

# Minute of Meeting



## Planning Committee

Date	Time	Venue
28 August 2018	2.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

Councillor Imrie (Chair)	Councillor Baird
Councillor Cassidy	Councillor Curran
Councillor Hackett	Councillor Johnstone
Councillor Lay-Douglas	Councillor McCall
Councillor Milligan	Councillor Muirhead
Councillor Russell	Councillor Smail
Councillor Wallace	Councillor Winchester

## 1. Apologies

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Apologies were received from Councillors Alexander, Hardie, Munro and Parry.

## 2. Order of Business

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The order of business was confirmed as outlined in the agenda that had been circulated.

## 3. Declarations of interest

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No declarations of interest were received.

## 4. Minutes of Previous Meetings

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The Minutes of Meeting of 19 June 2018 were submitted and approved as a correct record.

## 5. Reports

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Agenda No	Report Title	Presented by:
5.1	Supplementary Guidance: Green Networks	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>With reference to paragraph 5.1 of the Minutes of 19 June 2018, there was submitted report, dated 16 August 2018, by the Head of Communities and Economy, providing the Committee with an update on the adoption of the Midlothian Green Network Supplementary Guidance.</p> <p>The report explained in particular that –</p> <ul style="list-style-type: none"><li>• the required public notification/advertisement advising that the Green Network Supplementary Guidance would not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment had been published in the Midlothian Advertiser newspaper on 12 July 2018; and</li><li>• Scottish Ministers, in response to notification of the Council’s intention to adopt the supplementary guidance had confirmed that the Council could proceed to adopt the guidance subject to the inclusion of an additional sentence in paragraph 1.2.8 of the guidance, stating that “<i>The Scottish Government’s Control of Woodland Removal Policy will also be taken into account where relevant.</i>”</li></ul>		
<b>Decision</b>		
The Committee, having heard from the Planning Manager, noted the update on adoption of the Midlothian Green Network Supplementary Guidance.		
<b>Action</b>		
Head of Communities and Economy/Planning Manager		

Agenda No	Report Title	Presented by:
5.2	Supplementary Guidance: Resource Extraction	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>There was submitted report, dated 16 August 2018, by the Head of Communities and Economy, seeking the Committee's agreement to undertake a formal consultation on its proposed 'Resource Extraction' supplementary guidance; a copy of which was appended to the report.</p> <p>The report explained that the Midlothian Local Development Plan 2017 (MLDP), which had been adopted by the Council at its meeting on 7 November 2017, had included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas (Section 7.2, pages 81 and 82 of the MLDP). Additional guidance was required to provide further detail and interpretation of the policies and strategy set out in its development plan. One of the topic areas which needed further clarification was with regard Midlothian's Resource Extraction.</p> <p>The draft Supplementary Guidance included:</p> <ul style="list-style-type: none"> <li>• operating standards in respect of a number of the key environmental factors, such as noise, dust and vibration;</li> <li>• approaches to better ensure the restoration of resource extraction sites;</li> <li>• measures to increase community involvement and oversight of mineral operations, through the use of community liaison committees; and</li> <li>• no further guidance on unconventional gas extraction following the Scottish Government's decision not to support the development of such activities in Scotland.</li> </ul>		
<b>Summary of Discussion</b>		
<p>The Committee, having heard from the Planning Manager, welcomed the Supplementary Guidance and looked forward to seeing the comments received as a result of the public consultations.</p>		
<b>Decision</b>		
<p>After further discussion, the Committee:-</p> <ol style="list-style-type: none"> <li>a) approved the draft Resource Extraction Supplementary Guidance for consultation;</li> <li>b) noted that a further report on the Resource Extraction Supplementary Guidance would be brought forward for consideration following conclusion of the consultation period; and</li> <li>c) agreed that a Strategic Environmental Assessment was not required.</li> </ol>		
<b>Action</b>		
Head of Communities and Economy/Planning Manager		

Agenda No	Report Title	Presented by:
5.3	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>There was submitted report, dated 16 August 2018, by the Head of Communities and Economy, updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in the Appendices to the report.</p>		
<b>Decision</b>		
<p>The Committee noted:-</p> <p>(a) The current position in relation to major planning application proposals which were likely to be considered by the Committee in 2018; and</p> <p>(b) The updates for each of the applications.</p>		
<b>Action</b>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.4	Appeal and Local Review Body Decisions	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>There was submitted report, dated 16 August 2018, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in June 2018, and advising that there were no appeals determined by Scottish Ministers to report.</p>		
<b>Decision</b>		
<p>The Committee noted the decisions made by the Local Review Body at its meeting on 20 June 2018.</p>		
<b>Action</b>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.5	Pre-Application Consultation: Proposed Erection of Community Facility incorporating Primary School; Early Years Provision; Library and Leisure Facilities at Land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall (18/00350/PAC).	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>There was submitted report, dated 16 August 2018, by the Head of Communities and Economy advising that a pre application consultation had been submitted regarding the proposed erection of a community facility incorporating primary school; early years provision; library and leisure facilities at land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall. (17/00721/PAC).</p> <p>The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting on 6 June 2017 (paragraph 5.8 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.</p>		
<b>Summary of Discussion</b>		
<p>The Committee, having heard from the Planning Manager, welcomed the positive initial feedback that had been received locally and acknowledged the steps being taken to mitigate the potential loss of open space.</p>		
<b>Decision</b>		
<p>(a) To note the provisional planning position set out in the report;</p> <p>(b) To note the comments made by Members; and</p> <p>(c) To note that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.</p>		
<b>Action</b>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.6	Pre-Application Consultation: Proposed Residential Development comprising 72 Dwellings, Formation of Access Roads and Car Parking and Associated Works at Land East of Conifer Road, Mayfield. (18/00476/PAC)	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 16 August 2018, by the Head of Communities and Economy advising that a pre application consultation had been submitted regarding a proposed residential development comprising 72 dwellings, formation of access roads and car parking and associated works at land east of Conifer Road, Mayfield. (18/00476/PAC).

The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting on 6 June 2017 (paragraph 5.8 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.

### Summary of Discussion

Having heard from the Planning Manager, the Committee in considering the proposed development, discussed the proposed number of units, it being acknowledged that at this stage numbers tended to be indicative in order to give an idea of the scale of the development. It was also felt that it was important that the layout/design took account of issues arising from the location of the site. In terms of access, vehicular access was likely to be taken off Conifer Road, however pedestrian access still had to be resolved.

### Decision

- (a) To note the provisional planning position set out in the report;
- (b) To note the comments made by Members; and
- (c) To note that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Section 42 Application to Remove Condition 6, for the Prior Approval of Details Regarding the Crossing Over the Pittendreich Burn Imposed on a Grant of Planning Permission in Principle (16/00712/PPP) for Residential Development on Land North of Dalhousie Dairy, Bonnyrigg (18/00406/S42).	Peter Arnsdorf

## Executive Summary of Report

With reference to paragraph 5.5 of the Minute of 3 April 2018, there was submitted report, dated 7 November 2017, by the Head of Communities and Economy concerning the above application.

## Summary of Discussion

The Committee heard from the Planning Manager, who explained that planning permission in principle (16/00712/PPP) had been granted on appeal for residential development on land north of Dalhousie Dairy, Bonnyrigg in February 2018 subject to a planning obligation securing developer contributions and conditions. The current application sought to remove condition 6, which required the prior approval of the details regarding a road and pedestrian crossing over the Pittendreich Burn connecting the southern part of the site with the northern part, which had been granted planning permission in April 2018 as a result of a separate planning application (17/00611/DPP). It was acknowledged that if granted the current application would not impact on the access arrangements nor other aspects which would still be covered by the remaining conditions,

In considering the application, the Committee also discussed the growing urbanisation of the A701 and the way in which developer contributions were being used, it being felt that both would benefit from being reviewing.

## Decision

After further discussion, the Committee agreed that planning permission be granted for the following reasons:

*The proposed development site is identified as being part of the Council's safeguarded/committed housing land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations.*

subject to:

- i) the prior signing of a legal agreement to secure contributions towards primary education, secondary education, the Borders Railway, the A7 urbanisation, maintenance of open space and the provision of affordable housing. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused; and
- ii) the following conditions (which are those previously imposed by the Reporter, with the exception of those conditions relating to the design of the crossing):
  1. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping, SUDS provision and transportation infrastructure including the new road and pedestrian

crossing over the Pittendreich Burn. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

**Reason:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

2. As soon as possible after each of the phases of the development approved under condition 1 above is completed (except for the last or final phase, in respect of which notice shall be given under section 27B(1) of the Town and Country Planning (Scotland) Act 1997), the person who has completed any phase shall give written notice of the completion of that phase to the planning authority.

**Reason:** *To accord with section 27B(2) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.*

3. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i. existing and finished ground levels and floor levels for all buildings, roads, footpaths and cycleways in relation to a fixed datum;
  - ii. existing trees, landscaping features and vegetation to be retained, removed, protected during development and in the case of damage, restored;
  - iii. proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
  - iv. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - v. schedule of plants to comprise species, plant sizes and proposed numbers/ density;
  - vi. programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots being occupied;
  - vii. drainage details and sustainable urban drainage systems to manage water runoff;
  - viii. proposed car park configuration and surfacing;
  - ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
  - x. proposed play areas and equipment, where this is included within the particular phase;
  - xi. proposed cycle parking facilities; and



- xii. proposed area of improved quality (minimum of 20% of the proposed dwellings), where this is included within the particular phase.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance. Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/ shrubs of a similar species to those originally required.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with Policy DEV7 of the Midlothian Local Development Plan (LDP) and national planning guidance and advice.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These samples will also include those proposed in the area of improved quality. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with national planning guidance and advice.*

5. Development shall not begin on any individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i. existing and finished ground levels for all roads (including turning facilities), parking areas, footways and cycle ways including (unless otherwise agreed by the planning authority) a new link facilitating eastbound movement from the north-eastern corner of the site onto National Cycle Route 1, all in relation to a fixed datum;
  - ii the proposed upgrading of the existing vehicle access from the B6392, including details of associated localised road widening of the B6392 to form a dedicated right turn lane into the site entrance and the formation of a pedestrian crossing island on the accessroad;
  - iii. proposed visibility splays, traffic calming measures, lighting and signage;

- iv. the upgrading of the current public transport infrastructure at the existing bus stops adjacent to the site entrance on the B6392 including the introduction of a signal controlled pedestrian crossing point linking the two bus stops, the relocation of stops to accommodate the crossing and the provision of a new bus shelter at the eastbound bus stop;
- v. except for over the short bridge section on the approach to the A7, the increasing in width to a minimum of 2.5m of the existing section of 2m wide public footway leading eastwards from the site entrance to the A7;
- vi. measures to close-off the vehicle/ pedestrian access to the proposed burn crossing to be put in place until the burn crossing is completed and the development on the northern part of burn is ready to commence;
- vii. a programme for completion for the construction of access, roads, footpaths and cycle paths;
- viii. proposed haulage routes for construction vehicles; and
- ix. proposed car parking arrangements.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** *To ensure the future users of the buildings, existing neighbouring residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

6. Construction vehicle access to/from the part of the site located to the north of the Pittendreich Burn shall only be via the new road crossing formed within the site over the Pittendreich Burn the subject of planning permission 17/00611/DPP or a different future planning permission, except for such access as is required in connection with initial pre-construction enabling works related to the burn crossing and the early provision of structural landscaping. This crossing shall also be made available for residential access to houses built to the north of the Pittendreich Burn, from the date of first occupation of any of those houses.

***Reason:*** *In the interests of road safety and the residential amenity of existing neighbouring residences.*

7. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/ or previous mineral workings and include:
  - i. the nature, extent and types of contamination and/or previous mineral workings on the site;

- ii. measures to treat or remove any contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/ or previous mineral workings originating within the site;
- iii. measures to deal with any contamination and/or previous mineral workings encountered during construction work; and,
- iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, any necessary measures to decontaminate the site, as described in the agreed scheme, shall be fully implemented as approved by the planning authority.

**Reason:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

8. Development shall not begin until details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 of the Midlothian LDP and national planning guidance and advice.*

9. Development shall not begin until a programme of archaeological works (metal detector survey and evaluation) and scheme of investigation has been submitted to and approved in writing in by the planning authority. The approved programme of works shall be carried out by a professional archaeologist prior to any construction works, demolition or pre-commencement ground works taking place unless otherwise agreed in writing by the planning authority.

**Reason:** *To ensure this development does not result in the unnecessary loss of buried archaeological material in accordance with Policy ENV25 of the Midlothian LDP.*

10. Prior to works commencing on site a report on an assessment of the likely effects of road traffic noise on the amenity of the future occupants of the houses shall be undertaken by an acoustic specialist to identify any noise mitigation measures necessary to ensure compliance with the following criteria:
  - i. 50 dB LAeq(16hr) for daytime external garden amenity;
  - ii. 35 dB LAeq(16hr) for daytime internal living apartment; and,
  - iii. 30 dB LAeq(8 hour) for night time internal living apartment.

The night time sleep disturbance criteria shall be that contained in the WHO Night Noise Guidelines for Europe, LAmax of 42 dB(A).

Any recommended noise mitigation measures shall be implemented prior to the occupation of the houses.

**Reason:** *In the interests of safeguarding the residential amenity of the future occupants of the houses.*

11. Prior to the commencement of the development a sustainability/biodiversity scheme for the site, incorporating a programme of ecological works, action programme and timetable, shall be submitted to and approved in writing by the planning authority. The actions set out in the programme shall be undertaken in accordance with the agreed timetable.

**Reason:** *In the interests of safeguarding biodiversity.*

12. Prior to the commencement of development, the scope of a report, and a subsequent substantive report, on the technical feasibility and financial viability of the operation of a community heating scheme and the installation of low and zero carbon generating technology for the development hereby approved (linked if practicable with other neighbouring developments/sites), in accordance with MLDP Policies NRG3, NRG4 and NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the basis of this report, that a scheme is technically feasible and financially viable, no dwellinghouses on the site shall be occupied until a community heating scheme, and/ or low and zero carbon generating technology for the site, (linked if practicable with other neighbouring developments/ sites), is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the planning authority.

**Reason:** *To ensure opportunities for the provision of a community heating system and low and zero carbon generating technologies for the site are fully explored to accord with the requirements of Midlothian LDP Policies NRG3, NRG4 and NRG6, and in order to promote sustainable development.*

In addition, the Committee agreed to ask officers to review the way in which developer contributions were being used and the growing urbanisation of the A701 and brief the respective local members accordingly.

Action

Head of Communities and Economy/Planning Manager

Agenda No	Report Title	Presented by:
5.8	Section 42 Application to Amend Conditions 2 and 3, to Extend the Time to Complete the Restoration of Quarry, Imposed on a Grant of Planning Permission (06/00689/FUL) for the Extraction and Processing of Sand at Upper Dalhousie Sand Quarry, Bonnyrigg (18/00082/S42).	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>With reference to paragraph 3 of the Appendix to the Minutes of 13 November 2007, there was submitted report, dated 16 August 2018, by the Head of Communities and Economy concerning the above application seeking an extension to the permitted time periods for completion of restoration of the two extraction areas.</p>		
<b>Decision</b>		
<p>The Committee, having heard from the Planning Manager, who responded to Members question/comments, agreed that planning permission be granted for the following reason:</p>		
<p><i>The proposed development site is identified as a mineral extraction site within the Midlothian Local Development Plan 2017; as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations. The proposed amendments to conditions 2 and 3 are considered not to undermine this policy position or have long term detrimental environmental impact.</i></p>		
<p>subject to:</p>		
<p>i) the developer demonstrating, to the written satisfaction of the Council, that they have sufficient bond provision/insurance in place to ensure that, in the event that the operator is not able to restore the site, financial provision is made to enable the site is restored in accordance with an approved restoration plan; and</p>		
<p>ii) the following conditions:</p>		
<p><b>Duration of the Permission</b></p>		
<p>1. Permission for the extraction of sand from area A and B as indicated on the approved drawings Figures 3.1 to 3.7 Proposed Extraction in the approved Environmental Statement showing the 7 proposed phases of extraction is granted for a period of 8 years from the date of this planning consent (until 31 December 2026) and shall be followed by the completion of the restoration of Areas A and B to a condition suitable for agriculture and forestry/woodland as per the details of the Environmental Statement chapter 3 (paragraphs 3.4.1 to 3.4.3) as represented in the ES Fig 3.8 Restoration Masterplan Ref no ED11895 1:3750 and in accordance with the requirements of the conditions on this permission.</p>		

2. The extraction of Area B and progressive restoration of Areas A and B shall take place in accordance with the timeline docketed to this planning permission (Titled Indicative Phasing Plan for Areas A, B, and C) or as otherwise approved in writing by the planning authority, and in accordance with the plans docketed to this planning permission and in accordance with planting details set out in condition 3.

***Reason:*** *To enable the Planning Authority to retain effective control over the progress of operations and the restoration of the site.*

3. Within six months from the date of this permission detailed proposals for the restoration of the whole site (Areas A and B), in order to achieve the restoration identified in ES Fig 3.8 Restoration Masterplan Ref no ED11895 1:3750 hereby approved, shall be submitted for the approval of the Planning Authority. These proposals shall include:
  - (a) A detailed landscape restoration plan giving full details including a planting schedule showing species, planting densities, sizes, protection measures, and specification notes for all ground preparation, soil, planting, any hard landscape. The plan shall identify the areas of advanced planting. Local provenance stock shall be used where possible and any seed and woodland planting mixes shall be designed with ecological input to ensure they provide maximum foraging and habitat benefit for species as identified in the Ecological survey section of the Environmental Statement;
  - (b) A soil plan setting out the depths of soil in all planted parts of the site ensuring the soil depth is adequate for the restoration planting proposed;
  - (c) the detailed specification, together with the necessary drawings, for the re-instatement of the agricultural pastures within the site, including details profiles and gradients, and all planting to be undertaken alongside the boundaries with a detailed schedule of species to be planted;
  - (d) the detailed specification for the preparation and planting of all woodland areas, including the numbers, sizes, species and planting densities of all trees and hedgerows to be planted;
  - (e) the location and details of all new fences and walls to be erected or repaired, within or around the boundaries of the site;
  - (f) a series of cross sections from the core path bisecting the site and the ancient woodland and adjacent trees to illustrate the relation between the advance buffer strip planting and the proposed site restoration levels and existing planting;
  - (g) details of footpath construction; and,
  - (h) a restoration phase landscape and ecological management plan to cover a period of five years from the completion of the restoration landscape works.

**Reason:** *To ensure that the restoration of the site is carried out to a high standard in order to reinstate and, wherever possible, enhance biological habitats and diversity within the site.*

#### **Protection of water resources**

4. The surface water and groundwater monitoring strategy agreed with the Planning Authority in consultation with the Scottish Environment Protection Agency as part of the previous planning consent for the site, shall continue to be implemented at the site. Sampling of surface water and groundwater within and downstream from the site shall be carried out in accordance with the agreed strategy, and the results shall be supplied to SEPA and the Planning Authority. Thereafter, at periodic intervals throughout the duration of the operations, as agreed with the Planning Authority in consultation with SEPA, further sampling shall be carried out, and the results shall be submitted to SEPA, with copies to the Planning Authority.

**Reason:** *In order to monitor the impact of the operations on the quality and flow of surface water and groundwater, so that any remedial action can be taken if problems are identified.*

5. The method statement detailing the procedure for the identification, isolation and treatment of any iron-rich substrate, and a contingency plan for the treatment of any ferruginous discharges that may appear after restoration of the site, which has been approved for the existing site, shall in the event of the appearance of any ferruginous discharges following the restoration of the site, the applicants, or their successors, carry out all necessary measures, as identified in the approved contingency plan.

**Reason:** *To protect against any ferruginous contamination of water resources that may result from the rebound of groundwater within the site, following its restoration.*

6. Before any soil stripping is carried out on any new phase of the Area B, a perimeter drainage system shall be constructed around the whole of that phase, any existing drainage ditches shall be diverted, and the appropriate water treatment area shall be constructed and brought into use, all in accordance with the approved plans and the requirements of SEPA. The prohibition on the prior stripping of soils does not apply to those soils which are required to be removed in the formation of new ditches and water treatment areas.

**Reason:** *To ensure that facilities for the diversion of surface water entering the site, and for the reception and treatment of contaminated water are available from the earliest stages of the development.*

7. All contaminated water shall be treated in the appropriate water treatment areas prior to discharge into any watercourse. The water

treatment facilities shall be of an adequate capacity to cater for the likely maximum volume of contaminated water, and to control the discharge flow into any watercourse in accordance with the requirements of SEPA. They must be capable of being cleaned without interruption of the treatment process, and shall be maintained in good working order throughout the duration of the operations. The direct discharge of oil, chemicals or other pollutants into the water treatment facilities, or into any watercourse within or adjoining the site, shall not be permitted.

8. Except where stored in double skinned tanks any oil, fuel, lubricant, paint or solvent stored within the site shall be provided with a suitable bund or other means of containment for 110% of the storage capacity, and with no passive means of drainage.

***Reason for conditions 7 & 8: To prevent the contamination of surface or ground water resources, or of soil resources.***

### **Protection of Soil Resources**

9. Apart from the work required in accordance with condition 6 above, no work shall be carried out on any undisturbed part of the site until all topsoil has been stripped to an average depth of 300mm from the initial excavation area, all associated working areas, the site service and sand processing area, haul roads, subsoil and overburden storage areas; following which, subsoil shall be stripped to an average depth of 600mm from the same areas, with the exception of the subsoil storage areas.
10. No work shall be commenced on any subsequent phases of Area B until the topsoil and subsoil have been removed from these areas; such soils shall be either used directly for the progressive restoration of earlier phases of the operation including earlier phases of the Upper Dalhousie Quarry (Areas A and C), or stored in accordance with the requirements of condition 13 below.
11. Throughout the period of the extraction and restoration operations, all parts of the site from which topsoil has not been stripped, or on which topsoil has been respread, shall be protected from all working areas and access routes. Work routines for stripping operations, shall be designed to minimise vehicle traffic on unstripped land, and at all times the mechanical handling and compaction of topsoil shall be minimised. No vehicle, other than those involved in soil stripping or spreading or agricultural operations, shall be permitted on any unstripped land.
12. The stripping of topsoil and subsoil shall only be carried out when ground conditions are such that no undue damage is done to topsoil and subsoil (normally in Spring and Summer months, although this may be extended into dry Autumn periods). Such operations shall be suspended during adverse weather conditions.



13. Topsoil and subsoil shall be carefully stored in separate mounds wholly within the site boundary, and shall be prevented from mixing. Topsoil mounds shall not exceed 5 metres in height, and subsoil mounds shall not exceed 6 metres in height.
14. All soil storage mounds shall be evenly graded, shaped and drained to prevent water ponding on or around them; thereafter, they shall be seeded with an appropriate grass seeds mixture, as specified in the Environmental Statement accompanying the planning application, as soon as practically possible to ensure a reasonable prospect of successful sowing.
15. No turf, topsoil or subsoil shall at any time be removed from the site.

***Reason for conditions 9 -15:*** To protect the existing soil resources of the site, in order to ensure its successful restoration to agricultural or other appropriate uses, following the completion of sand extraction.

#### **Overburden Storage**

16. Any overburden not used immediately for the back-filling of previous cuts, shall be stored in a location to be agreed in writing with the Planning Authority, wholly within the application boundary, and the mound shall not exceed 15m in height; the sides and top of the overburden mound shall be evenly graded and shaped, and they shall be seeded with a suitable low-maintenance grass seeds mix.

***Reason:*** To ensure that the storage of overburden is stable and not unduly obtrusive.

#### **Protection of Agricultural Interests**

17. Except where otherwise agreed in writing by the Planning Authority, the applicants shall make the site stock-proof and maintain as such until restoration of the site is complete. All the existing perimeter hedges, fences and walls, shall be maintained to protect the site from damage. Where the site boundary does not coincide with an existing hedge, fence or wall, then the applicants shall, unless otherwise agreed in writing by the Planning Authority, provide and maintain stock-proof fencing, with gates or cattle grids at every opening, until the restoration is completed. Undisturbed hedgerows not affording screening for the proposed development, within or bounding the site, shall be carefully maintained, in accordance with good agricultural practice, and be cut and trimmed at the proper season throughout the period of working and restoration of the site.
18. All invasive weeds on the site, including particularly those on the topsoil and subsoil storage mounds, shall be treated as often as necessary and as determined by the Planning Authority throughout the life of the

site, at an early stage of growth, in order to prevent spreading within the site or onto adjoining agricultural land.

19. All types of vermin shall be controlled in a manner approved by the Planning Authority to prevent them spreading to adjoining agricultural land.

***Reason for conditions 17-19: To protect the continued efficient operation of adjoining farmland.***

#### **Adjacent Site Drainage**

20. The works on site shall be designed and implemented to ensure that they do not negatively impact on the drainage of either the site as restored or the surrounding agricultural land. During the aftercare period the applicant shall ensure both the site and the surrounding agricultural land has field drainage that is functioning appropriately to allow productive agricultural activities to continue. This will include:
  - (a) ensuring field drainage for the finally restored land is functioning appropriately;
  - (b) protecting and maintaining any ditch, stream, watercourse or culvert passing through the site which provides drainage for adjoining land;
  - (c) make provision for the installation of the field drainage system on the site to commence after one full growing season has elapsed from the time of the final stage of topsoil restoration; and,
  - (d) make provision for the field drainage system to be completed within two years of topsoil restoration.

Should there be any complaints received by the Planning Authority regarding the drainage at the site, which the Planning Authority consider merit investigation, the applicant shall take all reasonable steps to address any drainage issues with the site or the surrounding land, which can reasonably be considered to have resulted from the works on the site.

***Reason: To ensure the continued adequate drainage of the site, and adjoining land, in the interests of its continued productive agricultural use.***

21. No refuse, soil or waste material from outside the site shall be deposited within the site for any purpose without the prior written permission of the Planning Authority.

***Reason: To ensure that site restoration is achieved using existing on-site materials only.***

22. Any public utilities crossing or adjacent to the site shall be protected or diverted, as necessary, in accordance with the requirements of the relevant authorities.

**Reason:** *To safeguard existing public utilities in the area.*

23. At all times that the site is in operation, a wheel washing facility for vehicles exiting the site shall be in use and shall be regularly cleaned and recharged with clean water, and the sections of public road between the site access and the A7 shall be kept clear of mud or dirt.

**Reason:** *To prevent mud and dirt from the site being spread onto the public road, where it may constitute a hazard or nuisance to road users.*

### **Archaeology**

24. No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological (Monitored Soil Strip) work in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

**Reason:** *To ensure that any features of archaeological interest within the site are identified and recorded.*

### **Ecology**

25. The measures identified in section 7 of the Environmental Statement, to mitigate the impact of the development on mammals, birds and amphibians shall be implemented throughout the duration of the operations on the site; and, in particular, any habitat removal shall take place outwith the bird breeding season (February to August).

**Reason:** *To minimise the adverse impact of the development on wildlife within and adjoining the site.*

### **Hours of Working**

26. No operations shall take place outwith the hours of 07.00 to 19.00 on Mondays to Fridays inclusive and 07.00 to 13.00 on Saturdays. Operations shall include excavation, extraction and restoration, initial preparation of the site including the formation and removal of perimeter soil bunds, and the movement of lorries entering or leaving the site. No work shall be carried out on Sundays or on public holidays except for emergency or routine maintenance work.

**Reason:** *To minimise the effect the impact of the development on the amenity of residents living in the vicinity of the site and as a consequence of the Environmental assessment considering slightly shorter hours than the existing planning consent.*

## **Noise Control**

27. Noise levels, as measured at 3.5 metres from any façade of any noise-sensitive dwelling, from all site operations other than soil stripping but including bund formation and restoration, shall not exceed a one hour LAeq of 45db.
28. Noise levels, as measured in accordance with condition 27, from soil stripping shall not exceed 60 dB(A) LAeq1h during the approved operating hours.
29. The surface of all haul roads and the track between the Hopefield Distributor Road and the sites shall be maintained in an evenly-graded condition, without bumps or pot-holes, at all times throughout the duration of operations at the site. The speed limit of 15mph shall be enforced along this section of road/track.
30. Before operations commence on the site, the applicants shall advise the Planning Authority of the types of vehicle reversing alarms that are to be installed on mobile plant used within the site; if these emit audible reversing signals, they shall be of the best available type to reduce noise disturbance to a minimum, and shall be upgraded, as necessary, as technology improves.
31. The routes of vehicles within the site shall be designed to minimise the need for lorries to reverse, thereby activating any reversing alarms with which they may be installed.
32. All vehicles exiting the site shall turn right and continue to the A7 via the B6392.
33. Throughout the duration of the operations at this site, the applicants, or their successors, shall implement in full the noise mitigation measures, identified in Section 9 of the Environmental Statement, including those relating to site operation and general environmental management. In particular, a programme of regular noise monitoring shall be undertaken, at locations to be agreed beforehand with the Planning Authority, and the results shall be made available to the Authority on request.

***Reason for conditions 26-33:*** To ensure that noise generated by the operations on the site is minimised, in order to protect the amenity of those residents living in the vicinity of the site and as recommended in PAN 50 Annex A: The control of noise at surface mineral workings.

## **Dust Control**

34. Whenever necessary, all roads and other un-vegetated surfaces within the site, including sand stockpiles, shall be damped down to prevent the

spread of windblown dust from the site; particular care shall be taken in the vicinity of residential properties, and moisture screens shall be installed within the site, if necessary.

35. Throughout the duration of operations, the surface of the site access roads shall be kept in good repair, and shall be regularly graded to remove loose material.
36. All mobile plant used within the site shall be fitted with upward facing exhausts.
37. All laden vehicles leaving the site shall be effectively sheeted or enclosed.
38. All vehicles moving within the site, and along the access road to the Hopefield Distributor Road shall be subject to a speed limit, not exceeding 15mph.
39. Throughout the duration of the operations at this site, the applicants, or their successors, shall implement in full the dust control measures, identified in Section 12 of the Environmental Statement attached to the previous planning permission, reference number 06/00689/FUL, including those relating to site operation and general environmental management. In particular, a programme of dust monitoring shall be undertaken, in accordance with details submitted to and approved by the Planning Authority prior to operations commencing on the site, and the results of the monitoring shall be submitted to the Authority at the agreed intervals. The dust monitoring programme shall include details of the air quality standards to be achieved at agreed locations on the perimeter of the site, and the remedial measures to be adopted in the event of those standards not being achieved, including, in extreme adverse conditions, the temporary cessation of all operations on the site.

***Reason for conditions 34-39: To minimise the impact of the development on the environment of the surrounding area, through the generation of dust from the operations.***

#### **Landscaping Restoration and Aftercare**

40. The site shall be completely restored, in compliance with conditions 3 and 40 to 47, within one year of the expiry of the time limit placed on the operation of the site.
41. The site shall be restored progressively in accordance with the details provided in chapter 3 of the Environmental Statement.
42. The site shall be restored to the contours approved in accordance with the details approved in terms of condition 3 and the details on drawing ES Fig 3.8 Restoration Masterplan Ref no ED11895 1:3750, or such

other revised contours as may be agreed in writing with the Planning Authority, and the surface levels shall be so graded as to ensure the final surface merges smoothly with the adjoining land.

43. Within six months of the completion of sand extraction operations, all buildings and fixed or moveable plant shall be removed from the site and all site access roads shall be removed or reverted back to farm access tracks, unless required for the restoration of the site, or otherwise agreed by the Planning Authority; and all such areas shall be subject to the full restoration treatment, as detailed below. Any access roads required for the restoration work shall be retained until the end of the restoration period and then removed or reverted back to farm access tracks.
44. All operations to remove topsoil and subsoil from the storage mounds and to re-spread them shall be carried out when the ground and storage mounds are in a suitable dry condition, as agreed with the Planning Authority. Earth-moving machinery shall travel to and from the soil mounds along clearly defined routes, and these routes shall be ripped before being covered with the next layer of subsoil or topsoil. When the vehicle is emptied after spreading subsoil or topsoil, it must immediately turn off on to overburden or subsoil areas respectively. On sloping land, the direction of travel of machines should, as far as is possible, be parallel to the contours, in order to minimise erosion. All operations following the replacement of topsoil shall be carried out by suitable agricultural machinery.
45. On all areas that are to be restored to agricultural use, after replacement of topsoil, chemical analyses of the soils shall be carried out by an approved agency to assess the fertiliser, lime and other major and minor nutrients required to promote the establishment and growth of appropriate plants for the agreed land use. The land shall then be cultivated using normal agricultural machinery to prepare a seed bed suitable for the sowing of grass seeds, during which process any stones larger than would pass through a wire screen mesh with a size of 100mm shall be removed, together with other obstructions to future cultivation. Lime, fertilisers and other plant nutrients shall be applied in accordance with the recommendations of the approved agency carrying out the soil chemical analyses so that the soil is sufficiently fertile to permit the chosen programme of restoration. The land shall then be sown with a short term grass seed mixture, based on perennial rye grass and white clove, or such other species as may be approved.
46. The site shall be restored only in accordance with the restoration plans and specifications approved under the terms of this permission, and restoration works shall not be considered to be completed until all watercourses, ditches, fences, walls, hedges, field accesses trees and other planting have been installed or carried out in accordance with those plans and specifications agreed with the Planning Authority.

***Reason for conditions 40-46:*** To ensure that all parts of the site are properly restored to agriculture or other approved after-use.

47. Any trees or shrubs planted as part of the restoration proposals that die, are removed, become seriously diseased or are severely damaged within five years of planting shall be replaced during the next available planting season with others of similar size and species.

***Reason:*** To ensure that all new planting has an adequate opportunity to become successfully established.

48. At least three months before the completion of the restoration of Area A and at least three months before the completion of the restoration of Area B, aftercare schemes for each Area, in accordance with Schedule 3 to the Town & Country Planning (Scotland) Act 1997 shall be submitted for the approval of the Planning Authority. The scheme shall be carried out, as approved or modified by the Authority, for a period of five years from the date when the restoration of the site has been completed in accordance with the terms of condition 49.

49. The aftercare measures to be taken shall be such as to bring the land to the required standard for use for agriculture, to enable the establishment of the woodland planting and for amenity purposes specifically new habitat creation with appropriate footpath access.

***Reason for conditions 48 & 49:*** To ensure that all the restored land is properly managed for a sufficient period to ensure its effective establishment to the approved after-use.

### **Monitoring**

50. Throughout the duration of this development, the applicants or their successors shall, if and when required to do so by the Planning Authority, submit such information as may be necessary, including any relevant plans, to enable the Authority to determine the progress of the operations.

***Reason:*** To ensure effective monitoring of the development.

51. The proposed development of the site shall progress in accordance with the Phasing Plan – Extraction and Restoration, submitted as part of the planning consent.

***Reason:*** To ensure the phasing of the extraction and restoration of Areas A, B, and C allow for the appropriate phases development of the site and to ensure the restoration proposals for the three areas are achieved.

52. Within three months of the date of this consent, 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 for the site, Areas A and B. Works (including any soil stripping) shall cease on site within six months of the date of this consent unless 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.*

**Action**

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.9	Application for Planning Permission for the Extraction and Processing of Sand on Land to the South/South West of the Upper Dalhousie Sand Quarry, Bonnyrigg (18/00081/DPP).	Peter Arnsdorf

**Executive Summary of Report**

There was submitted report, dated 16 August 2018, by the Head of Communities and Economy concerning the above application.

**Decision**

The Committee, having heard from the Planning Manager, agreed that planning permission be granted for the following reason:

*The proposed development site is identified as a mineral extraction site within the Midlothian Local Development Plan 2017; as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations.*

subject to:

- i) the developer demonstrating, to the written satisfaction of the Council, that they have sufficient bond provision/insurance in place to ensure that, in the event that the operator is not able to restore the site, financial provision is made to enable the site is restored in accordance with an approved restoration plan; and
- ii) the following conditions:

**Duration of the Permission**



1. Permission for the extraction of sand from area C as indicated on the approved drawings ES Fig 3.3 Area C Phase 1 Proposed Excavation, ES Fig 3.4 Area C Phase 2 Proposed Excavation and ES Fig 3.5 Area C Phase 3 Proposed Excavation is granted for a period of 10 years. The development shall commence a maximum of 9 years from the date of this consent, notwithstanding the terms of Section 20 the Planning etc. (Scotland) Act 2006. The date of commencement of operations on the site shall be notified to the Planning Authority by the applicants within one week of this commencement; and shall be followed by the completion of the restoration of Area C to a condition suitable for agriculture, forestry/woodland and creation of wetland habitat with public access improvements to form increased public amenity as per the details of the Environmental Statement chapter 3 (paragraphs 3.6.1 to 3.6.6) as represented in the ES Fig 3.7 Restoration Masterplan Ref no ED11578 1:3750 and in accordance with the requirements of the conditions on this permission.
2. The extraction and progressive restoration of Area C shall take place in accordance with the timeline docketed to this planning permission (Titled Indicative Phasing Plan for Areas A, B, and C) or as otherwise approved in writing by the planning authority, and in accordance with the plans docketed to this planning permission and in accordance with planting details set out in condition 3.

***Reason for Conditions 1&2:*** To enable the Planning Authority to retain effective control over the progress of operations and the restoration of the site. In order to ensure the timescale of the development, which is out with the 3 year period referred to in Section 20 of the Planning etc. (Scotland) Act 2006, is recognised in relation to this site.

3. Within six months from the date of this permission detailed proposals for the restoration of the whole site, in order to achieve the restoration identified in ES Fig 3.7 Restoration Masterplan Ref no ED11578 1:3750 hereby approved, shall be submitted for the approval of the Planning Authority. These proposals shall include:
  - (a) A detailed landscape restoration plan giving full details including a planting schedule showing species, planting densities, sizes, protection measures, and specification notes for all ground preparation, soil, planting, any hard landscape. The plan shall identify the areas of advanced planting. Local provenance stock shall be used where possible and any seed and woodland planting mixes shall be designed with ecological input to ensure they provide maximum foraging and habitat benefit for species as identified in the Ecological survey section of the Environmental Statement;
  - (b) A soil plan setting out the depths of soil in all planted parts of the site ensuring the soil depth is adequate for the restoration planting proposed;

- (c) the detailed specification, together with the necessary drawings, for the re-instatement of the agricultural pastures within the site, including details profiles and gradients, and all planting to be undertaken alongside the boundaries with a detailed schedule of species to be planted. Details shall be submitted to include both a hedge to be planted along the western boundary of the extension site as well as additional planting of a minimum of 5m in depth along this boundary. For the avoidance of doubt, the boundary referred to is marked in blue hatching on the plan reference number ED11578/Figure 3.7 amended by case officer to show location of boundary;
- (d) the detailed specification for the preparation and planting of all woodland areas, including the numbers, sizes, species and planting densities of all trees and hedgerows to be planted;
- (e) the location and details of all new fences and walls to be erected or repaired, within or around the boundaries of the site;
- (f) a series of cross sections from the core path bisecting the site and the ancient woodland and adjacent trees to illustrate the relation between the advance buffer strip planting and the proposed site restoration levels and existing planting;
- (g) cross sections showing proposed levels for water feature;
- (h) details of footpath construction; and
- (i) a restoration phase landscape and ecological management plan to cover a period of five years from the completion of the restoration landscape works.

**Reason:** *To ensure that the restoration of the site is carried out to a high standard in order to reinstate and, wherever possible, enhance biological habitats and diversity within the site.*

#### **Protection of water resources**

4. Prior to any operations which are the subject of this permission commencing on the site, a surface water and groundwater monitoring strategy shall be submitted to and agreed with the Planning Authority in consultation with the Scottish Environment Protection Agency. Sampling of surface water and groundwater within and downstream from the site shall be carried out in accordance with the agreed strategy, and the results shall be supplied to SEPA and the Planning Authority. Thereafter, at periodic intervals throughout the duration of the operations, to be agreed with the Planning Authority in consultation with SEPA, further sampling shall be carried out, and the results shall be submitted to SEPA, with copies to the Planning Authority.

**Reason:** *In order to monitor the impact of the operations on the quality and flow of surface water and groundwater, so that any remedial action can be taken if problems are identified.*

5. Prior to the replacement of any overburden, a method statement detailing the procedure for the identification, isolation and treatment of

any iron-rich substrate, and a contingency plan for the treatment of any ferruginous discharges that may appear after restoration of the site, shall be submitted to and approved by the Planning Authority, in consultation with SEPA. In the event of the appearance of any ferruginous discharges following the restoration of the site, the applicants, or their successors, shall carry out all necessary measures, as identified in the approved contingency plan.

**Reason:** *To protect against any ferruginous contamination of water resources that may result from the rebound of groundwater within the site, following its restoration.*

6. Before any soil stripping is carried out on any phase of the site, a new perimeter drainage system shall be constructed around the whole of that phase, any existing drainage ditches shall be diverted, and the appropriate water treatment area shall be constructed and brought into use, all in accordance with the approved plans and the requirements of SEPA. The prohibition on the prior stripping of soils does not apply to those soils which are required to be removed in the formation of new ditches and water treatment areas.

**Reason:** *To ensure that facilities for the diversion of surface water entering the site, and for the reception and treatment of contaminated water are available from the earliest stages of the development.*

7. All contaminated water shall be treated in the appropriate water treatment areas prior to discharge into any watercourse. The water treatment facilities shall be of an adequate capacity to cater for the likely maximum volume of contaminated water, and to control the discharge flow into any watercourse in accordance with the requirements of SEPA. They must be capable of being cleaned without interruption of the treatment process, and shall be maintained in good working order throughout the duration of the operations. The direct discharge of oil, chemicals or other pollutants into the water treatment facilities, or into any watercourse within or adjoining the site, shall not be permitted.
8. Except where stored in double skinned tanks any oil, fuel, lubricant, paint or solvent stored within the site shall be provided with a suitable bund or other means of containment for 110% of the storage capacity, and with no passive means of drainage.

**Reason for conditions 7 & 8:** *To prevent the contamination of surface or ground water resources, or of soil resources.*

#### **Protection of Soil Resources**

9. Apart from the work required in accordance with condition 6 above, no work shall be carried out on any undisturbed part of the site until all

topsoil has been stripped to an average depth of 300mm from the initial excavation area.

10. After the initial excavations have taken place, no work shall be commenced on any subsequent phases until the topsoil and subsoil have been removed from these areas; such soils shall be either used directly for the progressive restoration of earlier phases of the operation including earlier phases of the Upper Dalhousie Quarry (Areas A and B), or stored in accordance with the requirements of condition 13 below.
11. Throughout the period of the extraction and restoration operations, all parts of the site from which topsoil has not been stripped, or on which topsoil has been respread, shall be protected from all working areas and access routes. Work routines for stripping operations, shall be designed to minimise vehicle traffic on unstripped land, and at all times the mechanical handling and compaction of topsoil shall be minimised. No vehicle, other than those involved in soil stripping or spreading or agricultural operations, shall be permitted on any unstripped land.
12. The stripping of topsoil and subsoil shall only be carried out when ground conditions are such that no undue damage is done to topsoil and subsoil (normally in Spring and Summer months, although this may be extended into dry Autumn periods). Such operations shall be suspended during adverse weather conditions.
13. Topsoil and subsoil shall be carefully stored in separate mounds wholly within the site boundary, and shall be prevented from mixing. Topsoil mounds shall not exceed 5 metres in height, and subsoil mounds shall not exceed 6 metres in height.
14. All soil storage mounds shall be evenly graded, shaped and drained to prevent water ponding on or around them; thereafter, they shall be seeded with an appropriate grass seeds mixture, as specified in the Environmental Statement accompanying the planning application, as soon as practically possible to ensure a reasonable prospect of successful sowing.
15. No turf, topsoil or subsoil shall at any time be removed from the site.

***Reason for conditions 9 -15:*** To protect the existing soil resources of the site, in order to ensure its successful restoration to agricultural or other appropriate uses, following the completion of sand extraction.

### **Overburden Storage**

16. Any overburden not used immediately for the back-filling of previous cuts, shall be stored in a location to be agreed in writing with the Planning Authority, wholly within the application boundary, and the mound shall not exceed 15m in height; the sides and top of the

overburden mound shall be evenly graded and shaped, and they shall be seeded with a suitable low-maintenance grass seeds mix.

**Reason:** *To ensure that the storage of overburden is stable and not unduly obtrusive.*

### **Protection of Agricultural Interests**

17. Except where otherwise agreed in writing by the Planning Authority, the applicants shall make the site stock-proof and maintain as such until restoration of the site is complete. All the existing perimeter hedges, fences and walls, shall be maintained to protect the site from damage. Where the site boundary does not coincide with an existing hedge, fence or wall, then the applicants shall, unless otherwise agreed in writing by the Planning Authority, provide and maintain stock-proof fencing, with gates or cattle grids at every opening, until the restoration is completed. Undisturbed hedgerows not affording screening for the proposed development, within or bounding the site, shall be carefully maintained, in accordance with good agricultural practice, and be cut and trimmed at the proper season throughout the period of working and restoration of the site.
18. All invasive weeds on the site, including particularly those on the topsoil and subsoil storage mounds, shall be treated as often as necessary and as determined by the Planning Authority throughout the life of the site, at an early stage of growth, in order to prevent spreading within the site or onto adjoining agricultural land.
19. All types of vermin shall be controlled in a manner approved by the Planning Authority to prevent them spreading to adjoining agricultural land.

**Reason for conditions 17-19:** *To protect the continued efficient operation of adjoining farmland.*

### **Adjacent Site Drainage**

20. The works on site shall be designed and implemented to ensure that they do not negatively impact on the drainage of either the site as restored or the surrounding agricultural land. During the aftercare period the applicant shall ensure both the site and the surrounding agricultural land has field drainage that is functioning appropriately to allow productive agricultural activities to continue. This will include:
  - (a) ensuring field drainage for the finally restored land is functioning appropriately;
  - (b) protecting and maintaining any ditch, stream, watercourse or culvert passing through the site which provides drainage for adjoining land;

- (c) make provision for the installation of the field drainage system on the site to commence after one full growing season has elapsed from the time of the final stage of topsoil restoration; and
- (d) make provision for the field drainage system to be completed within two years of topsoil restoration.

Should there be any complaints received by the Planning Authority regarding the drainage at the site, which the Planning Authority consider merit investigation, the applicant shall take all reasonable steps to address any drainage issues with the site or the surrounding land, which can reasonably be considered to have resulted from the works on the site.

**Reason:** *To ensure the continued adequate drainage of the site, and adjoining land, in the interests of its continued productive agricultural use.*

21. No refuse, soil or waste material from outside the site shall be deposited within the site for any purpose without the prior written permission of the Planning Authority.

**Reason:** *To ensure that site restoration is achieved using existing on-site materials only.*

22. Any public utilities crossing or adjacent to the site shall be protected or diverted, as necessary, in accordance with the requirements of the relevant authorities.

**Reason:** *To safeguard existing public utilities in the area.*

23. At all times that the site is in operation, a wheel washing facility for vehicles exiting the site shall be in use and shall be regularly cleaned and recharged with clean water, and the sections of public road between the site access and the A7 shall be kept clear of mud or dirt.

**Reason:** *To prevent mud and dirt from the site being spread onto the public road, where it may constitute a hazard or nuisance to road users.*

### **Archaeology**

24. No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological (Monitored Soil Strip) work in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

**Reason:** *To ensure that any features of archaeological interest within the site are identified and recorded.*

### **Ecology**

25. A maximum of one year prior to the commencement of works on site, additional species surveys shall be undertaken by a suitably qualified ecologist, which shall seek to confirm the status of species, and ensure appropriate mitigation, details of which should be incorporated into a revised version of section 8 of the Environmental Statement. This amended section of the Environmental Statement shall be submitted to and approved by the Planning Authority in writing, prior to the commencement of soil stripping on the site.
26. The measures identified in section 8 of the Environmental Statement, as revised by condition 25, to mitigate the impact of the development on mammals, birds and amphibians shall be implemented throughout the duration of the operations on the site; and, in particular, any habitat removal shall take place outwith the bird breeding season (February to August).

***Reason for conditions 25 and 26:*** *To minimise the adverse impact of the development on wildlife within and adjoining the site.*

#### **Hours of Working**

27. No operations shall take place outwith the hours of 07.00 to 18.00 on Mondays to Fridays inclusive and 07.00 to 13.00 on Saturdays. Operations shall include excavation, extraction and restoration, initial preparation of the site including the formation and removal of perimeter soil bunds, and the movement of lorries entering or leaving the site. No work shall be carried out on Sundays or on public holidays except for emergency or routine maintenance work.

***Reason:*** *To minimise the effect the impact of the development on the amenity of residents living in the vicinity of the site and as a consequence of the Environmental assessment considering slightly shorter hours than the existing planning consent.*

#### **Noise Control**

28. Noise levels, as measured at 3.5 metres from any façade of any noise-sensitive dwelling, from all site operations other than soil stripping but including bund formation and restoration, shall not exceed a one hour LAeq of 45db.
29. Noise levels, as measured in accordance with condition 29, from soil stripping shall not exceed 60 dB(A) LAeq1h during the approved operating hours.
30. The surface of all haul roads and the track between the Hopefield Distributor Road and the sites shall be maintained in an evenly-graded condition, without bumps or pot-holes, at all times throughout the

duration of operations at the site. The speed limit of 15mph shall be enforced along this section of road/track.

31. Before operations commence on the site, the applicants shall advise the Planning Authority of the types of vehicle reversing alarms that are to be installed on mobile plant used within the site; if these emit audible reversing signals, they shall be of the best available type to reduce noise disturbance to a minimum, and shall be upgraded, as necessary, as technology improves.
32. The routes of vehicles within the site shall be designed to minimise the need for lorries to reverse, thereby activating any reversing alarms with which they may be installed.
33. All vehicles exiting the site shall turn right and continue to the A7 via the B6392.
34. Throughout the duration of the operations at this site, the applicants, or their successors, shall implement in full the noise mitigation measures, identified in Section 12 of the Environmental Statement, including those relating to site operation and general environmental management. In particular, a programme of regular noise monitoring shall be undertaken, at locations to be agreed beforehand with the Planning Authority, and the results shall be made available to the Authority on request.

***Reason for conditions 27-34:*** *To ensure that noise generated by the operations on the site is minimised, in order to protect the amenity of those residents living in the vicinity of the site and as recommended in PAN 50 Annex A: The control of noise at surface mineral workings.*

### **Dust Control**

35. Whenever necessary, all roads and other un-vegetated surfaces within the site, including sand stockpiles, shall be damped down to prevent the spread of windblown dust from the site; particular care shall be taken in the vicinity of residential properties, and moisture screens shall be installed within the site, if necessary.
36. Throughout the duration of operations, the surface of the site access roads shall be kept in good repair, and shall be regularly graded to remove loose material.
37. All mobile plant used within the site shall be fitted with upward facing exhausts.
38. All laden vehicles leaving the site shall be effectively sheeted or enclosed.



39. All vehicles moving within the site, and along the access road to the Hopefield Distributor Road shall be subject to a speed limit, not exceeding 15mph.
40. Throughout the duration of the operations at this site, the applicants, or their successors, shall implement in full the dust control measures, identified in the Dust Management Plan dated January 2018, including those relating to site operation and general environmental management. In particular, a programme of dust monitoring shall be undertaken, in accordance with details to be submitted to and approved with the Planning Authority prior to operations commencing on the site, and the results of the monitoring shall be submitted to the Authority at agreed intervals. The dust monitoring programme shall include details of the air quality standards to be achieved at agreed locations on the perimeter of the site, and the remedial measures to be adopted in the event of those standards not being achieved, including, in extreme adverse conditions, the temporary cessation of all operations on the site.

***Reason for conditions 35-40:*** *To minimise the impact of the development on the environment of the surrounding area, through the generation of dust from the operations.*

#### **Landscaping Restoration and Aftercare**

41. The site shall be completely restored, in compliance with conditions 3 and 41 to 48, within one year of the expiry of the time limit placed on the operation of the site.
42. The site shall be restored progressively in accordance with the details provided in chapter 3 of the Environmental Statement.
43. The site shall be restored to the contours approved in accordance with the details approved in terms of condition 3 and the details on drawing ES Fig 3.7 Restoration Masterplan Ref no ED11578 1:3750, or such other revised contours as may be agreed in writing with the Planning Authority, and the surface levels shall be so graded as to ensure the final surface merges smoothly with the adjoining land.
44. Within six months of the completion of sand extraction operations, all buildings and fixed or moveable plant shall be removed from the site and all site access roads shall be removed or reverted back to farm access tracks, unless required for the restoration of the site, or otherwise agreed by the Planning Authority; and all such areas shall be subject to the full restoration treatment, as detailed below. Any access roads required for the restoration work shall be retained until the end of the restoration period and then removed or reverted back to farm access tracks.

45. All operations to remove topsoil and subsoil from the storage mounds and to re-spread them shall be carried out when the ground and storage mounds are in a suitable dry condition, as agreed with the Planning Authority. Earth-moving machinery shall travel to and from the soil mounds along clearly defined routes, and these routes shall be ripped before being covered with the next layer of subsoil or topsoil. When the vehicle is emptied after spreading subsoil or topsoil, it must immediately turn off on to overburden or subsoil areas respectively. On sloping land, the direction of travel of machines should, as far as is possible, be parallel to the contours, in order to minimise erosion. All operations following the replacement of topsoil shall be carried out by suitable agricultural machinery.
46. On all areas that are to be restored to agricultural use, after replacement of topsoil, chemical analyses of the soils shall be carried out by an approved agency to assess the fertiliser, lime and other major and minor nutrients required to promote the establishment and growth of appropriate plants for the agreed land use. The land shall then be cultivated using normal agricultural machinery to prepare a seed bed suitable for the sowing of grass seeds, during which process any stones larger than would pass through a wire screen mesh with a size of 100mm shall be removed, together with other obstructions to future cultivation. Lime, fertilisers and other plant nutrients shall be applied in accordance with the recommendations of the approved agency carrying out the soil chemical analyses so that the soil is sufficiently fertile to permit the chosen programme of restoration. The land shall then be sown with a short term grass seed mixture, based on perennial rye grass and white clove, or such other species as may be approved.
47. The site shall be restored only in accordance with the restoration plans and specifications approved under the terms of this permission, and restoration works shall not be considered to be completed until all watercourses, ditches, fences, walls, hedges, field accesses trees and other planting have been installed or carried out in accordance with those plans and specifications agreed with the Planning Authority.

***Reason for conditions 49-57: To ensure that all parts of the site are properly restored to agriculture or other approved after-use.***

48. Any trees or shrubs planted as part of the restoration proposals that die, are removed, become seriously diseased or are severely damaged within five years of planting shall be replaced during the next available planting season with others of similar size and species.

***Reason: To ensure that all new planting has an adequate opportunity to become successfully established.***

49. At least three months before the completion of the restoration of Site C, an aftercare scheme, in accordance with Schedule 3 to the Town & Country Planning (Scotland) Act 1997 shall be submitted for the

approval of the Planning Authority. The scheme shall be carried out, as approved or modified by the Authority, for a period of five years from the date when the restoration of the site has been completed in accordance with the terms of condition 48.

50. The aftercare measures to be taken shall be such as to bring the land to the required standard for use for agriculture, to enable the establishment of the woodland planting and for amenity purposes specifically new habitat creation with appropriate footpath access.

***Reason for conditions 49-51:*** To ensure that all the restored land is properly managed for a sufficient period to ensure its effective establishment to the approved after-use.

### **Monitoring**

51. Throughout the duration of this development, the applicants or their successors shall, if and when required to do so by the Planning Authority, submit such information as may be necessary, including any relevant plans, to enable the Authority to determine the progress of the operations.

***Reason:*** To ensure effective monitoring of the development.

52. The proposed development of the site shall progress in accordance with the Phasing Plan – Extraction and Restoration, submitted as part of the planning consent.

***Reason:*** To ensure the phasing of the extraction and restoration of Areas A, B, and C allow for the appropriate phases development of the site and to ensure the restoration proposals for the three areas are achieved.

53. Prior to the start of the development (including any soil stripping), 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 for the site. No works (including any soil stripping) 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.

54. All of the mitigation measures identified in the Mitigation Schedule, approved as part of this consent shall be implemented in full at the site.

**Reason:** *To ensure the mitigation measures identified in the Environmental Statement are implemented, to minimise possible environmental impacts and to ensure the development is carried out in the manner described in the Statement.*

**Action**

Head of Communities and Economy

## 6. Private Reports

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### Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Planning Committee agreed that the public be excluded from the meeting during discussion of the undernoted item, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraph 13 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973

Report No.	Report Title	Presented by:
6.1	Proposed Tree Preservation Order – Penicuik.	Peter Arnsdorf
Decision		
To approve the Proposed Tree Preservation Order.		

The meeting terminated at 2.42pm.