

Kincardine & Mearns Area Committee Report 24 September 2019

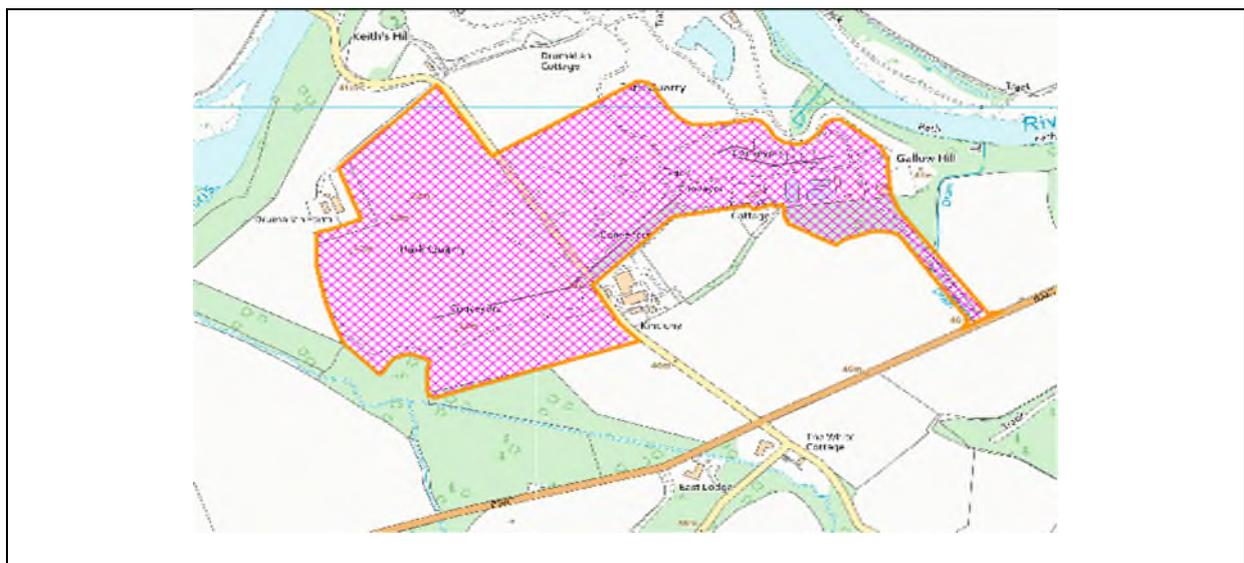
Reference No: APP/2019/0707

Full Planning Permission For Extraction of Sand and Gravel and Retention of Existing Plant, Buildings and Equipment within Existing Quarry Without Compliance with Condition 1 (Time) of Planning Permission APP/2016/0708 at Land at Park Quarry, South of Drumoak, Aberdeenshire

Applicant: CHAP Holdings (Ltd), Chap Group (Aberdeen) Ltd,
Chap Group, Enterprise Drive, Westhill Industrial
Estate, Westhill, AB32 6TQ

Agent: Halliday Fraser Munro Planning, 8 Victoria Street,
Aberdeen, AB10 1XB

Grid Ref: E:380178 N:797774
Ward No. and Name: W18 - Stonehaven And Lower Deeside
Application Type: Full Planning Permission
Representations: 2
Consultations: 6
Relevant Proposals: Aberdeenshire Local Development Plan
Map
Designations: Aberdeen Housing Market Area
Complies with: Yes
Development Plans:
Main Recommendation: Delegated Grant



NOT TO SCALE

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1 Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1g of Part 2C Planning Delegations of the Scheme of Governance as there is an unresolved objection from a consultee.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2 Background and Proposal

- 2.1 Park Quarry lies approximately 12km west of Aberdeen City Centre in a bend in the River Dee, to the south of Drumoak. Park Quarry is a shallow sand and gravel quarry supplying washed sand and aggregates, ready mixed concrete and mortars to the development industry. Application reference S020002MIN granted permission for an extension of the quarry to the west of the C35K road and extended the permission to the east for continued use as a large processing area, silt lagoons, temporary cabins, small scale industrial buildings and semi-permanent haul roads for quarry activities.
- 2.2 Full planning permission is sought for non-compliance with Condition 1 (Time) of Previously Approved Planning Permission Reference APP/2016/0708 (Extraction of Sand and Gravel and Retention of Existing Plant, Buildings and Equipment within Existing Quarry). This application is made in respect of Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). The previous application expired on 30th May 2019. The current planning application was submitted on 29th March 2019, prior to expiry therefore procedurally competent to now vary the terms of the previous consent, which effectively would allow a further 3 years of operational quarrying on site.
- 2.3 The supporting statement submitted identifies that the quarry operator has been quarrying to the west of the C35K road for a number of years. Initial excavation took place to the north of the site, and this is currently being restored. However, there remains significant reserve of sand and gravel to the south of the site. It is projected that there remains a further three years of mineral resources within the quarry. This is however dependent on the rate at which the sand and gravel resource is required. Three years is considered a realistic timeline based on anticipated sand and gravel resource and the need for the resource to support development and construction needs. It is stated within the supporting statement that the quarry provides a sustainable local source for sand and gravel.

2.4 The planning history of the site is set out below:

- S020002MIN: Full planning permission for extraction of sand and gravel and retention of existing plant, buildings, and equipment within existing quarry was granted on 30 December 2003. This permission expired in September 2016.
- APP/2016/0708: Full planning permission for non-compliance with condition 1 planning permission S020003MIN was granted to extend the permission for a further 3 years. This permission expired on 30th May 2019.

2.5 Apart from the quarrying activities on site, no further physical alterations or additional development are proposed in relation to the proposal.

3 Representations

3.1 A total of 2 valid representations (objection) have been received as defined in the Scheme of Governance. All issues raised have been considered. The letters raise the following material issues:

- The operation of the quarry has already been extended once and the restoration of the land is overdue.
- Adverse impact on amenity (noise, dust, visual impact, traffic)
- The original planning permission granted adequate time for the exploitation of the quarry

4 Consultations

Internal

4.1 **Infrastructure Services (Archaeology)** has commented that the condition imposed on planning permission reference S020002MIN was only partly complied with in that no PERD (post-excavation research design) was submitted. It requests that the initial mitigation requested in that condition should comprise the following:

- A revised and updated Written Scheme of Investigation and
- A Post Excavation Research Design

4.2 **Infrastructure Services (Environmental Health)** has advised that they have no objection in relation to this proposal.

4.3 **Infrastructure Services (Flood Risk and Flood Protection)** does not object to the proposal.

4.4 **Infrastructure Services (Roads Development)** does not object to the proposal.

External

4.5 **Crathes, Drumoak and Durris Community Council** object to the proposal. In summary, the reasons given represent a general perception that the proposal is simply a tactic to avoid carrying out re-instatement works on site. It requests that the liaison meeting should be re-started in accordance with condition 22 of planning permission reference APP/2016/0708. It is also claimed the development has failed to comply with the phasing plan stated detailed in condition 5. It should be noted that this objection was received by the Planning Service before the CDDCC was dispended.

4.6 **Scottish Environment Protection Agency (SEPA)** has no comments in relation to this proposal.

5 **Relevant Planning Policies**

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable

resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

From the 29 March 2019, the Strategic Development Plan 2014 went beyond its five-year review period. In light of this, for proposals which are regionally or strategically significant, or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

5.3 Aberdeenshire Local Development Plan 2017

Policy R2: Housing and employment development elsewhere in the countryside

Policy R3: Minerals and hilltracks

Policy E2: Landscape

5.4 Other Material Considerations

Section 42 of the Town and Country Planning (Scotland) Act 1997

Section 42 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. 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." The planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue.

Circular 4/1998

Conditions imposed on a grant of planning permission can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. While the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. Planning conditions should only be imposed where they are:-

- . **necessary;**
- . **relevant to planning;**
- . **relevant to the development to be permitted;**
- . **enforceable;**
- . **precise;**

. reasonable in all other respects.

Aberdeenshire Council best practice manual guidance note relating to land restoration, decommissioning and financial guarantees.

6 Discussion

- 6.1 The principle of this quarrying operation has been established for some time. Therefore, the Planning Service must assess whether the situation at the site has changed whereby the continuation of operations would present a detrimental impact to the character and amenity of the surrounding area. The application does not seek to extend the footprint of the quarry, rather seeks to extend the period of mineral extraction.
- 6.2 The key consideration here is simply whether removing or varying condition 1, allowing the development to continue, is something the Planning Service can support, and whether the applicant has submitted sufficient justification to facilitate the request application to not comply with the timescale included in conditions 1 of planning permission reference APP/2016/0708.
- 6.3 Technical consultees have responded, and no objections have been raised. All matters pertaining to the road network, drainage and on-site pollution controls are considered to be satisfactorily addressed by relevant conditions attached to original consent notice. Where appropriate, all existing conditions shall be carried over to any new consent notice. Policy R3 provides the basis to review conditions imposed on a mineral extraction proposal. In accordance with the new guidance note referred in paragraph 5.4, a condition requiring the submission of a financial guarantee to cover the restoration cost has been added to the list of planning conditions.
- 6.4 Crathes, Drumoak and Durriss Community Council has objected to the application. The reason relates to a general public perception that the proposal is simply a tactic to delay restoration of the site. This is not strictly a material planning consideration and has to be considered in relation to the applicants supporting information stating that further mineral extraction on site is viable, both in terms of what exists in the ground but also to provide further support for the development industry in the region, which does present potential for continued economic development. It has requested that the liaison meetings be re-instated in accordance with condition 22 of the same permission. The Planning Service is unaware of any complaints having been received relating to the operation of the quarry including alleged non-compliance with planning conditions. However, the quarry operators have intimated (via their agent) that they would be happy to attend such a meeting should this be judged necessary by the Planning Service. The applicant has submitted an overmarked plan highlighting the areas of the quarry that have been partly re-instated (i.e. filled but not yet covered in top soil and seeded which would be carried out across the entire site on cessation of quarrying operations). Ultimately, the complete restoration of the site will still be sought in the event that planning permission is granted. This will ensure that there are no permanent landscape impacts in accordance with Policy E2: Landscape.

Conclusion

- 6.5 In light of the aforementioned, the Planning Service is content to accept the proposal by virtue of varying the original temporary consent period by a further 3 years for extraction at the site, on the grounds that the development would not pose a detriment to surrounding amenity or impact on the character of the area, and that the proposal continues to comply with Policy R2: Housing and employment development elsewhere in the countryside, Policy R3: Minerals and hilltracks and Policy E2: Landscape of the Aberdeenshire Local Development Plan 2017.

7 Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8 Implications and Risk

- 8.1 An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

9 Sustainability Implications

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10 Departures, Notifications and Referrals

10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

None

- 10.3 The application is not a Departure from the Local Development Plan or Strategic Development Plan and no departure procedures apply.
- 10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.
- 10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11 Recommendation

11.1 That authority to GRANT Full Planning Permission be delegated to the Head of Planning and Environment Service subject to:-

i) - The following conditions;

01. This permission is limited to a period of three years from the date of this decision notice, or when the land ceases to be used as a quarry (whichever is the sooner).

Reason: In order to retain control over their temporary form of development.

02. Within 6 months of the date of this decision notice, the developer/operator shall provide to the Planning Authority with written details of the guarantee or other financial provision that is proposed to be put in place to cover all site restoration and aftercare liabilities at the end of the period of this permission. The developer shall also provide an independent confirmation by a chartered surveyor (whose appointment for this task has been approved by the planning authority) that the amount of the guarantee or financial provision so proposed is sufficient to meet the full estimated costs of dismantling, removal, disposal, site restoration, remediation aftercare liabilities and incidental work as well as associated professional costs. No works shall commence on site unless written confirmation has been given by the planning authority that the proposed guarantee is satisfactory and the developer has confirmed in writing to the planning authority that the guarantee has been put in place. The guarantee or other financial provision must:

- a) be granted in favour of the Council as planning authority;
- b) be from a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
- c) either contain indexation provisions so that the specified amount of the guarantee shall be increased on each anniversary of the date of this permission by the same percentage increase in the General Index of Retail Prices (All Items) exclusive of mortgage interest published by on or behalf of

HM Government between the date of this permission and such relevant anniversary or be reviewable to ensure that the specified amount of the guarantee always covers the value of the site restoration and aftercare liabilities;

- d) come into effect on or before the date of commencement of development, and expire no earlier than 12 months after the end of the aftercare period.

In the event that the guarantee becomes invalid for any reason, no operations shall be carried out in connection with the development hereby approved unless a replacement guarantee, completed in accordance with the terms of this condition has been submitted to and approved in writing by the planning authority.

Reason: To ensure financial security for the cost of the site reinstatement to the satisfaction of the planning authority is in place to provide that any redundant equipment is removed from the site, in the interests of the safety and visual amenity of the area and environmental protection.

03. Within three years of cessation of extraction activities, the site shall be restored in accordance with the restoration plan (drawing number CQ/PQ REST FINAL L(90) 01) and all plant, machinery and equipment removed.

Reason: To ensure an orderly and timeous reinstatement of the site.

04. With the exception of creation of the proposed noise attenuation bund, no development shall be undertaken within fifty metres of the boundary fence of the field adjacent to 'Drumallan'.

Reason: To safeguard the residents of 'Drumallan'.

05. Extraction and reinstatement works shall be undertaken on a phased basis in accordance with the regime outlined in the report prepared by David Jenkins, dated May 2002 (Landscape Appraisal) and as identified in approved drawing number CQ/2001B.L(90)01/C. For the avoidance of doubt, the number of phases under extraction at any one time is limited to three, in accordance with the following sequence:

No extraction will take place in Phase 3A until Phase 2A has been reinstated.
No extraction will take place in Phase 3B until Phase 2B has been reinstated.
No extraction will take place in Phase 3C until Phase 2C has been reinstated.
No extraction will take place in Phase 4A until Phase 3A has been reinstated.
No extraction will take place in Phase 4B until Phase 3B has been reinstated.
No extraction will take place in Phase 4C until Phase 3C has been reinstated.

Reason: To ensure an orderly extraction and timeous reinstatement of the site, with particular reference to minimising environmental impacts.

06. Should Kincluny Farmhouse, Greenlaw and Gallowhill be vacated by the current tenants during the lifespan of this consent, the property shall remain vacant until

the quarry has ceased to operate and the site is restored. Tower Cottage and Drumallan Cottage shall remain unoccupied/vacant until the quarry has ceased to operate and the site is restored.

Reason: To ensure that there is no new occupant exposed to the operation of the quarry.

07. The stripping of topsoil shall be undertaken only when the soil and site are in a dry condition. No soil stripped shall be removed from the site. All soil shall be stockpiled on site.

Reason: In the interests of good agricultural practice.

08. The bunds to be created shall not exceed 5 metres in height to be measured from a fixed datum point for each bund. Details of the location and height of the bunds and the location of the fixed datum points shall be agreed in writing with the Planning Authority prior to commencement of development.

Reason: To minimise landscape and visual impacts.

09. Drystone dykes removed during the working life of the quarry shall be reconstructed, and thereafter maintained, as soon as possible after restoration of the land has been completed.

Reason: To maintain the quality of the landscape in the area.

10. Soil storage mounds shall be constructed to a maximum height of four metres unless otherwise agreed in writing by the Planning Authority. The soil mounds shall be constructed with only minimum amount of compaction necessary to ensure stability. Screening bunds should be constructed to adequately correspond to surrounding landform. All screening bunds shall be seeded using a grass seed mixture (details shall be submitted for further written approval), within four weeks of formation, unless otherwise agreed in writing with the Planning Authority. The bund shall be suitably managed to maintain grass sward and control weeds.

Reason: To allow the Planning Authority to retain effective control over storage of material on the site.

11. There shall be no disturbance of, or alteration to the flow of water in nearby water courses and there shall be no discharge of sewage effluent, trade effluent or contaminated site drainage, sand or salt to these water courses from the excavation site or the processing and storage areas.

Reason: To ensure satisfactory drainage of the land and to prevent pollution.

12. Any work within close proximity of a water course shall be undertaken in accordance with the Scottish Environment Protection Agency's guideline 'Work in, Near or Liable to Affect Water Courses'.

Reason: To prevent pollution and to safeguard the quality of watercourses.

13. The previously agreed headlight suppression system, approved in relation to condition 17 of planning ref S020002MIN, shall be used on all excavation vehicles and transportation vehicles.

Reason: In order to mitigate the effects of light pollution.

14. Monitoring of dust emissions from the site shall be undertaken by the operator in accordance with a scheme agreed in writing by the Planning Authority before commencement of extraction operations. This monitoring programme will be undertaken at monthly intervals and extend for the life of the quarry. The results of such monitoring shall be submitted to the Council within one week of the results being available. Should any aspects of the operation be found by the Planning Authority to result in nuisance, the applicant shall instigate further monitoring using specialist consultants when so required by the Planning Authority, and they shall provide reports to back up their investigations. Any recommendations shall be implemented as soon as practicable thereafter.

Reason: In the interests of the amenity of the area and to prevent nuisance.

15. Details of dust arrestment measures for all exposed soil, surfaced, excavated material, internal roadways, plant, processing areas and reinstatement areas shall be submitted to the Council. No works pursuant to this permission shall commence unless these details have received the written approval of the Planning Authority, following which they shall be fully implemented in accordance with the terms of the approval. These arrestment measures shall include spraying, sweeping (both vacuum and mechanical), misting systems, vertically pointing exhausts on excavation vehicles and the incorporation of an Environmental Management System (EMS) based on Pan 50 Annex B. Details of the EMS shall be submitted to the Planning Authority prior to operations commencing.

Reason: In the interests of the amenity of the area and to prevent nuisance.

16. Within the area to the west of Park Bridge Road, no working or operations (including transportation of materials) shall occur outwith the hours of 0700 to 1900 hours Monday to Friday and 0700 to 1200 hours on Saturdays unless agreed by the Planning Authority.

Reason: In order to safeguard residential amenity and the quiet enjoyment of the surrounding countryside.

17. Within the site area to the east of Park Bridge Road no working or operations shall take place outwith the hours of 0700 hours to 1900 hours Monday to Saturday inclusive unless otherwise agreed by the Planning Authority.

Reason: In order to safeguard residential amenity and the quiet enjoyment of the surrounding countryside.

18. The noise level generated by quarry plant, machinery and ancillary operations measured at a point one metre from any noise sensitive premises during the long term operation shall not exceed 45dB(A) measured as an hourly A weighted Leq. For temporary operations including site preparation, soil and overburden stripping, bund formation and removal and final restoration, the free field noise level due to work at the nearest noise sensitive properties shall not exceed 70 Laeq expressed in the same manner. The operator shall provide prior notification in writing to all the noise sensitive premises within 1km radius of the site, of the commencement and likely duration of the stages of the operations.

Reason: To ensure that neighbouring residences are protected from nuisance caused by operations.

19. Screen planting/bunding shall be located outwith the visibility splays on the public road to the satisfaction of the Planning Authority.

Reason: In the interests of road and public safety.

20. Notwithstanding the details on the approved plans, no extraction of materials shall take place within fifteen metres of the public road boundaries with a slope of 1:1 beyond.

Reason: In the interests of road and public safety.

21. For the duration of the development, in response to a request from the Planning Authority (which shall generally be no more than twice per calendar year), the developer shall participate in the meetings of a Liaison Committee established by the Planning Authority to consider planning issues arising during the course of the development and to review compliance with the terms of this permission. The Liaison Committee shall comprise two representatives each from the Planning Authority, the Crathes, Drumoak and Durriss Community Council (when operational) and the developers, and shall be chaired by a representative from the Planning Authority.

Reason: In accordance with Government guidance and in order to aid monitoring and compliance and review of working practices.

22. The office and mess accommodation including all ancillary car parking and servicing areas under the control of the operator shall be removed and the land reinstated all to the satisfaction of the Planning Authority within 12 months of the cessation of extraction activities.

Reason: To enable reinstatement of the quarry.

23. The previously agreed precautionary measures to ensure that no material is spilt on the public highway, approved in relation to condition 31 of planning ref S020002MIN, shall be implemented in accordance with the details approved.

Reason: In the interests of road and public safety.

24. The vehicular access onto the South Deeside Road shall be maintained free from all mud and other debris throughout the duration of extraction works and subsequent reinstatement of the application site to the satisfaction of the Planning Authority.

Reason: In the interests of road and public safety.

25. The vehicular access onto the South Deeside Road shall be maintained free from all mud and other debris throughout the duration of extraction works and subsequent reinstatement of the application site to the satisfaction of the Planning Authority.

Reason: In the interests of road and public safety.

26. The operator shall submit to the Planning Authority annual records of exportation of materials and their destination from the quarry and importation of infill materials to the quarry from the date of this consent.

Reason: In the interests of monitoring.

27. No buildings, fixed plant or processing apparatus shall be located in the area to the west of Park Bridge Road.

Reason: The application was assessed on the basis that none of the aforementioned was included.

28. The previously agreed details for facilities for cleansing of vehicles which enter and leave the site, approved in relation to condition 31 of planning ref S020002MIN, shall be implemented in accordance with the details approved.

Reason: In the interests of road and public safety.

29. In that part of the site to the west of Park Bridge road, only one machine shall operate at any one time, unless otherwise previously agreed by the Planning Authority.

Reason: In the interests of amenity.

30. All fuel storage tanks shall be located within impervious bunds situated away from surface water drains and water courses and comply with the Scottish Environment Protection Agency's Pollution Prevention Guideline (PCG 2) entitled 'Above Ground Oil Storage Tanks' to the satisfaction of the Planning Authority.

Reason: To prevent pollution and to safeguard the quality of the watercourses.

31. The previously agreed scheme of works to prevent discharge of sediment laden waters to the Durris Burn and River Dee, approved in relation to condition 40 of planning ref S020002MIN, shall be implemented in accordance with the details approved.

Reason: To prevent pollution and to safeguard the quality of the watercourses and bearing in mind the status of The River Dee catchment area as a candidate for Special Area of Conservation.

32. That within two months of this permission, an archaeological written scheme of investigation shall be submitted to and approved in writing by the planning authority and a programme of archaeological works shall be carried out in accordance with the approved written scheme of investigation in accordance with a timescale to be agreed in writing with the Planning Authority. The written scheme of investigation shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

11.2 Reason for Decision

The alteration to conditions would allow the development to continue to operate and utilise the natural resources on site, and support the local development industry and contribute to economic development, with the development remaining compliant with the policies of the Aberdeenshire Local Development Plan 2017.

Stephen Archer
Director of Infrastructure Services

Author of Report: Aude Chaiban

Report Date: 9 September 2019