

Development Management Sub-Committee Report

Wednesday 4 September 2024

**Application for Planning Permission
Bonnington Mains Quarry, Cliftonhall Road, Newbridge**

Proposal: Extraction of Quartz-Dolerite and erection of plant and ancillary structures (Section 42 application to vary condition 8 associated with air overpressure limits attached to planning permission 22/02514/FUL)

**Item – Committee Decision
Application Number – 24/01146/FUL
Ward – B02 - Pentland Hills**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because 142 material objections have been received, it is recommended for approval, and it is of significant public interest. Consequently, under the Council's Scheme of Delegation, the application must be determined by the Development Management Sub-Committee.

Recommendation

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

Summary

Overall, the planning application is in accordance with the Edinburgh Local Development Plan and National Planning Framework 4.

The proposed removal of condition 8 is acceptable as it is in accordance with latest Scottish Government guidance PAN 50 Annex D: Controlling the Environmental Effects of Surface Mineral Workings. Subject to condition, neighbours' amenity will be reasonably protected. A new condition has been applied to ensure dust from blasts can be appropriately controlled.

The principle of the development as ancillary works to an existing quarry is still appropriate in this countryside location. Its impact on landscape quality and rural character is acceptable. No new traffic issues are raised.

In the context of NPF 4, new information is sought to ensure biodiversity protection and enhancement is achieved on-site.

Conditions relating to soil management, restoration and aftercare have been reworded to ensure appropriate conditions are achieved for the end agricultural use.

No other material considerations identified outweigh this conclusion.

SECTION A – Application Background

Site Description

The site is a quarry and parts of land to its west comprising of 16.1 hectares in total.

It is bordered by disused Craigpark Quarry to its north, which is being restored for leisure and recreational use. Agricultural fields are located north and west, with Wilkieston Road to the south.

The closest residential settlement is Park Ranger Lodge located within the former Craigpark Quarry, approximately 100 m north-east of the site boundary. Beyond this, new residential development is approximately 235 m away at the closest point. Other individual farmhouses are located within the surrounding area.

The larger settlement of Ratho is located to the far north-east whilst Bonnington is south-west and Wilkieston is south.

It is accessed via Cliftonhall Road to the west which leads on to the M8, M9 and M90 motorways. To the south, this leads on to Bonnington Road which connects to the A71.

It is designated as a minerals site and in the countryside in the Local Development Plan (LDP).

Description of the Proposal

The application is made under Section 42 of the Town and Country Planning Act 1997 (as amended). Applications made under Section 42 seek to amend or remove conditions that were applied under previous planning permissions. The outcome of a Section 42 application is that a new planning permission is created, and while applications are not always required to be considered 'de novo', the proposals require scrutiny under the current development plan.

The application seeks to vary or delete condition 8 associated with air overpressure limits of planning permission 22/02514/FUL. This planning permission approved the erection of plant and ancillary structure. This condition currently states the following:

Blasting practices shall be such that under appropriate measurement conditions the peak linear overpressure level of 120 dB shall not be exceeded as measured at the nearest noise sensitive premises.

If varied, the following wording for this condition is proposed:

Blasting practices shall have regard to safe quarrying practices. Within the constraints of safe quarrying practices, blasting shall be avoided under weather conditions which are likely to direct or focus the blast air overpressure towards neighbouring noise sensitive premises.

Supporting Information

- Blast Method Statement
- Cover Letter 'Proposed Condition Amendments'
- Environmental Statements

These documents can be viewed on Planning and Building Standards On-line Services.

Relevant Site History

23/03630/SCO

Bonnington Mains Quarry

Cliftonhall Road

Newbridge

EH28 8PW

Request for a formal EIA Screening Opinion

23/03429/PAN

Bonnington Mains Quarry

Cliftonhall Road

Newbridge

EH28 8PW

Development of Bonnington Mains Quarry, including south-westerly extension of quarry, erection of materials recycling plant, phased infill of the quarry void and restoration of the site.

Pre-application Consultation approved.

11 August 2023

22/02514/FUL

Land 177 Metres West of Bonnington Mains Quarry

Cliftonhall Road

Newbridge

Edinburgh

Extraction of Quartz-Dolerite and erection of plant and ancillary structure (Section 42 Application to vary conditions 2, 13, 15, 16 and 18 of Planning Permission

17/05930/FUL).

Approved

23 June 2023

22/02513/FUL

Land 177 Metres West of Bonnington Mains Quarry

Cliftonhall Road

Newbridge

Edinburgh

Development of field for ancillary quarrying operations.

Granted

21 June 2023

17/05930/FUL

Bonnington Mains Quarry

Cliftonhall Road

Newbridge

EH28 8PW

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

Granted

6 September 2018

15/01621/FUL

Bonnington Mains Quarry

Cliftonhall Road

Newbridge

EH28 8PW

An application under section 42 (Town and Country Planning (Scotland) Act 1997 (as amended)) to amend the wording of conditions numbered 22 and 23 of planning consent (Ref P/PPA/LA/643) to require that at least 12 months prior to mineral extraction ceasing a detailed scheme for restoration is submitted for the approval of the local planning authority and to extend the time period permitted to 2050 to allow for completion of mineral extraction.

withdrawn

5 January 2018

12/01430/MWD

Bonnington Mains Quarry

Cliftonhall Road

Newbridge

EH28 8PW

Application for the management of extractive waste.

Granted

20 June 2012

99/00654/FUL

Bonnington

Kirknewton

Edinburgh

Use of land for the storage and recycling of inert waste construction materials

Granted

16 August 2000

Other Relevant Site History

Bonnington Mains Quarry

4 September 1990 - an appeal to the Scottish Office Inquiry Reporters Unit was upheld.

The Reporter concluded; the need for a new hard rock quarry had been substantiated, that need justified the loss of prime agricultural land subject to a restoration scheme that would encompass a return to agricultural use, and that the operation could be suitably mitigated to an acceptable level so as to protect amenity of nearby residents (appeal reference P/PPA/LA/643)

12 January 1989 - planning permission was refused for hard rock quarry extraction and associated plant and machinery for the production of asphalt and cement from the site (application number 169/32).

Neighbouring Site History - Craigpark Quarry; located immediately to the north east of the site.

9 May 2018 - planning permission for the development of the former quarry site as an outdoor leisure complex, including water sport facilities, pedestrian and vehicular access, landscaping works, ancillary class 1 (retail) and class 3 (food and drink) uses, and tourism accommodation (application reference number 17/02471/FUL).

14 August 2009 - planning permission was granted for the erection of 117 houses on 5.93 hectares (18 %) and the restoration of the remaining 27.02 ha (82%) of the quarry for public amenity use (application reference 05/01229/FUL)

Planning enforcement history:

5th August 2022 - Planning enforcement enquiry reference 22/00506/ECOND under consideration in relation to alleged non-compliance with conditions (blasting)

21st September 2021 - No breach - no further action taken regarding alleged non-compliance with conditions (dust) - enforcement enquiry reference 21/00440/ECOND.

26th March 2020 - No breach - no further action taken regarding alleged non-compliance with conditions (dust clouds) - enforcement enquiry reference 19/00691/ECOND.

26th June 2019 - No breach - no further action taken regarding alleged unlawful erection of a boundary fence - enforcement enquiry reference 19/00101/EOPDEV.

6th September 2009 - No further action taken regarding movement of material into Craigpark Quarry (adjacent) and removal of part of dry-stone wall - enforcement reference 09/00483/EOPDEV.

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

SEPA

Nature Scot

Historic Environment Scotland

Scottish Water

West Lothian Council

Edinburgh Airport

Archaeology

Flood Planning

SEPA

Historic Environment Scotland

Scottish Water

Ratho and District Community Council

Lothian and Borders Fire Service

West Lothian Council

Scotland Gas Network

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 21 March 2024

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): 29 March 2024 29 March 2024

Site Notices Date(s): Not Applicable

Number of Contributors: 142

Section B - Assessment

Determining Issues

Section 42 of the Town and Country Planning (Scotland) Act 1997 (the Act) relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and

- (a) if they decide that planning permission should be granted subject to conditions differing from those subjects to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly.

- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

If an application under Section 42 of the Act is granted it creates a new planning permission with a new default time period for implementation unless otherwise determined. Accordingly, the proposals also require to be determined under Sections 25 and 37 of the Act.

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

Therefore, consideration shall be given to the proposed change to the condition and any other conditions attached, in particular whether:

- i) the proposed change to the condition would result in a development that is in accordance with the development plan; or
- ii) an alternative condition or conditions would result in a development that is in accordance with the development plan; and
- iii) there are any material considerations that outweigh the conclusions in respect of i) and ii) above.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals comply with the development plan?

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- LDP policy RS5 (Minerals)
- LDP policy Des 5 (Amenity)
- LDP policy Env 10, 22 (Green belt and Countryside)
- NPF 4 Productive place policy 22, 23, 33 (Minerals)
- NPF 4 Sustainable place policies 1, 2, 3, 4, 5, 7,

The Scottish Government Planning Advice Note 'PAN 50 Annex D: Controlling the Environmental Effects of Surface Mineral Workings' is a material consideration. This guidance advises that planning authorities should give full weight to the environmental effects of blasting at surface mineral workings and the potential disturbance to local communities. The planning system can control blasting times, set allowable levels of ground vibration, control overpressure, ensure monitoring of vibration levels, control dust and noise.

The application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) meaning this assessment shall consider the question of the conditions subject to which planning permission should be granted.

As there has been a change in the development plan due to the introduction of National Planning Framework 4 (NPF 4) an assessment is made in relation to the acceptability of the proposal within this policy context as well.

Condition 8

Condition 8 of planning permission 22/02514/FUL imposes a limit on air overpressure levels from blasts. Air overpressure is energy transmitted from the blast site within the atmosphere in the form of pressure waves. The condition has been applied on planning permissions on-site since 1990, when the quarry was originally granted by the Scottish Office at the time through appeal decision P/PPA/LA/643. It was applied to protect the amenity of occupiers of neighbouring properties.

PAN 50: Annex D was introduced after the quarry was originally approved and advises against the setting of a specific air overpressure limit. As summarised, paragraphs 39 to 42 refer to air overpressure being affected by changing weather conditions which are difficult to predict or control in advance. Due to this, the location at which the maximum air overpressure is expected cannot be determined with any degree of accuracy. Once a blast has been drilled and charged the operator is not able to postpone a blast as work is prohibited within the blast danger zone. Demonstration of compliance with any specific air overpressure limit is not a practical possibility.

In regard to the impact (paras 43 to 45) the guidance refers to blasts regularly generating air overpressure levels of around 120 dB. The pressure of 120 dB being the equivalent of a gentle breeze whilst 130 dB being equivalent to a moderate breeze. It is stated such magnitudes will be perceived by individuals although they are entirely safe.

New residential development has been constructed in proximity to the quarry (approximately 235m at closest point) to the north-east. Since this, overpressure levels from blasts exceeding the 120 dB limit at these properties have been recorded breaching condition 8.

Planning Circular 4/1998 - "The use of conditions in planning permissions" refers to planning conditions only being imposed where necessary, relevant, enforceable, precise, and reasonable. A condition may be unreasonable because it is unduly restrictive.

Having regard to PAN 50: Annex D it is acknowledged the existing limitation on air overpressure is contrary to this guidance. It prescribes a limit to air overpressure which the guidance advises against due to the difficulty in accurately controlling or predicting atmospheric conditions. Furthermore, as the guidance refers to a certain level of overpressure above 120 dB still being 'entirely safe' the current limitation is potentially unduly restrictive. Environmental Protection has been consulted on this planning application and have raised no objection to the removal of condition 8.

Whilst each planning application is assessed on its own individual merits recent quarry appeal decisions from the Scottish Government have been considered. No decisions reviewed have included conditions with prescribed limits on air overpressure. Recommended practice in PAN 50 advises conditions should provide for a scheme by which air overpressure is controlled. Conditions imposed generally relate to blasting compliance with best practice and guidance. Similarly, the applicants' proposed replacement condition also includes blasting practices 'having regard to safe quarrying practices.'

In respect to this, a blast method statement has been prepared by the applicant which outlines the methods employed on-site to minimise air overpressure levels. Having reviewed with Planning Enforcement there is concern that any condition relating to the control of air overpressure methods would be difficult to practically enforce. Similarly, the applicants' proposed replacement condition lacks precision or the means to be practically enforced.

Informatives, as opposed to conditions have therefore been included to highlight these matters to the applicant. It should be noted the operator also has separate requirements to ensure safe use of explosives under the provisions of The Quarries Regulations 1999.

Overall, the removal of condition 8 of planning permission 22/02514/FUL is acceptable as its limitation on air over pressure level is contrary to most recent PAN 50: Annex D guidance.

However, with regard to this guidance it is recognised 'full weight' should be given to the environmental effects of blasting and potential disturbance to local communities. Consideration of all other factors to control impacts on neighbour's amenity are detailed below with respect to noise, vibration, dust, and pollution.

Other Amenity Considerations

LDP policy Des 5 (Amenity) states planning permission will be granted for development where the amenity of neighbouring developments is not adversely affected.

NPF 4 policy 23 b) (Health and safety) states development likely to have significant adverse effects on health will not be supported.

Part d) states development likely to have significant adverse effects on air quality will not be supported.

Part e) states development likely to raise unacceptable noise issues will not be supported.

NPF 4 policy 33 (Minerals) part d) criteria ii to iv relate to amenity. These state in summary that development for sustainable extraction of minerals will only be supported where an adequate buffer zone between sites and settlements is provided taking account of specific circumstances of individual proposals. In addition, that no significant adverse impacts are demonstrated (on homes, communities, sensitive receptors, designations) and acceptable levels (on noise, dust, vibration, pollution) are achieved.

PAN 50 Annex D also states planning authorities should give full weight to the environmental effects of blasting at surface mineral workings and the potential disturbance to local communities. Where a proposal would cause demonstrable and material harm, permission should not be granted except where the benefits of the development proposal to the community would outweigh the potential harm.

Noise

The previously submitted Noise Impact Assessment (NIA) details noise predictions and potential impacts on nearby living accommodation. This NIA outlines that noise from the site can be contained to acceptable thresholds. The established conditions on-site in respect to limits on noise levels at each receptor are still deemed applicable.

The receptors do not include tourist accommodation at the adjacent wave garden facility or other local businesses / enterprises nearby. PAN 50: Annex A (controlling the environmental effects of surface mineral workings) refers to it being inappropriate to treat all uses as equally noise sensitive. As a commercial use, Environmental Protection (EP) would not protect noise impacts to these uses therefore the condition relates to residential properties only.

The surrounding land uses are mainly unchanged from recent planning permissions on the quarry site and no changes are proposed to the previously approved plant and ancillary equipment. Conditions regarding established quarry operational hours have also been re-applied to protect neighbours' amenity.

A change to the wording of how frequently the local authority would receive noise records is recommended from a 'quarterly basis to 'upon reasonable request', to ensure closer monitoring if required. Subject to these conditions, the proposal is acceptable regarding noise.

Vibration

Previous analysis of vibration levels as part of the 2017 EIA report outlined that with appropriate mitigation, vibration levels at nearest receptors whilst perceptible would be within recommended levels outlined in PAN 50. This assessment includes the anticipated impact on the closest property of the new residential development to the north-east as well as existing residential in the immediate vicinity.

The established condition from previous permissions regarding maximum ground vibration levels has been re-applied to protect the amenity of neighbouring occupiers. This condition is in line with recommendations detailed in PAN 50: Annex D and is considered appropriate. It is recognised there has been a recent breach of this condition. Consideration of this would be a matter for planning enforcement as part of enforcement enquiry reference 22/00506/ECOND independent of this planning application.

Subject to condition, the proposal complies with LDP policy Des 5 and NPF 4 policy 33 d) regarding vibration.

Dust and Air Quality

The previously submitted dust and air quality assessments undertaken identified any likely effects on closest receptors. Subject to recommended mitigation measures it was concluded no significant dust impacts were likely because of the development. It detailed that current national air quality objectives will not be exceeded at these locations, therefore, avoiding health risk to residents.

Previous planning permissions at the quarry had included several conditions in relation to mitigation measures to control dust. A number of these have been detailed in a dust management plan and a single condition has been imposed to include these to replace previous these previous conditions.

Representations have raised concern regarding potential health implications from existing dust dispersal from quarry blasts on-site. Given this, a new condition has been recommended for a scheme of dust mitigation measures to be submitted to and approved in writing by the Planning Authority. Environmental Protection had recommended submission of this information within 28 days of the date of this planning permission. However, as the applicant would have 3 years to commence development of this planning permission, this time frame would be unreasonable and unenforceable. The dust mitigation measures are therefore required prior to commencement of development.

Subject to implementation of mitigation measures on-site, dust can be appropriately controlled to protect the amenity of neighbouring properties in compliance with LDP policy Des 5 and NPF 4 policy 23 b) and d) with respect to dust and air quality. There are also separate dust controls regarding the mobile plant that would be monitored by SEPA.

Pollution

Through previous surveys undertaken regarding air quality, it is not anticipated that there would be any significant impacts on pollution. A series of mitigation measures are detailed regarding the use of soil, minerals, materials, asphalt, and concrete plant to minimise emissions to air.

As detailed in the EIA, the applicant also requires approval from SEPA with a 'Pollution Prevention and Control (PPC)' permit to specify required air quality controls.

Through these mitigation measures, it is anticipated that acceptable levels of pollution would be achieved with no significant adverse impacts demonstrated. In this regard the proposal complies with LDP policy Des 5, NPF 4 policy 23 b) and NPF 4 policy 33 d).

Health

The effects on human health are accounted for in the EIA through consideration of impacts on the water environment, noise, air quality & dust and traffic & transportation.

Through surveys undertaken on these topics, no adverse effect on human health is identified. Mitigation measures related to human health are outlined and conditions imposed in relation to these.

Overall, the proposal is not likely to have significant adverse effects on health. It therefore complies with NPF 4 policy 23 b).

Overall

Regarding the buffer zone detailed in policy 33 d), it should be noted there are no specific parameters for this in relevant policy or guidance that should be adhered to. In this specific circumstance, the relationship between the quarry site and settlements has been established as acceptable in terms of neighbour's amenity through previous planning permissions granted.

It is acknowledged that the effects of the quarry operations will often be perceived by nearby residents. This is not unexpected as outlined in the PAN 50 advice note: Annex D. However, subject to mitigation the distance retained from the quarry to residents is appropriate as no significant adverse impacts on neighbours' amenity are anticipated. Through previous surveys undergone, these assessments take account of the specific circumstances of this individual proposal that are detailed in part ii) of this policy.

Conditions have also been re-applied to limit the timings and frequency of the quarry operations in line with national guidance. These restrictions will further help protect the amenity of neighbouring occupiers. Overall, the proposal complies with LDP policy Des 5 and NPF 4 policy 23.

b) Other development plan considerations

Use

NPF4 policy 33 (Minerals) requires that LDPs support a landbank of construction aggregates of at least 10-years at all times in the relevant market areas, whilst promoting sustainable resource management, safeguarding important workable mineral resources, which are of economic or conservation value, and take steps to ensure these are not sterilised by other types of development.

LDP policy RS 5 (Minerals) states planning permission will be granted for development to extract minerals from Bonnington Mains Quarry. Development which would prevent or significantly constrain the potential to extract minerals from these sites with economically viable mineral deposits will not be allowed.

LDP policy Env 10 (Development in the Green Belt and Countryside) states development in the countryside will only be permitted where it meets one of the following criteria and would not detract from the landscape quality or rural character.

Part c) refers to development relating to an existing use or building including an extension, ancillary development or intensification of the use provided its appropriate in type, scale, design, and traffic impacts.

With respect to NPF 4 policy 33 and RS 5, the use of the site for mineral extraction has previously been established as acceptable and would be unchanged through this planning permission. It therefore continues to be appropriate and no further information has been sought on this aspect.

Planning permission reference 22/02514/FUL approved plant, ancillary structures, and road alterations within the site. This development would not be changed through this section 42 application.

Additionally, whilst seen in longer view, planting will help mitigate its impact and its level of visibility is acceptable as it will be read in the context of the existing quarry operations. The quarry as an excavated expanse already has planning permission and does not form part of proposed works to be assessed in this application. Traffic impacts are assessed elsewhere in this report.

It should be noted, approved planning permission 22/02513/FUL for an extension to field (west) and works including an asphalt plant are out with this red line boundary. Potential visual impacts from these works cannot be assessed as part of this section 42 planning application.

Overall, the proposal complies with NPF 4 policy 33, LDP policies RS 5 and Env 10.

Climate Change and Mitigation

NPF 4 policy 1 (Tackling the climate and nature crises) states when considering all development proposals significant weight will be given to the global climate and nature crises.

NPF 4 policy 33 d) part i) includes that development proposals for the sustainable extraction of minerals will only be supported where they will not result in significant adverse impacts on biodiversity, geodiversity, the natural environment, and sensitive habitats.

Ecology

NPF 4 policy 3 (Biodiversity) intent is to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

Part a) refers to development proposals contributing to the enhancement of biodiversity including where relevant, restoring degraded habitats, and building and strengthening nature networks and the connections between them.

NPF 4 policy 4 (Natural places) intent is to protect, restore and enhance natural assets making best use of nature-based solutions.

The submitted restoration plan outlines measures to return the site to agricultural grassland following cessation of quarry operations. Generally, this plan is supported however changes are sought to plants in the wetland and grasslands areas to ensure habitats of an appropriate quality are achieved.

A condition has therefore been imposed for the submission of a new detailed restoration plan to take account of these comments. Its wording has been altered to include full ecological details sought to ensure the restoration is of an appropriate standard.

Furthermore, in light of the added emphasis on tackling the nature crises through NPF4 adoption, conditions have been recommended to secure a Landscape and Ecology Management Plan. This is in order to make provision for planting during extraction and restoration in line with NPF 4 policy intentions of securing biodiversity enhancement on-site. As this planning permission has a new default time period of 3 years to be initiated, this information is required prior to commencement of development.

Subject to these conditions, the proposal complies with the intentions of NPF 4 policies 1, 3 and 4.

Soils

NPF 4 policy 5 intent is to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development.

Part a) refers to development being designed and constructed with the mitigation hierarchy and in a manner that protects soil from damage.

Part b) iv. refers to the circumstances where development on prime agricultural land will be supported including for the extraction of minerals and there is secure provision for restoration, its layout and design minimised the amount of protected land required.

The use of the land for mineral extraction is supported by part b) of policy 5.

Furthermore, the EIA and restoration plan outline detailed measures to protect and reuse soil appropriately as part of returning the site to agricultural land. It is understood no further soil stripping would occur as part of this planning permission. Some soil has been stored from recent permissions on-site whilst material from the original quarry excavation currently forms landscaping around the site. Conditions were imposed on previous permissions for protection of soil for its re-use in restoration and the detail of this is sought as part of a Soil Resource and Management Plan.

Additionally, the layout and design has previously been established as acceptable. It minimises the amount of protected land required through use of small section of land only for ancillary operations and access arrangements.

Subject to condition, the proposal complies with the overall intentions of NPF 4 policy 5.

Aftercare

NPF 4 policy 33 d) vii) states development proposals for the sustainable extraction of minerals will only be supported where they include schemes for a high standard of restoration, aftercare, and commitment that such work is undertaken at the earliest opportunity. As a further safeguard a range of financial guaranteed options are available, and the most effective solution should be considered and agreed on a site-by-site basis. Solutions should provide assurance and clarity over the amount and period of the guarantee and in particular, where it is a bond, the risks covered (including operator failure) and the triggers for calling in a bond, including payment terms.

A condition has been recommended for submission of a detailed aftercare scheme to be submitted when restoration contours have been achieved on-site. This condition has been re-worded from past permissions to include details of various land management measures previously detailed under separate conditions. This is to ensure an acceptable means of restoration and its after use are achieved.

An updated restoration guarantee bond was required by condition following planning permission reference 22/02514/FUL. This has similarly been applied to this permission prior to the commencement of development.

Water Environment

NPF 4 policy 22 (Flood risk and water management) intent is to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.

As identified on SEPA maps, parts of the site have a high surface water flood risk.

Through planning permissions and 2022 EIA a drainage strategy was submitted for the quarry site. Consideration of flooding and drainage issues for the development were assessed through this information and no objections have been received in relation to this current application from SEPA or flood planning.

Conditions relating to drainage have been re-applied to this planning permission and there is a requirement for such methods to be included within the aftercare scheme.

Subject to these conditions, the proposal complies with NPF 4 policy 22.

Transport

NPF 4 policy 33 d) (Minerals) part v) requires that development proposals for the sustainable extraction of minerals will only be supported where they minimise transport impacts through the number and length of lorry trips and by using rail or water transport wherever practical.

A transport statement was submitted with the previous planning application 22/02514/FUL detailing that predicted movements would be less than the peak worst-case scenario of 365 heavy goods vehicles (HGV) movements from planning application 17/05930/FUL. Representations have raised concerns regarding the impact of traffic on local services, communities, and businesses. Any transport impacts would be unchanged from this previous planning permission which were deemed acceptable, and no objection has been received from the Roads Authority. Given the quarry is operational and its modes of transport long established no further information has been sought regarding the practicalities of rail or water transport.

Existing transport conditions regarding restrictions on access to workings by HGVs and annual material extraction rate have been reapplied to control HGV frequency and movement.

Overall, the proposal complies with NPF 4 policy 33 d) regarding transport.

Other Matters

Gas

NPF 4 policy 23 g) (Health and Safety) states development proposals within the vicinity of a major accident hazard pipeline will consider the associated risks from proximity between the pipeline and proposal.

The proposal is in proximity to a high-pressure gas pipeline therefore the Health and Safety Executive (HSE) have been consulted on the proposals. They do not advise against the granting of planning permission but suggest contact with the pipeline operator.

As owner of the pipeline, Scottish Gas Network (SGN) have been consulted and have withdrawn their objection which was submitted in error. An advisory note regarding the potential for associated quarry activities to have negative impacts on the pipeline has been included as an informative to draw these matters to the applicants' attention.

Additionally, the National Grid have been consulted and no comments have been received.

With regard to the above, the proposal does not conflict with NPF 4 policy 23 g).

Archaeology

NPF4 policy 7 h) states development affecting scheduled monuments will only be supported in limited circumstances.

NPF4 Policy 7 o) states that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible.

LDP policy Env 8 (Protection of Important Remains) and LDP policy Env 9 (Development Sites of Archaeological Significance) aim to protect archaeological remains.

The site is located within an area of archaeological potential. However, the City Archaeologist has been consulted on the proposals and has raised no objection due to the nature of the application and its work within the existing quarry.

It is therefore not anticipated the development will raise any archaeological issues including impacts on any scheduled monuments.

Overall, the proposal does not conflict with NPF 4 policy 7 h) and o).

Conclusion in relation to the Development Plan

Overall, the section 42 planning application complies with the Local Development Plan and National Planning Framework 4.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

Emerging policy context

On 5 April 2024, the Planning and Environmental Appeals Division published its report into the examination of the Proposed City Plan 2030 and supporting documents in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. On 27 June 2024, the Council accepted the recommendations and modifications required to the Proposed City Plan 2030. The Proposed City Plan 2030 has now been submitted to Scottish Ministers for their final consideration. At this time in the context of the consideration of this particular application limited weight can be given to the relevant policies of City Plan 2030 until the adoption of the plan.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

Ratho and District Community Council

material considerations - objections

- Existing breaches of condition 8: Addressed in section a)
- Proposed change to condition is unacceptable: Addressed in section a)

non-material considerations - objections

- Impact on structural integrity of property: Not a planning matter

Other representations

material considerations - objections

- Adverse impact on amenity (noise, vibration, dust, health): Addressed in section b) Amenity
- Adverse impact on local business / community / services: Addressed in section b) Amenity and Transport
- Adverse visual / landscape impact: Addressed through section b) Countryside
- Adverse impact through loss of agricultural land: Addressed through section b) Countryside
- Adverse impact through increase in traffic: Addressed through section b) Transport
- Adverse impact on drainage and flood risk: Addressed through section b) Flooding
- Adverse impact on biodiversity: Addressed through section b) Ecology
- Adverse archaeological impacts: Addressed in section b) Archaeology
- Adverse impact on gas mains: Addressed in section b) Gas
- Unproven need for quarry: Addressed through section b) Use
- Existing breaches of planning conditions: Addressed through section b) Amenity

non-material considerations

- Adverse impact on historic environment (conservation area, listed buildings, scheduled monument): The site is not located in the immediate vicinity of the conservation area or listed buildings and the nature of the application does not engage the requirements of Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
- Adverse impact on green belt: The site is not located in or at the green belt boundary therefore green belt policies do not apply to this proposal. Impact on the countryside has been assessed in the above report.
- Proposed change to operational hours: No change to operational hours are proposed as part of this Section 42 planning application.
- Decrease in property value: Not a planning matter.
- Impact on structural integrity of property: Not a planning matter

Conclusion in relation to identified material considerations.

Overall, the material considerations support the presumption to grant planning permission.

Overall conclusion

Overall, the planning application is in accordance with the Local Development Plan and National Planning Framework 4.

The proposed removal of condition 8 is acceptable as it is in accordance with latest Scottish Government guidance PAN 50: Controlling the Environmental Effects of Surface Mineral Workings. Controls to limit impacts of quarry operations on neighbours' amenity have been imposed by condition.

With regard to all other aspects, the principle of the development as ancillary works to an existing quarry is still appropriate in this countryside location. Its impact on landscape quality and rural character will be mitigated by planting. Existing conditions have been re-worded regarding ecology, water environment and transport to ensure these are suitable in the current policy context.

No other material considerations identified outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.
2. No blasting or drilling operations shall be carried out on the site except between the following times: - Mondays to Fridays: 10:00 and 16:00 hours.

There shall be no blasting or drilling operations on Saturdays or Sundays. This condition shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The planning authority shall be notified of such events as soon as practicable after such an event including details of the nature and circumstances justifying such an emergency event.

3. There shall be a maximum of 3 blasts per week, with an average over any period of 12 months of 2 blasts per week.
4. Prior to the commencement of blasting, monitoring points of approved mobile equipment shall be provided, subject to the following:
 - a) The location of the monitoring points shall be those as agreed with the Planning Authority.
 - b) The monitoring process shall be carried out for the duration of blasting at the quarry including the 15 minutes immediately prior to and the 15 immediately following the duration of any blasts.
 - c) All record sheets shall be made available to the Planning Authority upon reasonable request.
 - d) The Planning Authority shall be afforded reasonable access to the equipment insofar as such access is subject to statutory regulations.
5. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mms⁻¹ in 95% of all blasts measured over any period of 6 months and no individual blast shall exceed a peak particle velocity of 12 mm⁻¹ as measured at vibration sensitive buildings. The measurement to be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Details of the results of all on site blasting operations, including those required by the provisions of condition 6 below, shall be recorded by the developer and be made available to the Planning Authority upon reasonable request.

6. The gas pipeline which passes near the southwest of the appeal site shall not be subjected to a resolved peak particle velocity in excess of 25mm/s measured as the maximum in any one plane on the pipe. Compliance with this criterion shall be ascertained by measurement on the ground surface immediately above the buried pipeline, where a resolved peak particle velocity of 37.5mm/s shall not be exceeded.
7. The hours of operation for non-blasting operations shall be restricted to:
 - a) For normal quarry operations: Monday - Friday: 07:00 - 19:00 Saturday: 07:00 - 19:00.
 - b) For fixed plant only: Monday - Friday: 07:00 - 19:00 Saturday: 07:00 - 19:00 Sunday: 10:00 - 14:00 or such longer times as may be agreed with the Planning Authority if lower noise emission levels from the fixed plant permits.
 - c) For avoidance of doubt, operations associated with the asphalt plant operational at the quarry shall be restricted to 07.00 - 23.00 hours.
 - d) All plant and machinery will operate only in the permitted hours, except in emergency, and shall be silenced at all times in accordance with the manufacturers' recommendations. Details of all cases of emergency operation on site shall be recorded by the developer and be submitted to the Planning Authority as soon as practicable after such an event including details of the nature and circumstances justifying such an event.
8. That with respect to the control of noise resulting from the operations during the permitted hours of operation stated in Condition 7, the nominal noise limit from site operations shall not exceed the following:
 - a) when measured free field over any one-hour period at the following locations:
 - Clifton Cottage 45 dB(A) LAeq,
 - Bonnington Mains Farm 52 dB(A) LAeq,
 - Craigpark Housing Development 52 dB(A) LAeq,
 - Park Ranger Lodge 52 dB(A) LAeq,
 - Ratho Mains Farm 51 dB(A) LAeq
 - b) During normal operations, the nominal noise limit from the asphalt plant and associated operations shall not exceed NR25 when measured within the nearest noise sensitive receptor.
 - c) Notwithstanding the terms of part (a), that during temporary operations, such as soil stripping operations, the nominal daytime noise limit from site operations, shall be no more than 70dB LAeq over any one-hour period for a maximum of 8 weeks per year, when measured free field at the nearest noise sensitive receptor.
 - d) Details of all noise measuring and monitoring records shall be made available to the Planning Authority upon reasonable request.

9. The overall dust submission from the site shall be controlled by the following methods:
 - a) Suitable modern dust suppression or collection equipment shall be installed on all relevant plant and shall be regularly maintained in accordance with the manufacturers' recommendations, to ensure its efficient operation.
 - b) All conveyors shall be adequately enclosed.
 - c) An adequate number of portable water sprayers shall be provided for the damping down of stockpiles, areas adjacent to the crushing plant and internal haul roads.
 - d) In order to prevent spillage and windblown dust from lorries, all such loads shall be adequately sheeted prior to leaving the site.
10. Prior to commencement of development hereby approved, a scheme of dust mitigation measures (including details of the type, number and use of equipment) for the blasting process shall be submitted to and approved by the Planning Authority.

Thereafter the approved mitigation measures will be implemented on-site in advance of each blast.

11. Access to the workings shall be taken only from the B7030 road in the position shown on drawing no B23_BON_2202_006: Location Plan as constructed on site so as to provide that heavy goods vehicles may leave the site only by turning right to, and enter the site only turning left from, the B7030 road.
12. The rate of extraction of material shall be restricted to 375,000 tonnes per annum. Details of the quantity of all extracted material from the quarry shall be recorded by the developer and be submitted to the Planning Authority on a quarterly basis.
13. That all extraction operations on the site shall be discontinued on or before 3 September 2050, as stipulated by the provisions of paragraph 1(2) of Schedule 3 of the Town and Country Planning (Scotland) Act 1997. In the event that extraction operations cease in advance of the above date, the site operator shall begin restoration works within 3 months of the cessation of operations.
14. Prior to the commencement of development hereby approved, a detailed restoration scheme (including a programme of implementation) shall be submitted for the written approval of the planning authority. The restoration scheme shall be submitted in line with the guidance in PAN 64: Reclamation of Surface Mineral Workings (2002).

The scheme shall:

- a) include details of new habitat creation, to include information about location and size of new habitat areas, species, proposed density of planting, and protection and replacement measures.
- b) include habitat enhancements for priority species
- c) include details of all landscape planting including the location, size, number and species of trees and shrubs

- d) include details of grass seed mixes to be used; and
- e) provide that restoration of the site is, as far as reasonably practicable, undertaken concurrently with phased excavation works.

All planting shall comprise of native plants that support local biodiversity and habitat provision. Restoration of the site shall be implemented in accordance with the approved restoration scheme.

Thereafter, the approved restoration scheme shall be reviewed every 10 years. The site shall then be restored in accordance with the last approved restoration plan within 24 months of cessation of the permitted operations.

15. Prior to the commencement of development hereby approved, a Soil Resource and Management Plan for the period of extraction and restoration on-site shall be submitted to the planning authority for written approval. The plan shall include the following details:
- a) methods to ensure the appropriate storage of material to prevent mixing.
 - b) details of topsoil dumps including their maximum heights, grading, volumes, location, seeding, weed control methods and shape to prevent water ponding.
 - c) details of protective fencing to be installed to protect topsoil after the stripping and formation of storage dumps.
 - d) transportation methods employed to ensure soils are kept in an appropriate condition when relocated from storage for spreading on-site.

The approved plan shall thereafter be implemented on-site for the period of extraction and restoration.

16. No topsoil shall be removed from the site other than with the prior approval of the planning authority.
17. The working areas shall be adequately secured throughout the entire period of extraction and restoration by an appropriate means of enclosure including stock proof fencing, hedging and walls. The stock proof fencing shall include gates or cattle grids at every opening.
18. Throughout the period of working, agricultural restoration and aftercare, the applicant shall protect and maintain any ditch, stream, water course or culvert padding through the site so as not to impair the flow nor render less effective drainage on to and from adjoining land.
19. Provision shall be made at all times to ensure that underdrainage is maintained for land out with the working area. Standing water must not be allowed to gather on any areas with the whole site where the topsoil and subsoil have not been stripped.
20. Alternative arrangements shall be made for any interruption of drainage systems serving land adjacent to the site.

New interceptor leaders shall be laid, or ditches cut, where required, to ring the site and bleed-in existing lateral drains from adjoining undisturbed land.

21. Diverted water courses shall be restored to the original or agreed alternative line and measures shall be taken to prevent erosion of banks and beds.
22. Any oil, fuel, lubricant, paint, or solvent within the site shall be stored within a suitable bund or other means of enclosure to prevent such material from contaminating topsoil or subsoil or reaching any water course.
23. Prior to commencement of development hereby approved, a Landscape and Ecology Management plan shall be submitted to and approved in writing by the Planning Authority.

The plan shall make provision for the retention of and ongoing maintenance of existing and new woodland planting and habitat creation on site during ongoing extraction and restoration thereafter. The approved plan shall thereafter be implemented on-site for the period of extraction and restoration.

24. An aftercare scheme shall be submitted for the written approval of the Planning Authority once final restoration contours have been achieved on-site. The scheme shall include:
 - a) details of the steps necessary to reach the standard of approved habitat on the newly restored land, cultivation techniques to be employed, fertilising methods, soil sampling and analysis procedures, watering, and drainage methods, weed control systems and any other proposed treatment; and
 - b) an undertaking that any trees, shrubs, or areas of grass that die, are removed, damaged, or become diseased within the aftercare period, shall be replaced within the following planting season with others of a similar size and species.

Aftercare of the site shall be implemented in accordance with the approved aftercare scheme.

25. On completion of extraction to the approved levels, the quarry floor shall be rooted to break up compacted layers. Haul roads from the soil storage mounds within Fields 2100/3478 shall be fenced off to deny traffic access to the remainder of the field.
26. Prior to the commencement of development hereby approved, 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. in the event the bond does not cover the full term of the development hereby approved, a new bond or a renewal of the bond must be in place before the term of the bond expires, and this shall apply for each subsequent bond or renewal of a bond so that a bond remains in place for the full term of the development and for 24 months after the aftercare period.
- v. 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 25 of this grant of planning permission.
- vi. 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).
- vii. come into effect within four months of the date of commencement of development.

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 agreed with the Council as Planning Authority.

Reasons

- 1. To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2. In order to protect the amenity of the occupiers of neighbouring properties.
- 3. In order to protect the amenity of the occupiers of neighbouring properties.
- 4. In order to control the times when blasting can be carried out on site so as to protect the amenity of the occupiers of neighbouring properties.
- 5. In order to control vibrations from blasting within the site so as to protect the amenity of the occupiers of neighbouring properties.
- 6. In order to protect existing gas infrastructure within proximity of the quarry site.
- 7. In order to protect the amenity of the occupiers of neighbouring properties.
- 8. In order to protect the amenity of the occupiers of neighbouring properties.
- 9. In order to protect the amenity of the occupiers of neighbouring properties.
- 10. In order to protect the amenity of the occupiers of neighbouring properties.
- 11. In order to ensure that heavy goods vehicles entering and leaving the site are suitably routed to the principal road network.

12. In order to control the numbers of heavy goods vehicles generated by the site and to protect the amenity of the occupiers of neighbouring properties.
13. In order to suitably control the duration of the quarrying operations on the site and in order to ensure that there is an acceptable form of restoration works carried out on the site and to ensure an appropriate form of after use.
14. In order to ensure that there is an acceptable means of restoration plan for the site and its after use.
15. To ensure soils are retained in an appropriate condition for restoration.
16. To ensure retention of soil for restoration of the site.
17. In order to ensure that the site is suitably secured for Health and Safety reasons.
18. In order to suitably maintain field drainage systems in the immediate vicinity of the site and protect agricultural land out with the site so as to mitigate disruption from the quarrying operations on the site.
19. In order to suitably maintain field drainage systems in the immediate vicinity of the site and protect agricultural land out with the site so as to mitigate disruption from the quarrying operations on the site.
20. In order to suitably maintain field drainage systems in the immediate vicinity of the site and protect agricultural land out with the site so as to mitigate disruption from the quarrying operations on the site.
21. In order to suitably maintain field drainage systems in the immediate vicinity of the site and protect agricultural land out with the site so as to mitigate disruption from the quarrying operations on the site.
22. In order to mitigate potential pollution events from the quarrying operation on the site.
23. To ensure implementation of biodiversity measures on-site.
24. To ensure an appropriate standard of aftercare is achieved on-site.
25. To ensure appropriate conditions are achieved on-site for restoration.
26. 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.

Informatives

It should be noted that:

1. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.
2. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
3. The applicant should employ the measures outlined in section 2.3 of the submitted Blasting Method Statement, reference R24.12194/1/RK, dated 29 April 2024.
4. The applicant should develop a scheme to notify residents in the sites surrounding area in advance of a blast being undertaken on-site.
5. Excavations, stockpiling of material, vehicles crossing over the route of the pipeline, changes in ground levels, drilling, piling and the siting of temporary structures, cabins and containers are all activities that can have a negative impact on the pipeline. This list is not exhaustive and SGN advice should be sought if in any doubt.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 20 March 2024

Drawing Numbers/Scheme

01

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Lewis McWilliam, Planning Officer
E-mail: lewis.mcwilliam@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: SEPA

COMMENT: No comments on the proposals.

DATE: 25 March 2024

NAME: Nature Scot

COMMENT: No comments to make on the proposals as the changes will not affect natural heritage interests.

DATE: 18 April 2024

NAME: Historic Environment Scotland

COMMENT: No comments on the proposals.

DATE: 27 March 2024

NAME: Scottish Water

COMMENT: No objections however further assessments would be carried out following submission of a pre development enquiry prior to any formal technical application.

DATE: 2 April 2024

NAME: West Lothian Council

COMMENT: No comment on the proposals.

DATE: 28 March 2024

NAME: Edinburgh Airport

COMMENT: The proposal does not conflict with aerodrome safeguarding criteria.

DATE: 4 September 2024

NAME: Archaeology

COMMENT: No objections to the proposals.

DATE: 21 March 2024

NAME: Flood Planning

COMMENT: No objections to the proposal.

DATE: 17 April 2024

NAME: SEPA

COMMENT: No comments on the proposals.

DATE: 25 March 2024

NAME: Historic Environment Scotland

COMMENT: No comments on the proposals.

DATE: 27 March 2024

NAME: Scottish Water

COMMENT: No objections however further assessment required following submission of a pre development enquiry in advance of a technical application.

DATE: 2 April 2024

NAME: Ratho and District Community Council
COMMENT: Objection to application due to impact on local properties.
DATE: 28 April 2024

NAME: Lothian and Borders Fire Service
COMMENT: No comments received.
DATE: 15 August 2024

NAME: West Lothian Council
COMMENT: No comments on the proposals.
DATE: 28 March 2024

NAME: Scotland Gas Network
COMMENT: Withdrawal of previous objection and note regarding activities that may have a negative impact on the pipeline.
DATE: 3 July 2024

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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