PLANNING APPLICATION 15/00503/DPP: MIDDLETON LOWER QUARRY IN-FILL

RESPONSE FROM MOORFOOT COMMUNITY COUNCIL

August 2015

1. Moorfoot Community Council (MCC) objects to the proposal for in-fill of the Middleton Lower Quarry as set out in planning application 15/00503/DPP. However the basis for this objection relates to the detail of the proposal, not to the principle and aim of the application, i.e. the in-fill of the quarry void and restoration of the site. MCC supports the aim of restoring the site. In the event that revised proposals addressing the issues set out below are submitted by the applicant, or planning conditions are proposed that would satisfactorily address these issues, the Community Council will review its position.

2. MCC has reviewed the Environmental Statement (ES) for the development, the appendices to the ES, and the applicant’s responses to issues raised by MCC and members of the public at pre-application stage, as set out in the Pre-Application Consultation (PAC) Report accompanying the application.

3. MCC’s concerns about the proposed development relate to the following issues:
   - road traffic and road safety;
   - site operating conditions;
   - the proposed end use of the site;
   - monitoring of the materials used for the in-fill; and
   - provisions for assuring the completion of the project.

4. We are pleased to note that the applicant has made commitments on a number of points which we raised at pre-application stage, including the establishment of a community liaison group, explanation of the role of SEPA in monitoring the project, and the upgrading of perimeter fencing and warning signs.

Road traffic and road safety

5. It is clear that the proposal has generated significant concern in the local community, particularly about the impacts arising from the
additional road traffic that will be generated by the development, six days a week over a period of up to seven years.

6. Concern has been expressed by local residents about the damage to the verges on the Guildie Howes Road caused by existing lorry traffic. This makes it difficult or impossible for pedestrians to safely use the road or its verges. The proposed in-fill would exacerbate this impact over a further seven year period.

7. MCC submits that this is not in compliance with the Midlothian Local Plan Policy WAST3, requirement E, that “it can be demonstrated that the additional traffic generated by the development can be accommodated on the local road network without causing an unacceptable hazard or inconvenience to other road users, or damage to the surface of the road carriageway and adjoining verges.” The ES contains no proposals for mitigation of this impact.

8. The Transport Assessment states that “the applicants would be willing to enter into a Section 96 agreement to deal with this”. The PAC Report states that “The applicant is willing to contribute to the improvement of the Guildie Howes Road, this being on a pro rata basis with respect to usage.” However it goes on to state “it is considered that pedestrians can safely use this route without further safety provision.”

9. MCC submits that any Section 96 agreement or other means of contribution to repair and maintain the Guildie Howes Road must contain adequate provision for pedestrians, including maintaining the verges to allow continued safe pedestrian access throughout the duration of the project.

10. The Transport Assessment considers that the visibility at the Guildie Howes Road/A7 junction is adequate, and that HGV movements to/from the A7 would be “very low”. However no consideration seems to have been made of the additional hazards generated by the HGV movements in relation to:
   - the speed differential of traffic at this junction;
   - the staggered layout of the Guildie Howes Road and North Middleton village access junction;
   - increased traffic flows at school opening and closing times; and
   - the complex traffic dynamics that can arise from this mix.

11. For example, traffic turning right on to the A7 northbound from North Middleton – a junction with limited sight lines – will have to mix
with fast-moving southbound and northbound traffic on the A7, HGVs turning right into Guildie Howes Road, and further HGVs turning left on to the A7 from Guildie Howes Road.

12. The dynamics of this junction have long been a concern to local residents, and have led to numerous calls for imposition of a 40 mph limit on this part of the A7. MCC submits that a 40 mph limit should be imposed on the A7 from north of the Guildie Howes junction to south of the North Middleton junction as a condition of any consent for this development.

13. While the Transport Assessment considers the levels of traffic in the immediate local area, it states that “detailed consideration of movements within the wider area in relation to the A7, which is a major distribution route, is not considered to be necessary or appropriate.” However, at least 75% of the HGV movements to and from the site are predicted to route between the site and the Sheriffhall Roundabout via the A7 – a route which is subject to traffic generated by an ever-increasing number of planned and ‘windfall’ developments.

14. Therefore, MCC submits that a proper cumulative assessment of the impact of this development on traffic levels on the A7 up to and including the Sheriffhall Roundabout should be carried out. This would be in keeping with Policy TRAN2 of the Proposed Midlothian Local Development Plan, which states: “Contributions from all planned and windfall developments within each Strategic Development Area (SDA) will be expected to contribute to the provision of the relevant strategic road interventions identified above by SDA, as detailed in the Supplementary Guidance on Developer Contributions.”

15. Paragraph 3.3.2 of the ES states that the site access road will be surfaced for a distance of 20 metres back from the public road, and a wheel wash installed at the edge of the new surfacing. MCC submits that this is inadequate to mitigate the significant effects of dust, mud on the public road, and the hazard of thrown stones to other road users.

16. The adjacent entry to the Cemex quarry has been surfaced to a distance of some 170 metres back from the public road in order to reduce the carriage of mud and stones on to the public road. The same standard should be applied to this application. The wheel wash should be installed adjacent to the end of this extended access road surfacing.
17. Wheel washes and driver inspections are known to have limited effectiveness at removing stones from wheels. Road humps and cattle grids are used in other sites to improve stone removal. The applicant should additionally be required to install these at suitable points on the access road as an additional means of dislodging stones from wheels.

18. Currently, incoming lorries frequently queue up on the public road awaiting access to the site because the weighbridge is located close to the site access. The weighbridge should be re-located further into the site in order to allow any queues of lorries to remain fully within the site and not on the public road.

19. Warning signs should be erected on the public road at an appropriate distance from the site entrance, especially prior to the bend on the public road to the south east of the site entrance.

Site operating conditions

20. The proposed operating hours of the site – 11 hours a day for six days a week – do not provide sufficient respite for local residents from the traffic, noise and dust impacts. Five and a half day working is standard practice at many other mineral and landfill sites. Site operations and movement of lorries into and out of the site should be restricted to 0700 to 1800 Mondays to Fridays and 0700 to 1300 on Saturdays.

21. In order to prevent lorries queuing on the public road, as currently occurs, there should be a condition prohibiting lorries from approaching the site entrance before 0700 hours.

22. It is recognised that the stated figure of 66 HGV movements per day is an average and that actual lorry movements could vary significantly from that figure. In order to limit the maximum impacts of these movements, an upper limit, such as 100 HGV movements on any one day, should be imposed as a planning condition.

23. In order to avoid unacceptable levels of cumulative impact, no operations should be allowed to commence on the restoration of the Lower Quarry until the restoration of the Upper Quarry is confirmed as being completed to a standard acceptable to the Council and to SEPA.
The proposed end use of the site

24. The application proposes restoration of the site to recreational use. No other potential uses are considered in the ES. This is in contrast to the restoration requirements of the original Middleton Quarry planning consent (198/81) and of the Breach of Condition Notice which governs the current in-fill operations at the Upper Quarry, all of which require the land to be restored “to a condition suitable for agricultural use”. MCC submits that the applicant should have assessed the potential for agricultural use of the site following restoration and that failure to do so constitutes an inadequate consideration of alternatives in the ES.

25. In the event that the end-use of the site, following restoration and aftercare, is recreational, MCC has proposed to the applicant that they consider gifting the land to a suitable community body. However no such proposal is considered in the ES, and paragraph 4.9 of the PAC Report states: “The land will remain in the ownership of The NWH Group.” This is an inadequate response. A road haulage company has no obvious interest in retaining ownership of a piece of recreational land with low development value.

26. MCC submits that the long term safeguarding of the restored site, beyond the five year aftercare period, is best achieved by community control, and this would be in keeping with Scottish Government policy encouraging community land ownership.

27. In the event that the Council does not require the applicant to offer the restored land to the community, and does not require the land to be restored to agricultural use, MCC suggests that a condition be applied to the consent that requires the “recreational” use of the land to include free public access on foot, cycle or horse.

Monitoring of the materials used for the in-fill

28. The acceptability of the in-fill proposal, particularly in terms of assuring that the site does not release contaminants into the soil or water courses, depends critically on ensuring that inappropriate materials do not find their way on to the site. The statements in the ES on the nature of the imported materials and the arrangements for monitoring incoming truck contents contain a number of omissions and ambiguities. MCC submits that these arrangements should be clearly and unambiguously stated, and underpinned by planning conditions.
29. Paragraph 3.4 of the ES states: “All waste shall be subject to inspection and testing at source and shall only be transported by registered waste carriers. All waste tipped at site will be inspected; any rejected loads will be reported to SEPA immediately, with a copy of the rejection note forwarded.” However it is not clear how these inspections can ensure that no unacceptable, non-inert materials enter the site, for example when unacceptable materials may lie underneath the visible portion of the load. It is also unclear whether the inspections are carried out solely by individual drivers, or additionally by other personnel. Further details should be provided.

30. Paragraph 4.4.1 of the ES states: “It is envisaged that the majority of the waste utilised to reinstate Middleton would be unsuitable for recycling.” This implies that as much as 49% of the waste could be recycled. There should be greater clarity as to:
   - how much of the waste is expected to be recyclable;
   - whether that material is appropriate for in-fill on this site;
   - what opportunities there may be for recycling that material; and
   - whether developments in recycling facilities in the SESPlan area within the lifetime of this proposed development may alter the assumptions made about the proportion of the material that is recyclable.

31. Paragraph 8.2.3 of the ES states: “In consideration of the requirement to establish sustainable habitats at the site in perpetuity, it may be necessary to import soils and soil forming material onto the site. This would ensure a suitable planting depth for areas of grassland and woodland. This requirement would be dependent on the availability of soils as the development progresses.” Since the importing of “soils and soil forming material” on to the site will have potentially significant effects on (a) the potential for contamination and (b) the volume of imported materials required, and therefore the volume of traffic generated, it is necessary that these volumes are more clearly specified.

32. The applicant should also be required to specify:
   - the expected source and geographical location of the soil materials to be used in the restoration;
   - whether “soil forming materials” will include materials such as sewage sludge;
   - if so, in what volumes, and
   - what arrangements will be put in place to control its environmental effects.
Provisions for assuring the completion of the project

33. MCC fully supports the aim of restoring the Middleton Lower Quarry to a use that is safe and environmentally acceptable. However that aim can only be achieved if assurance is provided that the restoration is fully implemented. A partial restoration of the site cannot be assumed to create a better environment than currently exists. In the event of company failure or a major change in the availability of suitable in-fill materials, the quarry could be left in a condition that is less safe and/or more environmentally damaging and/or less accessible to the public and/or less usable for agriculture and/or more unsightly than the site in its current condition.

34. In this respect MCC disagrees with the assertion in paragraph 4.5 of the PAC Report that “cessation of the proposed operations at any stage would leave the site in a better condition than the current situation”. We note that this assertion is not repeated, nor backed up, by the assessments set out in the ES.

35. Paragraph 3.2 of the ES sets out the required volumes of in-fill materials to complete the restoration in seven years, and states that the volumes of waste handled by the applicant in the past five years indicate that the supply of waste materials to meet the requirement at Middleton Quarry are “realistic and achievable”. However no figures are provided for the supply over the past five years or the predictions for the lifetime of the development. Since the aim of the proposal will not be achieved if these figures are wrong, the applicant should be required to provide more robust justification of their claim that there will be enough material available to achieve full restoration in the specified time period. There should also be a clear ‘Plan B’ set out, showing how the restoration will be achieved if the supply of waste arisings fails to meet the assumed levels.

36. Policy WAST3 of the Proposed Midlothian Local Development Plan requires that, for landfill developments, “Applicants will be required to submit proposals for site restoration and aftercare and demonstrate that robust financial arrangements are in place”. However no such proposal has been submitted, and paragraph 4.5 of the PAC Report states: “the NWH Group consider that a requirement for a restoration guarantee is inappropriate.”

37. Experience from quarrying and surface mineral sites across Scotland and elsewhere in the UK – including recent experience in
Midlothian - demonstrates that robust financial guarantees are essential to ensure the full delivery of consented restoration programmes. Paragraph 4.3.4 of the ES states that “The import of PAN 64 has been taken into account in the preparation of restoration proposals.” Paragraph 112 of PAN 64 (Reclamation of Surface Mineral Workings) states: “The Scottish Executive considers that financial guarantees are an appropriate means of reassuring local communities of operators’ commitment and ability to meet their restoration and aftercare obligations. Financial guarantees to ensure full restoration and aftercare should the mineral operator fail to implement the agreed works can be provide by mutual funding schemes. However, in Scotland it is common practice for operators to provide a restoration and aftercare bond as a financial guarantee.”

38. MCC submits that, without a robust and transparent proposal to guarantee the completion of the proposed restoration in the event of company failure or a significant change in market conditions, the application should be rejected.