

WEST DUNBARTONSHIRE COUNCIL

Report by the Chief Officer - Regulatory and Regeneration

Planning Committee: 16th February 2022

Subject: Appeal Notice of Intention - DC02/447: Extension to Quarry, Sheephill Quarry, Milton, Dumbarton

1. Purpose

- 1.1 To provide the Committee with an update regarding the appeal decision for the above application, further information relevant to the Review of Minerals Permission application (ROMP) and the Scheduled Monuments Permission.

2. Recommendations

- 2.1 That the Committee notes the intended outcome of the appeal and current situation regarding the ROMP and Scheduled Monument Consent.

3. Background

- 3.1 The Committee will recall that the above application was refused by the Council in March 2021. Shortly after, the appellant appealed the decision to the Planning and Environmental Appeals Division. The Council has been notified of a "Notice of Intention" that the Reporter is minded to allow the appeal and grant planning permission subject to 39 conditions 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 Reporter has given the appellant and the Council up to a 12 week period to conclude the planning obligation. The principal of such a bond had been previously agreed between the appellant and Council officers and it is necessary to ensure that the quarry extension site is restored after it has been worked. If, by the end of the 12 week period, the relevant obligation has not been registered or recorded the Reporter will consider whether planning permission should be refused or granted without a planning obligation.

4. Main Issues

- 4.1 A copy of the Notice of Intention is contained within Appendix 1. The Reporter in reaching the decision on balance found that the proposal was in

accordance with the development plan. There was some tension with policy DC8 Minerals albeit the need for the development is one of several considerations, however it was concluded that 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 GB1 Green Belt. The only significant environmental effects are the visual effects of the extension from some locations, including cumulative effects with the extraction of the remainder of the quarry. However the Reporter concluded that these did not give rise to significant conflict with the development plan.

- 4.2** In respect of the other main issues it was concluded that there would be no other significant environmental effects and no conflict with the development plan. The updated noise assessment was not found to be inconsistent with the advice in Annex A of PAN50 and subject to the proposed noise conditions which sets noise limits, significant adverse noise effects are unlikely. In terms of blasting/vibration there are a number of proposed conditions which would control blasting in the extension area identical to those now imposed in the ROMP permission. There is no technical evidence before the Reporter which indicates that blasting from the extension area would cause vibration at problematic levels for any nearby properties. A similar conclusion was reached on dust deposition and relevant conditions would aim to ensure the extension area is operated so as to minimise the release of dust. In terms of the effects on core path users it was acknowledged 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 unlikely to be a significant deterrent to users of the path. The low ecological value of the site means that there are no significant effects on biodiversity. Other matters identified by objectors were not considered to have a significant effect.
- 4.3** It was concluded by the Reporter 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. The Reporter considered that the reasoned conclusions on the significant environmental effects of the proposed development are up to date. For the most part, the Reporter has imposed the conditions proposed by the Council and only made slight amendments so they align with the ROMP conditions. The Reporter has removed Conditions 19 and 20 relating to the main quarry road and to wheel washing of vehicles leaving the quarry and removed the first condition that the proposed development commence with 2 years as he does not believe that they are necessary for the appeal development.

Update on Review of Minerals Permission (ROMP)

- 4.4** The appellant is appealing the conditions contained within the ROMP Decision Notice and has requested that the ROMP application should be determined only subject to the conditions set out in the Decision Notice with the exception that condition 2 in the Decision Notice should be deleted. Condition 2 excludes the Milton Hill area from quarrying. An appeal was lodged by the

appellant on 21st December 2021 to the Planning and Environmental Appeals Division. The appellant has stated that condition 2 is contrary to the local development plan and there is no other planning justification for imposition of condition 2. Condition 2 of the ROMP should be removed on the grounds that the imposition of it restricts the mineral rights of the appellant. Following the issuing of the Notice of Intention to grant planning permission for the extension area, the appellant and the Council have agreed to suspend (i.e. suspend) the ROMP appeal pending the conclusion of the planning obligation and the issuing of the Decision Notice for the extension area.

Once the Decision Notice is issued, and planning permission granted, for the extension area the appellant has agreed to withdraw the appeal against the ROMP conditions.

Scheduled Monument Consent

- 4.5** The Council lodged representations to Historic Environment Scotland to the application for Scheduled Monument Consent for removal of Sheephill Fort. Historic Environment Scotland on 21st November were minded to grant Scheduled Monument Consent for quarrying operations which affect the Scheduled Monument subject to a number of conditions regarding the excavation, recording and publishing of findings regarding the Sheephill Fort. The application is presently awaiting a decision from the Scottish Ministers who have extended the time period for consideration.

5. People Implications

- 5.1** There are no personnel issues.

6. Financial and Procurement Implications

- 6.1** The appellant has made a claim against the council for the award of its expenses in making the appeal against the refusal of the extension application. The Council has opposed any award of expenses. The claim will be dealt with by the Reporter at the same time as determining the appeal for the extension area.
- 6.2** There are significant financial implications for the Council if the appeal of the ROMP conditions proceeds and is successful.

7. Risk Analysis

- 7.1** A risk assessment is not required.

8. Equalities Impact Assessment (EIA)

- 8.1** There are no equalities issues identified.

9. Consultation

9.1 Consultation was carried out during the planning and appeal processes.

10. Strategic Assessment

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

Peter Hessett
Chief Officer – Regulatory and Regeneration
Date: 16th February 2022

Person to Contact: Pamela Clifford, Planning, Building Standards and Environmental Health Manager
Email: Pamela.Clifford@west-dunbarton.gov.uk

Appendices: Appendix 1 – Appeal: Notice of Intention – EIA Development: 18th January 2022

Background Papers: Planning Committee Reports
- 11th March 2020
- 11th November 2020
- 26th January 2021
- 3rd March 2021
- 10 November 2021

Wards affected: Ward 3 (Dumbarton)