

Stirling Council

Agenda Item No.4

Special Planning &  
Regulation Panel

Date of Meeting: 13 September 2018

Not Exempt

Application under Section 42 of the Town & Country Planning (Scotland) Act 1997 to remove Condition 14 of planning permission S/98/00353/DET to permit the importation and disposal of inert waste to enable the restoration of the western area of Cowiehall Quarry at Cowiehall Quarry, Cowie, FK7 7DN - Patersons Of Greenoakhill Ltd - 18/00190/FUL

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## Purpose & Summary

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This is a planning application under Section 42 of the Town and Country Planning (Scotland) Act 1997, to develop land without compliance with a condition (Condition 14) attached to the previous permission granted in 1998. The proposal is classified as a 'major' development and so requires to be determined at the Planning and Regulation Panel in accordance with the Scheme of Delegation.

This application will be the subject of a Hearing.

This report forms the Report of Handling for the planning application in compliance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

## Recommendations

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Panel is minded to:

1. approve the application subject to the conditions and reasons as set out in Appendix 1 attached to the report and;
2. the satisfactory review and updating of the current restoration bond to take account of the environmental implications of the alternative restoration scheme and projected costs.

# Resource Implications

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Not applicable.

# Legal & Risk Implications and Mitigation

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Not applicable.

## 1. Background

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1.1. Not applicable.

## 2. Considerations

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### **The Site**

2.1. The application site is located approximately 1 mile to the south of Throsk and 50 metres to the east of Cowie. The land surrounding the quarry on all sides is in agricultural use as part of Mains of Throsk Farm.

### **The Proposal**

2.2. The application seeks to vary the extant planning permission to permit the limited importation of inert waste by the removal of Condition 14 of planning permission reference 98/00353/DET relating to waste materials. The Condition states 'at no times during the operation of the site shall any waste material of any type whatsoever be imported to the site for disposal or for any other purpose'. The reason for the Condition is 'to ensure that no unauthorised tipping of material takes place within the site, and to ensure that the long term agricultural use of the land is safeguarded'.

2.3. The applicant anticipates that the proposed infilling rates will take 3 to 4 years from the commencement of operations to the final profile and this being the case, the application seeks permission for a period of up to December 2022.

2.4. The application does not include any anaerobic process. The application is restricted to the importation and disposal of inert waste.

### **Previous History**

2.5. Cowiehall Quarry was granted planning permission in 1989 for the formation of a sand and gravel quarry – planning permission reference 89/00518/DET. In 1998, planning permission was granted to revise the Conditions – it is Condition 14 of this permission relating to a prohibition of importation of waste that is the subject of this current application.

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## **Consultations**

### **Transport Development (Roads):**

- 2.6. The applicant has submitted a supporting statement which confirms that the existing access and egress arrangements will remain unchanged, with these being via the existing quarry access off the A905, with vehicles routing either east via Airth, or west via Fallin/Stirling. The applicant has provided further information which confirms that the traffic movements associated with the importation of infill material will not exceed existing traffic volumes. Given the above, Transport Development has no objection to the removal of condition 14 of planning permission S/98/00353/DET to permit the importation and disposal of inert waste to enable the restoration of the western area of Cowiehall Quarry.

### **Service Manager (Environmental Health):**

- 2.7. No comment as this would be a matter regulated by SEPA.

### **Scottish Environment Protection Agency (East) SEPA :**

- 2.8. No objection regarding this planning application.
- 2.9. SEPA provide further comment on matters related to their own regulatory regimes and which are not directly relevant to the consideration of this planning application. SEPA do not accept the proposed method set out for the restoration of the quarry at this time, the principle of restoring the quarry is potentially consentable by SEPA. However, from the information provided SEPA are unable to determine which regulatory regime the proposal for restoration will be authorised under. Therefore, it requires further consideration before SEPA could approve any authorisation through their own regulatory regimes. SEPA suggest that the applicant contacts the SEPA regulatory team to discuss this matter further. SEPA have no concerns in terms of the water environment with the proposed importation of material for restoration. If on site drainage is to continue to be directed towards the existing settling ponds, then the current CAR licence (CAR/L/1001051) for discharge will still be valid.

## **Representations**

- 2.10. Throsk Community Council has objected to the application on the grounds of the impact of heavy traffic going through the village and the environment.

### **Local Development Plan**

- 2.11. Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the Development Plan. The determination shall be made in accordance with the Plan unless material considerations indicate otherwise. The following provisions of the Development Plan are considered relevant to the consideration of this application. These are policies and criteria within the Adopted Local development Plan policies 2014, which are
- 2.11.1 Sustainable Development Criteria.
  - 2.11.2. Policy 2.5: Employment Development.
  - 2.11.3. Policy 2.9: Economic Development in the Countryside.
  - 2.11.4. Primary Policy 1: Placemaking.

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2.11.5. Primary Policy 6 Resource Use and Waste Management.

2.11.6. Primary Policy 9: Managing Landscape Change.

### **Other Planning Policy**

2.12. None.

### **Assessment**

- 2.13. The quarry has been operating for 29 years since first obtaining planning permission in 1989 and is nearing completion of quarrying works with an estimated 6-9 months of quarrying remaining. It is a condition of previous planning permissions that the land be restored to beneficial agricultural use prior to the cessation of works. Previous planning permissions anticipated that restoration and infilling would be achieved through the reuse of material from within the site without any need to import material to enable infilling.
- 2.14. The reason for the application to delete Condition 14 is for the applicant to be allowed to import inert waste to enable the infilling and restoration of the western portion of Cowiehall Quarry to beneficial agricultural use.
- 2.15. The proposal for the importation and disposal of waste does not require an Environmental Impact Assessment under the terms of Town and Country Planning (Environmental Impact Assessment)(Scotland) Regulations 2017.
- 2.16. The Quarry is now at its maximum lateral extent. The quarry operator is currently in the process of extracting and processing the final reserves of sand and gravel from the eastern side of the Quarry - it is anticipated mineral extraction will cease in the next 6 to 9 months. The current application site forms the western part of the Quarry and is the location of the quarry settlement ponds. A large part of the quarry has already been infilled and restored and been returned to agricultural use.
- 2.17. There are no implications for the position of the site access for haulage and employee vehicles, HGV routing from the A905, and the existing site offices, weighbridge and workshops. During the proposed infill operations, rainfall will be conveyed towards a sump and pumped to the existing settlement pond and discharged from the Quarry in accordance with the SEPA CAR licence. Upon completion of restoration, the finished ground profile will slope gently north east at a gradient of 1:100 to encourage water to flow through installed field drains to the discharge outlet point adjacent to the sewage works.
- 2.18. The Quarry is reaching the end of its operational life and a significant benefit has been job creation. The proposal will enable the retention of some 9 employees directly employed at the Quarry as well as jobs provided through indirect employment of hauliers, fitters, and electricians. The restoration of the site will allow the land to be used for agricultural purposes which would be in accordance with the original objectives for this site and as conditioned on the previous planning permission.
- 2.19. It has been determined that there is adequate material in-situ to infill and restore the eastern part when work is complete in 6 to 9 months. For the western part of the application site the Quarry operator requires to import inert infill waste to make up for the short fall in available restoration material.

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- 2.20. HGVs bringing waste to the site will utilise the current Quarry access off the A905. The Quarry currently dispatches approximately 300,000 tonnes of sand and gravel per annum and there is no restriction on output from the Quarry. The proposed infill rate is 150,000 to 200,000 tonnes per annum. The proposed infilling operations will commence when sand and gravel extraction ceases at the Quarry as the imported material is required for site restoration. Therefore, the proposed traffic movements associated with the infilling operations, while additional to vehicle movements associated with the dispatch of sand and gravel from the quarry, would be at a reduced level from that which has been experienced.
- 2.21. SEPA has no objection to the planning application and have not advised on any planning conditions. SEPA have their own regime for regulating the recovery and disposal of waste in quarries. SEPA require to determine which regulatory regime the import and disposal of inert waste is to be authorised under – this is not a planning matter and is solely a matter for SEPA to determine. As per the SEPA consultation reply, the applicant is required to contact SEPA in order to discuss this matter.
- 2.22. The restoration landform levels proposed and Condition 19 requiring details of restoration will assimilate with the profile of the surrounding landforms and enhance the setting and amenity of the countryside. The application site is covered by a bond for landscape restoration – the bond is between the applicant's bank and the Council.
- 2.23. The conditions in Appendix 1 are similar Conditions that were applied to the 1998 planning permission. Conditions that have now been discharged have not been included. The remaining extant (live) conditions have been updated where appropriate to either provide clarity or to ensure that the intentions of the original conditions are more secure. Conditions have also been altered to ensure that the impact of this planning application (to allow importation of inert waste for infilling) is appropriately mitigated through conditions.
- 2.24. Planning permission was granted in 1998 (reference s/98/00353/DET) for an amendment to the planning conditions for the quarry and was allied to a bond for the progressive restoration of the site to agricultural use. The bond was reviewed and updated in 2010. As the current application is now 8 years since the previous review of the bond, the recommendation for approval warrants further review. The recommendation is 'minded to approve', subject to conditions and the review and updating of the current restoration bond to take account of the environmental implications of the alternative restoration scheme and current costs.
- 2.25. The application complies with Adopted Stirling Local Development Plan 2014: Sustainable Development Criteria, Policy 2.5 Employment Development, and Policy 2.9 Economic Development in the Countryside, and Primary Policy 1: Placemaking.

### 3. Implications

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#### **Equalities Impact**

- 3.1. This application was assessed in terms of equality and human rights. Any impact has been identified in the Consideration/Assessment section of this report.

#### **Fairer Duty Scotland**

- 3.2. This is not applicable.

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## Sustainability and Environmental

3.3. An Environmental Impact Assessment is not required.

### Other Policy Implications

3.4. All relevant policies have been set out in section 2.

### Consultations

3.5. As set out in section 2.

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## 4. Background Papers

4.1. Planning Application file 18/00190/FUL. File can be viewed online at:

<https://pabs.stirling.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P68XZEPI0CE00>

4.2. List of determining plans:

Stirling Council Plan No.	Name	Ref on Plan
01	Location Plan	RG692-02/L/F/01
03	Site Plan	RG692-02/L/F/03
04	Sections	RG692/02/L/F/04
05	Sections	RG692-02/L/F/05

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## 5. Appendices

5.1. Appendix 1 – Conditions and Reasons.

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Signed By:

Jay Dawson  
Team Leader – Development Management

Date: 4 September 2018

Signature:




Approved by:

Brian Roberts  
Senior Manager Infrastructure

Date: 4 September 2018

Signature:



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Details of Convener(s), Vice Convener(s),  
Portfolio Holder and Depute Portfolio Holder  
consulted on this report

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Wards affected: Ward 7 Bannockburn.

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Key Priorities: N/A

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Key Priority Considerations: N/A

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Stirling Plan Priority Outcomes:  
(Local Outcomes Improvement  
Plan): N/A

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**APPLICATION UNDER SECTION 42 OF THE TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997 TO REMOVE CONDITION 14 OF PLANNING PERMISSION S/98/00353/DET TO PERMIT THE IMPORTATION AND DISPOSAL OF INERT WASTE TO ENABLE THE RESTORATION OF THE WESTERN AREA OF COWIEHALL QUARRY AT COWIEHALL QUARRY, COWIE, FK7 7DN - PATERSONS OF GREENOAKHILL LTD - 18/00190/FUL**

Approve, subject to the following Conditions

- 1 **Inert Waste:** Fill material shall be restricted to inert waste materials only and shall not include hazardous waste, liquid waste, sludges, waste that dissolves or chemically reacts which could give rise to environmental pollution or harm to human health and endanger quality of surface water and ground water. All waste imported into the application site shall comply with the specific terms of waste management licencing controls
- 2 **Surface/Groundwater Drainage:** Throughout the period of working and restoration, provision shall be made for the collection, treatment and drainage of water arising on the site to prevent pollution of watercourses by the approved operations, all to the satisfaction of the Planning Authority.
- 3 **Position of Sewer:** No building or excavation shall take place above or within 8 metres of the existing operational sewer running through the processing plant area.
- 4 **Hydrological Data:** Prior to the start of infill works, details of the surface water and groundwater management, flow (historic and proposed) regime, monitoring and protection shall be submitted to the Planning Authority and approved in writing. Surface water shall be treated in accordance with CIRIA's SuDS Manual (C753).
- 5 **Ground Restoration Strategy:** Prior to the start of infill works for the areas the subject of imported waste as defined by this planning application, a restoration strategy shall be submitted to the Planning Authority and approved in writing which includes:
  - a) proposals for phasing;
  - b) ground stabilisation;
  - c) drainage arrangements;
  - d) treatment with topsoil;
  - e) an aftercare scheme for the entire site, containing proposals for the five year maintenance and management of the restoration landscape and planting; and
  - f) arrangements for surveying the Final grading to ensure a true specified level and slope and to avoid dishing or other depressions where water may collect.
- 6 **Soil Removal:** At no time whatsoever shall topsoil or subsoil be removed from site for disposal, storage or any other purpose.

- 7 **Method of Operation:** All operations and activities covered by this planning permission, including limit and depth of excavation, extraction, processing and movements of sand and gravel, the movement and storage of topsoil, subsoil, excavated materials or residual silts, and importation of inert waste shall be undertaken in a manner as to conform to approved drawing numbers Cross-Sections RG 692 -02/L/F/04, Sections RG 692-02/L/F/05, and Final Landform RG692/L/F/07.
- 8 **Site Fencing:** The existing post and wire fence shall be maintained along the entire perimeter of the current excavation area for the duration of the on-site excavation and infill operations. The restoration areas shall remain fenced until the completion of restoration of all works.
- 9 **Oil/Fuel Storage:** Any chemical, oil or diesel storage tanks installed on site shall be sited on impervious bases and surrounded by impervious bund walls, the bund areas shall be capable of containing 110% of the largest tank's volume and should enclose all fill draw pipes, all to the satisfaction of the Planning Authority.
- 10 **Operating Hours:** All operations and activities covered by this planning permission, which for the avoidance of doubt shall include excavation, extraction, processing and movement of sand and gravel, access road maintenance, the movement of topsoils, subsoils, excavated materials or residual silts by wheel or tracked vehicles, the cleansing of the existing lagoons adjacent to the processing plant by mechanical dragline and the importation and disposal of inert waste; shall only take place within the hours of 07.00 and 19.00 Monday to Friday, unless the agreement of the Planning Authority is sought and obtained prior to such activities being undertaken; start-up and close down of plant, machinery and vehicles associated with these operations shall be undertaken within these hours. For the avoidance of doubt, there shall be no Sunday working of any kind or on Public Holidays, the dates of which will be agreed in writing annually with the Planning Authority.
- 11 **Essential Maintenance Definition and Operating Hours:** Maintenance of plant and machinery shall be restricted to the renewal, replacement and maintenance of pumps, drainage infrastructure and fixtures, the renewal, replacement and maintenance of mechanical plant, equipment and wheel or tracked vehicles permanently located on site, the cleansing of the replacement settlement ponds located within the quarry extraction area by mechanical dragline; all such operations shall only take place within the hours of 07.00 and 19.00 Monday to Friday and 08.00 and 13.00 on Saturdays unless the agreement of the Planning Authority is sought and obtained prior to such activities being undertaken; starting-up and close-down of plant, machinery and vehicles associated with these operations shall be undertaken within these hours. For the avoidance of doubt, there shall be no Sunday working of any kind or on Public Holidays, the dates of which will be agreed in writing annually with the Planning Authority.
- 12 **Restriction on Removal Hours:** At no time whatsoever shall excavated material be removed from the site and inert waste be imported and disposed of within the site, outwith the hours of 07.00 to 19.00 Monday to Friday or on Public Holidays, the dates of which shall be agreed in writing annually with the Planning Authority.
- 13 **Noise Levels:** Noise levels (dB AEQ.1H) from any site activity, including excavation, extraction, processing and movement of sand and gravel, operation and maintenance of all plant, machinery and vehicles, shall not exceed 55dB at the nearest noise sensitive dwelling.

- 14 **Dust Control:** Inert waste shall not be imported into the site until a Construction Management Plan to minimise the emission and suppression of dust has been submitted to the Planning Authority and approved in writing in consultation with Environmental Health. Proposals to minimise dust nuisance shall include the use of water bowsers, sprayers or similar equipment to dampen internal access roads and stockpiles during dry weather conditions to the satisfaction of the Planning Authority.
- 15 **Access Junction Surface:** The bellmouth of access road to the quarrying area from the A905, from the edge of the public carriageway to the gated entrance to the quarry, shall be re-surfaced in tarmacadam before the start of work on the approved importation of inert waste to the application site.
- 16 **Access Road:** The access road to the quarrying area from the A905 shall be constructed of dust free hardcore material, and shall be kept free from any potholes and in a state of good repair at all times all to the satisfaction of the Planning Authority. During dry weather periods the road surface shall be sprayed with water to minimise airborne dust arising from vehicle movements all to the satisfaction of the Planning Authority.
- 17 **Access Road:** Unless otherwise stated and agreed in writing with the Planning Authority, on completion of the quarrying and infilling operations the completed length of access road onto the A905 shall be removed and the land restored to its original agricultural standard.
- 18 **Progressive Restoration:** Restoration shall proceed in a progressive manner concurrently with excavation as far as is practicable.
- 19 **Restoration Plans:** Within three months from the date of this consent the applicant shall submit for the written approval of the Planning Authority a detailed landscaping and restoration scheme for the entire site. Such scheme shall include details of:
- a) The existing on-site trees, hedges and other vegetation indicating which are to be removed and retained;
  - b) New planting, seeding and soiling works;
  - c) Areas to be infilled, replacement landscaping and final landform profiles, contours and levels;
  - d) Surface drainage;
  - e) The removal of all buildings, machinery, plant and internal roads and restoration of sites of such; and
  - f) The phasing and timing of all landscape and restoration works.

Thereafter the landscaping and restoration scheme as approved shall be implemented in full in terms of the approved phasing and timing scheme to the satisfaction of the Planning Authority.

- 20 **Rehabilitation Timetable:** The rehabilitation of the area of land utilised to site the weighbridge and office, car park, freshwater lagoon, haulage road and wheel wash facility and including the removal of all imported materials utilised in the formation of foundations, construction of plant and installation of roadways, to land for agricultural purposes shall be undertaken within one year of the completion of mineral operations. The rehabilitation of the processing plant site area shall be undertaken once all mineral extraction and inert waste infilling operations have ceased and shall be undertaken within one year of the completion of the rehabilitation works required in accordance with Condition 5.
21. **Period of Planning Permission:** Planning permission reference 18/00190/FUL shall expire on 31 December 2022.
22. **Good Neighbour Agreement:** Prior to the start of work on the importation of inert waste to the application site, the applicant shall liaise with the Planning Contact at Throsk Community Council to form a Good Neighbour Agreement related to the residents of Throsk most directly affected by the development.

**Reasons:**

- 1 To ensure that the approved development is undertaken in accordance with the relevant waste management licencing controls.
- 2 To ensure that the quarrying operation does not result in the pollution of existing watercourses.
- 3 To safeguard existing services within the site.
- 4 To ensure that the long term agricultural use of the land is safeguarded.
- 5 To ensure that the topsoil and subsoil remains in a condition suitable for the restoration of the land to agriculture.
- 6 To ensure that restoration of the land to agriculture is safeguarded.
- 7 To ensure that the long term agricultural use of the land is safeguarded.
- 8 To ensure that the site boundary is clearly identified for planning control purposes and to safeguard the amenity of occupiers of property in the surrounding area.
- 9 To ensure that adequate provision is made on site for the safekeeping of oils, chemicals and fuels.
- 10 To protect the occupants of nearby housing from excessive noise/disturbance.
- 11 To protect the occupants of nearby housing from excessive noise/disturbance.
- 12 To protect the occupants of nearby housing from excessive noise/disturbance.
- 13 To protect the occupants of nearby housing from excessive noise/disturbance.
- 14 To ensure that adequate measures are undertaken within the site to minimise dust nuisance and that the generation of airborne dust from vehicle movements is minimised.

- 15 To ensure that the access roadway is maintained at a standard suitable for all types of motor vehicles, and that the generation of airborne dust from vehicle movements is minimised.
- 16 To ensure that the access roadway is maintained at a standard suitable for all types of motor vehicles, and that the generation of airborne dust from vehicle movements is minimised.
- 17 To ensure that the long term agricultural use of the land is safeguarded.
- 18 To ensure that the land is progressively restored for agricultural use.
- 19 To ensure that sufficient details are submitted for approval by the Planning Authority indicating satisfactory measures for restoring and landscaping the site for long term agricultural use.
- 20 To ensure that the land is progressively restored within a specified time period for agricultural use.
- 21 To enable the Planning Authority the opportunity to assess the likely effect of the use on the surrounding area.
- 22 In the interest of the amenity of the residents at Throsk.

# Location of Development

