that an extra 0.93 million tonnes of rock could be extracted.

18. The council refused permission for the quarry extension, against the advice of its planning officials, because it was 'unacceptable because of the effect it would have on the amenity of the area and the residents of nearby property'. In responding to the appeal, the council identifies a number of policies (none of which feature in the reason for refusal) in the 2010 local plan (and in the 2016 and 2020 plans) which it says the development would not comply with. This is because of its landscape and visual effects (including on the setting of the Kilpatrick Hills), loss of high grassland, effects on residential amenity and disruption to core path users when the core path would need to be closed during blasting. The council also identifies amenity concerns should the ownership of Greenland Farm become divorced from that of the quarry.

19. The appellant argues that there would be no significant landscape, visual, environmental or amenity effects arising from the proposed quarry extension. The proposal fully complies with the development plan. Its swap with the excambion area would, although extraction there would be technically feasible, avoid the significant effects on amenity and natural heritage, and the landscape and visual effects, which would inevitably be caused by extraction there. Greenland Farm would remain in the same ownership.

20. To supporters of the appeal it offers the opportunity to exchange the prospect of extraction at the excambion area, which would bring noise, vibration, dust and other disruption much closer to their homes at Milton Hill, for extraction at the appeal site which is much further from any homes and so would have much lesser adverse effects. They also point to the adverse ecological effects if the part of Auchentorlie wood (part of a local nature conservation site) which lies in the excambion area were to be subject to extraction.

21. Objectors to the appeal do not consider that there need be any such swap, and doubt that the excambion area would ever be worked. There would be landscape and visual effects and a loss of residential and wider amenity from extraction in the extension area. The new woodland to the north of the extension area, planted since the applications were considered by the council in 2005, is not referred in the EIA Report, and the 2021 ecological update is said to be insufficient. The objectors also point to the effects on the core path and on the operation of neighbouring farmland during blasting. Bowling and Milton Community Council shares these concerns, stating also that reducing visitor numbers to the area would affect local businesses.

22. It seems to me that the first issue I must address is whether or not I should consider the proposed quarry extension on its own merits, or instead consider it as part of a package along with the accompanying benefits of avoiding certain adverse effects by not extracting in the excambion area. In my view it is the merits of the appeal proposal alone which I should place greatest weight on.

23. This is primarily because the ROMP consent already precludes extraction in the excambion area. So the current position is that extraction cannot take place there. Any decision I take on this appeal would not change that. An appeal has in fact now been made against the condition of the ROMP consent which precludes extraction in the excambion area. However I still understand the appellant's position to be that, if I allow the appeal, it would not pursue any proposal to extract in the excambion area. Regardless of my decision in this appeal, if the ROMP appeal is not withdrawn and requires to be determined it will be for the reporter appointed for that appeal to decide the case on its merits.

24. The appellant has said that it might seek compensation from the council because the ROMP conditions now limit the amount of material that could otherwise have been extracted under the terms of the 1949 consent. But I deem that to be a matter for the appellant and the council rather than a prospect (the outcome of which cannot be known) which has a bearing on the planning merits of the appeal proposal.

25. Therefore, having regard to the provisions of the development plan, the environmental information before me and the views expressed in the written evidence, the other main issues I address in this notice are:

- The need for the proposed development
- Landscape and visual effects
- Effects on residential amenity, including due to noise effects
- Effects on core path users
- Ecological effects

The need for the proposed development

26. Policy DC 8 – Minerals of the 2010 local plan presumes against mineral extraction within or adversely affecting areas which have been identified as important for nature conservation, landscape conservation or built heritage. Elsewhere, one of the criteria against which applications are to be assessed is a justification of the need for the extracted material within the regional market area.

27. I asked for further evidence on this matter, and take account of the responses received. I do not read the above policy as presuming against any mineral extraction in the green belt. If that had been the intention, I would expect that to have been stated in more certain terms. Green belts are, according to the local plan, to serve a number of purposes so I think it would be too narrow (and for the reader of the plan it would leave too much to interpretation) to consider them to be one such 'area' listed in the policy. In any event, I take account of the ecological, landscape and visual effects of the proposal. There are no important built heritage assets which would be significantly affected.

28. The Kilpatrick Hills are identified as a Regional Scenic Area in the local plan and therefore would in my view reasonably be considered to be an area identified for landscape conservation, applying the terms of DC 8. I return to landscape and visual effects below.

29. But for the meantime the second part of policy DC 8, including the need for the material to be extracted, is relevant. The appellant's position is that it is the proposed surrender of the excambion area which establishes the need for the extension area to replace it. In the context of the discussions the appellant has had with council officials that is an entirely reasonable position to adopt. Although I find above that, for the most part, I must consider the appeal proposal on its own merits, I do also keep in mind that that proposed swap was a driver for the making of the extension proposal in the first place.

30. However I do not have any detailed evidence before me from any party as to whether the landbank (as referred to by the appellant) of consented mineral reserves is deficient. Therefore, applying one of the criteria of DC 8 to the proposal before me, the evidence does not show whether or not there is a need for the appeal proposal 'within the regional market area'.

31. The appellant points to a previous appeal decision (PPA-160-2022) at the nearby Dumbuckhill Quarry. In that proposal the reporter appears to have accepted a continuing need for working the quarry without having detailed evidence as to need. However that proposal appears to have been, in effect, to work the quarry to a different profile than the previous consent. The reporter seems to have been addressing the question of whether it could be the case that there was no longer a need for the quarry at all. That is different from the circumstances of the appeal proposal, which is to extend a quarry.

32. Local plan policy GB 1 Green Belt presumes against development, with certain exceptions. One of these is where there is a specific locational requirement and established need for the development and it cannot be accommodated on an alternative site.

33. I agree with the appellant insofar as minerals can only be worked where they are found, so there is a specific locational requirement. I presume the reference in GB 1 to 'an alternative site' is intended to mean an alternative site outwith the green belt. I don't have information about what other such alternative sites might exist but, in any event, I don't think it would appropriate to apply this test to a proposal to extend what is a long established quarry which provides part of the reserve of construction aggregates for the wider area. However, again I find that there is no clear evidence as to whether or not there is a current need to work the reserves on the appeal site.

Landscape and visual effects

34. Policy E 9 Landscape Character of the local plan says that development in the green belt must have particular regard to the landscape character and distinctiveness of West Dunbartonshire and adjoining areas. Proposals should positively contribute to conservation or regeneration of these landscapes. Proposals which are detrimental to the landscape character will not generally be supported unless they are supported by other local plan policies.

35. Policy GB 1 Green Belt says that development which has an adverse effect on the landscape character of the local area will not be permitted. Green belt policy aims to

protect the character, landscape setting and identity of the urban area, particularly where settlements are at risk of coalescence. Policy GD 1 Development Control requires development to respect the character of the area in which it is located.

36. As I explain above, I asked the appellant for updated visualisations and other material to describe and illustrate the expected landscape and visual effects of the proposed extension. The original EIA Report, and indeed the additional information, seek to assess such effects in combination with the corresponding reduction in overall effects from the quarry which would be the case if the excambion area is not extracted. Development of the quarry including extraction of the excambion area is described as the 'Permitted Development'. However, as I set out above there is no current consent to extract in the excambion area.

37. The 2011 Regulations require me to consider the effects of the appeal proposal alone and in combination with other development. The most relevant other development in this case is the extraction of the other parts of the quarry. Some objectors are critical of the quality of the updated landscape and visual assessment. I agree that the visualisations could perhaps have been rendered in finer detail. And the analysis does not seem to offer a view on the significance of the effects of the extension in combination with the development of the rest of the quarry as currently permitted. Despite this, I am satisfied that the updated assessment provides me with sufficient information to reach a view on the likely significant landscape and visual effects of the development.

38. In respect of landform I accept that the size of the extension area may be quite modest, but the effects of deep extraction and the formation of terraces would, at the level of the site itself, be dramatic. Considering the extension alone I agree with the updated assessment that the improved grassland landcover of the site is not particularly sensitive.

39. The updated assessment identifies the site as being within an area of rugged moorland landscape character. I have not been provided with a map showing the full extent of this area of rugged moorland. However the Kilpatrick Hills, which extend for several kilometres to the north and east, could reasonably be described as rugged moorland of similar character to the appeal site. The effects on landscape character of the quarry itself would be to change that from rugged moorland to a working (and then restored) hard rock quarry. However, that effect would be very localised. Albeit the quarry would be visible from elsewhere within the Kilpatrick Hills, given the extensive size of this area there would not be a significant effect on its landscape character or on the landscape setting of the hills. In this respect I see no significant conflict with policies E 9, GB 1 and GD 1 of the local plan.

40. Turning to visual effects, the updated assessment provides visualisations from eight representative viewpoints. Seven of these are in the area to the west and north of the quarry and at fairly close proximity to it.

41. Viewpoint 8, on the other hand, is on the southern side of the Clyde at Erskine Golf Club. Considering the visual effects of the extension alone, the distance from this location and the screening by Sheep Hill would render the effect insignificant. But the photomontage of the extension with the rest of the quarry extracted shows a much greater magnitude of cumulative effect, which would be significant. I would observe, however, that this view directly across the river from the quarry is likely to be have the greatest magnitude of combined effects from any location on the south side of the river. Similar views would be possible from Marr Hall Hotel and, if only glimpsed occasionally through woodland, from the

footpaths near this location. Views of the extension itself are likely to be more appreciable from further west along the southern shore of the Clyde, for example from the A8 at Langbank and on the stretch of the road east of junction 31. Again I think the cumulative effects would likely be significant from these locations.

42. It seems that from viewpoint 7, on the A82 at Milton, the extension development would not be visible. It would be visible from viewpoint 5, slightly to the north on Milton Brae. But the photomontage shows only minor re-profiling at the site in this view, which I accept would not be significant. Viewpoint 3 is further north again on Milton Brae. Although closer to the site the view of the development is still a partial one, and for only a short stretch of the road. I accept that it is below the level of a significant environmental effect.

43. I take a different view in respect of visibility from the core path. Travelling east from Milton Brae on the path, views of the extension development would become fuller and closer. Albeit the photograph from viewpoint 2 at Mattockhill is cluttered by trees in the foreground, my judgement from my site inspection is that, walking towards the extension development in such close proximity the visual effects would be significant, especially if machinery and activity in the quarry is visible in the view ahead.

44. I think there would also be significant effects for walkers heading west and then south on the path towards viewpoint 1. Clear views would seem likely to be available down towards the extension.

45. I also disagree with the updated assessment about the visual effects from Middleton. I think that the topographical change where the top of the ridge at the end of the extension would be lowered would be a significant visual effect. However I do note that this viewpoint is not a publicly accessible location. Even at Viewpoint 6 (Dunbowie) I would say the same effect would perhaps be significant, albeit this does not appear to be a well-visited or easily accessible location.

46. It can be seen that I find that, in term of the EIA Regulations, there would significant visual effects from the appeal proposal, including in combination with the effects of developing the remainder of the consented quarry. However the extent of visual effects from the extension alone would be experienced in a limited number of locations in close proximity to the site, as I find above. I do not find these effects to be so severe or widespread that they would fall foul of the requirements in policies E 9 and GB 1.

47. The site is not within the area identified as the Kilpatrick Hills in policy RSA 1 of the local plan. Therefore this policy does not directly apply in this case.

Effects on residential amenity

48. The potential effects on residential amenity from the appeal proposal are noise, vibration (from blasting) and dust. The closest receptors are the houses along Milton Brae.

49. Local plan policy DC 8 – Minerals requires that the impact of the proposal on the amenity of local properties be considered. As the supporting text to policy DC 8 points out, Planning Advice Note (PAN) 50 provides advice on controlling the environmental effects of surface mineral workings.

50. In respect of residential amenity, the council's response to the appeal says the following:

'If the proposed development is permitted, there will inevitably be significant noise from the operation of the extension to the quarry. That noise will be generated by the working of the quarry and by the vehicles used to transport the excavated material. The blasting will lead to ground borne vibration as well as airborne vibration. Dust generated at the extension area is likely to be blown and deposited at the nearby properties. There will be a significant increase in noise, vibration and dust for properties which are near the area of the extension.'

Noise

51. Annex A of PAN 50 covers noise (excluding noise from blasting). It recommends a model for the prediction of the likely level of noise emissions from proposed minerals development and a method for setting noise limits for incorporation into planning conditions.

52. Annex A (whilst commenting that each case should be considered on its merits) says that the nominal daytime limit at noise sensitive properties should normally be 55 dB (decibels) $L_{Aeq,1hr}$.¹ The PAN goes on to state that a lower nominal daytime limit might be appropriate in quieter rural areas if a limit set at 55dB would exceed the existing background noise levels by more than 10dB. This lower level should not normally be below 45dB, since this may be difficult to achieve and such a limit should prove tolerable to most people in rural areas. The night-time nominal limit should be 42dB.

53. The appellant's updated noise assessment makes predictions of operational noise which are stated to be worst case because they assume plant working at the closest point and/or highest topographical level to receptors and assume ideal meteorological conditions for sound propagation. The background noise levels measured in the earlier 2003 noise assessment are used.

54. The council's proposed noise limits for the quarry extension are almost identical to those specified in the equivalent ROMP condition. The principal difference is that, at Middleton, the allowable limit when drilling the upper bench of the extension would be 48dB rather than the 45dB limit which would normally apply. The council also confirmed that these limits are intended to be applied using the $L_{Aeq,1hr}$ noise index.

55. My procedure notice asked for further evidence on a number of matters in relation to noise effects. Like the Milton Brae residents I remain doubtful that I can place great reliance on the 2003 Mattockhill noise surveys as an indicator of current background noise levels at Middleton given the age and short duration of the survey and the distance between the two locations. However I accept the point made by the appellant that the measured noise levels are only marginally above (by 1dB) the level which would result in the lower 45dB noise limit identified in PAN 50 being applied. This lower limit is indeed used for

¹ L_{Aeq} is an A-Weighted noise index used to describe the equivalent continuous sound level - the sound level of a steady sound having the same energy as a fluctuating sound over a period of one hour. Normal hearing covers the frequency (pitch) range from about 20 Hz to 20,000 Hz but sensitivity is the greatest between about 500 Hz and 5,000 Hz. The A-Weighting is an electrical circuit built into noise meters to mimic this characteristic of human hearing. [Definition adapted from PAN 50 Annex A]

Middleton other than when drilling the upper bench of the extension, as noted above. The limit applied in the early morning and in the evening would be 42dB.

56. Noting the worst-case nature of the predictions, the short duration of drilling to the upper bench, the relatively low limit of 48dB in absolute terms and that the lowest PAN 50 derived limits would apply at all other times, I am satisfied that the overall level of noise effects experienced at Middleton would not be significantly adverse. The Milton Brae residents, in responding to my procedure notice, carefully applied the advice in the technical annex to PAN 1/2011 Planning and Noise. Whilst I accept this was a reasonable exercise to undertake, annex A of PAN 50 remains extant and is the most directly relevant source of Scottish Government advice relevant to the noise effects from mineral workings. Both the ROMP noise condition and the council's proposed noise condition for the appeal development are based on the advice in the PAN. I do not see a strong reason to depart from that advice, which would ensure a consistent approach to both sets of conditions.

57. I also asked about the likely noise effects at properties on Milton Brae closer to the extension area than Middleton. In responding, the appellant reproduced the results of background noise monitoring in this vicinity (undertaken for Dumbuckhill Quarry) which appear to show that there is a higher level of background noise further south along Milton Brae than at Middleton. The conclusion that noise from the quarry extension would, at these locations, be well below (even when drilling) the PAN 50 derived limits appears reasonable, and it has not been challenged by any other party.

58. At Greenland Farm, predicted noise levels from the proposed extension are below the background noise measurements used in the assessment, and also below the upper PAN 50 55dB limit which would apply. Noise levels from the extension would also be below background levels at the two other proxy receptors – 9 Milton Hill and Auchentorlie.

59. I do not find that the updated noise assessment is inconsistent with the advice in Annex A of PAN 50. Ultimately, subject to the proposed noise condition which sets noise limits which I find to be appropriate and with which the quarry operations must comply, council environmental health officers did not object to the proposal. The statement in the council's response to the appeal is a very generalised one which does not draw support from or refer to either the technical evidence on noise or the advice of its own officials. I take note of the evidence from the Milton Brae residents but I do not think that it identifies a likelihood of significant adverse noise effects. Overall, I find no conflict with policy DC 8.

Vibration

60. The council proposes a number of conditions which would control blasting in the extension area, identical to those now imposed in the ROMP permission. Proposed condition 12 would require that ground vibration from blasting does not exceed a peak particle velocity of 6 mm/s in 95% of all blasts (with no individual blast to exceed 12 mm/s) as measured at any nearby vibration sensitive property. These limits are in accordance with the advice in the February 2000 Annex B of PAN 50. There would be no blasting outwith the hours of 10am to 4pm, nor on weekends or bank holidays.

61. Other than at Middleton Farm, predicted vibration levels from the extension would be below those predicted from working the other parts of the quarry. Albeit there are no predictions for the closer properties on Milton Brae, the predictions for Middleton (a mean of 2.1 mm/s) are much lower than that required by the condition. There is no technical

evidence before me which indicates that blasting from the extension area would cause vibration at problematic levels for any nearby properties. Therefore it does not appear likely that the vibration levels in the proposed condition would be breached. In the event that they were breached the condition would itself provide a means to address this. Therefore I do not find any conflict with the requirements of policy DC 8.

Dust

62. PAN 50 does not provide any recommended limits for dust deposition as it does for levels of noise and vibration. There is no detailed evidence to the effect that dust from the proposed extension would cause a significant effect at any nearby properties, and no objection from the council's environmental health officials. Conditions 17 and 18 (identical to the equivalent conditions in the ROMP consent) would aim to ensure the extension area is operated so as to minimise the release of dust. Therefore I do not find any conflict with the requirements of policy DC 8.

Greenland Farm

63. The council identifies a particular concern about amenity at Greenland Farm should its ownership become divorced from that of the quarry. The appellant says that would not happen whilst the quarry remains operational but I do not take that as a guarantee. I note that the applicant's recycling business already seems to make use of land at the farmhouse. Of more direct relevance, the existing quarry is already fairly close to the farmhouse. The proposed extension would not take extraction closer to the house than the existing quarry void, indeed extraction would proceed westwards, generally away from the house. Therefore I do not find there to be a strong basis for concerns about any significant effects on residential amenity at Greenland Farm.

Effects on core path users

64. One of the criteria identified in Policy DC 8 Minerals of the 2010 local plan is impacts on 'sport and recreation interests', which could include impacts on path users.

65. The quarry extension at its northwestern edge would come close to the core path. However the extraction area would be set back so that for the most part there would be no direct conflict with path users. The exception to this would be when blasting was taking place, when the path would have to be closed before and during each blasting event.

66. The appellant advises that blasting at the quarry takes places about once a month, and that this involves closure of the path for about twenty to thirty minutes. It is stated that this would continue to be required even without the extension. The proposed conditions on blasting would avoid closure of the path in the evenings, weekends and public holidays when one might expect greatest use would be made of it.

67. I acknowledge that there might be increased levels of noise and dust for path users in the vicinity of the proposed extension, but this would only be for a fairly short stretch of path and I do not think this is likely to be a significant deterrent to users of the path. Annex A of PAN 50 advises (paragraph 42) that footpaths should not normally be regarded as noise-sensitive. I identify above the significant visual effects from stretches of the path but I do not think these would be so severe or extensive so as to create any significant conflict with policy DC 8.

Ecological effects

68. Policy E 1 Biodiversity Duty in the local plan says that the council will further the conservation of biodiversity when exercising its planning functions. Reference is made to the biodiversity duty placed on the council by the Nature Conservation (Scotland) Act 2004. Policies GD 1 and DC 8 require effects on the natural environment to be taken into account.

69. Chapter 8 of the EIA Report covers ecology. The appellant's Phase 1 habitat survey identified the appeal site as semi-improved acid grassland and scattered bracken and being generally of low ecological value.

70. The appellant's ecological update, following a further site walkover in 2021, noted that the habitat type and management of the land had not changed since the original survey. No signs of badger were found (consistent with the findings of a previous badger survey in 2004). The only sensitivity noted in the update report is the need to take account of any effects on ground nesting birds, depending on when the site is first cleared. This could be controlled by a planning condition.

71. In responding to the appeal the council refers to a loss of 'high grassland'. Like the appellant, I am not familiar with this descriptor. I agree with the appellant that the semi-improved grassland and areas of scrubby bracken on the site are of no notable ecological value. Objectors are critical of the brevity of the ecological update. However I am satisfied, given the lack of change of the habitats on the site, that it is sufficient to enable me to determine the effects of the development. All told, the low ecological value of the site means that I am satisfied that the above policy requirements would be met. There would be no significant effects on biodiversity.

Other matters

72. Objectors identify that agricultural operations in the farmland to the west of the extension would be affected by the proposed extension. However this farmland already lies close to the working quarry and I do not see a strong reason for believing that there would be significant conflict between such uses. The community council is concerned about loss of visitors to the area but I do not consider that extending the quarry, despite the effects I identify, would be likely to have a significant effect in this regard.

73. The appellant's appeal statement states that the western quarry faces are excessively high and that developing the extension area would be beneficial in ensuring safe and stable slopes. However I have not been provided with any detailed evidence which would allow me to take great account of any such benefits. It has not been put to me that the quarry would otherwise be unsafe, or that further working of the quarry would be the only means to address this issue.

74. Objectors note that there would be a financial benefit to the appellant in working the extension area instead of the excambion area, since overall more minerals could be extracted in the former situation rather than the latter. I find above that my primary concern must be with the effects of the appeal proposal on its own right. I do not consider that any financial benefit for the appellant is a material consideration counting against the proposal.

75. The EIA Report assesses other impacts relating to hydrology and hydrogeology, access and traffic, cultural heritage, climate and material assets. The council did not identify any such impacts in its reasons for refusal and, subject to the imposition of appropriate conditions, I am satisfied that no additional significant environmental effects would occur.

Conclusions

The development plan

76. Drawing on my findings above, in respect of the statutory development plan I find that there is a lack of detailed evidence as to the need for the extracted material within the regional market area. There is therefore some tension with policy DC 8 Minerals, albeit the need for the development is one of several considerations – the policy does not explicitly state that a need for the development must be demonstrated. For the same reason there is some tension with policy GB 1 Green Belt.

77. The only significant environmental effects which I identify (and in this respect I disagree with the EIA report and subsequent updated landscape and visual assessment) are the visual effects of the extension from some locations, including cumulative effects with the extraction of the remainder of the quarry. However I do not find that these give rise to significant conflict with the development plan.

78. In respect of the other main issues I identify, I conclude that there would be no other significant environmental effects and no conflict with the development plan. Overall, on balance I find the proposal to be in accordance with the development plan.

Other material considerations

79. As I state at paragraph 15 above, I consider the proposed 2020 local development plan, as modified, to be an important material consideration in this case.

80. In respect of the need for the development, I note that policy MIN 1 Minerals and Aggregates Extraction in the 2020 plan does not require evidence that there is a need or market demand for a proposal to extract minerals. This provides some counterweight to the tension with the local plan policies which look for such evidence.

81. The policy provision in the 2020 plan have similar aims to the 2010 local plan in respect of the protection of residential amenity, nature conservation and path networks. In light of my findings above, I see no significant conflict with the 2020 plan in these respects.

82. The policies in the 2020 plan also seek very similar outcomes in respect of landscape character. However policy MIN1 is more explicit in identifying visual impacts as a consideration, saying that there should be 'no significant negative impact on landscape, including visual impact'.

83. I identify above certain visual effects which I deem, in terms of the EIA Regulations, to be significant environmental effects. However that is a different undertaking from the application of planning policy to a development proposal. The visual effects of the proposed extension alone are very localised, and such effects are to be expected from most mineral developments. The cumulative effects are greater in extent, but the extension

proposal makes only a modest contribution to these. Any tension with the requirements of policy MIN 1 are not sufficient to outweigh my finding that the proposal is in overall compliance with the statutory development plan.

84. I take note of all the representations made to the council and to DPEA, both in support of and in opposition to the development. In the former category, many of the representations point to the adverse effects of extraction in the excambion area. These effects are not ones which I can consider in any detail in this appeal, and they do not affect my conclusions on the effects of mineral extraction on the appeal site.

Overall conclusion

85. Overall, I conclude, for the reasons set out above, that the proposed development accords with the relevant provisions of the development plan and that there are no material considerations which justify refusing to grant planning permission. I have considered all other matters raised, none of which lead me to alter my conclusions. I am satisfied that my reasoned conclusions on the significant environmental effects of the proposed development are up to date.

86. Accordingly, I will defer determination of this appeal for a period of up to twelve weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be, securing a bond sufficient to cover the expected restoration and aftercare works for the quarry extension. The principal of such a bond had been agreed by between the appellant and council officials, and I agree that it is necessary to ensure that the quarry extension site is restored after it has been worked. If, by the end of the twelve week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

87. The council provided a set of proposed conditions to be imposed should the appeal be allowed. These are very similar to the ROMP conditions for the main part of the quarry. For the most part I propose to impose those conditions, giving much the same reasons as the council gave for the ROMP conditions. I have amended proposed condition 5 to better match the equivalent ROMP condition. The council's proposed conditions 19 and 20 relate to the main quarry road and to wheel washing of vehicles leaving the quarry. Notwithstanding the council's view, I do not think they are necessary for the appeal development, and I would omit them. I am not aware of any statutory requirement that the proposed development need commence within two years, therefore I would omit the council's proposed first condition. If there is such a statutory requirement, this would endure regardless of the omission of the condition. I have amended Table A – Noise Criteria for condition 4 to clarify what noise index is to be used. I have made slight adjustments so that the numbering of equivalent conditions for the extension and the main quarry are aligned.

David Liddell

Reporter

Schedule 1: Proposed Conditions

1. [Not used]

2. The development hereby approved 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.

Reason: In order that the timeframe of this permission aligns with that of the main quarry.

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.

Reason: To retain control over future quarrying operations of the site, in the interests of the amenity of the area.

4. Noise attributable to the operators at Sheephill quarry shall not exceed the limits specified in Table A (Noise Criteria) attached to this permission at Greenland Farm, Auchentorlie House, No. 9 Milton Hill, and Middleton.

Reason: To minimise noise nuisance, in the interests of the amenity of the area.

5. Advance notification of a minimum of 48 hours for the relaxation of the noise limits identified in condition 4 above for soils and overburden operations to be undertaken shall be given to the Planning Authority.

Reason: To retain control over the future operations on site, in the interests of amenity of the area.

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.

Reason: To limit noise nuisance, in the interests of the amenity of the area

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 shall be carried out between 1000 and 1300 hours.

Reason: To limit the impact of noise nuisance, in the interests of the amenity of the area.

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.

Reason: In order to control noise nuisance, in the interests of the amenity of the area.

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 the council's Environmental Health Service within two days of the occurrence.

Reason: In order to control noise nuisance, in the interests of the amenity of the area.

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.

Reason: In order to control noise nuisance, in the interest of the amenity of the area.

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 the 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.

Reason: In order to control noise nuisance, in the interest of the amenity of the area.

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 twelve 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.

Reason: In order to control noise nuisance, in the interest of the amenity of the area.

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.

Reason: In order to control noise and vibration nuisance, in the interest of the amenity of the area.

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.

Reason: To allow safe access, in the interests of public safety.

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.

Reason: In the interests of public safety.

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.

Reason: In order to provide adequate notice for Environmental Health Service to allow the monitoring of blasting operations.

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.

Reason: In order to minimise dust from the quarry operations, in the interests of the amenity of the area.

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.

Reason: In order to minimise dust from the quarry operations, in the interests of the amenity of the area.

19. [Not used]

20. [Not used]

21. Within three 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.

Reason: To retain control over future quarrying and operations of the site, in the interests of the amenity of the area

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.

Reason: To retain control over future quarrying and operations of the site, in the interests of the amenity of the area.

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 condition 31.

Reason: To retain control over materials for the future restoration on site.

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.

Reason: To retain control over materials for the future restoration on site.

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.

Reason: To retain control over the future operations on site, in the interests of amenity of the area.

26. 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.

Reason: To retain control over the future operations on site, in the interests of the amenity of the area.

27. No materials shall be imported to the site for the purposes of storage, crushing, screening, processing, manufacturing or onward transportation.

Reason: To retain control over the future operations on site, in the interests of amenity of the area.

28. 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.

Reason: To prevent environmental pollution, in the interests of public safety.

29. 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.

Reason: To prevent light pollution, in the interests of the amenity of the area

30. No later than six 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.

Reason: In order to retain effective control over quarry operations, in the interest of the amenity of the area.

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 extension area is integrated within the overall restoration proposals of the full quarry area.

Reason: To ensure the satisfactory restoration of the quarry site.

32. Not later than two 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.

Reason: To ensure the satisfactory restoration of the quarry site.

33. The restoration scheme approved under the terms of condition 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 minimize birdstrike hazard.

Reason: To ensure restoration proposals do not cause operational issues for Glasgow Airport.

34. The restoration scheme approved under the terms of condition 32 above shall be implemented and the works completed within twelve months of the completion of all quarrying operations or the date stated in condition 2 above, whichever is the sooner.

Reason: To ensure the satisfactory restoration of the quarry site.

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 discontinued for a like period, then unless as may otherwise be agreed in writing by the Planning Authority, within six months of either event occurring, a revised final restoration scheme that modifies and updates that

approved by condition 32 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.

Reason: In order to retain effective control of the future restoration of the quarry site and to ensure an acceptable restoration scheme.

36. Within six months of being approved any revised restoration scheme that may have been required under the terms of condition 35 above shall be implemented and the works completed.

Reason: In order to retain effective control of the future restoration of the quarry site.

37. The approved aftercare scheme shall be implemented following cessation of mineral extraction and in accordance with the approved timetable as required by condition 35 above, unless as may otherwise be agreed in writing by the Planning Authority.

Reason: To ensure the satisfactory restoration of the quarry site.

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.

Reason: In order to retain effective control of quarry operations in the site, in the interests of the amenity of the area.

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 licence is obtained.

Reason: In the interests of protecting wildlife species.

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.

Reason: In order to allow safe access, in the interests of public safety.

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.

Reason: In order to protect wildlife in the interests of the amenity of the area.

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 consultation with West of Scotland Archaeology Service.

Reason: In order to protect any archaeological heritage/ features within the site.

Table A – 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 |

All figures are in decibels $L_{Aeq,1hr}$

* For a period of up to eight weeks in any twelve 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.

Schedule 2: Application drawings

Figure 1 - Site Location Plan, 20 March 2003

Figure 2 - Existing Topography, 20 March 2003

Figure 3 - Development Plan, 20 March 2003

Figure 4 – X-Section, 20 March 2003

Figure 5 - Excavation Boundary Following Excambion, 20 March 2003

Figure RevRest0404 – Indicative Restoration Plan, 7 April 2004

Figure SH04/04a – Excavation Boundary Following Excambion, 7 April 2004

Figure SH04/04b - X-section B, 7 April 2004