



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 29 JUNE 2021
VIA A DIGITAL MEETING FACILITY**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor A Forrest
Councillor N Gilbert
Councillor S Kempson
Councillor K Mackie
Councillor C McGinn
Councillor K McLeod
Councillor J McMillan
Councillor J Williamson

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Legal
Ms E Taylor, Manager, Planning Delivery
Mr C Kiely, Planner
Mr R Yates, Transportation Planning Officer
Ms P Gray, Communications Adviser
Ms F Currie, Committees Officer

Clerk:

Ms A Smith

Apologies:

Councillor J Findlay
Councillor W Innes

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 1 JUNE 2021

The minutes of the meeting of the Planning Committee of 1 June 2021 were approved.

2. PLANNING APPLICATION NO. 20/01431/PM: SECTION 42 APPLICATION TO VARY CONDITION 1 OF PLANNING PERMISSION 18/01403/PM TO ALLOW THE WINING AND WORKING OF ROCK AT THE QUARRY TO CONTINUE TO 14 OCTOBER 2042 AT MARKLE MAINS QUARRY, EAST LINTON

A report was submitted in relation to Planning Application No. 20/01431/PM. Ciaran Kiely, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Kiely, and Keith Dingwall, Service Manager for Planning, responded to questions. Mr Kiely clarified that all the previous conditions had been accepted by the applicant; this proposal was for a variation of only condition 1, and all the other conditions would continue to apply. On timescales for tree planting and ensuring that this would be done, he referred to the landscaping condition, which gave the Council control, adding that the applicant had confirmed that the first planting would take place in November. Responding to further points, specifically about enforcement, Mr Dingwall reiterated that there was a relevant condition and enforceable action could be taken if required. Regarding moving the crusher and grading machinery to the low base of the quarry, Mr Dingwall said that Environmental Health were satisfied with the existing conditions and had not suggested any additional ones. Regarding tree planting, Councillor Kempson asked if the Committee could request wool tree guards rather than plastic ones in line with the Council's Climate Change Strategy (CCS). Mr Dingwall indicated that the Committee would not normally be involved in this level of detail but this request could be suggested to the applicant. Regarding the CCS, Mr Dingwall confirmed that this was taken into account but stressed that each planning application had to be measured on its individual merits, balancing all relevant considerations.

Local Member Councillor Kempson praised the professional operation of this quarry. She noted that materials from the quarry were used in local housing developments, thereby reducing road miles for transportation of materials. She would be supporting the application but would like an assurance that the tree planting would be going ahead as outlined.

Councillor McLeod expressed support for this application. It was a very well managed quarry. He agreed with Councillor Kempson's comments about tree planting, and pointed out that he had attended the site visit and the applicant had confirmed that the tree planting would be carried out in November.

Councillor McGinn agreed with his colleagues. He was also impressed with the quarry's operation. He stressed the importance of adherence to and enforcement of conditions attached to any grant of planning permission; the Committee had to insist that these were pursued rigorously. He would be supporting the application.

Councillor McMillan highlighted the contribution of this long standing business to the East Lothian economy. Going forward however he would like to see some form of social/community involvement from the applicant, to review aftercare obligations and work with the Council and the local community. He would be supporting the application.

Councillor Forrest also agreed with comments expressed. He would be supporting the application. He also stressed that enforcement of conditions needed to be strong; the tree planting should have been done in 2018 and to date had still not been done.

The Convener, also a local member, agreed with other comments made; this was a well operated quarry and the Council had used materials from this site. Scottish Planning Policy required the Council to safeguard its mineral resources. He did however have some concerns. Lack of adherence to conditions was a key issue, across all applications/developments. The public were increasingly concerned about lack of enforcement; this had to be addressed. With regard to tree planting, if this had been done to the original timescale then there would have been better protection for the local community. He noted the response from Environmental Health but felt the crusher and grading machinery should be moved to the floor of the quarry. Fostering good relations with the community was important; he gave examples of two good local liaison groups remarking that setting up such a group would be beneficial. Referring to restoration, he stressed the importance of this being carefully done, in conjunction with the Council, applicant and the local community. He queried adding extra conditions regarding setting up a local liaison group and also having a plan for restoration at the end of the life of the quarry.

Mr Dingwall agreed there were successful liaison groups operating in East Lothian. He advised however that this was generally not a requirement of a planning condition but said that officers could suggest this to the applicant. As regards restoration, he drew attention to condition no. 2; there was an Aftercare Management Plan and once this was received he could share it with the Convener. Both of these suggestions were welcomed. In relation to tree planting, Mr Dingwall referred to condition 26 and to the commitment given by the applicant. Councillor McMillan, referring to that condition, asked if wool tree guards, as suggested by his colleague, could be specified in the Planting Plan. Mr Dingwall advised that this may be possible and outlined potential additional wording to this effect to this condition.

The Convener moved to the vote on the report recommendation (to grant consent) incorporating the amended wording to condition 26 as outlined – the vote was taken by roll call:

For: 10
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission 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.

(v) The submission to the Council, determination and the submission for registration of the decision notice that seeks to include the planning application reference: 20/01431/PM in the definition of planning permission in the existing S75 agreement.

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 2042 after which time all winning and working of rock shall cease.

No later than 14 October 2043 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 from 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 Winning 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.

Thereafter the restoration and after care scheme shall be implemented and the works carried out in full in accordance with the approved time scale of the restoration and aftercare scheme unless otherwise agreed by the Planning Authority.

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 riggs 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 us due to breakdown, vandalism, lack of water or any other reasons then the site operator shall to 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.

Notwithstanding that shown in the drawings docketed to this planning permission, all new trees shall be protected by either wool trees guards or by timber post and wire mesh rabbit proof fencing, in accordance with details to be submitted to and approved in advance by the Planning Authority.

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.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee