

APPEAL DECISION (DPEA)
Appeal Reference
PPA/110/2359
Planning Reference
APP/2017/2425
Planning Proposal
Mineral Extraction (Sand and Gravel) and Associated Infrastructure
Summary of Decision
<p>The Reporter dismissed the appeal and refused Planning Permission.</p> <p>The Reporter notes in their discussion that there are gaps in data to establish 1) the demand for sand and gravel material, and 2) what the current land bank of sand and gravel material is. However, notwithstanding this and the reason for refusal given by the Council, it was concluded that there was no evidence suggesting a land bank exceeding 15 years would be created by approving this application. The application could therefore be justified by the terms of Policy R3.</p> <p>In terms of impacts from the mineral extraction, the reporter finds that the proposal would have no significant visual landscape impacts and that a species protection plan would address protection of any badgers. No significant impacts were considered on cultural heritage or water quality.</p> <p>Notwithstanding the above, it was concluded that the proposed passing places along the U94B carriageway would not be sufficient as there is a lack of inter-visibility between the 3rd and 4th, and 5th and 6th passing places, leaving an inherent risk of road safety. The proposed development is therefore considered to be contrary to Policies R3 and RD1.</p> <p>The reporter stated that while the Council's reason for refusal referencing non-compliance with P1 has some relevance, Policies R3 and P4 have greater relevance in considering amenity effects of mineral extraction. It was found that no significant adverse impacts are anticipated to impact the amenity of the local community through noise, vibration, and blasting or air quality.</p> <p>It was noted that there was insufficient evidence regarding the impact of the proposed development on nearby rural businesses to justify a reason for refusal.</p> <p>To summarise the reporter's response, the lack of intervisibility of the passing places and the risk this poses to road safety is the reason for refusal of the appeal.</p>

Policy Issues
Proposal is considered to be contrary to Policies R3 and RD1 (as above)
Additional Points
None.
Actions
Note Decision



Decision by Elspeth Cook, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2359
- Site address: Muirtack, Ellon, Aberdeenshire AB41 8HX
- Appeal by Chap Group (Aberdeen) Ltd (per Hugh Craigie) against the decision by Aberdeenshire Council
- Application for planning permission APP/2017/2425 dated 21 September 2017 refused by notice dated 11 June 2018.
- The development proposed: Mineral extraction (sand and gravel) and associated infrastructure
- Date of site visit by Reporter: 6 September 2018

Date of appeal decision: 10 December 2018

Decision

I dismiss the appeal and refuse planning permission. The appellant has also claimed for an award of expenses. A separate decision notice will be issued addressing this matter.

Preliminary

1. The scale and nature of this proposed quarry is such that it comes within the description of development set out in Class 2 a) of Schedule 2 of the Environmental Impact Assessment (Scotland) Regulations 2017. It was however the subject of a screening opinion issued by the council (ENQ/2017/0437) to the effect that EIA was not required.

Reasoning

2. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of the Aberdeen City and Shire Strategic Development Plan 2014 (SDP) and the Aberdeenshire Local Development Plan 2017 (LDP) including statutory Supplementary Guidance 6 entitled 'Areas Safeguarded or Identified as Areas of Search for Mineral Development' (SG6).

3. The proposal involves the extraction of sand and gravel over an 8 to 15 year period from a 15.5 hectare area of agricultural land located approximately 20 miles north of Aberdeen. The site is accessible from the main A road network (A90T and A952) via a single track road, U94B, which serves residential properties and other rural businesses.



4. The quarrying would take place in two phases worked in a south easterly direction. A processing area is identified in the northern part of the site with a stockpile area further to the west. Surface water arising from the activities would be drained to an existing wooded area. Five soil bunds are proposed to act as storage areas for stripped top soil and to assist in screening the quarry from adjacent residential properties. The restoration proposals involve re-grading the extraction area and returning the site to agricultural use including areas of natural habitat. The proposals also include improvements to the U94B in the form of 11 new passing places and a widened junction with the A952.

5. The application was refused for 2 reasons which refer to the effect on the amenity of the local community due to proximity; the inadequacy of the road accessing the site and; the lack of a “proven need” for the extraction of sand and gravel.

6. The appellant and the council have referred me to the terms of the SDP and the policies within the LDP that are considered relevant to the assessment of this development. I find that policies R3 (Minerals and hill tracks); P1 (Layout, Siting and design); P4 (Hazardous and potentially polluting development and contaminated land); E1 (Natural heritage); E2 (Landscape); HE1 (Protecting historic buildings, sites and monuments); PR1 (Protecting important resources); C4 (Flooding); and RD1 (Providing suitable services) are all relevant to the proposals under consideration. The appellant has queried the relevance of policy P1 and whilst it is predominantly aimed at guiding the design of built development, there is a reference to “protecting amenity” which I consider is pertinent to this appeal.

7. Having regard to the provisions of the development plan I consider the main issues in this appeal are therefore the need for and the location of the proposed quarry and; the potential impacts on road safety, landscape, natural environment, cultural heritage, water quality and the amenity of the local area (including noise and dust).

The need for the proposed quarry

8. The SDP sets out a number of objectives and development targets but does not set a specific requirement relating to the volume of sand and gravel reserves within the plan area. Such matters are addressed within LDP Policy R3 (Minerals and hill tracks) which identifies the need to maintain a land bank of permitted sand and gravel reserves equal to 10 years supply within the market area; and resists proposals exceeding a 15 year supply.

9. Both the council and the appellant agree the appeal site is within this market area which is defined as “a 50 km travel distance from the Aberdeen City boundary and the strategic growth areas defined in the strategic development plan”. The current status of the land bank is therefore relevant.

10. The appellant indicates that the number of years supply left within the land bank can be calculated by dividing the current sand and gravel reserves by the estimated annual demand and I consider this approach to be reasonable. However both the appellant and the council have experienced difficulties in accurately identifying both the volume of the current reserves and the estimated future demand.

Assessment of Current Reserves

11. The appellant's Sand and Gravel Needs Assessment (April 2018) takes the known quarries within the Aberdeen market area and estimates their reserves at approximately 758,000 tonnes with a further 6.14 million tonnes said to be located elsewhere in Aberdeenshire.

12. The council provides a more extensive list of sand and gravel quarries in Aberdeenshire indicating the known reserves and the duration of any extant planning permission. There are however gaps in the council's data where the current reserves for a number of quarries are unknown.

13. Planning permission is also expected to be issued for two sand and gravel quarries at Nether Park and Methlick once legal agreements have been concluded. These are intended to contribute a further 1.3 million tonnes approximately.

14. If the 613,000 tonnes at Muirtack and the 1.3 million tonnes from Nether Park and Methlick are added to the appellant's estimated reserve figure of 758,000 tonnes, the minimum known reserve is estimated to be approximately 2.7 million tonnes.

Annual demand

15. The appellant has referred to a number of documents that provide an indicator of the annual demand for sand and gravel. The Scottish Aggregates Survey 2012 (SAS 2012), published in 2015, indicates that the annual demand for sand and gravel in the North East was 259,000 tonnes per annum and that 79% of this aggregate was used locally. As the extraction rate is broadly representative of demand in the local market, this survey bases annual demand on the known extraction rates.

16. The appellant does not consider the outcome of this survey to provide an accurate or up to date position relevant to this appeal and I agree with the concerns expressed. Firstly, the survey addresses North East Scotland as opposed to the Aberdeen market area. Secondly, it relies on survey returns from only 6 quarries which represent a small proportion of the quarries operational in the North East. Thirdly, its results are 6 years old.

17. In considering the SAS 2012, the note attached to the council's list of quarries indicates that "it is unlikely the rate of consumption remained static in light of substantial infrastructure projects in the North East in the last 5 years". These include the Aberdeen Western Peripheral Route, Aberdeen International Airport, Aberdeen Exhibition and Conference Centre, Aberdeen Harbour South Expansion, Aberdeen City Football Stadium and upgrades to the railway networks.

18. The appellant also places emphasis on the impacts of these significant infrastructure projects. The Aberdeen harbour extension project and the Aberdeen Western Peripheral Route are believed to have reduced the current supply in the market area to just one year.

19. Although the exact amount, or source of, the sand and gravel used for all these projects have not been specified I consider them to be indicative of a significant ongoing demand for the reserves since the 2012 survey took place.

20. The appellant prefers the data presented within the Mineral Extraction in Great Britain Business Monitor PA1007 (2014) which indicates that the annual sand and gravel output for North East Scotland was 949,000 tonnes. Even though this figure includes Moray I find it offers a more realistic figure for the North East. Indeed the appellant advises me that the data presented in support of the Methlick Quarry application (APP/2017/1392) set the annual demand for sand and gravel in N E Scotland at 977,000 tonnes.

21. Although the council and the appellant have been unable to estimate the future demand rate for the Aberdeen market area, I consider the growth targets for this area as set out in the SDP (67,000 houses and 255 hectares of employment land) will have a significant effect on this demand. I therefore find it is likely that the annual demand for sand and gravel in the Aberdeen market area would be a significant element of any demand in North East Scotland.

22. Consequently, I find it is highly likely that the annual demand in the Aberdeen market area would significantly exceed the 259,000 tonnes set out in the SAS 2012.

Current Land Bank

23. Although the evidence before me does not set an accurate current reserve figure it does indicate that at least 2.7 million tonnes may be available (taking into account the two applications pending and the Muirtack reserve). If annual demand remained at the lowest documented figure (259,000 tonnes) for the next 10 to 15 years, which is unlikely, these estimated reserves would represent a land bank of 10 to 11 years. As I find it is likely that demand will be greater than the SAS 2012 figure, the land bank would be significantly less.

24. The council officials expressed a similar concern, in writing and verbally, to the determining committee (as reported in the minute MTA 006). All indications are that the reserves of sand and gravel in the market area represent a land bank of less than 10 years supply: especially as the known and consented reserves are reliant on a number of quarries where the expected lifespan, in terms of planning permission, is less than 5 years.

25. The council's reason for refusal, however, states that "there is no proven need for the material to be extracted". The text of policy R3 is not based on 'proven need' to extract the aggregate but on the need to create sufficient accessible reserves. Evidence of a specific need or end user for the reserves at Muirtack, is not therefore a policy requirement. Whilst I accept, as set out above, that there are gaps in the data presented I am satisfied that sufficient evidence does exist to justify the inclusion of this site within the land bank.

26. I have also considered the reason for controlling the number of active quarries and the size of the land bank as set out in policy R3 which is to avoid 'unnecessary blight' arising from unimplemented quarries. The current market area reserve is at a low level, the lifetime of many older quarries is less than 10 years and the annual demand is likely to remain strong. I therefore consider the risk of blight arising here is low.

27. In any event, there is nothing in the evidence currently before me to indicate that a land bank exceeding 15 years supply would be created. I therefore find that granting planning permission could be justified by the terms of policy R3 with regard to this issue.

The location of the quarry

28. The spatial strategy of the SDP promotes development in places that meet the needs of businesses and that are sustainable. This includes significant housing and employment growth targets which are primarily located in the strategic growth areas and Aberdeen city. The appeal site is in an area identified for 'local growth and diversification'. However in paragraph 3.46 of the SDP, developments that serve a wider need such as mineral extraction would be acceptable in these 'local' areas as long as there is no conflict with the objectives of the SDP. In this case, the SDP objective relating to the quality of the environment is relevant and I will return to this in my overall conclusions.

29. Scottish Planning Policy 2014 (SPP) at paragraph 238 advises that the land bank of permitted reserves should be maintained within "all market areas through the identification of areas of search." SG6 sets out such search areas and although the appeal site is not identified for sand and gravel extraction, a small part of the site is within the Arthraht mineral safeguarding area relating to platinum and nickel deposits. This mineral deposit is protected by policy PR1 (Protecting important resources) however both the appellant and the council agree that the appeal proposals would not sterilise this resource.

30. Importantly however, policy R3 does not limit sand and gravel extraction to these defined areas of search and offers support to proposals where the landbank issue has been satisfactorily addressed, the effects of the development can be fully assessed and the likely transport, waste and other environmental impacts are acceptable (taking into account other specified policies within the LDP).

31. I therefore find that mineral extraction could be justified at this countryside location, outwith an area of search for sand and gravel extraction, but only if the other requirements of the LDP can be addressed as set out below.

The impacts of the mineral extraction

32. Policy R3 supports mineral extraction if sufficient information is provided to enable the full effects of the development to be assessed. This covers phasing, waste management, restoration and aftercare, after use and public road maintenance. The council has not indicated any deficiencies with the information provided and I agree that the application proposals are sufficiently detailed to allow the required assessment.

33. Where a proposed quarry and any existing quarries are within a 5 km radius of a settlement, policy R3 states a cumulative assessment is required. The appellant and the council confirm this is not necessary at this location.

34. A site waste management plan has been submitted indicating that the soils stripped to access the mineral would be retained on site as bunds and used in future restoration. Any foul water arising from the staff facilities would be treated on site. The council has confirmed that in these circumstances the full waste management plan requirements of Regulation 11 of the Management of Extractive Waste (Scotland) Regulations 2010 do not apply. No other concerns have been expressed by the council or SEPA on this matter and I am therefore satisfied the waste plan meets the expectations of policy R3.

Road Safety

35. Policy R3 states that “development will not be permitted if a transport assessment shows that the development will have significant negative transport impacts on local communities”. Policy RD1 (Providing suitable services) also addresses a range of considerations with respect to road access matters;-

- development would be permitted if “it provides adequate road...connections”;
- “As appropriate, safe and convenient access should be provided for service, delivery and other goods vehicles required by the development”;
- “New access must also cause minimal impact on the character of the site and surrounding area” and:
- “the need for satisfactory future maintenance arrangements for the access routes”.

36. The appellant’s Transport Statement (TS) although not a ‘transport assessment’ indicates that “with improvements to passing places the quarry can be accommodated with minimal impact”. The TS does not therefore identify any “negative transport impacts” as described in policy R3 however this is dependent on the effectiveness of the proposed improvements.

37. Many of the representations expressed reservations about the ability of the local road network to cope with the quarry related traffic and the adequacy of the proposed passing places. The council’s reason for refusal also states “the road is not suitable for this type of development.” I therefore consider the impacts of the lorry movements on both the minor road network (the U94B) and the wider A road network are worthy of further consideration.

38. I am satisfied that the junction of the U94B and the A952 occurs at a relatively straight stretch of the A952 where good visibility is available. Subject to the proposed widening, the junction would be suitable for the increase in vehicular movements arising from the quarry. I found the junction of the A952 and A90T (Tor of Birness) has good visibility and carriageway width and Transport Scotland did not raise any concerns regarding the increased use of this junction.

39. The TS sets out the details of the new site access onto the U94B, in terms of its geometry and visibility and I am satisfied that this junction would meet appropriate standards. Although it makes no provision for right turning vehicles leaving the site this is justified in terms of the nature of the road network and the likely routing of the majority of quarry related vehicles, eastwards, towards the A952 and A90T.

40. The TS also considers the effects of the quarry traffic along the U94B. On average, fourteen, 20 ton, lorry loads would leave the site each day (one load every half hour); a total of 28 lorry movements on the U94B per day. This is based on an extraction rate of 75,000 tonnes per annum for 8 years, spread over 50 weeks of the year and a 5.5 day working week. If one lorry movement in and one lorry movement out occurs every half hour there is a risk that lorries would meet on the U94B. As these are average figures I consider the number of quarry related vehicles on the U94B at any one time could be greater.

41. The U94B from the quarry access point to its junction with the A952 is approximately 1.5 miles long. It is a 3 – 4 metre wide single track route and although a 60 mph limit exists on this road, it is lightly trafficked and speeds are considerably lower than 60 mph due to its width and character. However it is rarely wide enough for two cars to pass and the larger lorries associated with servicing the quarry would aggravate this problem.

42. A number of informal passing places exist which have not been designed to meet any road design standard and are placed haphazardly, mostly at existing access points. The council's Infrastructure – Roads team have confirmed these are unsuitable to accommodate quarry traffic and cannot be upgraded to a suitable standard. The appellant's original plans to upgrade these existing passing places were therefore resisted.

43. The appellant believes that with the proposed 11 completely new passing places, the U94B can accommodate the extra vehicle movements with minimal impact. The council's Infrastructure Services - Roads recommended conditional approval on that basis however the council still refused planning permission due to the inadequacy of the road.

44. It is therefore accepted by all parties that the existing U94B is unsuitable as an access route to the quarry and the key issue is whether the proposed improvements are sufficient to a) offer a safe and convenient access route for quarry related vehicles and b) ensure the development would cause minimal impact on the character of the site and surrounding area.

45. I note that if a favourable decision is made on this proposal the appellant is willing to enter into a legal agreement that obliges the appellant to repair any damage to the road network arising from the lorry movements. I am therefore satisfied that the future maintenance issue referred to in policy RD1 and R3 can be addressed.

46. Having reviewed the detailed designs of the proposed new passing places I note that the widths of these are limited by the dimensions of the public road boundary and range between 5.5 and 6 metres wide. The representations however questioned whether the correct width of vehicle was tested. The appellant has confirmed that the original swept path analysis did not allow for the vehicle width including its wing mirrors. However additional swept path diagrams have been provided as part of the appeal indicating that wider vehicles can pass one another.

47. The council and the appellant have also confirmed that vehicles would be travelling slowly. This allows time for drivers to adjust wing mirrors if necessary. Also in most places the near-side wing mirror could overhang the edge of the surfaced carriageway increasing the potential separation distance between passing vehicles.

48. Although I am re-assured that the new passing places, as designed, would be able to function when two vehicles meet I remain concerned that not all the passing places would be inter-visible. Even allowing for the increased height of a lorry cab the geometry, topography and alignment of the U94B is such that a car or lorry driver would not always be able to see vehicles which have moved beyond the next passing place. This is most evident between the 3rd and 4th passing places and the 5th and 6th.

49. The result would be insufficient warning of oncoming traffic to enable a decision to be made regarding the use of the passing places. With the associated risk that vehicles would need to reverse towards any oncoming traffic on the narrow minor road or revert to using the existing substandard passing places.

50. Although the route is otherwise lightly trafficked and the local community would benefit from the improved passing places outwith quarry working hours or when extraction ceases, I consider the quarry traffic would have a detrimental effect on this route. The inadequate spacing of the passing places, the narrowness of the route overall and the risk of conflict with local traffic, including pedestrians, cyclists and horse riders would have an adverse impact on the safety of the route and the character of the area.

51. The quarry is also expected to operate between 8 and 15 years and any risk to road safety and the associated effect on the local community, although temporary, is not therefore confined to a short period. I therefore find the U94B is not a suitable road to safely accommodate the lorry movements generated by the quarry and the development would conflict with policies R3 and RD1 in this respect.

Landscape

52. I have visited the site and its environs and also considered the visualisations within the appellant's Landscape Analysis document. It concludes there is no significantly adverse landscape impact although there would be short term landscape change during the period of the extraction. It identifies that the quarry would be visible from the west but over a significant distance (1km). On completion the restored quarry is expected to have a positive impact as the restoration proposals include native habitats.

53. I find that there would be no significant visual impacts on the landscape when viewed from the south and east due to the topography, direction of extraction, location of temporary bunds and established woodland areas.

54. The quarry operations would be visible from the west but would be entirely below the horizon formed by the established woodland area located to the east of the site. Any direct views into the quarry would also be partially offset by the direction of extraction and the proposed bunds. The stock pile area may project above or to the north of the western bund but this would be an impact that would vary over time as the height and extent of the stock pile changes. I do not consider these changes in the landscape to represent a significant adverse impact.

55. There would be a visual impact on the landscape when viewed from the north. From this position the proposed quarry would appear on the summit of a low hill (currently identified by the redundant cistern). This raised area forms the southern boundary of views available across the countryside from the north and is visible from a minor road and a number of isolated houses. The proposals however include a 4 metre high bund on the northern edge of the extraction area and I find this bund, and an area of retained woodland, would offset some of the view of the working face of the quarry.

56. The processing area and staff facilities however would be located to the north of this bund. This part of the quarry lies at a lower level than the extraction area. I do not

therefore consider any temporary buildings or equipment are likely to have a significant adverse impact on the distant views from the properties and minor road to the north.

57. LDP policy E2 (Landscape) resists development that causes unacceptable effects through scale, location or design on any natural landscape elements, historic features or the composition or quality of the landscape. Although there is an archaeological interest here, which I deal with below, there are no historic features within the site or immediate landscape that would be affected by the change in the landscape. For the above reasons I find the development would comply with policy E2 and the relevant part of policy R3.

Natural Environment

58. I have considered the appellant's ecological impact assessment which confirms the site is not subject to any natural heritage designations and presents an assessment of both the value of the habitat and the potential for protected species. The extraction area would affect pasture land of negligible ecological value and any habitat loss resulting from the development of the rush pasture (the bund and processing area) is not considered to be ecologically significant. There would be a localised effect on the territory of reed buntings (a species listed as a priority for conservation).

59. Any habitat represented within the retained woodland of lodgepole pine would not be affected and increasing the water level across the area, an indirect effect of diverting surface water into this area, would offer the potential to conserve and enhance a relict mire community. The screening bunds are to be planted with native species to enhance their screening effect and to provide a wildlife habitat for insects and breeding birds.

60. The appellant has surveyed for bats, red squirrels and badgers and no significant effects are anticipated on any species or individual animals. Representations however highlight badger activity at or in the vicinity of the appeal site and suggest a badger sett was overlooked in this survey.

61. Video footage of badger activity was submitted to the council during the processing of the application and considered by the council at that time. The council's Natural Heritage advisor highlights the likely badger activity at the site and recommends a species protection plan. This would seek to protect foraging badgers, introduce routine surveying for setts and other activity; and put in place steps to follow should a sett be found. This is important as a separate license may be required for works carried out within 30 metres of a sett.

62. The appellant has now had an opportunity to view the video footage and maintains that it does not appear to place any badger sett within the appeal site and that badger activity was, in any event, fully considered by the ecological assessment.

63. Policy E1 (Natural heritage) seeks to protect designated sites and protected species. I am satisfied that the level of impact on habitats and protected species has been properly identified and appropriate measures are proposed to manage the impact. In addition the potential impacts on any badger sett and foraging land was given due consideration in the ecological impact assessment. I consider a species protection plan, as recommended by the council, would be an appropriate means to address this issue. On this basis I find the development would comply with policy E1 and the relevant part of policy R3.

64. I have also considered policy PR1, (Protecting important resources) specifically the parts which seek to protect prime agricultural land, established woodland of ecological or cultural value or ground water dependant terrestrial ecosystems (GWDTE). The site is not prime agricultural land and there are no plans to fell the woodland within or adjacent to the site. There is no evidence to indicate that the site of the quarry would affect a GWDTE: neither SEPA nor the ecological impact assessment identifies any part of the site as such. On this basis I find the development would comply with policy PR1 in this regard.

Cultural Heritage

65. The appellant's archaeological survey indicates that the quarry could disturb archaeological remains due to the previous discovery of flint arrowheads here in 1948, the other archaeological discoveries in the wider area and the recent evidence of worked flints in the northern part of the site.

66. There are no scheduled monuments at the site and the council's archaeologist has not indicated that this is a nationally important site. The appellant proposes an archaeological watching brief during the soil strip and the council's archaeologist concurs with this assessment. On this basis I consider the development would comply with policy HE1 (Protecting historic buildings, sites and monuments).

Water Quality

67. The appellant and the council indicate that the impacts of potential extraction below the water table on water quality and private water supplies were successfully resolved during the processing of the application. SEPA recommend conditions that address surface water drainage matters, the monitoring of water levels, the restriction on any excavation below the ground water level (unless the monitoring demonstrates this is acceptable) and the cessation of operations if private water supplies are affected. On this basis I find the development would comply with policy R3 in this regard.

68. The risk of flooding at or in the vicinity of the site was also considered by the council. The site is, however, outwith the functional flood plain and the council's Flood Risk and Coastal Erosion consultation response did not raise any concerns and confirmed a drainage impact assessment would not be required. There is therefore no evidence of conflict with the requirements of policy C4 (Flooding).

Impacts on the amenity of the local community

69. The council has refused the development because "The proposal does not comply with Policy P1: Layout, siting and design on the grounds in that it will have a significant impact and will result in a loss of amenities to the local community due to its close proximity." Policy P1 provides a range of placemaking principles (including the 6 tests of a successful place as set out in Scottish Planning Policy 2014) which I find is aimed predominantly at built developments.

70. However impact on amenity remains a factor to be considered with regard to mineral extraction and P1 makes reference to "protecting amenity" albeit in the context of approving

“development designs”. I therefore consider P1 has some relevance in terms of assessing amenity impacts but policies R3 and P4 have a greater relevance when considering the amenity effects specific to mineral extraction.

71. Based on the key issues set out in policies R3, P1 and P4 I find the following effects on the amenity of the local community and individual houses should be considered.

Visual Amenity

72. I note from my site inspection that there are dwellings located immediately adjacent to the quarry. Their main windows are however orientated to face away from the proposed quarry. In addition soil bunds are proposed for the edges of the quarry nearest to these properties. Taking into account the soil bunds and the established woodland on the south east boundary I do not consider the operational areas of the quarry would be visible from these nearest dwellings. For the same reason I do not consider the bunds themselves, once any planting becomes established, would have a detrimental impact on the outlook from any individual property.

73. There are a number of houses that are a further distance away from the site that would face towards the quarry. Those to the north and west are most likely to have some view of the extraction and processing areas however due to the distance involved I do not find there would be a significant adverse impact.

Noise, blasting and vibration

74. Policy R3 requires due consideration to be given to these issues. As there is no intention to carry out any blasting at this quarry I find it is only the noise from the quarry that requires to be considered in the context of this quiet rural area. In this regard I have considered the appellant’s Assessment of the Environmental Impact of Noise document (Noise Assessment), the council’s Environmental Health consultation response and the various representations that raise this issue.

75. Both the appellant and the council agree that the advice and noise standards set out in PAN 50 Controlling the Environmental Effects of Surface Mineral Workings (Annex A: The Control of Noise of Surface Workings) would be relevant in the application of policy R3. The PAN recommends that in quiet rural areas daytime noise levels should not exceed 10 decibels over the background noise level. As no night time operations are intended to take place the recommended night time noise limits are not relevant.

76. However in “exceptionally quiet areas”, PAN 50 advises that the aforementioned noise limit can be overly restrictive. In such circumstances a maximum daytime noise level of 45 dB LAeq,1h regardless of background noise levels is recommended. The appellant and the council described the site as exceptionally quiet and based on my site inspection I agree with this description.

77. In addition PAN 50 indicates that it is acceptable, and in the long term beneficial, to increase the maximum noise levels temporarily to 70 dB LAeq,1h for non-routine operations especially where these relate to the provision of protective features such as noise attenuation bunds or site restoration.

78. The appellant's Noise Assessment assumes there would be 2 lorry loads per hour leaving the site and the working face of the quarry would be no higher than 7.5 metres. The noise levels from plant and machinery are expected to be similar to equipment operated in the appellant's other quarries. On this basis the Noise Assessment has estimated the likely noise levels arising from, firstly, the routine extraction and processing operations and, secondly, the noisiest parts of the operations (the soil strip and baffle mound construction).

79. The Noise Assessment concludes that at each of the three nearest dwellinghouse locations (representative of the adjacent housing) the normal operational noise would be under 45 dB LAeq,1h (maximum 42 dB) and that the initial soil strip and bund construction would be greater (maximum 65 dB) but below the 70 dB LAeq,1h recommended by PAN 50. The overall increase in noise levels was therefore assessed as minor.

80. The council's Environmental Health team recommends approval as long as the lower threshold of 45 dB LAeq,1h is applied and that the higher level of 70 dB LAeq,1h for soil stripping and baffle mound formation applies only for a temporary period not exceeding 8 weeks. Other conditions are recommended regarding monitoring of the noise emissions, a restriction in operating hours and the completion of any bunds prior to extraction.

81. On the basis that these conditions are applied, I am satisfied that the quarry would be able to meet the noise levels advised by PAN 50 for exceptionally quiet rural areas. On the basis of the evidence before me and taking into account the proximity and orientation of the existing houses, I do not find the noise impacts arising from the mineral extraction would therefore conflict with policy R3 in this regard.

Air Quality

82. I have considered the appellant's Air Quality Assessment (AQA), the council's Environmental Health team response and the various representations that raise this issue. The assessment has considered the potential impacts arising from dust and particulates PM10 and PM 2.5 in the context of PAN 50 Controlling the Environmental Effects of Surface Mineral Workings (Annex B: The Control of Dust at Surface Mineral Workings) and other national standards and guidance relating to air quality standards.

83. Although houses are located close to the site, the AQA has concluded that the proposed quarry as designed and laid out including the proposed bunds is unlikely to result in any significant decrease in local air quality. Any dust occurrence event would be limited and of short duration and would be minimised by implementation of the dust control recommendations that are set out in the AQA.

84. Although representations have questioned the methodology employed in this assessment the council's Environmental Health advice does not raise any concerns of that nature. I am satisfied that the study has considered the existing situation including the meteorological conditions, the impacts on the nearest residential properties, the anticipated level of dust emissions at all stages of the quarry operation and the need for (or benefits arising from) mitigation measures such as the soil bunds or dust control systems.

85. Policy P4 (Hazardous and potentially polluting developments and contaminated land) resists development if there is a risk of significant pollution, a public safety risk in respect of a known hazardous installation or a significant detrimental impact on air quality. The council's consultation responses confirmed there was no contaminated land issues or hazardous installation at this site. As I do not find there is any evidence of a significant detrimental effect on air quality, I am satisfied the development would meet the relevant parts of policies P4 and R3 in this regard.

Effects on the local economy.

86. Policy R3 seeks to address the impacts on economic sectors important to the local community. The surrounding land is agricultural in nature. A livery business and a livestock farm is evident in the vicinity of the site. Representations have indicated that the continued success of the livery business may be affected by its proximity to the proposed quarry in terms of noise and disturbance and the potential conflict between quarry traffic and horse riders on the minor road network.

87. In addressing the purpose of planning, SPP states that the planning system has a crucial balancing role to play when competing interests are apparent in the consideration of future development. It also indicates that the planning system: cannot satisfy all interests all of the time; operates in the long term public interest; and, does not exist to protect the interests of one party against the activities of another.

88. As set out in preceding paragraphs I have considered the potential conflict between horse riders and quarry traffic. Although I remain concerned regarding the overall impact of the quarry traffic I consider it is reasonable to expect that a horse and rider might encounter large vehicles in this rural area. There is no evidence therefore to suggest that these encounters, in isolation, would undermine the success of the livery business.

89. Furthermore PAN 50 Annex A (paragraph 10) advises that livestock farms can be considered as "noise sensitive" but that it would be inappropriate to treat these "as equally noise sensitive" as dwellinghouses. I consider this assumption could also apply to a livery business. In any event the noise levels at the residential properties adjacent to the proposed quarry would be within acceptable tolerances and these noise levels are also indicative of the noise levels that may be experienced at the adjacent livery business.

90. In light of the SPP advice, I do not consider there is sufficient evidence regarding the impact on the livery business or any other rural business in the vicinity to justify the refusal of planning permission.

Conclusions on amenity

91. I have taken into account the representations submitted in respect of the quarry proposal including the considerable volume of opposition to the development and the various matters raised are, mostly, addressed under the headings above.

92. I have considered the issue of "proximity" as set out in the council's reason for refusal. Whilst there would be some impact on the dwellings and businesses immediately adjacent to the proposed quarry, I am satisfied that the quarry has been designed to ensure

that the impacts arising from the development would not be of a level that would cause a significant loss of amenity or nuisance to local residents. I do not find the quarry would conflict with policies P1, P4 or R3 in this regard.

Overall Assessment Against the Development Plan

93. In considering the development plan as a whole I have given due regard to the economic importance of sand and gravel reserves in delivering the economic growth envisaged by the SDP. I am also satisfied that the development would meet the 'quality of the environment' objective of the SDP with regard to the impact on built, natural and cultural assets. The design and operation of the quarry, with the addition of planning conditions, would be capable of meeting the LDP policies on these same matters and would not have any significant adverse impacts on the amenity of the neighbouring residential properties.

94. I have however found that the access route to the quarry, even with the proposed improvements would not meet the terms of LDP policy RD1 and the relevant part of policy R3. The addition of 631,000 tonnes of sand and gravel to the land bank equates to an estimated 1 to 2 years supply in the Aberdeen market area but this is intended to be extracted over a period of 8 to 15 years. In these circumstances, I am not satisfied that the economic benefits arising from the provision of this additional reserve outweigh the risks to road safety, and the associated impacts on the local community, arising over such a prolonged period.

Other Material Considerations

95. The SPP requires me to give due weight to net economic benefit and I note that the development itself offers modest employment opportunities for the duration of the extraction period. I have also considered the wider economic benefits arising from the supply of construction aggregates to the Aberdeen market area.

96. I have considered the importance of maintaining a land bank of reserves within the wider market area of Aberdeenshire or North East Scotland as required by paragraph 238 of the SPP. I am satisfied that, with the exception the road safety impacts, this proposed quarry would otherwise meet the requirements of the SPP as set out in paragraphs 237 and 238.

Overall Conclusion

97. Although the SPP is generally supportive of this development I do not consider this to be sufficient to set aside my concerns regarding the impact of quarry traffic on the minor road. I therefore find that, for the reasons set out above, the proposed development does not accord overall with the relevant provisions of the development plan and there are no other material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Elsbeth Cook

Reporter