
NORTH AYRSHIRE COUNCIL

25th April 2018

Planning Committee

Locality	Garnock Valley
Reference	17/01280/DCMS
Application Registered	20th December 2017
Decision Due	20th March 2018
Ward	Kilbirnie And Beith

Recommendation	Approved subject to Conditions
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Location	Site To North Of Knowes Farm Beith Ayrshire
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Applicant	Smith Skips Ltd
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Proposal	Periodic review of mining site
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1. Description

This can be ascertained by reference to the attached plans and photographs.

This proposal seeks to update the planning conditions for the quarry operations at the above site in accordance with the periodic Review of Old Mineral Permissions (ROMP) procedure. The planning conditions were last reviewed and updated in 2006.

The application was submitted in December 2017, following contact by Planning Officers as required by the ROMP procedure. The main amendment to the conditions sought by the applicant is to allow the use to continue until 30th November 2027 with an updated restoration scheme. The conditions have been reviewed and modified by Planning Officers and issued to the applicant for consideration. The applicant has agreed to the modified conditions as now proposed.

It is now considered that the resulting 21 conditions would represent an improvement to the existing planning permission conditions, in accordance with current best practice (PAN 50: Controlling the Environmental Effects of Surface Mineral Workings, Circular 34/1996: Guidance on ROMP and Circular 4/1998: The Use of Conditions in Planning Permissions).

The main effect of the proposed conditions, in comparison to those currently imposed, are to extend the lifetime of extraction until 2027; to introduce a requirement for site restoration in the event of extraction ceasing prematurely; to update the restoration plans; introduce a Code of Practice for vehicle movements to/from the site and introduce controls in respect of dust and vermin. The proposed conditions are listed below.

The area around Knowes Farm was used for the open cast extraction of clay and shale in the 1960s. Subsequently, the area has been used for landfilling with several planning permissions granted since 1979. The area to the south of this application site is currently being operated as a landfill. Planning permission for that use was granted on 20th August 2001 and effectively re-granted 7th December 2016 under planning permission 16/00793/PP. That permission allows infilling of the land to the south of the application site until 26th August 2026.

When the planning conditions were last reviewed in 2006, the clay extraction operations were prohibited from commencing unless and until the landfill operations to the south had commenced. The applicant is seeking to extend the life of the clay extraction as the mineral is used for capping the landfill and will assist in the restoration of that site.

The site is bordered to the north and west by agricultural land with the Glasgow/Ayr railway line beyond to the west. To the east and south-east is Muirburn Road with woodland beyond. The woodland forms part of the Woodside Local Nature Conservation Site. To the south and south-west are the landfilling operations and the access from Kerse Road.

In terms of the adopted North Ayrshire Council Local Development Plan (LDP), the application site is located within the countryside. Policy ENV10 relates to proposals for mineral extraction. Policy ENV9 relates to nature conservation including Local Nature Conservation Sites. All proposals require to be considered in terms of the General Policy. The use for mineral extraction is permitted and the policies are relevant only to the proposed review of the associated conditions. Scottish Government advice should also be taken into account.

Relevant Development Plan Policies

General Policy

All development proposals will be determined against general criteria, as relevant, and the following General Policy sets out the framework for this assessment. These detailed criteria are not repeated in individual policies in the LDP. They will apply, as appropriate, to all development. Policy A1 (Section 10) gives details on the considerations for proposals not covered by any other policy within the Plan.

ENV10

Proposals for opencast coal extraction; development which would sterilise the opportunity for opencast working of the deposits associated with the northern outcrop of Ayrshire Bauxitic Clay or the limestone deposits around Beith; shall not accord with the LDP.

Proposals for extraction of other minerals, including the removal of sand and gravel, shall not accord with the LDP unless it can be clearly demonstrated that:

(a) a needs assessment is submitted which demonstrates a justifiable need for the mineral which cannot be met from existing worked deposits, renewable, recycled or secondary sources; AND

(b) the proposals are in accordance with nature conservation, landscape and other

environmental policies contained in the Natural Environment and Historic Environment sections of the LDP; AND

(c) there are likely to be no unacceptable impacts on the amenity of nearby dwellings or communities or on groundwater, watercourses and water supplies, either during operations or in the longer term; AND

(d) there are restoration and aftercare plans in place which shall identify a positive end use such as habitat creation or recreation at the earliest opportunity and which include progressive restoration over the life of the operation. Plans should also include long term proposals for preventing water pollution once operations cease; AND

(e) when considered in association with existing sites with planning permission, or engaged in any Environmental Assessment process, there are no unacceptable adverse cumulative impacts arising from development proposals; AND

(f) In the case of commercial peat extraction, the proposals relate to areas of degraded peat land which have been significantly damaged by human activity and where the conservation value is low and restoration is not possible, or are not of any value as carbon stores; AND

(g) proposals for mineral extraction on the Isle of Arran shall be limited to meet local island needs and required to demonstrate to the satisfaction of the Council that the type and quality of material cannot be reasonably obtained by other means. Development will only be permitted where it is demonstrated to the Council's satisfaction that extraction will not adversely affect the integrity of the Arran Moors SPA.

Note:

The Council will require a bond to secure restoration and aftercare.

A Waste Management Plan must be submitted as part of any application for planning permission.

ENV9

POLICY ENV 9: NATURE CONSERVATION

1. International Designations.

Proposals for development likely to have a significant effect on Natura 2000 sites, as identified on the LDP Maps, will be subject to an Appropriate Assessment of the implications for the site's conservation objectives. Proposals shall not accord with the LDP unless the Appropriate Assessment indicates that:

(a) they will not adversely affect the integrity of the site; or

(b) there is no alternative solution; and there are imperative reasons of over-riding public interest including those of a social or economic nature; and subject to any necessary compensatory measures being provided to ensure that the overall coherency of the Natura 2000 network is protected.

2. National Designations.

Proposals for development which would affect national designations such as Sites of Special Scientific Interest, as identified on the LDP Maps, shall not accord with the LDP unless:

(a) the objectives of designation and the overall integrity of the area will not be compromised; or

(b) any unacceptable impacts on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

3. Local Designations.

Proposals for development which could affect Local Nature Conservation Sites (LNCS), as listed in Supporting Information Paper 3, and sites of local importance as wildlife habitats or wildlife corridors, will be assessed:

(a) to ensure that appropriate measures are proposed to conserve, as far as possible, the site's wildlife or habitat interest including the retention of open watercourses and provide for replacement of habitats or features where damage is unavoidable;

(b) to determine their effect on the management of features of the landscape which are of importance for wildlife, for wild flora and fauna; and (c) with a view to complementing the ecological coherence of the Natura 2000 network.

Proposals for development affecting a site covered by the provisions of this policy are likely to require an Environmental Statement.

Where development is permitted, the Council may apply specific conditions or a Section 75 or other agreement to secure the protection of wildlife habitats.

For the avoidance of doubt, where Policy ENV9 applies to a development proposal it shall have primacy over the other policies of the Plan.

2. Consultations and Representations

The application was advertised in the local press. There have been no objections or representations received.

Consultation was carried out and the following responses were received;

Scottish Environmental Protection Agency (SEPA) - No objection subject to an additional condition being imposed. The condition should require that any standing water to be pumped from the site shall not be discharged to a watercourse unless prior written approval is obtained from North Ayrshire Council. This was a previously imposed condition and whilst SEPA acknowledge that it is not anticipated to encounter ground water during operations, they would take a precautionary approach to this matter. They also note that some soils are shown on the plans as being stored outside the red line site boundary. They would expect all aspects of the activity to be carried out within the site boundary.

Response: Noted. A condition relating to discharge of standing water has been re-imposed and agreed by the applicant (see proposed Condition 21). The soils are stored on land within the ownership of the applicant. Proposed Conditions 11, 12 and 13 will require the soils to be stored in these locations and managed in an appropriate fashion. Details of amended locations of the soils will be required to be approved prior to the commencement of the 'Future Works Section,' identified on the submitted drawings.

Scottish Natural Heritage (SNH) - No comment. The proposal does not meet the criteria upon which they will respond to a consultation.

Response: Noted.

NAC Environmental Health - No objection.

Response: Noted

NAC Regeneration (Transportation) - No objection. It is noted the first 10 metres of the access road is hard surfaced.

Response: Noted. A condition has been added to require the first 10 metres of the access road to be hard surfaced.

3. Analysis

As noted above, the application requires to be considered in terms of the relevant provisions of the adopted Local Development Plan, in particular Policies ENV10, ENV9 and the General Policy. Consideration of the application requires to take into account Scottish Government advice on ROMP, in particular Circular 34/1996 and Planning Advice Note 50: Controlling the Environmental Effects of Surface Mineral Workings (PAN 50).

The site is operational and therefore the provisions of Policy ENV10 are only relevant insofar as they relate to the proposed conditions. The relevant criteria are (b), (c), (d) and (e). Criterion (b) states that proposals should be in accordance with nature conservation policies within the LDP. Criterion (c) states that there should be no unacceptable impacts on the amenity of nearby dwellings or communities or on groundwater, watercourses and water supplies. Criterion (d) states that there should be restoration and aftercare plans which shall identify a positive end use and which include progressive restoration over the life of the operation. Criterion (e) when considered in association with existing sites with planning permission there are no unacceptable adverse cumulative impacts arising from the development proposals.

The relevant part of Policy ENV9, which links to criterion (b) of ENV10, is part 3 for Local Designations. This states that proposals for development which could affect Local Nature Conservation Sites (LNCS) will be assessed in relation to specific criteria. The specific relevant criteria are (a) to ensure that appropriate measures are proposed to conserve, as far as possible, the site's wildlife or habitat interest including the retention of open watercourses and provide for replacement features where damage is unavoidable; and (b) to determine the effect on the management of features of the landscape which are of importance for wildlife, for wild flora and fauna. Again the site is operational and this is only relevant insofar as it relates to the proposed conditions.

The relevant parts of the General Policy are (b) Amenity, (c) Landscape Character and (d) Access. Criterion (b) Amenity states that regard should be given to the impact of the development on amenity by way of factors including noise and dust. Development should also avoid significant impact on biodiversity and upon natural heritage resources and should also have regard to their potential to contribute to national and local green network objectives. Criterion (c) Landscape Character states that development should seek to protect landscape character from insensitive development. Criterion (d) Access states that development should have regard to the Council's guidelines.

Proposed condition 1 is a re-iteration of an original condition attached to the 2006 permission and requires the development to be carried out in accordance with the submitted approved plans.

Proposed conditions 2-5 (duration/restoration) would require cessation of permitted operations and the restoration of the site by 30th November 2027. The site would be restored by the covering of excavated areas with topsoil which would be grass seeded. The north-west and south-east boundaries would be planted with shrubs to provide screening. All buildings, plant and machinery associated with the use would be required to be removed.

Details of an updated scheme of restoration and a schedule of restoration costs would have to be submitted within 3 months of the date of any permission. In the event of operations ceasing prior to 30th November 2027, the restoration would be required to be carried out within six months of any earlier date.

These are new conditions and considered to represent an improvement from the current 2006 permission. The conditions would make provision for restoration works being undertaken in the event of the works ceasing on site prior to the date specified. They are considered to provide clarity as to what restoration works would be carried out as well as details of aftercare for a five year period following restoration. The operator would be required to provide updated details of restoration costs.

The proposed conditions 2-5 are considered to be in accordance with criteria (b) and (d) of Policy ENV10, part 3 of Policy ENV9 and criteria (b) and (c) of the General Policy.

Proposed conditions 6-10 (Access/Hours of Operation) would require that the site be accessed only by the existing access from Kerse Road (the C25) and through the landfill site to the south. The first 10metres of the access road would be retained as hard surface. The operator would be required to ensure no loose material is carried onto the C25 from the site. Vehicle movements associated with the use would only be undertaken in accordance with the submitted Code of Practice. Clay extraction would only be permitted between 7am and 6pm Monday to Friday and not at all on Saturday, Sunday and public holidays, except in exceptional circumstances to be agreed in writing by the Council, as Planning Authority.

The conditions relating to means of access, loose material and hours of operation are reiterations of conditions currently in place. The conditions relating to the hard surface and Code of Practice are new. The Code of Practice was introduced by the planning permission relating to the adjacent landfill site (ref: 16/00793/PP) approved by the Planning Committee. The Code of Practice sets out how the operator's hauliers/drivers will be expected to behave in respect of accessing the site and on the public highway. Measures for training, signage and vehicle servicing are included as are disciplinary measures for those persistently breaching the Code. There is a complaints procedure and matters could be raised at the Liaison Committee. The Liaison Committee has been created by the operator in respect of the landfill site. This is a forum which currently meets approximately every 6 months and comprises the operator, local residents and a local councillor. Members of the public can raise any concerns they have in respect of the landfill site at this forum.

The new conditions are considered to represent an improvement from the current 2006 permission. The requirement to retain the hard surface would also help prevent loose material being deposited on the public road, thus improving road safety. The Code of Practice addressed concerns relating to vehicle movements to and from the landfill site and it is appropriate to extend this to the clay extraction site as they share an access. The Liaison Committee will provide a forum for members of the public to bring concerns about the clay extraction site to the operator's attention, as they can do for the landfill site.

The proposed Conditions 6-10 are considered to be in accordance with criteria (c) and (e) of Policy ENV10 and criteria (b) and (d) of the General Policy.

Proposed Conditions 11-14 (Operations) set out how the clay extraction should take place. Topsoil and soil forming material is required to be stored on the site on land within the applicant's ownership and kept free of weeds. The subsoil and topsoil is required to be

stored separately and details of the storage as works progress be submitted to the Council, as Planning Authority, for approval. No stockpiling of excavated material would be permitted without prior written approval.

The condition relating to stockpiling is a reiteration of that already imposed. The other conditions relating to the soil are new. The new conditions are considered to represent an improvement from the current 2006 permission. The retention of the topsoil, soil forming material and subsoil will assist in the restoration of the site when operations have ceased. Keeping the material free of weeds and in appropriate locations as works progress will help mitigate any visual impact, as will the restriction of stockpiles of clay on the site.

The proposed conditions 11-14 are considered to be in accordance with criteria (c) and (d) of Policy ENV10 and criterion (c) of the General Policy.

Proposed conditions 15-18 (dust/contamination/vermin) set out how potential environmental impacts should be controlled. Details of prevention and control of dust emission would be required to be submitted to the Council, as Planning Authority, for approval. Steps to control dust produced which constitutes a nuisance would be required to be taken. Significant unsuspected contamination which becomes evident during the development would have to be brought to the Council's attention together with suitable remediation proposals. The operator would be required to take all necessary measures to control vermin at the site.

The condition relating to unsuspected contamination is a reiteration of that already imposed. The conditions relating to dust and vermin are new. The prevention and control of dust is considered to help mitigate any potential impacts on amenity, including of material onto the public road. Control of vermin, should any exist, will also help mitigate any potential impact on amenity and any cumulative impact from the adjacent landfill site.

The proposed conditions 15-18 are considered to be in accordance with criteria (c) and (e) of Policy ENV10 and criterion (b) of the General Policy.

Proposed conditions 19-21 (drainage/surface water run-off) require any damaged drains to be made good and steps taken to prevent contamination of existing water courses, including from any temporary storage of clay. If standing water requires to be pumped from the site, this shall not be discharged into a water course unless the prior written approval of the Council, as Planning Authority, has been granted.

These conditions are reiterations of existing conditions. The condition relating to pumping of water is requested by SEPA. It is considered that proposed conditions are in accordance with criterion (c) of Policy ENV10.

Overall, the proposed conditions are considered to be an improvement on the current 2006 permission. It is considered that the restoration conditions, which are the primary focus of ROMP procedures, would be improved. Provision for restoration in the event of the works ceasing on site prior to the date specified would be made. Clarity of the works to be carried out is provided and a duty for aftercare of the site for a period of 5 years would be imposed. Although the imposition of new conditions which do not relate to restoration can, under the ROMP procedures, lead to compensation from the Planning Authority to the applicant, the Council has negotiated improvements to the operation of the site, particularly in respect of access and egress. The operator has accepted these conditions.

The proposal complies with the relevant provisions of the Local Development Plan and there are no other material considerations that indicate otherwise. Therefore it is recommended the ROMP application is approved subject to the conditions listed over.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the mineral extraction operations at the application site shall at all times be carried out in accordance with the working method statement, drawings and supporting information hereby approved, and there shall be no change in the operation or working method without the written approval of North Ayrshire Council, as Planning Authority.

Reason

To define the limit of permitted works

Condition

2. That by the 30th November 2027 the operations hereby approved shall cease and the site shall be restored to the satisfaction of North Ayrshire Council, as Planning Authority. For the avoidance of doubt any excavated areas shall be covered over with top soil and grass seeded. The north-west and south-east boundaries will be planted with shrub mix in accordance with drawing Final Restoration Plan 5505-104 and any details approved in accordance with Condition 4.

Reason

In recognition of the projected lifespan of the extraction and to ensure proper restoration of the site.

Condition

3. That in the event of the operations ceasing on the site prior to the date specified in Condition 2, within six months of the cessation of operations all buildings, plant and machinery ancillary to the mineral extraction operations shall be removed and the entire site restored to the satisfaction of North Ayrshire Council, as Planning Authority. For the avoidance of doubt any excavated areas shall be covered over with top soil and grass seeded. The north-west and south-east boundaries will be planted with shrub mix in accordance with drawing Final Restoration Plan 5505-104 and any details approved in accordance with Condition 4.

Reason

To ensure the site is properly restored in the event of works ceasing prior to the permitted time period

Condition

4. That within 3 months of the date of this decision, an updated scheme for the restoration of the site which fully details the subsoil and topsoil replacement operations, site drainage and details of all plant species including their planting density, shall be submitted to and approved in writing by North Ayrshire Council, as Planning Authority. This restoration

scheme shall be accompanied by a detailed aftercare management plan which shall set out a five year programme of works to ensure the successful implementation of the restoration scheme.

Reason

To ensure proper restoration of the site.

Condition

5. That within 3 months of the date of the decision the applicant shall submit for the written approval of North Ayrshire Council, as Planning Authority, a schedule of restorations costs.

Reason

To review the cost of restoration in the event of the cessation of works on site.

Condition

6. That access to the site shall only be by way of the existing access to the landfill site to the south from Kerse Road (C25).

Reason

To control the vehicular access to and from the site.

Condition

7. That the first 10 metres of the access road shall be retained as hard surfaced.

Reason

To prevent loose material from the access surface being brought onto the public road.

Condition

8. That the operator shall seek to ensure that no loose material is carried out onto the C25 public road and any which is deposited shall be removed to the satisfaction of North Ayrshire Council, as Roads Authority.

Reason

To prevent loose material from the sites surface being brought onto the public road and to ensure any brought on is removed.

Condition

9. That vehicles movements associated with the development shall be undertaken only in accordance with the Code of Practice, originally approved in relation to Condition 22 of planning permission 16/00793/PP.

Reason

To mitigate any impact on other road users.

Condition

10. That clay extraction shall only be permitted between the hours of 7am to 6pm Mondays to Fridays and at no time on Saturdays, Sundays or public holidays unless, in exceptional circumstances, North Ayrshire Council, as Planning Authority, gives prior written approval for clay extraction outwith these times.

Reason

To prevent late night, early morning or weekend and public holiday extraction works from causing disturbance to nearby properties, in the interest of neighbouring residential properties.

Condition

11. That all topsoil and soil forming material to be stripped shall be stored within the land shown on the approved drawings as being in the applicant's ownership and shall not be taken off site without the written consent of North Ayrshire Council, as Planning Authority.

Reason

To ensure a supply of on site soil for the restoration works

Condition

12. That all topsoil and soil forming material stockpiles shall be kept free of weeds and shall be seeded to the satisfaction of North Ayrshire Council, as Planning Authority.

Reason

To ensure the soil is fit for the purpose of restoration and in the interest of visual amenity.

Condition

13. That subsoil and topsoil shall be stored separately from the excavated materials and in the area shown on plans hereby approved to the satisfaction of North Ayrshire Council. Prior to the commencement of the 'Future Works Sector' as identified in drawing Method of Working 5505-103, details of the proposed relocation of the subsoil stockpile will be submitted to North Ayrshire Council, as Planning Authority, for written approval. Works on the 'Future Works Sector' will not commence until such details have been approved and then works will be carried out in accordance with any such details.

Reason

To ensure the supply of on site soil is stored in appropriate locations as works progress in the interest of visual amenity.

Condition

14. That there shall be no stockpiling of excavated material without the prior written approval of North Ayrshire Council, as Planning Authority.

Reason

To prevent stockpiling of extracted clay in the interest of visual amenity.

Condition

15. That within 3 months of the date of this decision, details of measures to prevent and control the emission of dust from the site shall be submitted to, and approved in writing by North Ayrshire Council, as Planning Authority.

Reason

To ensure adequate procedures to prevent dust emission in the interest of amenity.

Condition

16. That in the event of dust produced by the mineral extraction operations hereby approved or by vehicles passing to and from the site constituting nuisance, measures will be taken by the operator to control the dust emissions to the satisfaction of North Ayrshire Council, as Planning Authority.

Reason

To ensure dust emission is controlled in the interest of amenity.

Condition

17. That any significant unsuspected contamination which becomes evident during the development shall be brought to the attention of North Ayrshire Council, as Planning Authority, together with suitable remediation proposals prior any further works taking place.

Reason

To ensure any unknown contamination is reported to North Ayrshire Council and any required remediation carried out in the interests of the local environment and to meet the requirements of Environmental Health.

Condition

18. That the operator shall take all necessary measures to control vermin at the site of the operations hereby approved, to the satisfaction of North Ayrshire Council, as Planning Authority.

Reason

To prevent accumulative impact from vermin in respect of the adjacent landfill site

Condition

19. That any field drainage disturbed or damaged during extraction of the clay shall be made good on completion of the works and all necessary precautions shall be undertaken during the operations to prevent contamination of existing watercourses.

Reason

To ensure that any field drains are made good on completion of operations.

Condition

20. That any temporary storage of clay shall be located to ensure that any contaminated run-off arising from the stored material does not cause pollution.

Reason

To ensure water run off from the site does not cause pollution in the interest of the local environment.

Condition

21. That if during the extraction process any standing water requires to be pumped from the void, it shall not be discharged to a water course, unless the prior written approval is obtained from North Ayrshire Council, as Planning Authority.

Reason

To ensure any standing water pumped from the site does not cause pollution to water courses in the interest of the local environment.

A handwritten signature in black ink, reading "Karen Yeomans". The signature is written in a cursive, flowing style.

Karen Yeomans
Executive Director
Economy & Communities

For further information please contact Mr Iain Davies on 01294 324320.

Appendix 1 – Location Plan

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