

REPORT TO: Planning Committee

MEETING DATE: Wednesday 26 June 2019

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Application No. **18/01403/PM**

Proposal Winning and working of hard rock as extension to existing quarry
(Part Retrospective)

Location **Markle Mains Quarry**
East Linton
East Lothian

Applicant D Geddes (Contractors) Ltd

Per AMS Associates Ltd

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

As the extraction area proposed in this application is greater than 2 hectares the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation.

The extraction area for the extension sought by this application is 4.1ha and the application is therefore a major development and brought before the Planning Committee for a decision.

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 18/00007/PAN) and thus of community consultation prior to the application for planning permission being made to the Council.

As an outcome of the pre-application consultation, and a statutory requirement for major development type applications, a pre-application consultation report was submitted with this application.

The report states that approximately five people attended the pre-application public

exhibition, which was held at East Linton Community Hall on the 16 October 2018 between 3.30pm and 7.00pm. This event was advertised in the East Lothian Courier on 04 October 2018 and by public notices displayed in the area. A fact sheet was produced and made available to the public and a community information line was set up. The attendees of the public event had the opportunity to discuss issues and leave responses using a feedback form. At the time of the application no person had contacted the information line or responded using the feedback form. The pre-application consultation report summarises the comments given verbally on the day of the public event. These are generally reported as positive with people happy with the operation of the quarry and the visual impact. There were some concerns regarding traffic and clarification was sought on the nature of the application and restoration and aftercare of the site. There were positive comments received regarding the provision of jobs from the site. The report states that no concerns were expressed regarding noise.

The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

Markle Mains Quarry is situated north of the A1 and A199, approximately 4 miles east of Haddington, 1.6 mile west of East Linton, and 800 metres south-west of Markle. It is bounded on all sides by agricultural land. The quarry is accessed off the Beanston Mains road, utilising a private access road. The extraction area of the quarry is to continue to be accessed through the "keyhole" cutting in the Markle Mains Heughs and using the exiting road.

The northern part of the quarry and approximately half the quarry area is defined as an area safeguarded for hard rock quarrying by Policy MIN4 of the East Lothian Local Development Plan 2018 (ELLDP). The remainder of the site is within the countryside as defined by Policy DC1 of the ELLDP.

There is an area of ancient woodland (long established of plantation origin) adjoining the quarry site, between the main extraction area and working area to the north. Pencraig Wood is situated approximately 160 metres to the south of the application site and is also defined as ancient woodland (long established of plantation origin).

The Beanston Mains to Pencraig Wood Right of Way and Core Path 84 run west from Pencraig wood and join the access road to the quarry before it joins the Beanston Mains public road. At its nearest point the path is approximately 65 metres south of the quarry.

Traprain and Tyne Valley Special Landscape Area is located approximately 100 metres south of the site, encompassing Pencraig Wood and extended south of the A199.

In January 1979 planning permission (Ref:468/78) was granted for a quarry at Markle Mains and for the extraction of hard rock from it for a period up until the end of the year 2007. The quarry was worked by the Department of Highways of the former Lothian Regional Council. Operations of the quarry by the Regional Council ceased during July 1984.

On 16 October 1995 planning permission (Ref:95/00515/P) was refused for re-working of quarry for the extraction of hard rock, extension of quarry, erection of processing plant and ancillary infrastructure. The proposal was for the extraction of a greater tonnage of material from a larger area and for a longer time period than permitted by the 1979 planning permission, Ref: 468/78.

The application was refused for the following reasons:

1. The proposal would have an adverse impact on the tourist industry in East Lothian, particularly the Monksmuir Caravan site, and on the amenity of the area.
2. There is no demonstrable need for the working of the quarry.

In April 1996 D Geddes (Contractors) Ltd appealed to the Secretary of State against that refusal to grant planning permission. The appeal was subsequently withdrawn in February 1996.

D Geddes (Contractors) Ltd re-commenced operations at the quarry in 1996 under the terms of the 1979 planning permission. The Council accepted that the 1979 planning permission (Ref: 468/78) for Markle Mains Quarry was valid and that no action should be taken to prohibit operations covered by that permission and the conditions attached to it.

On 14 October 2002 planning permission (Ref: 98/00054/P) was granted for the winning and working of hard rock from the existing quarry including, an extension to the lifetime of the operation and an increase in the area and size of the site. The officer's report states that the permission was sought to extend the quarry by 6.08 hectares, resulting in an overall quarry area of 17.48 hectares, which included the proposed screening mounds. This permission was granted subject to the revocation of the previous permission 468/78 and a section 75 legal agreement between Geddes and the Council securing a restoration and performance bond of £57,000 (indexed linked to the retail price index). The bond has an expiry date of 1 June 2035 after which it must be returned if not used.

Permission 98/00054/P allows the winning and working of hard rock from the quarry area for a period of 26 years from the decision date, thus up to 14 October 2028. An additional one year is specified in which to complete 'restoration' of the site. The permission gave consent for the extraction of some 10.49 million tonnes of hard rock from the site at an annual rate of 400,000 tonnes.

A number of conditions are attached to this permission which to limit the hours of working, control dust, noise, traffic, effects of blasting and landscape impacts.

Following completion the applicant proposed that the site would be returned to, 'semi-agricultural/ nature use' with the quarry floor covered in subsoil and topsoil and a 5 year maintenance plan agreed. The aftercare of the site was agreed to comprise of the retention of the landscape mounds and the main quarry access road for the farmers use, with buildings and security fencing to be removed and areas of hard standing grubbed up and removed. Condition 32 of permission 98/00054/P required a 10 metres wide tree belt to be planted around the perimeter of the quarry.

On 24 February 2017 an application (Ref:16/01066/P) for an extension to the rock quarry and the formation of bunding, landscaping and restoration works was submitted. This application is pending determination.

On 13 September 2017 an application (17/00627/P) for the removal of condition 32 of planning permission 98/00054/HIS_P to rescind the requirement for a 10 metre tree and shrub belt around the quarry extraction area was submitted. This application is pending determination.

While considering the above applications it became apparent that a larger area was now being worked than that permitted by planning permission 98/00054/P. The area which was proposed as an extension under application 16/01066/P is therefore an extension to an area which does not benefit from planning permission.

To regularise this, a planning application (Ref: 18/00172/P) was submitted in February

2018 for the winning and working of hard rock as extension to existing quarry (Part Retrospective). This sought to regularise the existing works and give permission for future vertical extraction. However, after the application was registered and through discussions with the applicant, it became evident that the extraction area stated on the application was incorrect. The proposed extraction area was in fact over 2 hectares and the proposal constituted a Major Development. The application was subsequently withdrawn in February 2019 after the current application was submitted.

Planning permission is now sought through the current application for the winning and working of hard rock as an extension to the existing quarry (Part Retrospective). The applicant has stated that the additional areas were opened up as structurally weak rock was disturbed while working the consented areas and safe gradients were then created.

Amended plans and supporting documents have been submitted to clarify the proposed development and address comments regarding landscaping proposals.

The ground within the extension area has been broken and is currently being worked as part of the existing Markle Mains Quarry. The extended area are comprised of a strip along the eastern boundary and a wedge on the north west side. The total area leased by the quarry operator, from the owners and operations of Markle Mains Farm, including the access and quarry void, is some 25 hectares. The area of the extension is some 4.1 hectares. The applicant has stated that the current rate of extraction is in the region of 200,000 tonnes per annum.

Page 7 of the supporting statement submitted by the applicant states that a recycling facility operates from the site. The applicant has since clarified that this was an error and there is no recycling facility on site and this does not form part of this application.

Rock is extracted from site by drilling and blasting. Rock is extracted and processed using mobile equipment located in the quarry void next to the extraction areas. No washing is required and after crushing and screening, the stone is stockpiled on site before being transported offsite. The crushed rock is used for construction projects, including general aggregates, stone for road surfacing and concrete. It is proposed to quarry down to 32 metres AOD with the re-contoured berms left in place.

The applicant has asserted that the proposed development would maintain economic benefits to the area through the continuation of 15 direct jobs and approximately 10 indirect jobs in haulage. The applicant has stated that 97% of employees are currently from East Lothian with an average employment period of 14 years.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA.

On 19 March 2019 the Council issued a formal screening opinion to the applicant. This concluded that the proposed development is unlikely to have significant effects on the environment to the extent that any expert and detailed study through EIA would be necessary to properly assess any effect. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

The following reports have been submitted as part of this application:

- * Pre-application consultation report titles 'Community Engagement Report, November 2018
- * Planning Application and Supporting Statement (November 2018)
- * Blast report and Blast design terminology and formula sheet
- * Landscape Specification Report (September 2018 rev 03)
- * Reinstatement and Aftercare Management Plan (November 2018)

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESPlan) and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Policy 4 Minerals of SESPlan and Policies, DC1 (Rural Diversification), PROP MIN4 (Safeguard Bangley and Markle Mains Hard Rock Quarries), MIN5 (Mineral Resources), MIN 8 (Mineral Extraction Criteria), MIN9 (Supporting Information), MIN10 (Restoration and aftercare), NH13 (Noise) and T2 (General Traffic Impacts) of the ELLDP are relevant to the determination of the application.

Also material to the determination of the application are:

- * Scottish Planning Policy 2014 (SPP)
- * Planning Advice Note PAN 50: Controlling the Environmental Effects of Surface Mineral Working and Annexes A, B, C and D relating to the control of Noise, Dust, Traffic and Blasting respectively.
- * Planning Advice Note PAN64: Reclamation of Surface Mineral Workings
- * Circular 3/2012 Planning Obligations and Good Neighbour Agreements

No written representations to the application have been received.

Dunpender Community Council made no written comment on this application.

Planning Advice Note 50 (PAN 50) is national planning advice which aims to provide advice on the more significant environmental effects arising from mineral working operations. It notes that the main issues that give rise to concerns in connection with surface mineral working are generally: the effects of road traffic, the effects of blasting, noise and dust, visual and landscape effects and contamination and pollution into the environment. It must be recognised that this advice relates to all surface minerals workings, including coal and sand and gravel extraction, in addition to hard rock extraction such as that carried out at Markle Mains Quarry. The environmental effects can vary considerably depending on the type of extraction and site specific characteristics.

Planning Advice Note 64 (PAN 64) is national advice on the restoration and aftercare of surface mineral workings.

SPP states that the Planning System should, 'safeguard workable resources and ensure that an adequate and steady supply is available to meet the needs of the construction, energy and other sectors; minimise the impacts of extraction on local communities, the environment and the built and natural heritage; and secure the sustainable restoration of sites to beneficial after use after working has ceased'.

Policy 4 of SESPlan includes the requirement of Local Development Plans to safeguard mineral resources from sterilisation, identify areas of search for aggregate minerals and set out the criteria to be addressed when assessing individual proposals. The section

following the policy notes that extraction of aggregates outwith areas of search should be restricted to extensions of existing sites or small scale proposals with applicants needing to demonstrate the particular operational, community or environmental benefits of such proposals. It also notes that aggregate minerals should be worked as close as practically possible to where need arises, balanced by regard to environmental factors.

The current application is for an extension to an existing quarry site and the detail of the proposal will be assessed against policies in the adopted ELLDP which address the issues set out in Policy 4 of SESPlan.

PROP MIN4 of ELLDP states that Markle Mains Quarry is safeguarded for the continued extraction of hard rock. The boundary relating to Policy MIN4 as shown on the proposals maps only covers the northern section of the site and does not reflect the area covered by extant permission granted by 98/0054/P or any larger area.

The remaining area of the application site and quarry is within the countryside as defined by Policy DC1 of the ELLDP. This states that proposals for mineral extraction and renewable energy will be assessed against the other relevant policies of the ELLDP.

Section 4.111 of the ELLDP and the pre-amble to Policy MIN5 states, 'There is no shortage of hardrock in the SESplan area as the land bank is greater than 10 years'. It notes that any proposal for extraction of construction aggregates will be assessed against Policies MIN5, MIN8, MIN9 and MIN10 of the ELLDP.

Policy MIN 5 states that 'Proposals for the winning and working of minerals including hard rock, sand and gravel and limestone will not normally be permitted except (a) where related to existing workings or in exceptional cases, where resources of a particular type or quality are unavailable from an alternative source within a reasonable distance, and (b) where they are proven to be acceptable having regard to Policy MIN8 and other relevant development plan policies'.

Although SESPlan has established that there is no shortfall in hard rock supplies, the applicant has noted that there is a need for the hard rock products in the area and the quarry operates in relative close proximity and easy access to markets in the Lothians and the north of England. The haulage distance to market is thus relatively short. The proposed development is for an extension to the existing Markle Mains Quarry and therefore the principle of the winning and working of hard rock at this site is supported by Policy MIN5 of the ELLDP and Policy 4 of SESPlan, subject to assessment against other relevant ELLDP policies.

Policy MIN9 specifies the supporting information required with surface mineral applications. In this case the applicant has detailed the workings of the site in a Supporting Statement. As this is an extension to an existing site, details of working hours and environmental mitigation measures are given to align with those currently being operated. An assessment of the environmental impacts have been given in the supporting statement. A planting plan, landscape specification and Reinstatement Plan and Reinstatement and Aftercare Management Plan Report have also been submitted. Therefore, the proposal broadly complies with Policy MIN9.

Policy MIN8 states that proposals for surface mineral extraction will only be permitted where there will be no significant adverse impact on the environment or the local community. Proposals will be assessed against other relevant LDP policies and must meet several criteria summarised below:

- 1) There must be no unacceptable environmental impacts including from disturbance, disruption, noise, dust, vibration, seismic activity, blasting, traffic, visual intrusion,

landscape impact, or pollution

- 2) There would be no significant loss of access to the countryside
- 3) The development would not be conspicuous when viewed from major transport routes
- 4) The development would not have a significant cumulative impact
- 5) Where there is a material risk of disturbance or environmental damage, this is outweighed by demonstrable and significant local or community benefits related to the proposal.
- 6) In the case of proposals for surface minerals extraction, the proposal is for a specific type, quality and quantity of minerals required to meet an established need, and which are not available from sites with existing permissions; or through the use of suitable secondary or recycled materials

The preamble to Policy MIN8 states in respect of noise, the acceptability of any proposed surface mineral workings will be assessed in accordance with the provisions of PAN 50. If considered necessary, conditions will be attached to any grant of planning permission in accordance with the advice contained in the Annex A of PAN 50.

Policy NH13 of the ELLDP also states that development proposals that would either result in or be subject to unacceptable levels of noise will not be supported.

It must also be noted that this application is for an extension to the existing quarry which has been operating under permission 98/00054/P since 2002. The application is partially retrospective and the work on the surface to remove the overburden on the area which does not currently benefit from consent has been carried out. At the time of the application, the extended area on the east side of the permitted quarry had been worked down to approximately 60 metres Above Ordnance Datum (AOD) from a surface level of approximately 70-80 metres AOD. Overall, the areas which are the subject of this application vary from approximately 49 to 74 AOD. The lowest part of the existing quarry as a whole is approximately 48 metres AOD, with permission in place to work down to 32 AOD.

The extraction area and working area of the quarry site is over 400 metres from the nearest residential property and from Monksmuir Caravan Park. The nearest residential property is Overhailes Lodge, which is located south of the A199 and the A1 roads, approximately 430 metres from the quarry boundary.

The quarry works for which permission is sought are comprised of blasting and extraction of stone for crushing and screening on site, the profiling of the quarry faces after extraction and the restoration of the worked quarry.

The existing office and other infrastructure such as the weighbridge and plant remain in their existing locations and are covered by the extant permission 98/00054/P. There are no proposals for buildings in the extended area. It is evident that the impact of the quarrying activities can, to a significant extent, be understood from the current activities on site.

The applicant has stated that mineral extraction, processing and transportation currently takes place Monday to Friday 07.00 – 1900 hours, Saturday 0700 – 1630 hours with only maintenance work taking place on Sundays. This complies with condition 3 of extant permission 98/00054/P except in that the condition restricts operating to 1600 (rather than 1630 hours) on Saturdays, unless otherwise agreed with the Planning Authority. It is unclear whether this additional half hour on Saturdays has been formally agreed but it is recommended that if granted, a condition should restrict the operations on site to those currently proposed by the applicant, which are considered reasonable.

Noise can be expected from a number of activities inherent to the mining and working of

rock on the site, including loading of trucks, drilling blasting, crushing and screening. Under the Control of Pollution Act 1974, local authorities have powers to control noise by serving notice and imposing orders, if noise is considered to be a statutory nuisance, however, it is obviously preferable to avoid the need for such measures from the outset. The extraction and operation works are now carried out within the quarry void, which acts to limit the noise to the surrounding area. The earth bunds around the site are also assumed to provide some mitigation. The Council's Environmental Health Manager raises no objection to the proposal and has confirmed that no complaints regarding noise from the site have been received to date.

The application has predicted that at some noise sensitive locations the noise levels could exceed 50 dB (LAeq 1hr) and they have suggested a condition limiting the noise to 55 dB (LAeq 1hr), which is in line with the recommendations of PAN 50 Annex A. However, the extant consent under which the majority of the quarry operates has a condition (condition 20) restricting noise from the quarry to 50 dB (LAeq 1hr). As it would be impossible to differentiate between the noise from the consented and proposed area of working, it is recommended that the condition attached to a permission for this proposal limits the noise to 50 dB (LAeq 1hr) in line with the extant permission. As the hours of operation on site would be restricted to during the daytime, nighttime noise would not need to have a separate noise limit specified.

A condition preventing the use of safety alarms on vehicles has been applied to the extant consent 98/00054/P and can be applied if the current application is granted. The proposed condition controlling the hours of operation will serve to mitigate any effects of noise from the site, including noise from traffic.

In terms of blasting, the preamble to Policy MIN8 states that blasting will only be permitted if the developer can satisfy the Planning Authority that it is necessary. If blasting is accepted as necessary, it states that ground vibration and air overpressure from such blasting operations will be controlled by strict adherence to good blasting practice as contained in PAN 50. Where blasting is proposed, the planning authority will consider the need to agree or specify planning conditions relating to ground vibration.

PAN 50 Annex D, acknowledges that blasting is required at rock quarries, which may not be the case at other surface mining operations. It also emphasises that blasting and flyrock is covered by the Quarry Regulations (1999) and the design of blasts should not be a matter of planning conditions. However, the resulting outcomes of the blasting through ground vibrations and air overpressure can be a matter for control through planning conditions.

Any blasting will result in some ground and airborne vibration. The applicant has stated that all blasts are monitored for ground vibration and air over pressure. It is noted that the blasting associated with surface works have already been undertaken and that there have been no known complaints regarding ground vibration or air overpressure due to the current operation of the quarry and the Council's Environmental Health Manager raises no objection to the proposal.

A condition is attached to the extant consent for the quarry restricting blasting, to between 0900 and 1600 hours Monday to Friday and 0900 and 1200 hours on Saturdays. This is a shorter time than for other operations of the site, such as transportation and screening of rock. This condition should also be applied if the current application is granted to protect the amenity of the surrounding area and properties.

In compliance with PAN 50 advice, a condition requiring a scheme of monitoring and reporting of ground vibration should be attached if permission is granted for this

application, and this would align with condition 26 of the extant permission.

In terms of air overpressure from blasting, if granted, a condition should be attached requiring the details of the methods to be employed to minimise air over pressure from blasting operations to be submitted and approved by the Planning Authority. This approach is in compliance with the advice in PAN 50 Annex D and condition 28 of the extant permission 98/00054/P.

Therefore, due to the location of the site and distance from residential properties noise and ground vibrations and air overpressure from blasting are anticipated to be acceptable and able to be controlled by condition.

Dust from quarrying operations is a potential issue as a result of extraction, processing and transportation and can have a detrimental impact on air quality, although hard rock extraction is likely to result in less problematic dust emissions than some other types of surface workings. PAN 50 Annex B notes that local authorities can serve an abatement notice where a statutory nuisance exists, however it is clearly preferable to plan minerals operations which are environmentally acceptable from the outset rather than to rely on retrospective action. PAN 50 Annex B notes that dust generating activities in worked out areas can significantly reduce potential dust impacts. As the works are now taking place within the void and the site is relatively isolated, dust is not anticipated to be a significant issue on this site. The Council's Environmental Health Manager has raised no objection or issues in this regard.

A summary of dust control measures which the applicant has stated are in place on site are summarised in table 7.4.1 of the Planning Statement. These include spraying of roads, sheeting lorries, water suppression, stockpile shape and location and the use of plant with built in dust suppression features all serve to mitigate the spread of dust. Although dust has not been a significant problem on site to date, conditions relating to dust control and monitoring, in compliance with PAN 50 Annex B, should be applied if the current application is granted permission. This will ensure the ongoing monitoring and mitigation on site and align with the existing consent for the rest of the quarry.

There can be significant traffic impacts from minerals workings. However, in this case the quarry is currently operating and the extension for which permission is sought is not proposed to result in any more tonnes being extracted per year or additional vehicle movements.

The Council's Road Services raise no objection to the proposal, noting that no increase in traffic is predicted, no pedestrian or cycle routes are affected and no new access is being created.

The quarry road does not pass any residential properties, with Monks Muir Caravan Park being the only sensitive receptor along the short section to the adopted road network. The applicant has stated that the overall quarry operations results in approximately 37 vehicle movements per day, in and out. All traffic is routed along the quarry road, south down Beanston Road, to the A199 then onto the A1. The access and route used by lorries would be the same as that currently operating and this can be secured by conditions, as has been done on permission 98/00054/P.

It is noted that the extant permission required the painting of road markings onto the junction of the quarry road and Beanston Mains Road and the erection of a sign directing lorries south, towards the A199. Although there is a 'Give Way' sign and evidence of road markings, the markings have been erased over time and the sign directing lorries does not remain on site. Therefore, if granted it is recommended that similar conditions to those on

the extant consent are attached to ensure that quarry traffic gives way and does not travel north along minor roads.

In terms of the visual impact, the removal of surface materials has been carried out and the continued vertical extraction of the rock will not significantly increase the visual impact from the surrounding area. Due to the topography of the area and the use of the 'key hole' design, the whole quarry site is currently fairly well screened from the wider area and not visible from the A199 or A1. The machinery and plant are not readily visible, being screening by the void walls and landscaping and are not subject of the areas within this application. Soil bunds have been formed along the east, west and southern boundaries of the quarry void. There are some distance views of the quarry from the north east, especially of the southern faces of the void. From the core path to the south the topography and bunds mean that there are limited views of the quarry, although glimpses of the southern faces and worked area are visible in for short sections. From areas north of the core path, accessible by walkers, the southern and eastern faces are clearly visible and the small bunds do not visually screen views to the site. Therefore, although it has a limited visual impact it will have a long permanent impact on the surrounding area.

Condition 32 of extant permission 98/0054/P requires a 10 metres tree and shrub planting around the site to be maintained for the lifetime of the site. The soil bunds on site have not been planted up and are not in the same position as those agreed in relation to permission 98/00045/P as the quarry has been extended. Therefore, this application gives the opportunity to secure planting on bunds around the site and their ongoing maintenance. This planting will mitigate the visual impact of the proposal and increase the biodiversity value of the site, particularly by providing links between existing areas of woodland. The applicant has submitted a comprehensive planting plan and landscape specification.

The Council's Policy and Projects Landscaping officer has no objection to the proposal. They do note that the existing bunding is narrow and steep with erosion evident and have expressed some concern that planting will struggle to establish. However, they have accepted the proposed planting scheme and plan submitted by the applicant. They recommend that the proposed planting should be undertaken within the 2019/2020 planting season and a condition can be attached requiring planting and maintenance is carried out as per the approved details in the first planting season following the decision date.

Subject to suitable conditions, the additional planting on the bunds and their ongoing maintenance will mitigate the visual impact of the extension areas and the existing quarry.

There is no requirement for the diversion of the right of way and core path to the south of the site and access to the surrounding countryside is not detrimentally effected. Subject to the proposed conditions and the relatively isolated nature of the site and the fact that proposal is for an extension to the operating quarry, there is not anticipated to be any significant impact on amenity or recreational use of the surrounding area.

There are no watercourses within the current site, the nearest named water course being over 900 metres from the site. The surface water on site is comprised of a settlement pond, to a settling system and then drains from the site. The applicant has states that the collected water is used for dust suppression for the haul road and the processing plant. The applicant has states that this is compliance with the Pollution prevention Permits issued and monitored by SEPA, which they operate under.

SEPA have not objected to the proposal. They have confirmed that the site is not at risk of coastal or fluvial flooding and that there are no watercourses nearby and surface water is dealt with on site.

SEPA note that full details of SuDS is not provided, although this does not raise significant concerns for them. It is noted that the operation would also be subject to the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

Policy MIN10 of ELLDP states that planning applications for the extraction of minerals must be accompanied by a fully costed and appropriately phased scheme for the restoration and/or after use of the site, including provision for its long term management and maintenance. Unless satisfied that a suitable restoration fund is available, the Council will seek to conclude an agreement with applicants under section 75 of the Town and Country Planning (Scotland) Act 1997, or other appropriate legislation, to provide a restoration guarantee or bond adequate to cover the cost of restoration in the event of failure of the operator to carry out the agreed works.

The current permission 98/00054/P was granted subject to a Section 75 legal agreement securing a bond for restoration. A restoration plan was also submitted and the bond was for £57,000 (indexed linked). The applicant has submitted a restoration and aftercare plan with the current applicant that reiterates the agreed restoration. Safety benches will be left to collect debris that falls from the surface in to the void which is still being worked. The slopes and benches will be left to restore naturally with no added soil or seeding. The floor of the quarry is proposed to be restored to agricultural use with soil laid and seeded. All plant and machinery is to be removed from the site. A pond is proposed to be formed on the lowest ground level.

The Council's biodiversity officer has confirmed that she have no concerns to raise over the approach in this application. She has advised the slopes of the quarry should be left to allow natural regeneration of the area which will benefit the biodiversity of the site and complement additional planned planting. Natural regeneration will allow for a mosaic of open spaces and diverse flora, which will benefit a number of invertebrate and bird species. The proposals do not result in an area closer to the nearby Pencraig Wood and the additional planting proposed would help to link up habitats.

Initial costings have been provided by the application for the restoration and aftercare of the whole site, including the area covered by the extant consent, totalling £140,049. However, this value has not been agreed in terms of a bond amount and has not been supported by an independent professional valuer report detailing the costs. The Council must ensure that if the operator is no longer able to implement the restoration and aftercare of the site, and if the quarry is not worked to the full extent permissions allow, then suitable restoration and aftercare can be secured by the Council. The expected cost to the Council should they need to commission the restoration and aftercare of the site is expected to be significantly higher.

To secure the monies required should it be needed it is recommended that the application is granted subject to a section 75 legal agreement to secure a bond for the restoration and aftercare of the site. The value of the financial guarantee shall be determined by a suitably qualified independent professional valuer as being sufficient to meet the costs of all outstanding restoration and aftercare obligations up until the completion of the quarry workings. The bond would also need to be subject to a review, it is recommended that this is done on a 3 yearly basis. The proposed condition requiring a progress report will help to inform this.

It is prudent that the bond covers the whole site, including the existing site area and the areas for which consent is proposed by this application. It is acknowledged that the Section 75 legal agreement for the extant permission remains in place. Once the new bond is agreed then a Section 75A application to discharge the legal agreement and release the

bond could be submitted by the applicant.

Taking into account all of the above, and subject to suitable conditions, the proposal complies with Policies PROP MIN4, DC1, MIN5, MIN 8, MIN9, MIN10, NH13 and T2 (General Traffic Impacts) of the ELLDP and national planning guidance.

RECOMMENDATION

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.

2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:

(i) a bond to secure the cost of all elements necessary to complete the site restoration and aftercare obligations

(ii) The bond to be maintained until the date of completion of all restoration and aftercare obligations.

(iii) The value of the financial guarantee shall be based on the costs required to cover the restoration of the quarry in the event that the Planning Authority has to request the bond and engage a contractor to fulfil the restoration and aftercare obligation proposed by the applicant.

(iv) The value of the financial guarantee shall be subject to a three yearly review carried out by a suitably qualified independent professional valuer and adjusted to take account of any variation in the cost of compliance with the then outstanding restoration and aftercare obligations. The periodic review of the value of the financial guarantee shall be informed by the submission of a written valuation report by a suitably qualified independent professional valuer prior to the three year review period, which shall be submitted for the written approval of the Planning Authority, and thereafter the value of the bond will be adjusted to reflect any revisions. The cost of the written valuation reports shall be met by the applicant.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the restoration bond the development is contrary to Policy MIN10 of the East Lothian Local Development Plan and PAN 64 Reclamation of Surface Mineral Workings.

1 This planning permission is granted for a temporary period until 14 October 2028 after which time all wining and working of rock shall cease

No later than 14 October 2029 all stored rock, buildings, plant and machinery, and hard surfaces shall have been removed from the land and the site restored in accordance with the restoration approved by condition 2 below.

Reason:

To ensure the working of the site is restricted to that period for which planning permission has been sought and to align with extant permissions for the adjoining quarry area, in the interests of good planning control and of the amenity of the area.

2 Within 3 months form the date of this planning permission a detailed scheme of restoration for the entire Markle Quarry site shall be submitted for the written approval to of the Planning Authority.

The restoration and after care scheme shall be consistent with the Reinstatement and Aftercare Management Plan for Wining and Working of Hard Rock as Extension to existing Quarry (November

2018) and the stamped approved Reinstatement Plan 9377D.

The restoration scheme shall include:

- a) Proposals for the regrading of the quarry faces and benches to make them safe,
- b) Details of the soiling, seeding and drainage of the lowest level of the quarry at the end of the working of the site
- c) Full details of the Surface Water Drainage System to be implemented as part of the restoration works
- d) Timescales for the works.
- e) Proposals for the future aftercare of the restored site.

Reason:

To ensure comprehensive and appropriate restoration of the site in the interests of the amenity of the area.

- 3 At least 6 months after the date of this planning permission and at 12 monthly intervals thereafter, the applicant shall submit a quarry progress plan to the planning authority covering the whole Markle Quarry site.

The quarry progress plan shall:

- a) Provide an up-to-date topographical survey of the site in an appropriate format and appropriate scale.
- b) Identify areas of the site that have been subject to mineral extraction in the previous 12 months and/or will be subject to mineral extraction in the forthcoming 12 months
- c) Identify areas of the site that have been subject to restoration in the previous 12 months and/or will be subject to restoration in the forthcoming 12 months.
- d) Identify areas where aftercare will have been completed, areas of the site that have been subject to aftercare and/or will be subject to aftercare in the forthcoming 12 months.
- e) Set out any necessary adjustment to the approved restoration plans to be approved under Condition 2 to take account site circumstances over the previous 12 months.

In addition to the regular submission of the quarry progress plans, a copy of the quarry progress plans shall be kept on site and made available for inspection by the planning authority during the approved working hours.

Reason: To enable monitor of progress and compliance by the planning authority, and to provide appropriate flexibility to ensure that ongoing extraction and site restoration works can take account of any changes in circumstances.

- 4 No blasting shall take place on site other than between the hours of:
- 0900 hours and 1600 hours Monday to Friday and
- 0900 and 1200 hours on Saturdays.

There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.

The above condition shall not apply in cases of emergency when it is necessary to carry out blasting operations in the interests of safety. The Planning Authority shall be notified in writing within 24 hours of the nature and circumstances of any such emergency event.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 5 Unless otherwise approved in advance and in writing by the Planning Authority, all quarrying and working operations within the site, including screening and transportation of materials, shall only take place between the hours of:
- 0700 and 1900 hours Monday to Friday and
- 0700 and 1630 hours on Saturdays.

No lorries or other heavy goods vehicles shall use the quarry access road except during these hours. At all other times, including Sundays, Public Holidays and National holidays, working shall be limited to the servicing, testing and maintenance of plant, works of an emergency nature and the carrying out of dust suppression.

Reason:

To ensure the site operations cause minimum disturbance to the environment and amenity of the area.

- 6 No materials shall be imported onto the site for any purpose without the prior, written approval of the Planning Authority.

Reason:

To limit vehicle movements and to prevent an intensification of operations within the site in the interests of the environment and amenity of the area.

- 7 The quarry access road from its junction with the Beanston Mains Road to the processing/plant area shall be retained in use and maintained to the satisfaction of the Planning Authority throughout the lifetime of the operational site.

Reason:

To ensure that the site is served by an acceptable standard of access road and in the interests of safeguarding the environment and amenity of the area.

- 8 Within 1 month from the date of granting of this planning permission the junction of the quarry access road with the Beanston Mains road shall have 'give way' road markings added to it in accordance with details to be submitted to and approved by the Planning Authority.

The give way road markings shall thereafter be retained for the lifetime of the operational quarry.

Reason:

To ensure the give way system on the private road is clearly marked in the interests of road safety.

- 9 A wheel washing facility on the quarry site shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud on its wheels in such a quantity that causes a nuisance or hazard on the roads in the locality.

Reason:

To prevent mud and other material being transferred onto the road network in the interests of road safety.

- 10 No lorries exiting onto Beanston Mains Road from the quarry access road shall exit in a northerly direction for the duration of the operations of the quarry, unless otherwise approved in writing by the Planning Authority.

Within 3 months of this planning decision, details of a sign instructing that all lorries leaving the junction must do so by turning left (in a southerly direction) shall be submitted to and approved in writing by the Planning Authority. Thereafter, the sign shall be installed as approved and maintained in place at the junction of the quarry access road with Beanston Mains Road

Reason:

To ensure that lorries from the quarry follow the proposed access route to the A199 in the interests of road safety.

- 11 All road haulage vehicles carrying aggregate materials under 75 mm shall be fully covered before leaving the quarry processing and plant area.

Reason:

To prevent nuisance from dust and small piece of aggregate entering the road network in the interests of the amenity of the area and road safety.

- 12 All vehicles moving or carrying stone within the quarry and processing and plant area within the site shall be provided with fan deflectors and with their exhausts directed upwards.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 13 All stone dumps shall be designed in such a manner as to be capable of being sprayed as required to prevent dust lift.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 14 No drilling rigs shall be operated within the site unless they have been fitted with suitable dust suppression or collection equipment, which shall be regularly monitored to ensure its effective operation in a manner to be agreed in advance with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 15 Within 28 days of the date of the granting of this planning permission, details of a scheme for the control and mitigation of dust and including the monitoring of dust from the quarry site, shall be submitted to and approved in writing by the Planning Authority.

The scheme shall incorporate the controls advocated in table 3 of Planning Advice Note 50 "Controlling the Environmental Effects of Surface Mineral Workings" Annex B "The Control of Dust at Surface Mineral Workings" and table 7.4.1 'Summary of Dust Control Measures' in the 'Planning Application and Supporting Statement' for Markle Mains Operational Rock Quarry, Haddington by AMS Associates Limited, November 2018.

Thereafter, the quarry operator shall implement the scheme of dust control, mitigation, monitoring as approved.

Reason:

To minimise the impact of the quarry operations on residential properties and on the local environment.

- 16 In the event of the quarry operator receiving a complaint concerning dust emission from the site the operator shall notify the Planning Authority within 24 hours of receipt of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall undertake an investigation, the details to be agreed in consultation with the Planning Authority, and initiate any necessary remedial measures within the site agreed with the Planning Authority.

Reason:

To minimise the impact of dust from the quarry operations on nearby residential properties and on the local environment.

- 17 All dust suppression plant and equipment shall be maintained in good working order at all times. If the dust suppression equipment is not available for use due to breakdown, vandalism, lack of water or any other reasons then the site operator shall stop any works that are likely at that time to cause dust lift and also take immediate action to bring in suppression equipment so that dust suppression measures can be reintroduced without delay.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 18 Audible vehicle reversing alarms shall not be used on vehicles on site, unless otherwise agreed in writing with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 19 Noise levels emanating from the quarry site shall not exceed 50 dBLAeq1hr when measured at any neighbouring noise sensitive property.

Reason:

To minimise the impact of quarry operations on nearby residential properties and on the local environment.

- 20 Within 28 days of the date of this planning permission, a scheme of noise monitoring shall be submitted to and approved in writing by, the Planning Authority.

The monitoring programme shall be carried out by methods and at positions agreed with the Planning Authority. Details of the monitoring equipment and programme shall include all parameters necessary to demonstrate compliance with Condition 19.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local

environment.

- 21 In the event of the quarry operator receiving a complaint concerning noise from the site, the operator shall notify the Planning Authority within 24 hours of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall undertake an investigation in consultation with the Planning Authority and initiate any necessary remedial measures within the site agreed with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 22 Blasting shall be undertaken such that all blasts over a 2 month period are at or below a measured Peak Particle Velocity (PPV) level of 6 mms⁻¹, with 95% of all blasts at or below a measured PPV level of 2.5 mms⁻¹. The measurement to be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 23 Within 28 days of the date of this permission, details of the methods to be employed to minimise air over pressure from blasting operations shall be submitted to and approved in writing by the Planning Authority.

All blasting operations shall thereafter take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the planning authority

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 24 In the event of the quarry operator receiving a complaint concerning ground vibration from the site the operator shall notify the Planning Authority within 24 hours of the receipt of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall immediately undertake an investigation in consultation with the Planning Authority and initiate any necessary remedial measures within the site agreed with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 25 Within a period of no later than 28 days of the date of this planning permission details of a ground vibration analysis and monitoring programme and a timetable for reporting in writing the results of the monitoring to the Planning Authority shall be submitted to and approved in writing by the Planning Authority.

The programme shall include details of the location of monitoring points and equipment to be used and parameters necessary to demonstrate compliance with Condition 22.

All blasting operations shall thereafter take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the planning authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment and to demonstrate compliance.

- 26 All planting as detailed and approved in the Planting Plan drawing number: 301 P09 and the Landscape Specification (revision P03) docketed to this permission, shall be carried out in the first planting season following the date of this decision notice.

Thereafter, all the planting, bunding and landscaping shall be maintained as detailed in the Planting Plan drawing number: 301 P09 and the Landscape Specification (revision P03), unless otherwise agreed in writing by the Planning authority.

Reason:

To ensure that the agreed landscaping and planting is implemented as agreed in the interests of visual and environmental amenity.

- 27 Fuel oils, and any other similar substances required for the purposes of site operations, proposed to be stored on site shall be contained in bunded or double skinned tanks. Pumps, valves and transfer hoses and similar equipment (when not in use) shall be located within the bunded area. Tanks should be locked when unattended.

Reason:

To prevent water pollution and in the interests of safeguarding the environment and amenity of the area.

- 28 All top soil and sub soil stripped from the site shall be stored for subsequent use in the restoration of the site in separate stock piles, unless otherwise agreed in writing with the Planning Authority. The location and form of which shall be agreed in advance by the Planning Authority and shall not exceed 6 metres in height.

Reason:

To safeguard the availability of strip soils for use in the restoration of the site.