

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

07 AUGUST 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/00492/MIN
OFFICER:	Stuart Herkes
WARD:	Leaderdale And Melrose
PROPOSAL:	Extension of consented life of quarry by deepening area consented by previous minerals consent 09/00897/MIN
SITE:	Quarry Soutra Mains Farm, Blackshiels, Soutra, Oxton
APPLICANT:	Skene Group
AGENT:	Ironside Farrar Ltd

SITE DESCRIPTION

The site is land within an existing and operational hard rock quarry at Soutra Hill, which lies on the northern edge of the Soutra Plateau, immediately upslope and to the south of the regional boundary with Midlothian. It coincides with the site that is the subject of Minerals Planning Consent 09/00897/MIN, which permitted an extension of workings into former grazing land to the east and south of the quarry.

Soutra Hill Quarry extends to slightly under 40 hectares and lies to the southeast of the junction of the B6368 with the A68. This same junction accommodates the movement of traffic between the site and the Trunk Road (A68). The Dun Law wind farm lies to the southeast of the quarry; and the Soutra Aisle Scheduled Monument lies to the southwest. An area to the northwest was used as a police firing range. The nearest residential property is Soutra Mains Cottage on the opposite side of the B6368, near the quarry entrance.

PROPOSED DEVELOPMENT

The proposal is for the working life of the quarry to be extended by allowing for the deepening of extraction works within and below the footprint of the site that is already the subject of the quarry extension operations consented by Minerals Planning Consent 09/00897/MIN. It is proposed that the quarry should be deepened below the currently approved maximum floor working depth (318m AOD) by a further two downward tiers, each of a depth of 18m. These would take the quarry floor from 318m AOD down to 300m AOD, and then eventually to 282m AOD. This would equate to the working of an additional reserve of 1,677,600 cubic metres, which translates to 3,892,032 tonnes of material, and it is estimated at the current extraction rate of 450,000 tonnes per annum, an extension in the working life of the quarry from the current projection of 18 years to an anticipated 27 years.

There would be no change to the surface area of the quarry, only the deepening of quarrying itself within the same footprint. The only new impacts upon the environment and amenity of the site and surrounding area, relate to the deepening works which themselves directly affect the timescale of the proposed quarrying operations, ground water management, and the site restoration proposals. Otherwise it is anticipated that the same or equivalent impacts as would occur relative to the operations consented by Minerals Planning Consent 09/00897/MIN, would apply.

It is estimated that extraction is liable to occur 63m below groundwater level. It is advised that for safety reasons, the void would therefore require to be dewatered to accommodate the proposed extraction works.

A Screening and Scoping Opinion was sought and provided last year in relation to this proposal, and has informed the Applicant's presentation of the application. As requested at the time of the Screening and Scoping Opinion Request, the Applicant has provided an Addendum Report to the Environmental Statement provided at the time of Minerals Planning Application 09/00897/MIN. (This document is hereafter referred to, as: 'the ES Addendum'). The Applicant reports a pre-application public consultation exercise, which raises no concerns with respect to how it has been conducted and reported.

The Applicant has applied to deepen the quarry and extend the period of operations of quarrying on the site beyond the depth and time parameters that were established under Minerals Planning Consent 09/00897/MIN. However, the Applicant still has 18-years-worth of extraction to go under the current Minerals Planning Consent. Furthermore, the Applicant has explicitly advised that they would not anticipate progressing extraction to the proposed additional downward tiers until around 2034. Accordingly, the Applicant is extremely unlikely to be within any position within the next three years, to begin extraction of material from below the maximum floor depth allowed to it under Minerals Planning Consent 09/00897/MIN. Operationally speaking, this would be liable to make any minerals consent granted further to any approval of the current application effectively redundant, since this consent would have expired long before the Operator would be in any position to implement it.

Taking account of the above, it is considered that it is appropriate to consider the current proposal as fully incorporating the minerals development that was consented under Minerals Planning Consent 09/00897/MIN, as well as the further extractions and time extension that are proposed within the current application. To this end, what is under consideration here is a replacement of the current consent, incorporating both the current consented quarrying operations and the proposed extensions to the depth and timescale of those quarrying operations which are now proposed.

PLANNING HISTORY

Consent to work the quarry at Soutra Hill commercially, was originally granted in July 2006 by Minerals Planning Consent 05/01374/MIN. Subsequent to this, in April 2010 Minerals Planning Consent 09/00897/MIN granted consent for the quarry to be extended to the east and south, and operated for a period of 25 years from the date of issue.

Minerals Planning Consent 09/00897/MIN was approved subject to twenty-seven planning conditions which address concerns with respect to the regulation of the time, depth and areas to be worked; aspects of the operation of the site, including the

regulation of dust, noise and vibration; traffic management to and from the site, on the surrounding road network; landscaping; ecology; and archaeology.

Given that the site that is the subject of Minerals Planning Consent 09/00897/MIN, is the site area which is the subject of the current minerals planning application, there is a requirement to revisit this consent and all conditions imposed upon it in detail within the assessment set out below.

In addition to the consents for quarrying at the site, the Applicant has in the intervening years also secured a Permitted Minerals Development (10/01372/PAMIN) for a plant for the establishment and production of ready-mix concrete and more recently, full planning consent for an industrial shed incorporating office accommodation (13/00851/FUL). While the batching plant is on-site and operational, the industrial shed was not observed to be *in situ* at the time of the planning officer's most recent site visit in June.

REPRESENTATION SUMMARY

One member of the public has responded in support of the proposals on the grounds that it would safeguard jobs and provide the region with aggregates, ready mix and concrete blocks.

APPLICANTS' SUPPORTING INFORMATION

The application is supported by the following documents:

- Planning Supporting Statement;
- Addendum Environmental Statement and supporting Appendices document;
- Environmental Statement – Non Technical Summary;
- Pre Application Consultation Report; and
- Follow-up Document responding to Statutory Consultees.

These documents are all available for viewing in full on the planning pages of the Council's website.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Archaeology Section: advises that there are no archaeological implications.

Ecology Section: notes SEPA's advice that there are no obvious barriers to an increase in abstraction volume, but that this would still require to be made the subject of an application to vary an existing CAR licence. With respect to the ES Addendum, it is agreed that there are unlikely to be any significant adverse impacts on the ecological interest, as a result of the development. However, it is noted that with the extension of the period of extraction, and with the ongoing phased quarrying works, areas of vegetated ground would continue to be cleared in phases. Taking account of this, an informative is recommended to advise the quarry operators on the statutory need for, and requirements of, the protection of breeding birds.

Environmental Health Section: has no comments to make with regard to potential land contamination; but with regard to amenity and pollution issues, it advises that it has considered the application with respect to air quality, noise nuisance and private water supply. It finds the environmental impacts acceptable, subject to all existing conditions relating to the protection of the environment and residential amenity that were imposed upon Minerals Planning Consent 09/00897/MIN, being re-imposed on any new consent issued.

Flood Prevention Section: the site is not at risk from a flood event with a return period of one in two hundred years but it is noted that there are a number of small watercourses near to the site which are not included on the flood map. It is therefore considered that the flood risk may not be fully representative. The indicated surface water drainage route from the site (via a French drain adjacent to the access road, under the A68 to the Linn Dean Burn) has never been utilised and no discharges from the site to the Linn Dean Burn have occurred.

Flood Prevention notes the advice of the ES Addendum report (12.6.2), firstly, that enlargement and deepening of the quarry void would increase the volume of water intercepted such that off-site discharge would be required; and secondly, that on-site provision should be made for the accommodation of approximately 25,400 cubic metres of attenuation storage. However, Flood Prevention considers that since the requirement for this amount of storage is some years away, and since there is currently a discharge system in place, it agrees with the recommendations that the discharge might be reviewed annually, and discharge/storage options might be reviewed as the discharge volume approaches the CAR Licence limit, and downstream flood risk is re-assessed.

Landscape Section: notes that mitigation measures were agreed in relation to the previous minerals consent and these were for the purpose of minimising the visual impact of the development. The Landscape Officer is satisfied that had these mitigation measures been carried out fully, then the proposed deeper quarrying would not have a detrimental visual impact on the area, or upon sensitive receptors such as local residents, users of the A68 and visitors to Soutra Aisle. However, it is advised that this is not the case, even although large areas were planted with trees. Notwithstanding that some tree planting has taken place, the Landscape Section highlights its significant concerns that the landscaping that has been carried out has been inadequate and inadequately maintained relative to what was approved and required under the aforementioned conditions.

While the ES Addendum report acknowledges some concerns with respect to the landscaping that has been carried out, the Landscape Section considers that this does not address the true scale of the failure to meet the requirements of the conditions, and is concerned that the Applicant should now identify clearly what landscaping works have and have not taken place, and what remediation is necessary to allow the originally approved works to be delivered in accordance with the requirements of the planning conditions imposed upon Minerals Planning Consent 09/00897/MIN. Advice and observations with respect to what has gone wrong, or might be improved upon, is given within the consultation response. In addition to these remediation works, the Landscape Section seeks an annual inspection of the remedial works to the mitigation planting scheme by the Council for a further 5 years, to ensure that it satisfies the previous consent, which it considers should be a condition of any consent to deepen the quarry.

An additional concern raised by the Landscape Section is that little attempt is being made to effect a smooth bunding along the southeast and southwest part of the site, with the result that in views from the A68 to the southeast, and in views from Soutra Aisle to the southwest, the irregular bund profile is often seen along the skyline, drawing attention to the presence of the quarry. Landscape wants to see a proposal or strategy for dealing with the visual impact of topsoil bunds in these sensitive areas, given that the quarry is likely to be in operation for a longer period of time into the future if the current minerals planning application is consented.

Outdoor Access Section: advises that there are no claimed Rights of Way or Core Paths on the site.

Roads Planning Section: advises that the ES Addendum has confirmed that there would be no increase in daily traffic movements associated with this proposal. Accordingly, it has no objections.

Statutory Consultees

Community Council: has been consulted but has not responded to the public consultation.

Forestry Commission: has been consulted but has not responded to the public consultation.

Health and Safety Executive: does not advise against.

Historic Environment Scotland: does not have any comments to make upon the proposals.

Midlothian Council: has provided advice on all of the following matters:

Noise and vibration, air quality and dust – it recommends that the conditions established in the original consent in respect of these matters, should be continued over the period of the extended operations;

Water quality and drainage – asks that it be explicitly confirmed by the Applicant that Soutra Mains Farm and Woodcote Park have been provided with mains supplies. If these properties are still served by private supplies, Midlothian Council would wish conditions to be imposed to require ongoing monitoring at these locations, and to allow for intervention, should an interruption to adequate and wholesome supplies occur;

Residential amenity and traffic noise and dust – wishes to ensure that the amenity of communities and individual properties along the A68 route would not be adversely affected by quarry traffic. It considers that it would be advisable to control the dispatch of vehicles from the site through conditions, avoiding evenings and nights, and reducing impacts at weekends. It further seeks the sheeting of vehicles to minimise dust migration from loads.

Monitoring of extraction – suggests a requirement by condition for annual reporting of the amount of hard rock extracted from the quarry and reserves remaining therein, would be useful in the interests of monitoring compliance with the aggregates landbank

requirements of SPP (Paragraph 238).

SEPA: has no objection but provides advice on groundwater, and specifically the concern that if additional abstraction volumes were to be required to lower groundwater below the proposed maximum excavation depth of 282mAOD, this would be liable to require a variation to the quarry's existing dewatering licence. While SEPA does not foresee any obvious barriers to this, it nonetheless advises that any application to it to vary the aforementioned licence, would need to be considered at that future time and on the basis of the relevant and required supporting information. As a means of monitoring groundwater levels and collecting the required information, SEPA welcomes the excavation of four new monitoring boreholes in place of those that would be lost. Advice is given on the prevention of pollution to groundwater once activity ceases on site.

SEPA advises the site is not in a flood risk area, but notes that there are a number of small watercourses with catchments less than 3 square kilometres, within the surrounding area, and which have not been accounted for within SEPA's flood maps. It notes the advice of the ES Addendum report that the present CAR limits on discharge would be exceeded by the discharge rate which may be required, and that the current limits should be reviewed as discharge volumes become known in the future. However, SEPA strongly recommends that greenfield runoff rates should not be exceeded, but is content that runoff rates might be agreed with Scottish Borders Council as the flood prevention authority in consultation with SEPA, if so required.

Scottish Natural Heritage: advises that there are natural heritage interests of national importance within the area, but these would not be affected by the proposal. Since the proposal is to deepen the floor of the quarry within the footprint of the current works, there would be no adverse effects on the landscape. However, it highlights the need for renewed and revised restoration proposals; in particular, drawing attention to the benefits that could be derived by ensuring the master planned co-ordination of existing and maturing environmental mitigation with any proposed restoration planting or habitat. It advises that restoration proposals should include clear reference to relevant good practice, while also demonstrating compliance to quarry regulations relating to slope angles and safety issues.

Scottish Water: has been consulted but has not responded to the public consultation.

Transport Scotland: advises that a condition should be attached to any planning consent issued to require that wheel washing facilities should be provided within the site, to ensure that material from the site should not be deposited on the trunk road to the detriment of road safety. Its justification for this is that there have been a significant number of complaints received in recent months with respect to the migration of mud and spoil onto the A68, which has in places obscured road markings and studs on this section of the trunk road.

DEVELOPMENT PLAN POLICIES:

SES Plan Strategic Development Plan 2013

Adopted Scottish Borders Local Development Plan 2016

Policy PMD1: Sustainability

Policy PMD2: Quality Standards
Policy ED7: Business, Tourism and Leisure Development in the Countryside
Policy ED11: Safeguarding of Mineral Deposits
Policy ED12: Mineral and Coal Extraction
Policy HD3: Residential Amenity
Policy EP1: International Nature Conservation Sites and Protected Species
Policy EP2: National Nature Conservation Sites and Protected Species
Policy EP3: Local Biodiversity
Policy EP8: Archaeology
Policy EP13: Trees, Woodlands and Hedgerows
Policy EP15: Development Affecting the Water Environment
Policy EP16: Air Quality
Policy IS4: Transport Development and Infrastructure
Policy IS5: Protection of Access Routes
Policy IS7: Parking Provision and Standards
Policy IS8: Flooding
Policy IS12: Development Within Exclusion Zones
Policy IS13: Contaminated Land

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy

KEY PLANNING ISSUES:

Whether or not the proposals to deepen and extend the operational life of the quarry would secure minerals development in a sustainable manner and without otherwise having any unacceptable impacts, including cumulative impacts, upon the environment of the site and/or upon the amenity and environment of the surrounding area.

ASSESSMENT OF APPLICATION:

Planning Policy Context

The site is land within an existing and operational quarry for which the Applicant has previously, and recently (2010), secured an extension to a previous minerals planning consent to extract aggregates. The principle of the land being used for minerals extraction has therefore been established and there is no objection in principle to operations continuing. The site is, for the most part, relatively well-screened although, as discussed, below, some additional mitigation may be required. Positive regard can also be had to the potential of the proposals to sustain employment in the local area in the long-term. The Applicant's information with respect to the anticipated future demand for hard rock aggregates is also a significant material consideration.

No statutory consultees have identified any concerns with respect to the principle of the level of extraction proposed, although Midlothian Council has highlighted a concern that the level of extraction should itself be monitored on an annual basis to ensure that it is in line with the requirements of Paragraph 238 of the SPP (2014). Given that the SPP post-dates the issuing of Minerals Planning Consent 09/00897/MIN in 2010, this could be required by condition to help safeguard sustainable extraction.

Allowing for this monitoring, the assessment of the proposal is confined to a consideration of the acceptability or otherwise of the impacts upon the amenity and environment of the site and the surrounding area, were the quarrying operations to be extended as proposed; and how such impacts might be appropriately regulated or mitigated under any new consent issued.

There are some specific issues raised by the proposed deepening and by the proposed revised operational period sought, which would only be addressed within new planning conditions (or new requirements within revised conditions) to ensure that these would be appropriately regulated and mitigated. For the most part, these relate to the implications for the management and monitoring of ground water levels; the duration of the quarrying operations; and the greater extent of the restoration works that would ultimately be required to reinstate the site after the cessation of quarrying operations.

Allowing for these exceptions however, consultees are otherwise mostly content that the proposals raise no fundamental concerns to those considered at the time of the determination of Minerals Planning Application 09/00897/MIN. Given the intention to effectively refresh this earlier permission, it would be prudent to revisit each existing condition of that permission, to establish whether or not it would need to be re-imposed; and if so, in what form precisely.

Before going on to look at specific concerns, the assessment of the existing conditions and their requirements needs to take account of some practical considerations:

Firstly, since the Applicant is capable of operating in accordance with Minerals Planning Consent 09/00897/MIN, it would be inappropriate to impose any more onerous requirements upon the existing operation than currently apply. Rather, the key concern is that as far as it is reasonably possible to do so, the minerals development augmented as proposed, should continue to be subject to the same or an equivalent level of regulation as is currently required under Minerals Planning Consent 09/00897/MIN. It is only where any new or significantly increased adverse impacts would result as a direct consequence of the implementation of the new proposals that any new requirements would be appropriately imposed upon the development within any new consent.

Secondly, given that the Applicant is working in accordance with a current minerals planning consent, it might be possible that all new or revised information should be provided within a more proportionate and relevant time-scale, rather than before any further operations continue. In this case, it would be appropriate to allow for these matters to be addressed ahead of the commencement of any extraction below 318m AOD.

Regulation of Minerals Development, including Period of Consent and Operations

As noted above, it would be problematic to retain any requirement by condition that any new minerals consent issued would expire if it is not implemented within three years of the date of issue. Accordingly, Planning Condition No 1 attached to Minerals Planning Consent 09/00897/MIN should be omitted from the schedule of conditions imposed upon any new minerals planning consent issued ulterior to this application.

There remains a requirement under Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, that

appropriate site notification be displayed at the site. This condition (Condition No 2 on the current minerals consent) therefore requires to be imposed upon any new consent.

The proposal that the quarry should operate for an additional nine years beyond the period of the consent of Minerals Planning Consent 09/00897/MIN, raises no concerns in principle. It might therefore be reasonably rounded up to a twenty-eight year period from the date of issue of any new consent. This would essentially allow for a ten-year period for the extension of quarrying operations at the site beyond that currently allowed by the existing consent. A new version of Planning Condition No 4 attached to the existing minerals consent might therefore be imposed upon any new consent issued, identifying a maximum time period of 28 years (instead of 25 years) for the operation of the consent.

In addition to the requirement that the maximum time period of quarrying should be restricted, it would again be appropriate to restrict excavations to the maximum depth identified within the supporting details, which is 282m AOD. Similarly then, a new version of Planning Condition No 3 attached to the existing minerals consent so amended, would be appropriately imposed upon any new minerals consent issued.

There is a requirement defined in Scottish Planning Policy for appropriate annual monitoring of the rate of minerals extraction from the site to be carried out. A new condition therefore requires to be imposed to address this issue. However, given that no equivalent monitoring by the Applicant is required in relation to excavations down to 318m AOD, it would only appropriately be required that such monitoring should only take place when extraction occurs below that depth, which would effectively denote the stage at which any new minerals consent issued would supersede the current minerals consent. Having been commenced below that depth though, monitoring of extraction should take account of the entire hard rock reserve within the quarry (rather than being confined only to reserves below 318m AOD).

Visual Impacts including Storage, Floodlighting and Fencing

In the interests of conserving the visual amenities of the site and surrounding area, a condition (No 5) was imposed upon the current minerals planning consent to require that no buildings, plant, machinery or stock piles should be stored out with the approved extraction area unless these were being utilised in connection with initial soil and overburden stripping, bund formation or planting works. This condition should be retained in relation to any new minerals consent issued.

Conditions Nos 6 and 7 on the current minerals planning consent required the prior agreement of floodlighting and fencing, and have been met. Any replacement condition(s) might more simply require that no new floodlighting or any new perimeter fencing should be installed on site, without the prior written agreement of the Planning Authority unless it is compliant with the details that have already been approved under Conditions Nos. 6 and 7 of Minerals Planning Consent 09/00897/MIN.

Landscaping, including Tree Planting and Bunding

Planning Conditions Nos. 11 and 12 attached to the current minerals planning consent, were imposed to require the submission and agreement of appropriate landscaping

details during the operational life of the quarry. They specifically required and regulated the formation of bunding (No 11) and tree planting (No 12).

The proposed area of extraction is the same as that consented under Minerals Planning Consent 09/00897/MIN. Accordingly, it is anticipated that the assessments of landscape and visual impacts made ahead of the determination of the previous minerals application remain valid to the assessment of the current proposal. Furthermore, it is also anticipated that all identified mitigation measures required to offset any unacceptable adverse impacts relating to the previous consent, should be retained in the event of approval. It is therefore a reasonable expectation that compliance with all details that were approved under the original conditions might reasonably be secured within updated versions of those conditions.

This is broadly the case and it would be appropriate to impose updated requirements by condition, to ensure that the approved landscaping and bunding would be maintained were any new consent to supersede the current minerals consent. However the Landscape Section has identified significant concerns with respect to the implementation and maintenance of the landscaping works that were approved and required by conditions attached to Minerals Planning Consent 09/00897/MIN; and identified a number of failures that it would wish to see addressed, going forward. Accordingly, it would be appropriate to attach an informative advising that the current landscaping does not meet the requirements of the conditions imposed upon both the current minerals planning consent, and that this requires to be addressed.

It is noted that the Landscape Section suggests new conditions imposed upon any new minerals consent issued, primarily to address its concerns with respect to remediation that is required to address the above noted oversights and failures within the landscaping and bunding. However, since these are matters regulated under conditions on the current consent in accordance with which the site is presently capable of being operating, it would not be appropriate to seek to impose any new or more onerous requirements by conditions to address issues that do not directly arise from the development being applied for. Rather, it is reasonable to require that the bunding and landscaping should be maintained in the forms in which these have been approved under the current minerals planning consent while pointing out in the informative, the need for remediation.

Water Environment

Planning Condition No 26 attached to the current minerals planning consent required the submission and approval of a Site Management Plan to identify measures to protect the water environment from potential contamination. This plan was approved, and the same condition requires the site operations of the current minerals development to be operated in accordance with it. However, as noted above, impacts upon the water environment are amongst those aspects that are liable to be significantly impacted by the proposals of the current application; chiefly in the proposal that the existing quarry be deepened by an additional 36m below the maximum depth allowed under the current consent. Since the approved Site Management Plan does not account for this, there is a requirement for new information that does to be provided for prior approval in the event of the deepening of the quarry being progressed.

While both note the potential for run-off from the site of the quarry to be increased over time as a consequence of the deepening extraction, neither SEPA nor the Flood Prevention Section have any concerns in principle, subject to the Applicant being aware of all requirements to be met under a CAR licence. However, the need for improved monitoring and management of surface water is identified by both, including the potential need in the later stages of extraction, for ground water to be attenuated on site.

It would be appropriate to require that no on-site attenuation should be established without the prior written agreement of the Planning Authority first having been given. In short, the matter might be appropriately revisited nearer the time that any actual need for attenuation is established. Regulation as proposed would also ensure that the precise form of any development would be capable of being reviewed ahead of its implementation on site.

Midlothian Council has asked that conditions should be imposed to require ongoing monitoring at any neighbouring property that is served by a private water supply, and to allow for intervention, should an interruption to adequate and wholesome supplies occur. The Applicant has confirmed its awareness that properties at Woodcote Park are still served by a private water supply, but advises that its agent (Hafren Water) considers that the risks of contamination from quarry activities migrating in surface or ground water to this well supply are “*minor to negligible*”. Midlothian has been re-consulted in light of this advice, but has not responded. It is therefore assumed that it maintains its concern that any private water supplies potentially at risk, should be made the subject of ongoing monitoring, with provision for intervention, should any interruption to adequate and wholesome water supplies be experienced. Such impacts are not specifically regulated under the current minerals planning consent, but given that the proposed deepening works would be more likely to affect the water table than the currently approved minerals development, this matter would be reasonably regulated by a planning condition imposed upon any new minerals consent issued.

Road Safety and Traffic Management, including Mud and Dust Migration

The Roads Authorities and Midlothian Council are content to support the current application, subject to the retention of the conditions currently regulating road safety and traffic management.

Planning Condition No 27 attached to the current minerals planning consent requires that the site operate in accordance with an approved Transport Management Plan. This requirement would be reasonably retained within an updated version of the condition, principally in its discouragement of site traffic departing to the west.

With respect to the operation having no unacceptable impacts in terms of the migration of dust and mud onto the Trunk road and local road network, it would be reasonable to maintain the requirement under Planning Condition No 24 attached to the current minerals planning consent that wheel wash facilities be maintained and operated. The Applicant has recently upgraded its wheel washing arrangements with better facilities which have already been inspected on site and approved under Minerals Planning Consent 09/00897/MIN. Given that these facilities are in place, it is reasonable simply to require that wheel washing facilities should be retained and operated throughout the period of consent.

Additional dust control measures are required under Condition No 23 attached to the current minerals planning consent. Again, and in line with the concerns of the consultees with respect to road safety and residential amenity, such requirements would sensibly be retained relative to the operation of any new minerals planning consent issued; along with the sheeting of loads - a measure that Midlothian Council is particularly concerned should be required by condition.

Residential Amenity including Noise and Vibration Nuisance

Environmental Health and Midlothian Council have considered the environmental health impacts and are content subject to the conditions that were imposed upon Minerals Planning Consent 09/00897/MIN to regulate noise and vibration, being imposed; that is, Planning Condition Nos 18, 19, 20 and 21 attached to the current minerals planning consent. These matters are appropriately capable of being addressed within updated planning conditions.

Planning Condition No 22 attached to the current minerals planning consent, restricts days and hours of operation for the minerals development, in the interests of conserving the amenity of nearby residential properties. The condition is capable of being imposed upon any new minerals consent issued, and appears to address Midlothian Council's concern that deliveries should occur within normal business hours. As the Applicant notes, this is the level of restriction that currently applies to their operation. Its extension to cover the proposed longer period of operation would be logical and reasonable.

Natural Heritage

Three conditions (Nos. 13, 14 and 15) were imposed upon the current minerals planning consent to regulate matters relating to natural heritage; but the requirements of all have been met and these conditions have been discharged. There is no reason or necessity to attach these same conditions, or even updated versions, on any new consent issued.

As far as the Ecology Officer is concerned, his advice with respect to the need for ground not to be cleared during the breeding bird season, unless a checking survey has first been completed, would be appropriately conveyed by an informative.

Cultural Heritage and Archaeology

Planning Conditions Nos. 16 and 17 attached to the current minerals planning consent were imposed to require that the site be subject to an Archaeological Evaluation. This work has now been carried out, these conditions have been formally discharged and the Archaeology Officer has in the context of the current public consultation, advised that there are no further archaeological or cultural heritage concerns. Accordingly there is no requirement for these previously imposed conditions to be retained on any new consent.

Land Restoration

Planning Conditions Nos. 8, 9 and 10 attached to the current minerals planning consent were imposed to require that measures be put in place for the restoration of the site. Given that a greater volume of material would now be removed from the quarry, it follows that the restoration, including the bond required under Planning Condition No 10

attached to the current minerals planning consent, would not address adequately all provisions that would now need to be incorporated to account for this significant change.

As it stands, a restoration bond has yet to be finalised under the requirements of Condition No 10 of Minerals Planning Consent 09/00897/MIN, but even if it had have been resolved in full accordance with the aforementioned planning condition, it would still not have accounted for the significantly greater costs that are liable to be involved in the infilling and finishing of the greater void that would be left at the completion of the proposals.

Rather than impose a condition to address this matter as before though, the requirement is more satisfactorily addressed through a legal agreement, requiring that such a bond should be concluded and thereafter monitored on a regular basis to ensure that the financial provision would remain proportionate to what any costs would actually be liable to be at the time of the restoration works themselves. Accordingly, and notwithstanding the current arrangement, a new version of Condition No 10 would not be imposed upon any new consent. Instead, the conclusion of a legal agreement to regulate the deposition and monitoring of the bond should be made a direct prerequisite requirement of the release of any new minerals planning consent to the Applicant.

Given that new restoration proposals would be required to remediate the greater void left by the proposed deepening works, a new scheme of restoration details would necessarily be required. This could though, be required and regulated along the lines allowed under Planning Condition No 8 attached to the current Minerals Planning Consent.

Something of a loose-end is the treatment of the smaller void within the northwest part of the site that has been used as a police firing range. The Environmental Statement at the time of the determination of Minerals Planning Consent 09/00897/MIN, had advised that there was a possibility that the firing range use would cease in 2017, at which point it was anticipated thereafter, that this land would be included within the mitigation measures during operation. Certainly, the firing range site was to be restored within the wider restoration proposals for the site, if its existing use were not to be continued beyond 2017 (the date of the review of the lease). A planning condition to regulate this specific matter is attached to the current minerals planning approval (No 9). Notwithstanding the fact that the Applicant has not yet clarified whether or not the area occupied by the firing range would be included within the restoration proposals, there is still potential to allow for this possibility, which might be addressed within the new restoration proposals themselves, which require to be submitted for prior approval.

CONCLUSION

The quarry is established and has supplied a mineral resource which has benefited the economy and provided job opportunities within the rural area. The proposed extraction operation is intensive but the application has demonstrated that there is anticipated to be a market demand for the rock extracted. The visual impact of the increased extraction would have no greater landscape or visual impact than the current operations.

It is considered that the proposals comply with national and local policies in relation to mineral workings, and that subject, firstly, to a legal agreement to ensure that the final restoration is undertaken (through a restoration bond), and secondly, subject to

conditions to ensure appropriate regulation, monitoring and mitigation, that the development would not have any significant adverse impacts on the site or surrounding area, including surface water drainage and the amenity of neighbouring properties.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject, firstly, to a legal agreement to secure the provision of a bond to finance the restoration of the site, and secondly, subject to the following planning conditions:

- 1 A site notice or sign shall be displayed in a prominent place at or in the vicinity of the site until the completion of the development, which shall be readily visible to the public, and printed on durable material. The Notice shall take the following form as per **Informative Note 1**, below:

Development at (Note 1)

Notice is hereby given that planning permission has been granted, subject to conditions (Note 2) to (Note 3) on (Note 4) by Scottish Borders Council.

The development comprises (Note 5)

Further information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose. Telephone (01835) 825060, or by visiting <http://eplanning.scotborders.gov.uk/publicaccess>, using the application reference (Note 6).

Reason: To ensure compliance with Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

- 2 The development shall be carried out in accordance with the approved scheme of working detailed in the phasing plans accompanying the application. In any event, the maximum floor depth of the quarry shall not be below 282 metres AOD. Furthermore, the extent of quarry workings along the southern edge of the extraction area shall accord with the description of Drawing 7098/303 22.10.09 approved under Minerals Planning Consent 17/00492/MIN notwithstanding the extent shown on any other approved drawing.

Reason: To ensure the development of the site is carried out in the manner considered by the Minerals Planning Authority.

- 3 This quarry shall be permitted to operate for a maximum period of 28 years beginning from the date of this consent. Within 28 years and six months of the date of issue of this consent, or within 6 months of the cessation of quarry workings within the site, whichever occurs soonest, all buildings, structures and plant shall be removed from the site.

Reason: To minimise the environmental effects of the proposed development in a manner consistent with its operational capacity.

- 4 All works, including temporary buildings, plant, machinery and stockpiles, shall be contained within the approved extraction area of the quarry unless these are being specifically used during soil or overburden stripping, or during bunding formation or planting works.

Reason: To minimise the visual impact of the development.

- 5 Unless otherwise agreed in writing by the Planning Authority in advance, no floodlighting or perimeter fencing shall be installed, erected or used on site other than the floodlighting and the perimeter fencing that has been approved under Planning Conditions Nos 6 and 7 of Minerals Planning Consent 09/00897/MIN.
Reason: In the interests of safeguarding the visual amenity of the area and to minimise the potential disturbance to bats and badgers.

- 6 Notwithstanding the details submitted in support of the minerals planning application, no extractions shall take place below 318m AOD at the site, until a detailed proposed restoration scheme for the entire site (including after-care and management and a timetable for the implementation and completion of the works) has first been submitted for the written approval of the Minerals Planning Authority.
This same scheme shall include the proposed final restoration contours, levels and gradients, the proposed means of landscaping and planting, proposed wildlife habitat creation and a proposed implementation programme and maintenance schedule.
Where the scheme proposes the infilling of any part of the void with a water body, both (a) a flood risk assessment and (b) a scheme to secure the oxygenation of the water, shall also be submitted for the approval of the Minerals Planning Authority at the same time as the submission of the site restoration proposals.
Furthermore, and unless the requirements of Condition 9 attached to Minerals Planning Consent 09/00897/MIN have first been addressed to the Minerals Planning Authority's satisfaction (as evidenced by the Authority's written approval), the proposed restoration scheme shall also include proposals for the full restoration of the Police Firing Range site. Following the Minerals Planning Authority's approval, the restoration scheme and any approved scheme to secure the oxygenation of the water within the water body, shall all thereafter be implemented in accordance with the approved details.
Reason: To ensure the restoration of the site in the interests of landscape and visual amenity and to minimise the long-term effect of the development on the landscape and visual amenity of the site and surrounding area.

- 7 Notwithstanding the details submitted in support of the minerals planning application:
(a) the mitigation planting described by the scheme of details (identifying species, number, location of all planting, and ground cover, and maintenance) approved by the Minerals Planning Authority under Planning Condition No 12 attached to Minerals Planning Consent 09/00897/MIN; and
(b) the bunding scheme described by the scheme of details approved by the Minerals Planning Authority under Planning Condition No 11 attached to Minerals Planning Consent 09/00897/MIN,
shall all be provided and maintained in accordance with these same details throughout the period of operation of the minerals development hereby approved. Any subsequent change or changes to the approved landscaping and/or bunding details shall first have been agreed in writing by the Planning Authority prior to the implementation of this change/these changes on the ground. (Please see **Informative Note 3** for related information).

Reason: To minimise the visual impact of the development.

- 8 Noise levels at the nearest noise sensitive properties shall not exceed 55dB LAeq 1 Hr. Further, a programme of noise monitoring shall be maintained throughout the operational period of the minerals development hereby approved in accordance with the Noise Monitoring Scheme approved under Planning Condition No 19 attached to Minerals Planning Consent 09/00897/MIN.
Reason: To safeguard the amenity of nearby property occupiers.
- 9 Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of [6 mm -1] [10 mm -1] in 95% of all blasts measured over any period of 6 months and no individual blast shall exceed a peak particle velocity of [12 mm -1] as measured at vibration sensitive buildings, including Scheduled Monuments. Levels shall not exceed those recommended in the Environmental Statement (supplied in support of Minerals Planning Application 09/00897/MIN) for gas and electricity utilities. Furthermore, a programme of vibration monitoring shall be maintained throughout the operational period of the minerals development hereby approved in accordance with the Vibration Monitoring Scheme approved under Planning Condition No 21 attached to Minerals Planning Consent 09/00897/MIN.
Reason: To protect sensitive buildings and utilities from the effects of blasting.
- 10 The hours of operation for all working, with the exception of measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 07:00 hours to 19:00 hours on Mondays to Fridays and 07:00 hours to 15:30 hours on Saturdays, unless with the prior agreement of the Planning Authority.
Reason: To safeguard the amenity of nearby property occupiers and the rural amenity of the area
- 11 The dust control measures identified in Table 18.8 (pages 186 to 187) of the Environmental Statement (supplied in support of Minerals Planning Application 09/00897/MIN), shall be operated throughout the operation of the minerals development hereby consented. Furthermore, all loads of aggregates being dispatched from the quarry shall be sheeted prior to the vehicles' departure from the site.
Reason: To safeguard the amenity of nearby property occupiers and the rural amenity of the area.
- 12 Vehicle wheel cleaning facilities shall be maintained on site and operated throughout the period of operation of the quarry.
Reason: To ensure material from the site is not deposited on the Trunk Road Network and local road network to the detriment of road safety.
- 13 Notwithstanding the details submitted in support of the minerals planning application, no excavations below 318m AOD shall take place within the site at all, until an updated Site Management Plan has first been submitted to and approved in writing by the Planning Authority, in consultation with SEPA, which:
(a) identifies measures to protect the water environment from potential contamination; and
(b) describes a scheme for monitoring changes within the water table.

Thereafter, the site operations and ground water monitoring shall all be carried out in accordance with the approved updated Site Management Plan for the duration of the operation of the minerals development hereby consented.

Reason: To ensure that there would be no unacceptable impacts upon the water environment, including with respect to the regulation of run-off and prevention of contamination.

- 14 Notwithstanding the details submitted in support of the minerals planning application, and notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no structure or other works for the storage, movement or management of ground water from the extraction area, shall be sited or established on site without the written prior approval of the Minerals Planning Authority. (Please see **Informative Note 4** for further information).

Reason: To retain effective control of the minerals development hereby approved and to ensure that there would be no unacceptable impacts upon the appearance of the site or upon the water environment, including with respect to the regulation of run-off and contamination.

- 15 The Transport Management Plan (3rd March 2010 2010/7098) approved under Minerals Planning Consent 09/00897/MIN shall be operated at all times during the period of operation of the minerals development hereby consented.

Reason: To ensure vehicles entering and leaving the site are discouraged from entering from or leaving in a westerly direction in the interests of road safety and the amenity of other properties alongside the public road.

- 16 No extractions shall take place below 318m AOD at the site, until:
a scheme of details which describes measures for the monitoring of all potential impacts of the operation of the minerals development hereby consented upon the quantity and quality of the private water supply at Woodcote Park (including impacts upon ground water and impacts from surface water run-off),

has first been submitted to, and approved in writing by the Planning Authority. This scheme shall include provision for remediation works to be carried out by the Operator in the event that the aforementioned private water supply is impacted. Following approval, the development and scheme shall all be implemented and operated in accordance with the approved details.

Reason: To ensure that the minerals development hereby consented has no unacceptable impacts upon the private water supply of any neighbouring dwellings.

- 17 No extractions shall take place below 318m AOD at the site, until:
a scheme of details which describes the monitoring of all hard rock extraction from the quarry (regardless of the depth from which it is extracted) and all reserves remaining therein (and including provision for annual reporting of the same to the Minerals Planning Authority),

has first been submitted to, and approved in writing by, the Minerals Planning Authority. Thereafter all hard rock extraction (regardless of the depth from which it is extracted) shall be monitored in accordance with the approved scheme for the duration of the operation of the minerals development hereby consented.

Reason: To retain effective control over the minerals development hereby consented and in the interests of monitoring compliance with the aggregates landbank requirements of SPP (Paragraph 238).

Informatives:

It should be noted that:

INFORMATIVE NOTE 1:

The Notes above should be completed for Condition 1 as follows:

Note 1: Insert address or describe the location of the development

Note 2: Delete “subject to conditions” if the planning permission is not subject to any conditions

Note 3: Insert the name and address of the developer

Note 4: Insert the date on which planning permission was granted (normally the date of this Notice)

Note 5: Insert the description of the development.

Note 6: Insert the application reference number.

INFORMATIVE NOTE 2:

The Operator is reminded that, under the Wildlife and Countryside Act 1981, (as amended), it is an offence to prevent access to, remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Grassland, trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Grassland, trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

INFORMATIVE NOTE 3:

Planning Condition No 7 attached to this minerals planning consent requires that the landscaping and bunding approved under Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12, should be provided and maintained in accordance with the details that were approved under the aforementioned conditions. However, please note that the Council’s Landscape Section has significant concerns that the landscaping that has been carried out to date has been inadequate, and is being inadequately maintained, relative to what was approved under Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12.

For the avoidance of doubt, it is the Applicant’s responsibility to ensure that the approved bunding and landscaping works are now implemented in full accordance with the requirements of Minerals Planning Consent 09/00897/MIN Conditions Nos 11 and 12, so that it can now meet the full requirements of Planning Condition No 7 attached to this minerals planning consent.

In the interests of achieving full compliance, the Applicant is asked in consultation with the Council's Landscape Section, to identify clearly what landscaping works have and have not taken place, and what remediation is now necessary to allow the originally approved works to be delivered in accordance with the requirements of the planning conditions imposed upon Minerals Planning Consent 09/00897/MIN. With respect to the observed oversights and failures, please see the Landscape Section's consultation response which sets out a general description of what has been observed to have failed or been inadequately implemented and maintained.

INFORMATIVE NOTE 4:

Although the details submitted in support of the minerals planning application noted the potential future need for the storage on site, of ground water derived from the dewatering of the extraction area, no details were provided of this, while the absolute need for such a facility has not been established. The Minerals Planning Authority accepts the principle that this need may require to be met in time, however there is a lack of information about what is proposed, and any and all impacts upon the minerals development, including aspects regulated by other planning conditions. Accordingly, and in the interests of ensuring that the storage of extracted ground water on site would not compromise the operation of any of the other planning conditions, Planning Condition No 14 has been imposed upon this minerals planning consent to require that any such proposal should be referred to the Minerals Planning Authority in advance, for its prior approval. However, and until precise details are presented for its review, the Minerals Planning Authority reserves the right to seek a new planning application should the proposals be liable to conflict with the operation that is approved under this consent and/or any of its planning conditions.

DRAWING NUMBERS

Plan Ref	Plan Type
8516/PA/01	Location Plan
8516/PA/03	Site Plan
8516/PA/04	Sections

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

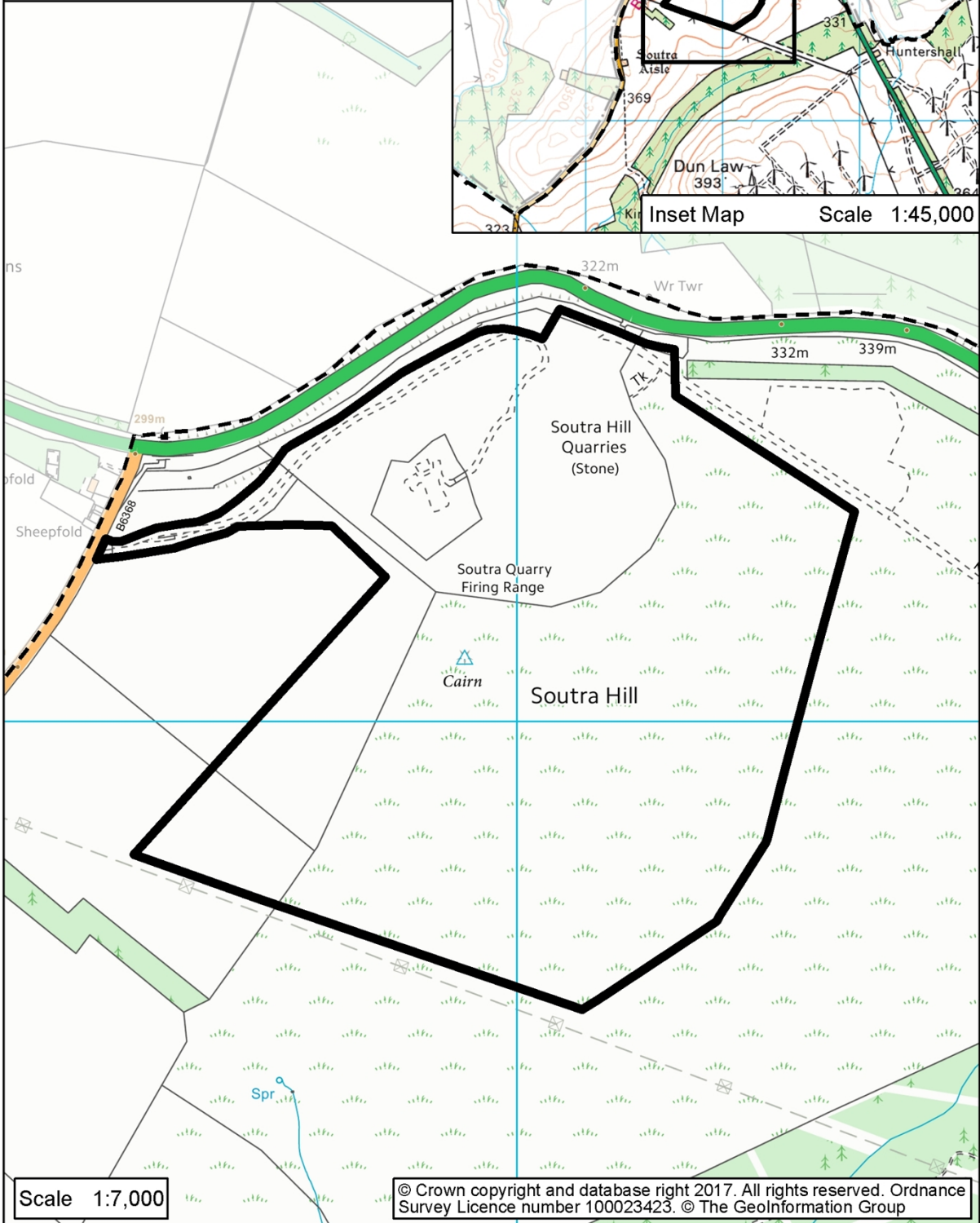
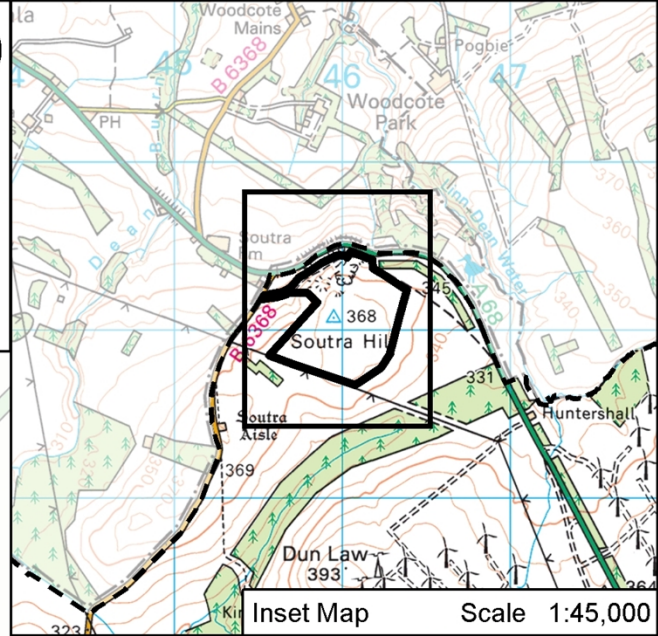
Author(s)

Name	Designation
Stuart Herkes	Planning Officer



17/00492/MIN

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