

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

27 MARCH 2023

APPLICATIONS FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBERS:** 22/01205/FUL & 22/01206/FUL

OFFICER: Mr C Miller
WARD: Tweeddale West
PROPOSALS: 22/01205/FUL – Variation of Conditions 6 and 7 of planning permission 97/00640/MIN to enable night time operation of the existing asphalt plant
22/01206/FUL - Variation of Conditions 6 and 7 of planning permission 09/00468/MIN to enable night time operation of the existing asphalt plant

SITE: Land South West of Cowieslinn Quarry, Peebles
APPLICANT: Breedon Trading Limited
AGENT: Breedon Trading Limited

PLANNING PROCESSING AGREEMENT

A Planning Processing Agreement exists on both applications for decision up until 24 April 2023.

SITE DESCRIPTION

The site is Cowieslinn Quarry, a hard rock facility 10km north of Peebles in the Eddleston Water valley. Current access leads from the A703 to the quarry, the Shiplaw Burn bordering the southern end of the site and the Cowieslinn Burn running through the site under the access road. The Shiplaw Burn is part of the River Tweed Special Area of Conservation. The site is surrounded by agricultural land, individual farms and isolated houses, together with a small group of houses known as Waterheads between the quarry and the A703.

The applications relate to the asphalt plant that is located within the quarry to the northeastern part. Plate 1 in the submitted Planning Statement shows the appearance and scale of the plant, the highest part reaching 23.2m from ground level.

PROPOSED DEVELOPMENT

Unless specifically referred to otherwise, the contents of this report refers to both Section 42 applications, including the consultations, representations and issues considered.

A Section 42 application is a planning application that seeks to vary or omit one or more planning conditions attached to the original consent. If such applications relate to a development, which was originally classified as a “Major” application, then the S42 applications are also treated the same way. This means that the final decision on the applications is not a delegated matter and must be taken by the Committee, irrespective of the recommendation or number of objections.

Circular and case law suggests the following for S42 assessment:

- Section 42 applications must be considered in terms of the development plan and any relevant material considerations,
- While Councils should consider only the conditions to which any new permission should be granted, this does not prevent consideration of the overall effect of granting the consent,
- BUT primarily where the previous permission has lapsed or is incapable of being implemented,
- In such cases, this may involve reconsideration of the principle of development in light of any material change in the development plan policies, but will not require consideration of new in every case.

As both minerals consents related to the S42 applications have been implemented, established advice is that in such cases, only the conditions and any amended conditions should be considered – not the principle of the whole development. In the particular circumstances of this development, consideration should be given primarily to the effects and impacts of the variation of Conditions 6 and 7 imposed on the original consents, to allow for night-time operation of the existing asphalt plant within the quarry and associated vehicle movements. Nevertheless, if consents are issued, then they are stand-alone permissions and all original conditions should still be applicable alongside any revised conditions agreed by the S42 consideration. There can be agreement reached thereafter, if any of the original conditions have already been discharged.

The Conditions sought to be varied were the same wording on both consents and are as follows:

Condition 6

The hours of operations for all working, with the exception of measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 0700 hours and 2000 hours Mondays to Fridays and 0700 hours to 1200 hours on both Saturdays and Sundays. In addition, no operations shall be permitted on 25th and 26th December and 1st and 2nd January.

Reason: In the interests of amenity.

Condition 7

Minerals shall only be dispatched from the site between 0700 hours and 1800 hours on Mondays to Fridays and 0700 hours and 1200 hours on Saturdays, with no movements on Sundays.

Reason: In the interests of amenity.

The S42 applications seek to amend these conditions to read as follows (with the amendments shown in italics for clarity):

Condition 6

a) The hours of operations for all working, with the exception of *the asphalt plant and* measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 0700 hours and 2000 hours Mondays to Fridays and 0700 hours to 1200 hours on both Saturdays and Sundays. In addition, no operations shall be permitted on 25th and 26th December and 1st and 2nd January.

b) In addition to the hours of operation stipulated in part a), the asphalt plant shall be permitted to operate between the hours of 2000 hours and 0700 hours Mondays to Fridays on up to 75 occasions per calendar year.

Condition 7

a) Minerals shall only be dispatched from the site between 0700 hours and 1800 hours on Mondays to Fridays and 0700 hours and 1200 hours on Saturdays, with no movements on Sundays.

b) Notwithstanding the terms of part a) above, the dispatch of asphalt shall be permitted between the hours of 2000 hours and 0700 hours Mondays to Fridays on up to 75 occasions per calendar year.

As explained within the remainder of this report, the above-amended conditions have now been amended further and it is these amended conditions that are now sought under the S42 applications. They are shown below with the further amendments shown in bold:

Condition 6

a) The hours of operations for all working, with the exception of the asphalt plant and measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 0700 hours and 2000 hours Mondays to Fridays and 0700 hours to 1200 hours on both Saturdays and Sundays. In addition, no operations shall be permitted on 25th and 26th December and 1st and 2nd January.

b) In addition to the hours of operation stipulated in part a), the asphalt plant shall be permitted to operate between the hours of 20:00 hours and **01:00** hours Mondays to Fridays on up to **50** occasions per calendar year.

c) Notwithstanding the terms of part (b) above, the asphalt plant operator may make a written request to increase its quota from 50 night time operations in any calendar year (as specified within part (b) above). The Council may agree in writing to increase the annual quota to number of occasions it deems appropriate.

Condition 7

a) Minerals shall only be dispatched from the site between 0700 hours and 1800 hours on Mondays to Fridays and 0700 hours and 1200 hours on Saturdays, with no movements on Sundays.

b) Notwithstanding the terms of part (a) above, the dispatch of asphalt shall be permitted between the hours of 20:00 hours and **01:00** hours Mondays to Fridays **on the occasions the asphalt plant is permitted to operate outwith the usual hours of operation stipulated within Condition 6(a).**

PLANNING HISTORY

The quarry was first established on the site in the 1950s and is operated on the basis of three planning permissions, two of which refer to the quarry and extension with one relating to an access road. The main quarry consent dates from 1998 (97/00640/MIN) with the quarry extension consent dating from 2009 (09/00468/MIN). The quarry outputs 250-300,000 tonnes of aggregate per annum and has 30 years of reserves remaining. The asphalt plant produces 5000 tonnes of asphalt per month and is located towards the northern edge of the operational quarry. Breedon, who run 37 quarries and 19 asphalt plants across Scotland, operates the quarry.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

BEAR: No response

Roads Planning: No objections, noting that a low number of vehicles would be generated every night shift, largely outwith peak period and thus having no negative impact on the public road network. Notes that SBC tend not to carry out road surfacing work after 10pm.

Environmental Health: Initially objected. Whilst noting that the Noise Impact Assessment predicts noise breakout in the nearest affected dwellings to be within stated maximum guidelines, still consider nature and character of noise to be at most disruptive time of day and also noise levels based upon best practice.

In second response, accepts that NIA is in accordance with PAN50 but that this is only guidance and allows authorities to consider particular circumstances in their areas. Whilst preservation of noise to tolerable levels are demonstrated, amenity protection to a higher standard during the night should be expected. As ambient noise levels in the vicinity should not have changed, there should be no justification to lift the embargo on night-time working.

In third response to the updated NIA, considers its findings more robust as information gathered at one of two nearest and most affected dwellings. Also more demonstration of compliance with other British Standards. Concerns about residential amenity in a very quiet rural area remain and seeks consideration of granting of consent only on a temporary basis, ongoing noise monitoring, limiting the days in the trial period and reducing hours of operation during the night to finish earlier.

In the fourth response, now accepts the amendments made by the applicant to the reduced hours, reduced days in the year and ongoing noise monitoring and accepts the adjustments to conditions accordingly. On this basis, now supports the application.

Ecology Officer: Lighting could cause issues for wildlife and seeks more details.

Statutory Consultees

Eddleston and District Community Council: No response.

Lamancha Newlands and Kirkurd Community Council: Night-time vehicles would not affect the CC area, as they would use the A703 to Leadburn.

REPRESENTATION SUMMARY

As a result of the neighbour notification and advertisement in the Peeblesshire News, a total of seven objections and three general comments were received. They can be viewed in full on Public Access, the main concerns being summarised as follows:

- Little justification for the requests as no local need from Roads Officer comments
- Road safety risks of additional traffic using access onto A703
- Queries over accuracy of Noise Impact Assessment and not actually recorded from affected properties nor at night

- Compromise suggested of earlier shut-off at midnight/1am and 20-50 nights in the year, or a specific schedule
- Any night time working should then be monitored
- Regular meetings also should be held with neighbours
- Noise, dust and light impacts during the night, including from lorries using the access road which is bumpy exacerbating problems
- Applicant has agreed to improve bunding and screening from access road
- Existing problems with flooding, suggesting need for Flood Risk Assessment
- Detrimental wildlife impacts
- Impacts on private water supplies
- Restoration issues
- Breaches of existing planning conditions and controls

DEVELOPMENT PLAN POLICIES:

National Planning Framework 4

Policy 1 Tackling the climate and nature crisis
 Policy 2 Climate mitigation and adaptation
 Policy 3 Biodiversity
 Policy 4 Natural places
 Policy 7 Historic assets and places
 Policy 12 Zero waste
 Policy 18 Infrastructure first
 Policy 22 Flood risk and water management
 Policy 23 Health and safety
 Policy 26 Business and industry
 Policy 29 Rural Development
 Policy 33 Minerals

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 EP8 Archaeology
 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 IS13 Contaminated Land

Proposed Scottish Borders Local Development Plan

Policy IS5 Protection of Access Routes
Policy IS13 Contaminated and Unstable Land

OTHER PLANNING CONSIDERATIONS

SBC SPG – Biodiversity
SBC SPG – Trees and Development
SBC SPG – Landscape and Development
SBC SPG – Local Biodiversity Action Plan
SBC SPG – Trees and Development

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 issue with these applications is whether the proposed night-time operation of the asphalt plant would adversely affect surrounding residential amenity to an unacceptable extent that would justify refusal of the applications. This would not only relate to the operation of the plant itself but also the associated vehicle movements to and from the A703.

ASSESSMENT OF APPLICATIONS

Policy

All applications for planning permission and minerals consent shall be assessed 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. The Development Plan consists of the Local Development Plan adopted in 2016 and the recently approved National Planning Framework 4. The Proposed Local Development Plan is now also with the Scottish Ministers for consideration and examination. The relevant minerals and other related policies are the subject of representation so cannot be afforded any particular weight in determining the planning application at this stage.

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 amend the operation of plant at an existing quarry, 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 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, including residential amenity impacts. Whilst the criteria are worded to appear to apply only to properties within 500m of a local settlement, this was amended in the Proposed Local Development Plan to clarify that it also relates to any properties within the community or considered sensitive, irrespective of their distance or inclusion within a settlement.

The other most relevant Policy in the adopted LDP is HD3, which seeks to protect existing residential areas from any development that is judged to have an adverse impact on their amenity. Policy PMD2 also seeks reconciliation of incompatible adjoining uses. This is also the aim of NPF4 Policy 33 on Minerals, which specifically seeks demonstration that there would be no significant adverse impacts on nearby homes and local communities, including demonstration of acceptable levels of noise, dust and other potential forms of pollution. This continues to be supported by various Government Guidance documents, including PAN 50 "Controlling the Environmental Effects of Surface Mineral Workings". Policy 23 of NPF4 also seeks to avoid any development that could cause unacceptable noise issues, a Noise Impact Assessment being required where significant effects are likely.

The applications are very clear in their purpose and that is, to allow the operation of the asphalt plant during night-time hours on up to 75 nights per year and associated vehicular traffic to also enter and leave the site during those hours. This would involve operation of the weighbridge, batching and dispatching of lorries. There is no request for any other night-time working or minerals extraction at the quarry. Members will note that the asphalt plant currently produces 5000 tonnes of asphalt per month out of the 250,000-300,000 tonnes of hard rock extracted per annum. It is located within the northern part of the quarry extraction area and whilst parts of the plant structures reach 23.2m above ground level, 20m high quarry faces lie to the north and south of the plant.

The applicant contends that night-time operation has become necessary due to the ambitious road improvement schedule intended within the Borders and the need to carry out such road improvements at night when traffic disruption is less. There is a lack of local choice for such asphalt and there is a need, in the applicant's view, to have the ability to supply hot asphalt for local works during night-time hours. This has not been evidenced by the Council's Roads Service who do not carry out night-time road surfacing works, their works tending to finish by 10pm. There has also been no response from BEAR who carry out improvement work for Transport Scotland in the Scottish Borders. However, the applicant states there were over 60 BEAR projects in SE Scotland in the last year, the vast majority involving overnight closures.

Whilst there has been no detailed evidence for the need to vary night-time hours for the asphalt plant, Policies do not set tests requiring demonstration of justifiable need unless residential impacts can be proven to be adverse and incapable of satisfactory

mitigation. As this application has progressed and more information made available, it would not be possible to justify a position of considering there to be adverse impacts, given the additional information received, amendment to the proposals and withdrawal of the objection from Environmental Health. Consequently, the lack of definitive evidence regarding justification for the night-time working request is not, in itself, reason to refuse the applications.

Noise

A Noise Impact Assessment was submitted with the applications and this concluded at the nearest residential properties (“Moorfoot View” and “The Burrow”), noise generation from operation of the asphalt plant and vehicles was predicted not to exceed the normally applicable night time limit of 42 dB LAeq, 1h – this is measured at a point 3.5m from any affected property façade. This figure is taken from PAN 50, which also states that discussion on the limit should take place with local Environmental Health Officers to ascertain whether it is reasonable in each particular case. Whilst PAN 50 also has specific advice on dust, traffic, vibration etc, in the case of extended night-time working of only the asphalt plant, it is considered that noise and light disturbance are the most relevant residential amenity issues to be assessed in determining the acceptability of the request.

The applicant contends that as the relevant guidance is followed, the proposal should be considered compliant with Development Plan Policies. However, there were a number of further discussions between the applicant and Environmental Health about the issue of noise levels. This resulted in a field survey of one of the two affected dwellinghouses and a more robust Noise Impact Assessment, including demonstration of how other BS guidance would not be breached. Environmental Health were more satisfied with the revised information but remained sufficiently concerned to suggest a temporary consent be granted, reducing the number of days in the trial period per annum, finishing the night time period earlier in the night and assessment of noise readings throughout the trial period.

Whilst some objectors were opposed to the principle of the request, many had sought a compromise. They felt that the selection of the number of days allowable in a year was arbitrary and queried why such long periods were sought through the night when the applicant stated that no more asphalt would leave the site after 1am. They felt that reductions in both were a reasonable request in the circumstances.

After further discussion and consideration, the applicant could not agree to a temporary consent for reasons of business uncertainty and on that basis, would be unjustified. However, the applicant has now suggested reductions in days per annum and hours per night, together with monitoring of actual night-time operating levels to compare with their predictions. These are described in full earlier in this report. In summary, the applicant now suggests the following:

- A reduction from 75 to 50 trial days per annum
- Within the 50 trial days, a shortened night-time period for operation of the asphalt plant and associated vehicles up to 1am, resulting in a period between 1am and 7am when no activity would be allowed.
- The plant operator may make a request to the Council to increase the 50 days per annum, the final decision on agreeing the increase resting with the Council.
- A new condition imposing a Noise Monitoring Plan, to be agreed with the Authority and then implemented, the intention being to check the accuracy of the predictions

and, if necessary, investigate and mitigate any lack of compliance with the predicted levels.

Environmental Health Officers have considered the amendments and they now support the application subject to the conditions as suggested. Considering this, together with the amendments that have partly addressed the objections of local residents, there is no justification to oppose the applications. The submissions demonstrate that in terms of hours and frequency of potential disturbance, major concessions have been made to ensure that the main part of the night remains undisturbed (between 1am and 7am). Furthermore, the number of instances per annum have been reduced by a third to 50 and there will be approved monitoring of the night time operational noise levels, together with any mitigation to reduce levels if proved necessary. Whilst a Noise Monitoring Plan is already a condition of the quarry extension consent, a specific Plan for night-time hours can be sought by a new condition on the Section 42 consents.

The removal of the Environmental Health objection is supported for the aforementioned reasons, the amended conditions allowing an existing quarry to diversify and meet a perceived market requirement without demonstrating significant adverse residential impacts. The only remaining issue is with the wording of the suggested Condition 6) c) which states:

c) Notwithstanding the terms of part (b) above, the asphalt plant operator may make a written request to increase its quota from 50 night time operations in any calendar year (as specified within part (b) above). The Council may agree in writing to increase the annual quota to a number of occasions it deems appropriate.

To clarify that the control is with the Council and that it would still be possible, if justified, to deny the increased quota of days, the following amendments in bold are suggested:

*c) Notwithstanding the terms of part (b) above, the asphalt plant operator may make a written request **to the Planning Authority** to increase its quota from 50 night-time operations in any calendar year (as specified within part (b) above). The Planning Authority **will then decide**, in writing, **whether** to increase the annual quota to number of occasions it deems appropriate.*

It is also noted that the latest amended submission from the applicant continues to request that minerals dispatched from the site be allowed for the 50 days night-time period from 2000 hours to 0700, yet the original conditions imposed on the quarry and quarry extension consent requested cessation of dispatch vehicles by 1800 hours. This means that on the 50 occasions in the year when the asphalt plant can operate from 0700 through to 0100 the next morning, associated vehicles could not leave the site between 1800 and 2000 hours during that period which seems illogical. This issue was raised with the applicant previously during the processing of the applications and they confirmed, by email of 2 November 2022, that this was a typographical error and that the dispatch period sought during the night-time working allowance for the asphalt plant should commence at 1800 hours, not 2000 hours. This matter was raised with the applicant who confirms the error that the request is for continuous dispatch without break, from 0700 to 0100 over the 50 days period per year.

On the above basis, it is considered that the amended S42 applications would comply with LDP Policies PMD2, ED12 and HD3, together with NPF4 Policies 23 and 33 relating to noise impacts from minerals workings in relation to residential amenity.

Other residential impacts

Whilst noise is probably the most significant issue to be considered when assessing the night time working request, there are other impacts from the quarry that should also be considered – dust, vibration and, in particular, lighting and light pollution. Given the request is to lengthen the operation of the asphalt plant on certain nights in the year, issues of dust and vibration would be generally covered by the existing conditions imposed on the original and extended quarries (including wheel washing, a dust management system, vibration limits, prior warning of blasting etc). The implementation and enforcement of these conditions remains valid in relation to those consents and any S42 approval of night-time working for the asphalt plant will cross-reference all existing conditions that remain pertinent.

In terms of lighting, this has been raised in two respects – light pollution on residential amenity and impacts on wildlife. It is noted that lighting has not been controlled by condition on either the original quarry consent from 1998 or the extension consent in 2009. Given that the S42 applications are to increase the impact of artificial lighting in terms of extending the hours of its use on 50 nights per year, it is necessary to consider increased impacts.

In terms of residential amenity, this issue was raised by some of the objectors but mainly in relation to vehicle lights using the access road. The applicant contended that quarry lighting was well screened from houses and that should there be a requirement for additional planting and bunding around the quarry and haul road, this would be reviewed. Whilst the issue has not been raised by Environmental Health, the fact that there are no specific existing conditions on lighting and that the applicant is offering to consider enhanced screening, suggests that it would be reasonable to add an additional condition to the S42 consents for night-time working. This could seek further lighting details for the quarry and mitigation in the form of suitable screening for both the quarry and access road. Similarly, the requirements of the Ecology Officer can also be addressed by the same additional conditions.

Taking all of the above material issues into account and, subject to appropriate conditions, it is, therefore, considered that the protection of residential amenity objectives contained within Policies PMD2, ED12, HD3 and 33 would be complied with by the development.

Other matters

There were a number of other issues raised within representations which have been considered and which have been responded to by the agent. Some have commented that the noise from vehicles using the access road will be intrusive during night-time hours due to the bumpy condition of the road. LDP Policy ED12 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. However, the condition of the road is already covered by a condition imposed on the access consent, requiring it to be completed to the Council's specification. Should there be any complaints regarding noise from vehicles during the 50-day night-time operation period, which can be attributed to the condition of the access road, this can be investigated under the access consent condition.

Another issue raised was the road safety risks of additional traffic using the access road at its junction with the A703. Local Development Plan Policies PMD2 and ED12 require safe access to and within developments. The applicant has claimed there would be no additional traffic using the access as the asphalt plant meets an existing

demand and it is not anticipated that allowance for night-time working would increase that demand or number of vehicles. The SBC Roads Planning Service agree, noting that a low number of vehicles would be generated every night shift, largely outwith peak period and, thus, would have no negative impact on the public road network. Given they made this comment on the basis of a night time extension of 1800 hours to 0700 the next morning and 75 nights in a year, the reduction to 1800 hours to 0100 on 50 nights in a year will have even less impact on the road network. It is, therefore, considered that road safety impacts will be acceptable in terms of Policies PMD2 and ED12.

There have also been concerns and objections submitted in relation to impacts on flooding, some commenting that a Flood Risk Assessment is necessary. As the applications are simply to amend working hours for the asphalt plant, it is not considered justifiable to pursue such issues under the remit of the S42 Applications. Flood risk can be reported and investigated under the terms of the existing quarry and extension consents and conditions. The same would apply to concerns over impacts on private water supplies and the general concerns over breaches of existing conditions by the quarry operator, including currently imposed operating times. The applicant has now confirmed that those times are being adhered to.

CONCLUSION

In conclusion, the principle of the development cannot be re-examined as the original permission and extension consents were implemented within the original commencement timescales. The proposal to allow night-time operation of, and vehicular access to/from the asphalt plant, has now been demonstrated to have no unacceptable adverse impacts on nearby housing. Given the information submitted in the Noise Impact Assessment, the reduction in night-time hours and days per annum sought, the intention to monitor noise levels and the additional planting/bunding offered between the quarry, access road and neighbouring houses, the proposed amendment is now considered acceptable. Subject to appropriate conditions and to all previous conditions and pursuant agreements reached, the proposals are considered to be in compliance with Local Development Plan Policies PMD2, ED12, HD3 and NPF4 Policies 23 and 33.

RECOMMENDATIONS BY CHIEF PLANNING AND HOUSING OFFICER:

22/01205/FUL

I recommend the application is approved subject to the following conditions:

1. a) The hours of operations for all working, with the exception of the asphalt plant and measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 0700 hours and 2000 hours Mondays to Fridays and 0700 hours to 1200 hours on both Saturdays and Sundays. In addition, no operations shall be permitted on 25th and 26th December and 1st and 2nd January.
- b) In addition to the hours of operation stipulated in part a), the asphalt plant shall be permitted to operate between the hours of 2000 hours and 0100 hours Mondays to Fridays on up to 50 occasions per calendar year.
- c) Notwithstanding the terms of part (b) above, the asphalt plant operator may make a written request to the Planning Authority to increase its quota from 50 night-time operations in any calendar year (as specified within part (b) above). The Planning Authority will then decide, in writing, whether to increase the annual quota to number of occasions it deems appropriate.

Reason: In the interests of amenity.

2. a) Minerals shall only be dispatched from the site between 0700 hours and 1800 hours on Mondays to Fridays and 0700 hours and 1200 hours on Saturdays, with no movements on Sundays.

b) Notwithstanding the terms of part (a) above, the dispatch of asphalt shall be permitted between the hours of 1800 hours and 0100 hours Mondays to Fridays on the occasions the asphalt plant is permitted to operate outwith the usual hours of operation stipulated within Condition 1(a).

Reason: In the interests of amenity.

3. With the exception of the Conditions hereby amended as above, the development shall be implemented in accordance with the schedule of conditions approved under applications 97/00640/MIN and 01/00669/FUL and in accordance with all agreements/approvals under the terms of those conditions.

Reason: To ensure the development is implemented and operated in accordance with all measures within the approved schedule of conditions under the original quarry planning consent and quarry extension planning consent, to ensure compliance the Development Plan and relevant planning policy guidance.

4. Notwithstanding the terms of any conditions under previous consents at the site, no night-time working of the asphalt plant to commence until a scheme of site lighting together with bund and planting screening of the site and access road is submitted to, and approved in writing by, the Planning Authority. The lighting and screening then to be implemented and operated in accordance with the approved scheme.

Reason: To safeguard residential and ecological receptors in the vicinity of the site.

5. Notwithstanding the terms of any conditions under previous consents at the site, no night-time working of the asphalt plant to commence until a Noise Monitoring Plan for the night-time operation of the asphalt plant and associated vehicles is submitted to, and approved in writing by, the Planning Authority. The Plan then to be implemented and operated in accordance with the approved details.

Reason: To safeguard residential receptors in the vicinity of the site.

22/01206/FUL

I recommend the application is approved subject to the following conditions:

1. a) The hours of operations for all working, with the exception of the asphalt plant and measures required in an emergency situation, servicing, maintenance and testing of plant, shall be limited to the hours of 0700 hours and 2000 hours Mondays to Fridays and 0700 hours to 1200 hours on both Saturdays and Sundays. In addition, no operations shall be permitted on 25th and 26th December and 1st and 2nd January.

b) In addition to the hours of operation stipulated in part a), the asphalt plant shall be permitted to operate between the hours of 2000 hours and 0100 hours Mondays to Fridays on up to 50 occasions per calendar year.

c) Notwithstanding the terms of part (b) above, the asphalt plant operator may make a written request to the Planning Authority to increase its quota from 50 night-time operations in any calendar year (as specified within part (b) above). The Planning Authority will then decide, in writing, whether to increase the annual quota to number of occasions it deems appropriate.

Reason: In the interests of amenity.

2. a) Minerals shall only be dispatched from the site between 0700 hours and 1800 hours on Mondays to Fridays and 0700 hours and 1200 hours on Saturdays, with no movements on Sundays.
 b) Notwithstanding the terms of part (a) above, the dispatch of asphalt shall be permitted between the hours of 1800 hours and 0100 hours Mondays to Fridays on the occasions the asphalt plant is permitted to operate outwith the usual hours of operation stipulated within Condition 1(a).
 Reason: In the interests of amenity.

3. With the exception of the Conditions hereby amended as above, the development shall be implemented in accordance with the schedule of conditions approved under applications 01/00669/FUL and 09/00468/MIN and in accordance with all agreements/approvals under the terms of those conditions.
 Reason: To ensure the development is implemented and operated in accordance with all measures within the approved schedule of conditions under the original quarry planning consent and quarry extension planning consent, to ensure compliance the Development Plan and relevant planning policy guidance.

4. Notwithstanding the terms of any conditions under previous consents at the site, no night-time working of the asphalt plant to commence until a scheme of site lighting together with bund and planting screening of the site and access road is submitted to, and approved in writing by, the Planning Authority. The lighting and screening then to be implemented and operated in accordance with the approved scheme.
 Reason: To safeguard residential and ecological receptors in the vicinity of the site.

5. Notwithstanding the terms of any conditions under previous consents at the site, no night-time working of the asphalt plant to commence until a Noise Monitoring Plan for the night-time operation of the asphalt plant and associated vehicles is submitted to, and approved in writing by, the Planning Authority. The Plan then to be implemented and operated in accordance with the approved details.
 Reason: To safeguard residential receptors in the vicinity of the site.

DRAWING NUMBERS

Location Plan 2022-07-14-C23-001

Location Plan 2022-07-15-C23-001

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



22/01205/FUL
& 22/01206/FUL

Cowieslinn Quarry
Eddleston

