

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**1 AUGUST 2022**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 21/00152/FUL
<b>OFFICER:</b>	Mr C Miller
<b>WARD:</b>	Tweeddale West
<b>PROPOSAL:</b>	New quarry for sand and gravel extraction
<b>SITE:</b>	Land west of Slipperfield House, Slipperfield Loch, West Linton
<b>APPLICANT:</b>	Mr Hayden Thomas
<b>AGENT:</b>	Dagleish Associates Limited

**PLANNING PROCESSING AGREEMENT**

A Planning Processing Agreement exists for decision up until 1 August 2022.

**SITE DESCRIPTION**

The site is located on 30HA of grazing land at South Slipperfield Farm, lying between 1 and 2km south-west of West Linton. The site is bordered by the A702 Trunk Road along the south-eastern boundary and open farmland and plantations running towards Dolphinton to the south-west. Woodland and the Policies of Slipperfield House and Loch adjoin the site to the north-east with a shelter belt and Roman Road Core Path bordering the site to the north-west, as part of the slopes leading to Mendick Hill. There are isolated houses in the vicinity, the closest being Slipperfield House and America Cottage to the north, Burnham, Mendick Lea and Farmhouse to the east and south. Hardgatehead is a self-catering holiday cottage immediately adjoining the south-western corner of the site on the Roman Road, owned by the landowner of the quarry site.

The land is undulating and exhibits “kame and kettle” topography which is considered to be a fine example of glacial geomorphology in terms of Southern Scotland. A 30m kame rises above the site to the south of the site with a glacial meltwater channel cutting through the main part of the site from the soil storage area to the north. Flooded kettle holes exist outwith the site but in the vicinity, known as Slipperfield, Pot and Lauder Lochs. The topography consequently exhibits a more intimate and small scale series of nodules and depressions within the overall landform, particularly pronounced on the western side of the A702. Generally, the land drops from the Roman Road level to the A702 in the order of 40m.

The site lies within the Pentland Hills Special Landscape Area (SLA), the boundary having been extended down to the A702 to include the site when the SLA was re-designated from the previous AGLV. Reflecting this landscape designation, Policy ED12 defines the site as an “Area of Moderate Constraint” in terms of the “Areas of Search” map. The site also lies immediately outwith and to the north of the Dolphinton-West Linton Fens and Grassland SSSI. The site has also been subject to a Phase One Ecology survey which has revealed an area of flush habitat in the south-eastern part

of the site. There are also Local Biodiversity Sites outwith the site to the south including White Moss and Ingraston Moss.

## **PROPOSED DEVELOPMENT**

The proposal is to extract sand and gravel for the building trade from the 30HA site over a 14 year period, with a further 1.5 years for completion of the progressive restoration works. The extraction area measures 19.2HA with 3HA for the plant/machinery area and 1.5HA soil storage. 1.4 million tonnes would be extracted over the quarrying period with 50,000 tonnes per annum taken to the applicant's processing plant in West Lothian and 50,000 tonnes provided to the Edinburgh and Borders markets.

The excavations will be carried out in six phases across the 14 year lifespan with Phase One commencing adjoining the NW boundary with the Roman Road Core Path and progressing to Phase Six towards the A702, involving removal of part of the intervening kame. The excavated material will be taken to the processing and stockpiling area between the Slipperfield House boundary and the ethylene pipeline, where there will also be stone crushing, settlement ponds, offices, washing plant, car parking and other ancillary uses and structures. Further information on these uses and structures were provided within the first Supplementary Environmental Information (SEI) including a workshop building, washing plant details and a more detailed layout plan – Figure 3.9. Soils will be stripped and stored in the deep glacial meltwater channel to the north of the site, north of the intervening tree belt.

The six excavation phases reach a depth of 15m in Phase 6 and there will be a scarcement from the ethylene pipeline of 7.15m from the centre of the pipeline with fencing and an angle of excavation not exceeding 1 in 3. Each phase will be progressively restored with each phase restoration being complete before the next but one phase is commenced. The phases have been designed to ensure that the first four phases do not involve reduction of the kame and that by the time phase five impacts on the kame, previous phases 1-3 will have seen full restoration behind the kame and restoration works will be underway on phase 4. The final restoration contours are shown in Figure 3.7 (of the SEI) and sections at Figures 3.8 and 3.9. Woodland and planting are also proposed as part of the restoration works (Figure 4.1 of the SEI), including relocation of conifers to the SW of the site, throughout each phase of the restoration, along the Slipperfield House boundary and on the slopes formed beside the pipeline.

The quarry will be worked 7am – 6pm Monday to Friday and 7am-2pm Saturdays with vehicle dispatch occurring up to an hour earlier each day. No works will occur on Sunday unless for “essential maintenance”.

Access is proposed from the A702 to the southern end of the site, with the specific details shown in Appendix 8, including a detailed drawing showing visibility splays of 4.5m by 215m. The haul road narrows to 7.3m and runs along the kame slope crossing the ethylene pipeline to reach the plant area. The road then runs alongside the pipeline to serve the soil storage mound with two additional pipeline crossings back to excavation areas, reducing to one as phases are restored.

The application is classed as a ‘Major’ development under the Hierarchy of Developments (Scotland) Regulations 2009. The applicants publicised and held a public online event in October 2020 as well as consultation with West Linton Community Council, Lamancha Newlands and Kirkurd Community Council and the Ward Councillors. There was also a letter drop to properties within 500m of the site.

The outcome of the public consultation exercise has been reported in a Pre-Application Consultation Report submitted with the application, as Appendix B within the Environmental Impact Assessment Report (EIAR). The requirements of the Development Management Procedure (Scotland) Regulations 2013 have now been satisfied.

The application constitutes a Schedule 1 development under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 as it is a mineral extraction proposal involving more than 25 HA of surface area. This results in a mandatory requirement for any planning application to be accompanied by an Environmental Impact Assessment and the agent sought the Council's Scoping Opinion pre-submission – included as Appendix 1 of the EIAR.

The application was submitted and supported by a full Environmental Impact Assessment Report (EIAR) dated 1 February 2021. This consisted of 14 topic chapters, Figures, Tables and was accompanied by 9 Appendices and a Non-Technical Summary Report. The Appendices include site investigation data, an ecology study, noise impact assessment and a stability risk assessment for the ethylene pipeline.

During the course of the application process, further responses and environmental information were submitted leading to the submission of Supplementary Environmental Information (SEI) dated 23 June 2021, comprising various written responses to the Department, consultees and objectors together with more detailed information on plant, machinery, restoration contours and phasing from certain viewpoints. This was followed by further SEI dated 24 January 2022 adjusting the position of the site access to the south-west, enlarging the application site boundary and providing further details of the impacts on an identified area of acid/neutral flush and peat. On both occasions, the full procedures were followed in relation to SEI including newspaper advertisement, neighbour notification and re-consultation.

## **PLANNING HISTORY**

The site has been the subject of two previous planning applications which were both refused. Application reference T130/91 included the site but was also for a larger area of land to the south totalling 96HA of which 40HA was subject to extraction. This was refused in September 1993 for the following reasons:

1. *"The site occupies a prominent position beside the A702 trunk road, adjoining the Pentland Hills Area of Great Landscape Value and within the proposed Regional Park as indicated in the Borders Region Structure Plan 1991 Key Diagram. The proposed quarry would have a significant adverse impact on the appearance of the site itself, on views to and from the Pentland Hills and on the character of the area as a whole. The proposal is therefore contrary to policy C9 of the Borders Region Structure Plan 1980; policy 28 of the Tweeddale (Part) Local Plan; and policy R24 (ii) of the Borders Region Structure Plan 1991".*
2. *The site encompasses grasslands and wetlands containing plant communities of high nature conservation interest meriting designation as a Site of Special Scientific Interest. In addition the geology of the site is of conservation interest and the area is of local importance for breeding and wintering birds. The proposed quarry would result in the removal of important areas of grassland and features of geological interest, would have a significant adverse effect on*

*remaining areas of grassland and wetland, and would seriously threaten the breeding and wintering birds interest. The proposal is therefore further contrary to policy c6 of the Borders Region Structure Plan 1980; policy 27 of the Tweeddale (Part) Local Plan and policies R24 (ii) and R26 of the Borders Region Structure Plan 1991.*

3. *The recent review of potential reserves of sand and gravel in the Lothian market area commissioned by Borders Regional Council demonstrated that substantial alternative reserves of sand and gravel may exist to serve that market area. Until a comprehensive assessment of these reserves has been carried out it is not possible to show an overriding need to permit the development of this site as a quarry."*

A further application was submitted on the site in 1994 for a reduced area of 47 HA, albeit for the same level of extraction. This was eventually refused in 1998 for the following reason:

*"The applicant has failed to submit adequate information to allow the Council to determine the application in a proper manner".*

The EIAR also makes reference to a different quarry proposal at Tarfhaugh in 1995 which was refused on appeal. That quarry was also for sand and gravel to the eastern side of the A702 but involved greater excavation depth and impacts on Castlelaw Kame at the site, despite being a smaller extraction area. That scheme was over a much longer extraction period at 28 years and involved extraction of 4.7 million tonnes. The Reporter principally dismissed the appeal on landscape grounds, finding the landscape to be *"...sensitive, of high scenic value being the most diverse and visually interesting....the proposal would disrupt the existing landscape pattern...It would have an irreversible effect on landform resulting in the removal of a substantial part of Tarfhaugh Hill, which is clearly visible from its surroundings and which forms an important integral part of the physical and visual relationship between West Linton and its landscape setting, and of the open views across the landscape to the Pentlands"*.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning:** No objections. Notes that Transport Scotland have accepted the access onto the A702. Conditions are needed to agree HGV routing and a six month review of the agreement. Maintains no objections after consultation on SEI.

**Forward Planning:** Refers to two previous applications refused for the site and the reasons why. States the SPP and SESPlan position on mineral extraction, including the 2015 Technical Note which suggested 17-20 years sand and gravel supply at 2010 within SESPlan area. Does not consider the application proves their claimed 7.7 years supply. Site identified as outwith Area of Search in Policy ED12 and within an "Area of Moderate Constraint" being within the Pentland Hills SLA. Lists the criteria within ED12 and the need for assessment for each, including HSE consultation due to the ethylene pipeline. Insufficient assessment of alternative sites. Should weigh up the economic benefits against community and environmental impacts.

After considering SEI, maintains position on need and questions how the proposal has been demonstrated to have minimal impact on tourism, difficult to agree in terms of noise and disturbance although no information to confirm either way.

**Landscape Architect:** Objects to the application. Whilst recognising the scheme is reduced from that previously refused and whilst noting much more of the local kame is now retained, considers that mitigation is not sufficient to reduce the significant negative impacts on the local landscape from sensitive receptors and on the Pentland Hills Special Landscape Area. The special glacial geomorphology of the site, which is distinctive in the local landscape and visible from the A702 and other areas to the east and west, will be adversely affected in the short and longer term by creation of a less intricate and subtle concave landform, combined with an unnatural and prominent linear ridge preserved for the ethylene pipeline. The impacts will remain despite restoration and will also include impacts on the meltwater channel used for soil storage. The Environmental Statement underestimates the impacts on the special geological qualities of the local landscape.

The site is located within the Pentland Hills SLA and is now included in the designation as the land down to the A702 was added as a result of the SLA superseding the AGLV. This is a popular recreational area and the quarry would be highly prominent to both the Roman Road Core Path adjoining it to the west and the A702 to the east, as well as other footpath routes in the area around Mendick Hill. The impacts on the farmland foreground to the SLA would be significant and negative, affecting the farmland foreground status within the SLA, exacerbated by the phased removal of the top and side of the kame and the visual impacts of the access road, plant and machinery. Also considered the scale of the cross sections did not allow proper assessment of the proposals.

Following consideration of SEI and applicant responses, maintains objection. Restored site will still exhibit an unnatural landform in local context and proposals will remove much of the localised topography that makes the site so recognisable as a fine glacial landform, evidenced from the Roman Road Core Path and other viewpoints. Proposals would undermine contribution farmland makes to the setting of the Pentland Hills SLA, the site being added to the area designated under the previous AGLV. Sensitive receptors detrimentally impacted through visual impacts, from the A702, the Roman Road and approaches to Mendick Hill, the Hill being an outlier of the Pentlands with an intimate relationship with the surrounding farmland. The excavations and alteration to the height and form of the kame will be especially noticeable from the A702.

Significant landscape and visual impacts also anticipated from the retention of the INEOS pipeline as a raised unnatural strip running through the site which cannot be adequately disguised by planting. Impacts from the plant and machinery will also be much more evident in landscape and from the A702, than is represented in Viewpoint 7.

**Ecology Officer:** Considers there to be no significant effects on designated sites such as Westwater and Gladhouse reservoir SPAs, nor is there likely to be connectivity with the River Tweed SAC. Notes the holding objection from NatureScot on potential water impacts on the Dolphinton-W Linton Fens and Grassland SSSI. Most interesting habitat on the site is in SW corner and further detail of habitat loss and compensation is sought. The access should be revised to avoid this area. Impacts possible on local biodiversity sites and the EIAR should assess using local records. Further information necessary on hydrological impacts, pollution prevention and dust management.

In terms of protected species, further bat surveys needed for trees and the store building with roost potential. A bat friendly lighting scheme also required. Badger setts found near to the site so require buffer of 30m. No other protected species identified. Breeding and wintering bird surveys needed and species protection plans for all

protected species. Further information needed on woodland removal, compensatory planting and habitat restoration.

Following consideration of SEI, raises no objections subject to conditions requiring a Habitat Management Plan, Construction Environment Management Plan, Surface Water Management Plan, Site Dust Management Plan, Species Protection Plans (badger, bats, breeding birds, wintering birds, raptors and owls), Compensatory replanting scheme and a sensitive lighting scheme. Seeks no planting of the acid flush and wet acid grassland areas of site. No development should occur within the buffer zones of the identified biodiversity sites. Satisfied that there is no adverse hydrological impacts on the adjoining SSSI subject to conditions and the responses of SEPA and Nature Scot.

**Archaeology Officer:** There are direct and indirect impacts on archaeology but requests further information on any bund or boundary treatments proposed along the north-western edge of the site in the vicinity of the Roman Road. Upon receipt of further information, objects to the application on grounds of adverse impact on the setting of the Roman Road. Notes there are different possible lines for the Roman Road including the current right of way and also inside the quarry application site boundary. The right of way is promoted and recognised as a Roman route, the appreciation of the route being understood between the larger hills and the lower hummocky terrain. A quarry would adversely impact on the appreciation of the route, the proposed low bund not sufficiently screening the impacts of the quarry and a higher bund being more visible and incongruous from distance. If the quarry is granted permission, then further site evaluation required by means of a condition securing a Written Scheme of Investigation. Responds to further representations from applicant but maintains objection on basis of adverse impacts on appreciation of the setting of the Roman Road.

**Environmental Health:** Assesses the proposals relating to noise, dust and private water supplies. Notes that PAN 50 noise levels will not be breached at nearby houses. Conditions are recommended relating to noise and dust management. No record of private water supplies within 1km of site but direct approaches to supply owners recommended. Upon re-consultation on the SEI, maintains comments but seeks an extra condition on lighting.

**Access Officer:** A core path adjoins the site and is protected from obstruction in law. Other tracks in the area are accessible under the Land Reform (Scotland) Act 2003. Responds to SEI by commenting on the surveyed footfall of the Roman Road in comparison with the West Highland Way and St Cuthbert's Way.

**Flood Protection:** No objections. Site has three small areas of high surface water flood risk but quarrying compatible with low-medium risk in SEPA vulnerability guidance. Recommendations on not exceeding greenfield run-off rates, any culverts not exceeding conveyance and sediment filtering. Upon re-consultation with SEI, seeks further measures to direct overland flows away from low point near loch outfall and measures to avoid flooding the A702, especially with the identification of a culvert near the site access. Subsequently accepts culvert will be avoided but still seeks aforementioned conditions.

## **Statutory Consultees**

**Historic Environment Scotland:** No objections and maintains position after SEI consultation.

**Transport Scotland:** No objections but conditions should be applied to any consent, regarding the access, visibility, drainage and wheel cleaning. Upon re-consultation on the revised access position, maintains no objections subject to conditions.

**Nature Scotland:** Initially lodged a holding objection in relation to hydrological impacts on the adjoining Dolphinton-West Linton Fens SSSI. They believe the SSSI is very dependant on flows of water from the superficial aquifer, sand and gravel having high connectivity and the water table likely to fluctuate. Looking for confidence in the water table figure which is only based on one year's data and the EIAR suggesting that there will be no hydrological impacts but also that a hydrological survey will be carried out. Content with impacts on the River Tweed SAC, Westwater SPA and national landscape designations, although other landscape designations could be affected.

Commented further by now accepting, after discussion with SEPA, the water table monitoring figures and adjusts response to object unless a condition imposed to agree a Water Level Monitoring and Reporting Plan, with mitigation should the SSSI be impacted. Maintains position after consideration of further SEI information, stressing that there should be separate conditions requiring management, monitoring and reporting plans for both ground water and surface water. Also requires a condition ensuring development occurs above the water table with an agreed buffer. Notes the sensitive water features within the adjoining SSSI but considers that the Surface Water Plan can safeguard.

**Scottish Water:** No objections. There is capacity in the public water system and no drinking water supplies are affected. No public drainage is available and no sewerage discharge will be allowed. Reiterates response after SEI re-consultation.

**SEPA:** Notes the proximity of the site to the SSSI but also notes excavation proposed to be dry working to a depth of 242m AOD and that groundwater monitoring suggests a much lower water level. Accepts the monitoring as the period had higher than average rainfall. Still adopts a cautious approach on hydrology in line with PAN 50. No concerns over wetland ecology as restoration will address habitat impact and small area of flush being retained. In terms of waste, all seems to be re-used within the development but authorisation would be necessary for any off-site disposal.

In response to SEI and further information, lodged a holding objection and requested deferment of decision until further information provided on peat and acid flush habitat. Potential for an area of peat in the area of the site access and requests either modifying the layout or a peat probing survey with justification for the layout as proposed. Impacts of the road on the acid flush wetland area and compensatory provision require further details. No concerns over flood risk and accept the applicant's submissions over hydrology, provided a condition is imposed for provision of a groundwater monitoring plan. No other objections regarding ecological impacts, waste or site drainage.

Upon receipt of further information and SEI, removes holding objection provided conditions are imposed relating to a Peat Management Plan, Habitat Management Plan and a Groundwater Monitoring Plan. Accepts that peat disturbance is now minimised and that a Habitat Management Plan can detail compensatory proposals for habitat loss. Provides advice for measures to be included in the Surface Water Management Plan required by the Ecology Officer, including a schedule of mitigation. Also comments on the protection of the SSSI through a Water Level Monitoring and Reporting Plan and accepts the revised access will not impact on the roadside culvert. Comments on the hydrology and peat concerns raised by public representations but content that the detail provided along with relevant conditions would ensure satisfactory protection.

**INEOS:** Initially required further information and sought a detailed risk assessment by an approved Pipeline Integrity Consultant. Will require further discussions with the developer and the HSE before finally commenting.

Following assessment by the consultant, raises no concerns over the stability of excavation slopes and crossing point loading and planting could be addressed by conditions. However, concerns over erosion and washout from Slipperfield Loch which are not addressed in detail and should be addressed and mitigated if required, taking into account maximum groundwater levels and climate events.

After consideration of SEI, responses from applicant and third parties, met with HSE Pipelines Inspector and a Pipeline Geohazards expert. Concerned that sub-surface water flow and overflow from Slipperfield Loch have not been adequately addressed in relation to rapid erosion and gully formation undermining the pipeline. Not satisfied at the groundwater level information and surveys, querying rainfall surveys and future extreme events. Seeks assurance over achieving full restoration if quarry does not proceed to completion. Ultimately, requires these concerns over washout failure to be addressed at this stage. Issues over pipeline scarcement and crossing points can be agreed by condition.

Upon receipt of further information, raises no objection to the application noting that SEPA and Nature Scot accept the interpretation of groundwater conditions, that a condition will seek a groundwater monitoring plan and that additional groundwater monitoring will take place before works adjacent to the pipeline. Seeks an agreed three month interval within the groundwater monitoring plan and an additional groundwater monitoring point installed in the overflow area from Slipperfield Loch.

**Health and Safety Executive:** Notes that INEOS have been consulted re the pipeline, that the EIAR retains a stable corridor for the pipeline and that works related to the pipeline are also detailed. The EIAR is for the Council to assess. Advice on granting planning permission is obtained from the HSE via their self-service web app. This was utilised and the result was HSE "Do not advise against" the proposal. Maintains this position after specific and SEI consultation.

Maintains position in response to Action Group comments, pointing out the HSE role is to assess the risks of the pipeline to the development and workforce and that INEOS are responsible for assessing any risks the development may pose to the pipeline. HSE do not consider they have the remit to carry out a risk assessment and this is the responsibility of the employer. Any risk has been assessed by the HSE in defining pipeline zones. HSE Pipeline Inspector has met with INEOS who will be providing their updated response.

**West Linton Community Council:** Objects to the scheme on grounds of landscape and visual impact, impact on nearby residents, traffic and road safety concerns. Consider that proposal is contrary to LDP Policies ED12 and EP5, there being no public interest or economic benefits to outweigh impacts on the designated landscape. Accepts judgement of technical consultees on other matters relating to the ethylene pipeline, hydrology and ecology

**Lamancha Newlands and Kirkurd Community Council:** Concerned over potential impacts on the ethylene pipeline, accident and terrorism risk. Consult with SEPA and the Health and Safety Executive. Impacts on the Special Landscape Area should also be considered. Upon re-consultation on the SEI, more significant concerns over hydrological impacts on the pipeline with ground water table and ponding mentioned. Asks Council to request hydrological survey of site with particular concerns about the



ponding area next to the A702 and pipeline. Refers to INEOS being fined for maintenance failings leading to an escape of gas and a fatal incident in Belgium. Concerns over pipeline safety concerns and human error in operation of the quarry. Maintains concerns over landscape impacts.

### **Non-Statutory Consultees**

**South Lanarkshire Council:** No comments.

**Midlothian Council:** No comments.

**Association for the Protection of Rural Scotland:** Response awaited.

**Scottish Forestry:** Response awaited.

**RSPB:** Response awaited.

**Scotways:** The Roman Road passing the site carries three different path designations – right of way, heritage path and Scottish hill track. This should remain unobstructed. Concerned about impact on recreational amenity from a well-used right of way and on visual impacts on the surrounding area valued for public recreation.

**Scottish Wildlife Trust:** Concerned at potential hydrological impacts on the Dolphinton – West Linton Fens and Grassland SSSI and White Moss raised bog. Insufficient bird surveys. Northern part of site has important unimproved grassland and should not be developed. Welcomes the restoration proposals. After viewing the Ecological Report, require the hydrological survey, spring/summer surveys, adequacy of the Phase One report and the need for access to The Wildlife Information Centre (TWIC) data.

**Scottish Badgers:** No objections. There should be a 30m buffer from the setts identified to any excavation.

### **REPRESENTATION SUMMARY**

As a result of the neighbour notification and press advertisement for both the original application submission and Supplementary Environmental Information (SEI), there have been a total of 157 representations of which 139 were objections (including ones from the MP and MSP) and 18 were in support. Some of the support comments were blank and did not elaborate on the reasons for support. A number of the objections were lodged by a Quarry Action Group. The full responses can be viewed on Public Access. The main comments can be summarised as follows:

#### **Objection and General**

##### **Need**

- There is no overriding need for the quarry that would outweigh the Policy and environmental constraint impacts
- Two local quarries inactive but could commence extraction. Ingraston is only 3 miles away and has not seen extraction for nearly 30 years indicating no need. Such quarries should address demand before the need to open up new quarries.

- Two nearby quarries and those in Lanarkshire, Fife and elsewhere in the Borders could supply ample sand and gravel. 25 quarries could supply the local market utilising cross-border supply
- Area is a significant exporter of sand and gravel
- Applicant exaggerates existing aggregate production
- Only half the extraction is bound for the local market, the other half taken to the applicant's packaging plant
- Mainly sand is present on site and any gravel is poor quality with presence of coal, sandstone, greywacke and lignite. Results misinterpreted by agent. Water absorption is too high. Inadequate survey of material, the material only being suitable for low grade work and not for concrete
- Insufficient extraction proposed to warrant the environmental impact
- Main aim is applicant to secure their own product in face of opposition
- Demand for sand and gravel has fallen since 2017 and projected to continue to fall in Scotland by 20% from 2015-2030.
- Aggregates landbank much higher than stated using the Scottish Aggregate Levy Survey 2020
- Support the SBC view that more than 10 years reserves are available
- Lack of national strategy
- Health effects of long planning processes

### Economy

- Lower Pentlands important recreational area around West Linton and important to the local economy.
- Detrimental impact on tourism through sensitivity of users on the A702, rights of way, West Linton etc, used by walkers, cyclists, horse riders and motorists. Contrary to tourism Policies in Borders.
- Prevention of access rights under the Land Reform Act
- Deterrent to tourists visiting and returning to area.
- Detrimental impacts on Hardgatehead as a self-catering property
- The Mendick Hill circular walk is very popular and important to recreation in West Linton
- Limited job creation and likely to be filled from applicant's Broxburn staff or outwith the Borders
- Significant economic impacts if the quarry causes the ethylene pipeline to fail

### Landscape and visual impact

- The site is not within an “Area of Search” and is contained within the LDP “Area of Moderate Constraints” reflecting position within the Pentland Hills SLA.
- Outstanding and rare local glacial geomorphology with kames and kettleholes that should be read as a whole and would be irretrievably destroyed by the works, including reshaping and reducing the kame and destroying the meltwater channel. Geomorphology described as “some of the finest..in Southern Scotland”. Proposals result in a smoothing of the topography and landscape.
- The major landscape and visual impacts of the quarry will last for a lengthy period, both from the excavations and also from the plant and machinery
- Highly prominent from public roads such as the A702 and Boggsbank Road, the A702 being a major tourist route with no industrial workings along its length
- Significant detrimental impact on the surrounds of the Pentland Hills SLA, within which the site now falls after extension of the designated area. Contrary to LDP Policy ED12 and EP5 and effects underestimated in the EIAR
- Significant detrimental amenity impact for a significant length from the popular Roman Road Core Path/Bridleway which runs from Dunsyre to Swanston and Mendick Hill paths
- Protecting the ethylene pipeline will leave an unnatural straight line embankment in the landscape
- The SBC Scoping Opinion made it clear there would not be support on landscape and visual grounds
- The restoration will not sufficiently repair the damage to the landscape
- Value of the landscape from the footpaths increased because of Covid 19 lockdown
- Loss of a mature tree at the site entrance
- Other quarries within the SLA pre-existed the designation
- 1m contour plan makes no difference to 5m contour plan, in terms of the smoothing of the landform
- Concerns over degradation of ground covered by top soil storage

### Pipeline

- Concerns over potential major safety risk of explosion and impacts on public and residential properties as accidents can happen, given the pressure of the ethylene and its ability to exploit defects in the pipeline
- INEOS have a Conditions and Restrictions Brochure which raises queries over the risks and proximity of the quarry.

- INEOS were recently fined as a result of an ethylene leak from their pipeline and failing to identify and rectify the corroded section.
- Council must insist on a full independent study of the pipeline condition and the implications of the quarry proposal
- Owner, operator and SBC should indemnify against explosion risks
- HSE have not taken into account full risks or uniqueness of the situation and their response should be treated with caution. They should undertake a full risk assessment of the risks of accidental damage.
- Inadequate mitigation and buffer zone between pipeline and excavation, especially as regulatory exclusion zones are much wider around notified hazards
- Potential for surface water run off eroding the ground and undermining the pipeline with ground movement
- Climate change increasing severe weather events and increasing risk to pipeline
- All should be aware of the INEOS conditions, including the decision-makers.
- Crossing and vibration over the pipeline and vibration from plant in close proximity are major risks, especially if hydrology and sub-strata conditions are susceptible and low adhesion.
- Crossing point details over the pipeline should not be left as a planning condition but scrutinised as part of the fundamental decision given the frequency and weight of the vehicles crossing. The angle, depth and approach of pipe crossings also critical.
- The proposal draws more public attention to the pipeline increasing the risk
- Any approval must be subject to routine expert pipeline inspection
- Agents have no experience of planning for quarries affected by ethylene pipelines

#### Hydrology

- There is a risk to the operation, stability and chemical composition of Slipperfield Loch
- Site is at high and frequent risk of surface water flooding from Slipperfield Loch, exacerbated by climate change, the flood water finding its way in the Tarth Water with subsequent silt run-off. Catch-ditch would be insufficient protection.
- Inadequate information on drainage related to the plant and machinery and the associated soakaway

- Information to suggest there is hydrological connectivity between the lochs, the SSSI and the Tweed SAC.
- Flood impacts on the unnamed burn next to Hardgatehead leading to contamination of the SSSI
- Evidence, including from boreholes and the submitted archaeological report, that the glacial meltwater channel is still flowing but conveying ground and not surface water, increasing risks to the SSSI with the downward transmission of fine particulate material and flood impacts at the A702 embankment
- There is a risk the winter water table will be penetrated with consequences for the SSSI and Slipperfield Loch
- Pooling will occur at the access junction with potential overflow onto the A702, erosion of the access junction and A702 substructure and potential flooding of residential property across the A702
- Development will disrupt movement of surface and ground water
- There are private water supplies across the site not taken into account
- Inadequate hydrological assessment using old information and limited boreholes. Groundwater and Silt Management Plans required.
- Independent hydrologist should survey and assess the application.
- Where will water drain from the access road where it crosses the boggy land

### Ecology

- Noise and dust will adversely affect the adjoining SSSI and Whitemoss Local Biodiversity site, contravening LDP Policy ED12
- Hydrological impacts may adversely affect the Dolphinton Grasslands SSSI
- Field to north of site is unimproved grassland habitat and should be protected from development
- Detrimental impacts on wildlife (including breeding birds and protected species), habitat and biodiversity
- Disturbance of badger setts and woodland impacts
- EIAR states no peat but overlooked area of bog in SW next to A702 which has vegetation indicating peat and which will be detrimentally impacted by the site access road, through excavation and removal of 25% and potential impacts on hydrology and the SSSI
- Woodland will be susceptible to detrimental impacts from dust and loss
- Woodland at risk from extraction, plant and machinery
- Translocation of trees is not a successful procedure

- Potential for pollution into water bearing strata and watercourses
- Biodiversity gain not evidenced

### Roads

- Access is dangerous on a fast moving busy trunk road with impaired visibility at the junction on a long curve and presenting overtaking risks
- Sightlines should be the maximum considered desirable at the junction
- Access requires a central island or markings to separate traffic on the A702
- Traffic impacts and road safety risks on other roads and junctions including through West Linton
- HGV traffic generation will be greater than envisaged and will cause slow-moving obstructions and hazards to speeding traffic
- Traffic could transfer silt, sand and water onto the road, no wheel washing details proposed
- Inadequate access track details

### Amenity

- Noise and vibration disturbance on a regular and prolonged basis to local residents from quarry operations in a quiet rural setting, especially with windows open or in gardens
- Noise from increased HGV traffic on the local roads
- Impacts on health and stress levels for residents nearby
- Operating hours are intrusive, especially with early morning starts
- Noise readings should have been taken at Slipperfield Loch and Hardgatehead, the surveys being inadequate
- No details of noise or dust complaint procedures
- Amenity impacts would need to be protected through regulation, monitoring and conditions
- No measurement of existing air quality
- No details of particulate size which determines air-borne distance
- Dust impacts on the health of local residents, walkers and golfers, omitting Mendick Wood properties and Hardgatehead
- Prevailing wind will carry noise and dust nuisance to Medwyn Road

- Lighting should be shielded by planning condition

#### Cultural Heritage

- The Roman Road is representative of struggle and freedom over history, the industrialisation of the quarry site detrimentally affecting appreciation of the route and underestimating impacts.
- Bunding soil next to the Roman Road will detrimentally affect its setting and appreciation of its history
- Detrimental impacts on West Linton Conservation Area
- Detrimental impacts on well preserved Bronze Age landscape and consideration of important findings in the area such as at Howburn and the relationship with the site, the landscape having significant cultural heritage and meriting scheduling
- Insufficient archaeological investigation of the site and if approval is granted, further survey necessary

#### Other

- Household survey in West Linton revealed 52% against the quarry, 36% unsure and 12% in support
- Applicant has no experience at running or restoring a quarry and is only a packer/supplier
- Cumulative detrimental impacts of traffic if the two quarries nearby became active, when added to the proposal
- Quarry is a precedent for further extensions
- Contrary to Policy ED10 as site has carbon-rich soils
- The application should not have been considered, given the previous two refusals. Indeed, there is even greater Policy justification now to oppose
- Insufficient space for all plant, machinery, parking etc
- The Committee should undertake a site visit and view the site both from the Roman Road and the A702
- Inadequate local consultation during lockdown
- Ground investigation inadequate
- Quarrying works, production and transportation of aggregate against the greenhouse gas emissions targets of the Government, the COP26 intentions and SBC sustainability principles
- Detrimental impact on property prices

- Invalid and inadequate EIAR

### **Support**

#### **Economy**

- Boost to local post-Covid economy and job creation, proposed and supported by local people
- Quarry represents rural diversification of the farm.

#### **Need**

- House and road building, which are increasing across the Region, need quarry stone and the visual impacts are a necessary consequence
- There is a shortage of sand and gravel in the Borders and Lothians area with a high level of importing but 10 year reserves are required by Scottish Planning Policy
- Local quarry would reduce need for importing and road travel, promoting sustainability and environmental improvement.
- Local quarries either closed or near exhaustion with industry concerns over supply
- Recycling still not providing a significant contribution

#### **Roads**

- Reduces heavy vehicles on minor roads
- Negligible increase in traffic on the A702 which is a busy road in itself
- Quarry traffic will slow speeds of other vehicles
- Access supported by Trunk Roads and SBC Roads Planning

#### **Pipeline**

- INEOS will ensure pipeline is protected and safeguarded. The EIAR proposes adequate mitigation and monitoring.
- Pipeline already traversed by major roads elsewhere

#### **Environmental impacts**

- Visual impacts will be temporary, unlike other forms of development such as housing, intensive farming or caravan sites, and will reduce to acceptable levels with progressive restoration and improved biodiversity
- Phased working will minimise landscape and visual effects
- Such developments will be well regulated and conditioned



- The proposal is a small scale quarry
- SSSI is adequately protected by the EIAR in assessment and proposed mitigation.

#### Amenity

- Any noise will be distant, low and reduced by tree screening and there is already background road noise from the A702
- Content there is no health risk from dust if properly controlled

In addition, the landowner submitted a letter which summarised the following areas of support:

- The applicant has quarrying experience behind them
- The 15 year quarry lifespan is brief in terms of land use change
- Impacts would be less than forestry
- Local quarry sites being inactive does not equate to lack of demand
- Income will be a significant boost to the farm and will help secure future multi-generational farming
- Biodiversity enhancement will continue on the farm, the quarry being a small impact overall
- The landscape impact will be in the context of other natural and man-made features
- Pipeline will be safeguarded by the operator and relevant organisations
- The impact on the local road network will be minimal, the relevant bodies being aware of the statutory requirements
- Understands the likely impacts on closest neighbours but feels that as it is a small development with local owners, accountability for impacts will be high

#### **DEVELOPMENT PLAN POLICIES:**

##### **Scottish Borders Local Development Plan 2016**

Policy PMD1 Sustainability  
 Policy PMD2 Quality Standards  
 Policy HD3 Protection of Residential Amenity  
 Policy ED7 Business, Tourism and Leisure Development in the Countryside  
 Policy ED11 Safeguarding of Mineral Deposits  
 Policy ED12 Mineral and Coal Extraction  
 Policy EP1 International Nature Conservation Sites and Protected Species  
 Policy EP2 National Nature Conservation Sites and Protected Species  
 Policy EP3 Local Biodiversity  
 Policy EP5 Special Landscape Areas

Policy EP7 Listed Buildings  
Policy EP8 Archaeology  
Policy EP9 Conservation Areas  
Policy EP10 Gardens and Designed Landscapes  
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 Provisions and Standards  
Policy IS8 Flooding  
Policy IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
Policy IS12 Development Within Exclusion Zones  
Policy IS11 Hazardous Developments  
Policy IS12 Development Within Exclusion Zones  
Policy IS13 Contaminated Land

## **OTHER PLANNING CONSIDERATIONS**

SPG – Biodiversity 2005  
SPG – Trees and Development 2008  
SPG – Landscape and Development 2008  
SPG – Local Landscape Designations 2012  
SPG – Local Biodiversity Action Plan 2018  
SPG – Scottish Borders Woodland Strategy 2005  
Planning Guidance Note – Woodland Creation Advice Note 2019

SEsplan Strategic Development Plan 2013  
SEsplan Minerals Technical Note 2015  
Scottish Government Aggregates Survey 2012  
Scottish Planning Policy  
National Planning Framework NPF3  
PAN 50 “Controlling the Environmental Effects of Surface Mineral Workings”  
PAN 51 “Planning and Environmental Protection”  
PAN 60 “Planning for Natural Heritage”  
PAN 64 “Reclamation of Surface Mineral Workings”  
PAN 75 “Planning for Transport”  
PAN 81 “Community Engagement: Planning with People”  
PAN 1/2011 “Planning and Noise”  
PAN 2/2011 “Planning and Archaeology”

## **KEY PLANNING ISSUES**

The main determining issues with this application are compliance with Local Development Plan Policies and Supplementary Planning Guidance on mineral extraction, landscape, residential amenity and hazardous developments and other environmental impacts including those related to ecology, hydrology and cultural heritage.

## ASSESSMENT OF APPLICATION

### National and Regional Planning Policy

The application for a new sand and gravel quarry at Slipperfield must be determined in accordance with the provisions of the Development Plan, together with any other material factors, set within a framework of national and sub-regional advice and guidance. The National Planning Framework (NPF3) acknowledges the need for minerals to support the construction industry and Scottish Planning Policy 2014 (SPP) recognises this, whilst ensuring balance with impacts on the landscape and natural environment. It requires Development Plans to safeguard and facilitate mineral resources, ensuring an adequate and steady supply is available both locally and as part of the SESPlan area. Paragraph 238 of SPP states that Local Development Plans should support the maintenance of landbanks of permitted reserves of construction aggregates for at least 10 years in all market areas, through identification of Areas of Search. SPP also requires the minimisation of impacts on local communities, the environment and built heritage, promoting sustainable restoration of sites to beneficial after-use. Elsewhere in SPP, paragraph 202 requires development to take account of local landscape character and the following paragraph states that planning permission should be refused “...where the nature and scale of proposed development would have an unacceptable impact on the natural environment”.

SPP is supported by various Planning Advice Notes, including PAN 50 “Controlling the Environmental Effects of Surface Mineral Workings” which incorporates Annexes relating to Noise, Dust, Traffic and Blasting. Relevant PANs to this planning application are also PAN 51 “Planning and Environmental Protection”, PAN 60 “Planning for Natural Heritage”, PAN 64 “Reclamation of Surface Mineral Workings” and PAN 1/2011 “Planning and Noise”.

The applicant contends that SPP requires the planning authority to maintain a minimum 10 years landbank through planning permissions. However, the context and wording of Paragraph 238 of SPP is clear that the requirement relates directly to development planning, specifically that strategic and local development plans should support the maintenance of a landbank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identification of areas of search. Accordingly, the clear direction from SPP is that minerals proposals should be assessed against policies and proposals within the statutory development plan which themselves reflect and respond to the need to support the maintenance of the requisite landbank through areas of search.

Whilst there is a “Development Management” section of the SPP at paragraph 242, this concentrates on coal extraction and makes no reference to a ten year landbank, stating only that Local Authorities should review their minerals permissions every 15 years. The SPP also makes reference to the “City Region” and landbanks within “all market areas”, clearly recognising the existing pattern of importing and exporting of construction aggregates between quarries and construction sites, across Local Authority boundaries. Elsewhere, under paragraph 235, it simply advises that the planning system should safeguard workable resources and ensure “..an adequate and steady supply is available to meet the needs of the construction, energy and other sectors”.

It is considered that the adopted Local Development Plan appropriately reflects the approach and guidance of SPP and NPF3. The minerals policies are fully compatible with the national planning policy context, including in their alignment with the specific guidance at Paragraph 238 of SPP. More particularly, the Local Development Plan

supports the maintenance of a minimum 10 year landbank of permitted reserves through the identification of Areas of Search for Minerals as illustrated by Figure ED12a, on page 64 of the adopted plan. As such, the current proposal is appropriately assessed having regard to the policies and proposals of the Local Development Plan, which are in themselves in accordance with SPP, principally assessed against Policy ED12 and the Areas of Search for Minerals (Figure ED12a).

The Applicant at para 2.8.1 of the EIAR, however, disputes the relevance of the Areas of Search on the grounds that minerals can only be worked where they occur; and that it is inevitable that their presence will often encroach on the areas of significant or moderate constraint defined by the Council. However, the applicant would appear to have no evidence to support claims that it is either “inevitable” or “often” and it is just as possible that reserves are found within the Areas of Search. It is not accepted that those who prepared SPP and the statutory development plan, are unaware that geology would be a determining factor within the identification and selection of any particular proposed minerals site. However, SPP and the statutory development plan require applicants to go beyond geological considerations, to consider what other options and alternative sites might be considered, with reference to the identified areas of search.

It is not accepted that there should, therefore, be such brief dismissal of the impacts of this proposal in relation to its identification within an Area of Moderate Constraint. The Planning Authority maintains its concern that the statutory development plan sets out a framework within which to assess the need for a proposed minerals development at this site in relation to Areas of Search, as per the guidance of SPP. The proposal must therefore be assessed directly against Policy ED12, having regard to the identification of the site within an Area of Moderate Constraint, unless material considerations indicate otherwise. Those material considerations have been fully considered in this report and it is not considered that they outweigh the fundamental issues of the proposed development being located outwith the Area of Search and within an Area of Moderate Constraint, causing significant landscape impacts.

The Draft NPF4 continues to refer to the support that Local Development Plans should offer to a 10 year landbank at all times, but refers to such support within the “relevant market areas”. There is no specific requirement to relate that 10 year landbank to a particular Local Authority area nor to give specific weight to a proposal if a 10 year landbank shortage within a Local Authority area (rather than relevant market area) has been identified. Indeed, there appears to be a greater emphasis on sustainable extraction of aggregates with detailed bullet points aimed at ensuring minimisation of impacts on the natural environment and communities. It is appreciated that NPF4 remains at Draft consultation stage and should carry limited weight in influencing decisions on planning applications at this stage, although it is an indication of the Government direction of travel with regard to sustainable development.

Turning to the Policy background in relation to the Development Plan, SESPlan 2013 reiterates the support of SPP for mineral safeguarding and need for adequate landbank of reserves through Areas of Search within the SESPlan area. Because the proposed quarry site is within the Pentland Hills Special Landscape Area, it lies outwith the Area of Search and within an Area of Moderate Constraint. Paragraph 102 of SESPlan advises that “...*extraction of aggregates outwith areas of search should be restricted to extensions of existing sites or small scale proposals. Applicants will need to demonstrate the particular operational, community or environmental benefits of such proposals*”. While it is accepted that SESPlan pre-dates the current version of SPP, it is considered that this remains a relevant consideration, as the aims of SESPlan Policy 4 are to encourage new quarry proposals within areas of search where it is anticipated

that their impacts would more likely to be successfully accommodated. It underlines the concern that the applicant should seek to consider a site within the Area of Search as hierarchically preferential to the one they have identified. Therefore, the proposal is considered to be in contravention of Policy 4 of SESPlan in that the site lies outwith an Area of Search within an Area of Moderate Constraint.

As further background to the issue of a 10 year minimum landbank of reserves, SESPlan produced a Minerals Technical Note in 2015 which, based on information up to 2011 (from the Scottish Government Aggregates Survey), indicated the amount of reserves of sand and gravel. Para 3.8 stated that there are “*significant reserves of sand and gravel throughout much of the SESPlan area.*” Eight quarry sites within the SESPlan area were identified at 2015, including three in the Scottish Borders at Fulfordlees, Kinegar and Ingraston. The Technical Note assessed the output from active quarries up to, and including, 2010 with an estimate for 2011 – 447,000 and 525,000 tonnes respectively.

The Technical Note also revealed that whilst 17% sand and gravel were exported from the SESPlan area, 500,000 tonnes were imported in 2010, noting this was a very high level of importing which could actually have been higher given the limited response rate to the survey. The Note also reported from the 2005 Scottish Aggregates Survey (SAS) that almost 90% of sand and gravel used in South-East Scotland were from outwith the SESPlan area.

Notwithstanding the level of importing, the Technical Advice Note identified between 17 and 20 years reserves remaining in the SESPlan area, depending on which extraction figure was used – which effectively suggests there is now 5-8 years reserves left, not taking into account any variation in extraction or quarries newly extracting in the intervening period. Problems were identified with the accuracy and reliability of these figures, given a number of factors including the recession, response rate, imports/exports and inconsistency with the SAS.

The Technical Note then looked at complementing their survey with the Annual Mineral Raised Inquiry (AMRI) landbank assessment which was recommended by representatives of the quarry industry. This took a different extraction rate at approximately four times the annual figure and, taking into account the same sand and gravel reserves figure (at year end of 2010), estimated only a 4.5 year reserve from the end of 2010. The Technical Note states that at paragraph 4.23, “*it is thought that this figure presents a more realistic landbank scenario*” but the Note would seem to be referring to the opinions of representatives of the quarry industry, rather than necessarily the opinions of the authors, given the whole AMRI section is based upon submissions by those representatives. However, again problems were identified with the accuracy and reliability of these estimates, given the level of importing of sand and gravel into the SESPlan area.

Ultimately, the Note suggests a notional remaining landbank of 5-8 years (as of 2022) based on their own survey from 2010 but recognises that the industry may have a more restricted landbank capacity estimate. The Note has not been updated and it is now known that the Government has commissioned the British Geological Survey (BGS) to collate the results of a survey of aggregate minerals to be undertaken retrospectively for the year 2019.

It is recognised that the need to maintain the landbank at the requisite level is a significant material consideration, but also that this is appropriately addressed through assessment of the proposal under Policy ED12 and Figure ED12a. However, and ahead of the assessment below, it is noted that the Applicant considers that the

proposed quarry is required to meet a shortfall in aggregates within the local market area, and has sought to provide some evidence of this, in the EIAR at paragraph 2.7. They look at the same seven quarries as the Technical Note and apply three different types of extraction rates based on SESPlan, AMRI and also averages based on the planning permission annual extraction allowances – resulting in reserves of 14.59, - 7.83 and 10.7 years as at their time of assessment in June 2021. However, the applicant acknowledges that in the absence of detailed figures over an extended period from quarry operators, “...it is impossible to accurately determine existing consented reserve or to accurately predict future output or market demand” and that “..the figures should be treated with caution” (EIAR para 2.7.3.4). They summarise that the SESPlan Technical Advice Note still reveals large amounts of importing, indicating that the SESPlan area is unable to produce sufficient indigenous sand and gravel to service its own requirements.

With regard to market areas, SPP does not state a direct requirement for each Local Authority area to maintain its own ten-year landbank. On the contrary - in its references to strategic development plans, the “City Region” and landbanks within “all market areas” - SPP clearly recognises the existing pattern of importing and exporting construction aggregates between quarries and construction sites, and the wider - more often regional, rather than local - context in which minerals are worked for, and delivered to, their markets. It allows then, that minerals are imported and exported over larger geographical areas, and across the boundaries of different local authority areas, as they travel from their source to market.

The Department did raise other queries with the applicant in relation to demonstration of the market for the product, possible over-estimate of extraction rates based on pre-market slump, AMRI estimates not being the SESPlan favoured method of assessment, the “landbank” not relating only to permissions but also Areas of Search and the fact that SESPlan states that new quarries should be limited to Areas of Search. Objectors and the Quarry Action Group have also made a number of points about the supply and demand position, including the existence of other local inactive quarries, ample cross boundary supply, exaggeration of extraction rates, poor quality of mineral resource, recent fall in demand for sand/gravel and the landbank being higher than the applicant states.

The agent responded to these queries in their responses of 25 June 2021 which can be viewed in detail online, stating that the applicant is seeking an alternative quarry source for their annual requirement, that extraction figures were recession-based, that the Minerals Technical Note does favour the AMRI estimates, that the “landbank” must comprise of permitted reserves (through planning permission) only and that the SESPlan restriction to Areas of Search is addressed by their assessment of landscape impacts. The applicant also states that Garvald quarry is in the South Lanarkshire landbank under the control of another operator, that landbank has been identified to be in deficit, the QAG list of alternative quarries is flawed and a local source is much preferable in terms of sustainability

Given the lack of updated, definitive and objectively verified figures on remaining landbank reserves and the known level of importing of sand and gravel, it is considered that appropriately reduced weight, in any decision, should be attached in relation to need for the new quarry based upon supply, demand and supporting ten year landbanks. Notwithstanding the reasons for caution explained by the SESPlan Technical Note in taking into account landbank estimates, there are other factors that can influence the rate of extraction and reserves position. The western fringe location of the Slipperfield site, for example, should also be taken into account, with markets in

South Lanarkshire, Mid Lothian and other areas more likely to draw material from the quarry than if the quarry had been located in the central part of the Borders.

There are also doubts in relation to other quarries existing with consent but not in production at the time of the Technical Note survey – such as Garvald very close to the application site. The relationship of a new quarry proposal with, and its contribution to, the ten year landbank should not be based upon who owns any quarry and who does or doesn't have access to the extraction rights, as such factors are beyond the normal reach and remit of the planning system. It is also evident that if the AMRI figure from 2011 was to be considered the most realistic, then the South-East Scotland reserves would be totally exhausted seven years ago – this is not suggested to be the case by the applicant. Finally, there was likely to have been a significant reduction in extraction from March 2020 as a result of the Covid pandemic.

Ultimately, given that the applicant states , “...it is impossible to accurately determine existing consented reserve or to accurately predict future output or market demand” and that “...the figures should be treated with caution”, it is considered that there is insufficient evidence on the issue of need to demonstrate that other adverse impacts on landscape and cultural heritage should be outweighed in the overall planning balance. Even the applicant's own submissions indicate there may still be a permitted landbank of around ten years, even without taking into account the other factors that could have reduced extraction rates (and thus preserved a larger landbank) since 2011. In many ways, this position is no different to that adopted by Borders Regional Council in refusing a larger quarry on the site in 1993, when it was stated that as a result of a lack of a comprehensive assessment of sand and gravel reserves. “...it is not possible to show an overriding need to permit the development of this site as a quarry”. Whilst current Policies do not require the development to demonstrate the need for the quarry, a number of the environmental effects do require to be assessed against the level of need and public benefit, in the event that there would be potentially damaging impacts. It is this level of anticipated impacts and lack of need to adequately override those impacts that are the fundamental and determining issues with this application.

#### Local Planning Policy

All applications for planning permission and minerals consent shall be in accordance with the development plan unless material considerations indicate otherwise, as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended. The previous section in this report related to national and regional matters regarding SESPlan as part of the Development Plan covering the site. The other element of the Development Plan is the Local Development Plan adopted in 2016. The Proposed Local Development Plan is now with the Scottish Ministers for consideration and examination and the relevant Minerals Policies are the subject of representation so cannot be afforded any particular weight in determining the planning application at this stage.

As stated in the previous section of this Report, the adopted Local Development Plan has two specific Policies on mineral extraction, ED11 “Safeguarding of Mineral Deposits” and ED12 “Mineral and Coal Extraction”. As the application is to extract minerals, ED11 is not applicable as it is aimed at preventing any development that may sterilise economically significant mineral deposits.

Policy ED12 is the most relevant Policy applicable to this application. It firstly identifies Areas of Search outwith Areas of Moderate or Significant Constraint. The application site is not included within an Area of Search but is, instead, within an Area of Moderate Constraint due to the site being contained within the Pentland Hills Special Landscape

Area. As mentioned above, SESPlan advises that any extraction outwith an Area of Search should either be small scale or extensions to existing sites. Whilst there is no definition of “small scale”, it is not considered that the proposal could realistically be described as being of small scale given the context, nature, extent and period of extraction – and the fact that it proposes extraction of what amounts to an additional 15% of the recorded SESPlan area sand and gravel reserves as existed at the end of 2010. Consequently, the proposal is considered to be against Policy 4 and the principles of SESPlan which seek the location of minerals extraction to be within Areas of Search where environmental impacts are more likely to be successfully accommodated.

Policy ED12 is negatively expressed and lists a series of criteria and circumstances where mineral extraction would not be permitted.

The criteria cover the following circumstances:

- Special Areas of Conservation/Special Protection Areas
- National nature designations such as SSSIs
- Local nature and historic interests, including Special Landscape Areas
- Quarrying within 500m of settlements and locally important landscape character
- Impact on the local economy
- Road capacity
- Cumulative impacts

A number of the criteria are required to be weighed in the overall planning balance against the need and public benefits of extraction, especially the natural heritage and environmental criteria. The criteria are explored in the following relevant sections of this report, which also considers the specific topic-related Local Development Plan Policies where relevant. The report will conclude that, particularly in relation to landscape, visual and cultural heritage impacts, there is insufficient evidence, based on objectively verified need and public benefit/interest, to outweigh the identified materially adverse impacts caused by a new sand and gravel quarry in this location.

### Landscape

In terms of landscape impact and character, Scottish Planning Policy, at paragraph 202, requires that development take account of local landscape character and the following paragraph states that planning permission should be refused “...*where the nature and scale of proposed development would have an unacceptable impact on the natural environment*”. SESPlan states that whilst minerals should be sourced as close as practically possible to where the need arises, this should be balanced by environmental factors.

The application site lies within the Pentland Hills Special Landscape Area (SLA). In terms of the Local Development Plan, the most relevant criterion within Policy ED12 is c) relating to potential impacts on the SLA and the following section of this Report will assess the proposals against this part of Policy ED12 as well as the specific SLA Policy EP5. ED12 criterion d) also refers to areas of locally important landscape character. In both cases, ED12 states that minerals extraction will not be permitted if there is a materially damaging impact or adverse effect, unless outweighed by a proposal that demonstrates significant public interest.



The issues of visual and landscape impact are probably the most important and significant issues in relation to this proposal, due to the location of the site within the Pentland Hills SLA. Any development must comply with the specific LDP Policy EP5 which states that development will only be permitted where:

- The objectives of designation and the overall landscape value of the site and its surrounds will not be compromised, or
- Any significant adverse effects on the qualities for which the site or its surrounds have been designated are clearly outweighed by social or economic benefits of national or local importance

Although EP5 is the principle landscape protection Policy, PMD1 “Sustainability” seeks to protect natural resources, landscapes, habitats and species. PMD 2 “Quality Standards” also seeks development that is compatible with and respects the character of its surroundings, including appropriate landscape mitigation to aid integration. Tree protection is specifically covered by Policy EP13 which seeks to refuse any development that would result in the loss of the woodland resource, unless there is either a justifiable public benefit or appropriate replacement compensatory planting proposed.

Further guidance on SLAs is included within the Supplementary Planning Guidance “Local Landscape Designations” 2012. The document explained that the previous Pentland Hills Area of Great Landscape Value was replaced with the SLA, the difference being related to the inclusion of the land containing the application site, the revised boundary now running along the A702 rather than the Roman Road Core Path previously. Table 1 explains that:

*“It was considered that the Pentlands form a distinct and recognisable hill group, of which the Borders part, though less dramatic, is an integral part of the wider landscape. In addition the Pentlands are a popular recreational resource for the Borders and the wider region.”*

The written description on Page 35 of the SPG explains that the SLA includes the farmland foreground as well as the uplands. It explains that the revision was as a result of a scoring process and methodology that meant the additional area scored sufficiently highly to warrant inclusion in the designation. The rigorous evaluation meant that the SLAs are classed as “truly special” within a Borders landscape that is already special. The Designation Statement considers the Borders section of the Pentland Hills, whilst less dramatic, to be an integral part of the wider landscape with distinctive topography of rolling rounded hills and a wildness element, despite being small scale and close to settlements. The SPG Section “Forces for change” includes a potential loss of wildness character and the need to promote recreational access while managing the pressures and avoiding conflict with other uses. At page 81, the Statement of Importance states:

*“The area is readily accessible from Edinburgh on the A702 which enables framed views into the hills from the road. The farmland at the foot of the hills serves as a foreground in these views”.*

There have also been a number of submissions also referring to local landscape character of the site and its surroundings, formed by glacial activity. The site lies within Landscape Character Type 99 - Rolling Farmland – Borders (Scottish Landscape Character Assessment 2019, NatureScot) The EIAR states that the site is variable in topography, rising from the A702 at 235m AOD to 275m at the edge of the Roman

Road. It notes a distinctive glacial landform, which extends outwith the site to the south-west - but this landform also extends to the north and the immediate vicinity. Slipperfield, Lauder and Pot Lochs are as a result of the “kame and kettle” glacial activity, resulting in a “hummocky” detailed topography with ridges, hills and depressions which are also noticeable but less pronounced on the eastern side of the A702.

Edinburgh Geological Society and Lothian and Borders Geoconservation Group state the following in their objection:

*“This site features in the popular book Scottish Borders Geology: An Excursion Guide (1993) and forms part of the outing covering “some of the finest glacial and geomorphological features in Southern Scotland”. It includes an impressive meltwater channel with eskers nearby and an adjacent flooded kettle hole which forms Slipperfield Loch. We are very fortunate to have excellent examples of these landscape features at such an accessible location. They were formed by melting glaciers approximately 13,000 years ago and are of interest to a wide range of people from school-aged geography students to professional and academic geologists. This landscape records evidence of climate change in the past and encourages a local interest in Earth history.”*

An extract from the web site of the North Tweeddale Paths Group relating to the B7 “Historic Walks to Dolphinton” also states:

*“From this stretch of the track the beauty and interest of the surrounding landscape becomes apparent. In the immediate foreground can be seen undulating land indicative of sand and gravel deposits, the geological legacy of the last Ice Age in Scotland. Here several archaeological remains and interesting examples of wetland flora may be found. Beyond it stretches the unspoilt view of the scenic Tweeddale uplands towards the Border Hills and Broughton Heights.”*

This report has already identified that there is planning history to the site, albeit two previous applications proposed larger extraction areas than are currently proposed. Members will note that the first refusal in 1993 used landscape character and prominence reasons for refusal even though the site was not within the Pentland Hills AGLV at the time. The refusal stated:

*“The site occupies a prominent position beside the A702 trunk road, adjoining the Pentland Hills Area of Great Landscape Value and within the proposed Regional Park as indicated in the Borders Region Structure Plan 1991 Key Diagram. The proposed quarry would have a significant adverse impact on the appearance of the site itself, on views to and from the Pentland Hills and on the character of the area as a whole”.*

As previously described, the quarry proposes extraction in six phases throughout a 14 year lifespan. Each phase will be progressively restored with each phase restoration being completed before the next but one phase is commenced. The phases have been designed to ensure that the first four phases do not involve reduction of the kame and that by the time phase five impacts on the kame, previous phases 1-3 will have seen full restoration behind the kame and restoration works will be underway on phase 4. The final restoration contours are shown in Figure 3.7 (of the SEI) and sections at Figures 3.8 and 3.9. Woodland and planting are also proposed as part of the restoration works (Figure 4.1 of the SEI), including relocation of conifers to the SW of the site, throughout each phase of the restoration, along the Slipperfield House boundary and on the slopes formed beside the pipeline.

The EIAR submitted with the application includes a Landscape and Visual Impact Assessment which includes a ZTV, a number of visualisations and seven Viewpoints of the development. These are from Mendick Hill, Roman Road (Hardgatehead), Bogsbank Road, Thief's Road and the A702 at Medwyn Cottage and at the edge of the site. The Report also includes a set of restoration and aftercare proposals which detail how the site will be both progressively restored during phased working and, also, at the completion of the quarry operating life. This also details plans and cross sections in each of the phases of the quarry proposal.

The LVIA concludes that the landscape character sensitivity and magnitude of change are medium. Overall, it concludes that the site is visible from distant viewpoints but does not contribute significantly to the landscape experience. The greatest impacts will be from close up to the site as exhibited in Viewpoints 1, 2 and 7. The landform alteration will be permanent but localised in the wider rolling farmland landscape and the majority of the glacial landform will be left unaltered. The reduction in kame extent and height are also considered to be acceptable as the form of the kame will be retained and will still provide screening from the south-east. In terms of impacts on the SLA, the LVIA considers the site is at the foot of the hills, well screened and will only have a moderate significance of impact, reducing to slight upon restoration. The LVIA also concludes that visual impacts on sensitive receptors such as residential properties are mitigated by intervening tree and topography screening.

The restoration and aftercare proposals are detailed in Sections 3 and 4 of the EIAR, including Figures 3.1 – 3.9. The six phases and progressive restoration are illustrated with Figure 3.7 showing the restoration contours and planting proposals. Planting includes woodland on the reduced kame summit, a transplanted belt outwith the site to the south-west and more planting alongside the pipeline towards the Slipperfield House boundary. The species mix is detailed in Table 4.4 and there will be aftercare maintenance for a five year period.

Consultees on the application in relation to landscape and SLA impact include Nature Scot and the Council's Landscape Architect. Members will note that Nature Scot have only responded to matters for which they are responsible ie, statutorily designated sites such as the distant NSA, Tweed SAC and adjoining SSSI as well as protected species issues.

The Council's Landscape Architect (LA) has consistently opposed the development on landscape impact grounds, even expressing concerns at the EIA Scoping stage. Members can view the full responses on Public Access, dated 28 April and 6 October 2021. The LA objects both on adverse impacts on local landscape character and on the SLA.

In terms of local character, the LA recognises the scheme is reduced from that previously refused and whilst noting more of the kame is being retained, considers that mitigation is not sufficient to reduce the significant negative impacts on the local landscape from sensitive receptors. The glacial geomorphology of the site, which is distinctive in the local landscape and visible from the A702 and other areas to the east and west (including the Roman Road and Mendick Hill paths), will be adversely affected in the short and longer term by creation of a less intricate and subtle concave landform, combined with an unnatural and prominent linear ridge preserved for the ethylene pipeline with 1 in 4 slopes and 4m height above the excavation base. The impacts will remain despite restoration and will also include impacts on the meltwater channel used for soil storage. The Landscape Architect considers that the EIAR and LVIA underestimate the impacts on the special geological qualities of the local landscape and concludes that the sensitivity of the local landscape is high and that:

*“...the proposals would have a significant adverse impact on the local landscape but would also have a negative visual effect on the perception of the landscape both for the period of working the quarry and in the future as the resultant landform would be irreversibly altered and will contrast with the glacial landform which is evident in the local area and which is recognised as being special in geomorphological terms.”*

The Landscape Architect also opposes the application on the grounds of adverse impacts on the Borders section of the Pentland Hills SLA. She considers the SLA to include a popular recreational area and that the quarry would be highly prominent to both the Roman Road Core Path adjoining it to the north-west and the A702 to the east, as well as other footpath routes in the area around Mendick Hill. She considers that the impacts on the farmland foreground to the SLA would be significant and negative, affecting the farmland foreground status within the SLA, exacerbated by the phased removal of the top and side of the kame and the visual impacts of the access road, plant and machinery.

The applicant has responded to the objections of the Landscape Architect, Action Group and other submissions on landscape in several emails that can be viewed in full on Public Access, including responses dated 25 June, 25 August 2021 and 1 April 2022. They disagree with the objections and make several points in reply, including that the alteration to the kame retains its character, the glacial topography is not intrinsic to the reasons for the SLA designation, the setting of the SLA is not disturbed, the pipeline will only be a noticeable ridge for 300m and restored slopes will have irregular detail not able to be shown in visualisations.

Following consideration of the applicant responses and revisions in the two SEI procedures (including a more detailed restoration contour plan), the Landscape Architect maintains her objection on both the adverse impacts on local landscape character and the SLA. She accepts that the site will be progressively restored but considers that the restored site will still exhibit an unnatural landform in the local context and the extraction will have removed much of the localised topography that makes the site so recognisable as a fine glacial landform, evidenced from the Roman Road Core Path and other viewpoints. She also anticipates significant landscape and visual impacts from the retention of the INEOS pipeline as a raised unnatural strip running through the north-western part of the site. She considers this cannot be adequately disguised by planting and also believes that impacts from the plant and machinery will also be much more evident in landscape and from the A702, than is represented in Viewpoint 7.

Having considered the applicant's responses on her objections in relation to the Pentland Hills SLA, the Landscape Architect maintains that the proposals would undermine the contribution that the farmland foreground makes to the setting of the Pentland Hills SLA, the site being added to the area designated under the previous AGLV for the very reason of the integral setting and relationship of the farmland fringe to the hills. She remains of the opinion that sensitive receptors will be detrimentally impacted through visual impacts, from the A702, the Roman Road and approaches to Mendick Hill, the Hill being an outlier of the Pentlands with an intimate relationship with the surrounding farmland. The excavations and alteration to the height and form of the kame will be especially noticeable from the A702.

One of the management recommendations in the SLA Designation Statement is that native woodland cover be enhanced in the valleys. Policy EP13 seeks to refuse any development that would cause loss or damage to the woodland resource. Whilst the proposal does involve some loss and relocation of woodland and whilst the details of compensatory replacement remain lacking in full detail, neither the Landscape

Architect nor Ecology Officer consider that the issue of tree impacts is of sufficient concern that the matter could not be addressed further in conditions, should the proposal be supported.

After full consideration of the proposals and all the submissions made on landscape impacts, the Landscape Architect has maintained her objections to the proposal on grounds of adverse effects on the local landscape character of the area and materially damaging impacts on the Pentland Hills SLA. Taking into account all the submissions from the applicant there is no reason to disagree with the advice of the Landscape Architect nor the many local objections on landscape impacts from the Community Council, Action Group and third parties. Despite being a reduced scheme from that considered in the early 90's, the impacts of extraction and associated buildings, plant and machinery will cause significant industrial intrusion out of character with the location, both for the 14 year life of the quarry and beyond in terms of the resulting restored landform.

The ZTV indicates swathes of unbroken visibility from the A702 and footpaths in the area, especially from the Roman Road. The impacts from the Roman Road and path to Mendick Hill would be unable to be satisfactorily mitigated and the visual impacts from the A702 would be exacerbated by the visible haul road on the kame flank, reduction of the kame and the open location of the quarry operation compound. All of these impacts would also be in contravention of some of the reasons for SLA designation of the site, undermining the wildness character of the hills and causing conflict with recreational users on the roads and rights of way around the site.

Although the applicant was asked at Scoping stage to provide graphical supporting material to show the impacts from other receptors such as iconic viewpoints (within the Pentlands and National Scenic Area) and from the nearest residential properties, it is accepted that the EIAR demonstrates that such locations have been assessed and that no justification for further viewpoints or photomontages was identified. In terms of visual impacts from the nearest dwellinghouses, it is accepted that they would not be to such an adverse degree to warrant refusal of the application for those reasons, given screening, alignment, topography, distance and the presence of the A702 as an intervening feature.

The applicant has emphasised the limited impacts caused by the temporary period of extraction but the impacts on landscape character and the SLA will persist in the form of an unnatural and topographically less intricate basin with artificial raised ledge to protect the pipeline. The Landscape Architect does not believe the restoration profiles or planting will provide sufficient mitigation to overcome the lasting adverse impacts. Whilst the Council must only determine the scheme that is in front of them and whilst it is understood that it is a 14 year lifespan intended, the existence of a quarry would also become a significant material factor in favour of any application to extend quarry life or excavation area in the future. There is also the issue of location within a very short distance of two other quarry locations at Garvald and Ingraston, the cumulative impacts adding weight to the concerns over the landscape impacts as referred to in Criterion g) of Policy ED12.

Ultimately, as the EIAR states at para 1.5.2, professional judgement is used to determine the materiality of effects. In the same manner, using the judgement of officers, it is concluded that this is not an appropriate location for mineral extraction in terms of landscape impact, despite reserves being present. Whilst it is appreciated that the scheme is reduced from two previously proposed schemes and that the scheme is phased with progressive restoration, the adverse impacts on local landscape character and the SLA will be significant and unable to be either sufficiently mitigated or

outweighed by a clearly demonstrated public benefit. The application is, therefore, considered to be contrary to Policies ED12, PMD2 and EP5 of the Local Development Plan.

### Pipeline

The site is passed through by the Wilton-Grangemouth Ethylene Pipeline which is owned and managed by INEOS. The pipeline route is shown on Figure 3.1 and its location and retention/scarcement proposals are shown on this and associated cross sections. The EIAR also includes a Stability Risk Assessment for the pipeline at Appendix 9. This states that the 10" pipeline will be retained and protected throughout excavation and restoration, noting that extensive ground investigation has occurred and that the proposals will comply with the INEOS guidance for mining in the vicinity of the pipeline ie. at least 6m scarcement from the edge of the pipeline and a maximum excavation slope of 30 degrees. The scarcement will be marked with a fence plus an additional unexcavated gap of a further metre. The drawings indicate that the pipeline will be retained within a two-sided sloping embankment to the north-western part of the site and a one-sided embankment in the remainder of the site, the other part of the site being dedicated to the plant and processing area. The quarry access road will cross the pipeline in three locations, reaching the main internal quarry access road which runs alongside and to the north-east of the pipeline, the crossings reducing to two in later phases.

The Stability Assessment details the surface and groundwater investigations and considers the geology of the site in order to conclude on stability for the safe retention of the pipeline. It concludes that the scarcement will result in *"...no potential for the pipeline to be adversely affected due to excavation instability"*. This conclusion is maintained with suitable restoration and re-profiling of the restored excavation faces, using processing fines, soils and planting.

The relevant Local Development Plan Policies are IS11 and IS12. IS11 both applies to proposals for hazardous development itself (as defined in legislation) but also for any development that may have impacts due to its location in relation to an existing hazardous installation. The Policy states that, guided by the Health and Safety Executive and other consultees as appropriate, development will be refused if located in close proximity to existing infrastructure and resulting in an unacceptable hazard to the public or environment. Policy IS12 more specifically refers to development within statutory consultation distances of hazardous installations. This also states that development will be refused if judged to result in unacceptable hazard. The Policy states that *"...decision making will be guided by expert advice from the appropriate operator/owner and the Health and Safety Executive"*.

As stated in the aforementioned Policies, full and regular consultations have been carried out with INEOS as the pipeline owner and with the Health and Safety Executive. The latter noted that INEOS were consulted, that the EIAR retains a stable corridor for the pipeline and that works related to the pipeline are also detailed. Their advice on whether planning permission should be granted is obtained from their self-service web app. This was utilised and the result was HSE "Do not advise against" the proposal. They maintained this position after direct and SEI consultation, together with responding to comments from the Quarry Action Group. They stressed that the HSE role is to assess the risks of the pipeline to the development and workforce and that INEOS are responsible for assessing any risks the development may pose to the pipeline. HSE do not consider they have the remit to carry out a risk assessment and this is the responsibility of the employer. They also confirmed that their own Pipeline Inspector has met with INEOS before INEOS provided their final updated response.

INEOS have been fully involved throughout the planning application process and have employed an independent Pipeline Integrity consultant to advise them. They have fully taken into account the proposals, further information from the applicant and the concerns of third parties, including the Quarry Action group. Following assessment by their consultant, they raised no concerns over the stability of excavation slopes and considered that crossing point loading and planting could be addressed by conditions.

However, after further consideration and discussion with the HSE Pipelines Inspector and a Pipeline Geohazards expert, they were concerned that sub-surface water flow and overflow from Slipperfield Loch had not been adequately addressed in relation to rapid erosion and gully formation potentially undermining the pipeline. They also queried groundwater level information and surveys, rainfall surveys and future extreme events. Any remaining issues over pipeline scarcement and crossing points could, however, be agreed by condition.

After receiving further information on these issues and noting that SEPA and Nature Scot accepted the interpretation of groundwater conditions, they confirmed no objections to the application. In addition to the aforementioned conditions, they also request that the groundwater monitoring plan condition includes additional groundwater monitoring before any works adjacent to the pipeline. They also seek a three month frequency within the groundwater monitoring plan and an additional groundwater monitoring point installed in the overflow area from Slipperfield Loch.

Members of the public and the Quarry Action Group have been especially concerned over the potential risk of quarrying activity adjoining and, indeed, either side of the pipeline. They have called for an independent expert consultant to assess the risks posed by the development, and have major concerns over risk of explosion and impacts on public and residential properties. They query the track record of INEOS and seek clarification on indemnity in the event of an accident caused by the development. They also raise issues of surface water run-off and vehicular crossings eroding the ground and undermining the pipeline with ground movement.

Whilst some, such as the Community Council, are content that the issues have been thoroughly assessed by INEOS through an appointed specialist consultant, it remains a source of particular concern for many objectors and the Quarry Action Group. In that respect, it can be fully appreciated that with a hazardous installation running though the site, it appears risky to allow and enable a quarrying development either side of it – with potential issues of ground instability, water erosion, vehicular crossings, vibration and the potential for unintentional activities and accidents.

Nevertheless, all issues have been fully considered by the technical and expert consultees, also involving the use of an independent consultant by INEOS. Policy IS12 states that “...*decision making will be guided by expert advice from the appropriate operator/owner and the Health and Safety Executive*”. That expert advice is not to oppose or object to the proposals, subject to appropriate conditions and safeguards. Given the advice, which has been offered after detailed and lengthy consideration and investigation, it is considered that the proposed quarry would comply with the requirements of Local Development Plan Policies ED12, IS11 and IS12 and the potential impacts on the pipeline would not justify refusal of the application in themselves.

### Residential Amenity

The impacts of any quarrying activity on residential amenity can be particularly significant and Local Development Plan Policies PMD2, HD3 and ED12 seek to ensure

any proposals do not result in significant adverse effects. Whilst PMD2 applies universally and is related to minimising conflict of uses, HD3 relates more to impacts on specific residential areas. ED12 is even more specific and relates only to residential impacts on property within settlements and only then, if within 500m. SPP simply states there should be *“...provision of an adequate buffer zone between sites and settlements”*.

In terms of visual impact, that element of residential amenity has already been considered under the Landscape section of this report. Noise and air pollution are the other main amenity issues arising from quarry operation and these have been addressed in the relevant chapters of the EIAR (Chapter 9: Noise and Chapter 10: Air Quality) and Appendix 6 relating to noise.

In terms of noise impact, the submissions identify the nearest residential properties to the proposed site using the advice in Annex A of PAN50 “Controlling the Environmental Effects of Surface Mineral Workings”. Slipperfield House and America Cottage to the north of the site are the closest properties (90 and 130m) respectively, with Burnham to the south-east of the site the next closest at 220m. Other properties are also identified in the 300-350m range at Mendick and South Slipperfield. Hardgatehead immediately adjoins the site to the south-west but is owned by the landowner for the proposed quarry and is in use as a holiday property. A Noise Impact Assessment has been carried out which estimates a maximum dB daytime reading of 53-63dB for Hardgatehead, with the next highest readings being 45dB at Slipperfield House, 44dB at America Cottage and 41dB at Mendick Lea.

The Assessment considers that the development could be operated within the daytime noise limits recommended by PAN50 for quieter rural areas ie. 45dB where the upper 55dB limit is more than 10dB above the measured background level. Hardgatehead would be higher than this at 55dB limit but the Assessment contends this is a financially interested property and, as with developments such as wind farms, there should be greater tolerances applied. In terms of night time figures, the development will comply as the quarry will not be operating during the night time period. The development will also comply with the higher dB limit allowed for temporary works such as soil stripping. Hours of operation of the quarry are proposed to be 7am-6pm Mon-Fri and 7am-2pm Saturdays with an hour earlier allowance for vehicle dispatch. The types of plant and machinery that have led to the noise estimates and informed the Noise Assessment have been investigated further with the applicant and they have responded with confirmation that dB levels have been provided by acoustic specialists.

Many objectors, including adjoining residents and the Action Group, claim that the noise impacts will be worse than estimated. Amongst other objections, it is claimed that there will be disturbance on a regular and prolonged basis to local residents from quarry operations in a quiet rural setting, noise from increased HGV traffic on the local roads, intrusive early morning operating hours and health impacts on nearby residents. These concerns are entirely understandable in a rural setting where residential properties are sporadic and well dispersed, the main source of background noise being likely to be the current usage of the A702 Trunk Road.

However, the Noise Assessment is accepted by Environmental Health as being in line with the Government PAN50. Subject to conditions setting the maximum dB levels as recommended and the phasing as proposed, they consider that neighbouring residential amenity will be protected and they do not advise against the development. It is also the case that when a much larger quarry proposal was considered by the Council in 1993, noise was not considered to be a reason for refusal and it was felt that the A702 already impacted a number of sensitive receptors.



The greatest impacts are likely to be on Slipperfield House and there may well be acoustic anomalies in how sound transmits to that property, given the location of the loch and potential funnelling of noise. However, the noise limits are accepted by Environmental Health who have had access to all of the application information, including objections. They do not advise that that Noise Assessment is flawed and they accept that control of noise levels in line with PAN50 is achievable, with appropriate conditions setting the levels and controlling operating hours. Noise is, therefore, not considered to be matter that would substantiate a reason for refusal of the application.

In terms of impacts on residential amenity, air pollution and dust can be another significant issue with quarrying. The EIAR assesses the impacts on the nearest houses in Chapter 10, taking into account the requirements of Annex B of PAN 50. It identifies the sources of dust associated with the quarry operations, which would be primarily from excavation of the sand and gravel. It also then identifies mitigation and methods of working which can minimise dust from these operations and assesses climate trends and conditions in the area. A Site Dust Management Plan is included in Chapter 10 at para 10.9.

The assessment concludes that the impacts on the nearest houses of dust will be minimal, with the exception of Slipperfield House and America Cottage where the properties could experience 43-46 days of dust impacts per annum. However, the assessment concludes that with measures outlined in the Site Dust Management Plan, the impacts can be reduced from slightly adverse to negligible. In addition to Annex B of PAN50, the Assessment takes into account the guidance from the Institute of Air Quality Management and the objectives set in the Air Quality (Scotland) Amendment Regulations 2002 in reaching its conclusions. The impacts of potential dust transmission on other adjoining land uses such as the SSSI and the Roman Road Core Path have also been considered and these are referred to in the relevant sections of this report.

There have been a number of objections and concerns in relation to air pollution and dust transmission from objectors and the Action Group, including claims there has been no measurement of existing air quality, no details of particulate size and potential impacts on Mendick Wood properties, Hardgatehead and Medwyn Road. However, as with the Noise Assessment, Environmental Health have accepted that the air quality assessment has been carried out in line with established guidance and practice. Whilst the detail included within the Site Dust Management Plan has been queried by others, any consent for the quarry would be subject to appropriate conditions including approval and adherence to a management and mitigation plan. It was also the case that when the larger quarry proposal on the site was considered by the Council in 1993, dust transmission was not considered to be a determining issue due to wet process, intervening woodland and prevailing wind. Potential impacts on air quality affecting residential properties are therefore, not sufficient to substantiate a reason for refusal of the application.

Other potential impacts on residential amenity of quarry operations can arise as a result of traffic increases/routing and vibration from blasting. In terms of the traffic impacts, these would be limited to daytime hours by operating conditions and would immediately only impact those properties already experiencing traffic noise and movement on the A702 Trunk Road. The increase above existing levels of HGV traffic per day is small and a Routing Plan can ensure any traffic bound for Peebles and the east does not use West Linton Main Street. In terms of vibration, this is only a significant impact with regard to blasting procedures such as those carried out at hard rock quarries – not a procedure planned for the extraction of sand and gravel at this site.

Taking all the above issues into account and given the isolated and relatively few residential properties that could have amenity affected by the proposed quarry, it is considered that the development could operate without exceeding various noise and dust thresholds which could be controlled by condition. For the same reasons, properties further away within the settlement of West Linton are similarly considered to be affected to a lesser extent and, certainly, are outwith the distance required in Policy ED12 (at 1KM rather than 500m) and possess an adequate buffer zone as suggested by SPP. It is, therefore, not considered that the protection of residential amenity objectives contained within Policies PMD2, ED12 and HD3 would be contravened by the development.

### Access

Local Development Plan Policy PMD2 requires safe access to and within developments. The minerals Policy ED12 also requires the traffic routes to and from the quarry to be suitable in terms of their design, construction and relationship with sensitive properties such as houses. The access and traffic details are included in Appendix 8 of the EIAR and Chapter 11, including a Transport Statement and detailed access drawing.

The quarry will be served by one new vehicular access taken directly from the A702 Trunk road at the southern end of the site. The junction will involve a carriageway width of 7.3m with visibility splays of 4.4m by 215m in both directions and appropriate radii. Whilst the Transport Statement accepts that a 9m set-back for visibility is desirable in the Scottish Government's Design Manual, the same Manual allows this to be relaxed to 4.5m or even 2.4m for junctions such as the proposed one. The junction then leads to a haul road which turns to run northwards on the slopes of the kame, leading to the plant/machinery and extraction areas, via three pipeline crossings.

The Transport Statement clarifies that the HGV traffic associated with the quarry will only be in the order of 22 two-way northbound journeys and 10 southbound, adding to the 722 and 619 HGVs currently using the A702 each day, information dating from Transport Scotland 2018 information. This equates to a slight increase of 3% and 1.6% respectively which is considered to be a low increase not causing any significant problems in terms of road capacity and safety.

The Roads Authority responsible for all road safety matters on the Trunk Road network are Transport Scotland, whilst the Council's Roads Planning Service have a remit with regards to road safety on all public roads that are not trunk classification. As the access junction leads onto the A702 and as the majority of HGV traffic will leave the Borders on this trunk route, the views of Transport Scotland are clearly significant as are the views of Roads Planning for impacts on other public roads such as Main Street in West Linton.

There are significant objections from many third parties and the Action Group with regard to access impacts. The objections consider that access would be dangerous onto a fast moving busy trunk road with impaired visibility at the junction on a long curve and presenting overtaking risks due to heavy slow moving lorries using the access. Objections also concern the impacts on roads in West Linton and the issue of dirt being brought onto the trunk road. There have also been queries over the traffic studies and methodology for proposed traffic generation.

The applicant states that the access has been designed in line with Government standards and that, whilst sightlines of 9m set-back might be desirable, they can

achieve 4.5m by 215m which is still in line with Government guidelines. The response of Transport Scotland is to raise no objections to the application and to accept the traffic generation and access junction onto the trunk road, including the methodology for assessing existing and proposed traffic generation. They recommend conditions based upon the completion of the access before commencement of development and to a design to be agreed but based on the submitted drawing, with maintenance of unobstructed visibility splays in perpetuity. Further mitigation is also recommended by Transport Scotland in relation to vehicle/wheel washing and avoidance of drainage connections. The Council's Roads Planning Service also consider the A702 to provide adequate access to the north and south.

The access position was subsequently moved 30 metres south-west to allow greater protection to the identified acid/flush and peat habitat adjoining the A702. A new SEI procedure was followed as the application site boundary needed associated expansion to the south-west. A revised access drawing was included in a new Transport Note which detailed visibility splays of 4.5m by 215m requiring some tree, shrub and banking clearance and reprofiling. Transport Scotland and the Council's Roads Planning Service continue to accept the development and the revised access proposal.

Although there have been numerous third party objections, the views of Transport Scotland are that the proposal is acceptable subject to the junction design and, therefore, the road safety risks posed by the access position, nature and level of traffic should be considered to be insufficient to justify refusal of the application in this instance. Whilst there are likely to be some tree clearance and ground re-shaping works necessary to achieve sightlines at the junction, the applicant confirms this is achievable within the ownership of the land-owner and, in any case, the requirement for creation of the junction would precede commencement of the development.

In terms of impact on other public roads, such as Main Street and Boggsbank Road in West Linton, an HGV Routing Plan is recommended in the EIAR and the Transport Statement. The details of the Routing Plan were unclear in relation to what would be defined as "local" traffic being allowed to use Main Street but the applicant responded that this would only be trade vehicles needing to access sites in West Linton itself. For vehicle destinations to Peebles and the Central Borders, the Routing Plan would ensure HGVs used only "A" Roads. These were the major concerns of the Roads Planning Service who considered West Linton Main Street to be unsuitable for HGV traffic and who sought any consent to be subject to a condition requiring an HGV Routing Plan, with a six month review after quarry opening.

In terms of non-vehicular access, there are no Rights of Way or Core Paths passing through the site, the nearest Core Path being the Roman Road (Core Path 169) running alongside the north-western boundary of the site. This Core Path then feeds a "Promoted Path" to the summit of Mendick Hill, joining the Core Path 500m to the south-west of the site. The quarry development will not physically impede or hinder the use of these paths and is thus in compliance with Policy IS5. Whilst this Policy seeks to avoid adverse impact on access routes, it is considered that this refers to impact on the ability to use access routes, not impacts on the sensitivity and experience of users. This is considered elsewhere in this Report, in relation to Socio-Economic impacts. Quarrying would also prohibit access within the site (under the Land Reform Scotland Act 2003) on health and safety grounds during the operational life but this is not considered to be a significant issue, given the unobstructed continuation of the Core and Promoted Paths adjoining the site

Given the lack of objections from Transport Scotland, the Roads Planning Service and the details required to be agreed by conditions, including the access junction and HGV

Routing Plan, the application is not considered to be in conflict with Local Development Plan Policies PMD2, IS5 and ED12 in relation to access.

### Hydrology

LDP Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on flooding and the water environment. Policy ED12, however, also seeks to avoid significantly detrimental impacts on Special Areas of Conservation and water catchment areas.

The EIAR contains hydrological and hydrogeological assessments at Chapter 7. It explains that boreholes done for both the development and previous developments planned for the site revealed groundwater was, at its highest, encountered at 239.7m AOD which was 2.3m below the excavation base of the quarry. Whilst isolated areas of ground water were found in other trial pits, these were considered to be “perched” areas of water on impermeable strata. Whilst it identifies two water catchments on site with ultimate drainage via ditches to the Tarth Water, it also states there is some overflow from the Slipperfield and Pot Lochs to the north of the site. It maintains there is no hydrological connectivity with the adjoining SSSI. The EIAR also confirms there are no private water supplies to be impacted upon. The conclusion is that all impacts on the hydrology of the area can be satisfactorily addressed, via ensuring the quarry is above the water table and various SUDs measures including catch ditches are employed.

The main concerns from the third parties and Quarry Action Group are that the surface water mitigation is insufficient, that evidence suggests there is groundwater connectivity with the SSSI, that flooding and siltation will be caused by the development on the SSSI and water environment outwith the site and that the water table could be breached.

SEPA, Nature Scot and the Council's Flood Risk Officer have fully assessed the proposals and have considered all aspects of hydrology, taking into account the third party objections, responses from the applicant and the findings of the detailed report commissioned by Nature Scot's predecessor when a quarry was previously proposed for the site.

Whilst SEPA notes the proximity of the site to the SSSI, they also accept that the excavation would be dry working to a depth of 242m AOD and that groundwater monitoring suggests a much lower water level. Despite criticism from objectors, SEPA accept the monitoring as the period had higher than average rainfall. They have maintained no concerns over flood risk and accept the applicant's submissions, provided a suspensive condition is imposed for provision of a groundwater monitoring plan. They also provide advice for measures to be included in the Surface Water Management Plan required by the Ecology Officer, including a schedule of mitigation. SEPA also accept that the revised access will not impact on the roadside culvert.

With regard to the objections over hydrological connectivity with the SSSI and potential siltation, taking all issues and findings into account, SEPA and Nature Scot remain of the same opinion that the principal water source is rainwater rather than groundwater from the meltwater channel. They accept, as did the Dr Gilvear report, that provided the quarry was dry working above the water table with an appropriate buffer (secured by condition), then the wetlands and adjoining SSSI will be safeguarded.

The Council's Flood Risk Officer has also fully considered the proposals, additional information, views of Nature Scot and SEPA, together with all submissions from third

parties including the Quarry Action Group. She notes the site has three small areas of high surface water flood risk but notes that quarrying is compatible with low-medium risk in SEPA vulnerability guidance. After having sought further information on mitigation of flood risk from two areas of the site near to Slipperfield Loch outfall and adjoining the culvert at the A702, she raises no objections to the application. Conditions would be recommended on not exceeding greenfield run-off rates, culverts not exceeding conveyance and sediment filtering.

It is accepted that third parties, and the Quarry Action Group in particular, continue to raise issues over hydrology and the potential impacts of the proposal on the water environment outwith the site. However, the technical consultees have given every consideration to the points raised and have, after seeking additional information and subject to appropriate controls imposed by condition, confirmed that they have no objections to the development

Subject to the aforementioned conditions and given the responses from the relevant consultees, it is considered that the proposed quarry would comply with the requirements of Local Development Plan Policies ED12, IS8 and IS9 and that it is not considered that the hydrological impacts would justify refusal of the application in themselves.

### Ecology

The relevant nature conservation Policies are EP1-EP3 relating to international, national and local interests as well as protected species. These Policies seek to protect through avoidance, assessment of alternatives or weighting against any particular public need. Mitigation also requires to be assessed in terms of overall net impacts on biodiversity. Policy ED12 also reflects these Policies and their requirements in criteria a) to c). Policy PMD2 Quality Standards also protects biodiversity by seeking the retention or appropriate mitigation/replacement of important natural features and habitats.

The application has been supported by an Ecology Section in the EIAR and by an Extended Phase 1 Survey as Appendix 5. The overall findings are that habitats within the site are of local importance at best and loss is not significant, particularly with progressive restoration of each phase. The residual impact thereafter is not viewed as significant. The EIAR identifies that the adjoining Dolphinton-West Linton Fens and Grassland SSSI could theoretically be affected by groundwater connectivity with the quarry site and that there is a valuable area of Flush Habitat that should be avoided where possible, near to the site access and adjoining the A702. The EIAR and Phase 1 Survey also look at fauna and conclude that further mitigation would be required for bats and birds but not specifically for other mammals, amphibians and reptiles apart from badgers. Although there were no badger setts within the site, several were identified within 30m of the site boundary. Recommended mitigation includes hydrological survey, best practice for pollution prevention, retention of trees, protection and survey of the local acid flush habitat, a full landscape enhancement scheme, bat/badger/surveys and vegetation clearance only out with the breeding bird season.

The relevant consultees have been consulted and have commented on the proposals, including Nature Scot, SEPA, the Council Ecology Officer, Scottish Wildlife Trust and Scottish Badgers. There have also been third party objections to the ecology impacts from members of the public and the Quarry Action Group. These have included objections over potential detrimental impacts on the adjoining SSSI and Whitemoss Local Biodiversity site, impacts on the local area of peat next to the A702, inadequate compensation for tree loss and detrimental impacts on birds and protected species.

Members will note that during the processing of the application, the key ecology issues have principally involved the demonstration of hydrological connectivity and impacts on the adjoining SSSI and the protection of the localised area of flush habitat/peat. Nature Scot are responsible for ensuring that impacts on the River Tweed SAC/SSSI are minimised and, having reviewed the distance and dust management proposals, do not consider the impacts would harm the qualifying interests of the designation. Other matters in relation to flora and fauna have been raised by Nature Scot and the Council Ecology Officer but have either been addressed by further information or could satisfactorily be mitigated and controlled by planning conditions. These would include conditions to secure a Habitat Management Plan, Construction Environment Management Plan, Surface Water Management Plan, Species Protection Plans (badger, bats, breeding birds, wintering birds, raptors and owls), compensatory replanting scheme and a sensitive lighting scheme. Conditions could also ensure that no development should occur within the buffer zones of the identified biodiversity sites. On all these other ecological matters, the relevant consultees are content that the quarry can be developed and controlled without adverse impacts on ecology and biodiversity.

However, the main ecological issues during the processing of this application have related to the issues of potential hydrological connectivity with the adjoining SSSI and the protection and further survey of an area of acid flush/peat. On hydrological connectivity, this has been discussed in the relevant section of this report and, although there have been sustained objections from the public and the Quarry Action Group on this issue, SEPA, Nature Scot and the Council Ecology Officer accept the applicant's detailed submissions on connectivity and percolation impacts.

SEPA view sand and gravel quarries above the water table as low risk and agree with the applicant that fine particulates are filtered out before entering the groundwater system. They accept the various mitigation measures to intercept and handle surface water and maintain that the potential impacts on the SSSI and the spring within the SSSI would be low as the quarry operations are above the water table. Nevertheless, they recommend a Groundwater Monitoring Plan by condition and this is also supported by INEOS, who also recommend an agreed three month interval within the groundwater monitoring plan and an additional groundwater monitoring point installed in the overflow area from Slipperfield Loch.

Nature Scot have considered the issues of hydrological connectivity and potential impacts on the SSSI, including assessment of an earlier detailed hydrology report (Dr Gilvear) commissioned by the Countryside Commission for Scotland and the detailed submissions from the Quarry Action Group and its members. The Action Group's contention is that the string of boggy areas and wetlands in the site is as a result of underground flow from the glacial meltwater channel. Taking all issues and findings into account, Nature Scot remain of the same opinion as SEPA that the principal water source is rainwater rather than groundwater from the meltwater channel. They accept, as did the Dr Gilvear report, that provided the quarry was dry working above the water table with an appropriate buffer (secured by condition), then the wetlands and adjoining SSSI will be safeguarded. However, they would still continue to object unless a condition was attached to any consent securing a Water Level Monitoring and Reporting Plan pre commencement of any material extraction from the site. This is similar to the Monitoring Plan requested by SEPA and INEOS and can be addressed by an appropriate condition, should the development be approved.

The Council Ecology Officer supports the comments from SEPA and Nature Scot regarding potential impacts on the SSSI from the quarry proposals in relation to

hydrology. However, she also recommends a Surface Water Management Plan to detail the various sustainable drainage features within the proposals. This is also requested by Nature Scot.

The issue of dust impacts on the SSSI have also been considered by the consultees but they have accepted the proposals by the applicant, that there will be controls through a planning condition securing a Site Dust Management Plan. This acceptance has also been based on the dust transmission information provided in the EIAR, within Chapter 10 relating to Air Quality.

The localised area of acid flush/peat adjoining the A702 was identified by the applicant in the EIAR and detailed in the Extended Phase 1 Ecology Survey in Appendix 5, on Figure 3 "Phase 1 Habitats". It noted that the wetland was diverse in flora and was a priority habitat in the SBC Biodiversity Action Plan. The EIAR did not consider this sensitive habitat would be affected directly by the quarry nor particularly by the impacts of changes in water flows into the area. However, it was noted that the original access position and embankments were likely to impact detrimentally on this area and be in direct contravention of what the EIAR stated about retaining this habitat unaltered.

Furthermore, a number of public representations were made in relation to this habitat as an area of peat which should be safeguarded in terms of Government policy. SEPA have a responsibility for this matter and had also queried the impacts of the original access proposal on the habitat, lodging an objection as a result of their concerns. As a result of the subsequent revision to the access position which moved the access point 30m south-west, it was noted that the amount of disturbance to peat was reduced from 5600 cubic metres to 700 which would subsequently be re-used in reinstatement. This smaller amount of disturbance was subsequently accepted by SEPA who have now withdrawn their objection as a result of the access revision, provided a condition is applied to any planning consent securing a Peat Management Plan pre-commencement. They also seek a Habitat Management Plan by condition.

The Council Ecology Officer raises no objections, recognising the improvements resulting from revising the road access, but still requires the acid flush area to remain free from compensatory tree planting. She would also seek the Habitat Management Plan to incorporate mitigation measures preventing siltation and adverse effects on wetland habitat resulting from the soil storage area.

As a result of the information submitted with, and revisions to the scheme, given the withdrawal of objection from SEPA and the conditioned acceptances of Nature Scot and the Council Ecology Officer, it is not considered that the ecological impacts of the development justify refusal of the application in themselves. Whilst objections from third parties and the Quarry Action Group are sustained on the potential impacts on the SSSI, biodiversity site and specific flora and fauna, the technical consultee opinions are that the scheme could proceed with conditions, satisfactorily addressing the ecological impacts that are envisaged.

### Cultural Heritage

Policy ED12 states that minerals extraction will not be allowed if there is an effect on cultural heritage assets such as Conservation Areas, Scheduled Monuments, historic gardens, designated landscapes and significant archaeological sites with their settings. Proposals having an effect on any of these cultural heritage assets may still be acceptable if they can be demonstrated not to have any materially damaging impact or prove a public interest where the extraction outweighs the underlying reasons for the asset designation in the first instance. Policy EP8 also refers to development that

could adversely affect archaeological assets. It states that any development creating an adverse effect on assets or their setting will be balanced against the benefits of the proposal and consideration of any mitigation strategies.

The application was submitted with an Archaeology and Cultural Heritage Assessment, contained in Appendix 7 of the EIAR and summarised in Chapter 12. This assessed the direct and indirect potential impacts on archaeology by firstly reviewing the historical and archaeological background to the site together with a walkover survey. This revealed several interests including an earthwork, a potential stone-lined earthwork and a knife flint flake. As a result of these findings which may indicate prehistoric activity in the area, a trial trenching exercise was undertaken in 2019 with the majority concentrated in the flat area to the south-west of the site.

The trenching revealed thirteen features associated with prehistoric activity including a find of Neolithic grooved pottery. Consequently, the archaeological assessment considers that the development would have a destructive impact on the remains but that the significance of the impacts would be minor, provided mitigation is carried out in the form a Written Scheme of Investigation which involves a monitored topsoil strip in particular parts of the site, including the excavation area, haul road and compound area. The Scheme would be to the approval of the Council Archaeology Officer and would involve post-excavation analysis and reporting of findings. In terms of indirect visual impacts, the EIAR contends that as the excavation is over a temporary period and there will be restoration of the site, the development will not have any significant long-term detrimental effect on the setting of any designated heritage assets in the surrounding area.

The adjoining Core Path follows, or is immediately adjoining, the route of a Roman Road between Crawford and Inveresk. Whilst parts of this route are a scheduled monument, the section adjoining the site is not designated but is still considered to be of regional importance in linking the scheduled portions of the road together with military installations. The route is a Scotways Heritage Walk and is featured as an historic walk on the North Tweeddale Paths website and in literature. The latter states

*“You are now on the former coach road that was the main route from Edinburgh to Biggar for many centuries before the A702 was opened in 1834. This largely follows the course of a roman road that ran along the foot of the Pentland Hills linking the Border forts to Inveresk and the Forth estuary..... Cross the farm road and continue forward, skirting Mendick Hill, a local landmark which traditionally is climbed on New Year’s morning. 1km further on, the cottage of Hardgatehead [5] is passed on the left. It was here in 1585 that a group of noblemen – the Rebel Lords – met in order to plan the recapture of the young James VI. The plan failed and the leader, the Earl of Gowrie, was later executed.”*

There have been a number of objections to the quarry from third parties and the Action Group on cultural heritage grounds, including inadequate investigation, the importance of the site in the Bronze Age landscape with potential relationship with findings at Howburn and, in particular, impacts on the setting of the Roman Road and appreciation of it. The applicant defends the proposal against these objections, claiming there is no evidence to link the site with Howburn, further investigation will be carried out before development and the development would not have any physical effect on the Roman Road. It is also noted that Historic Environment Scotland raise no objections to the proposal with regard to impacts on scheduled monuments, “A” listed buildings and designated Gardens and Designed Landscapes.



In assessing the application and submitted details, the Council's Archaeology Officer had initially queried the indirect effects of the proposal along the northern edge of the site, in the vicinity of the Roman Road Core Path and what bunding and boundary proposals were intended. The applicant responded that the boundary would be a stockproof fence 4m from the edge of the Core Path with a metre high grass seeded bund within the boundary – potentially removable upon restoration.

After consideration, the Archaeology Officer considers that the development would have an indirect and adverse impact on the setting of the Roman Road Core Path, in terms of the public appreciation of the route and its heritage. Although there are two possible lines for the Roman Road (one under the current path and one slightly south-east of the path), the presence of the quarry would adversely impact on appreciation of the setting, contrary to Policy EP8 of the Local Development Plan. The one metre high bund would not provide effective screening to mitigate this impact as it could easily be overlooked. A higher bund would also appear more visible and incongruous from more distant views. The appreciation of the location and purpose of the route, lying between hummocky terrain and Mendick Hill, would be interrupted and adversely affected by the quarry. The Officer concludes with objection, quoting from the background paragraphs associated with Policy EP8:

*“When determining development proposals the Council will seek to have the remains preserved in situ and within an appropriate setting... (para 1.2).”*

*“Setting is considered to be important to the way in which historic structures or places are understood, appreciated, and experienced... (para 1.7).”*

He also quotes from Historic Environment Scotland's advice on “setting” which can incorporate a range of factors, including views to and from an asset, foregrounds, backdrops and relationships with other features.

The applicant has responded to the objection from the Archaeology Officer, contending that the setting is primarily linear along the route of the road, reflecting its main function to provide a direct transport route. The setting impacts are considered to be limited as a result and also reflecting the phased excavation and progressive restoration. The Archaeology Officer has carefully considered the applicant's response but maintains his position that the quarry will adversely affect appreciation of the setting of the Roman Road route. I see no reason to disagree with his advice, given the clear conflict between appreciation of heritage and a working quarry immediately alongside an historic route, with the attendant visual discordance, noise and dust. Whilst it is accepted that the conflict will be reduced once the quarry is restored, there will remain a residual visual discordance on appreciation of setting. It is also more likely that once a quarry is established, further extension to workings would be sought determining that the ephemeral nature of the impacts are extended. Any weight then attached to the temporary nature of the effects should be tempered by the increased likelihood of quarry extensions.

Policies EP8 and ED12 state that development which would adversely affect regional or local archaeological assets would only be supported if the public interest and benefits of a proposal outweigh the need for protection of the assets. EP8 also requires appropriate mitigation if the setting of such assets would be adversely affected. For reasons explained elsewhere in this report, it is considered that neither of these tests have been met. The development does not demonstrate sufficient public benefit to override the impacts on the heritage value of the Roman Road and its setting, nor does it provide adequate mitigation to resolve the adverse impacts.

With regard to direct impacts on the site, the Archaeology Officer acknowledges the evaluation and excavation works already carried out and particularly highlights a rare find of Neolithic grooved pottery. Should planning consent be granted for the quarry, he would seek a planning condition to secure a Written Scheme of Investigation to ensure a fuller evaluation and trenching of the site and to investigate and report on findings, linked in with the phased development of the quarry. Should planning permission be refused, it would still be advised to pursue a fuller reporting of the pottery find and findspot.

Policy ED12 also requires consideration of impacts on Conservation Areas, opposing mineral extraction if there are either materially damaging impacts or there is a public interest which outweighs the reasons for designating the Conservation Area. There will be impacts on the West Linton Conservation Area but these would not be visual and would relate to potential noise, dust and traffic increases. The site would be concealed from the Conservation Area approximately 1.5km to the north-east by both topography and tree screening and would also be separated by the A702.

As there would be no visual impacts, the other impacts of noise, dust and traffic increases would need to be considered. Given the acceptance of the noise and dust impacts on the nearest residential properties by Environmental Health, this is a stricter test than that used for assessing impacts on the historic or architectural heritage and reason for designation of a Conservation Area. It cannot, consequently, be justifiably argued that noise and dust would impact on the Conservation Area to any significant extent that would substantiate a reason to refuse the scheme and certainly not to the “materially damaging” extent required to be tested in Policy ED12. Similarly, any increased traffic will predominantly be on the A702 which is shown to be a low proportionate increase in HGV traffic overall (1.6-3%). Indeed, HGV traffic bound for Peebles and the Central Borders could be restricted to A Class roads only (by a Condition relating to an HGV Routing Plan) with only very localised traffic using the Main Street through the Conservation Area.

Whilst it is not accepted in this instance that the submissions regarding need for the quarry have demonstrated a requirement to override the reason for the Conservation Area designation, the proposal still complies with Policy ED12 as those impacts are not considered to be materially damaging. Policy EP9 relates more to development within or adjacent to Conservation Areas, neither of which is applicable in this case. Even if “adjacent” is considered to be relevant, however, the test is to preserve the architectural and historic character and appearance of the Conservation Area. For the aforementioned reasons, it is considered that the impacts of the quarry would still enable the preservation of the character and appearance of the Conservation Area.

In summary, it is not considered that the quarry proposal would materially damage any cultural heritage asset directly under Policies ED12 or EP8, subject to the mitigation and condition outlined. The proposal would also not have any material adverse impact on the Conservation Area setting under Policy EP9. However, the development is considered to adversely affect the appreciation of the Roman Road setting. The development does not demonstrate sufficient public benefit, in consideration also of the landscape impacts, to override the impacts on the heritage value of the Roman Road and its setting, nor does it provide adequate mitigation to resolve the adverse impacts. The application is, therefore, considered to be contrary to Policies ED12 and EP8 of the Local Development Plan and cannot be supported

## Socio-Economic Impacts

Policy ED12 states that mineral extraction will not be allowed if it is likely to damage the local economy in terms of tourism, leisure or recreation to an unacceptable extent. It does not require any assessment of any other elements of the economy nor does it state that extraction that causes damage to an acceptable extent would be refused.

When the Scoping Opinion request was made by the applicant, the Department raised this element of Policy ED12 and asked for any EIAR submission to include information to demonstrate the potential effects on the tourism, leisure and recreation economy. This was not initially done, the EIAR simply stating in para 90 that, as a result of claimed limited and fleeting impacts from viewpoints such as Mendick Hill slopes and the Roman Road, *"...the proposal has no impact in relation to leisure or tourism and is unlikely to have any impact on the local economy in terms of tourism"*.

The agent was asked to substantiate this statement, both in the light of not having addressed the Scoping Opinion request and also the significant number of objections, many from outwith the Scottish Borders, which claim that the development would harm the tourism economy locally. Objections also raised impacts on recreation in the Lower Pentlands area and West Linton, impacts particularly from the A702, the Roman Road and the paths to Mendick Hill. There were also claims that any limited job opportunities were greatly outweighed by the potential detrimental effects. The holiday usage of Hardgatehead was also raised with the agent, as it was considered to be very unlikely that the property would remain attractive to holidaymakers given its proximity to the proposed quarry and visibility.

The agent responded with information contained within an email as part of the SEI submission at the end of June 2021. They stated the following:

- No significant amenity impact on private properties means unlikely to have an adverse impact on tourism
- Holidaymakers would be unaware of the quarry when booking
- Impacts on Roman Road and local path network minor, survey revealed average of 22 walkers per day at weekend on Roman Road
- Impact from A702 fleeting
- Five jobs will be created
- Hardgatehead will continue to be operated, unlike America Cottage which has been taken out of holiday usage

In addition, the landowner wrote in support of the application, outlining the benefits to the local economy and the financial boost which would be fed back into improvements into the farm, recreational access etc.

The issues of tourism and economic impact were considered when the previous application for a larger extraction area was considered by the Council in 1993. It was considered at that time that the proposal would inevitably have a detrimental impact on tourism due to the identified adverse impacts on the character and amenity of the area. There were particular impacts identified from the A702 and the Roman Road. However, the Case Officer at that time felt that the level of impact on tourism and the local economy would be difficult to quantify and he did not use that as a reason for refusal of the application.

The current application relates to a smaller area than the previous application but it is introducing an industrial process into a rural area that is very much part of the Pentland Hills and West Linton approach, where there are clearly recreational and tourist attractions and facilities as an intrinsic and important part of the local economy. The

A702 carries tourist traffic between Biggar and Edinburgh and the Roman Road is widely promoted as a tourist path, beyond simply providing a right of way for local users. The Access Officer considers the agent's own survey of users of the Roman Road to indicate high levels of use in comparison, for example, with the St Cuthbert's Way in the Borders. It is, therefore, evident that the sensitivity of users on these routes passing the site is, therefore, elevated by the tourist and recreational elements.

Whilst the agent has referred to potential holidaymakers not being aware of the quarry when planning to stay or pass through the Borders, this does not take into account the use of media and other internet search tools to investigate the suitability and attraction of areas, including Google Streetview. The agent has also not addressed the deterrent to return trips that the presence of a quarry could create in an area, this being partly highlighted in the responses from objectors who do not live locally. It is accepted that some of these objections could be from friends or family of local objectors, but other responses may not be.

I am not aware of any studies regarding the potential impacts of quarries on tourism and return trips but, as the Department felt in 1993, the industrialisation of the site in close proximity to recreational and tourist routes is likely to have a net detrimental effect. Whilst there will be other economic boosts in terms of local reserve production, jobs and benefits to the farm, the impacts on tourism and recreation as an intrinsic part of the local economy are of particular concern. However, the precise test of Policy ED12 is to ascertain whether there is any damage to "an unacceptable extent". Given that test, there is no firm evidence to prove such a level of damage and, whilst still of concern, the impacts on the local economy (especially recreation and tourism) cannot substantiate a reason for refusal in this instance.

#### Other issues

Although all other issues have been considered, none are raised that would outweigh the consideration of the application as set out above. These include precedent, inadequate local consultation, impact on CO2 targets, property values, lack of applicant experience and rural diversification.

It is standard practice for quarry planning permissions to be subject to a legal agreement in relation to restoration and aftercare of the site, in the form of a financial bond. The agreement ensures that the aftercare is delivered and the bond enables adequate financial resources for the Council to step in and secure the restoration if necessary. Such agreements also provide for regular revisiting of the bond amount by an independent professional to ensure the amount remains sufficient for the life of the quarry. Had the application been supported, then the consent would have been recommended subject to a legal agreement to secure the site restoration. In this particular case, the mitigation planting on and off site would have also been recommended for inclusion in the agreement.

#### **CONCLUSION**

In conclusion, the application is considered to be in contravention of national objectives and Local Development Plan Policies on securing additional reserves and extraction of minerals, whilst ensuring that the environmental impacts are either acceptable with mitigation and/or outweighed by the demonstration of significant public benefit. The visual and landscape impacts within the Pentland Hills SLA and on local landscape character will be significantly adverse and incapable of being overcome through mitigation. Furthermore, there will be adverse cultural heritage impacts on the appreciation of the setting of the Core Path which adjoins the north-western boundary

of the site and which carries, or immediately adjoins, the line of the Roman Road linking Inveresk with Crawford. All other material factors have been considered but do not outweigh the adverse impacts and contravention of Local Development Plan Policies aforementioned and could have been addressed by planning conditions and a legal agreement, had the application been supported.

#### **RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:**

I recommend the application is refused for the following reasons:

1. The proposal is contrary to Policies PMD2, ED12 and EP5 of the Scottish Borders Local Development Plan 2016 in that the development lies outwith an Area of Search, within an Area of Moderate Constraint and would cause significant adverse landscape and visual amenity impacts both to the detriment of important local landscape character and the Pentland Hills Special Landscape Area. The local landscape character and topography are recognised to be a fine example of “kettle and drum” glacial geomorphology, the proposals removing the intimate topographical relief pattern and creating a large concave landform out of character with the existing landform. The site also includes part of the expanded Pentland Hills Special Landscape Area, comprising farmland foreground as part of the integral setting of the hills, the proposals interrupting that setting and view of the hills by introducing an industrial and incongruous development, detrimentally impacting on the wildness character of the hills and recreational path usage around the site, in contravention of the role and purpose of the farmland inclusion in the designation. These impacts have neither been sufficiently mitigated nor outweighed by a clearly demonstrated need for the quarry and public benefit.
2. The proposal is contrary to Policy 4 of SESPlan 2013 in that the site lies outwith an area of search and within an Area of Moderate Constraint where no existing extraction sites exist. The proposals are not considered to be small scale and the applicants have failed to demonstrate the particular operational, community or environmental benefits of the proposed development.
3. The proposal is contrary to Policies ED12 and EP8 of the Scottish Borders Local Development Plan 2016 in that the development will cause significant adverse impacts on, and unacceptable disturbance to, appreciation of the setting of the Roman Road which passes the north-west boundary of the site either on or adjoining the line of the current Core Path. The proposal will cause unacceptable conflict between appreciation of the heritage route and a working quarry immediately alongside it, with associated visual discordance, noise and dust. The impacts have neither been sufficiently mitigated nor outweighed by a clearly demonstrated need for the quarry and public benefit.

## DRAWING NUMBERS

Location Plan	LO1
Site Location Plan	Figure 2.1
Site Investigation Plan	Figure 2.3
Phase One quarry plan	Figure 3.1/0621
Phase Two quarry plan	Figure 3.2/0621
Phase Three quarry plan	Figure 3.3/0621
Phase Four quarry plan	Figure 3.4/0621
Phase Five quarry plan	Figure 3.5/0621
Phase Six quarry plan	Figure 3.6/0621
Restoration Plan	Figure 3.7/0621
Cross Section	Figure 3.8
Cross Section	Figure 3.9
Plant Area Plan	Figure 3.9/0621
Workshop Plan	Figure 3.10
Cross Section F1	Figure 3.11
CDE Wash Plant Layout	Pre-sales Layout 63
Existing Topography Plan	Figure 2.2/0621
Existing Topography Plan	Figure 2.3/0621
Restoration Planting Plan	Figure 4.1
Brochure	M2500
Existing Hydrology Plan	Figure 7.1
Proposed Hydrology Plan	Figure 7.2
Potential Noise Locations	Figure 9.1

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

### **Author(s)**

Name	Designation
Craig Miller	Principal Planning Officer





21/00152/FUL

Land West Of Slipperfield House  
Slipperfield Loch  
West Linton

