

pattern is repeated with established woodland, farmland, and the nearest residential property of Wester Newforms some 160 metres distant to the north west.

Policy / Objections-Representations / Consultations - See Appendix

History

- 03/02231/SCO** - EIA scoping request for extension to quarry operation, issued 14 November 2003.
- 02/00124/ENF** - Pursuit of enforcement action against unauthorised works at the quarry following sale by the Council in 1997. Action in abeyance whilst application under consideration.

Advertisement

Advertised under Environmental Assessment (Scotland) Regulations 1999.

Observations

The main determining issues are:

Impact on the environment (S/ENV1, S/ENV3, S/IMP1 and L/IMP2)

This is not a new development as such, but rather an established use on the site which is subject to a proposal for extension works. In terms of policy S/ENV1 this is a well screened quarry which benefits from the screening afforded by existing and established woodland. Its impact is therefore limited in visual terms. The greatest impact on the environment is potentially from pollution, vehicular movements, and noise - all of which have been addressed and are the subject of recommended planning conditions.

The proposal does not conflict with policy S/ENV3 of the development plan, as it does not lie within a scenic designation.

Policies S/IMP1 and L/IMP1 seek to ensure that new developments are compatible with their environs. Given the screening already presently around the site and proposed bunding to limit noise impact, its impact will be limited.

Minerals exploitation (S/ED5, L/ED11 and L/IMP5)

Policy S/ED5 of the development plan presumes against development which may prejudice workable mineral reserves. There is no conflict with this policy, and the land is neither prime quality farm land, nor a preferred area for forestry planting. In terms of policy L/ED11, the site is not within any designated area of scenic, environmental or scientific importance, and there is thus no conflict with this policy.

Policy L/IMP5 requires the submission of an Environmental Impact Assessment for major proposals likely to have an adverse impact upon the environment. This has been provided, and has proven satisfactory to consultees.

Drainage and Pollution (L/ENV22, S/ENV8 and L/ENV24)

Policies S/ENV8 and L/ENV24 are targeted specifically at the use of Sustainable Urban Drainage Systems (SUDs) to control surface water run-off from sites. The site contains and re-uses any surface water within the working area, and none is discharged to any watercourse. Other surface water not within the working area is diverted around the site by bunding, and into existing natural drainage channels. SEPA has made no comment in respect of this.

SEPA has made comment in respect of pollution control, and refers directly to paragraphs contained within the Environmental Statement. A condition is recommended to ensure compliance with the measures detailed. There will therefore be no conflict with policy L/ENV24.

Access (L/T4)

As noted elsewhere in this report, it is proposed to continue use of the existing road access to the site, and there have been no objections to this from either the Scottish Executive or the Transportation Manager (although conditions are recommended). There is thus no conflict with this policy.

Recommendation

Approval.

Author/Contact Officer: Jim Martin
Principal Planning Officer

Ext: 01343 563399

Signature (*Alan Short, Development Control Manager*)

R A STEWART
DIRECTOR OF ENVIRONMENTAL SERVICES

APPENDIX

POLICY

Moray Structure Plan and/or Moray Local Plan 2000

Policy S/ED5: Safeguarding Indigenous Resources

There will be a presumption against development which is likely to sterilise significant workable reserves of:-

- i) mineral resources
- ii) prime quality farm land and
- iii) preferred areas for forestry planting

all as defined in the policies for the control of development of mineral resources, and for the development on agricultural and forestry land, in the Local Plan.

Policy L/ED11: Mineral Extraction

A four-tier constraint policy will be applied to the consideration of planning applications for mineral extraction. The designations included within each Tier are outlined below:

Tier 4: Preferred Areas

Applications for mineral extraction in preferred areas will be considered on their merits, with environmental implications forming a significant part of their overall assessment. Extensions to mineral working will generally be considered under this category unless there are significant environmental constraints.

The assessment of applications will take into account the location of existing mineral operations in relation to built-up areas and watercourses.

All applications for mineral extraction will require to be submitted in detail and include proposals for phased land restoration, after-care and after-use. Section 75 Agreements and Royalty Bonds may be used in certain instances.

Where a proposal is considered to create a significant environmental impact in terms of its nature, size or location the applicant will be required to submit an Environmental Assessment as part of the planning application.

Proposals for mining operations which involve blasting, and are located within a distance of 10km of the operational land boundary of RAF Lossiemouth and RAF Kinloss, will require formal consultation with the respective RAF base as part of the consideration of the planning application.

General development proposals in Tier 4 areas will, where possible, be redirected to alternative locations in order to safeguard future access to workable mineral reserves.

Policy S/ENV1: Approach to the Environment

The approach to Environmental Policy is to conserve and enhance Moray's environmental assets, and require that new development is sensitive to siting, location, and design considerations, whether in town or country.

Policy S/ENV3: Scenic Designations

Areas of scenic quality will be protected from inappropriate development and, where appropriate, enhanced according to their importance as national or local designations.

Policy L/ENV22: Pollution Conditions

Where there is a risk of pollution from a proposed development, which is the subject of a planning application, the council will apply conditions to a consent, or enter into an agreement with a developer, to ensure a specified reduction or removal of the pollution element and will require subsequent independent monitoring of pollution levels.

Policy S/ENV8: Sustainable Urban Drainage

The Council will promote the policy of Sustainable Urban Drainage (SUD), in consultation with SEPA and NOSWA by the incorporation of Sustainable Urban Drainage Systems (SUDs) acceptable to the Council and the regulating authorities.

Policy L/ENV24: Surface Water Drainage: Sustainable Urban Drainage System

In consultation with SEPA, NOSWA and the Council's Road Service, Sustainable Urban Drainage Systems (SUDs) will be sought on all development sites as identified in the settlement plans and on all 'windfall' sites (i.e. redevelopments and undesignated sites) accommodating in excess of 10 residential units or measuring in excess of 2,000 sq. m of non-residential development land.

Settlement statements and development briefs shall identify sites where an explicit surface water management plan requires to be submitted and approved as part of the planning application.

Where SUDs are proposed applicants must specify provisions for long term maintenance to the satisfaction of the Council and the regulatory authorities.

Policy L/T4: Provision of Road Access

The Council will require that a suitable and safe access from the public highway is provided.

(i) Design of Road Access

Since the formation of a new access by unmade track or surfaced private road (particularly in rural areas) can often result in a scar on the landscape (e.g. if it dissects an agricultural field, involves extensive tree felling or traverses a hillside), then unless a proposed new access is carefully designed within the landscape the proposal will be unacceptable.

(ii) Road Access Standards

Where access to the site is by unmade/private track the Council may require it to be surfaced to a specified standard. If the access is of significant length and may serve more than one development site, some widening and the provision of passing places may additionally be imposed as a condition of any consent.

Policy L/IMP5: Environmental Impact Assessment

The Council will require an Environmental Impact Assessment to be prepared for developments proposed within or adjacent to national and international designations of natural heritage (see L/ENV1), and for other major proposals identified by the Regulations (or by the revised Directive) which are likely to adversely affect the environment.

Policy S/IMP1: Development Siting, Layout and Design

New development will require to be sensitively sited, designed and serviced. It should meet the following criteria:-

- i) its, scale, density and character is appropriate to the surrounding area;
- ii) it can be successfully integrated into the surrounding landscape;
- iii) it meets wider transportation and local site energy efficiency objectives;
- iv) adequate infrastructure is available or could be made available in conjunction with the development;
- v) consideration is given to the provision of infrastructure which meets sustainable urban drainage principles using appropriate Sustainable Urban Drainage Systems;
- vi) adequate social and community facilities are available or could be provided in conjunction with the development;
- vii) it does not adversely affect nature, urban or historic conservation resources;
- viii) it seeks to manage flood related issues;
- ix) pollution is avoided, including pollution of ground water.

Policy L/IMP2: Development in Rural Areas

The Council will seek to ensure that all proposals for development in the rural area (i.e. all areas in Moray outwith town settlement and rural community boundaries) are compatible in terms of character, amenity and design, integrate sensitively into the environment and, where possible, located within easy walking range of public transport (this latter requirement will particularly apply to large scale developments). The Council will, therefore, pay special regard to matters such as traffic and landscape impact, accessibility, loss of productive or biodiverse land, siting, scale, colour and energy conservation. The Council will consult relevant organisations such as Scottish Natural Heritage, the Scottish Environmental Protection Agency etc. on significant development proposals and 'The Moray Landscape Character Assessment' report as prepared by

Scottish Natural Heritage will be utilised to inform decisions on siting and locating within the landscape.

OBJECTIONS-REPRESENTATIONS

Letter received from:

- Nicholas Argyris, Auchindathin, Templestones, Forres, IV36 2RH

The one letter of representation received is in the form of a petition, and has 11 no. (eleven) names as signatories. The main points of the letter are:

- **Scope of the EIA**

It is noted that the EIA compares future works with current operations, and that the existing works have been historically established. It is suggested that permission should be sought for the present works, and that the EIA should also cover this.

Agent's response: If necessary, the applicant can reasonably apply for a Certificate of Lawful use under Section 150 of the Town and Country Planning (Scotland) Act 1997.

Comment: This application is for, and must be considered in terms of the present proposals. The scope of the EIA applies therefore only to current proposals. Although the point with regard to the current operation is noted, given the history of the present works it is not proposed to pursue separate EIA and application for this element.

- **Duration of permit**

The representation objects to the request for a 40 year permit, suggesting instead a shorter period of (for example) 20 years, or a mid term revision clause. Possible improvements in noise abatements are cited as a reason.

Agent's response: The Town and Country Planning (Scotland) Act 1997 makes provision for periodic review of minerals consents every 15 years.

Comment: Assuming that the application is granted, the consent would be subject to monitoring on a regular basis to ensure compliance with any conditions of consent. Although specific conditions may not be amended without exceptional reason and resource to revocation once any consent has been granted, this Council may liaise with parties concerned to address such issues as noise abatement. For the present, it is reasonable, when appropriate to apply current standards to ensure minimal impact on the amenity of neighbouring residential properties.

- **Production level**

Concern is expressed with regard to the annual tonnage to be worked at the quarry, and that this may exceed the current 110,000 tonnes per annum. It is suggested that this should be established as an annual maximum, with any necessary figure in excess of this being subject to agreement with the Council as Planning Authority.

Agent's response: The Environmental Statement refers to the figure of 110, 000 tonnes as an annual average taken over any given year, and no implication should be taken that despatch would exceed this. This figure does not include any surplus from the average 5,000 tonnes per annum of inert materials brought into the site for recycling.

Comment: It is quite clear that the tonnage removed from the site in any given year is unlikely to exceed 110,000 tonnes. It would therefore be reasonable to apply conditions to reflect this, and to require prior agreement with this Council in the event that this figure should be exceeded.

- **Blasting**

It is requested that the force of blasts be the subject of monitoring on each occasion at nearby residential properties.

Agent's response: It is considered that section 11.7 of the Environmental Statement adequately addresses this issue.

Comment: The Environmental Health Service has identified conditions and information appropriate to grant of any consent.

- **Traffic**

It is noted that access to the quarry is either through Forres, or along a narrow road which is part single track. Traffic volume from the quarry is dependant on production levels, and any increase may exacerbate problems of damage to walls, verges and inconvenience to other road users.

Agent's response: The applicants' proposal to limit annual production to 110,000 tonnes has been made following consultation with the Councils' Road Section. It is suggested that any increase will require further assessment.

Comment: The applicant's agent accepts that damage has occurred to road verges as a result of quarry traffic, and the applicant's have undertaken action to resolve this. It is suggested that this be attached as a condition to any consent.

- **Weekend and night-time working**

It is requested that any requirement for exceptional working hours at the quarry be the subject of prior written consent with this Council, and that at least two days' notice of this be given to neighbouring proprietors.

Agent's response: The applicants are quite willing to provide details in advance of exceptional working hours, and to extend this facility to neighbours.

Comment: It would be appropriate to make it a condition of any consent that prior written agreement be concluded with the Council as Planning Authority prior to any exceptional working hours. It is accepted that occasional emergencies may occur when material is required at very short notice, but this may be regularised with retrospective confirmation.

- **Noise**

Concern is expressed about the methods and locations for monitoring of noise, and it is suggested that measures may be taken (e.g. through portable barriers) to further reduce noise.

Agent's response: The quarry is a long term operation for which current workings are considered representative. Noise Assessment has been carried out at properties closest to the quarry, and it is argued that monitoring from more distant properties is unjustified. The noise levels cited in the Environmental Statement are a 'worst case' scenario, and nevertheless fall within the levels cited in PAN 50 guidance. All noise monitoring shall be undertaken with calibrated equipment, and in a professional and impartial manner.

Comment: PAN50 (Annex A) recognises that in exceptionally quiet rural areas where the background noise level is below 35dbA, a condition limiting noise to 10db in excess of background is likely to be unduly restrictive. This guidance further states that daytime limits at noise sensitive properties should normally be 55db Laeq, 1hr.

- A lower daytime limit can be more appropriate in quieter rural areas and in recognition of this a limit of 50db Laeq, 1hr was accepted by the Environmental Health Section. Furthermore, submission of the Noise Impact Assessment by the agents representative demonstrated that the noise conditions can be met.

CONSULTATIONS

Transportation Manager, Direct Services - No adverse comments in respect of the proposal, although a condition is sought for repair of road verges where damage by vehicles associated with the quarry.

Defence Estates - No objections.

Scottish Executive Environment Group - The developers should ensure that there is no impact on the water environment at any stage, and reference is made to guidance in line with the EC Water Framework Directive.

Environmental Health Manager, Development Services - No objection to the scheme, but conditions are recommended in respect of noise emissions and hours of operation.

Scottish Natural Heritage - No objections to the scheme, although notes given in respect of planting, badger setts, and breeding birds.

SEPA - No objections to the scheme subject to clarification on infilling with inert materials, and conditions in respect of noise, pollution and restoration of the site. The agents confirm that there will be no infilling with inert material - only surface material stripped from the site.

Historic Scotland - No objections.

Scottish Executive Enterprise, Transport and Lifelong Learning Department, Trunk Roads - No objections.

Legal and Committee Services - No comments. The applicants confirm that no established Rights of Way exist at the site.

Environmental Protection Manager, Direct Services - No objections

Regional Archaeologist - No objections.