

Development Management Sub Committee

Report returning to Committee - Wednesday 29 August 2018

**Application for Planning Permission 17/05930/FUL
At Bonnington Mains Quarry, Cliftonhall Road, Newbridge
Section 42 application for proposed variation to conditions
5, 8, 18, 22 + 23 of planning consent P/PPA/LA/643 (dated 4
September 1990) to amend noise + vibration limits, postpone
submission of final restoration plan + clarify period for
completion of all mineral operations to 31 December 2050**

Item number	5.1
Report number	
Wards	B02 - Pentland Hills

Recommendations

It is recommended that this application be Granted subject to the details below.

Background information

At its meeting on 1 August 2018 the Development Management Sub Committee's consideration of this application was continued to enable the Chief Planning Officer to investigate the options and risks associated with securing a financial bond regarding the restoration of the quarry site.

Securing a restoration guarantee bond was deemed appropriate in order for the Council to ensure suitable provisions are in place so as to secure the restoration of the quarry in circumstances where the operator or site owner was no longer able to undertake the necessary restoration of the quarry site in full accord with the grant of planning permission.

This additional report sets out the potential options available to the Council following discussion with the applicant.

Main report

The extant grant of planning permission, issued by the Scottish Office Inquiry Reporters Unit on 4 September 1990, for the extraction of hard rock at this site does not include any restoration guarantee bond.

However, as part of its determination of this section 42 application, to continue mineral extraction from the site without complying with conditions subject of that previous grant of planning permission, the applicant has advised the Council that it is a member of Minerals Products Association. This is the trade association for the aggregates industry and provides a restoration guarantee fund of £1million with a maximum single claim limit of £500,000.

The applicant has submitted details of a restoration guarantee bond based on a scheme of restoration of the site utilising the existing soils and overburden material that is presently available within the boundaries of the application site. That bond of £250,000 would be delivered within four months of the recommencement of development. The developer also suggests that the bond is either subject to an appropriate form of indexation or to a regular review with the Council.

To ensure sufficient funds are available at the expiry of the permission, it is recommended that this bond be index linked and subject to a regular review. These reviews should be in compliance with the terms of proposed condition 18 with a final restoration plan being submitted within five years of the date of permission and thereafter reviewed every ten years. This would ensure that the restoration guarantee bond would provide an appropriate level of monies to permit the final means of restoration of the site based on the agreed scheme of restoration and not solely based on the proposed minimum means of site restoration that can be calculated at the present time.

Accordingly, the proposed restoration guarantee bond condition should read:

20 That within four months of the date of this grant of planning permission, a financial guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent shall be submitted to and agreed in writing by the Council as Planning Authority. That guarantee must, unless otherwise approved in writing by the Council as Planning Authority.

- i. be granted in favour of the Council as Planning Authority.*
- ii. be granted by a bank or other suitably accredited financial institution (regulated by the Financial Conduct Authority, or its successor authority) which is of sound financial standing and capable of fulfilling the obligations under the guarantee.*
- iii. be for a specified amount which covers the value of all site restoration and aftercare liabilities as agreed between the developer and the Council as Planning Authority at the commencement of development.*
- iv. be reviewable to ensure that the specified amount of the guarantee always covers the value of the site restoration and aftercare liabilities as agreed between the developer and the Council as the Planning Authority, in accordance with the provisions of condition 18 of this grant of planning permission.*
- v. the value of the bond shall be index linked, on an annual basis on the anniversary of the grant of planning permission, in accordance with the All-in Tender Price Index as published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors (RICS).*
- vi. come into effect within four months of the date of commencement of development and expire no earlier than 24 months after the end of the aftercare period.*

In the event that the guarantee becomes invalid for any reason, all operations on the site shall cease forthwith and shall not be re-commenced in any form whatsoever on site until a replacement guarantee completed in accordance with the terms of this condition has been lodged with the Council as Planning Authority.

Reason: *To ensure that there are sufficient funds available to the Council to secure performance of the decommissioning, restoration and aftercare conditions attached to this planning permission in the event of default by the site operator.*

Subject to the addition of this condition as new condition 20 and the proposed conditions 20 to 44 being renumbered accordingly, it remains the recommendation that this application be Granted subject to the revised conditions schedule.

Links

<u>Policies and guidance for this application</u>	LDPP, LEN10, LEN11, LEN16, LEN21, LEN22, LTRA01, LRS05,
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A copy of the original Committee report can be found in the list of documents at <https://citydev-portal.edinburgh.gov.uk/idxpa-web/applicationDetails.do?activeTab=documents&keyVal=P17L00EWGK700>

Or Council Papers online

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