

**21/00115/APP**  
**12th February 2021**

**Section 42 Planning Application for a variation of  
Condition 1 of Planning Permission ref 10/01801/MIN to  
extend duration of operations until 22nd September 2026  
at Cairdshill Quarry Keith Moray AB55 5PA  
for Tarmac Caledonian Ltd**

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**Comments:**

- Application is a “major” development as defined under the Hierarchy Regulations 2009 because the site area exceeds 2 ha.
- Advertised under Schedule 3 of the Development Management Regulations 2013 and for neighbour notification purposes.
- No representations received.

**Procedure:**

- None.

**Recommendation**      **Grant Planning Permission - subject to the following:-**

**Conditions/Reasons**

1. The approval hereby granted is only for a limited period expiring on 22 September 2026.

**Reason:** In order that the Council, as Planning Authority may retain control over the use of the site and to ensure that further consideration can be given to the operation, effects and impact of the use approved herewith on the amenity and character of the area.

2. On expiry of the consent or completion of extraction, whichever is the sooner, all buildings, plant and machinery and other materials brought onto the site during extraction shall be removed and the site shall be restored in accordance with the approved plans within a period of 6 months to the satisfaction of the Council, as Planning Authority unless otherwise agreed.

**Reason:** In the interests of visual amenity and to ensure the proper reinstatement of the site.

3. Unless otherwise agreed with the Council, as Planning Authority an Aftercare Scheme, showing such steps as may be necessary to bring the site to the

standard required for sustaining the restoration proposals (as detailed in accompanying drawing number C161/21 and the Landscape and Visual Report prepared by Pleydell Smithyman Ltd), shall be submitted for the approval of the Council, as Planning Authority not later than 1 year prior to the date on which it is expected that Condition 2 will be complied with and the Aftercare Scheme shall show:

- a) The steps to be taken and the period during which they are to be taken; and,
- b) That the aftercare of the site shall be carried out in accordance with the Aftercare Scheme.

**Reason:** In the interests of visual amenity and to ensure the proper reinstatement of the site.

- 4. Unless otherwise agreed with the Council, as Planning Authority:
  - a) The mobile plant and stockpiles shall be maintained in their present positions at the lowest level available in the view of the Council, as Planning Authority.
  - b) Stockpiles shall be no higher than 8 metres.

**Reason:** In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

- 5. Unless otherwise agreed with the Council, as Planning Authority the annual rate of extraction shall not exceed 75,000 tonnes.

**Reason:** In order to retain control over the working of the site and its impact on the area.

- 6. Unless otherwise agreed with the Council, as Planning Authority all vehicles leaving the site shall turn right (east) towards the A96.

**Reason:** In the interests of road safety.

- 7. If in the view of the Council, as Planning Authority unacceptable amounts of material are carried onto the public road from the site then;
  - a) plans shall be submitted for the approval of the Council, as Planning Authority showing details of vehicle wheel washing facilities; and,
  - b) any wheel washing facilities approved shall be put in place, to the satisfaction of the Council, as Planning Authority, no later than 2 months from the date of their approval.

**Reason:** To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

- 8. That, notwithstanding the provisions of Paragraphs 1a and 1b of Class 55 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, a planning application will be required for the installation of any further buildings (toilets etc.) not specified in this or any previous planning approvals and permitted development rights under this Class are hereby withdrawn.

**Reason:** In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

9. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) any proposal to install any additional plant or machinery at the site shall require planning consent.

**Reason:** In the interests of amenity and effective planning control and in order to control any processing of material on site.

10. Unless otherwise agreed by the Council, as Planning Authority, the development works shall be implemented in accordance with the blasting regime set out in document entitled "Cairdshill Quarry, Environmental Statement for Drilling and Blasting Operations dated 13 December 2010", prepared by Bam Ritchies, which was previously submitted for approval on 14 June 2011.

**Reason:** In order to control these effects of the working on the amenity of the area.

11. Ground vibration as a result of blasting operations to form borrow pits at the site shall not exceed a peak particle velocity of 10mms<sup>-1</sup> in 95% of all blasts and no individual blast shall exceed a peak particle velocity of 12mms<sup>-1</sup> as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

**Reason:** In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

12. Unless otherwise agreed by the Council, as Planning Authority, the development works shall be implemented in accordance with the dust regime set out in document entitled "Cairdshill Quarry, Environmental Statement for Drilling and Blasting Operations dated 13 December 2010", prepared by Bam Ritchies, which was previously submitted for approval on 14 June 2011.

**Reason:** In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

13. Unless otherwise agreed with the Council, as Planning Authority, noise emissions from the site shall not exceed the background level by more than 5 dBA measured at the nearest noise sensitive dwelling.

**Reason:** In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

14. Unless otherwise agreed with the Council, as Planning Authority there shall be no working at the site outwith the hours of 7 am to 6 pm on Mondays to Fridays and 7 am to 12.30 pm on Saturdays. Any occasional working which may be required outwith these hours shall be agreed, in advance, with the Council, as Planning Authority.

**Reason:** In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

15. Within 3 months of the date of this permission, a Site Specific Management Plan shall be submitted to and approved in writing by the Council, as Planning Authority. The Plan shall cover all site specific environmental sensitivities, pollution prevention and mitigation measures identified to avoid or minimise environmental effects including (but not limited to) groundwater, surface water, waste management, noise and dust impacts associated with the development.

Thereafter, the development shall be implemented in accordance with the approved Plan.

**Reason:** In order to minimise the impacts of the mineral extraction works on the environment and ensure up-to-date operating and environmental standards on site.

**Reason(s) for Decision**

The Council's reason(s) for making this decision are:-

The proposed variation to condition 1 of planning permission 10/01801/MIN is acceptable, complies with the relevant provisions of the Moray Local Development Plan 2020, and there are no material considerations that indicate otherwise.

**List of Informatives:**

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Regulatory advice for the applicant – Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulations team in your local SEPA office at: <https://www.sepa.org.uk/contact/>

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
C161-53-2	Location plan
C161-53-1	Site location plan
C151-00054	Site layout and location of stockpiles



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**

**21/00115/APP**

**Site Address:**

Cairdshill Quarry

Keith

**Applicant Name:**

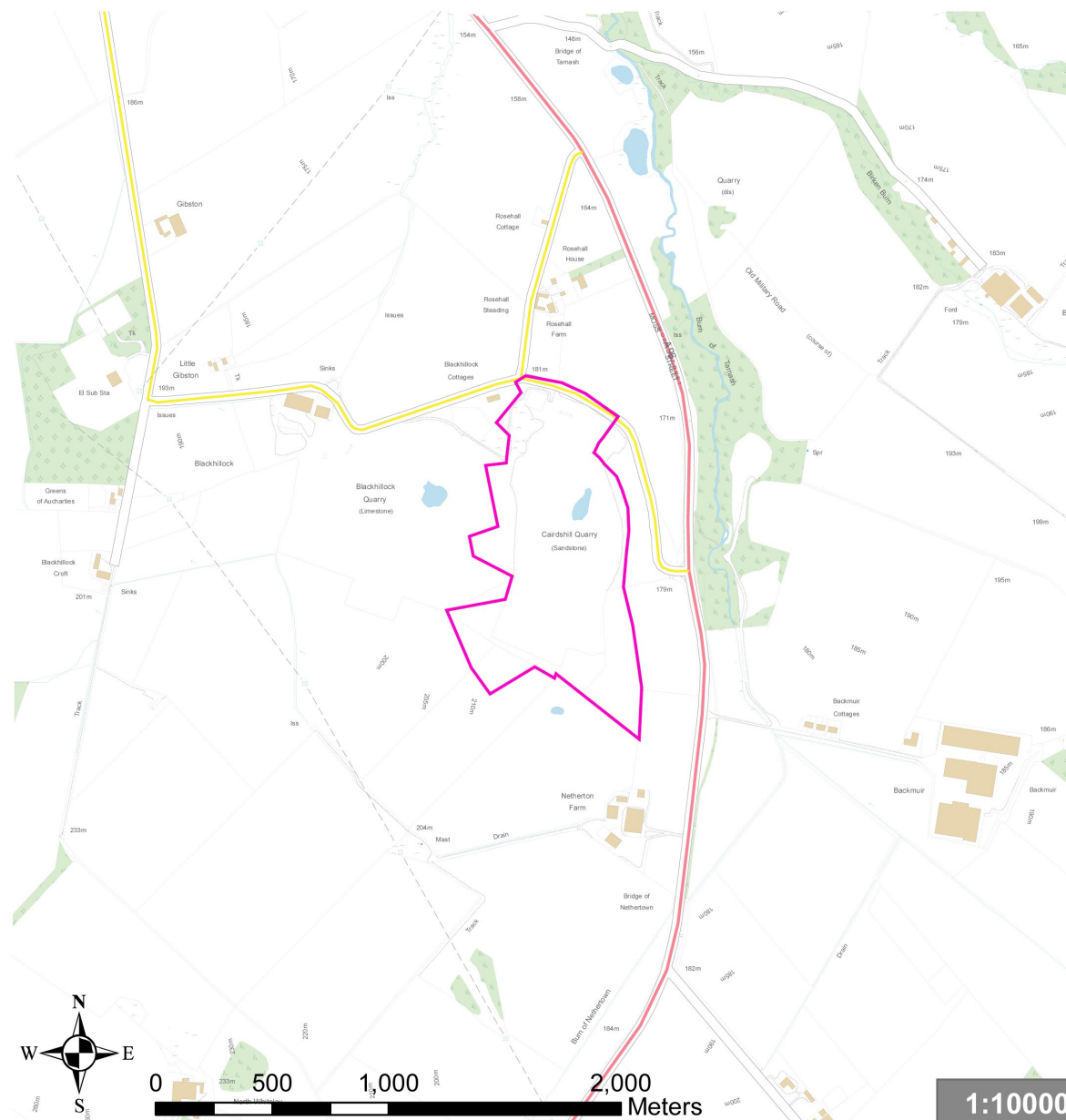
Tarmac Caledonian Ltd

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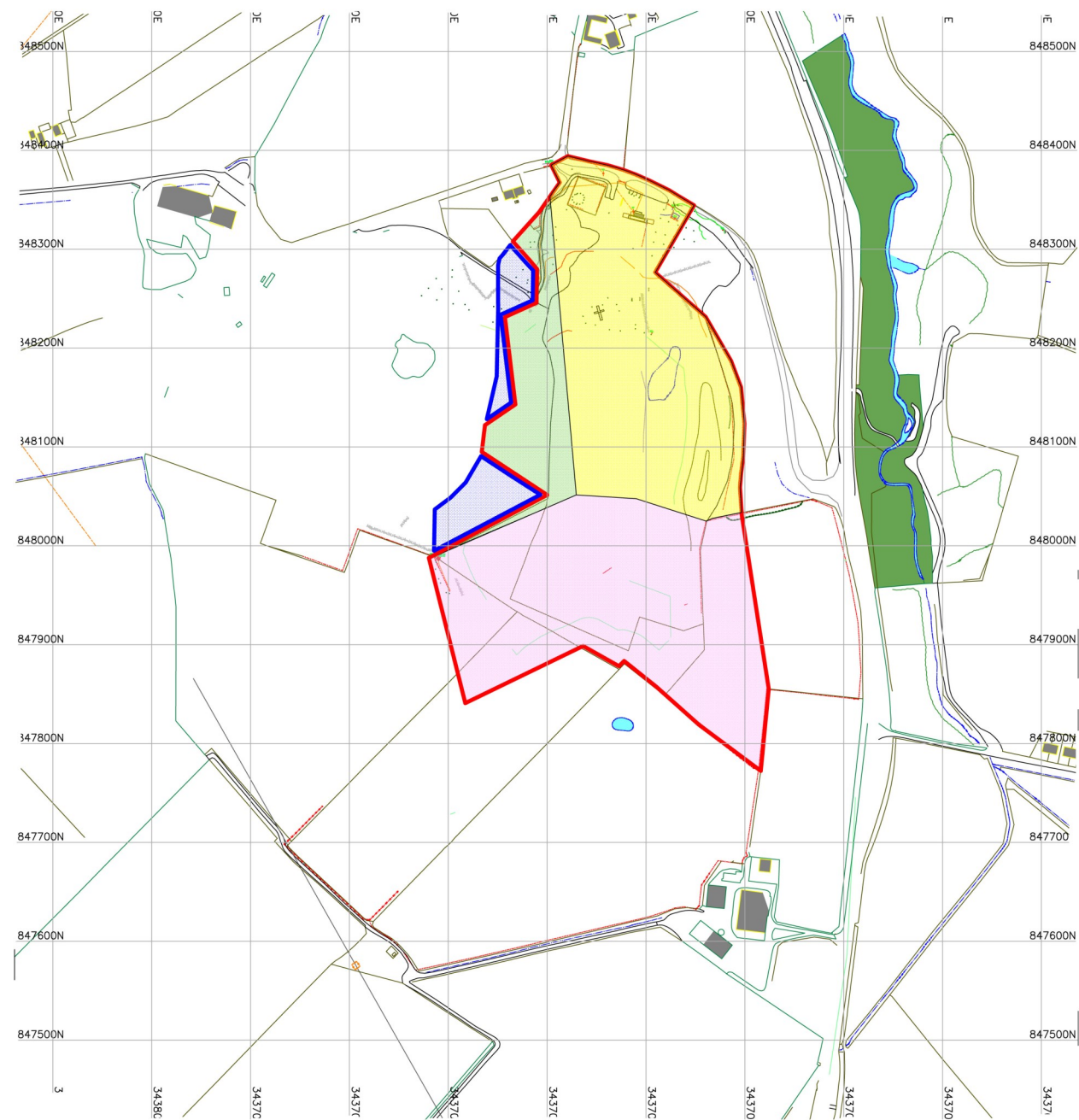
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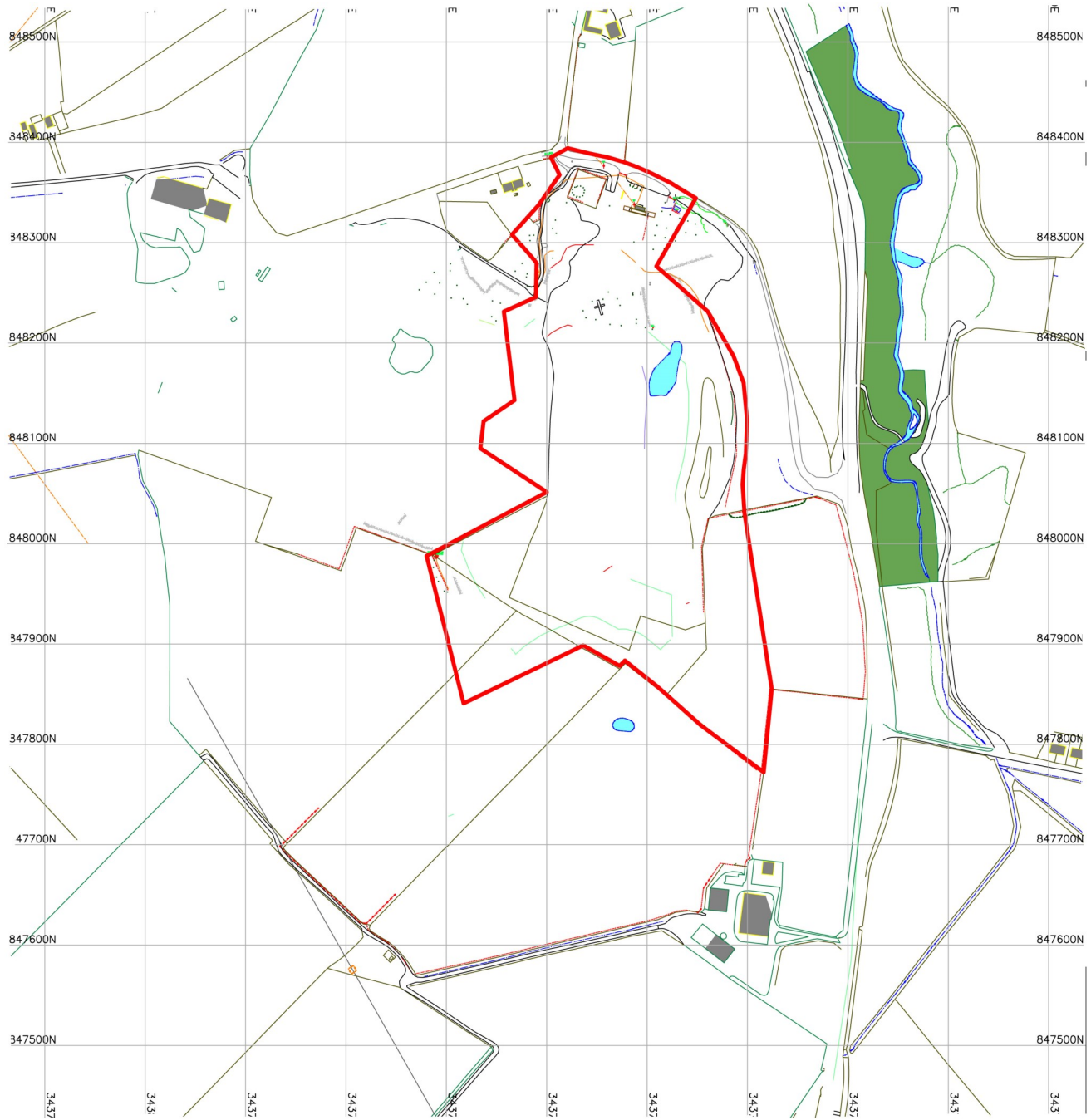
## Location Plan



Site Location

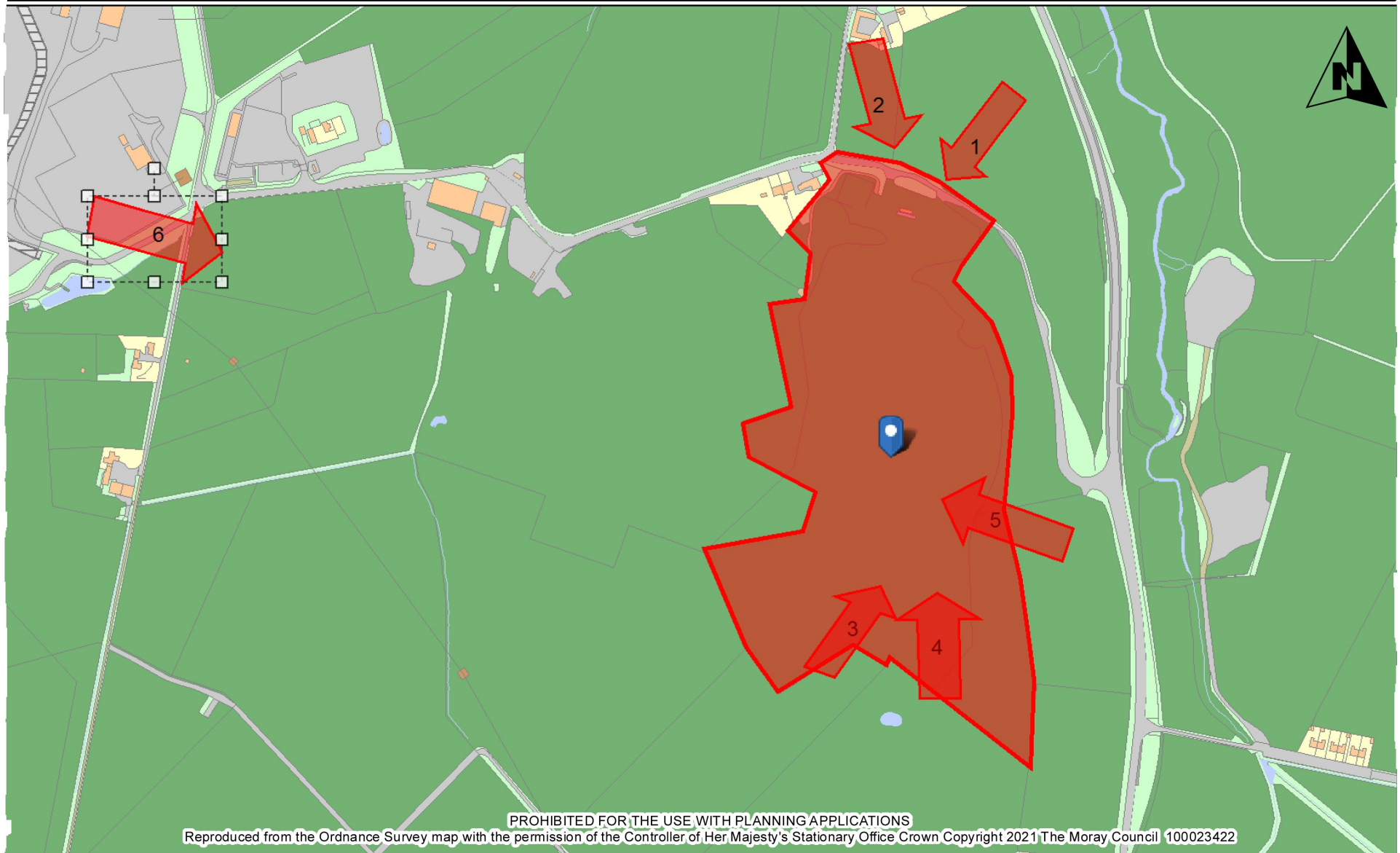


Site plan





## 21/00115/APP - Photograph positions



**Map Description:** Arrows point in direction photo was taken

Scale: 1:5,000 @ A4





**Phot 1—Site entry**





**Photo 2—Site exit**





**Photo 3 – looking northeast towards eastern flank of quarry (part restored)**





**Photo 4 - looking north towards mouth of quarry and office/weigh bridge**





**Photo 5 – looking west towards inner quarry and ridge**





**Photo 6 - looking east towards quarry with Blackhillock Quarry in foreground**





## PLANNING APPLICATION: 21/00115/APP

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

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### **THE PROPOSAL**

- Application under Section 42 of the Town and Country Planning Act (Scotland) 1997 (as amended) to vary condition 1 of Planning Permission 10/01801/MIN to extend the duration of operations at Cairdshill Quarry, Keith for a further 5 years until September 2026.
- Planning approval 10/01081/MIN dated 9 February 2011 granted consent for a minor extension to the quarry area, together with continued extraction and restoration works. Condition 1 of this consent limits the permission for a 10 year period which expired on 1 February 2021.
- The submitted application would allow for remaining reserves in the quarry to be extracted and would tie in with the expiry date of an associated consent 16/00402/MIN granted in 2016 (extension to the quarry to work a ridge area between Cairdshill and the adjacent Blackhillock Quarry to the west).
- The quarry is worked mainly for decorative products used in the construction industry. Extraction would continue at an annual average output of less than 50,000 tonnes. The applicant has confirmed that there would be no change to operational procedures and development and restoration will proceed as currently permitted.
- The site comprises processing and stockpiling areas, areas of overburden/waste sand/topsoil, offices, weighbridge, a parking area, two access(s) and settlement pond. The mobile plant being operated include loading shovels, excavator, mobile screens and a crusher.
- A Concept Restoration Plan approved as part of the planning consent 10/01801/MIN, and updated with associated consent 16/00402/MIN sets out a scheme of restoration works for the site once extraction has ceased; this includes use of quarry restoration techniques to integrate benches/slopes including infilling with overburden to create restoration batter slopes, native tree and shrub planting, species rich grass and wet scrapes/damp areas of habitat creation.
- The application is supported by a Planning Statement and background information which accompanied the previously approvals referred to above.

### **THE SITE**

- The site is an established quarry of 12.29 ha, located within open countryside 2.5km to the southeast of Keith. It is accessed via minor public road U43H which joins onto the A96 trunk road 330m to the southeast.
- The site is bounded by farmland to the north and south, an area of woodland to the east and Blackhillock Quarry to the west.
- It is not subject to any landscape character or environmental designations as identified in the Moray Local Development Plan 2020.

## **HISTORY**

29 March 2021 - Screening Opinion adopted for this current application where, in taking account of the characteristics and location of the development and characteristics of the potential impact associated with varying the condition to enable mineral operations and site restoration to continue, the proposal is a Schedule 2 development but would not be likely to result in significant environmental effects and therefore, does not require to be subject to EIA procedures.

**16/00402/MIN** – Planning consent for minor extension to mineral extraction area – granted 22 September 2016. This area forms the ridge area and western part of the quarry and is currently being worked.

**10/01081/APP** – Planning consent for minor extension to mineral extraction area – granted 9 February 2011. The consent continues to operate under this consent.

**10/01799/SCN** - Screening Opinion adopted 9 November 2010 for minor lateral extension to quarry; assessment confirmed the proposal to be a Schedule 2 development but not likely to result in significant environmental effects, and therefore not requiring to be subject to EIA procedures.

**06/02475/FUL** - Renew planning permission 96/00262/FUL extension of the existing hard rock quarry – granted 5 March 2007.

**96/00262/FUL** – Planning consent for extension of existing hard rock quarry – granted 12 December 1996.

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

- Advertised for neighbour notification purposes.
- Advertised as a development of a Class specified in Schedule 3 of the Development Management Regulations 2013.

## **CONSULTATIONS**

**Strategic Planning and Development** – No objection. Notes that the proposal is a Section 42 application to solely vary the expiry date of planning permission 10/01801/MIN, and that the quarry is operational with development established through previous consents, with no physical changes proposed. Further notes that the proposed extension of the expiry date to 22 September 2026 will bring the date in line with planning permission 16/00402/MIN, and the quarry is well established and contains permitted reserves which contribute towards Moray's supply of construction aggregate reserves.

**Transportation Manager** - No objection.

**Environmental Health** - No objection, subject to retention of the existing conditions contained within consent 10/01801/MIN relating to noise, dust, vibration and operational

hours. Notes conditions regarding blasting and dust regimes are to be updated to reflect previous details submitted for approval, agreed by Environmental Health.

**Environmental Health, Contaminated Land** - No objection.

**Environmental Health, Private Water** – No objection.

**Moray Flood Risk Management** – No objection.

**Developer Obligations** – No developer obligations sought.

**NatureScot** - No comments to make.

**SEPA** – Notes from the submitted information the proposals include a time extension, removal of the narrow ridge left between Cairdshill Quarry and Blackhillock Quarry and a revised restoration scheme for Cairdshill Quarry to include this area. Also notes that "there will be no change to operational procedures and the development and restoration will proceed as presently permitted". We can confirm we have no specific comments or concerns in regard to the above application.

In regard to Site Specific Management Plans (SSMP), SEPA supports the council requesting this information. SEPA do not require consultation on the SSMPs for this specific application but highlights that the operator should adhere to the "Operators Should" section of PAN 50 and comply with all relevant environmental legislation.

**Strathisla Community Council** – No response received at the time of writing this report.

**Transport Scotland** – Does not advise against the granting of planning permission.

**Health and Safety Executive (Quarries)** - No response received at the time of writing this report.

**Aberdeenshire Council** - No response received at the time of writing this report.

## **OBJECTIONS-REPRESENTATIONS**

None received.

## **OBSERVATIONS**

### **Legislative Matters**

Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended allows applicants to apply to develop land without compliance with conditions previously attached to a planning consent. In determining such an application, the Council, as Planning Authority can only consider the conditions subject to which planning permission should be granted and may:

- grant permission unconditionally (i.e. remove the conditions attached to the planning consent);
- grant permission conditionally with differing conditions; or
- refuse the application (i.e. keep the conditions attached to the planning consent).

In terms of development type although this Section 42 application is a major proposal (exceeding 2 hectares), it is not subject to pre-application consultation procedures under Development Management regulations.

The proposal has been assessed against the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, which has established that the proposal is not EIA development and does not requiring formal EIA procedures.

### **Planning Policy Assessment**

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2020 (MLDP), unless material considerations indicate otherwise. The main issues are considered below.

Scottish Planning Policy 2014 (SPP) provides direction on mineral extraction proposals and the need to secure appropriate provision of mineral resources, subject to appropriate site restoration.

Minerals applications are also assessed against Planning Advice Notes (PAN) 50 'Controlling the Environmental Effects of Surface Mineral Workings' and PAN 64 'Reclamation of Surface Mineral Workings' and their associated Annexes.

### **Relationship to Minerals Policy (DP10)**

Cairdshill Quarry is identified as a safeguarded mineral site within the Moray Local Development Plan 2020. The current application would facilitate the continued extraction of the remaining mineral reserves at the quarry, its restoration and aftercare. Governing policy DP10 Minerals is supportive of such proposals which allow for extensions to existing minerals operations and/or sites. The current proposal seeks to continue to work within the previously approved quarry area, and to extract mineral reserves to previously agreed levels albeit within a longer time period. The proposal does not involve the physical expansion of the quarry area beyond that previously consented.

From policy DP10, all mineral developments are required to avoid or mitigate satisfactorily their impacts. Following consideration and with all conditions originally applied to application 10/01801/MIN re-imposed, consultees have raised no objection the proposal. The arrangements for site restoration and extractive waste management are also considered acceptable.

Based on the above considerations, where no unacceptable or significant adverse effects are identified, and subject to the development continuing to operate in a similar manner as at present, the proposal to vary condition 1 to enable quarry operations at Cairdshill to continue for a further 5 years (with re-imposition of conditions) is acceptable and would comply with policy DP10.

### **Impact on the Environment and Pollution (DP10, DP1 and EP14)**

The site is not subject to any landscape, cultural or natural heritage designations. Previous operations at the quarry have not given rise to any specific environmental issues.

Scottish Planning Policy (SPP, paragraph 248 refers) recommends the use of rigorous procedures to monitor consents, including restoration arrangements, and reviews of mineral permissions to ensure that up-to-date operating and environmental standards are

being met. In this regard, it is noted that the original consent contained a condition addressing restoration/aftercare, but did not include a condition covering pollution prevention and environmental management. Reflecting these requirements and associated guidance within PAN 50, a condition shall therefore be attached requiring the submission of a Site Specific Management Plan to identify/address all environmental sensitivities, pollution prevention, ground/surface water and mitigation measures to avoid or minimise environmental effects. This approach has been supported by SEPA and agreed with the applicant, and will ensure compliance with policies DP10, DP1 and EP14.

### **Landscape and Visual Impact (DP10 and DP1)**

Supporting Landscape and Visual Impact information submitted with the previous applications informed consideration of landscape character and visual impacts during both the operational and post restoration stages of the development. These concluded that the proposed extraction works would be minor in scale and generally well screened by existing landform and vegetation (with limited existing and/or potential residential receptors within the locality), located within a landscape that has the capacity to absorb the proposal, and that progressive mitigation and restoration measures integrated within the scheme would further minimise adverse visual impacts. These findings remain unchanged and are applicable to the current application.

From on-site observations it was noted that a number of stockpiles within the quarry exceed the 8 metre height limit as set out in condition 7 (unless otherwise agreed) of the original consent; to aid assessment the applicant has submitted a site plan identifying the heights and locations of stockpiles on the site relative to the working edges of the quarry, these are acceptable and can be agreed under the terms of the condition which is to be re-imposed.

With the above in mind the proposal complies with DP10 and DP1 requirements in terms of landscape and visual impacts.

### **Amenity (DP1 and EP14)**

The quarry will continue to operate as at present within consented parameters, and this has been confirmed by the applicant in supporting information. The area in which the site is located is characterised by a dispersed settlement pattern, which also includes significant rural businesses and activity with large infrastructure projects, Bear Scotland HGV and gritting compound and the adjoining Blackhillock Quarry. The nearest sensitive properties are Blackhillock Cottages which lies adjacent/to the west of the quarry entrance and Netherton Farm, 350m to the south east of the site. The quarry has operated successfully at this location alongside this established development without adverse impact, and with no proposed change to operational procedures and adherence to conditions from the previous consent being re-imposed providing mitigation, the proposal would not give rise to any unacceptable impacts.

These conditions to be carried forward relate to a blasting regime, ground vibration (from blasting operations), dust regime, noise limits, a limit on the annual rate of extraction and hours of operation. The Environmental Health Section has been consulted and has raised no objection to the granting of permission on the basis the conditions will be re-imposed and updated (to reflect previously submitted details of blasting and dust control regimes); it has also highlighted that no complaints have been received regarding operations at the quarry.

Based on the above considerations the proposal would not result in any unacceptable impacts upon the amenity of neighbouring houses or to the surrounding area, and as such would comply with policy DP1 and EP14.

### **Access (DP1 and PP3)**

The site is accessed via a minor public road U43H which joins onto the A96 trunk road to the southeast. Supporting information confirms that annual level of extraction will not increase and that operational procedures will proceed as presently permitted. Both Transport Scotland and the Transportation Section have raised no objection to the extension of time, and conditions attached previously requiring quarry traffic leaving the site to turn right (east) towards the A96 and vehicle wheel washing arrangements shall be re-imposed in the interests of the road safety. On this basis, the proposed variation to continue operations for a further 5 years complies with policies DP1 and PP3.

### **Restoration and Aftercare (DP10)**

Policy DP10 requires restoration to be undertaken at the earliest opportunity when excavation has ceased, for this to be designed/implemented to a high standard, and for operators to provide details of restoration programmes (including financing, phasing and aftercare).

The existing restoration arrangements and conditions in respect of this will remain in force. As already outlined, a Concept Restoration Plan approved as part of the planning consent 10/01801/MIN, and updated with associated consent 16/00402/MIN sets out a scheme of restoration works for the site once extraction has ceased; this includes use of quarry restoration techniques to integrate benches/slopes including infilling with overburden to create restoration batter slopes, native tree and shrub planting, species rich grass and wet scrapes/damp areas of habitat creation. A condition requiring submission and approval of detailed aftercare proposals to sustain the restoration proposals shall be re-imposed. In light of this, the proposal would comply with the requirements of policy DP10.

As part of the previous permissions, the requirements for site restoration after mineral extraction did not include nor require provision of a bond or similar financial arrangement to facilitate restoration of the site. The applicant/quarry operator has confirmed that it is a member of the industry-based Minerals Products Association Guarantee Fund. Mineral workings are covered by the Fund which incorporates a commitment to restoration and gives a financial guarantee to planning authorities against a restoration default i.e. where an operator is unable to meet restoration obligations arising from a planning condition as a result of financial failure. This arrangement would address the issue of financial guarantee referred to in policy DP10.

### **Extractive Waste Management (Scotland) Regulations 2010 (DP10)**

The quarry was previously assessed against the Extractive Waste Management (Scotland) Regulations and for the need for a waste management plan in 2012. The nature of operations and geology resulted in the quarry being exempt (waived) from the need for an extractive waste management plan, where no non-inert extractive waste was found to be present on site and on this basis. As there is no proposed change to the approved development works (other than the time period for which they would be implemented) and there has been no change to the Regulations since the original/most recent planning consent (10/01801/MIN), this waiver remains valid under the Regulations at this time.



## **Conclusion and Recommendation**

This application seeks to extend the consent period of extraction and restoration of an established quarry, a safeguarded mineral reserve identified in the MLDP 2020, to facilitate extraction of remaining reserves and its restoration. Subject to conditions previously applied being re-imposed (and additional condition regarding a Site Specific Management Plan), the proposal to continue operations and extract the remaining available resource within the confines of the existing quarry accords with planning policy and can be achieved without unacceptable environmental effects.

In accordance with the applicant's agent's request to vary the condition, it is recommended that planning permission be granted for the 5 year period as applied for, to enable existing reserves to be extracted (to a defined depth of working) and for site restoration thereafter as previously agreed.

## **REASON(S) FOR DECISION**

The Council's reason(s) for making this decision are: -

The proposed variation to condition 1 of planning permission 10/01801/MIN is acceptable, complies with the relevant provisions of the Moray Local Development Plan 2020, and there are no material considerations that indicate otherwise.

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**Beverly Smith  
Development Management & Building Standards Manager**



## **APPENDIX**

### **POLICY**

#### **Proposed Moray Local Development Plan 2020**

#### **PP3 INFRASTRUCTURE & SERVICES**

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:
  - i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
  - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
  - iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
  - iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
  - v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
  - vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
  - vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.

- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

**b) Development proposals will not be supported where they:**

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

**c) Harbours**

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

**d) Developer Obligations**

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare,

transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

## **DP1 DEVELOPMENT PRINCIPLES**

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

### **(i) Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all

proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

## **(ii) Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear –and behind the building line. Maximum (50%) parking to the front



of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

**(iii) Water environment, pollution, contamination**

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be

considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

## **DP10 MINERALS**

### **a) Safeguarding Mineral Reserves**

The Council will safeguard all existing workable mineral reserves/ operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development, and
- The extraction of mineral resources will be completed before development commences.

### **b) Mineral Operations**

Proposals for mineral extraction will be acceptable in the following circumstances, subject to compliance with other relevant LDP policies;

- Extension to existing operation/sites.
- Re-opening of a dormant quarry.
- →A reserve underlying a proposed development where it would be beneficial to extract prior to development.

Proposals for new and extensions to existing mineral sites, which contribute to the maintenance of at least a 10 years supply of permitted reserves of construction aggregates in Moray will be supported, subject to meeting the terms of Policy DP1 and other relevant policies.

Proposals for borrow pits will be supported, subject to compliance with other relevant policies, to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

All mineral development proposals must avoid or satisfactorily mitigate impacts. In determining proposals, the Council will give consideration to the requirements of Policy DP1. Additional mitigation may be required for renewables at existing quarries.

Proposals must be accompanied by an extractive Waste Management Plan.

**c) Restoration and aftercare**

Operators must provide details of their proposed programme of restoration (including the necessary financing, phasing and aftercare of the sites). In some circumstances, the Council may require a financial guarantee/ bond.

Restoration programmes must reinstate the site at the earliest opportunity when excavation has ceased. Restoration must be designed and implemented to the highest standard. After uses must result in environmental improvement and add to the cultural, recreational or environmental assets of the area.

**EP14 POLLUTION, CONTAMINATION & HAZARDS**

**a) Pollution**

Development proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

**b) Contamination**

Development proposals on potentially contaminated land will be approved where they comply with other relevant policies and;

- i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and
- ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

**c) Hazardous sites**

Development proposals must avoid and not impact upon hazardous sites or result in public safety concerns due to proximity or use in the vicinity of hazardous sites.

**EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT**

**a) Flooding**

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

**Level 1** - a flood statement with basic information with regard to flood risk.

**Level 2** - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

The following limitations on development will also be applied to take account of the degree of flooding as defined in Scottish Planning Policy;

- a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
  - Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.
  - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow.
  - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
  - Employment related accommodation e.g. caretakers or operational staff.

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available---

- Civil infrastructure and most vulnerable uses.
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flows).
- New caravan and camping sites

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction must be used where appropriate. Land raising and elevated buildings on structures such as stilts are unlikely to be acceptable.

**b) Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

Surface water from development must be dealt with in a sustainable manner that has a neutral effect on flooding or which reduces the risk of flooding. The method of dealing with surface water must also avoid pollution and promote habitat enhancement and amenity. All sites must be drained by a sustainable drainage system (SUDS) designed in line with current CIRIA guidance. Drainage systems must contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

Specific arrangements must be made to avoid the issue of permanent SUDS features becoming silted-up with run-off. Care must be taken to avoid the spreading and/or introduction of invasive non-native species during the construction of all SUDS features. On completion of SUDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of SUDS for all new development will be undertaken through a factoring agreement, the details of which must be supplied to the Planning Authority.

All developments of less than 3 houses or a non-householder extension under 100 square metres must provide a Drainage Statement. A Drainage Assessment will be required for all developments other than those identified above.

**c) Water Environment**

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

The report must consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD)– water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

<b>Width to watercourse (top of bank)</b>	<b>Width of buffer strip (either side)</b>
Less than 1m	6m
1-5m	6-12m
5-15m	12-20m
15m+	20m+

The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required to support proposals.