



APPLICATION FOR PLANNING PERMISSION 15/00503/DPP FOR INFILLING OF QUARRY AT MIDDLETON LIMEWORKS, GOREBRIDGE (THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT PREPARED UNDER THE ENVIRONMENTAL IMPACT ASSESSMENT (SCOTLAND) REGULATIONS 2011)

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for detailed planning permission for the infilling of the former Middleton Limeworks Quarry (known as quarry No.1). Six representations have been received and consultation responses have been received from Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA), Transport Scotland and the Council's Policy and Road Safety Manager, Environmental Health Manager and the Council's Archaeological Advisor. The relevant development plan policies are policies 14 and 15 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies RP1, RP7, RP8, RP13, RP14, WAST3 and DP3 of the Midlothian Local Plan (2008). The recommendation is to grant planning permission subject to conditions.

2 LOCATION AND SITE DESCRIPTION

- 2.1** The application site is the former Middleton Limestone Quarry, located in the countryside in close proximity to the south of North Middleton.
- 2.2** The site measures approximately 7.7 hectares with the proposed infill area being 5.15 hectares. The site comprises the quarry void with quarry faces and soil storage bunds on the periphery and areas of quarry spoil within the void. Entrances to former underground workings are visible in the quarry faces.
- 2.3** The quarry is accessed from a point off an unclassified road that runs in an east to west orientation and which bounds the site to the north. The unclassified road is accessed off Guildiehowes Road which in turn is accessed off the A7 located nearby to the north of the site.

3 PROPOSAL

- 3.1 The application proposes planning permission for infilling of the quarry void with inert materials. Materials to be imported to the site include bricks, soils and clays. The applicant confirms that the imported materials shall be checked and certified to ensure that there is no contamination. The source and geological location of soils will be dependent on waste becoming available and cannot be specified in advance. It is estimated that approximately 75% of the material would be sourced from Edinburgh with the remainder being from the surrounding area in Midlothian and East Lothian.
- 3.2 Planning permission for the infilling is sought for a 7 year period, including 6 years for the infilling and 1 year to complete the restoration. The 1 year restoration timescale allows for potential delays over the winter period.
- 3.3 The A7 is anticipated to be the principal route for vehicles bringing materials to site. It is proposed to utilise the existing site access, office, weighbridge and internal haul route. Prior to the commencement of works the site access will be surfaced for a distance of 20 metres back from the public road. On the basis of the proposed importation of materials, assuming a 6 day working week and 20 tonne loads, it is anticipated that there shall be an average of 66 HGV movements associated with the proposal on a daily basis [33 loaded vehicles entering, 33 empty vehicles leaving].
- 3.4 The proposed operating hours are 07:00-18:00 Monday to Saturday with no working on Sundays.
- 3.5 In support of their application the applicants state that they are a significant employer in the area and currently have 215 members of staff, 70 of whom reside within Midlothian. The company also generates an element of indirect employment for local firms who are used as suppliers, maintenance and specialist support. The current planning application is important to the operating company as it gives certainty with respect to infilling capacity over the next few years, which in turn provides job security.
- 3.6 The application is accompanied by an Environmental Statement (ES) prepared in terms of the Environmental Impact Assessment (Scotland) Regulations 2011.

4 BACKGROUND

- 4.1 In March 1982 planning permission ref.198/81 was granted for the extraction and working of limestone on both Middleton No.1 and No.2 quarries. Planning permission 198/81 has now expired.

- 4.2 In December 2012 the Planning Authority served a Breach of Condition Notice on Leiths (Scotland) Limited; who were the operator of Middleton Quarry, requiring them to take action in relation to conditions attached to planning permission 198/81. The conditions require the infilling and restoration of the whole site to an agricultural use by the 19th December 2016. The breach of condition Notice only required the reinstatement of No.2 quarry. No.2 quarry (also known as the upper quarry) is presently being infilled in compliance with the Breach of Condition Notice.

5 CONSULTATIONS

- 5.1 The **Scottish Environment Protection Agency (SEPA)** initially objected to the application on the grounds of lack of information as to whether the proposal is potentially consentable under the relevant regulatory regime covered by SEPA. The applicant's proposal is to infill Middleton Quarry No.1 under an exemption from Waste Management Licensing for the reuse of inert waste. The proposed activity involves the infill of a void space of approximately 660,000 cubic metres. It involves reinstatement of land close to the original ground topography with infill of 1-2 metres in the north east to between 17-23 metres within the main void. SEPA do not view the infill of a former quarry to a depth of 17-23 metres with waste as a reuse activity, but as a disposal activity. As such the activity as originally proposed cannot be authorised under any exemption from Waste Management Licensing (Scotland) Regulations 2011, and would require a PPC/A permit under The Pollution Prevention and Control (Scotland) Regulations 2012 (PPC 20120) for an inert landfill activity. SEPA confirm that they have concerns about the potential impacts to groundwater as a result of the proposals and therefore they initially objected to the application. In order to determine that an inert landfill at this location would be consentable under the above stated regulatory regime, SEPA requested that the applicant undertakes a further assessment of impacts on groundwater.
- 5.2 In response to SEPA's objection the applicant submitted additional information to address SEPA's concerns. The applicant confirms the following: (i) the intention is to apply for an exemption under the Waste Management Licensing Regulations; (ii) waste acceptable to the site will be restricted to those waste types specified in the table at Schedule 2, paragraph 4 of the Landfill (Scotland) Regulations 2003. The applicant will operate a waste screening process, which will remain in place during infilling operations to ensure that only truly inert materials, with no leachable component, are accepted at the site. Records of waste acceptance will be maintained for inspection as required; (iii) the site entrance and main haulage road will have suitable drainage installed prior to commencement of infilling. The drainage will be subject to regular checks and maintenance to ensure it remains operational; (iv) post restoration drainage has been determined on the basis of the proposals outlined in the ES; (v) the ground water drainage proposals are appropriate to meet the relevant objectives in Schedule 4

of the Waste Management Licensing Regulations. In light of the additional information provided SEPA have confirmed to the Planning Authority that they withdraw their objection on the proviso that the following two conditions be imposed on a grant of planning permission:

“(1) Only truly inert material, as specified in the table at Schedule 2, Paragraph 4 of the Landfill (Scotland) Regulations 2004, shall be used for infilling purposes and the material shall arrive at the site in a condition suitable for purpose.

Reason: *To ensure that only appropriate materials are used for infilling and to ensure adequate protection of the water environment.*

(2) Prior to commencement of any works, a site surface water drainage strategy and plan shall be submitted to and approved by the Planning Authority in consultation with SEPA. This shall include: (i) Full details of the drainage infrastructure serving the site entrance and haulage roads(s); ii) Design details of the temporary crossings to be installed within the working area; (iii) a copy of the wet weather working plan.

Reason: *to ensure adequate protection of the water environment.”*

- 5.3 With regards to flooding SEPA confirm that given the proposal includes the provision of settlement ponds during work and that following works the site will be left to re-vegetate, it is not anticipated that there will be an increase in runoff to the North Middleton Burn. SEPA confirmed that they are not aware of flooding concerns in the area and they therefore do not object on flood risk grounds to the proposed works to infill the quarry site.
- 5.4 **Transport Scotland** does not advise against the granting of planning permission or the imposition of any conditions on a grant of planning permission.
- 5.5 **The Council's Policy and Road Safety Manager** raises no objection to the principle of the proposed development but recommends the following mitigation measures identified in the Transportation Assessment be secured by conditions on a grant of planning permission: (a) an advanced warning sign should be erected on the minor road on the eastern approach to the site access; (b) a minimum of the first 40 metres (not 20 metres as stated in the TA) of private access road within the site and behind the access into the site should be surfaced in non-loose material to reduce the volume of loose material being carried onto the public road; (c) details of the type and location of the wheel washing equipment should be submitted for approval with the waste water generated being recycled within the site; (d) given the large number of vehicle trips anticipated per day a road sweeping vehicle should be permanently based on the site to address the issues of loose material being deposited onto the public road; (e) various sections of the road carriageway/verge have suffered damage

over the years and the developer should undertake a programme of works to repair these sections prior to the infilling of quarry No.1 commencing. A meeting on site can be arranged with the developer to identify the various sections and to agree the necessary works.

- 5.6 **The Council's Environmental Health Manager** raises concerns regarding the potential impact of the development on air quality, water quality and noise. To mitigate these concerns it is recommended that the following controls be secured by conditions imposed on a grant of planning permission: (i) details of measures which will be taken to ensure that the wholesomeness of private water supplies in the vicinity of the proposed works are not affected by the infilling activities should be submitted for the prior approval of the Planning Authority; (ii) site operations, including vehicle movements shall be restricted to between 08:00 to 19:00 hours Monday to Friday and 08:00 hours to 12:00 hours Saturday unless otherwise agreed in writing by the Planning Authority; (iii) a dust management plan shall be submitted and agreed in writing by the Planning Authority. Additionally, following any substantiated complaints about dust or where visual inspection indicates significant dust emissions or dust tracked out of the site onto public roads, a programme of monitoring at the sensitive receptor(s) shall be undertaken by the operator over a period of time agreed in writing by the Planning Authority (following the results of an initial representative period of monitoring); and, (iv) a daytime limit of 55 dB $L_{Aeq, 1 h}$ (free field) shall be met at noise sensitive properties, with the exception of Sheilknowe at 10 Guildiehowes Road and Halkerston Farm Cottages where a daytime limit of 45 dB $L_{Aeq, 1 h}$ (free field) shall be met.

- 5.7 **Moorfoot Community Council (MCC)** confirms that whilst not objecting to the overall aims of the development they object to the means of delivery of the proposed restoration and the management of its effect. They raise the following concerns with the proposed development which are explained in turn:

- (i) road traffic and road safety;
- (ii) site operating conditions;
- (iii) the end use of the site;
- (iv) monitoring of the materials used for the infill; and
- (v) the provision for assuring the completion of the project.

MCC - Road traffic and road safety

- 5.8 MCC note that the applicant has made commitments on a number of points which they raised at pre-application stage, including the establishment of a community liaison group, explanation of the role of SEPA in monitoring the project and the upgrading of perimeter fencing and warning signs. In terms of road traffic and road safety they state that it is clear that the proposal has generated significant concern in the local community, particularly about the impacts arising from the additional road traffic that will be generated by the development, six days a week over a period of up to seven years. MCC inform that

concern has been expressed by local residents about the damage to verges on the Guildiehowes Road caused by existing lorry traffic. This makes it difficult or impossible for pedestrians to safely use the road or its verges. The proposed in-fill would exacerbate this impact over a further seven year period. MCC considers that this is not in compliance with the requirement of MLP policy WAST3, which states that proposals for waste disposal by landfill will only be permitted where "it can be demonstrated that the additional traffic generated by the development can be accommodated on the local road network without causing an unacceptable hazard or inconvenience to other road users, or damage to the surface of the road carriageway and adjoining verges." The ES contains no proposals for mitigation of this impact. MCC note that the Transport Statement states that "the applicants would be willing to enter into a legal agreement to deal with this". They also note that the PAC Report states that "The applicant is willing to contribute to the improvement of Guildiehowes Road, this being on a pro rata basis with respect to usage." In addition, they note that the PAC Report states that "it is considered that pedestrians can safely use this route without further safety provision." MCC considers that any Section 96 agreement or other means of contribution to repair and maintain the Guildiehowes Road must contain adequate provision for pedestrians, including maintaining the verges to allow continued safe pedestrian access throughout the duration of the project. MCC do not agree with the statement made by the applicant that there has been no record of accidents at the A7/Guildiehowes junction. MCC maintain that the TA does not give consideration to the additional hazards generated by HGV movements in relation to: (i) the speed differential of traffic at the junction of Guildiehowes Road and the A7; (ii) the staggered layout of the Guildiehowes Road and North Middleton village access junction; (iii) increased traffic flows at the school opening and closing times; and, (iv) the complex traffic dynamics that can arise from this mix. MCC raise concern that traffic turning right onto the A7 northbound from North Middleton (a junction with limited sight lines) will have to mix with fast-moving southbound and northbound traffic on the A7, HGV's turning right into Guildiehowes Road, and further HGVs turning left on to the A7 from Guildiehowes Road. They inform that the dynamics of the junction has long been a concern to the local residents and has led to numerous calls for imposition of a 40mph limit on this part of the A7. MCC concur with this and consider that this should be made a condition of a grant of planning permission for the proposed development. MCC notes that the TA states that "detailed consideration of movements within the wider area in relation to the A7 is not considered necessary or appropriate. However, MCC maintain that at least 75% of the HGV movements to and from the site are predicted to route between the site and Sherrifhall Roundabout via the A7, a route which is subject to traffic generated by an ever-increasing number of planned and 'windfall' developments. Therefore MCC considers that a proper cumulative assessment of the impact of the development on traffic levels on the A7 up to and including the Sherrifhall Roundabout should be carried out. They maintain that this would be in keeping with policy TRANS2 of the proposed MLDP, which

states: "Contributions from all planned and windfall development within each Strategic Development Area (SDA) will be expected to contribute to the provision of the relevant strategic road interventions identified above by the SDA, as detailed in the Supplementary Guidance on Development Contributions." MCC considers that the proposed surfacing of the site access road for a distance of 20 metres back from the public road and installing a wheel wash at the edge of this area of surfaced road is inadequate to mitigate the significant effects of dust and mud on the public road, and the hazard of thrown stones to other road users. MCC consider that the site access road should be surfaced 170 back from the public road in order to reduce the carriage of mud and stones on the public road. They consider that the wheel washing should be installed adjacent to the end of this extended access road surfacing. They advise that the applicant make use of the remaining Leith's land to make room for a weighbridge and wheel wash in locations that adequately mitigate lorry queuing and mud/stones/dust hazards. In addition, MCC consider that road humps and cattle grids are used as an additional means of dislodging stones from wheels. MCC advise that the weighbridge should be re-located further into the site in order to allow any queues of lorries to remain fully within the site and not on the public road. Also, warning signs should be erected on the public road at an appropriate distance from the site entrance, especially prior to the bend on the public road to the south east of the site entrance. MCC notes that the applicant has expressed a willingness to accept a condition prohibiting parking outside the quarry gates when it is closed. They advise that the condition be worded to ensure that it includes waiting, as well as "parking" on the public road, and that it does not have the unintended consequences of shifting the queues of parked lorries to some other location.

MCC - Site operating conditions

- 5.9 With regards to site operating conditions MCC states that the proposed operating hours; which is 11 hours a day for 6 days a week, do not provide sufficient respite for local residents from the traffic, noise and dust impacts. They advise that site operations and movement of lorries into and out of the site should be restricted to 0700 to 1800 Monday to Fridays and 0700 to 1300 on Saturdays. In addition, they consider that in order to prevent lorries queuing on the public road as currently occurs, there should be a condition prohibiting lorries from approaching the site entrance before 0700 hours. In order to limit the maximum impacts of lorry movements, an upper limit of 100 HGV movements on any one day should be imposed as a planning condition. In order to avoid an unacceptable level of cumulative impact, no operations should be allowed to commence on the restoration of the lower quarry until the restoration of the upper quarry is confirmed as being completed to a standard acceptable to the Council and SEPA.

MCC - The proposed end use of the site

- 5.10 Regarding the proposed end use of the site, MCC notes that the application proposes restoration of the site to a recreational use. This is in contrast to the restoration requirements of the original planning permission (198/81) and the Breach of Condition Notice which requires that the current in-fill operations at the upper quarry which requires that land to be restored to “a condition suitable for agricultural use.” MCC considers that the applicant should have assessed the potential for agricultural use following restoration and that failure to do so constitutes an inadequate consideration of alternatives in the ES. In the event that the end-use of the site is recreational MCC propose that the applicant gift the site to a suitable community body. A road haulage company has no obvious interest in retaining ownership of a piece of recreational land with low development value. A long term safeguarding of the restored site, beyond the five year aftercare period is best achieved by community control and this would be in keeping with the Scottish Government policy encouraging community land ownership. MCC consider that in the event that the Council does not require the applicant to offer the restored land to the community and does not require the land to be restored to agricultural use then a condition should be imposed on a grant of planning permission requiring the “recreational” use of the land including free public access on foot, cycle or horseback.

MCC - Monitoring of the material used for the infill

- 5.11 With regards to monitoring of the material used for the infill MCC consider that it is critical that inappropriate material does not find its way onto the site. They consider that the statements in the ES on the nature of the imported materials and the arrangements for monitoring incoming truck contents contain a number of omissions and ambiguities. MCC submits that these arrangements should be clearly and unambiguously stated and underpinned by planning conditions. MCC consider that it is not clear how the applicant's proposed inspection of waste load can ensure that no unacceptable non-inert material enters the site, for example when unacceptable material may lie underneath the visible portion of an incoming load. It is also unclear whether the inspections would be carried out solely by individual drivers, or additionally by other personnel. Therefore, further details should be provided. MCC notes that paragraph 4.4.1 of the ES states that “It is envisaged that the majority of waste utilised to reinstate Middleton would be unsuitable for recycling”. This implies that as much as 49% of the waste could be recycled. The following should be clarified: (a) how much of the waste is expected to be recycled; (b) whether that material is appropriate for in-fill on this site; c) what opportunities there may be for recycling that material; and, (d) whether development in recycling facilities in the SESPlan area within the lifetime of this proposed development may alter the assumptions made about the proportion of the material that is recyclable. MCC consider that the importing of soils and soil forming material onto the site will

have the potential to have significant effects on: (a) the potential for contamination and (b) the volume of imported material required, and therefore the volume of traffic generated. Therefore it is necessary that the volumes are more closely specified. In addition they consider that the applicant should specify: (a) the expected source and geographical location of the soil material to be used in the restoration; (b) whether “soil forming material” will include materials such as sewage sludge; (c) if so, in what volumes; and, (d) what arrangements will be put in place to control its environmental effects.

MCC - Provisions for the completion of the project

- 5.12 Regarding provisions for assuring the completion of the project MCC confirm that they fully support the aim of the restoring the Middleton Lower Quarry to a use that is safe and environmentally acceptable. However they are concerned about the possibility of only a partial restoration being undertaken because of e.g. company failure or a major change in the availability of suitable in-fill materials, which could leave the quarry in a less safe and/or more environmentally damaging and/or less acceptable to the public and/or less useable for agricultural use and/or more unsightly than the site in its current condition. Therefore MCC disagree with the assertion in paragraph 4.5 of the PAC Report that “cession of the proposed operations at any stage would leave the site in a better condition than the current situation”. They note that the assertion is not repeated or backed up by the assessment in the ES. MCC considers that the applicant should be required to provide more robust justification of their claim that there will be enough material available to achieve full restoration in the specified time period. In addition, they consider that there should be a clear ‘Plan B’ set out, showing how the restoration will be achieved if the supply of waste arisings fails to meet the assumed levels. MCC points out the policy WAST3 of the MLP requires that for landfill development, “Applicants will be required to submit proposals for site restoration and aftercare and demonstrate that robust financial arrangements are in place”. MCC raise a concern that no such proposals have been submitted, and paragraph 4.5 of the PAC Report states: “the NWH Group considers that a requirement for a restoration guarantee is inappropriate.” MCC consider that experience from quarrying and surface mineral sites across Scotland and elsewhere in the UK, including recent experience in Midlothian demonstrates that robust financial guarantees are essential to ensure the full delivery of consented restoration programmes. Paragraph 112 of PAN64 (Reclamation of Surface Mineral Workings) states: “The Scottish Executive considers that financial guarantees are an appropriate means of reassuring local communities of operator’ commitment and ability to meet their restoration and aftercare obligations. Financial guarantees to ensure full restoration and aftercare should the mineral operator fail to implement the agreed works can be provided by a mutual funding scheme”. MCC inform that in Scotland it is common practice for operators to provide a restoration and aftercare bond as a financial guarantee. MCC submits that without a robust and

transparent proposal to guarantee the completion of the proposed restoration in the event of company failure or significant change in market conditions, the application should be refused.

- 5.13 **Scottish Natural Heritage** considers that the proposed development is likely to have an effect upon bats (European protected species) and badger (UK protected species). They inform that if the Council approve the application, protected species licences from SNH will be required by the applicant before they can proceed with the development. SNH advise that the proposal would affect bats and their access to an important winter hibernaculum (a hibernation site). The supporting documentation includes a “Bat Hibernaculum Monitoring 2013-2015 Report” that lays out measures to protect bats and retain their access to the hibernaculum. SNH inform that it is likely that they will grant a licence for the proposal on the basis that the mitigation measures detailed in the aforesaid report (section 6) are secured and implanted in advance of any works that might affect the bats or the hibernaculum. The applicant also proposes to infill an area where an active badger sett currently lies. This will require a protected species licence from SNH to exclude the badgers and destroy the sett. SNH inform that it is likely that they will grant a licence for this on the basis that suitable mitigation and compensatory measures are put in place in advance of exclusion and sett destruction.

6. REPRESENTATIONS

- 6.1 Seven letters of representation have been received in relation to this application. The following issues are raised:
- Concern that inadequate measures are being proposed by the applicant to ensure that only inert material is deposited;
 - Concern about fly tipping and the risk of unauthorised hazardous material being deposited into the site with a resultant risk of leeching to the water environment including North Middleton Burn;
 - It is necessary to have in place 24 hour CCTV of all vehicle number plates and vehicle unloading;
 - Concerns about mud from vehicles being deposited on road verges and hedgerows along the A7/Guildiehowes Road;
 - Concern about the poor state of repair of the road leading from the A7 to the site and rutted verges alongside it;
 - The volume of vehicles using the road leading from the A7 to the site has resulted in the road being unsafe for use by pedestrians and cyclists;
 - Concern that the speed limit in the vicinity of the junction where Guildiehowes Road meets the A7 is too high and that it should be reduced to 40 miles per hour for safety reasons;
 - It should be made a condition of a grant of planning permission that wheel washers are installed and operated on site;
 - Hours of operation should be restricted in the interests of safeguarding the amenity of the local community;
 - Concern that the use is permanent and not temporary;

- The former quarry has become a poorly regulated tip;
- Concern about dust nuisance from the infilling of the former quarry;
- Concern about harm to the amenity of neighbouring properties as a result in noise nuisance from the operations, including from lorries;
- Concern about wind-blown litter from HGVs associated with the operations;
- The hours of operation would result in significant harm to the amenity of neighbouring residences;
- When the land is restored to a recreational use, it should be transferred to the local community;
- Concern about pollution from liquid effluent from road washing activities and the impact on drainage;
- The scale of the development is not necessary;
- Concern about harm to the privacy of neighbouring properties;
- Harm to the setting of neighbouring listed buildings, conservation areas and areas of great landscape value;
- Concern about the possible impact of the development on flooding and drainage;
- Insufficient information has been submitted by the applicant to demonstrate how the site will be restored;
- An area of land to the east of the site which contains a bund of over-burden material has been omitted from the application site;
- The ongoing infilling of quarry 2 is not being carried out in accordance with the conditions imposed on the original grant of planning permission for the quarry;
- Insufficient details have been submitted of how material brought to the site will be managed to ensure good sub soil and topsoil layers in the final phase of the restoration;
- The drainage proposals are inadequate;
- The nature of the infill material will have a bearing on the drainage flows after the land is restored;
- Concern that some of the lorries currently accessing the site are un-sheeted;
- The proposed length of hard surfaced access road in to the site and the proposed wheel washing facility will have minimal beneficial use and may actually contribute to more dust on the road network;
- Concerns about noise nuisance from the road sweeper required to be in attendance;
- Concern about dust associated with the operations being deposited onto crops growing in fields around the access road, making the crops unfit for consumption;
- Concerns about there being poor supervision of the loads being tipped into Quarry 2 and no levelling being undertaken;
- Concern about lorries being queued on the road outside the site early in the morning;
- Safety concern for cyclists using the public access road to the site, which road forms part of a National cycle route;
- The land should be restored to arable land rather than for recreation;

- If planning permission is granted the Council should undertake spot-checks to ensure that the conditions imposed on a grant of planning permission are being complied with;
- The exposed limestone rock faces of the quarry are relatively rare and of geodiversity, biodiversity and landscape value. Therefore, the infilling of the quarry would result in harm to/ the loss of geodiversity and biodiversity and would harm the landscape.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) and the Midlothian Local Plan (MLP), adopted in December 2008. The Emerging Local Plan is the Midlothian Local Development Plan Proposed Plan 2014. The following policies are relevant to the proposal:

South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 Policy **14: Waste Management and Disposal** states that Local Development Plans will consider proposals for landfill development where the need for the facility is supported by the Zero Waste Plan and SEPA Landfill Capacity Reports, and taking into account relevant economic, social, environmental and transport considerations.
- 7.3 Policy **15: Water and Flooding** states that Local Development Plans will make provision to prevent deterioration of the water environment resulting from new development and promote water efficiency in all development proposals. Where appropriate, promote enhancement of the water environment.

Midlothian Local Plan (MLP):

- 7.4 Policy **RP1: Protection of the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1.
- 7.5 Policy **RP7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required.
- 7.6 Policy **RP8: Water Environment** states that development will not be permitted which could adversely affect the water environment by:

A) having a damaging impact on fisheries, nature conservation, landscape, recreation of public access in a river corridor or other waterside area;
 (B) polluting surface or underground water (including water supply catchment areas) as a result of the nature of the surface wastewater discharge or leachate;
 (C) giving rise to pollution, resulting from the disturbance of contaminated land;
 (D) being subject to unacceptable flooding risk, or by causing or exacerbating flooding problems either within the site, or upstream or downstream of the site;
 (E) not meeting standards set in The SUDS Manual (Published by CIRIA, 2007) or successor document, or failing to take into account best practice on SUDS design and management; or.
 (F) not meeting the requirements of policy DP3 relating to the protection of the water environment in relation to all new development proposals.

- 7.7 Policy **RP13: Species Protection** requires that any development that would affect a species protected by law will require an appropriate level of environmental and biodiversity assessment. Where development is permitted, proposals will require: A. measures for mitigation; and B. measures for enhancement or sustainable habitat replacement, where appropriate.
- 7.8 Policy **RP14: Habitat Protection Out with Formally Designated Areas** requires that where a development affects sites which contain habitat of some significance, effects on the habitat as well as mitigation measures will be taken into account.
- 7.9 Policy **WAST3** Sites for Waste Disposal has some relevance and advises that proposals for waste disposal by landfill will only be permitted where it can be demonstrated that a significant environmental benefit can be achieved through landfilling. Development should also fulfil a set of requirements covering land use, amenity of neighbours, water pollution, high standards of restoration and aftercare, traffic and visual impact.
- 7.10 Policy **DP3: Protection of the Water Environment** sets out development guidelines regarding flooding, treatment of water courses, drainage and Sustainable Urban Drainage Systems (SUDS);

Midlothian Local Development Plan Proposed Plan 2014

- 7.12 Policy **WAST 3 (Landfill)** presumes against new landfill development other than as part of a site restoration project. Proposals will only be allowed if there are no significant negative environmental impacts, including from traffic movements and cumulatively from other waste or mineral operations. A buffer of 250 metres will be required between a landfill site and any sensitive receptors. Applicant will be required to submit proposals for site restoration and aftercare and demonstrate that robust financial arrangements are in place.

National Policy

- 7.13 The **SPP (Scottish Planning Policy)** sets out Government guidance for waste management including landfill. The SPP states that restoration should be designed and implemented to the highest standards. Furthermore it states that planning authorities should ensure that consents are associated with an appropriate financial bond unless the operator can satisfactorily demonstrate that their programme of restoration, including the necessary financing phasing and aftercare of the sites, is sufficient.
- 7.14 Also material to the consideration of the application is **Scottish Government's Planning Advice Note 64: Reclamation of Surface Mineral Workings**. Pan 64 also states that the then Scottish Executive (now Scottish Government) considered that financial guarantees are an appropriate means of reassuring local communities of operators' commitment and ability to meet their restoration and aftercare obligations.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

The Principle of Development

- 8.2 The site is located in the countryside where development is restricted to those uses which have a rural locational need such as agriculture, horticulture, forestry or recreation/leisure uses. Rural use can also include mineral extraction and quarrying which are dependent on the location of the natural resource to be extracted. Therefore the Council recognises that in supporting the former quarry operations it must address issues of restoration which include infilling if appropriate. The lime quarrying use has now ceased and it is necessary to restore the land. MLP policy RP1 supports waste disposal in the countryside where this is shown to be essential as a method of site restoration. The quarry has a void space of approximately 660,000 cubic metres and there are currently stability issues and consequently safety issue in relation to the former quarry faces which will be addressed by infilling it. The infilling is preferable as a method of site restoration. The proposals accord with the requirements of policy RP1.

Infill operations

- 8.3 Approximately 660,000 cubic metres of infill material would be expected to be needed during the course of the development. Concern has been raised regarding the material used to infill the quarry including the potential impacts to groundwater as a result of any non-

inert material being used to infill the void. The ES acknowledges that to be exempt from Waste Management Licensing any infill materials would be inert and non-contaminative in nature. The transportation and acceptance of waste is regulated by SEPA. Paragraph 3.4 of the ES states: "All waste shall be subject to inspection and testing at source and shall only be transported by registered waste carriers. All waste tipped at the site will be inspected; any rejected loads will be reported to SEPA immediately, with a copy of the rejected note forwarded." Furthermore, the applicant confirms that when loads are tipped at the disposal point, on site operatives are trained to look for any adverse non inert material. If found, that particular load will be transported to a quarantine area on site to await investigation before being despatched to a final destination of an appropriate registered landfill site under the rejected load procedure outlined in the ES. The measures proposed by the applicant to ensure that only inert material is deposited into the quarry void are adequate. Subject to these measures being carried out and subject to the conditions recommended by SEPA in their consultation response, the proposed development would not result in contaminate pollution to the environment, including the water environment.

- 8.4 The proposal includes the provision of settlement ponds during infilling operations and that following these works the site will be left to re-vegetate. Given this, it is not anticipated that there will be an increase in runoff to the North Middleton Burn. The proposed development does not raise flood risk concerns.
- 8.5 Subject to the conditions recommended by SEPA the proposed development complies with SESplan policy 15 and MLP policies RP8, WAST3 and DP3.

Impact on air quality and noise

- 8.6 The Council's Environmental Health Manager raises concerns with regard to potential noise from the operations having a significant detrimental effect on the amenity of the nearest residential properties to the site which are Guildiehowes Farmhouse and Halkerston Farm Cottages, located some 175 metres and 700 metres away respectively from the site. The proposed operating hours of the infill operation are 07:00 to 18:00 hours Monday to Saturday with no working on Sundays. The Council's Environmental Health Manager advises that the standard operating hours which the Council imposes on other similar operations; which are more restrictive than those proposed by the applicant, be secure by a planning condition. These are 08:00 to 19:00 hours Monday to Friday and 08:00 hours to 12:00 hours on Saturday. Sheilknowe, 10 Guildiehowes Road is part of a working farm and is adjacent to an operating sand and gravel business. As such this property is already affected by noise and the proposed development will not exacerbate this situation. However, it is reasonable to impose the time restrictions to safeguard the amenity of the residents of Halkerston Farm Cottages. However, if the operator can demonstrate

with evidence to the Council that extended operating hours would not result in significant harm to the amenity of neighbouring noise sensitive properties, then they may not object to the extended hours. This allowance can be included in the planning condition. The recommended control in relation to dust management can additionally be secured by a planning condition.

Site Restoration

- 8.7 The site is not located within any national or local landscape designated area and is well screened with only limited views in from surrounding road networks. Chapter 5 of the ES (Scoping the Assessment) has the landscape and visual impact of the proposed work as being negligible during the work with a low positive impact in the longer term. Due to the nature of the proposals the likely negative impact would only be when removing existing natural vegetation in the latter phases of the infill process and the restoration process. However this temporary disruption is balanced against the longer term environmental benefits of the infilling/restoration works.
- 8.8 The applicant proposes a scheme of restoration which complies with requirement D (site restoration and aftercare) of adopted MLP policy WAST3. The intention is for the void to be infilled both with existing on-site overburden and imported material spread evenly to a level approximately one metre below the finished restoration level, which would be similar to that which existed prior to the quarrying, and thereafter imported subsoil and topsoil would be spread to achieve an appropriate merge with the existing ground levels surrounding the site. The site would be restored to a mixture of grassland, given over to agricultural grazing, with woodland shelter belts connecting with the existing wooded areas abutting the site. Furthermore, it is the intention to retain existing paths within and on the periphery of the quarry area and create additional links to provide an enhanced path network which would be available for recreational use including walkers, cyclists and nature interest. The existing paths are informal routes and are not engineered paths that would require maintenance. The proposed additional paths would be of a similar format.
- 8.9 The restoration scheme would address stability and safety issues and restore the land to topography in keeping with the surrounding area. It is anticipated that the restoration scheme will result in an enhanced use of the site by people living locally. However the increase would be limited in scale and not result in road safety concerns as a result of increasing pedestrian crossings on the A7 or through additional traffic. The resultant recreational use would not be a country park or recognised public area. The applicant proposes that the agricultural areas be subject to a five year aftercare programme, the woodland areas three years. Thereafter the land would be subject to standard agricultural and woodland maintenance by the landowner. The applicant confirms that they will retain title to the site once it is restored to a mixture of grazing land and woodland. They do not consider that a

formal management agreement beyond this point is necessary. It is not proposed to install benches or bins which might require a long-term management agreement.

- 8.10 Prior to the site being quarried the land was in agricultural use. The ES includes an “Indicative Restoration Plan” which shows finished profiles and includes restoration of the site to a combination of agriculture and woodland. The proposed restoration is appropriate in principle and is compatible to its countryside location. The details of the landscape restoration including treatment of the soil prior to planting, trees and shrubs planting densities, plant species and plant sizes, boundary treatments and aftercare can be secured by a condition on a grant of planning permission. Subject to such a condition the proposed development would comply with MLP policy RP7 (Landscape Character - paragraph B). The nature of the proposed informal recreational use is also acceptable in principle in planning terms. The proposed site restoration including a mixture of woodland and agricultural land is appropriate and complies with adopted MLP policy WAST3. Neither Government guidance nor strategic or local planning policy requires that the former quarry be restored to a formal recreational use. It would therefore not be reasonable for the Planning Authority to insist that the applicant restore the land to a more formal recreational use such as a country park. Neither would it be reasonable for the Council to insist, as was suggested by the MCC, that following its restoration the applicant gift the land to a suitable community body. Furthermore, given the intended nature of the recreational use it would not be necessary or reasonable for the Planning Authority to impose a condition on a grant of planning permission requiring the recreational use of the land to include free public access on foot, cycle or horse.
- 8.11 To minimise cumulative visual impact on the amenity of the area MCC suggests that the Planning Authority impose a condition on a grant of planning permission prohibiting commencement of the proposed infill operations until the ongoing restoration of the neighbouring upper quarry is completed. The applicant confirms that whilst soil/spreading/restoration works might overlap, the infilling of the upper quarry shall be completed before infilling commences in the lower quarry. Notwithstanding, it would not be reasonable for the Planning Authority to secure this by a planning condition.
- 8.12 MCC raise concern that the applicant has not provided sufficient evidence that there will be sufficient material available to achieve full restoration in the time period which is being applied for in the planning application. They advise that a contingency plan is needed to show how restoration will be achieved if the supply of waste fails to meet the assumed levels. In response to this the applicant confirms that the proposed rate of infilling gives consideration to waste handling undertaken by NWH Waste Services over the last 5 years. The assumptions in relation to waste arisings are conservative and the proposed timescale is realistic and achievable. The applicant confirms

that in the event that it becomes apparent that operations would not be completed within the proposed timescale, an application would be made to the Council to extend the period of infilling. In assessing such an application the Council would decide whether allowing an extended period was appropriate or whether instead, revised restoration proposals should be submitted. The applicant maintains that because material would be deposited in layers the site would not at any point be left in a worse or less safe condition than currently exists. Furthermore, they state that if the Council were to consider reinstatement at a lower level was preferable to an extension in the duration of infill operations, an amended reinstatement than is currently proposed could be achieved and that would be an improvement on the current situation.

- 8.13 Owing to the topography of the area the quarry is not easily seen from any public views. However glimpses of the quarry are seen from a public road to the south, but it does not appear unduly unsightly. If the quarry was only partly infilled, to the top of the cliff faces; which are sited below the level of the land adjoin the quarry, this would address the safety and security concern of leaving the cliff faces exposed. Given the limited public views of the quarry, if it were only partly infilled and then topped with subsoil and topsoil to the same depths as proposed and then seeded with grass and planted with trees as detailed in the proposed scheme of restoration, the reduced level of restoration would not appear unsightly or harm the landscape character and amenity of the area. On balance, the landscape benefits of restoring the site by infilling the quarry outweigh any geodiversity, biodiversity and landscape benefits of retaining the rock faces of the quarry.
- 8.14 In order for the Planning Authority to monitor progress with the infilling it should be made a condition of a grant of planning permission that at the end of the month during which infilling commences and at the end of each month thereafter until the site restoration is complete, the developer shall send to the Planning Authority a written record of where each load of material being used to infill the site has come from, the type of material and the tonnage.

Financial Arrangements to Secure Site Restoration

- 8.15 The applicant has submitted information to support their position that their parent company the NWH Group Limited has the financial means to complete the restoration of the site. This includes: (a) a letter from NWH Group Limited's accountant informing the company is trading profitably and have significant assets over their liabilities; (b) a profit and loss account for 2012, 2013 and 2014; and, (c) a draft Parent Company Guarantee (PCG).
- 8.16 Whilst the information submitted by the applicant demonstrates the presently healthy financial position of the company, it is not in itself evidence that robust financial arrangements are in place to achieve site restoration and aftercare. Moreover, whilst a PCG would extend the

obligation beyond the operator company to the larger operator group, it would have no value if the company collapsed. The conclusion is that the information submitted by the applicant does not provide sufficient assurance of the full cost of the restoration scheme being secured.

- 8.17 Without a bond or other robust financial arrangement from a bank or other financial institution being in place, there is the possibility that either a full restoration or a lesser but still satisfactory restoration may not be carried out by the operator. In such a circumstance there is a risk to the Council that the full cost of restoration may not be met without expense to the Council or lengthy legal action to secure the funds. A consequence of this position is a potential safety concern with regard to the site being left un-restored. Therefore, If planning permission is to be granted for the proposed development it is essential that it be subject to a planning condition requiring that prior to the start of the development the developer provide the Planning Authority with details of a bond or other financial provision by a bank or other financial institution to be put in place to cover decommissioning, site restoration and aftercare costs on the expiry of the permission. Furthermore the condition should be worded to ensure that no works commence on site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained through the duration of the permission. Such a planning condition is the means of reassuring the local community of the operators' commitment and ability to meet their restoration commitments. Subject to this condition the proposed development would comply with Government guidance on infill given the Scottish Governments Scottish Planning Policy document and with policy WAST3 of the MLP. The securing of a restoration bond/financial guarantee by a planning condition is consistent with the approach taken in the past by other Scottish Councils and by Directorate for Planning and Environmental Appeal Reporters. It is not necessary to secure the bond/financial guarantee by a legal planning agreement.

Traffic and Transportation Issues

- 8.18 The A7 is to be the principal route for vehicles bringing materials to site. It is proposed to utilise the existing site access, office, weighbridge and internal haul route. The applicant informs that on the basis of the proposed importation of materials, assuming a 6 day working week and 20 tonne loads, it is anticipated that there will be an average of 66 HGV movements associated with the proposal on a daily basis (33 loaded vehicles entering, 33 empty vehicles leaving).
- 8.19 The Traffic Assessment (TS) submitted with the application demonstrates that the proposed development, either alone or cumulatively with other development, would not be likely to exceed the capacity of the road network in the wider locality. The TA has

considered the Guildiehowes Road/A7 junction in relation to usage by traffic accessing/leaving the site and it concludes that the proposed routes can be used safely. Transport Scotland has indicated that the proposed development would not have a significant impact on the trunk road network or its adjacent receptors. There is no justification in planning terms for the Council to impose a 40mph speed limit on the part of the A7 where it has a junction with Guildiehowes Road. The TA demonstrates that the A7 currently operates within its capacity and can satisfactorily accommodate the volume of traffic generated by the proposed operation and still have capacity to accommodate future development along this route. Therefore, it would not be reasonable for the Planning Authority to insist that the applicant submit details of a cumulative assessment of the impacts of this development on traffic levels up to the Sherrifhall Roundabout as is requested by Moorfoot Community Council.

- 8.20 To mitigate the potential for mud on the public road it can be made a condition of a grant of planning permission that the first 40 metres of the road within the site; measured back from the access into the site, be surfaced in a non-loose material. Furthermore, also to mitigate mud, it can be made a condition of a grant of planning permission that details of the proposed wheelwash facility, which should to incorporate shaker bars, be provided and made operational prior to the works commencing on the site in accordance with details to be approved in advance by the Planning Authority. The applicant confirms that in addition to the mitigation, the Code of Practice for Road Haulers makes provision for vehicles to be inspected to ensure that any stones stuck between wheels are removed prior to vehicles departing the site.
- 8.21 On the recommendation of the Council's Policy and Roads Safety Manager it can be made a condition of a grant of planning permission that advanced warning signs be erected on the eastern approach to the site access.
- 8.22 Concerns have been raised by MCC regarding incoming vehicles queuing on the public road awaiting access to the site because of the location of the weighbridge close to the site access. It would not be reasonable or enforceable for the Council to impose a condition on a grant of planning permission prohibiting the parking of vehicles outside the quarry gates when it is closed.
- 8.23 With regard to concerns raised over mud on the road, it is an offence for an operator not to address incidences of mud falling or being deposited onto the public road from their vehicles. Under the Roads Scotland Act 1984 the Council; as roads authority, could take enforcement action against any operator to ensure that incidences of mud on the public road is addressed.
- 8.24 Subject to the recommended mitigation detailed in the Transportation Assessment (TA) submitted with the application being carried out, the proposed development does not raise road safety concerns.

- 8.25 Moorfoot Community Council suggests that the Planning Authority impose a condition on a grant of planning permission restricting the number of HGV movements per day to an upper limit. Such a planning condition would not be reasonable or enforceable and thus it could not be imposed. Furthermore, it is reasonable to expect the number of HGV movements to fluctuate as material becomes available. Restrictions on the hours of operation are a more appropriate means of control to protect local amenity.
- 8.26 It is considered that there is insufficient justification for the Planning Authority to refuse the application on the grounds that there does not exist a 40mph speed limit over the North Middleton section of the A7 or that the Planning Authority can insist that the access road to the site from the A7 be upgraded, widened and a footpath provided alongside it.
- 8.27 Any incidences of fly tipping into the quarry void are a matter for the operator of the proposed infill operation. Fly tipping is controlled by Environmental Health Legislation and thus there is no requirement to control this through planning conditions.
- 8.28 It would neither be reasonable nor enforceable for the Planning Authority to impose a control on the development requiring that the operator have CCTV cameras installed on the site to ensure 24 hour CCTV of all vehicle number plates and vehicle unloading entering and exiting the site, as is suggested in a letter of representation. Access to the site is controlled by means of a locked gate.
- 8.29 Concern about some of the lorries currently accessing the site being un-sheeted is not a material consideration in the determination of this application.

Species Protection

- 8.30 The proposed development is likely to have effects on bats (European protected species) and badgers (UK protected species). The ES reports on protected species surveys that have been undertaken to identify potential impacts and appropriate mitigation. One of the submitted surveys concludes that the proposed development would affect bats and their access to an important winter hibernaculum (a hibernation site). The supporting documentation includes a "Bat Hibernaculum Monitoring 2013-2015 Report" that lays out measures to protect bats and retain their access to the hibernaculum. SNH confirm that it is likely that they will grant a licence for the proposal on the basis that the mitigation measures detailed in the report are secured and implemented in advance of any other works that might affect the bats or the hibernaculum. The applicant also proposes to infill an area where an active badger sett currently lies. This will require a protected species licence from SNH to exclude the badger and destroy the sett. SNH confirms that they will grant a licence for this on the proviso that

suitable mitigation and compensatory measures are put in place in advance of exclusion and sett destruction. The protected species mitigation referenced in the ES can be secured by conditions imposed on a grant of planning permission. Subject to the compliance with the recommended conditions the proposed development complies with adopted MLP policy RP13.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission in principle be granted for the following reason:

Subject to the recommended planning conditions the proposed development does not conflict with the relevant policies of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESPlan), adopted Midlothian Local Plan, the emerging Midlothian Local Development Plan or with Government Guidance on waste management including landfill and site restoration.

Subject to the following conditions:

1. Planning permission for the infilling of the quarry with inert material is granted for a limited period of seven years from the date when work commences on the site (such date to be advised by the applicant or their successors), or until the 17th November 2021, whichever is the earlier date.
2. Except as subsequently amended, or as otherwise required by the terms of this permission, the development hereby approved shall be carried out in accordance with the application plans, and the details contained in the accompanying Environmental Statement, dated June 2015, including the implementation of all the measures contained in that document for the mitigation of the environmental impact of the operations.

Reason for 1 & 2: *To make clear the extent and specifications of the development for which planning permission is granted, and to ensure the full implementation of all the identified measures for mitigating its environmental impact.*

3. Only truly inert material, as specified in the table at Schedule 2, Paragraph 4 of the Landfill (Scotland) Regulations 2004, shall be used for infilling purposes and the material shall arrive at the site in a condition suitable for purpose.

Reason: *To ensure that only appropriate materials are used for infilling and to ensure adequate protection of the water environment.*

4. Prior to commencement of any works, a site surface water drainage strategy and plan shall be submitted to and approved by the Planning Authority in consultation with SEPA. This shall include: (i) Full details

of the drainage infrastructure serving the site entrance and haulage roads(s); ii) Design details of the temporary crossings to be installed within the working area; and, (iii) a copy of the wet weather working plan.

Reason: *to ensure adequate protection of the water environment.*

5. At the end of the month during which infilling commences and at the end of each month thereafter until the site is fully restored, the developer shall send to the Planning Authority a written record of where each load of material being used to infill the site has come from, the type of material and the tonnage.

Reason: *To ensure that only appropriate materials are used for infilling and to ensure adequate protection of the water environment and so that the Planning Authority can monitor progress with the infilling.*

6. Prior to works commencing on site the following shall be carried out/implemented in accordance with details to be approved in advance by the Planning Authority:

- (a) A detailed working plan of the whole site, to a scale of 1:1250 or similar, showing the location and full extent of any plant, buildings, site offices, equipment compounds, the location and type of wheel washing equipment to be installed/erected, maintained and operated;
- (b) Details of the location and type of advanced warning sign to be erected at points on the minor road on the eastern approach to the site access, directing vehicles to the site access;
- (c) Details of the type, location on site and recycling of waste water of the wheel washing facility to be installed on site; which facility shall include shaker bars.

Reason: *To ensure that full details are submitted and approved of working methods and environmental mitigation measures, to enable the Planning Authority to retain effective control over all matters which may have an adverse impact on the environment and amenity of the area, and to ensure that the eventual restoration of the site is adequately safeguarded; and,*

7. Within one year from the date when work commences on the site (such date to be advised by the Planning Authority), the applicants or their successors shall submit for the approval of the Planning Authority a detailed restoration plan of the whole site, including the haul road, showing the final contours to be achieved in restoration, and the location of any hedges, fences, gates, walls and access points on the restored site, together with a written specification where such details are not shown on the plan; the plan shall also include proposals for the removal or other treatment of areas of hardstanding, areas occupied by plant or buildings,

and the full length of the haul road, together with detailed landscaping proposals for the whole site, including the haul road, indicating the numbers, sizes, species, positions and planting densities of all trees and shrubs to be planted.

8. Notwithstanding the information contained within the Environmental Statement the restoration and landscaping of the site shall be completed in accordance with the restoration; including levels, approved under the terms of condition 7 by the 17th November 2022. The approved landscaping shall be maintained to the satisfaction of the Planning Authority for a period of five years from the time of any planting or construction. Maintenance shall include the replacement of any trees, shrubs or hedgerow plants which die, are removed, become seriously diseased or are severely damaged within that period, by others of a similar size and species to those originally required to be planted.

Reason for 7 & 8: To ensure that all restored land is properly managed for a sufficient period to ensure its effective return to permanent agricultural/forestry use.

9. Prior to the start of the development, the developer shall provide the Planning Authority with details of a bond or other financial provision from a bank or other financial institution to be put in place to cover decommissioning, site restoration and aftercare costs on the expiry of the permission. No works shall commence on site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained through the duration of the permission.

Reason: To ensure that there are sufficient funds available throughout the life of the development to carry out the full restoration of the site.

10. Notwithstanding that specified in the Transportation Assessment, the first 40 metres (not 20 metres as stated in the TA) of private access road into the site; measured back from the site access, shall be surfaced in non-loose material.

Reason for conditions 10: To ensure that the public roads including the access road leading to the quarry and the A7 are kept free from loose material being deposited from vehicles entering or exiting the site in the interest of road safety.

11. The developer shall undertake a programme of works to repair the existing sections of the road carriageway/verge that has been damaged from the infilling of quarry No 2. The sections of the road carriageway/verge to be repaired shall be agreed in advance in writing by the Planning Authority. The agreed works shall be completed prior to the infilling of quarry No 1. Any identified damage to the highway

during infilling and restoration works shall be repaired within 3 months of the operator being notified of the required works.

Reason: *In the interests of road and pedestrian safety as various sections of the road carriageway / verge have suffered damage over the years*

12. Notwithstanding that stated in docketed application documents operations; including the access and egress of vehicles into and out of the site shall only take place during the hours of 08.00 to 19.00 Mondays to Fridays and 08.00 to 12.00 Saturdays with no working on Sunday. In addition, no work on the construction of the access road, or initial site preparation works, shall take place out with the hours of 08.00 to 19.00 Mondays to Fridays and 08.00 to 12.00 Saturdays inclusive. There shall be no variation there from unless with the prior written approval of the Planning Authority.

Reason: *In the interests of safeguarding the amenity of nearby noise sensitive properties and the character and amenity of the countryside.*

13. Prior to works commencing on site a dust management plan shall be submitted to and approved in writing by the Planning Authority. Additionally, following any substantiated complaints about dust or where visual inspection indicates significant dust emissions or dust tracked out of the site onto public roads, a programme of monitoring at the sensitive receptor(s) shall be undertaken by the operator over a period of time agreed in writing by the Planning Authority (following the results of an initial representative period of monitoring).

Reason: *To mitigate the potential impact of the development on air quality in the interest of safeguarding the amenity of neighbouring properties and the amenity of the area.*

14. A daytime limit of 55 dB $L_{Aeq, 1h}$ (free field) shall be met at noise sensitive properties, with the exception of Sheilknowe at 10 Guildiehowes Road and Halkerston Farm Cottages where a daytime limit of 45 dB $L_{Aeq, 1h}$ (free field) shall be met.

Reason: *To mitigate the potential noise impact of the development in the interest of safeguarding the amenity of neighbouring noise sensitive properties.*

15. The bat protection measures detailed in Section 6 (Recommendations) of the document titled 'Bat Hibernaculum Monitoring 2013-2015 Report' prepared by David Dodds Associates Ltd, Ecological Consultancy; including the construction of a shaft to the bat hibernaculum surrounded by gabion baskets, shall be implemented in full. There shall be no variation therefrom unless with the prior written approval of the Planning Authority.

Reason: *In the interests of safeguarding bats by allowing for the continued passage of them to the hibernaculum caves at the base of the former quarry faces.*

16. No mud, soil or debris shall be deposited on the public highway by vehicles entering or leaving the site. Any mud, soil or debris deposited on the public highway shall be removed and the highway cleaned within 24 hours of the operator being notified by the local authority.

Reason: *In the interests of highway safety.*

Ian Johnson
Head of Communities and Economy

Date: 10 November 2015

Application No: 15/00503/DPP

Applicant(s): The NWH Group c/o agent William Booth,
Dalgleish Associates Ltd, Cathedral Square,
1 Sinclairs Street, Dunblane, FK15 0AH

Validation Date: 15th June 2015

Contact Person: Adam Thomson

Tel No: 0131 271 3346

Background Papers: 198/81



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Infilling of quarry at Middleton Limeworks, Gorebridge

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2015)

File No. 15/00503/DPP

Scale: 1:5,000

