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**APPLICATION FOR PLANNING PERMISSION 12/00384/DPP TO VARY CONDITION 1 OF PLANNING PERMISSION 659/92 (THE WINNING AND WORKING OF SAND AND GRAVEL; THE CONSTRUCTION OF A PRIVATE HAUL ROAD; AND PROGRESSIVE RESTORATION OF THE SITE AT OUTERSTON FARM) TO ENABLE THE CONTINUATION OF THE DEVELOPMENT UNTIL 31 DECEMBER 2025 OR ON COMPLETION OF THE EXTRACTION, WHICHEVER IS SOONER, AT LAND AT TEMPLE QUARRY, GOREBRIDGE**

**APPLICATION FOR PLANNING PERMISSION 12/00387/DPP TO VARY CONDITION 1 OF PLANNING PERMISSION 01/00228/FUL (CONSTRUCTION OF SAND AND GRAVEL PROCESSING SITE, SETTLEMENT PONDS, AND A CONVEYOR BELT FROM THE SAND AND GRAVEL QUARRY AT OUTERSTON FARM (WITH CONSEQUENT AMENDMENTS TO PLANNING PERMISSION NO 659/92, GRANTED ON 31 DECEMBER 1996) AT LAND AT GUILDIE HOWES FARM, NORTH MIDDLETON, GOREBRIDGE**

**APPLICATION FOR PLANNING PERMISSION 12/00388/DPP TO VARY CONDITION 1 OF PLANNING PERMISSION 05/00378/FUL (EXTENSION TO SETTLEMENT LAGOON FACILITIES THROUGH THE EXTRACTION OF SAND AND GRAVEL AT TEMPLE QUARRY PROCESSING PLANT) AT LAND AT GUILDIE HOWES FARM, NORTH MIDDLETON, GOREBRIDGE**

Report by Head of Planning and Development

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## **1 SUMMARY OF APPLICATION AND RECOMMENDED DECISIONS**

- 1.1 The applications are for the amendment of conditions of planning permissions ref.659/92; ref.01/00228/FUL & ref.05/00378/FUL (for the extraction of sand and gravel and for associated settlement ponds and conveyor belt at land at Outerston Farm and Guildie Howes Farm, North Middleton) to enable continued operations until 31 December 2025 or on completion of extraction, whichever is the sooner. There has been three letters of representation and consultation responses from Scottish Natural Heritage (SNH) and the Council's Environmental Health Service. The relevant development plan policies are RP1, RP7, RP13, ECON5 and MIN1 of the Midlothian Local Plan and policy ENV3 of the Edinburgh and the Lothians Structure Plan 2015. The recommendation is to grant planning permission to all three applications subject to conditions.**

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site, to which all three applications relate in parts, is the existing Temple Quarry and associated settlement ponds and conveyor belt located within the countryside to the south of Gorebridge. The site is located approximately one kilometre south east of the southern end of Temple Village. The main processing plant area is located some 2km to the east of the site and is accessed via a track off a rural lane, the Guildie Howes Road which has a junction off the A7. At the site entrance is located a lime works.
- 2.2 The U85 road with the southern bank of both the Purves Hill Burn and Castleton Burn is beyond the site to the north east. The settlement of North Middleton lies further to the north east. The C50 road with agricultural land beyond bounds the site to the south east. A combination of Outerston Farm and agricultural land bounds the site to the west.
- 2.3 The quarry, farm and lime works are the predominant users of the Guidie Howes Road. There are residential properties to the south at the settlement of Middleton.
- 2.4 There are two separate extraction areas on the site: Guidie Howes, which is immediately to the north of the processing plant area and Outerston Farm 2km to the west. Sand and gravel from both Guidie Howes and Outerston Farm is worked from north to south with restoration work progressing behind.

## **3 PROPOSAL**

- 3.1 The application is to extend the time limit for the sand and gravel quarrying and associated settlement ponds, conveyor belt and operations at Guildie Howes Farm, North Middleton until 31 December 2025 or on completion of extraction, whichever is the sooner.

## **4 BACKGROUND**

- 4.1 On 31 December 1996, a reporter appointed by the then Secretary of State granted planning permission (ref.659/92) on appeal for the winning and working of sand and gravel from the application site. Permission was also granted for the construction of a haul road extending north-eastwards from the quarry for a distance of 2.5 kilometres to a junction with the public road, close to the A7 at Pirn Hill. The reporter granted planning permission subject to 61 conditions with the principal purpose of enabling the Planning Authority to retain effective planning control over the operations and eventual restoration of the site and to mitigate against environmental impacts. Planning permission 659/92 was implemented and sand and gravel has been extracted from the site for some time. However, the haul road was not constructed.

- 4.2 At the time planning permission 659/92 was granted it was anticipated that the site would produce some 250,000 tonnes of sand and gravel per annum. In the supporting statement submitted with the application the applicant's agent informs that outputs from the quarry have not been as high as originally envisaged. The position has been worsened by the global recession with outputs in the last five years falling to around 150,000 tonnes per annum. If planning permission is granted for the proposed extension of time then this will allow the continuation of the operations.

- 4.3 Condition 1 of planning permission 659/92 reads as follows:

*"Permission for the extraction of sand and gravel from the application site is granted for a limited period of fifteen years from the date when work commences on site (such date to be advised by the applicants or their successors), or until 31 December 2012, whichever is the earlier date: and the restoration of the whole site, including the haul road, to a condition suitable for agriculture, or such other after-use may be approved by the Planning Authority, shall be completed by that date."*

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

- 4.4 In September 2001 planning permission (01/00228/FUL) was granted for the construction of a sand and gravel processing plant, settlement ponds and a conveyor belt from the sand and gravel quarry at Outerston Farm. The conveyor belt was constructed in lieu of the haul road from Outerston Farm to the A7 approved by the grant of planning permission 659/92. It is being used as an alternative means of transporting minerals from the quarry to the processing plant. Condition 1 of planning permission 01/00228/FUL states:

*"Permission for the conveyor belt, the sand and gravel processing plant, the settlement ponds and all associated works and operations is granted for a limited period expiring on 31 December 2012; and the restoration of the whole site to a condition suitable for agriculture; or such other after-use as may be approved by the Planning Authority, shall be completed by that date."*

**Reason:** *To ensure that the life of the conveyor belt and processing plant is the same as the permitted life for the sand and gravel quarry at Outerston Farm, with which it is associated."*

- 4.5 In February 2006 planning permission (05/00378/FUL) was granted for an extension to the settlement lagoon facilities. Condition 1 of this planning permission states:

*"Permission for the extraction of sand and gravel, the formation of settlement lagoons and all associated works and operations is granted for a limited period expiring 31 December 2012, and the restoration of the whole site to a condition suitable for agriculture, or such other after-use as may be approved by the Planning Authority, shall be completed by that date."*

**Reason:** *To ensure that the life of the settlement lagoons is the same as the permitted life for the sand and gravel quarry at Outerston farm, with which they are associated."*

## **5 CONSULTATIONS**

- 5.1 The **Council's Environmental Health Service** was consulted on the application and advise no complaints in relation to the extraction works have been received. They state that on the proviso that the works are not located any closer to existing residences they raise no objection to the application subject to the same controls to protect amenity imposed by conditions on a grant of planning permission ref.659/92 being imposed on a grant of planning permission for the current applications.
- 5.2 **Scottish Natural Heritage** informs that they have received anecdotal evidence which suggests that both little ringed plover and Sand martin are breeding at this site. Breeding birds and their nests are protected under the Wildlife and Countryside Act 1981 (as amended). As such, they recommend that prior to commencement of extraction works between the months of March and October (inclusive), annual bird surveys are carried out over the site by a suitably qualified ecologist. These surveys should serve to confirm the presence/absence of these species and help identify any nest site requiring protection. Any nest sites likely to be affected by works (either directly or indirectly) should be avoided until the birds have left the nest. This recommended control can be secured by a condition on a grant of planning permission.
- 5.3 The **Scottish Environment Protection Agency** was consulted on the application and did not raise an objection.

## **6 REPRESENTATIONS**

- 6.1 Three letters of representations have been received in connection with this application. The grounds of objection raised are summarised as follows:
- Harm to wildlife habitat and protected species;
  - Disruption to nesting or breeding birds from the continuation of the quarrying operations;
  - The application should have been accompanied by an environmental impact assessment;
  - Would have a negative effect on property values owing to noise pollution and visual impact; and
  - Would worsen the negative impact on the existing road network which is not of a standard to cope with the increase in traffic resulting from the development.

## 7 PLANNING POLICY

7.1 The development plan is comprised of the Edinburgh and the Lothians Structure Plan 2015, approved in June 2004, and the Midlothian Local Plan, adopted in December 2008. The following policies are relevant to the proposal:

7.2 Edinburgh and the Lothians Structure Plan 2015 Policy **ENV3: Development in the Countryside** permits development in the countryside where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and is compatible with the rural character of the area. Acceptable countryside development includes agriculture, horticulture, forestry and countryside recreation. The following types of development, where justified in the local plan, may be allowed in support of rural diversification:

- tourism or recreational uses;
- development that re-uses appropriate rural buildings that make a positive contribution to the landscape; and,
- diversification of an appropriate scale and character on agricultural land.

It requires local plans to require that such development:

- is well-integrated into the rural landscape;
- reflects its character and quality of place; and,
- does not result in a significant loss of prime agricultural land.

7.3 Midlothian Local Plan 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;

7.4 Midlothian Local Plan 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;

7.5 Midlothian Local Plan 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;

- 7.6 Midlothian Local Plan Policy **RP18: Protecting Areas From Surface Mineral Extraction** outlines constraints to protect the environment, local residents and businesses from mineral extraction;
- 7.7 Midlothian Local Plan Policy **ECON5: Industries with potentially Damaging Impacts** states that proposals for industrial developments of a kind which may give rise to environmental problems will be assessed with regards to relevant Local Plan policies and proposals, and to expected economic benefits and any benefits of locally harmful industrial operations to the wider environment. The Council will require to be satisfied that any such sites are either uniquely suitable for technical reasons or have been selected with a view to minimising environmental impact, and not primarily because of the availability of the land to the intended developer or operator. Developments of this nature will require to be screened and operational conditions are likely to be imposed.
- 7.8 Midlothian Local Plan Policy **MIN1: Areas of Search for Surface Mineral Extraction** identifies Outerston as an existing area of working where future surface mineral extraction may be acceptable in principle. Individual proposals for surface mineral extraction will require to be assessed on their merits, having regard to the provisions of Policy RP18 and on the proviso that it meets the following general criteria: A. The proposal does not conflict with policy RP18; and B. The site has good transport links to, and is within reasonable travelling distance of, the destination of the specified mineral resource; and, C. the proposal will not result in adverse effects which, when combined with the effects of others operational consented and currently proposed surface mineral extraction and landfill sites, will have an unacceptable cumulative impact on the environment or local communities. Proposals shall be accompanied by an assessment of the likely cumulative effects of additional workings on local communities and the environment which will also set out mitigation measures. All surface mineral extraction proposals shall also be required to address the following operational criteria: a) **Blasting Vibration, Noise and Dust** - Proposals must meet acceptable standards for levels of ground or airborne vibration; and level of dust and noise emissions; b) **Traffic** - proposals must show that the local road network is capable of safely accommodating vehicles associated with the development without damaging the road surface and verges or harming the amenity of local communities, c) **Operating Hours** - proposals must indicate operating times that are reasonable in relation to the specific circumstances of the application, d) **Extraction** - proposals must minimise environmental disturbance through the removal of all minerals in a single operation from any site where this is economically feasible; e) **Duration of Extraction** - proposals must include, as far as is practicable, supporting information indicating the operator's understanding of the availability of mineral reserves in adjoining land and their interest in any likely future extensions to their proposed workings; f) **Visual Impact** - proposals must minimise the visual impact of the operations on the surrounding landscape through the careful design and phasing of the workings and

of overburden mounds, together with the provision of screening bunds where appropriate. Where mineral workings are likely to be of prolonged durations, the proposals may be required to include tree planting as a method of visually containing the effects of the operations; g) **Restoration and Aftercare** - proposals must include schemes for both restoration and aftercare of the site, including progressive restoration where appropriate. The original landscape should be restored and if possible enhanced as a result of the eventual restoration of the mineral working. The Council will require a bond to cover the cost of restoring the site; h) **Impact on Water Resources** - Proposals must demonstrate that there are no unacceptable impacts on controlled water, including during restoration and reuse.

## 8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining these applications is whether the development complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.
- 8.2 Given the size, location and characteristics of the site, and the extent of the proposals, these applications can be considered as unlikely to have a significant effect on the environment. Accordingly, after due consideration, these applications have not been required to be accompanied by an EIA. In addition, as part of the thorough assessment of these applications no environmental matters of such significance have been raised by consultees as to warrant the preparation of an EIA.
- 8.3 The gravel and sand extraction and processing activities have been operating since 1996 and the use of the site is therefore well established. The principle of the developments on this site is therefore acceptable. The application seeks planning permission for an extension of time for the operations to be completed.
- 8.4 The site is not located within a designated local, national or international nature conservation site. The site has been operational since 1996 and has operated without any complaint. The supporting statement submitted with the application states that this essentially reflects the fact that the company has been able to satisfactorily operate its activities within the constraints of the planning conditions. The Council's Environmental Health Manager verifies that they have not received any complaints regarding the consented operations on the site. Given this, subject to the same conditions to control nuisance imposed on a grant of planning permission ref.659/92 being imposed on a grant of this current application for an extension of time of the operations, the development raises no significant environmental health concerns.

- 8.5 The development is for an extension of time and not an extension to the area of extraction and processing activities. The current extractive and processing activities have up until now not caused any significant harm or nuisance to the amenity of neighbouring properties. There will be no additional traffic movements on the public highway. As such there would be no significant congestion on the local road network. The Council's Policy and Roads Safety Manager therefore does not object to the application.
- 8.6 The continued working will have limited landscape and visual impact. The landscape and visual impact will mostly be to nearest properties. Where workings have finished (in the northern part of the site), in accordance with the requirements of a condition imposed on a grant of planning permission ref.659/92 the restoration has been carried out and the landscape is recovering well. It is essential that planning permission for the proposed extension to the timescale for the works/operations is granted subject to the same planning conditions requiring future restoration work to be carried out.
- 8.7 It can be concluded that the characteristics of the development and its potential impacts are not considered to be of a nature, scale or magnitude that would result in significant effects on the environment if allowed to continue for the next 13 years subject to the same conditions imposed on a grant of the previous planning permissions.
- 8.8 The controls referred to by SNH in their consultation response to protect birds can be secured by a condition on a grant of planning permission.

## **9 RECOMMENDATION**

- 9.1 That planning permission be granted to all three planning applications for the following reason:

*The development is for a continuation of the operations on the site. The environmental impacts can be mitigated through conditions similar to those imposed on a grant of the previous planning permission for the development.*

Subject to the following conditions:

### **Conditions relating to application 12/00384/DPP:**

1. Permission for the winning and working of sand and gravel at Outerston Farm is granted for a limited period of up to 31 December 2025; and the restoration of the whole site to a condition suitable for agriculture, or such other after use as may be approved by the Planning Authority, shall be completed by that date.

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



2. The development hereby approved shall be carried out in accordance with the application plans, and the details specified in the accompanying planning statement, dated June 2012.
3. The development hereby approved shall be carried out in accordance with the conditions attached to planning permission 659/92 dated 31 December 1996 except for conditions 8, 9, 15, 16 & 17 of that planning permission.

***Reason for conditions 2 & 3:*** *to make clear the extent and specification of the development for which planning permission is granted.*

4. Prior to the commencement of extraction works between the months of March and October (inclusive), annual bird surveys shall be carried out over the site by a suitably qualified ecologist. These surveys shall serve to confirm the presence/absence of these species and help to identify any nest sites requiring protection. Any nest sites likely to be affected by works (either directly or indirectly) shall be avoided until the birds have left the next.

***Reason:*** *In the interest of safeguarding birds.*

**Conditions relating to application 12/00387/DPP:**

1. Permission for the sand and gravel processing site, settlement ponds/lagoons, and a conveyor belt associated with the sand and gravel quarry at Outerston Farm is granted for a limited period of up to 31 December 2025; and the restoration of the whole site to a condition suitable for agriculture, or such other after use as may be approved by the Planning Authority, shall be completed by that date.

***Reason:*** *To ensure that the life of the conveyor belt and processing plant is the same as the permitted life for the sand and gravel quarry at Outerston farm, with which it is associated and to enable the Planning Authority to retain effective control over the progress of operations and the eventual restoration of the site.*

2. The development hereby approved shall be carried out in accordance with the application plans, and the details specified in the accompanying planning statement, dated June 2012.
3. 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 conditions attached to planning permission 01/00228/FUL dated 10<sup>th</sup> September 2001.

***Reason for conditions 2 & 3:*** to make clear the extent and specification of the development for which planning permission is granted.

**Conditions relating to application 12/00388/DPP:**

1. Permission for the extended settlement lagoons for use in association with the extraction of sand and gravel is granted for a limited period of up to 31 December 2025; and the restoration of the whole site to a condition suitable for agriculture, or such other after-use as may be approved by the Planning Authority, shall be completed by that date.

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

2. The development hereby approved shall be carried out in accordance with the application plans, and the details specified in the accompanying planning statement, dated June 2012.
3. 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 conditions attached to planning permission 05/00378/FUL dated 6<sup>th</sup> February 2006.

***Reason for conditions 2 & 3:*** to make clear the extent and specification of the development for which planning permission is granted.

**Ian Johnson**  
**Head of Planning and Development**

**Date:** 12 November 2012

<b>Application No:</b>	<b>12/00384/DPP, 12/00387/DPP &amp; 12/00388/DPP (Available online)</b>
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<b>Validation Date:</b>	<b>20 June 2012</b>
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<b>Background Papers:</b>	<b>659/92, 01/00228/FUL &amp; 05/00378/FUL</b>