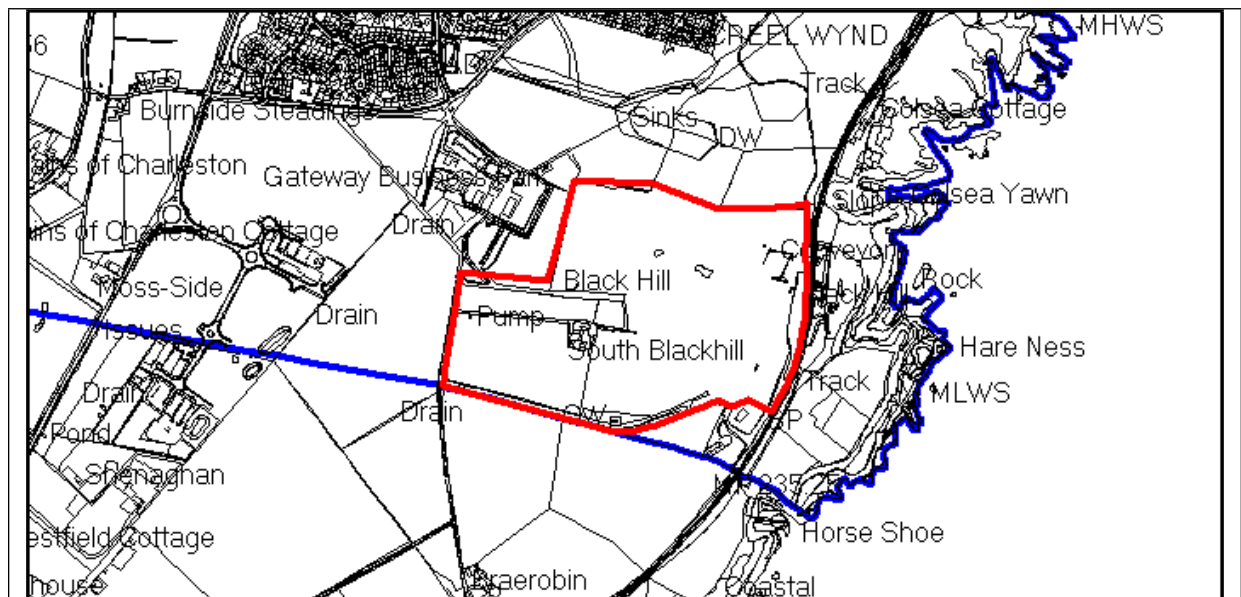


Planning Development Management Committee Section 42 (Variation to Conditions)

161759/S42: Variation of condition 3 (hours of operation) of 130490 for extension to quarry at Blackhills Quarry, Leiths (Scotland) Ltd, Cove, Aberdeen
AB12 3LR

For: Leiths (Scotland) Limited

Application Date:	13 December 2016
Officer:	Paul Williamson
Ward:	Kincorth/Nigg/Cove
Community Council:	Cove And Altens
Advertisement:	Project of Public Concern
Advertised Date:	21 December 2016
Committee Date:	16 March 2017



Location Plan

RECOMMENDATION: Willingness to Approve Subject to s75 Planning Obligations and Conditions

SITE DESCRIPTION

Blackhills Quarry is an existing operational hard rock quarry situated in a semi-rural location to the south of Aberdeen. The southern boundary of the application site adjoins the administrative boundary with Aberdeenshire Council.

APPLICATION REF: 161759/S42

Cove Cottage, a residential property within the ownership of the applicants, is located some 100m to the south of the site; access to which is gained via the quarry access road. The closest private residential property, Colsea Cottage, is located some 250m to the north-east. Cove is located to the north and the site is approximately 300m from the closest residential properties therein.

The Gateway Business Park is located some 400m to the west of the permitted quarry development and some 300m from the proposed extension area. A vegetated strip of land along the eastern boundary forms a stand-off between the quarry and the East Coast Railway Line, with land falling sharply away to the coast and the North Sea after this. The applicant's main office and workshop, at Rigifa Farm, is located to the north-west.

RELEVANT HISTORY

There has been a quarry at this location since the early twentieth century. The applicant, Leith's, re-opened the quarry in 1977, and have been continuously engaged in the winning and working of hard rock from that time. The most recent planning permissions are as follows:

Planning Permission (Ref: 85/2431) was approved in May 1986 for the extension and formation of a new base level to the rock quarry.

Planning Permission (Ref: 96/1600) was approved in November 1996 for an extension and retention of use of the quarry and construction of a new access road.

Planning Permission (Ref: A6/2284) was approved in March 2007 for a variation to conditions associated with Planning Ref: 96/1600.

Planning Permission (Ref: 130490) was approved (subject to a legal agreement) on 7 January 2015. That application was for the extension to the existing quarry and continuation of operations until November 2050.

DESCRIPTION OF PROPOSAL

Following the grant of planning permission (Ref: 130490) in January 2015 for the extension of Blackhills Quarry, and the continuation of hard rock extraction and processing, the applicant is seeking planning permission to

1. vary the hours of operation which were previously attached to the aforementioned permission until 18 July 2017

This would effectively allow a slight extension of the hours of hard rock quarrying and extraction by 1 hour in the evening, Monday to Friday, and by 4 hours on a Saturday afternoon. In addition, the application also seeks to allow continual sales/despatch of quarried products from Monday 6 am to Saturday 6 pm, from 2 May to 18 July 2017. These extended hours are considered by the applicant to be necessary in order to supply the rock armour/aggregate for the breakwaters required for the Aberdeen Harbour Expansion project, which forms part of National Planning Framework 3 (NPF3) comprising 14 key infrastructure projects for the nation.

APPLICATION REF: 161759/S42

2. Provide and operate a trommel (also known as a rotary screen, which is a mechanical screening machine used to separate mineral/rock materials) within the quarry.
3. Specify a traffic routing plan which indicates that HGV movements would avoid going through the centre of Cove, and would instead be routed via the Old Wellington Road, Wellington Road, before connecting through the Altens Industrial Estate via Harness Road, before utilising the Coast Road to get to the Harbour expansion site at Nigg Bay.

SUPPORTING DOCUMENTS

All drawings and supporting documents listed below can be viewed on the Council's website at <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OI4POGBZI2200>.

- Supporting Statement
- Noise Assessment
- Routing Plan (for Harbour Development)

CONSULTATIONS

Consultee	Date of Comments	Comments Made
ACC - Environmental Health	19 January 2017	<p>No objection. Following an initial review of the noise assessment, additional information was sought from the applicant and a request for the inclusion of a comparison of HGV road traffic noise with the WHO 'Guideline for Community Noise', an amended Noise Impact Assessment Ref. R17.9365/5/AF (date of report: 9th January 2017) was received.</p> <p>1. With regard to the predicted noise from the introduction of the trommel screen and related activities in addition to noise from ongoing quarry activities, noise may be audible at the noise sensitive receptors in the area. However, the addition of these activities at the proposed times, the predicted noise levels do not exceed the relevant PAN 50 criterion at receptors in third party ownership. This Service therefore has no concerns of a resulting significant adverse impact from this</p>

aspect of the proposed variation.

2. With the exception of No.2 Charleston Drive the predicted noise levels from the HGV movements both 10 loads (20 movements) per hour and 20 loads (40 movements) per hour at the chosen receptors during the daytime and evening do not exceed the WHO criterion for those time periods and as such do not raise concerns of a significant adverse impact at these receptors.

3. In the case of No.2 Charleston Drive a predicted increase of +1 dB(A) was reported for 10 loads (20 movements) per hour during the daytime and evening. However a 1 dB(A) increase is considered to be a negligible impact.

4. In the case of No.2 Charleston Drive a predicted increase of +4 dB(A) was reported during 20 loads (40 movements) per hour during the daytime and evening. There may be some impact on the outdoor areas at this property during these periods.

5. The predicted noise levels from the HGV movements both 10 loads (20 movements) per hour and 20 loads (40 movements) per hour at the chosen receptors during the night time period exceed the WHO criterion for this time period. This was however based on a worst case scenario with windows partially open for ventilation purposes providing a 15 dB reduction. This reduction would however be considered more should the windows be closed.

6. The HGV vehicle noise at night may impact on approximately 20 properties (with no obstructions

between the properties and the road to act as an effective barrier) in the Charleston area along the road side of the proposed route for the vehicles, specifically, along the western end of the Cove Road and a section of the Wellington Road from the Cove Road Junction to the A956.

7. Due to the nature of the area and the type of potential noise disturbance to be expected there are limited opportunities for vehicle noise mitigation measures. However a number of mitigation measures have been detailed within the report essentially, driver technique to be applied and training thereof, strict adherence to the highway speed limits and use of vehicles with exhaust silencer in good working condition.

8. The available data from measurements in the area in question indicates relatively high night-time ambient (LAeq) noise levels. For instance, within tables 5.1 and 5.2 indicates the night time ambient levels would appear to exceed the WHO internal night-time guideline value.

9. Any potential noise impact from HGV road traffic noise will be limited to a period of approximately 11 weeks.

The above factors have been considered in forming an opinion on the viability of this proposal in terms of public health impact. Any impact is on a limited number of properties for a limited period of time. In conclusion, therefore, the Environmental Health Service has no objection to the proposal.

ACC - Roads Development Management Team			No objection to the proposals in principle. However the submitted traffic routing proposals do not align with current discussions with Aberdeen Harbour. A condition shall therefore require the submission of a revised traffic routing scheme.
Network Infrastructure Ltd.	Rail	4 January 2017	No objection to this application as Network Rail consider it will have no impact on railway infrastructure.
Cove and Community Council	Altens	23 January 2017	No objection so long as the detail regrading new working hours and routes/movements of heavy lorries is strictly adhered to.

REPRESENTATIONS

19 timeous letters of objection were received in respect of this application. The concerns raised are summarised as follows:

- The proposals should include noise deflection barriers and noise monitoring throughout;
- Adequate use of water sprays to prevent dust migration is necessary;
- HGV vehicles must be prevented from travelling through Cove to minimise any road safety risks particularly with nearby children;
- Concerns over existing mud on the road being exacerbated;
- Vibration levels from blasting is already excessive;
- Traffic monitoring should be undertaken, particularly for the stretch between Cove Road, and its junction with the Old Wellington Road;
- Objects to the principle of the extension as it would destroy more green areas, and significantly affect existing residential amenity;
- There is already overspill parking from the applicants employees in the surrounding residential area;
- Consultation should have come directly from the applicant in advance of this application;
- With existing works in the area such as the AWPR, the associated problems such as traffic congestion shall worsen;
- The extended operational hours are excessive;
- The criteria for the noise assessment is flawed, as background levels were based upon those at the time of the original extension application, and not upon the enhanced noise levels experienced now;
- The proposal shall result in a considerable increase in noise which shall be unbearable for adjacent residents, particularly through the night;
- The proposals could also have a detrimental impact upon surrounding wildlife and pets, whom have hearing thresholds beyond that of human beings;
- There shall be a significant degradation of the roads surface with the huge increase of HGV movements in quick succession;

APPLICATION REF: 161759/S42

- Work by the applicant is often going on outwith the exiting authorised hours;
- The business interests of the applicant, and that of the Harbour expansion project, should not outweigh the opinion of local residents

The letter of support indicated that the expansion of the quarry will benefit the community long term through the creation of jobs, thus helping the failing economy of Aberdeen.

One further late letter of representation highlighted the following concerns:

- The proposals could affect the running of an existing business adjacent to the Harbour project due to continual delivery and activity throughout the night.

REASON FOR REFFERAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee because has been the subject of six or more timeous letters of representation (following advertisement and/or notification) that express objection or concern about the proposal – representing a significant level of opposition to any local development proposal

PLANNING POLICY

Aberdeen Local Development Plan 2017

Policy NE2 – Green Belt

Policy I1 – Infrastructure Delivery and Planning Obligations

Policy T2 – Managing the Transport Impact of Development

Policy T4 – Air Quality

Policy T5 – Noise

Opportunity Site OP55 Indicates the 32.76 hectare Blackhills Quarry as having planning permission to continue hard rock extraction and processing

OTHER RELEVANT MATERIAL CONSIDERATIONS

Interim Planning Advice

- Air Quality
- Noise
- Transport and Accessibility

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

At the outset of the consideration of this application, it must be accepted that the general principle of the quarry extension has already been established through the

APPLICATION REF: 161759/S42

grant of planning permission in January 2015 following consideration at the Planning Committee meeting of 24 April 2014, and the subsequent registration of a s75 planning obligation thereafter. As such, the principal considerations with this application relate to the acceptability or otherwise of the proposed increase in the operational hours of the quarry during the prescribed periods applied for.

In respect of the request to extend the hours of extraction by one hour in the evenings of Monday to Friday, and an additional 4 hours on a Saturday afternoon, together with the operation of the Trommel screen, while not ideal, given that the impacts would be for a restricted period of time, and still retain Sundays as a time when no work is undertaken, it can be accepted subject to the appropriate variation of the condition to ensure that post 18 July 2017, the times would revert to those previously authorised. The level of noise anticipated, would also be within acceptable limits, and all other conditions of the previous permission would still apply in respect of noise and vibration limits.

The more contentious issue for this application, is the potential for continual operations (starting 2 May to 18 July) from Monday 6 am to Saturday 6pm, with scope for 40 vehicular movements per hour (20 out, and 20 returning), to meet the demand for hard rock for the Harbour Extension breakwaters given the limited window/tidal elements for such works. As outlined in the response from Environmental Health Officers, there is perceived to be potential for such vehicular movements in particular to be a disturbance to residential amenity, particularly around the vicinity of Charleston Drive/Lochinch.

However, what ultimately must be considered is the balance between helping to enable the delivery of a substantial infrastructure project such as the Harbour expansion, and the economic benefits that it shall ultimately bring for the City, against the particular impact over a specific 11 week period, to the residential amenity of those neighbours closest to the Quarry, and its associated access roads.

From the perspective of the Development Plan, there is no conflict with Policy NE2 Green Belt, as the principle of the quarry extension has already been established. Furthermore, in respect of traffic impact, while 40 associated movements per hour seems substantial, in comparison to the flows of traffic already upon the existing road network, it can be accommodated without significant detriment to the flow of traffic, particularly outwith peak periods. The proposals can therefore be considered to be in accordance with Policy T2 Managing the Transport Impact of Development.

As part of the application submission, an initial noise assessment was further supplemented by additional information from the applicant. Following review by Environmental Health Officers, it was acknowledged that there would be periods during which impacts on residential amenity would be likely (approximately 20 properties in particular) due to noise levels exceeding those recommended by the World Health Organisation (WHO) during the night. Some mitigation measures have been identified in respect of vehicle routing, driver training, adherence to speed limits, and the use of exhaust silencers. There are, however, no physical measures such as bunding which could be provided due to the lack of availability of land adjacent to the traffic route. Notwithstanding, a judgement has to be made in

APPLICATION REF: 161759/S42

respect of the impact that such noise increases would have. Environmental Health Officers have ultimately confirmed that they have no objection to the proposals.

Should noise levels ultimately be queried, then it is possible for further monitoring to take place through liaison with Environmental Health.

In respect of matters raised in representations which have not already been assessed above, while clarification was sought from the agent in respect of matters contained within the initial noise assessment, Environmental Health Officers are ultimately satisfied with the methodology of the submitted supporting information.

Matters such as dust and vibration are already covered by the conditions of the original permission to extend the quarry. Concerns over the condition of the road surface from additional HGV movements would also be covered by the overarching s75 planning obligation to that aforementioned application, as it required the regular monitoring and contribution to roads maintenance as a result of any degradation which could be linked to quarry vehicles. In respect of potential congestion, no objection was raised by the Roads Officer in this regard. While flows would be increased, they would only represent a minimal percentage of overall road usage/flows. While there is the potential for wildlife impacts, the proposal relates to an existing quarry operation, the extension of which and its associated implications have already largely been assessed previously. Limitations would still apply to blasting during the day, whereas night-time operations would predominantly relate to deliveries of rock/aggregate, thus the associated wildlife impacts would be negligible. Turning to the suggestion that operations are already being undertaken outwith agreed hours, this is a matter that would require separate investigation, from either the Planning Inspector and/or through Environmental Health Officers, should operations constitute a statutory nuisance. It is however expected that the applicant would adhere to the specific wording of the conditions proposed below. Any breach of condition would be investigated accordingly.

In summary, it is acknowledged that permission has already been granted to both extend the quarry at Blackhills as well as allow its continued operation in the period up to 2050. While the operational hours would generally not require variation, the delivery of the Aberdeen Harbour Expansion is a nationally identified project in NPF3, and one which has tight timeframes for specific works. As such, it is considered that the wider economic benefits to the City region in providing an expanded harbour are of considerable weight. While any detrimental impacts on residential amenity are generally discouraged, the applicant has sought in this instance (for the time variations for dispatch) a period covering 11 weeks. Thereafter, operational hours would revert to those previously applied. Therefore, on balance, it is considered that the variation to the hours should be approved as requested.

As per legislative requirements, applications for s42 variation to conditions require that all of the conditions are carried over from the relative previous consent (in so far as they are still relevant or have not previously been purified), as the decision is tantamount to a new planning permission. As the previous application required the signing of an over-arching s75 planning obligation, a further s75 minute of

agreement shall also be necessary to ensure that the same terms are reflected to this planning permission.

RECOMMENDATION: Willingness to Approve Subject to s75 Planning Obligations and Conditions

REASONS FOR RECOMMENDATION

Following the previous approval of the quarry extension which would ensure an adequate supply of minerals within Aberdeen City, and would ensure reserves of construction aggregates for a period exceeding 10 years, the site remains allocated as opportunity site within the recently Adopted Local Development Plan. The requested variation to operational hours, and to house additional screening equipment would be in order to meet specified mineral requirements for the Aberdeen Harbour Expansion project, which itself is a project of national importance. While any associated impact on residential amenity would generally be avoided over and above those already consented, such impacts would be of a restricted nature of around 11 weeks. While according within Policies NE2 Green Belt, and T2 Managing the Transport Impact of Development, the slight departure from T5 Noise can be accepted in this instance due to the specific time limited nature of the proposed operation.

CONDITIONS

(1) At least one (1) year prior to mineral workings ceasing on the site, a restoration and aftercare plan shall be submitted for the written approval of the planning authority, in consultation with SEPA, and all work shall be carried out in accordance with the said scheme. The plan must include information on any proposals for phased working and progressive restoration, as well as the effect that any restoration will have on the water environment, including groundwater quality and quantity. The said plan must also include an assessment of the effect that any backfilling below the water table will have on groundwater - to prevent pollution of the water environment and to minimize and prevent mineral waste on site.

(2) That the proposed operations hereby granted permission shall cease on or before 28 November 2050 unless the written approval of the planning authority is first obtained - in order to protect the environment and amenity of the area in general.

(3) That the hours of operations for:

extraction and processing during the period of 16 March 2017 to 18 July 2017 shall be restricted to:

i) 07:00am - 08.00pm, Mondays to Fridays;

ii) 07:00am - 5.00pm, Saturdays; and

iii) At no time on a Sunday, bank holidays, or national holidays; unless written consent of the planning authority is obtained.

and

the despatch of dry aggregates during the period of 2 May 2017 to 18 July 2017 shall be restricted to:

- i) Monday 06:00am to Saturday 06.00pm (continuous working);
- ii) At no time on a Sunday, bank holidays, or national holidays; unless written consent of the planning authority is obtained.

Outwith those dates, the hours of operations for extraction and processing and despatch of dry aggregates shall be restricted to:

- i) 07:00am - 07.00pm, Mondays to Fridays;
 - ii) 07:00am - 1.00pm, Saturdays; and
 - iii) At no time on a Sunday, bank holidays, or national holidays;
- Unless written consent of the planning authority is obtained - in the interest of residential amenity.

(4) That the hours of operations for operation and dispatch from the asphalt plant shall be restricted to:

- i) 06:00am - 07.00pm, Mondays to Fridays;
 - ii) 06.00am - 04.00pm, Saturdays; and
 - iii) At no time on a Sunday, bank holidays or national holidays;
- Unless the written consent of the planning authority is obtained – in the interest of residential amenity.

(5) That the equivalent noise level (Leq) shall not exceed 55dB(A) measured as a one hour free field Leq at any existing noise sensitive property external to the site boundary, the details for measuring which are to be submitted to, and approved in writing by the Planning Authority.

South Blackhills may be periodically subject to higher levels but not exceeding 60dBL provided that the property remains under the control of the applicant and suitable noise attenuation measures that are submitted to and approved by the Planning Authority are introduced to the property - in the interest of residential amenity.

(6) That the ground vibration as a result of the blasting operations shall not exceed a peak particle velocity of 6mms⁻¹ ppv for 95% of events with no blast exceeding 12.0mm/sec⁻¹ at existing private residential and commercial properties, with a limit of 12mms⁻¹ being applied at railway structures and 14.8mms⁻¹ being applied at Haven Cottage - which is owned by the applicant - in the interests of residential amenity.

(7) That prior to the commencement of any blasting operations, a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used, shall be submitted to, and approved in writing by the planning authority. Thereafter, all blasting operations shall take place in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the planning authority - in the interest of public safety.

(8) That prior to the commencement of any blasting operations, details of the methods employed to minimise air pressure from blasting operations, shall be

APPLICATION REF: 161759/S42

submitted to, and approved in writing by the planning authority. Thereafter, all blasting operations shall take place only in accordance with the scheme as approved or such subsequent amendments as may receive the written approval of the planning authority - in the interests of public safety.

(9) That the depth of the quarry shall not exceed 48m above ordinance datum (AOD) without the prior written approval of the planning authority - in order to protect the character of the area.

(10) That all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority - in the interests of the amenity of the area.

(11) That no development shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work which shall include post-excavation and publication work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority - in the interests of protecting items of historical importance as may exist within the application site.

(12) That no blasting shall take place within the site unless the prior approval of Network Rail is obtained. For the avoidance of doubt, Network Rail should be notified seven days in advance of any blasting in order to afford them an opportunity of making comment - in the interests of public safety.

(13) The level of vibration at the railway boundary shall not exceed a maximum peak particle velocity of 25mm/sec - to maintain the integrity of the railway infrastructure.

(14) That the proposal should ensure that there is no reduction in the effectiveness of any drain or watercourse belonging to Network Rail. Furthermore, there must be no interference to any existing drainage rights that Network Rail enjoys - to maintain the integrity of the existing drainage systems and prevent flooding of railway infrastructure or land.

(15) Without the prior approval of Network Rail, the proposed works shall not generate an increase in the existing flow rates into any culvert that passes beneath the railway - to maintain the integrity of the existing drainage systems and prevent flooding of railway infrastructure or land.

(16) Storm or surface water must not be discharged onto, or towards Network Rail property. Suitable drainage or other works must be provided and maintained by the developer to prevent surface flows or run-off affecting the railway - to maintain the integrity of the existing drainage systems and prevent flooding of railway infrastructure or land.

APPLICATION REF: 161759/S42

(17) Storm or surface water must not be discharged onto, or towards Network Rail property. Suitable drainage or other works must be provided and maintained by the developer to prevent surface flows or run-off affecting the railway - to maintain the integrity of the existing drainage systems and prevent flooding of railway infrastructure or land.

(18) Cranes and jibbed machines, used in connection with the works, must be positioned that the jib or any suspended load does not swing over railway infrastructure or within 3 metres of the nearest rail if the boundary is closer than 3 metres - to maintain the safety of railway operations.

(19) All cranes, machinery and constructional plant must be positioned and used to prevent the accidental entry onto railway property of such plant or loads attached thereto, in the event of failure - to maintain the safety of railway operations.

(20) Vibration monitoring shall be carried out by the developer, or their contractors, to determine the effects of blasting on the railway, and Network Rail, in consultation with the Planning Authority, shall be supplied with a copy of the results - to maintain the safety of railway operations and the integrity of railway infrastructure.

(21) That a procedure shall be set in place between Network Rail and Leith's (Scotland) Limited on the design and operation of a "Safe System of Work" to ensure the protection of rail traffic whilst blasting is being undertaken - to maintain the safety of railway operations and the integrity of railway infrastructure.

(22) The developer shall (a) meet the costs of all reasonable protective works carried out by Network Rail, which are directly attributable to the proposed use of explosives pursuant to the foregoing conditions, and (b) indemnify Network Rail against all third party claims arising by reason or in consequence of the said use of explosives except insofar as the same are caused by the negligence of Network Rail, their servants, agents or licensees - to maintain the safety of railway operations and the integrity of railway infrastructure.

(23) Where alterations to existing ground levels are proposed within 10 metres of the boundary of railway land (including the construction of storage mounds) detailed plans of the development, including cross-sections should be forwarded to Network Rail, in consultation with the Planning Authority, for assessment and comment before development commences - to maintain the safety of railway operations and the integrity of railway infrastructure.

(24) Network Rail shall be notified of any significant alterations to the characteristics of the work or site, for example changes in the depth of working, limits of extraction, blasting specification etc. – for safety, Network Rail needs to be aware of all development adjacent to its property.

(25) That notwithstanding the details submitted as part of the application submission, the prior to the commencement of the temporary revised operation hours in Condition 3 above, a scheme detailing the traffic routing to the Aberdeen Harbour Extension site shall be submitted to and agreed in writing by the Planning Authority.

APPLICATION REF: 161759/S42

Thereafter such scheme shall be adhered to in its entirety – in the interests of the residential amenity of the area, and road safety.

ADVISORY NOTES FOR APPLICANT

Where possible, the free face of workings shall be orientated away from the railway to reduce the risk of material being projected onto railway property as a result of blasting operations.

Any dewatering during excavations should be in compliance with CAR General Binding Rule (GBR) 2 and GBR 15. Abstraction of groundwater in quantities greater than 10m³/day may require authorisation under CAR depending on the scope and duration of the works.