

Perth and Kinross Council  
Development Management Committee – 19 November 2014  
Report of Handling by Development Quality Manager

**Variation of Condition (3) of Planning Permission 84/956/MW to enable the winning and working of minerals to continue to 2035 at Glendevon Quarry, Glenquey**

Ref. No: 10/02181/FLM  
 Ward No: 7 - Strathallan

**Summary**

At the Development Management Committee on 7 March 2012 this application was deferred to allow the provision of further information with regard to the following:-

- i) roads, traffic and road safety including the views of adjoining Councils and Community Councils;
- ii) Environmental impact issues of the proposal, both inside and outside the site;
- iii) Further detail of the history of the site;
- iv) Further information on the implications for tourism and recreational facilities including information on the cumulative impact with wind turbines in the area.

This report recommends approval of the application for the variation of condition 3 of planning consent ref: 84/956/MW subject to conditions as the proposal is considered to be in accordance with the Development Plan. The EIA indicates that there are adverse impacts as a result of mineral working, however it has been demonstrated that these impacts can be mitigated satisfactorily within the context of development plan policy. This seeks to protect important mineral resources which have been secured through the planning application process. Prior to commencement of work the applicant would be required to give a guarantee that adequate financial resources are available to complete the restoration and aftercare of the whole site and if necessary the provision of a financial bond. There were no financial provisions for restoration or aftercare attached to the previous consent.

**BACKGROUND AND SITE DESCRIPTION**

- 1 This proposal to vary condition 3 of planning consent ref: 84/956/MW relates to an application site which is situated approximately 1km to the south of the small settlement of Glendevon on the south side of the A823. It is on a raised area of ground at Glenquey Moss to the north east of Glenquey Reservoir in the foothills of the Ochils. The site is located approximately 21 km to the south west of Perth, 13.5km to the west of Kinross and 6 km to the north of Dollar.
- 2 The boundary of the application site covers an area of approximately 30 hectares and is currently used for grazing for cattle and sheep. Minerals have been extracted to the southwest of the site and the associated haul road is evident along the southern boundary. It has been estimated by the applicant

that approximately 10 000 tonnes of sand and gravel have been extracted. This was based on a survey of the void volume of the extracted area. The application site is relatively flat moss and bogland and slopes gently from 271m AOD (Above Ordnance Datum) in the southwest to 256m AOD in the northwest. Along the northern boundary the ground levels rise again within the application site to form a ridgeline above the house at Burnfoot. The land falls away to the Glenquey Burn to the west and to the Howcleuch Burn to the east. Glenquey House is situated to the south west of the site.

- 3 The site is open in character with some planting along the southeast boundary and to the north outwith the application site. There has also been some recent tree planting along the Glenquey Burn to the northwest of the site. A post and wire fence extends along the access road off the A823 and along the southern boundary. The Howcleuch Burn runs along the southeast boundary and the Glenquey Burn runs outwith the site to the northwest. A track extends in a northerly direction through the site at a point adjacent to the Howcleuch Burn ford.
- 4 This planning application seeks to vary condition 3 of planning consent 84/956/MW through a planning application under Section 42 of the Planning Act to enable winning and working of minerals to continue to 2035. Section 41 (6) and Schedule 3 of the Town and Country Planning (Scotland) Act 1997 provides that every planning permission for development consisting of the winning and working of minerals must be subject to a condition as to the duration of the development. This follows from a recommendation of the Stevens Committee that a time limit was desirable because of the long term nature of mining operations and the changes in circumstance that can occur during that period. Unless otherwise specified, the duration for development granted or deemed to be granted planning permission after February 1982 is 60 years beginning with the date of the grant. In the case of planning permission granted or deemed to have been granted for such development before 22 February, 1982, the development must cease not later than 60 years from that date.
- 5 Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with conditions subject to which a previous planning permission was granted. This includes applying not to comply with the timescale for development, i.e. seeking to extend the period of consent. Section 42 of the Act stipulates that in this type of application “the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted”.

## **SITE HISTORY**

- 6 The background to the present application extends over a significant period of time. Planning consent was granted in 1964 for the extraction of sand and gravel on a 50 acre site (63/1000). Again in September 1979 planning consent was granted to extract sand and gravel on a 50 acre site at Glenquey (78/500/MW). This application was publicly advertised and the consent granted.

In September 1984 an extension of one year was granted for commencement of operations under 84/956/MW which was later amended by letter to eighteen months.

- 7 In April 1986 a request was received for the extraction of minerals and the erection of plant to be postponed for a period of 5 years. The Council granted an extension on the start time of mineral extraction to comply with condition 2, without requesting a fresh application provided the applicant kept adjoining proprietors advised of the situation. 84/956/MW was amended by the Assistant Chief Executive's letter of 1 July 1986 to the Fife Sand and Gravel Company Ltd so that work at the quarry could commence at any time up to February 1991 and shall expire 20 years following the date of commencement of work. If work was not commenced by 28 February 1991 then the consent would lapse.
- 8 On 25 February 1991 in a letter to the Council, agents, intimated that the following "specified operations", required in order to start the development and initiate the consent, had been carried out:-
  - i) soil stripping and some extraction of material (approx. 10 000 tonnes)
  - ii) fencing of phase 1 and the haul road
  - iii) works to alter the bellmouth at the junction with the public highway
  - iv) formation of a concrete raft over the water main
- 9 In a memorandum from the Director of Planning to the Chief Executive dated 4 March 1991 it was confirmed that from all the information submitted the Council were satisfied that the conditions of the consent had been fully adhered to and that the consent has been initiated and would not expire on 28 February 1991.
- 10 Under planning legislation the carrying out of a specified operation is all that is required to implement a planning consent. It is a common procedure carried out to secure a consent and does not require the development to become fully operational at that time.
- 11 On 12 March 1991 the requirements of condition 3 including the need to inform the Planning Authority of any cessation of work for 'long periods' was raised with the then developer. The reason for the condition was to ensure that the Planning Authority are aware of any changes or deviation from the planning consent which may be detrimental to the amenity of the area and to assess the workings against any new working practises or regulations. On 2 February 1995 a Minerals Review site inspection was undertaken, and it was recorded that work had ceased and a small area had been extracted which was estimated at 10 000 tonnes.
- 12 The Council has therefore acknowledged that specified operations were carried out and that consent 84/956/MW was initiated. Consent 84/956/MW is a valid, extant consent.

## THE PROPOSAL

- 13 Condition 3 of 84/956/MW allowed a 20 year period of working which was due to expire on February 2011 This application registered on 19 December 2010 is for a variation of condition (3) to enable the winning and working of minerals to continue to 2035 at Glendevon Quarry, Glenquey, by Dollar. As there is a valid consent and this application is to vary a condition to extend the period of working rather than being a new application, it should be noted that the principle of the quarry development on this site is established.
- 14 The proposed development involves the extraction of some 3.5 million tonnes of sand and gravel from a net extraction area of approximately 22.0 ha. The overall application site extends to approximately 30 hectares. The development would be carried out in five phases of extraction, together with an initial phase set up and a final site exit phase, followed by site restoration, commencing in the northwest and finishing at the eastern end of the site. Details of the advance mitigation measures for the development are outlined in the Environmental Statement.
- 15 A Transport Study was undertaken as part of the Environmental Statement on the basis of an average annual extraction rate of 160,000 tonnes per year. Under this study the worst case scenario concluded that there would be two way HGV turning movements at a rate of 60 per day.
- 16 In addition to facilities for the crushing, washing and grading of sand and gravel, the plant site has ancillary structures and buildings which include a weighbridge, office, and mess room/toilet.
- 17 The proposed hours of operation at Glendevon Quarry during which mineral extraction, plant operation or mineral processing would be carried out are:
  - 07.00 -19.00 Mondays to Fridays
  - 07.00 - 13.00 on Saturdays.
- 18 The extent of reserves equate to approximately 4 million tonnes. However, as a result of the EIA process, it is proposed to reduce the extraction area within the wider site area to approximately 22 hectares. This would reduce the level of reserves to approximately 3.5 million tonnes of sand and gravel. The applicant anticipates that the mineral will be worked an average annual rate of 140,000 tonnes per year over the life of the quarry.
- 19 The applicant has stated that when operational the quarry would directly employ 6 members of staff and support a further 10 personnel in the related activities of environmental management, sales, administration and haulage.
- 20 Following a phased extraction the restoration of the site will include tree planting, with native woodland, improved grassland and restoration of bog areas with the deepest existing peat proposed to be retained. Pedestrian links are also proposed across the site.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 21 EEC Directive (No 2003/35/EC) requires an Authority giving a planning consent for particular large scale projects to make its decision in the knowledge of any likely significant effects on the environment. The Directive sets out a procedure that must be followed for certain types of project before they can be given 'development consent'. This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 22 Under the EIA (Scotland) Regulations 2011 quarries where the surface of the site exceeds 25 hectares are classed as Schedule 1 developments which always require EIA. As the surface area of this proposal is approximately 30 hectares the proposal constitutes EIA development for which the preparation of an Environment Statement is required.

### **Content and Adequacy of the E.I.A**

- 23 Part II Annex B of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information which is required to be included in any EIA. The scope and content of the submitted Environmental Statement is considered to meet the requirements of the above regulations. The main environmental impacts outlined in the scoping opinion were:-

- Landscape and Visual Impact
- Traffic and Road Safety
- Ecology/Biodiversity
- Noise
- Air Quality and Dust
- Cultural Heritage
- Tourism and Recreational Access
- Geology, Hydrology and Hydrogeology
- Restoration and Aftercare
- Socio-Economic Benefits

### **PRE-APPLICATION CONSULTATION**

- 24 The proposed development is classed as a major development under class 8 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. This requires pre-application consultation with the local community to be undertaken. A Proposal of Application Notice (PAN) was submitted to the Council as required by regulation 6 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and Section 35B of the Planning Act etc. (Scotland) Act 2006. The content of the PAN was subsequently agreed by the Council on 22 September 2010 under 10/00009/PAN.

- 25 A Pre-application Consultation Report has been submitted documenting the pre-application consultation process. This highlights the methodology used to engage with the community and key stakeholders, provides details of the exhibition meeting and feedback from attendees. The Council were satisfied that the required pre-application consultation was carried out satisfactorily as required for major applications under the regulations.

## **NATIONAL POLICY AND GUIDANCE**

### **Scottish Planning Policy 2014**

- 26 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

Of relevance to this application is/are,

- Paragraphs 74 - 83 Promoting Rural Development

- 27 Development on prime agricultural land, or land of lesser quality that is locally important should not be permitted except where it is essential for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives and there is secure provision for restoration to return the land to its former status.

- Paragraphs 92 – 108 Supporting Business & Employment

- Paragraphs 193 – 218 Valuing the Natural Environment

- 28 The siting and design of development should take account of local landscape character. Development management decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Developers should seek to minimise adverse impacts through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement.

- 29 Planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment. Direct or indirect effects on statutorily protected sites will be an important consideration, but designation does not impose an automatic prohibition on development.

- 30 Where peat and other carbon rich soils are present, applicants should assess the likely effects of development on carbon dioxide (CO<sub>2</sub>) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO<sub>2</sub> to the atmosphere. Developments should aim to minimise this release.
- Paragraphs 234 – 248 Promoting Responsible Extraction of Resources
- 31 Minerals make an important contribution to the economy, providing materials for construction, energy supply and other uses, and supporting employment. NPF3 notes that minerals will be required as construction materials to support our ambition for diversification of the energy mix. Planning should safeguard mineral resources and facilitate their responsible use. Our spatial strategy underlines the need to address restoration of past minerals extraction sites in and around the Central Belt.
- 32 The planning system should:-
- safeguard workable resources and ensure that an adequate and steady supply is available to meet the needs of the construction, energy and other sectors;
  - minimise the impacts of extraction on local communities, the environment and the built and natural heritage; and
  - secure the sustainable restoration of sites to beneficial afteruse after working has ceased.
- 33 Local development plans should safeguard all workable mineral resources which are of economic or conservation value and ensure that these are not sterilised by other development. Plans should set out the factors that specific proposals will need to address, including:
- disturbance, disruption and noise, blasting and vibration, and potential pollution of land, air and water;
  - impacts on local communities, individual houses, sensitive receptors and economic sectors important to the local economy;
  - benefits to the local and national economy;
  - cumulative impact with other mineral and landfill sites in the area;
  - effects on natural heritage, habitats and the historic environment;
  - landscape and visual impacts, including cumulative effects;
  - transport impacts; and
  - restoration and aftercare (including any benefits in terms of the remediation of existing areas of dereliction or instability).
- 34 Policies should protect areas of peatland and only permit commercial extraction in areas suffering historic, significant damage through human activity and where the conservation value is low and restoration is impossible.
- Paragraphs 254 – 268 Managing Flood Risk & Drainage
- 35 Planning authorities should have regard to the probability of flooding from all sources and take flood risk into account when preparing development plans

and determining planning applications. The calculated probability of flooding should be regarded as a best estimate and not a precise forecast. Authorities should avoid giving any indication that a grant of planning permission implies the absence of flood risk.

- Paragraphs 269 – 291 Promoting Sustainable Transport & Active Travel

### **Planning Advice Notes**

- 36 PAN 50: Controlling the Environmental Effects of Surface Mineral Workings (1996)

PAN 60: Planning for Natural Heritage (2000)

PAN 64: Reclamation of Surface Mineral Workings (2002)

PAN 75: Planning for Transport (2005)

PAN 1/2011: Planning and Noise

PAN 2/2011 Planning and Archaeology

### **DEVELOPMENT PLAN**

- 37 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012 – 2032 and the Perth and Kinross Council Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012**

- 38 The principal relevant policy is in summary:

#### **Policy 3: Managing TAYplan's Assets**

- 39 Safeguard minerals deposits of economic importance and land for a minimum of 10 years supply of construction aggregates at all times in all market areas.

Safeguarding habitats, sensitive green spaces, forestry, watercourses, wetlands, flood plains, carbon sinks, species and wildlife corridors, geodiversity, landscapes, parks, townscapes, archaeology, historic buildings and monuments and allow development where it does not adversely impact upon or preferably enhances these assets.

#### **Policy 6: Energy and Waste Resource Management Infrastructure**

- 40 Local Development Plans and development proposals should ensure that all areas of search, allocated sites, routes and decisions on development



proposals for energy and waste/resource management infrastructure have been justified, at a minimum, on the basis of these considerations:

- The specific land take requirements associated with the infrastructure technology and associated statutory safety exclusion zones where appropriate;
- Proximity of resources (e.g. woodland, wind or waste material); and to users/customers, grid connections and distribution networks for the heat, power or physical materials and waste products, where appropriate;
- Anticipated effects of construction and operation on air quality, emissions, noise, odour, surface and ground water pollution, drainage, waste disposal, radar installations and flight paths, and, of nuisance impacts on of-site properties;
- Sensitivity of landscapes (informed by landscape character assessments and other work), the water environment, biodiversity, geo-diversity, habitats, tourism, recreational access and listed/scheduled buildings and structures;
- Impacts of associated new grid connections and distribution or access infrastructure;
- Cumulative impacts of the scale and massing of multiple developments, including existing infrastructure;
- Impacts upon neighbouring planning authorities (both within and outwith TAYplan); and,
- Consistency with the National Planning Framework and its Action Programme.

#### **Perth and Kinross Council Local Development Plan 2014**

- 41 The application site is within the landward area where the following principal relevant policies are:-

#### **ER3: Minerals and Other Extractive Activities – Safeguarding**

- 42 **ER3A** - planning permission will not be granted for development which would sterilise important economically workable mineral deposits unless (a) there is an overriding need for the development and prior extraction of the mineral cannot be reasonably undertaken or (b) extraction of the mineral is unlikely to be practicable or environmentally acceptable.

#### **ER4: Minerals and Other Extractive Activities – Supply**

- 43 Favourable consideration will be given to proposals for the extraction of minerals where it is demonstrated that there are local, regional and/or national market requirements for the mineral that cannot be satisfied by greater efficiency at existing working or alternative sources or it would assist in maintaining a minimum 10 year landbank for aggregates within a recognised market area. And in all cases their impact on local communities and the environment does not have an adverse impact.

## **ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscape**

- 44 Development and land use change should be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes.

### **EP8: Noise Pollution**

- 45 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

### **PM1: Placemaking**

- 46 **PM1A** - Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.
- 47 **PM1B** - All proposals should meet the placemaking criteria set out including
- (b) Consider and respect the site's topography, and any surrounding important landmarks, views or skylines, as well as the wider landscape character of the area:
  - (h) Incorporate green infrastructure into new developments and make connections where possible to green networks.

### **TA1: Transport Standards and Accessibility Requirements**

- 48 **TA1B** Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **NE1: Environment and Conservation Policies**

- 49 **NE1B** – National Designations  
Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.
- 50 **NE1C** – Local Designations  
Development which would affect an area designated as being of local nature conservation or geological interest will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of local importance.

### **NE3: Biodiversity**

- 52 The Council will seek to protect and enhance all wildlife and wildlife habitats, whether formally designated /protected or not, taking into account the ecosystems and natural processes in the area.

### **EXTERNAL CONSULTATIONS**

- 53 **Scottish Water** – no objection
- 54 **Scottish Environmental Protection Agency (SEPA)** – no objection subject to conditions. There were concerns that the potential impacts on surrounding wetland features had not been adequately addressed and an NVC survey is required to be carried out which identifies the direct and indirect impacts on the wetlands and suitable mitigation measures proposed if required. Wetland areas are protected under the Water Framework Directive and the Water Environment and Water Services (Scotland) Act 2003 and an NVC survey should be carried out to ensure that extraction is not detrimental to wetland habitat. Since the consultation response an NVC survey has been undertaken. Any reduction in flow from the Glenquay Moss to the Hawcleuch Burn will require to be maintained satisfactorily to ensure there is no detrimental impact on fish and invertebrate populations. The applicant will also need to confirm that the raised bog is not groundwater dependant.
- 55 SEPA welcome the mitigation principles and pollution prevention measures set out in the Environmental Statement. A full site specific Environmental Management Plan (EMP) is requested by condition. A restoration and aftercare plan is also requested by condition in consultation with SEPA to ensure the future protection of the water environment.
- 56 There are concerns regarding the proposed measures to manage peat and it should be noted that restoration to a raised bog will be very difficult if not impossible; however no objection is taken to the application. It is recommended that a Peatland Management Plan should be developed as part of the Environmental Management Plan (EMP).
- 57 The main concern in relation to impact on water resources relates to the potential for alteration of the hydrogeological regime caused by excavation. There is a requirement therefore for the applicant to confirm that there is no significant risk to groundwater resources as a result of the development. It is considered that existing private water supplies are not at any significant risk from the development. Monthly monitoring of groundwater levels is proposed at a minimum of 3 boreholes. Groundwater quality will be monitored quarterly for a minimum of 1 year prior to the development and throughout the period of operation. Samples will also be taken from the Howcleuch Burn. These concerns can be addressed by condition.
- 58 There are no objections to the development on flood risk grounds.

- 59 The Howcleuch Burn will be culverted near the site entrance and these works will require authorisation from SEPA through the CAR licencing regime.
- 60 **Scottish Natural Heritage (SNH)** – no objections subject to further investigation being undertaken by the applicant by condition to reconsider the restoration and mitigation plans to ensure that the impact on blanket bog habitat is minimised. An ecological clerk of works with proven experience in peatland restoration would be needed to supervise the implementation of these plans. The quarry area covers about 15 hectares of blanket bog habitat of which a significant proportion is active bog which is a priority habitat in Annex 1 of the Habitats Directive. 13 hectares of blanket bog are likely to be lost or severely damaged as a direct result of mineral extraction due to the stripping of peat from the surface. SNH is not convinced that the restoration proposed will be successful and experience elsewhere suggests that this will leave an area of dried out oxidised peat that lacks the essential peat forming bog mosses. An area of 2 hectares of bog is to be left intact, however it is very difficult to retain or restore the original hydrology of this isolated area of bog and it is unlikely to remain as fully functioning bog habitat.
- 61 As well as an important habitat for wildlife, bogs function as important carbon stores through the formation of carbon-rich peat. The disturbance of peat on the site will result in the release of carbon dioxide into the atmosphere and re-wetting of the excavated peat is likely to lead to the release of further carbon in the form of methane, an important greenhouse gas.
- 62 **Auchterarder Community Council** – objection on road safety grounds and impact on tourism. With reference to the additional Traffic Impact Statement the Community Council are disappointed in the quality of this document and no reliance can be placed on it's findings. The statement fails to correctly describe the various speed limits on the A823 and A91. There are concerns over the number of HGV movements and their timing and that these movements are presented as simply averages and do not provide enough detail. There are concerns over the lack of footpaths and that grass verges cannot compensate for the lack of these in terms of pedestrian safety. The roads in question are not of a high geometric standard as stated. There is no assessment of the situation between Glendevon and the A9 or the roadside housing to the south of the quarry site, at Rumbling Bridge and the junction between the A823 and A91. There are no mitigation measures proposed to ensure safety.
- 63 The restoration plans proposed will not improve the landscape, ecology, diversity of landscape and provide a range of wildlife habitats and enhanced recreational links in the area. Furthermore the planting of native broad-leaved woodland will contribute to the destruction of the lowland raised bog. It is disputed that there will not be a significant detrimental impact on the environment during the operational period of the quarry.
- 64 **Muckhart Community Council** – objection on the impact the proposal will have on road safety, recreational amenity, landscape quality and habitat. The 6 locations chosen to assess the impact of HGV's are highly selective and are

chosen to minimise the effects that the HGV's will have on local roads and communities. Similarly the descriptions of the roads lack depth and the photographs do not show the problems that extra HGV's would cause the road structure. It is disputed that the A823 is suitable to take HGV movements, as there are narrow and severe bends in the road, it has a poor accident record and traffic calming measures have been introduced. The bridge at Rumbling Bridge is unsuitable for HGV traffic.

- 65 The Community Council is of the view that the A823 has a number of major problems between the quarry site and Rumbling Bridge and in addition more traffic than predicted would travel on the A91 as problems on the A823 between the Yetts of Muckhart and Rumbling Bridge become more apparent. It is likely that there will be more than 10% of quarry traffic using the A91 and this will exacerbate the safety problems that are encountered on this road.
- 66 **Dollar Community Council** - the Community Council feels that the growing sports of mountain biking and road cycling would be damaged through increasing the risks to cyclists due to the narrowness of the roads and the deterioration of their condition. Local businesses who benefit from leisure activities will be detrimentally affected.
- 67 Although mitigation is proposed by the applicant in the form of tree screening the value of the upland raised bog and habitat in general should be a key consideration as tree planting will not only affect the visual character but also the microclimate and local ecology. A more rigorous independent environmental survey and impact assessments are required before determining the application.
- 68 **Fossoway & District Community Council** - concern raised over the accuracy of the information put forward on traffic impact. The content of the report is superficial and deals only with road capacity and does not discuss road safety and the damage likely to be caused to the road network by the increased levels of heavy traffic for example at bridges. In particular, the impact on the bridge on the A823 at Rumbling Bridge which is presently a hazard to road users. The bridge and the bends on the A823 north of the quarry are mentioned but the narrow rock-lined section of the road between the bridge and Glendevon is ignored. The treatment of the road network is incomplete and there is no attempt to identify areas where road safety is an issue.
- 69 **Clackmannanshire Council** – objection on the validity of the proposal and it being contrary to the development plan. The A823 is not of a high geometric standard and that the speed limit is 60mph rather than 40mph. The volume of HGV's using the A823 is agreed but disagree on the suitability of the road. As it stands the additional Traffic Impact Statement does not adequately consider the road safety implications for Clackmannanshire.

The quarry development will change the visitor experience in recreation and public access in the area around it. The information on how this will affect tourism in the area, however, remains unclear. The implications of the phased

development as a whole rather than just the restoration will inform the judgment on the tourism impact.

## **INTERNAL CONSULTATIONS**

- 70 **Transport Planning** – no objection subject to conditions. The response is considered in detail in the appraisal section of the report.
- 71 **Environmental Health** – no objection subject to conditions on operating hours, noise, dust and air quality.
- 72 **Perth and Kinross Heritage Trust** – no objection subject to a condition recommending a programme of works to be undertaken which will include a survey of upstanding remains, field evaluation and potentially post-excavation analysis and publication.
- 73 **David Tyldesley Associates** – no objections in terms of landscape and visual impact subject to the appropriate mitigation and remediation measures being implemented as outlined in the Environmental Statement and by conditions attached to any consent.

## **REPRESENTATIONS**

- 74 108 letters of representation were received objecting to the application. Main issues raised are:
- Impact of heavy traffic on roads and B listed Blacklin Bridge
  - Noise, dust and vibration impact on residential amenity
  - Visual and cumulative impact of the proposal with other development
  - Impact on biodiversity and habitat
  - Detrimental impact on road safety
  - Impact of illumination causing light pollution
  - Pollution of watercourses
  - Loss of amenity impacting on recreation and tourism
  - EIA inadequate in terms of transport, plants, birds and geology
  - Scale of the development
  - Concern over validity of original consent
  - Destruction of a glacial feature unique to the Ochils/impact on geodiversity
  - Loss of peat and vegetation
  - Increase in carbon emissions
  - Adverse impact on local businesses
  - Use of broadleaf trees for screening inadequate
  - Lack of neighbour notification and consultation
  - Impact on B listed Glenquey House and nearby archaeological sites

These issues are all raised in the Appraisal section of this report.

## ADDITIONAL STATEMENTS

75	Environment Statement	Submitted
	Screening Opinion	Submitted
	Environmental Impact Assessment	Submitted
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	Submitted
	Report on Impact or Potential Impact	Submitted

## APPRAISAL

- 76 Section 42 of the Town and Country Planning (Scotland) Act 1997 enables the determination of applications to develop land without compliance with conditions previously attached. The legislation specifies that on such an application the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 77 Taking the above into account, the assessment of this application therefore only relates to the time limit stipulated in condition no. 3 of the extant planning permission and whether or not to allow the time period in which development can commence to be extended.
- 78 An Environmental Impact Assessment has been submitted in support of the application providing an up to date assessment of the environmental impacts since the application was originally approved. Where the EIA procedure shows that a proposal will have an adverse impact on the environment, it does not automatically follow that planning permission must be refused. Each planning application should be judged on its own merit's within the context of the Development Plan taking account of all material considerations.
- 79 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the TAYplan 2012 and the Perth and Kinross Council Local Development Plan 2014.
- 80 To this end, the determining issue on whether or not the time period should be extended rests on whether or not the policy framework of the Council has materially changed enough for the Council to consider a different recommendation. As outlined below it is considered that since the application was approved the policy framework has strengthened in favour of minerals protection with the identification of the site as a mineral site in the Strathearn Area Local Plan 2001 and more recently with minerals policies in the Perth and

Kinross Council Local Development Plan 2014 seeking to protect important economically workable mineral deposits providing the extraction of the mineral is environmentally acceptable.

### **Policy**

- 81 The application site was identified in the Strathearn Area Local Plan 2001 as M2 under Proposal 2 where the Council supported the implementation of the planning consent for sand and gravel extraction at Glendevon over an area of 30 hectares. On the 3<sup>rd</sup> of February 2014 the Strathearn Local Plan 2001 was replaced by the Perth and Kinross Council Local Development Plan 2014 (LDP). Under the LDP Glendevon Quarry is not identified as a mineral site along with all other consented mineral sites, however, under Policies ER3 and ER4 of the plan workable mineral deposits are protected from development which would sterilise these deposits. As indicated above this is an application for sand and gravel extraction under planning consent 84/956/MW which was implemented by February 1991 and acknowledged as such by the Council. It is considered therefore that the principle of sand and gravel extraction is supported by the Development Plan and the extant consent. National Policy supports the requirement for an adequate supply of minerals to the construction industry in Scotland and the application site already contributes to the Council's 10 year landbank of mineral reserves. This proposal ensures the continuity of the supply of reserves as required by Scottish Planning Policy. The other main material considerations which have been identified through the EIA process are considered below.

### **Need for the proposal**

- 82 In assessing the impact of mineral developments under Policy ER3 of the Perth and Kinross Local Development Plan 2014 there is a requirement to establish whether or not there is a need for the development at this location, including the market requirement for the mineral in question. The sand and gravel reserve at this site has already been accounted for by Perth & Kinross Council in its' obligation to contribute to the 10 year supply of minerals and its support of the application site was confirmed through its identification as a mineral site M2 in the Strathearn Area Local Plan 2001. The supply of minerals from Glendevon Quarry to the Perth and Kinross market area and beyond is already accounted for by the Council through the existing planning consent. If this proposal was now not permitted then there will be a need to make up the shortfall in supply through granting consent for extraction at other sites.
- 83 The assessment of the geological characteristics of the reserves identifies that the deposit at Glendevon is variable, ranging from a very silty and fine sand to well graded sand and gravel. It is estimated that a reduced extraction area from that of the existing consent of 30ha to 22ha will yield an estimated reserve of 3.5 million tonnes of sand and gravel. The product extracted is required to feed other operations within Cemex UK Operations Ltd together with serving the local and wider Scottish market including the Central Belt. The applicant has stated that it is necessary to have the security of aggregate quality and supply



to match the significant capital expenditure and commitment required in the manufacture of concrete products and construction materials.

- 84 Given the extant consent for the site and the identification of it through the local plan process as a mineral site the applicant considers that it makes both economic and environmental sense to continue the consent rather than release a new greenfield site elsewhere. The applicant has not therefore considered any alternative sites.
- 85 It is considered that within the context of the existing consent and its inclusion within the 10 year supply land bank that the need for the development has been satisfactorily justified.

### **Landscape and Visual Impact**

- 86 A study area of 3km has been used in the assessment which is considered appropriate to the setting of the site, essentially near the base of a bowl lying at between 260-270 AOD, with land rising to the north to 465m at Ben Thrush, to the east to 456m at Lendrick Hill, south to 440m at Auchlinsky Hill and west to 611m at Innerdownie. A series of smaller interlocking hills lie in between the larger hill masses within the Ochil Hills.
- 87 There are no landscape designations covering the application site area. Mineral development has the potential to have an adverse impact on the local landscape and impact on views. The assessment carried out identified that initially the site would have a medium to high visual impact from some close-by locations and local houses, but “that early new planting and screening would propose to protect amenity and visual impact and result in a medium to low impact”. The EIA concluded that “the proposed woodland planting would result in a negligible impact on views from the wider area after a 5 to 10 year period and would have a low to medium visual impact in the shorter term”. It is not anticipated that tree planting will have a significantly adverse impact on the peat bog.
- 88 The baseline visual appraisal of the application site in the Environmental Statement shows “that although it is not a prominent feature within the wider landscape the site does visually contribute to the landscape setting, particularly within panoramic views from elevated positions”. From key positions the focus “tends to be drawn towards the surrounding hilltops where the application site is often not an easily distinguishable feature thereby reducing the visual significance of the proposed quarry within the wider landscape context.” This is considered to be the case in the views from the public roads in the vicinity of the site.
- 89 The main cumulative effects of the proposed development in the EIA was generally agreed to be with the Green Knowes and Burnfoot windfarms. There are likely to be moderate and substantial cumulative effects from some viewpoints including sensitive receptors from residential properties and routes used by walkers. Table 7.8 in the Environmental Statement assessed the visibility of the Burnfoot and Green Knowes windfarm developments from 10 of

the viewpoints and identifies the impact on the viewpoints, together with the proposed development before mitigation. A “minor impact significance is identified from Viewpoints 1, 5 and 11, a moderate impact significance is identified from Viewpoints 2, 3, 7 8, 10 and 16, a substantial impact significance is identified from Viewpoint 9 at Glenquey House”.

- 90 The “only cumulative viewpoint of both windfarms and the quarry was from Innerdownie Hill and was identified as a minor cumulative impact due to the long distance. From this location the proposed quarry, Green Knowes and Burnfoot windfarms form part of the 360 degree panorama, however all three developments would not be within the same view, as views to Burnfoot Hill are only possible when looking 180 degrees southwest away from the proposed site and Green Knowes. Such long distance views would result in minor cumulative effects on the visual amenity due to the extent of the developments within this wide scale view”.
- 91 Several mitigation measures are proposed by the Council’s landscape consultee, David Tyldesley Associates to reduce or remediate adverse effects. Working on the steeper northern and eastern site boundaries is generally avoided, although the steep eastern ridgeline will be affected. A 3m high planted earth bund is recommended adjacent to Glenquey House to reduce visual impacts from the property. The screening properties of proposed planting would be improved by a proportion of evergreen species such as pine which would be in-keeping with the surrounding coniferous plantations and the character of the wider landscape. It is considered that there will be significant landscape and visual effects from the proposed development, however these are likely to be restricted to a small envelope around the site, due to its location within a low lying valley within the Ochil Hills. The Council’s consultee has concluded that significant visual impacts are likely to be restricted to a relatively limited number of sensitive receptors. These include local residents near the site who will be affected by the proposals for the duration of the works and visitors to the area. As with most other quarries within the Ochils the Glendevon Quarry will be generally well concealed and is unlikely to have a significant impact on the wider landscape. It should also be remembered that there is an extant planning consent where the principle of a quarry development is already established.

### **Traffic and Road Safety**

- 92 A Transport Statement (TS) was prepared in support of the planning submission which aims to confirm the traffic and transport issues associated with the proposals and in particular look at the routing and impact of heavy goods vehicles (HGV) associated with the extraction of quarry products. Consultation was undertaken with Perth & Kinross Council during the preparation of the TS.
- 93 The TS identifies that condition (7) of Planning Consent Ref 84/956/MW stated: "Access to the workings shall be via the Glenquey Reservoir Road and the applicants shall negotiate with Fife Regional Council as to the use of this road. They shall also consult Tayside Regional Council Roads Authority and Fife

Regional Council regarding safety measures, widening, etc. as may be required by these two authorities, and approved by the Planning Authority." The details of condition (7) were approved by Perth & Kinross Council on 6 February 1986.

- 94 A separate planning application has been submitted by the applicants for the construction of a new haul road to the quarry. (Ref: 10/01282/FLL). The application proposes to take access from the initial section of the Glenquey Reservoir Access Road at the junction with the A823 and provide two new inter-visible passing places on the initial section of the existing access road to enable HGVs to pass each other on this section of road. A new separate haul road is proposed to be constructed beyond the initial section, which would run parallel with the existing access road, separating HGV movements from the existing users of the Glenquey Reservoir Access Road and also avoiding damage to the existing road as a result of HGV use. It is also proposed to provide a new pedestrian footway on the west side of the access road, up to the new haul road, to provide a safe route for pedestrians using the road to the reservoir.
- 95 The Transport Statement assessed the impacts of the proposal on the basis of an average extraction rate of 160,000 tonnes of mineral per annum and a maximum of 200,000 tonnes per annum to ensure a worst case traffic scenario was considered. Based on the nature, volume and distribution of traffic it was concluded that the existing junction with the A823 was adequate in terms of visibility and geometry standards and the access junction and would continue to operate well within capacity. It was also concluded, from junction assessments, that the proposal would have a negligible impact on the local road network and that the existing roads infrastructure will be sufficient to accommodate the increase in traffic movements on the local and wider area.
- 96 The assessment of traffic distribution was based on the market areas for the mineral and it was calculated that approximately 80% of material would be directed south on the A823 and 20% directed north on the A823 towards the A9. The TS identified that as the primary distribution of products was to the south this would assist in minimising the impact through Glendevon village.
- 97 Following the deferral of the application an additional Transport Statement was submitted by the applicant which was commented on by the relevant community council's and Clackmannanshire Council, the adjacent authority. Perth and Kinross Council's Transportation Planners have been consulted on the proposal at the pre-application and application stage and have no objections to the Transport Statement in terms of its conclusions in relation to the impact on the local road network or on the configuration of the proposed haul road and it's junction with the A823. In terms of the additional traffic information submitted and the comments submitted the Council's Transport Planner has provided the following comments.
- 98 *"In response to concerns regards nearby bridge and road capacities, specifically at Rumbling Bridge, there are no TRO (Traffic Road Order) notices to restrict vehicles on the basis of weight or size on the named routes and as*

*such there is no justification to further restrict vehicle routing from this development.*

- 99 *The traffic generated from this development will use 'A' class roads, namely the A823, A977 and A91. These "A" class roads are designated as general, all-purpose roads that are capable of accommodating all road legal traffic as a routine. In addition, these routes are included in the Tayside and Central Scotland Transport Partnership (Tactran) Lorry Routing map as being suitable lorry routes.*
- 100 *I note that the traffic data used in the additional traffic impact statement has been obtained from the Transport Scotland website and from a traffic count, both of which I consider to form a satisfactory source. We have undertaken additional traffic count surveys on the A823 in August this year (2013) which confirms the accuracy of the data used in the Traffic Impact Statement. The traffic data indicates that the roads have daily traffic flows at the six locations ranging from 1721 to 6245. In addition, the use of National Road Traffic Forecasts (NRTF) low growth rates is generally accepted within the industry.*
- 101 *To provide some proportioned indication of traffic volumes in relation to road capacities, assessments using Design Manual for Roads and Bridges (DMRB) Advice note, TA 46/97 states that a general purpose single carriageway rural road such as those identified generally has a capacity of 13,000 annual average daily traffic flow.*
- 102 *I have considered the road geometry, which does have an impact on traffic speeds and therefore volumes but it is concluded that given the traffic flow measured at various affected sites these roads are well within the expected traffic flow range and are currently operating below capacity. Therefore, the roads have sufficient capacity to cope with the extra traffic generated by this development.*
- 103 *It is accepted that there will be an increase in HGV traffic as a result of this application. However, I am aware that as a consequence of low level of all traffic, then any increase, no matter how small in absolute terms will generate a large percentage increase. Site C (to the south east of Powmill on the A823) which may be considered a worst case scenario, equates to a 1.0% increase in total traffic, but a 40.0% increase in HGV traffic, this is due to the low base numbers of heavy traffic using this road currently. Of the other five sites, the % increase in total traffic ranges from 0.1% to 0.6%, whilst the % increase in HGV traffic ranges from 0.9% to 14.6%.*
- 104 *In conclusion, I consider that the impact of this traffic is illustrated well in table 2.3 within the Traffic Impact Statement and that the current road system is well capable of managing the increase in traffic from this application.*
- 105 *With regard to traffic safety concerns it is agreed as noted by Clackmannan Council that the road within their boundary is not of a high geometric standard and that this has been addressed through the introduction of a mandatory traffic speed limit of 40mph on these sections, this observation is contrary to the*

*submitted Traffic Impact Report. In addition, the road geometry encountered does require slower speeds for all traffic. The combined effect of these elements slows traffic effectively resulting in a reduced risk of serious accidents there.*

- 106 *The Council has looked closely at all the roads affected by the Traffic Impact Report within our control and have identified no recorded accidents there. As a result of the above no road improvements can be justified, beyond that undertaken many years ago resulting from this application.”*

### **Ecology/Biodiversity**

- 107 It is accepted that mineral working will have a significant environmental impact on the ecology and biodiversity of the site. The site however has an extant planning consent and is in the Council’s 10 year minerals land bank. 21.6 ha of the application site area of 30 ha will have sand and gravel extracted. The area that will not be impacted upon from extraction according to the EIA includes an area of 2ha of the “best bog and 6.6ha of the most diverse grassland to the east of the plateau” where “avoidance of impact has been the first measure in reducing impact”. Quarry operations are such that the potential for reduction of impact is limited during the operational life of the quarry. The EIA includes an ecological report which provided the results of ecological surveys undertaken on behalf of the applicant and included an impact assessment in accordance with current regulations. The following site specific surveys were undertaken:

- Phase 1 Habitat Survey, April –September 2010
- Otter Survey, April – August 2010
- Water Vole Survey, August 2010
- Breeding Bird Survey, April – July 2010
- Orchid Survey, June 2010
- Higher Plant Species Listing, April – August 2010
- Protected Species Survey – October 2013

- 108 A report has been submitted by a member of the public “Glenquey Moss, Blanket Bogs of the Ochil Hill and Raised Bogs in Perth and Kinross” by Alistair Godfrey. This report covers vegetation and hydrology, geomorphology, climate and bog morphology and included an NVC survey and bryophyte survey. There are no statutory or non-statutory designated ecological sites on or within 1km of the application site. The proposal was assessed on its impact on flora and fauna, including the impact on soils, habitats, protected species and breeding birds. Scottish Natural Heritage has been consulted on the proposal. Surveys recorded 9 habitats on site in comparison to 22 off-site. A wet modified bog covering approximately 49% of the site formed the main habitat interest. The site was considered to be relatively impoverished due to long-term agricultural management and this land-use was reflected in a relatively low higher plant species list of 80 species. The protected species surveys carried out in 2010 revealed that in terms of otter there were no signs of a rest area or that a breeding holt was evident either on or adjacent to the site. There were no signs of badger recorded or water vole in the surveys undertaken in 2010. No Barn Owl, Short-eared Owl or Tawny Owl were found to be on or adjacent to the site.

- 109 The EIA included the mitigation proposed to address the most significant impact identified which was the removal of the peaty topsoils over part of the site. In order to address this, the site area has been reduced to retain the best area of wet bog and the soils will be stored separately in shallow lagoons for future reinstatement. This would ensure 100% re-use of peat on site, as well as conserving surface biological interest.
- 110 In consultation with SNH there were concerns raised over the loss of blanket bog habitat and proposed restoration. There are also concerns raised whether or not peat restoration will be successful.
- 111 As well as being an important habitat for wildlife, bogs function as important carbon stores. The disruption of peat on the site will result in the release of carbon into the atmosphere as carbon dioxide and re-wetting of the excavated peat is likely to lead to the release of further carbon in the form of methane. In the longer term the ability of any disturbed bog habitat to sequester carbon through the active formation of peat is likely to be lost.
- 112 Given the status of the application site as an extant quarry site and identified in the Council's minerals landbank, SNH do not object to the proposal and realise that there will be loss of habitat but recommend that the restoration and mitigation scheme is implemented so that the impact on blanket bog habitat is minimised as much as possible. An Environmental Management Plan and Ecological Clerk of Works is requested by condition to ensure that peat removal and storage is implemented satisfactorily.
- 113 Since the deferral of the application the applicant has submitted further ecological information in the form of a Protected Species Survey carried out in October 2013 by ECOS Countryside Services LLP. With regard to the 2010 habitat survey submitted it appears that, other than a change to the appearance of the habitats due to cessation of grazing, it is still considered to be an accurate and credible survey. The change to grazing will have affected breeding birds but probably not to any significant extent. Lapwing and curlew may have added a pair or two to the 2010 survey but skylark have probably decreased slightly due to an increase in grass height. Overall it is considered that the bird assemblage will be more or less the same as previously surveyed.
- 114 Badgers have moved onto the site since the ECOS survey in 2010 and the main sett lies on the western boundary and if it can be avoided by creating an undeveloped buffer of at least 30m in width then an SNH licence would not be required. Underground badger tunnels may extend more than 20m from sett entrances and in the case of this sett the tunnels will extend into the quarry. As a precaution therefore a 50m buffer is recommended if the quarry is likely to destabilise the ground in the locality of the sett. The social group will lose potential foraging habitat (acid grassland), however since the cessation of grazing, the grass is longer and badgers prefer shorter grass enriched by cow dung and may decide to permanently abandon any outlier setts as the grass becomes less attractive for foraging. It is important to make sure that any badger movement is not blocked by any perimeter fencing and this may include the

need for badger gates in the fence. A badger mitigation plan is therefore required by condition.

- 115 It is considered that there are no waterbodies or habitat suitable for otter within the site boundary. There was otter activity recorded on the Glenquey Burn and one holt which was not in use at the time of survey. The burn is within the home range of the otter and the river is most probably a main conduit to the stocked fishery at Glenquey Reservoir. Lying at the bottom of a steep gorge any noise is unlikely to affect the otter. Potential light pollution may cause disturbance but can be mitigated by ensuring the lighting is directed away from the burn. As the holt lies at a distance of 58m from the site boundary it is more than 30m from workings and is therefore outwith the distance that requires a disturbance licence. Otter surveys are recommended to be carried out annually to ensure that operations do not impact detrimentally on otter habitat. This can be secured by condition.
- 116 The Council's Biodiversity Officer has been consulted. While there are concerns over the impact of quarrying on biodiversity, the site is not protected and is considered by SNH to be of low diversity and of no special interest. The site, while a raised bog, has been modified and is not of such importance to require any special protection and that any biodiversity issues can be addressed at a local level. One of the main things to ensure is that there is continuity in the phased restoration of the site as extraction proceeds and if this can be conditioned into the approval then it will go some way to minimising the loss of habitat and species dependent upon it. Also the Peat Management Plan and Ecological Clerk of Works required by condition should help provide for this. Other conditions recommended on any consent include mitigation for protection of badger, otter, European Protected Species, ground nesting birds, amphibians and reptiles, invertebrates and bryophytes.

## **Noise**

- 117 A noise assessment has been undertaken to determine the impacts from the operation. Existing noise levels were measured at representative locations around the site and against the existing noise climate. The proposed new haul road and proposed planting on either side was also taken into consideration in the assessment. The proposed haul road is the subject of a separate planning application. The measurements taken enabled the identification of the existing noise climate and set a baseline against which the predicted noise impacts of the proposal could be assessed and compared. All predicted noise levels were undertaken at the predicted closest distance of sensitive properties. A series of noise predictions, measured against the predicted worst-case scenarios, have been made in relation to sensitive locations. The predicted noise levels have been assessed against the existing levels and criteria identified in the ES. From the results it is apparent that the highest predicted worst-case noise levels from Glendevon Quarry do not exceed the most stringent criterion contained in national Planning Advice Notes.
- 118 The applicant has arranged for a background survey to be conducted at Burnfoot, Balmony, Glenquey House and Glenquey Farm and the background  $L_{Aeq}$  ranged

from 42dB to 48dB and in all cases this is higher than the predicted level from normal operations of the quarry, however the surveys were short term, conducted over around 2 hours at the middle of the day so may not be representative of the baseline noise earlier in the morning or in the evening i.e. 07.00 or 19.00. This basic background survey is acceptable due to the fact that the operational noise is predicted to be 45dB (A) or below at the receptors for each phase of the operation. This level is below the PAN 50 recommended limit for quiet rural areas and it is recommended setting this level as a condition at all properties.

- 119 PAN 50 allows for a relaxation of the 45dB(A) level to 70dB(A) for a temporary period of 8 weeks per year to facilitate the formation of baffle mounds and other soil operations. The applicant has predicted levels at the receptors for this type of operation. The levels predicted range from 27 to 67 dB (A), which means it is below the 70dB (A) temporary level, and therefore is acceptable, however a condition is recommended limiting this.
- 120 Based on the above assessment it is considered that the proposal will not have any significantly adverse impact on neighbouring residential properties or on any nearby tourist routes within the vicinity of the site.

### **Air Quality and Dust**

- 121 An air quality and dust assessment has been undertaken to determine the impacts from the operation. Existing air quality in the vicinity of the proposed quarry extension was considered by reviewing data available on government sponsored web sites and information provided by Perth and Kinross Council, together with specific short term monitoring around the quarry. The impact of the proposed development on nearby properties was assessed. A qualitative risk assessment for dust emission from the quarry operations was undertaken for each stage of the development. The assessment concluded that the development was unlikely to lead to significant dust impacts at the receptors considered in the assessment. The assessment recommends dust control measures for the quarry.
- 122 These measures are mostly recommendations and some measures are a little vague such as enforcing a speed limit on site. It is preferable that a more prescriptive dust management plan which sets out exactly what will be done when, and by whom with an attached maintenance schedule and corrective actions, particularly since the impacts at sensitive receptors are not quantified and some of the sensitive receptors are less than 100 metres away. A condition requiring a dust management plan is recommended.
- 123 The proposal therefore will not have any significant adverse impact on the air quality of nearby residential properties or on any nearby tourist routes or footpaths.

### **Cultural Heritage**

- 124 A Cultural Heritage assessment was carried out to identify the nature, location and status of any receptors of archaeological/cultural heritage importance that



are present within the vicinity of the Site, and which may be affected by the proposal. The assessment identified five cultural heritage sites within the proposed quarry development area, none of which are either statutorily or non-statutorily designated cultural heritage sites. These include one post-medieval field system of local significance, which the walkover survey revealed may extend further than previously recorded. The walkover survey also encountered a previously unrecorded denuded grassy mound of unknown archaeological significance and within the boundary of the proposed access track, a further two previously known sites of varying local and regional significance, comprising another post-medieval field system and a section of a putative Roman Road.

- 125 Perth & Kinross Council Heritage Trust has recommended a programme of works to be undertaken which will include a survey of upstanding remains, field evaluation and potentially post-excavation analysis and publication.
- 126 There are a total of 5 category B listed buildings with the 1km study area of the EIA. The closest of these is the B listed Glenquey House approximately 200m to the south west over which concerns were raised on the impact of the proposal on the setting of the house. Glenquey House does not face towards the quarry and there is a large intervening brick built building between the house and the quarry. There has been tree planting in the area around the house and along with the proposed woodland screening for the proposal this will provide satisfactory mitigation of any adverse impact on the setting and character of Glenquey House. It is considered that the proposed quarry will have no significant impacts upon the setting of nearby Listed Buildings. The proposed woodland planting around the periphery of the site to be carried out will also mitigate the impact on the Scheduled Ancient Monument at Down Hill after the completion of extraction to no residual impact.
- 127 It is concluded that the proposal will not have any significantly detrimental impact on the status or setting of any of the sites of cultural heritage importance within the study area and it is considered that the operations at the quarry will not impact detrimentally on tourist visits to these sites.

### **Tourism and Recreational Access**

- 128 The area around the application site has considerable interest for local people and visitors alike in relation to recreational access in the surrounding hills and the core paths promoted as part of the Woodland Trust's Reservoirs Trail. The restoration plan includes new informal footpaths throughout the application site. In general the proposed development will not inhibit public recreational access in the vicinity of the application site and a new haul road as proposed will avoid any conflict between quarry traffic and pedestrians and cyclists. A condition should be attached to any consent to make sure the proposed core paths AUCH/147 and AUCH/152 are not obstructed. The Council's Access Officer has concerns over the long term impact of quarrying on recreational users and considers that this could be mitigated to an extent by Developer Contributions towards the maintenance of the core paths in the area secured through a Section 75 Agreement.

- 129 Additional information was submitted by the applicant's agent in support of the application comprising an assessment of the implications of the quarrying operation on tourism and recreation within the surrounding area. This assessment is new information in itself however it is based on information which has already been presented in the Environmental Statement.
- 130 The restoration proposals aim to encourage and enhance pedestrian links and increased recreational opportunity across the application site. Presently, pedestrian links within the application site are restricted, particularly from Auchlinsky Hill to Glenquey Hill and Innerdownie. Within the early phases of restoration of the quarry it is proposed to establish links providing an important and valuable connection through the site to the wider footpath network.
- 131 The Environmental Statement has concluded that there will not be a significant adverse impact on the environment during the operational period of the quarry. This has been supported through the consultation process where the main consultees have concluded that the proposal will not have a significant adverse impact on the environment subject to appropriate conditions for the mitigation of the impacts identified. The conclusions of the landscape and visual impact assessment identify that from key tourist viewpoints the application site is often not an easily distinguishable feature thereby reducing the visual significance of the proposed quarry within the wider landscape context. The Council's landscape consultant concluded that based on the viewpoint analysis and cumulative analysis the proposed extraction is unlikely to have a significant impact on the wider landscape. It is considered that on the basis of above in terms of impact on landscape character and visual amenity and other impacts identified above, such as cultural heritage interests and traffic impact, that the proposal will not lead to a loss of visitor numbers within the Glendevon area or be detrimental to recreational activity within the area generally. Furthermore there is no evidence to suggest in this situation that there is a direct causal relationship between quarrying and a decline in tourists numbers visiting the area.

### **Geology, Hydrology and Hydrogeology**

- 132 The site is underlain by superficial deposits of sand and gravel with an average thickness of 11.0m. The mineral is underlain by clay interpreted to be boulder clay. In the Environmental Statement it was concluded that "any groundwater within the superficial deposits is considered to be perched on lower permeability fine, silty sand or boulder clay. The groundwater flows laterally to the north eastwards to eastwards following the slope of the clay subsurface below the mineral until it emerges as seeps or springs that feed the flows in the lower Howcleuch Burn and other small watercourses. The regional water table is considered to lie at depth within the bedrock with flow interpreted to be eastwards towards Castlehill Reservoir. The closest water supply to the site is a spring at Glenquey Farmhouse which is located 210m to the south west. The risk of impact to this supply is considered to be negligible since the mineral thins in the south of the site where it is at a higher level and more likely to be dry and the supply is located on the other side of Glenquey Burn from the site. The remaining abstractions are considered not to be at risk due to their

distance from the site and / or their location on the opposite side of Glen Devon from the site”.

- 133 Furthermore it is stated in the Environmental Statement that “any impact on perched groundwater bodies resulting from the quarrying operation is considered unlikely to reduce the flow in Glenquey Burn and there will be no impact on Glenquey Reservoir since this is upstream of the site. Any reduction in flow to Castlehill Reservoir as a result of water consumed by the operation will be minimal. There may be changes to the flow in the burns to the east of the site due to the removal of peat, sand and gravel which provide temporary storage for rainwater and sustain flow during drier periods. In order to avoid any increase in flooding downstream of the site the discharge of excess water from the site will cease during flood conditions. A groundwater level and monitoring programme is proposed. It is considered that sufficient mitigation measures will be in place to prevent impacts of the operation on surface water and groundwater flows and quality.”
- 134 SEPA’s main concern relates to the impact on water resources and potential alteration of the water regime caused by excavation. As a consequence of this it is recommended that a condition is attached to any consent to ensure that a full site specific Environmental Management Plan (EMP) is prepared and submitted in consultation with SEPA. Also at least one year prior to mineral workings ceasing on the site a fully detailed restoration and aftercare plan should be submitted in consultation with SEPA. This plan must include any information that restoration will have on the water environment, including groundwater quality and quantity and also include an assessment of the effect that any backfilling below the water table will have on groundwater.
- 135 Concerns were raised over the impact of the proposal on geo-diversity and the loss of an important geomorphological feature. As stated previously the application site does not have any statutory landscape designation including any designation in relation to geo-diversity. Similar to any other sand and gravel quarry development the impact of quarrying will result in some loss and modification of this post glacial landscape. It is acknowledged that there has been published academic work which includes the site as an important post-glacial feature in the area, however this work post- dates the original planning consent and zoning in the local plan. An interpretive report and photographic survey of these features on the site however would be a useful record to be retained and can be secured by condition.

### **Restoration and Aftercare**

- 136 Restoration proposals have been submitted for the phased restoration of the site which include tree and woodland planting and peat/bog restoration. SNH have concerns about the restoration proposals, in particular on the impact on blanket bog habitat and it is therefore considered that the restoration plans as submitted are not approved and a revised restoration plan is required in consultation with SNH for approval of the Council prior to recommencement of works. It is also recommended by condition that an Ecological Clerk of Works with experience in peatland restoration is appointed to supervise the

implementation of the works and the restoration proposals. Prior to the issue of any consent the applicant will require to conclude a Section 75 Agreement to ensure the implementation, completion and maintenance of the restoration and aftercare proposals for the site and to provide a financial bond to cover this.

### **Socio-Economic Benefits**

- 137 It is anticipated that on re-opening the quarry would directly employ 6 members of staff and support a further 10 personnel in the related activities of environmental management, sales, administration and haulage. The operation of the quarry would contribute to the local economy through the use of local services, the payment of business rates and the use of local contractors for site maintenance, fencing, tree felling, earthworks, cleaning and food. The applicant has stated that typically a quarry of this scale contributes up to £50 000 per annum to local business rates and up to £300 000 per annum in Aggregates Levy payments, where this is distributed to charitable and community groups by the Climate Change Fund in Scotland.

### **Sustainability**

- 138 Minerals including sand and gravel can only be worked where they are found and are an important national resource supporting the construction industry. There are environmental impacts associated with extraction of sand and gravel and their export to the market, however it has been demonstrated through the EIA and the consultation process that significant environmental impacts can be mitigated which will allow the extraction to be carried out in as sustainable a manner as possible.

### **LEGAL AGREEMENTS**

- 139 A Section 75 Agreement is required to ensure the implementation, completion and maintenance of the restoration and aftercare proposals for the site and to provide a financial bond to cover this. The Agreement should also include a contribution towards footpaths in the area agreed in consultation with the Council. The Section 75 should be completed within 4 months of the date of any Committee approval.

### **DIRECTION BY SCOTTISH MINISTERS**

- 140 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in, or notification relating to this application.

### **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 141 The proposed variation of the time limit on the extant consent 84/956/MW under Section 42 of the Town and Country Planning (Scotland) Act 1997 is considered to be acceptable. Section 42 allows the determination of this proposal without compliance with the original conditions attached to the

consent and also allows the attachment of new conditions. The applicant has provided up to date environmental information in the form of an Environmental Impact Assessment which has allowed analysis of the impact of the proposal within the context of up to date environmental parameters compared to the case at the time of the original consent. The EIA in consultation with the main consultees was found to be acceptable in terms of the impacts and that any significant impacts can be mitigated satisfactorily. There is inevitably going to be adverse impacts to the immediate site area with loss of blanket bog habitat, however this is considered to be acceptable given the extant consent on the site, its Development Plan status and that satisfactory restoration and aftercare can be achieved.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent with the exception of minor changes to built structures agreed in writing with the Planning Authority.
- 2 All sand and gravel extraction within the site shall be completed by 31 December 2035.
- 3 The details of the proposed scheme of restoration and aftercare are not approved. An amended scheme of restoration shall be submitted within 6 months of the date of this consent to the Council for approval and no work shall recommence until that scheme has been approved in writing by the Council. The amended scheme shall include a scheme of phasing of restoration and shall attempt as far as possible to meet the concerns of Scottish Natural Heritage in relation to the impact on blanket bog habitat as outlined in their letter to the Planning Authority dated 11 March 2011. SEPA shall also be consulted on this scheme and it shall include an assessment of the effect that any backfilling below the water table will have on groundwater. An Ecological Clerk of Works should also be engaged in overseeing the restoration of the site.
- 4 Restoration shall be fully implemented within 12 months of the completion of extraction, shall be phased in accordance with the restoration scheme to be approved under condition 3 above and shall thereafter be maintained to the satisfaction of the Planning Authority.
- 5 The extraction of sand and gravel shall commence and proceed only in accordance with the submitted details of phasing, direction and depth of working, as shown on the plans herewith approved. No deviations from the phasing plan shall be permitted unless agreed in writing with the Planning Authority. No more than one phase shall be worked at any one time.
- 6 Mineral extraction and processing and the movement of vehicles shall only be carried out at the site between the hours of 0700-1900 Mondays to Fridays and

0700-1300 hours on Saturdays, unless otherwise agreed in writing with the Planning Authority.

- 7 Only the plant machinery and equipment specified in the Planning and Environmental Statement submitted with the application (or similar plant which generates no greater sound power levels) shall be used, unless otherwise agreed in writing with the Planning Authority and all plant, machinery and equipment shall be operated and maintained in accordance with the manufacturer's instructions. This shall include servicing and the provision of suitable exhaust systems to minimise noise emissions.
- 8 All vehicles, plant, machinery and equipment shall operate only during the permitted hours of operation, and shall at all times be silenced in accordance with the manufacturer's recommendations and so operated as to minimise noisy emissions. The planning authority reserves the right to insist on any reasonable additional measures to further minimise noise emissions, should it prove expedient to do so.
- 9 Should any aspect of the proposed operations result in justified nuisance complaints the applicant shall – if required by the planning authority – have recognised consultants carry out monitoring and provide reports to the planning authority. The applicant shall be required to take any reasonable remedial measures recommended in such reports, unless otherwise agreed in writing with the Planning Authority.
- 10 Noise levels measured at 3.5m from the façade of noise sensitive properties shall not exceed the following limits (except during temporary operations - see condition 11):  $L_{Aeq, 1 \text{ Hour}}$  45 dB (free field)
- 11 To allow for temporary operations such as soil stripping, removing soil heaps, creating earth bunds, crushing operations and restoration, noise levels measured at 3.5m from the façade of any noise sensitive dwelling shall not exceed 70dB  $L_{Aeq, 1 \text{ hour}}$  (free field) for more than 8 weeks in any one calendar year, unless otherwise agreed in writing by the Planning Authority. Perth and Kinross Council, Environmental Health and all neighbouring noise sensitive dwellings should be advised in advance of the aforementioned activities detailing the timings, actual activities to be undertaken and any additional noise mitigation measures.
- 12 Prior to the commencement of operations, a satisfactory Dust Management Plan must be submitted to and approved by the Planning Authority, thereafter the measures contained should be implemented and records kept for perusal of the Planning Authority.
- 13 Prior to commencement of work details of all external lighting within the site shall be submitted for the prior approval of the Planning Authority and shall include mitigation measures for the protection of bats, badgers and otters and shall be sufficiently screened and aligned to ensure that light spillage beyond the boundaries of the site is minimised.

- 14 Wheel cleaning facilities shall be provided at the exits from the site, details of which shall be submitted for the prior approval of the Planning Authority. The details as approved shall be implemented prior to the commencement of any extraction and shall be maintained permanently until extraction ceases. All vehicles leaving the site will be required to use these facilities.
- 15 Audible vehicle reversing alarms shall be operated on the method that they only emit the warning if necessary, e.g. on an infrared signal which detects persons to the rear of the vehicle.
- 16 A suitable contamination mitigation strategy shall be provided for the approval of the Planning Authority prior to commencement of work to prevent contamination of the site or any watercourse from oils, fuels, hydraulic fluids and anti-freeze to be stored or used on the site.
- 17 No blasting shall take place on the site.
- 18 The method of working including preliminary works, soil stripping and storage, soil mounding and phased working shall be carried out as indicated in the Planning and Environmental Statement.
- 19 Prior to the commencement of any works, a full site specific Environmental Management Plan shall be submitted for the written approval of the Planning Authority in consultation with SEPA and all work shall be carried out in accordance with the said plan. The Environmental Management Plan shall include details of the appointment of an independent ecological clerk of works/environmental manager acceptable to the council, in consultation with SEPA and SNH in order to oversee the periods of peat removal and storage and reinstatement during restoration of the development hereby approved.
- 20 Prior to commencement of work on site further details of screen planting shall be submitted for the approval of the Planning Authority and shall include a proportion of evergreen species such as pine to be in-keeping with the surrounding coniferous plantations.
- 21 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority in consultation with Perth and Kinross Heritage Trust. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in consultation with Perth and Kinross Heritage Trust.
- 22 The core paths (AUCH/147 & AUCH/152) must not be obstructed during building works or on completion. Any damage done to the routes and associated signage during construction of the road must be made good before quarry operations commence. Any temporary restrictions to public access

required to facilitate works on site must be agreed in writing in advance with the Council's Access Officer.

- 23 Prior to commencement of operations a Badger Mitigation Plan shall be submitted by the applicant for the approval of the Planning Authority and it shall include the following elements:-
- A pre-development survey to immediately precede the start of any ground works
  - Annual updating surveys in March of each year during operation
  - Mitigation for the main sett through a reduction in the set up and the extraction area in Phase 3A & B. This must allow for a minimum buffer of 50m and greater if the ground within the buffer is likely to be unstable.
  - A review of the need for badger gates once perimeter fencing has been finalised.
- 24 To ensure that the development hereby approved does not impact detrimentally on otters and their habitat, otter surveys shall be carried out annually by the applicant and submitted for the approval of the Planning Authority.
- 25 No ground works or vegetation clearance shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the site is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Planning Authority.
- 26 If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 3 years from the date of the planning consent, the approved ecological measures shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of otters, badgers and breeding birds and ii) identify any likely new ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the Planning Authority prior to the commencement of development works will then be carried out in accordance with the proposed new approved ecological measures and timetable.
- 27 A geomorphological interpretive and photographic survey of the site shall be undertaken and submitted to the Planning Authority prior to re-commencement of work on site.
- 28 Prior to commencement of work on site the applicant shall submit to the Planning Authority for approval an ecological survey covering the following:



- a. European Protected Species
  - b. Badgers
  - c. Ground nesting birds
  - d. Amphibians and reptiles
  - e. Invertebrates
  - f. Bryophytes
- 29 Prior to each phase of work commencing on site the applicant will submit to the Planning Authority for approval an ecological survey of that area of the phased work covering the following:
- a. European Protected Species
  - b. Badgers
  - c. Ground nesting birds
  - d. Amphibians and reptiles
  - e. Invertebrates
  - f. Bryophytes

**Reasons:**

- 1 In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006.
- 2 In accordance with the terms of the application and in order for the Planning Authority to maintain control of the period of application in the interests of visual and residential amenity.
- 3-4 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 5 In the interests of visual and residential amenity .
- 6-13 In the interests of residential amenity.
- 14 In the interests of road safety.
- 15 In the interests of residential amenity.
- 16 In the interests of environmental quality.
- 17 In the interests of residential amenity.
- 18-19 In the interests of environmental quality.
- 20 In the interests of visual amenity.
- 21 In the interests of archaeological heritage.
- 22 To ensure continued public access along the (proposed) core path.

- 23 In order to protect badgers and their habitat.
- 24 In order to protect otters and their habitat.
- 25 In the interests of bird protection.
- 26 In the interests of ecology and biodiversity.
- 27 In the interests of geodiversity.
- 28 In the interests of preventing any harmful effects to species listed in the Wildlife and Countryside Act 1981 as amended
- 29 In the interests of preventing any harmful effects to species listed in the Wildlife and Countryside Act 1981 as amended

## **B JUSTIFICATION**

The proposed development of the site is in accordance with the Development Plan and there are no material considerations that indicate otherwise.

## **C PROCEDURAL NOTES**

Prior to issue of consent the applicant shall conclude a Section 75 Agreement to ensure the implementation, completion and maintenance of the restoration and aftercare proposals for the site and to provide a financial bond to cover this. This Agreement should also include a contribution towards footpaths in the area agreed in consultation with the Council. The Section 75 shall be completed within 4 months from the date of the Committee's decision, that is before the 31 March 2015. Failure to complete the Section 75 within this timescale may lead to a refusal of the application.

## **D INFORMATIVES**

- 1 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 2 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development

- Readily visible to the public
  - Printed on durable material
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 The applicant is advised that they will require to obtain a CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2011 for the proposed development.

**NICK BRIAN  
DEVELOPMENT QUALITY MANAGER**

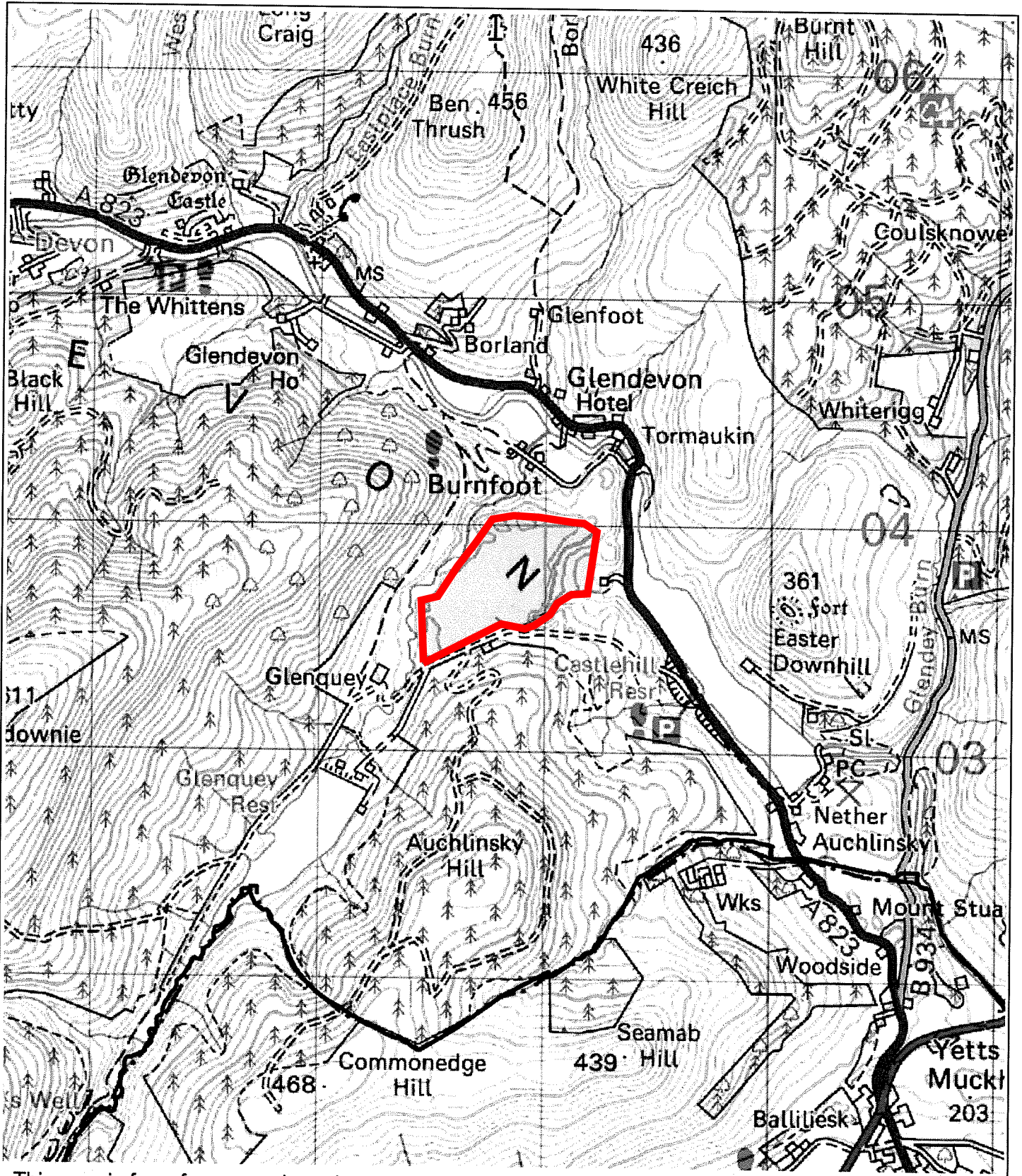
Background Papers: 108 letters of representation

Contact Officer: Mark Williamson – Ext 75355

Date: 31 October 2014

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You can also send us a text message on 07824 498145.
All Council Services can offer a telephone translation facility.





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