

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

4th DECEMBER 2023

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 23/01144/FUL
OFFICER:	Mr Scott Shearer
WARD:	East Berwickshire
PROPOSAL:	Variation of condition 4 of planning consent 14/01186/MIN to increase the rate of extraction
SITE:	Glenfinn Quarry Neuk Cockburnspath
APPLICANT:	Kinegar Quarries Ltd
AGENT:	AMS Associates Limited

SITE DESCRIPTION

Glenfinn Quarry is an existing hard rock quarry which is located 2.5km to the southeast of Cockburnspath. The application site includes the existing quarry and also land to the southwest through Gledstane Forrest and towards Ewieside Hill where planning permission has been obtained to extend the quarry under minerals consent 14/01186/MIN. Access is provided via a short access road which connects the site directly to the A1.

The site lies in-between the Berwick Coast Special Landscape Area (SLA) and the Lammermuir Hill SLA however it does not fall within either of these designations. Ewieside Hill fort, a Schedule Monument, lies immediately to the western corner of the site. The site is not subject of any nature designations.

PROPOSED DEVELOPMENT

The application is submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, to vary Condition 4 of planning consent 14/01186/MIN. Condition 4 controls the volume of material which could be removed from the land each year and exported from the quarry. The proposal requests that the volume of extracted material is increased from 100,000 tonnes per annum over any period of three year to 175,000 tonnes per annum over any period of three years.

PLANNING HISTORY

The site is understood to have been operated as a quarry for approximately 33 years. In 2016 a recommendation to extend the quarry to the southwest under 14/01186/MIN was approved by the Planning and Building Standards (P&BS) Committee, subject to a range of planning conditions and a Section 75 Legal Agreement to cover the cost of restoration works. Following conclusion of the Legal Agreement, consent was issued in July 2023.

REPRESENTATION SUMMARY

No third-party representations have been received.

APPLICANTS' SUPPORTING INFORMATION

A Supporting Statement has been provided. A full copy is available to view on *Public Access*

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: Access to the quarry is directly from the A1 trunk road therefore Transport Scotland are responsible for considering the impact of the development upon the affected road network.

Statutory Consultees

Community Council: No objection, on the basis that further information is provided to satisfy Transport Scotland that any increase in the volumes of traffic can safely access the site.

Transport Scotland (first response): Request the submission of swept path analysis of A1 / Tower Farm junction to demonstrate that large haulage vehicles can safely navigate the junction.

Transport Scotland (second response): No objection following submission of the swept path analysis.

Other Consultees

None.

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 23 Health and safety
Policy 26 Business and industry
Policy 29 Rural Development
Policy 33 Minerals

Scottish Borders Local 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 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 IS9 Wastewater Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Circular 4/98 Use of Conditions

KEY PLANNING ISSUES:

- Justification for increased rate of mineral removed from the land and whether it would adversely affect the surrounding environment.
- Impacts on road safety.
- Any other material changes since the original decision.

ASSESSMENT OF APPLICATION:

Existing consent

The proposed variation of condition relates to the consent for the extension of the existing quarry only. It does not involve the extraction of material from the original quarry site. Although the application to extend the quarry was approved by the P&BS Committee in Jan 2017, consent 14/01186/MIN was not issued until the 5th of July 2023 following the lengthy conclusion of its associated legal agreement. This consent remains implementable until 5th July 2026 and the developers are actively progressing submissions to discharge suspensive conditions attached to the existing permission to allow it to be implemented.

A Section 42 application for variation of condition does not alter the original consent which will remain in place. Should the variation of Condition 4 be granted (with a new limit for mineral extraction), then it will be necessary to re-attach all relevant conditions as per the existing planning consent. This would effectively result in two permissions being in place, one expiring in July 2026 and one in December 2026, albeit the latter consent permitting an increase in annual extraction rates.

Due to there being an implementable permission, this application should only be assessed against matters listed as Key Planning Issues.

Justification for increased rate of extraction

The original condition was attached to control the volume of material to be removed from the land to ensure that the quarrying activities do not adversely affect the amenity of the surrounding environment. Seeking to control this is standard planning

practice for a quarry development. The current consent which permits extraction levels up to 100,000 tonnes per annum over a three-year period was consistent with the volumes being extracted from the quarry when application 14/01186/MIN was lodged to extend the quarry in 2014. The applicants originally sought to increase this limit to 240,000 tonnes however through the course of this Section 42 application, this request has been reduced to 175,000 tonnes.

This proposal only seeks to increase the limit of the volume of mineral which can be extracted from the quarry each year. No changes are sought to the depths of extraction which will take place. This will remain as per the original consent and will be limited to 184 metres Above Ordnance Datum during Phases 1-7 and 190 metres Above Ordnance Datum during Phases 8-13. These limits will remain controlled by Condition 1 of the original consent. It is still estimated that this development will result in the quarrying of 5.1 million tons of hard rock as per the assessment which was conducted when the original application was considered.

This proposal would effectively increase the speed of extraction but would not affect the overall level of material which will be extracted over the life of the quarry. This change has been driven by the sale of the quarry to a different operator. The supporting statement notes that the working processes of the new operator would increase the efficiency of the volume of minerals which can be extracted and processed at the site. Increasing the volume of material which can be mined and exported from the quarry will respond to market demand for building material where required and help to further boost the economic impact of the development.

In terms of the environmental impacts associated with the proposal, no changes are sought to the operational times permitted under Condition 6 of 14/01186/MIN. Importantly, the environmental mitigation which includes the requirement for amenity bunds, noise limits, dust management, operational requirements and all other mitigation specified in the Conditions attached the previous consent would still be appropriately controlled and help mitigate the impacts of the development on the surrounding environment.

Impacts on Road Safety

The development is accessed (via a short length of private track) directly from the A1. The applicant has advised that the intended fleet of lorries (assessed as part of the original submission) would have generated thirty-three journeys in and out of the quarry in any given day to export the approved 100,000 tonne annual limit. Despite the proposed increase in the volume of material to 175,000 tonnes per annum, the applicant has advised that modern HGVs would be used which have an increased carrying capacity and would reduce the number of daily vehicle movements to twenty-six trips in and out of the quarry.

The Roads Planning Service have not raised local road safety concerns associated with this proposed variation. In response to the initial consultation response of Transport Scotland, a swept path analysis has been provided to demonstrate that larger articulated vehicles can safely navigate the sites access road junction with the A1 in each direction. Transport Scotland are satisfied that the proposal poses no trunk road safety implications. The swept path analysis also confirms that vehicle movements do not impact on the adjacent access road to Tower Farm. The development complies with relevant development plan policy requirements covering access and road safety.

Material Changes Since Decision

If the proposed rate of mineral removal is to be supported at this site, it is also necessary to consider whether there have been any changes in planning policy or any other material considerations that would be of significance in terms of the acceptability of the development.

Planning Policy

The original development was principally considered against the Development Plan in force in 2017 which consisted of the Consolidated Local Plan 2011 and SES Plan alongside the Proposed LDP, SPP and NPF3.

National Planning Policy

National Planning Framework 4 (NPF4) has replaced both NPF3 and SPP and brought a significant legislative change whereby NPF4 now forms part of the Council's statutory development plan and directly influences planning decisions. The proposed variation to Condition 4 is therefore required to be considered against the relevant policies contained within NPF4.

Key to establishing whether the principle of the development is suitable against NPF4 is its compatibility with Policy 33: Minerals. This policy seeks to support the sustainable management of minerals resources and minimise the impact of extraction of minerals on both communities and the environment. Subject to full compliance with the schedule of conditions and the legal agreement covering the financial bond for site restoration works, it is considered that the development is fully compliant with criteria d) of Policy 33. The merits of the proposal have also been considered against other relevant NPF4 Policy considerations including policies covering biodiversity, historic assets, health and safety and residential amenity, and raise no areas of concern or conflict.

Local Development Plan

The proposal was considered against the Proposed LDP which has subsequently been adopted and remains the current LDP. There has not been any change to LDP Policy that would justify any re-examination of the earlier decision to approve the development or alter its proposed rate of extraction. The original planning conditions and legal agreement associated with the earlier consent will remain in place to mitigate and control the appropriate development and operation of the site in accordance with LDP requirements.

SES Plan has now been superseded by NPF4 and no longer forms part of the Council's Development Plan.

Other Matters

Since the last report to Members in 2016, there has been no significant changes to the context of the site. The mitigation sought by planning conditions and legal agreement requirements detailed within the previous Committee Report will continue to mitigate the impacts of the development against all relevant provisions of the LDP and Policy considerations within NPF4. There has been no shift in policy, or other material considerations, which would justify a full examination of the principle of development on this site.

CONCLUSION

There is a valid consent in place to extend Glenfinn Quarry, allowing for commencement of these works up until July 2026. It is considered that the variation sought to Condition 4 of consent 14/01186/MIN which would increase the average volume of extracted material from 100,000 tonnes to 175,000 tonnes will not result in any operations or impacts which will adversely affect the surrounding environment, subject to requirement that the development is operated in accordance with the requirements and mitigation specified by the conditions and legal agreement attached to the original permission.

Furthermore, there has been no significant shift in policy or other material changes that would determine that the original decision should be re-examined, and the decision reversed. The proposed development remains compliant with Policies contained within the Scottish Borders Local Development Plan and relevant Policy provisions of National Planning Framework 4.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

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

1. The rate of mineral extraction from the site shall not exceed 175,000 tonnes per annum over any period of three years. Written records shall be kept by the operator of all Heavy Goods Vehicle movements off site including the weight of minerals carried by each vehicle and that information shall be made available for inspection by the Planning Authority on an annual basis on the last day of March each year.
Reason: To safeguard the amenity of the surrounding area and avoid excessive extraction levels.
2. With the exception of Condition 4 of consent 14/01186/MIN hereby amended as per Condition 1 above, the development shall be implemented in accordance with the plans, drawings, supporting information and schedule of conditions approved under application 14/01186/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 planning consent, to ensure compliance the Development Plan and relevant planning policy guidance.

DRAWING NUMBERS

Location Plan	A Location Plan
Existing Site Plan	104
Phasing Plan	101
Swept Path	MTS 11031 SK01

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

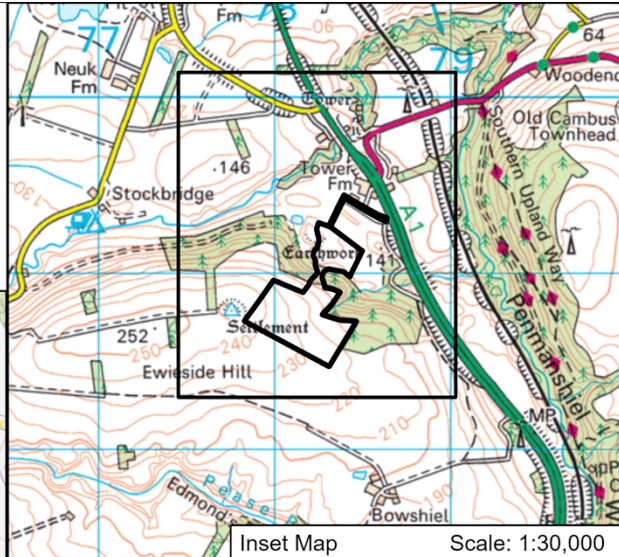
Author(s)

Name	Designation
Scott Shearer	Principal Planning Officer (Local Review and Major Development)



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Glenfinn Quarry
Cockburnspath



Scale: 1:7,500