



Report to the Scottish Ministers

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by Allison Coard reporter appointed by the Scottish Ministers

- Case reference: NOD-SLS-001-1
- Site Address: Hyndford Quarry, Lanark, South Lanarkshire, ML11 9TA
- Application for planning permission dated 23 November 2012 called-in by notice dated 29 January 2014. Targeted re-opening of case commenced following the decision by the Court of Session dated 9 May 2017 to quash the Scottish Minister's Decision of 7 December 2016
- The development proposed: extension to mineral extraction and associated restoration and enhancement works
- Date of pre-examination meeting: 30 October 2017
- Date of hearing: 6 February 2018
- Date of unaccompanied site visit: 5 February 2018
- Date of accompanied site visit: 14 November 2017

Date of this report and recommendation: 20 June 2018



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Extension to mineral extraction and associated restoration and enhancement works at Hyndford Quarry, Lanark, South Lanarkshire, ML11 9TA

• Case reference	NOD-SLS-001-1
• Case type	Planning permission redetermination of called-in application
• Reporter	Allison Coard
• Applicant	Cemex UK Operations Limited
• Planning authority	South Lanarkshire Council
• Other parties	New Lanark and Falls of Clyde Working Group
• Date of application	Annette Leppla
• Date case received by DPEA	23 November 2012
• Method of consideration	12 February 2014
• Date of report	Site Visits, written submissions and hearings
• Reporter's recommendation	20 June 2018
	Grant Planning Permission

Reasons for Call-in and re-determination

The Scottish Ministers, in exercise of the powers conferred to them, directed that South Lanarkshire Council refer the proposed development to them for determination. The direction was given in view of the proposed development's potential impact on the New Lanark World Heritage Site, which is internationally recognised for its Outstanding Universal Value, and on the wider setting.

Ministers issued a decision to grant planning permission but only for the southern extension on 7 December 2016. That decision was quashed by the Court of Session on 9 May 2017. The case was subsequently returned to a reporter to conduct a targeted re-opening of the case and provide a further recommendation to Ministers. This report is prepared in that context.

Correspondence received from the Scottish Government Planning and Architecture Division dated 22 June 2017 required the targeted re-opening of the case with a focus on:

- Development Plan and Minerals Development Plan Context
- Minerals supply, potential shortfall and current demand for aggregate
- Impact on the Outstanding Universal Value of New Lanark World Heritage Site and its boundary and buffer zone.



The Site

The called-in application has a site area of some 288 hectares. It covers the existing Hyndford sand and gravel quarry, and proposed extensions to mineral extraction areas to the south and west, south of Robiesland Farm within a meander of the River Clyde. The section of the River Clyde to the west of the application site flows north within a tree-lined gorge with three waterfalls. A little further north, the River Clyde flows past the New Lanark mills and village.

Description of the Development

Hyndford Quarry has been in operation since the 1960's with planning permission to extract 650,000 tonnes of minerals per year up until the year 2027. The proposals would extend the mineral operations 20 hectares to the south and 22 hectares to the west of existing operations. Extraction would start at the western end of the application site and move progressively eastwards. A long-term management plan would ensure that restoration and enhancement proposals were maintained.

Minerals Supply, potential shortfall and current demand for aggregate.

The Applicant's Case

Consented reserves of sand and gravel within the Glasgow and Clyde Valley area are forecast to be constrained beyond 2021 and as a result additional locations will be required across the city region to ensure that distances from source to market are minimised.

Extraction rates rose steadily between 2011 and 2014 and 2017 is the only year which has seen a decrease in production. The applicant's assessment is as follows:

- Land-bank requirement: 17,000 000 tonnes;
- Permitted available reserves: 10, 831 947 tonnes;
- Land- bank: 6.37 years.

The western extension contains coarse material which is required to obtain an appropriate mix. Extraction would enable an increase in output.

The Council's Case

There is not the lack of supply as indicated by the applicant but the land-bank is diminishing. The council wish to encourage sustainable economic growth and its assessment is that the proposal is required given that current reserves are not sufficient to maintain the 10 year supply. The council's assessment is:

Land-bank requirement: 11,239 570 tonnes at current extraction rates
Permitted reserves: 11, 810 000 tonnes
Land-bank : 10.5 years

The land-bank is a snapshot in time and would diminish faster if extraction were to increase towards maximum extraction rates. The council's closing submission, taking account of extraction since September 2017, is that the land-bank has already declined to 9.8 years.

There is no substantial difference between the mineral situation as considered by the reporters previously and the current situation.

The Working Group's Case

The figure of 1.13 million tonnes per annum that the working group suggested in 2014 has proven the most accurate of any party. There remains, more than three years after Reporters concluded that there was an unambiguous deficiency, a land-bank of permitted reserves of 14.8 years (if Garvald is included within the period) and 10.5 years (if it is excluded altogether).

It is safe to conclude that if there is a shortage in terms of a 10 year land-bank then it is a very minor one. There are 1.6 million tonnes available in the proposed Southern Extension. The 'composition of the extracted mineral' is not relevant and the materials could be sourced from elsewhere. There is no overriding need for minerals to meet markets of national importance. There is no absolute requirement on the planning authority to maintain a 10 year land-bank.

Annette Leppla's Case

It is clear that current production levels have fallen since 2014. There is a land-bank of between 10.5 and 14.8 years so the need has not been demonstrated and should not be viewed as over-riding.

Impact on the Outstanding Universal Value of New Lanark World Heritage Site its boundary and buffer zone.

The Applicant's Case

There is no material change in policy or circumstance since these matters were considered previously. The conclusions of the Environmental Statement remain unchanged. Whilst the draft local development plan policies are now confirmed and adopted these policies were considered previously albeit in draft form. Similarly, whilst Historic Environment Scotland Guidance has been updated the content of this and other relevant documents has not changed. This position is as confirmed by Historic Environment Scotland. The working group has over-stated the impact which, even where assessed as significant, would be limited in extent and temporary.

Accordingly, the applicant maintains its position that there would be no unacceptable impact on the Outstanding Universal Value of the World Heritage Site or its setting. There is a recognised impact on the Historic Designed Landscape but only for a small portion of the area. Development would not impinge on the overall integrity and special features of that landscape. There would be no conflict with the protection of the conservation area, listed buildings or scheduled ancient monuments. There are adverse effects in the short-term (up to eight years) on the Middle Clyde Valley Special Landscape Area, which only affect a very small proportion of this landscape. In the medium to long-term, the proposals would not adversely affect the integrity of this designation.

The Council's Case

The council maintains its previous position. There would be a temporary impact (up to eight years) on the World Heritage Site and buffer zone, and the Falls of Clyde Designed Landscape. This is contrary to local development plan Policy 15 and Supplementary Guidance Policies NHE1 and NHE4. In addition, there is temporary conflict with Policy MIN 2 of the council's non statutory guidance on minerals. However, the impacts of development would be offset in the medium to long-term following restoration and enhancement. The impact would become neutral to beneficial. The proposed development would not result in an unacceptable impact on any listed buildings.

The development would not result in an adverse impact on the conservation area.

There would be no direct harm to a scheduled ancient monument as a result of development, and the minor impact would be temporary.

The council also references the lack of objection from, or continued involvement of, Historic Environment Scotland.

The Working Group's Case

The Working Group maintains its objection and references a number of new material considerations in addition to those expressed in earlier submissions. There would be an unacceptable impact on New Lanark World Heritage Site (and buffer zone) contrary to the development plan and to other relevant policy documents and advice. In the intervening years since the proposal was first considered there has been increased interest in the area as a heritage and landscape asset. The working group maintains its concerns regarding Listed Buildings and their settings and the setting of the Conservation Area.

The short-term "temporary" impacts would be significant enough to refuse development, and the restoration is a pastiche which would leave a permanent and non-authentic scar on the landscape (including the loss of important fluvio-geomorphological landform).

Annette Leppla's Case

Current guidance from Historic Environment Scotland stresses the value of and need to protect Historic Designed Landscapes. This proposal, within such a designation, is contrary to that objective. The intrinsic value of the designation cannot be set aside nor its clear relationship to the nearby World Heritage Site. The previous assessments did not properly take into account that the restoration does not replicate that landscape but would result in a significant change. Consequently the harm would not just be temporary.

Historic Environment Scotland's Case

Historic Environment Scotland participated in the earlier process but its 2017 consultation response confirmed its view that there had been no material change in circumstance and that it relied on its previous submissions. In summary these were that the proposed development would have a direct impact on parts of the Falls of Clyde Designed Landscape, and there would be a direct impact on a number of heritage assets. However, overall, it is not considered that the development would affect the historic interests (such as fall within Historic Scotland's remit), including impact on the Outstanding Universal Value of New

Lanark World Heritage Site, such as to raise issues of national significance that warrant an objection.

Other Matters

The Applicant's Case

The proposed development would help to maintain jobs at Hyndford Quarry and beyond.

The proposal would also support national policy to maintain sustainable economic growth through the provision of raw materials.

There would be no significant impact on the undesignated remains of Boathough as a result of development.

The proposals include the commencement of extensive management and enhancement works.

There is sufficient information in the environmental statement about the southern extension to assess its impacts and conditions could be amended acceptably to account for the southern extension only

There is no reason why both the western and southern extensions should not be granted. However, if Scottish Ministers were not convinced, there is no reason why the southern extension could not be granted alone.

The Council's Case

The translocation of the peat resource could be suitably addressed through a method statement (controlled by condition) and thereafter implemented successfully.

There would be no adverse impact on protected species.

Monitoring of drainage and habitat can be controlled by condition to ensure no adverse harm to the nearby Falls of Clyde Site of Special Scientific and the Clyde Valley Woodlands National Nature Reserve.

There may be a temporary impact on the green network during extraction but enhancement following restoration.

Planning permission for the southern extension only should not be recommended as the change is too substantial and a limited permission would not be competent.

The Working Group's Case

Environmental Statement: Concerns were raised about a deficient approach. These are reiterated in relation to the failure to identify alternatives and to provide adequate geological assessment or Heritage Impact Assessment.

Ecology: This matter was raised previously. The applicant's acceptance that the peat bog would cease to be active means that it cannot comply with the local development plan policy because removing the bog would damage the area's natural diversity and ecology.

The Restoration Proposals: Concerns regarding the re-instated landscape and SNH comments that "we are aware that any restored landform would have little if any geomorphological value, being as it would be entirely artificial."

There are reservations about the use of conditions to restrict and control the southern extension only.

Development Plan and other Material Considerations

The Applicant's Case

The proposed development complies with the development plan overall and is supported by material considerations, therefore permission should be granted. The applicant agrees with the council's current policy assessment but considers that the 2012 Minerals Local Development Plan, in the absence of a replacement and given the non- statutory status of the more recent minerals guidance, continues to form part of the development plan.

The Council's Case

The South Lanarkshire Local Development Plan was a proposed plan at the time of the council's original planning assessment and it was a material consideration against which the application was assessed by the council. The policy context has not changed following its adoption. The proposal is considered acceptable in principle at a strategic level.

Taking the current Development Plan into account and noting that its context has not changed to any significant degree since the application was previously assessed it is considered that the application meets the relevant terms of the development plan and there are no material considerations which would justify its refusal.

The Working Group's Case

The Working Group made no update in written submissions to its previous response on development plan policy. However given responses at the hearing and in closing submissions it confirms that its view remains unchanged. The proposal is considered contrary to the current Local Development Plan 2015 and to the Minerals Local Plan 2012 as it would harm listed buildings, a conservation area, special landscape area, the rural economy, ecology and accessibility to the green network.

There would be no net overall improvement from restoration given excavation and replacement of part of the historic designed landscape including its fluvio-glacial context which will not be replicated. Loss of amenity including exclusion of the public during the extraction period far outweighs the benefits of the proposal.

Annette Leppla's Case

The breaches of policy identified in the council's 2013 Report to the Planning Committee ought to have pointed decision makers back to the drawing board, rather than setting them aside.

The need for the aggregates contained within the proposed extension at Hyndford has not been demonstrated and certainly cannot in any way be called "over-riding", therefore the land-bank question carries very little weight as an argument for permitting extraction in an area with a Category 2 heritage designation, and should carry no weight at all for a Category 1 site like New Lanark and its buffer zone. The application in its entirety should be refused or if not then the Western extension should be refused for the same reasons Ministers gave before.

Reporter's Conclusions and Recommendation

The reporter's conclusion is that:

- the rate of extraction has slowed below that previously anticipated;
- there may be potential for the southern extension and other consents to top up the future supply and additional reserves may be identified;
- there is some dispute about the extent of the land-bank but the balance of evidence indicates that the current supply is less than 10 years and that the supply is diminishing and would not be maintained; and
- sustainable economic growth objectives support maintenance of a reserve to meet increased demand in support of the construction industry.

Consequently, there is policy support for further release through Policy 15 of the Glasgow and Clyde Valley Strategic Plan and Policy MIN1 of the South Lanarkshire Minerals Local Plan and through Scottish Planning Policy.

This policy support is set within a national and local policy context that also requires assessment of the impact of the proposal relative to:

- the New Lanark World Heritage Site and its setting (with a focus on its Outstanding Universal Value);
- the Falls of Clyde Designed Landscape;
- listed buildings, their settings, and any features of special interest they possess and to the preservation or enhancement of the character or appearance of the New Lanark and Falls of Clyde Conservation Area;
- scheduled ancient monuments and their settings;
- the overall quality of special landscape areas and to protection of flora and fauna;
- access, recreation and tourism; and
- appropriate mitigation and restoration.

Significant effects are focussed on the Falls of Clyde Historic Designed Landscape particularly during the extraction period. Whilst significant, these effects would be localised and capable of progressive restoration and mitigation over a timescale of up to 8 years. Any inter-relationship of the development with the World Heritage Site and its Outstanding Universal Value would be minimal and indirect. The development plan does not prohibit development but rather sets a higher bar of acceptability relative to the integrity of these designations. The integrity of these designations would be protected. Identified potential

effects on the less tangible aspects of landscape context and on the overall visitor experience are not of a scale or nature to indicate conflict with the development plan or a decision to the contrary.

Taking all of this into account I find that the proposed development complies with the relevant provisions of the development plan. I have considered all the material and arguments submitted but find that none lead me to a different recommendation.

Recommendation

It is recommended that Scottish Ministers:

1. Grant planning permission for the application subject to:
 - (i) the 47 conditions recommended in Appendix 1;
 - (ii) a legal agreement for contributions to cover extraordinary wear and tear on the public road network and associated cycle lanes in terms of section 96 of the Roads (Scotland) Act 1984;
 - (iii) a planning obligation in terms of section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) or other appropriate mechanism covering:
 - (1) an undertaking to cease, and not restart, operations under planning permission CL/11/0285, following commencement of operations under this permission.
 - (2) An undertaking to provide a long-term management plan (as part of the aftercare of the site) once quarrying has ceased on the application site; and the setting up of a liaison group to help guide the future management of the site.

DPEA case reference: NOD-SLS-001-1

The Scottish Ministers
Edinburgh

Ministers,

In accordance with my appointment, I have carried out a public examination into the proposed extension to mineral extraction and associated restoration and enhancement works at Hyndford Quarry. I conducted the examination with two site inspections, further written submissions, and a hearing session.

An accompanied site inspection was attended by all the main parties on 14 November 2017.

Further written submissions were sought with a focus on the targeted redetermination of the case to address the updated position on the following:

- Development Plan and Minerals Local Plan Context;
- minerals supply, potential shortfall and current demand for aggregate; and
- impact on the Outstanding Universal Value of the New Lanark World Heritage Site and its boundary and buffer zone.

On 16 May 2017, the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 Regulations continue to have effect for an application for planning permission where the applicant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. The present application should therefore be determined in accordance with the 2011 Regulations as they applied before 16 May 2017

Given the passage of time since the original environmental statement was prepared responses were sought from the consultation authorities and others on any need to update the Environmental Statement. Responses indicated that this need only be subject to some minor updating. An Additional Report was subsequently submitted and advertised in accordance with the 2011 Regulations. The responses received are summarised in this report but do not indicate any significantly new or altered effects from those assessed previously.

In addition and again in light of the passage of time written submissions were sought on the potential conditions bearing in mind the possible separation of the decisions for the southerly and westerly extensions as previously considered by Ministers.

Given the matters arising from these further written submissions I held a hearing session on the 6 of February 2018. The sessions discussed (1) the current development plan context (2) the supply of minerals; (3) the heritage, landscape and visual impacts of the proposal; and (4) proposed mitigation/conditions.

My report retains a focus on the issues above. However, given changes in the development plan context and in the evidence led on minerals and other considerations I have approached the redetermination as if the appeal was before me afresh. To assist with an efficient approach I have adopted significant sections of the first report, predominantly the summaries of case and factual material of a descriptive, non-contentious nature where I agree with the first reports. Some of the previous case summary is included separately as Appendix 6. Otherwise my report is arranged on a topic basis and takes account of the written statements and documents lodged by the parties, including the Environmental Statement and other environmental information, the responses to the Procedure Notice, and the written representations made in connection with the proposal.

The attached report summarises the parties cases on the relevant issues, conclusions on the development plan and other material considerations and my consequent recommendations.

1. BACKGROUND, POLICY AND LEGISLATIVE CONTEXT.

Site location and description

1.1 The existing Hyndford sand and gravel quarry is located within a large meander of the River Clyde approximately 3 kilometres south-east of Lanark. The existing quarry is accessed from the A73 (Hyndford Road). The quarry has a site area of approximately 200 hectares, of which at any one time approximately 65 – 75 hectares are operational land. The balance consists of silt and fresh water ponds, processing facilities, stockyards, a concrete block works, restored land and land awaiting extraction. The current quarry operation has planning permission until 2027.

1.2 Areas that have been worked for minerals and then restored are generally flat, consisting of former silt ponds, or regraded quarry workings. These areas have been sown with grass and bounded by temporary fencing to allow the areas to be managed for sheep grazing and/or grass cropping. Some tree planting has been undertaken in line with the permitted development, or as agreed with the planning authority, but the majority of the areas to be planted are currently associated with disturbed operational land.

1.3 The called-in planning application has a site area of approximately 288 hectares and covers the existing quarry and the land within the meander of the River Clyde to the south and west, south of Robiesland Farm.

1.4 There are two areas where it is proposed to extend mineral extraction. The southern extension consists of a further 20 hectares of undulating grassland that although within the currently approved planning permission is outwith the currently approved area for mineral extraction. The western extension consists of a further 22 hectares of land, west of the former drove road and Bonnington Estate boundary wall, and south of the minor road that serves Bonnington Linn hydro-electricity power station. This area also consists of undulating grassland but also includes a low lying wood. The general location, the proposed site boundary and the proposed new areas for mineral extraction are shown in document [A.8\(a\)](#).

1.5 Both the two new proposed extraction areas and much of the surrounding land within the meander is characterised by a succession of small hills and mounds mixed with intervening depressions and basins. This topography is called a kettle and kame topography and is formed by melting ice from retreating ice sheets.

1.6 The section of the River Clyde to the west of the site flows north within a gorge with three waterfalls, also formed by glacial activity. A little further north, the River Clyde flows past New Lanark mills and village.

1.7 The sides of the gorge are heavily wooded with a mixture of conifers and broad leafed trees. Adjacent to the proposed western extension is Robiesland Farm and East Lodge. Noticeable features within and adjacent to the planning application site are avenues of mature trees and groups of mature trees within the fields, indicating a former parkland design. A stone wall runs along an existing pathway through the western extension area.

Adjacent to the gorge and abutting the north-west corner of the application site are high stone walls, which were once part of a walled garden.

1.8 The natural and cultural heritage features within or adjacent to the planning application site have led to a number of planning designations that are set out in more detail below. A more detailed site context plan is included as document [A.8\(b\)](#).

The Proposed Development

1.9 Hyndford sand and gravel quarry is currently operated by Cemex UK Operations Limited. Sand and gravel mineral extraction has taken place at Hyndford since the 1960's. Operations are currently regulated by planning permission reference CL/11/0285. Amongst many other limitations, the current operations must cease by 2027 and extraction is limited to 650,000 tonnes per annum.

1.10 The called-in planning application proposes to extend sand and gravel extraction to the west and south and at the same time consolidates and integrates these extensions with the existing operation. Apart from restoring the land after mineral extraction there are also various proposed enhancement works on land within the control of the applicant where no extraction is proposed.

1.11 Extraction itself occurs after the top soil and sub soil has been stripped and stored. The sand and gravel is removed by wheeled excavators working from terraces dug from the face. The mineral is loaded into a hopper and then transferred by a conveyor belt to the processing area. The minerals are washed, sorted and stored for use as various construction products.

1.12 The extraction, restoration and enhancement proposals would be developed in phases shown in document A.8(e) and summarised as follows:

- Extraction would start at the western edge of phase 1 (i.e. the proposed western extension) and work east to join the existing workings.
- The existing wood within this area would be felled and the peat trans located to another part of the quarry. The estate wall would be surveyed, removed, stored and rebuilt after restoration. The applicant estimates that phase 1 would be able to extract 3.3 million tonnes and take approximately 6 years
- At the same time as extraction operations commenced in phase 1, the zone A enhancement works would commence. This would include new paths, avenue tree planting and other feature woodland planting. Phase 1 and zone A works are shown in document A.8(f).
- The current extraction area and phase 2A (i.e. the area of extraction permitted by the current planning permission) would work southwards. Phase 2A extraction and zone B enhancement works are shown in document A.8(g). This combined area is estimated to have 3.1 million tonnes of reserves and again would take approximately 6 years to extract.
- Phase 2B is the proposed southern extension. It would extend the extraction area further south but within the overall site area of the current planning permission. Phase 2B extraction and zone C enhancement works are shown in document A.8(h). Phase 2B is estimated to have 1.4 million tonnes of reserves and would take approximately 3 years to extract.

- Phase 3 would occur after the previous phases. This would be the extraction of minerals under the area that is currently used for processing and stocking. This is estimated to have 1.7 million tonnes of reserves and would take approximately 3 years to extract. Phase 3 works and zone D enhancement are shown in document A.8(i).
- The overall restoration concept plan is shown in document A.8(l). Extraction is envisaged to be completed by 2032.

1.13 The timing of each phase is dependent in part on market conditions. The precise details of the phasing, restoration and enhancement works would be subject to planning conditions. Indicative cross sections of the likely changes to the topography as a result of mineral extraction are shown in documents A.8(j) and A.8(k).

1.14 The applicant has proposed that a long term management plan should be a requirement of a section 75 planning obligation, if planning permission was granted. This would be in order to address the long term maintenance of the restoration and enhancement proposals after mineral operations had ceased.

Planning application and appeal process

1.15 The proposed development is a major development and therefore pre-application consultation was required. This took place towards the end of 2010. The proposal in the pre-application consultation involved a larger site for the proposed western extension ([see document A.1](#)).

1.16 The planning application and environmental statement were formally submitted on 23 November 2012. The application and environmental statement were the subject of the council's normal consultation procedures. The replies received are summarised in Appendix 8 to this report. On 18 February 2013, Scottish Ministers directed South Lanarkshire Council under Regulation 31 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 to notify them in the event that the council were minded to grant planning permission.

1.17 During the processing of the planning application, additional environmental information was submitted and the application slightly amended. The application was considered by the Planning Committee of South Lanarkshire Council on 17 December 2013 where it was decided to grant planning permission subject to conditions and a planning obligation ([see document A.21](#)). The planning application was called-in by Scottish Ministers on 29 January 2014. The reason given for calling in the application was the proposed development's potential impact on the New Lanark World Heritage Site, which is internationally recognised for its outstanding universal value, and on the wider setting.

1.18 Following submission of the previous reporters' report on 20 February 2015 ([AL06](#)), which recommended approval, Scottish Ministers issued a notice of intention to grant planning permission for the southern extension only on 26 June 2015. At that time reporters were instructed to prepare a supplementary report with their advice on the legal agreements/conditions that should apply if permission for the southern extension were to be granted. Subsequent to this report, as submitted on 16 November 2015 ([AL07](#)), Ministers issued their decision to grant permission but only for the southern extension on 7 December 2016 ([B38](#)). That decision was quashed by the Court of Session on 9 May 2017.

1.19 The case was subsequently returned to a reporter to conduct a targeted re-opening of the case and provide a further recommendation to Ministers. This report is prepared in that context. Correspondence received from the Scottish Government Planning and Architecture Division [dated 22 June 2017](#) required the targeted re-opening of the case to proceed, as far as considered necessary, to invite submissions from the key parties and provide a further recommendation to Ministers. The reporter was asked to ensure a focus on:

- Development Plan and Minerals Development Plan Context;
- minerals supply, potential shortfall and current demand for aggregate; and
- impact on the Outstanding Universal Value of New Lanark World Heritage Site and its boundary and buffer zone.

1.20 Given the passage of time advice was sought from the council and consultation authorities as to whether any updating to the submitted environmental statement was required. Responses indicated that the assessment remained mainly up to date and relevant. However for certain specified matters additional information was requested. This was subsequently provided by the applicant and advertised in accordance with the 2011 Regulations.

The Development Plan

1.21 At the pre-examination meeting, it was agreed that the Council would detail the up to date development plan and minerals development plan context. This context was not disputed by any party. The development plan consists of the Glasgow and Clyde Valley Strategic Development Plan 2017 ([Core Document B.20](#)), the South Lanarkshire Local Development Plan ([Core Document B.21](#)) and its associated Supplementary Guidance

- Sustainable Development and Climate Change (SG1) ([Core Document B.27](#))
- Green Belt and Rural Area (SG2) ([Core Document B.28](#))
- Development Management, Placemaking and Design (SG3) ([Core Document B.29](#))
- Natural and Historic Environment (SG9) ([Core Document B.35](#)).

1.22 There are no minerals policies in the replacement development plan or a replacement Minerals Development Plan. Whilst the council has updated its Mineral Policies through non statutory Guidance as approved in July 2017 there is nothing to suggest that the Minerals Local Plan 2012 ([Core Document B5](#)), albeit now over 5 years old, does not remain extant.

1.23 A summary of **the relevant policy considerations on re-opening of the case in 2017 is included as Appendix 3 to this report**. This is based on the summary provided by the council and as agreed with parties through the hearing process.

Legislative context

The Town and Country Planning (Scotland) Act 1997 (as amended)

1.24 Section 37(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) allows an application for planning permission to either be: (a) granted conditionally or unconditionally; or (b) refused. Section 37(2) requires those dealing with an application for planning permission to “have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.” Section 25 of the Act

states that “where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicated otherwise – (a) to be made in accordance with that plan.” Within city regions (which applies in this case) section 24 of the Act confirms that the development plan consists of the strategic development plan, the local development plan, and any supplementary guidance issued in connection with those plans.

1.25 Under section 46 of the Act the Secretary of State may give directions requiring a planning application to be referred to him instead of being dealt with by a planning authority.

The Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended)

1.26 Section 14(2) of the Act places a duty on decision-makers in exercise of planning functions as follows: “in considering whether to grant permission for development which affects a listed building or its setting, a planning authority or the Secretary of State as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

1.27 Section 64 provides a similar duty in respect to conservation areas as follows: “in the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2) [the Planning Acts], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

The Roads (Scotland) Act 1984

1.28 Section 95 of the Act confirms that the deposit of mud (or similar) from a vehicle on a road is committing an offence which, if not cleared, the roads authority can claim expenses.

1.29 Section 96 provides a mechanism for an authority to reclaim monies for the extraordinary wear and tear on a road due to use by heavy, or other extraordinary, vehicles or traffic.

Environmental Impact Assessment

1.30 The revised Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into effect on 16 May 2017. These involved a number of changes to the EIA process. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 Regulations continue to have effect for an application (and any subsequent appeal) for planning permission where the applicant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case and so it will be for Ministers to determine this appeal in accordance with the 2011 regulations as they applied before 16 May 2017.

1.31 Given the passage of time since preparation of the Environmental Statement the views of the relevant consultation authorities and other interested parties was sought in an initial procedure notice dated 3 August 2017. Subsequent to this additional information was submitted by the appellants and advertised under regulation 18 of the 2011 Regulations. This information and the responses received are considered in this report alongside the main

Environmental Assessment 2012, The Supplementary Information published in May 2013 and any relevant representations on their content.



2. MINERALS SUPPLY AND DEMAND

Background

2.1 Given the passage of time written submissions were sought on this issue following the 2017 re-opening of the case. The issue was also discussed at the February 2018 Hearing session. All the relevant submissions are as attached through Appendix 9 to this report. A [Minerals Monitoring Statement Addendum September 2017](#) (B25) was submitted by the council to set out its current monitoring context.

The Applicant's Case

Development Plan

2.2 The applicant maintains its position that the proposal is supported through the Glasgow and Clyde Valley Strategic Development Plan. The relevant policy of the plan (now Policy 15) is not a pass or fail test. For this application, it is the principles of the strategic development plan that are important.

2.3 Policy MIN 1 (spatial framework) of the Minerals Local Plan 2012 reflects the equivalent strategic policy in requiring a steady supply of minerals with a 10 year supply now and throughout the lifetime of the plan. There are long lead-in times associated with extraction development, and therefore this policy recognises that sites take time to come forward. If there was less than a 10 year land-bank there would be a presumption in favour of mineral development. If the land bank is more than 10 years then there is no limitation on further sites being consented as the policy requires “at least” a 10 year land bank. A similar wording is reflected in Scottish Planning Policy.

The need for additional reserves

2.4 The applicant's case with regard to the need for additional reserves of sand and gravel within South Lanarkshire is set out in its [Land-bank Assessment dated November 2017](#), prepared in response to South Lanarkshire Council's Minerals Monitoring Statement (Addendum September 2017).

2.5 Hyndford Quarry produces premium quality sand and gravel, bagged aggregates and concrete blocks and is a key supplier to the construction industry in Lanarkshire and the wider regions.

2.6 Coarse material is essential for the production of concrete grade products to serve the company's Readymix (concrete and concrete products) business. This is the applicant's core business and without coarse material within the western extension area, the viability of the remaining deposit at Hyndford Quarry is questionable. There is a lack of alternatives as the coarse material is not found in the finer materials at greater depth and is not found in sufficient quantities at other locations or in the southern extension area.

2.7 A number of faces are operated at any one time to ensure that sufficient materials are available to create the required blend. Currently the site blends coarse material from Robiesland (western side of the quarry) with the finer sands from elsewhere within the quarry. The reserves of coarser material are low and a new source of coarse sand is required in order to sustain continued extraction at the quarry. The mineral deposit within the western extension area would provide this.

2.8 Without access to a sufficient supply of coarse aggregates the site will struggle to produce the materials necessary to supply its core business and the wider market, and therefore to remain viable. The result would be a significant hole, up to 50%, in the supply of concrete suitable materials and lignite free sand from South Lanarkshire to the wider construction industry.

2.9 The council published its addendum to the Minerals Monitoring Statement in September 2017 at the request of the Reporter ([Document B25](#)). The Scottish Aggregate Survey (SAS) 2012 was published in 2015 and was not before the Reporters during the previous examination.

2.10 The Scottish Aggregates Survey 2015 identifies a shortfall of aggregate production within the Clydeplan area. 77% of the product is retained within the Clydeplan area. The remaining 23% of total production (200,000 tonnes) is exported to the SESplan area, with 143,000 tonnes exported to the West of Scotland and Dumfries and Galloway. Due to an increasing number of infrastructure projects, differing types and requirements for specific sand and gravel products and industry contracts, the Clydeplan area is a considerable importer of sand and gravel, with 30% of total demand being supplied from sites outwith the region.

2.11 National Planning Framework 3 states in paragraph 4.2 that “our mineral resources support the construction and energy sectors.” This recognises the connection between the exploitation of mineral resources and economic growth.

Previous conclusions of supply and demand

2.12 Four independent Reporters, acting on behalf of the Scottish Ministers, have examined the land-bank and it has been agreed by three of these Reporters and South Lanarkshire Council that the minimum 10 year land-bank of permitted sand and gravel reserves is 17 million tonnes. The reporters identified a shortfall in the land-bank when examining the Hyndford planning application in 2014. This situation has worsened as the application has progressed through the planning system and CEMEX’s land-bank assessment contained above identifies the potential for a significant shortfall of reserves by 2022, in the event that no new planning permissions for further reserves are forthcoming.

2.13 The applicant’s method of calculating the land-bank is not therefore an ‘alternative method’, but the method established through examinations of previous planning cases. Ms Leppla also suggests CEMEX open up a novel distinction between a theoretical and real land-bank. Scottish Planning Policy does not advocate a method of calculating a land-bank.

The current position: Demand for Minerals

2.14 The September 2017 update indicates current extraction rates are the lowest recorded since the first survey in 2011 including a fall from 1,485,000 tonnes per annum in 2014 to 1,123,947 in 2017. The extraction rates in 2017 are very close to those in 2011. A Reporter considered that the extraction rates at that time were likely to increase.

2.15 There is disagreement with the overall conclusions of the council's land-bank assessment. However differences stem from the method of calculating the land-bank and not from the factual information presented by the council. The purpose of the land-bank is to facilitate sustainable economic growth. Extraction rates rose steadily between 2011 and 2014 and 2017 is the only year which has seen a decrease in production.

2.16 In the event the coarser mineral contained within the Western Extension were permitted, production levels at Hyndford would rebound to approximately 600,000 tonnes per annum. A number of other quarries - Thirstone Quarry, Prettsmill Quarry and Bankend Quarry are operating close to permitted capacity. There is therefore clearly high demand for South Lanarkshire's sand and gravel aggregates and the Thirstone Quarry example suggests that demand is beginning to outstrip supply.

2.17 If new deposits of suitable construction aggregates were granted planning permission extraction rates would return to, or exceed, 2014 extraction rates. CEMEX therefore maintain that a land-bank of 17 million tonnes of construction aggregates remains appropriate. The previous extraction rates and land-bank assessments provide useful context for the Reporter in assessing how the land-bank should be calculated, whether the 2017 extraction rates are typical for South Lanarkshire and whether the 17 million tonne land-bank figure is appropriate.

2.18 It is agreed that the 17 million tonne figure is an estimate and not statute as suggested by Ms Leppla in paragraph 33 of her submissions. Nevertheless, there is a policy requirement to maintain at least a 10 year land-bank and the estimate has been accepted by the council, the previous Reporters and the Applicant for the purposes of the assessment.

Current Position: Land Supply

2.19 The availability of the permitted sand and gravel reserves requires to be taken into account when determining the size of the 10 year land-bank. Where large reserves are permitted, but their availability to enter the market place within the 10 year period is constrained, this should be taken into account within the land-bank calculation. The council identify the 'theoretical land-bank' by including the remaining consented reserve at each of the operational sand and gravel quarries in South Lanarkshire. South Lanarkshire Council has added these figures together to calculate the total consented reserve of sand and gravel within South Lanarkshire. Given the recent decision on Garvald's extension this needs to be taken into account and the council acknowledges this.

2.20 There are, however a number of factors which have not been accounted for by the council which could restrict the contribution of certain quarries to the 10 year land-bank. The Council's calculation does not therefore reflect the 'real land-bank'.

2.21 Factors which have not been considered include planning restrictions; operational restrictions; and financial and environmental considerations.

2.22 Reference is made to the Mid Essex Gravel Pits case – [CEM O36 Mid-Essex Gravel Pits v. Secretary of State for the Environment and Essex County Council \[1993\]](#). The judge found in favour of the appellant and that it was necessary to ensure that there was a 'real supply' of minerals, as opposed to a 'technical supply', taking into account the reality of the situation.

2.23 The realities referred to in the Mid Essex Case could include operational constraints on the quarries which contribute to the land-bank such as capacity of plant, limitations imposed by planning conditions etc. The judge in the case also held that any available information on the operator's intentions for working quarries can and should be taken into account when considering the available supply of aggregates over the next 10 years (the land-bank).

2.24 With regards to specific quarries listed in the Mineral Monitoring Statement (Addendum September 2017), the following is noted:

- Thirstone Quarry – Table B.1 states that the permitted extraction rates are 132,000 tpa. Only 1,320,000 tonnes should therefore be counted.
- Newbigging Quarry – Table B.2 indicates that this quarry contains 2,700,000 tonnes of reserve. Table B.1 indicates that output has reduced to 130,000 tpa. The output would require to more than double to enable the full reserve to be worked during the 10 year land-bank period.
- Westend Wood Quarry – This quarry is also controlled by the applicant and is unlikely to become operational until reserves at Hyndford are exhausted. Westend Wood also contains a fine deposit of sand which requires to be blended with coarser material to manufacture concrete products.
- Garvald Quarry – This quarry is unlikely to become operational until the end of the 10 year land-bank period and its contribution to the land-bank should be significantly reduced. The planning application (CL/17/0234) to postpone operations at the quarry was approved by the Council's Planning Committee on the 21st November 2017, subject to the conclusion of legal agreements. Its contribution to the land-bank should therefore be reduced or removed.
- Prettsmill Quarry – This site is limited to 30,000 tonnes per annum pa by planning conditions. Prettsmill Quarry's contribution should therefore be 300,000 tonnes.

2.25 The council's assumptions on a "theoretical land-bank" are set out in Table 7.1 of the applicant's submissions are to be compared with the applicant's table 7.2 land-bank calculation. An operator's intentions for the development of a quarry should be taken into account when assessing a land-bank. For example, the applicant intends to extract 5,000

tonnes per annum from Westend Wood Quarry. Only 50,000 tonnes should therefore be reflected within the 10 year land-bank calculation.

2.26 The applicant maintains that there is a need for new reserves of construction aggregates within South Lanarkshire in order to maintain a 10 year land-bank of permitted reserves and stand by the assessment and conclusions contained within the applicant's Land-bank Assessment. Graph 7.1 of the applicant's assessment shows a clear shortfall of reserves by 2022/23. The applicant's assessment is as follows:

Land-bank requirement 17,000 000 tonnes.

Permitted available reserves 10, 831 947 tonnes .

Land- bank years 6.37.

2.27 There is a pressing need to replenish the land-bank. National and local planning policy require the council to maintain at least a 10 year land-bank of permitted reserves of sand and gravel. This is a minimum requirement, not a target or upper limit. From the applicant's figures there is a shortfall even if the lowest production figures are used.

The Council's Case

2.28 The council's up to date position is set out in its Minerals Monitoring Statement Addendum (2017). The March version of this document showed a land-bank of 10.9 years but circumstances are considered to have changed. Two of the sites relied upon are now exhausted and are removed from the calculation.

2.29 Given the circumstances of this application the 1,400,000 tonnes of reserves at Hyndford are now discounted. Garvald Quarry now has permission to postpone extraction by 10 years.

2.30 There is also an application CL/16/0170 for the extraction of sand and gravel at Overburns Farm. This application, if approved, would add a further 3,175,000 tonnes of sand and gravel to the land-bank but the Council cannot currently provide a comment on whether this would be permitted and it has therefore not been included in any assessment (see update in reporter's conclusions at paragraph 2.77).

2.31 A previous planning application at Overburns was the subject of an appeal to the DPEA. Whilst not successful the Reporter's decision (dismissing the appeal) dated 9th January 2013, noted that the current economic downturn has inevitably reduced the demand for sand and gravel, and estimated the need for 17 million tonnes of sand and gravel over the next 10 years.

2.32 Following receipt of responses to the August 2017 operator survey it was found that the current extraction rate within South Lanarkshire's sand and gravel quarries was 1,123,947 tonnes per annum. This is down from the 1,492,000 tonnes per annum estimated in the Minerals Monitoring Statement of January 2017. The operator's survey also indicated that there is a consented reserve of 16,680,000 within South Lanarkshire which is down from the estimated predicted reserve of 18,196,000.

2.33 The council's assessment of the land-bank presents a number of different figures based on whether Garvald is excluded all together or whether in deducting an annual extraction over the 10 years its capacity should still be added to the reserve. The assessment with Garvald excluded from consideration all together is as follows:

Land-bank requirement: 1123950 tonnes per annum (at current extraction rates)

Permitted reserves: 11.8 million tonnes (excluding Garvald)

Land-bank: 10.5 years (at current extraction rates).

2.34 The land-bank would however diminish if extraction were to increase towards maximum extraction rates. The calculation is a snapshot and will diminish over time.

2.35 These figures are based on a one year snap shot through an operators survey. In order to calculate the strength of a land-bank it is also necessary to estimate the reserves against the maximum permitted extraction to give an indication of outputs should each quarry work to its full demand and current consent. If the maximum extraction rate is assumed at 1,647,000 tonnes per annum this would lead to a land-bank of 10.1 years on the assumption that Garvald's reserve came forward prior to the end of the ten year period. It is therefore considered that at maximum extraction rates South Lanarkshire would not be able to maintain a minimum 10 year land-bank at this time. The council's closing submissions taking account of extraction since September 2017 state the land-bank is now at 9.8 years.

2.36 For the purposes of applying development plan policies it is agreed that the mineral extracted from the Hyndford Quarry would serve a regional market. The plan acknowledges that minerals are only to be worked where they are found. In this instance, the application site contains a significant amount of mineral that could be accessed and processed through existing infrastructure facilities including the plant site, lagoons and haul road. Mineral extraction at Hyndford Quarry has been undertaken for a number of years without causing any substantial complaint from the local community or an unacceptable impact on the environment.

2.37 The South Lanarkshire Minerals Local Plan follows the requirements of Scottish Planning Policy by ensuring a steady supply of minerals and the maintenance of a land bank for construction aggregates equivalent to at least 10 years extraction through policy MIN 1 (spatial framework). There is a policy presumption in favour of minerals development if a 10 year land bank is not maintained. Equally, it is argued that less weight should be given to proposals where a sufficient land bank is maintained. The policy also requires that the council balance the economic benefit from mineral development against the potential impacts on the environment and local communities

The Working Group's Case

2.38 The Reporters in 2014 rejected the Working Group's assessment that the requirement was closer to 1.13 million tonnes per year, citing the 1.45 million tonne output in the pre-Global Financial Crisis year of 2002 when the economy was growing strongly as an upper

limit. (We note, however, that the 10 year requirement is based on 'current production levels' (Clydeplan, 2016, para 1.4). The Reporters concluded without ambiguity that there was a shortfall in the land bank and that granting permission would contribute to its alleviation.

2.39 The Working Group notes that the figure of 1.13 million tonnes that we suggested in 2014 has proved to have been the most accurate of any party. The August 2017 survey by South Lanarkshire Council (SLC, 2017) records an extraction rate of 1.12 million tonnes. Had the Working Group's figure been accepted by the Reporters in 2014, the credibility of their justification for recommending that the application be approved would have been substantially undermined.

2.40 That there remains- more than three years after Reporters concluded that there was an unambiguous deficiency - a land-bank of permitted reserves of 14.8 years (if Garvald is included within the period) and 10.5 years (if it is excluded altogether) is testimony to the care that should be recognised when weighing up mineral supply requirements with their impact on the environment.

2.41 It is within the local authority's competence to decide whether Garvald should be considered as mothballed for a decade, or perhaps for a shorter period. The WG notes that it makes little difference to the requirement to seek to ensure that a 10 year land bank is maintained whether Garvald is mothballed for 10 years or not. This is because after one year of such a postponement the permitted reserves would enter the 10 year land-bank. For each year that passes a greater proportion of Garvald's reserves could actually be extracted.

2.42 The Reporters in 2014 accepted and placed weight on the applicant's claim that the viability of the Southern Extension would be affected by the refusal of the Western Extension, due to the quality of the minerals. However, in terms of planning policy and the calculation for mineral supplies the 'composition of the extracted mineral' (Jackman and Edwards, 2015, para. 9.97) is not relevant, particularly when, as the Reporters in 2014 accepted, the materials could be sourced from elsewhere.

2.43 The Clydeplan Strategic Development Plan Background Report 13 Minerals (Clydeplan, 2016) and the SESplan Main Issues report Technical Note Minerals (SESplan, 2015) both record very considerable movement of sand and gravel between strategic planning areas: almost one-quarter of Clydeplan's sand and gravel outputs were exported and 30% of demand imported (Clydeplan, 2016, para. 1.10). SESplan (2015) reported that almost 17 per cent of its output was exported. Such two-way movements of sand and gravel are likely to reflect demand for different types of material within the same class.

2.44 The Applicant has made it clear on more than one occasion that the consideration of the quality of sand and gravel within the proposed Western Extension is one of commercial convenience arising from the vertically integrated nature of the business. That is, Cemex will sell to Cemex before it buys from another provider. Consequently the Working Group cannot accept that the quality of materials in the Western Extension can be treated as being a material consideration in what is a decision based on public policy.

2.45 The Applicant has sought to deny the obvious evidence that the economy has not performed strongly enough and is not predicted to perform strongly enough to merit a required land-bank of 17 million tonnes. The Scottish Fiscal Commission and Office for Budgetary Responsibility points to structural factors including demographic ageing and the slow rate of productivity growth. Where there are structural impediments to growth then there is no basis for assuming that the economy will simply recover of its own accord. The Working Group agrees with the Applicant that estimates of required reserves should be based on realistic assumptions. Referring to what Reporters concluded in 2012 and 2014 (paras 6.26 and 6.27) and imploring the council to plan for patently unrealistic rates of economic growth do not amount to “realistic assumptions.”

2.46 The production rates at Hyndford fell to 400,000 tonnes in 2017. (Indeed the 2015 survey found that they had fallen to 405,000 tonnes.) The Applicant claims that the fall in production is “primarily” due to lack of coarse material at the site. This does not explain why the Applicant was content to allow the land-bank in 2014 to be calculated on the basis of outputs from Hyndford of 550,000 tonnes without the western extension. Nor does it explain why the applicant expects rates to recover to 450,000 tonnes in 2018 and 600,000 in 2021, again without the western extension.

2.47 The accepted approach for calculating a land-bank is laid out in the Clydeplan background report on minerals. The Scottish Government promotes a land-bank approach to maintain both an adequate supply for construction aggregates and a stock of reserves with planning permission over a minimum 10 year period based on current production levels.” (Clydeplan, 2016, para 1.4).

2.48 Even with the removal of Garvald in its entirety from the land-bank, there remains a permitted reserve of 11 million tonnes, which fulfils the criteria set out by the Strategic Planning Authority. A very minor shortfall emerges if the land-bank is limited to the reserves that could be extracted in 10 years within the limits of maximum extraction rates and exhaustion of reserves in individual quarries, i.e. 11 million tonnes. However, a further 1.4 million tonnes is available should the Southern Extension at Hyndford (to which the Working Group does not object) become available, and the Overburns application (3.2 million tonnes) is ongoing. Moreover, Garvald enters the 10 year land-bank after one year – either in full or incrementally each successive year depending on the methodology applied.

2.49 It is safe to conclude that if there is a shortage in terms of a 10 year land-bank then it is a very minor one, capable of being addressed through new applications or changes to consent, for example bringing forward production at Garvald. If there is a shortage, this is what a competitive operator responding to market signals would do. It is also safe to conclude that there is no overriding need for minerals to meet markets of national importance has been demonstrated. Indeed no party has ever made that claim.

2.50 The circumstances of the Mid Essex case are therefore completely different and have no bearing on the arguments for and against the western extension at Hyndford. When one considers that the Mid Essex case acknowledges “the private reasons for which those extractors who had receipt of planning consent might choose to slow down their rate of

extraction” and that these are now clearly frowned upon as frustrating the public need, this 25 year old case seems hardly relevant. Indeed, the reference to this case appears only to be an attempt to legitimise an argument based on purely commercial and not planning grounds.

2.51 The Applicant continues to have difficulty in distinguishing between a decision based on public policy (the need to supply the market) and one based on narrow commercial interest (the company’s preference for supplying itself rather than purchasing materials from other companies).

2.52 This brings us to the question of responsibility in terms of maintaining a 10 year land-bank. As noted above, neither the wording in SPP or in the SLC Minerals Plan confer an absolute duty on the local authority to maintain a 10 year land-bank. SPP suggests that plans “should support” this aim. The SLC policy is “to seek to ensure” the aim.

2.53 Whilst the Applicant emphasises that a 10 year land-bank is a minimum, we observe that given the nature of the obligations outlined above developers also share responsibility for bringing forward suitable sites. Hyndford quarry has operated outside the New Lanark World Heritage Site buffer zone since the 1960’s. According to Professor Boulton (see document H.20), there is no shortage or alternative sources of sand and gravel in South Lanarkshire. Therefore, it is implausible that access to the mineral deposits within the buffer zone is required for the quarry’s continued viability. Also, as quarrying is proposed sequentially (one area at a time with restoration) this would preclude mixing reserves from one part with another. Consequently, the argument about quality of the mineral product is felt to be unfounded.

2.54 Neither Scottish Planning Policy or the council’s policies confer an absolute requirement on the planning authority to maintain a 10 year land-bank. Rather they confer a duty to provide a planning framework that supports this objective. A 10 year land-bank can be attained and maintained only if private developers behave responsibly in terms of identifying suitable sites. On the basis of existing levels of output, there is no shortage of sand and gravel in South Lanarkshire. No party has sought to demonstrate an over-riding need for minerals to serve markets of national importance.

2.55 The maintenance of a 10 year land-bank requires operators to identify sites and bring them forward. From statements made by the Applicant it is difficult to believe that it has not identified alternative sites in the sand and gravel rich region of South Lanarkshire. If it has not, it cannot have been looking very hard.

2.56 In terms of Policy 15 of the Glasgow and Clyde Valley Strategic Plan (previously Strategic Support Measure 9) this does not give any over-riding priority to such development and search areas are to be refined at the local level. The proposal does not accord with this. There is no over-riding need for minerals at a national level and the restoration proposals are inadequate. Therefore, the harmful impact on the Falls of Clyde Designed Landscape and Bonnington View House cannot be set aside. The proposal is contrary to local development plan Policy 15 and to the Minerals Local Plan 2012 (Policy MIN 2) as a result.

Annette Leppla's Case

2.57 In the previous Reporters' conclusions, the small deficit for sand and gravel at the end of the 10-year land-bank becomes simply "a shortfall in the 10 year land-bank" (p.4) and later on "an identified shortfall in the 10 year minerals lands bank" (p.122). In other words, at each repetition, the specific and qualified situation reported by SLC loses more of its specific and qualified nature and hardens into an absolute statement of assertion as fact and is an over-statement.

2.58 The updated position as September 2017 shows: there is a land-bank of 14.8 years at current production levels or there is a 10.5-year land bank given Garvald is permitted to postpone extraction for 10 years. In this case, the entire consented reserve at Garvald is available to the land-bank at the end of year 10.

2.59 The council presents alternate figures based on maximum permitted extraction rates but the correct assumptions should be based on current production levels. Future demand assumptions are also questionable given the decision by Garvald to postpone production. There is no detail as to what other applications might come forward in the South Lanarkshire search area or in other areas. The geography of some Scottish local authority areas means that a quarry located in a neighbouring council area can in fact be closer to the location of where the aggregate is required than narrowly looking for supplies within the boundaries of the local authority. For example, there may be quarries in, say, Dumfries and Galloway which are as close or closer to the southern end of South Lanarkshire than other quarries within South Lanarkshire.

2.60 There appears to be an insufficiency of reliable and/or credible data, but it is difficult to see how development can be directed to the most appropriate locations, as is required by the council's strategy and Policy MIN2, and away from unsuitable locations where these are particularly sensitive, or have a detrimental impact on communities, if there is not a proper exploration of all alternative or complementary options. Five years have passed since the applicant first submitted its initial application to extend the Hyndford Quarry site, in the full knowledge of its sensitivity. I await with interest any information of what efforts it is making to search for alternative sites.

2.61 Today, it is difficult to see how one could seriously maintain either the previously forecast extraction rates or the prediction of a deficit in the 10-year land-bank for sand and gravel. I am not qualified to issue economic predictions and would respectfully point to the independent Office for Budget Responsibility's (OBR) report underpinning the recent autumn Budget statement in which the economic growth forecast for 2017 was reduced by 0.5% to 1.5%, and forecasts for 2018, 2019, 2020 and 2021 revised downwards to 1.4%, 1.3%, 1.5% and 1.6% respectively

2.62 In summary, the updated information provided by the council regarding minerals indicates that there is a healthy land-bank for the supply of minerals. Regardless of this, the applicant and the council appear to pursue the default option of extending Hyndford Quarry despite the presence of sensitive environmental assets. The much repeated mantra that

'minerals can only be worked where they are found' does not mean that all minerals must be worked wherever they are found.

2.63 In response to the applicant's submissions the following points are made:

- (a) the policy is "seek to maintain", which is not the same as "maintaining" and
- (b) falling below 10 years does not automatically trigger the approval of all applications.

2.64 It is a fact that the minimum has been set at 10 years, and not, for example, at 11 years. It is therefore submitted that a reserve at the 10-year minimum represents compliance with the planning policy.

2.65 The applicant does not appear to have previously disputed, criticised, or sought to discredit the calculations or calculation method, of any of the past land-bank calculations. That appears to be a recent development, triggered by the current extraction rates collated by the council. The fact that reporters have accepted the figure of 17 million tonnes does not make it a fact.

Reporter's conclusions on Minerals Supply and Demand

Development Plan and Scottish Planning Policy

2.66 Clydeplan Policy 15 states that a land-bank for at least 10 years extraction will be maintained. Paragraph 8.17 states that consented reserves of sand and gravel within the Glasgow and Clyde Valley area are forecast to be constrained beyond 2021 and as a result additional locations will be required across the city region to ensure that distances from source to market are minimised. It is notable that that the policy wording states the supply **will be maintained** (my emphasis). However the policy goes on to state that economic benefit should be balanced against community and environmental impacts.

2.67 Through submissions and at the hearing I was also directed to the Clydeplan Background Report on Minerals 2016. Paragraph 1.4 of that report references current production levels in determining an adequate supply.

2.68 Policy MIN 1 of the Minerals Local Plan 2012 is also reflected in the council's more recent guidance. They both reference a steady supply of minerals to maintain a land-bank equivalent to at least 10 years extraction. Scottish Planning Policy states that development plans should support the "maintenance of a land-bank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identification of areas of search."

Calculation of demand and supply.

2.69 The first step in that calculation is the estimation of demand and the evidence in the submissions and at the hearing points to somewhere in the range of 1.12 to 1.7 million tonnes per annum. The former represents a more conservative estimate if based on the latest available evidence of production levels. The upper figures reflect an assumed return to higher levels of demand.

2.70 There was some debate at the hearing as to whether current extraction rates could be relied upon given the available lack of data. Certainly past extraction rates are an important monitoring source as confirmed by the Clydeplan Background Report Minerals 2016. However, in the absence of data for 2015 and 2016 or a clearly identifiable trend it is unclear to me whether the figure of 1.12 million tonnes as at August 2017, as a snapshot in time, could reliably be regarded as an indicator of future demand.

2.71 In my opinion it would be reasonable to assume, at the very least, a potential return to the 2014 figure of 1,485,000 tonnes per annum. I accept that the predicted upturn in demand as assumed by previous reporters has not yet occurred. Indeed the lower assumptions of the Working Group, based on the available data, have to date proven the more realistic.

2.72 However I share the opinion of previous reporters that to adopt the lower or lowest figure from recent years would run contrary to the development plan and the Scottish Planning Policy objective to plan for sustainable economic growth. In this context I consider it would be prudent to enable rather than constrain an upturn in demand. Consequently, I find no reason to dispute the potential for demand to rise within a range of 14-17 million tonnes over the 10 year period and to plan accordingly.

2.73 The next step is to compare the likely demand with the current availability of consented reserves. At the hearing the context for this assessment was described by the applicant as akin to that for the effective housing land supply. This highlights differences in opinion between parties regarding the assumed capacity of the reserve. The council's approach represents the capacity or permitted extraction rate from consented reserves whilst the applicant's reflects other constraints including the capacity of the market and operators' intentions. In the absence of clear guidance one way or the other I have no definitive view on the approach. I have no detailed evidence from the relevant operators, other than the applicant, regarding the appropriate market constraints and assumptions. In addition, as these assumptions are market led, they may be subject to considerable change over time.

2.74 Taking all of this into account my preference in these circumstances is to rely on the extent of the available consented reserve rather than assumed operator/operational constraints. I note the Mid Essex case as referenced but also that it is relatively dated and is not applied in the context of Scottish Planning Policy or the relevant development plan.

2.75 For the purposes of this assessment I have based my conclusions on the current reserve of 16,680,000 following the conclusion of quarrying at Annieston and Snabe and excluding these current proposals at Hyndford. However, I have also taken into account the view of the council and the applicant that a recent planning permission would effectively postpone extraction at Garvald. Consequently whilst the 4,870,000 tonne reserve would be secured for the future I have not assumed its inclusion in the current 10 year reserve. This leads me to a conclusion, as indicated in the council's assessment, that the current land-bank reserve would be 11,810,000 tonnes.

2.76 Based on this assumption a growth based scenario as advocated by the applicant (1.7 million tonnes per annum) would lead to a significant shortfall in the 10 year supply. Taking an approach based on the lowest recent annual extraction rate levels (1.12 million tonnes) would give a land-bank just above ten years. This latter figure meets the objective

of at least a 10 year supply as a snapshot in time. However given the annual depletion of the resource I do not consider it meets the policy objective of enabling maintenance of a 10 year supply.

2.77 I accept there is potential for new sand and gravel works to come forward in the 10 year period. There are a number of uncertainties around capacities, the rate of extraction and the level of future demand. The Working Group reference a contribution from the southern extension to Hyndford which Ministers previously sought to approve and which could alone contribute some 1.4 million tonnes of minerals. Submissions reference recent proposals at Overburns Farm which could have contributed 3,175,000 tonnes to the land-bank. However [subsequent correspondence](#), after the hearing session, has confirmed that this application was refused planning permission by South Lanarkshire Council on the 10 May 2018.

2.78 Given the acknowledged capacity at Garvald the current postponement of 10 years would not rule out the possibility of it coming forward earlier and there is some justification to include it, or a contribution from it, in the available reserve. As referenced by the Working Group there may also be other as yet unexplored reserves that could come forward in the event of increased demand.

2.79 Whilst other reserves may come forward I consider that such contribution is likely to be constrained by long lead in times to gain consent and begin development. There are obvious operational efficiencies in extending existing facilities and I agree that the nature of the resource would also be a consideration. In the case of Hyndford I have no reason to dispute that the composition of the mineral deposit in the western area is of operational importance. Whilst this could undoubtedly be sourced elsewhere co-location of product and operation has clear advantages not least in the context of sustainable transport objectives.

2.80 As referenced above I consider a higher extraction rate, to allow for an upturn in economic growth, is sensible. In assuming a demand in the range 14-17 million tonnes I consider the balance of evidence indicates a current and diminishing land-bank of less than 10 years. Indeed the council's closing submissions indicate that in accounting for extraction since September 2017, based on its assessment approach, the land bank has already dropped below the 10 year threshold. I do not consider that the available evidence supports a shortfall as significant as that referenced by the applicant. Nonetheless, the relevant policies support a 10 year land-bank. There is nothing to indicate that the application of these policies is negated in the event that the identified shortfall is not considered to be significant in scale. The objective of the relevant policies is to maintain the supply. Consequently, my conclusion is that this proposal draws support from Clydeplan Policy 15 and from the Minerals Local Plan 2012 Policy MIN1 as well as from Scottish Planning Policy paragraph 238.

2.81 As stated above comparison with the situation when the application was first assessed by reporters in 2015 indicates that the 10 year extractable reserve has diminished. I find nothing sufficient to suggest that the current contribution of this application to the minerals reserve should not continue to carry comparable weight in the decision making process. However, there is nothing in the relevant policies to imply that such a shortfall is an over-riding consideration in the assessment of individual proposals.

2.82 Assessment of the acceptability or otherwise of the proposal also requires due consideration of the other relevant development plan policies to reach a conclusion on conformity overall with the development plan. Other material considerations including the environmental objectives of Scottish Planning Policy and other relevant advice and guidance must also be considered. These matters are assessed in subsequent chapters.

2.83 Taking all of the above into account my conclusions on the Minerals land-bank position are:

- Scottish Planning Policy (paragraph 238), Clydeplan (Policy 15), the Minerals Local Plan (Policy MIN1) and the council's more recent non statutory guidance all support maintenance of at least a 10 year land-bank;
- potential higher rates of demand up to 1.7 million tonnes per annum have not yet materialised and 2017 returns show lower extraction rates than recorded for previous years (1.12 million tonnes as at August 2017);
- even assuming for more pessimistic levels of demand there is only just a current 10 year land-bank signalling clear difficulties in its continued maintenance as supported by the development plan and Scottish Planning Policy;
- in planning for economic recovery and a return to higher extraction rates there is a clear shortfall and justification for additional reserves;
- the current land bank position and the relevant national, regional and local planning policy support the principle of increasing the available reserve of minerals in South Lanarkshire; and
- such support does not however set aside the due consideration of other relevant planning policies and material considerations.

3. HERITAGE AND LANDSCAPE IMPACTS

Background and the role of Historic Environment Scotland

3.1 These matters were considered at length in the previous 2014 report to Ministers. Since that time Historic Environment Scotland has replaced Historic Scotland but there has been no change to its statutory remit. Its response to this current process is summarised in Appendix 4 to this report. Its communication of 4 September 2017 confirms a number of new policy references:

- The Historic Environment Scotland Policy Statement (HESPS) 2016 replaced Scottish Historic Environment Policy (SHEP) 2011.
- Managing Change Guidance note for World Heritage Sites.
- New Lanark World Heritage Site short guide

3.2 However it confirms that there have been no new policy provisions which would alter its position as expressed previously. It finds no basis for further assessment of its interests or any role in the re-opened procedure. In reaching my conclusions I have drawn on the earlier submissions of Historic Environment Scotland and its summary of case as presented in paragraphs 5.1- 5.42 of the Reporters' 2015 report.

3.3 The cases led on this topic area in this current 2017/2018 re-opening of the case relied on much of the material as summarised in the Reporters 2015 report. I have carried out my own assessment based on the original submissions. However to enable an efficient approach and for ease of reference the 2015 summaries of the case led by the applicant, the council, Historic Scotland(now Historic Environment Scotland) and the Working Group in so far as they relate to the World Heritage Site and the Historic Designed Landscape, are extracted through Appendix 6. All the other relevant matters are as rehearsed below drawing on the previous material as appropriate.

The Applicant's Case

3.4 The applicant made new written submissions in response to the 2017 re-opening of the case but also relies on its hearing statement from July 2014 as included in the [Environmental Statement Addendum](#) as Appendix ESA 6. In addition, Appendix ESA 7 was produced in October 2017 as an updated position statement on historic environment matters. Chapter 3 of that statement also includes consideration of approved planning applications within the Buffer Zone and World Heritage Site. The relevant written submissions are attached through Appendix 9 to this report.

New Lanark World Heritage Site

3.5 There is no material which justifies the reconsideration of the previous reporters findings. Historic Environment Scotland's response dated 4 September 2017 has made clear there are no material changes to Historic Environment Policy. The relevant development plan policies are identified in the Environmental Statement Addendum.

3.6 There is nothing in the South Lanarkshire Local Development Plan Main Issues Report, the Clyde and Avon Valley Landscape Partnership Geology Project, the Lanark Heritage and Tourism Group Strategy, the Lanark and District Archaeological Society Publication, Falls of Clyde Heritage Group and other community events, the Friends of New Lanark publications or relative to the Clyde Walkway extension which raises any new material consideration which were not previously considered. Indeed the restoration proposals, which commanded considerable support and which the Working Group is noticeably silent about, remain the only practical route to achieve significant improvements which seems to be the aim of the New Lanark Trust and other groups from whom statements have been obtained.

3.7 The role of World Heritage Site Buffer Zones was discussed in detail during the Hearing in 2014. The key consideration during the Hearing was whether or not a buffer zone defines the setting of a WHS. Buffer Zones do not de facto equate to setting but rather are a management tool designed to ensure that any development or change within them is given adequate consideration as to how such change may impact upon the Outstanding Universal Value. The argument was largely supported by Historic Scotland (now Historic Environment Scotland (HES)) and South Lanarkshire Council. At the 2014 Hearing, the Working Group argued that the Buffer Zone at New Lanark equates to the immediate setting of the World Heritage Site (WHS) and as such an impact within the Buffer Zone would equate to an impact upon its setting. This was correctly rejected, and there is no basis for reaching any different conclusion.

3.8 In its most recent submission the Working Group refer to UNESCO Operational Guidelines which were updated in 2017 ([H.28](#)) with specific reference to changes in relation to buffer zones. There are no revisions to the section on Buffer Zones as set out in Paragraphs 103 to 107, in the 2017 Operational Guidelines when compared to those of 2013 ([I.2](#)).

3.9 Paragraph 112 (H.28) has been amended since 2013 but this is discussing the need for effective management plans. The focus is on the need for a management system, with the emphasis being on the preservation of the Outstanding Universal Value of the WHS. This paragraph recognises that the broader setting of a WHS may also contain elements which help to reveal or support that value and that impacts on such elements must be considered in the assessment of development proposals. The applicant maintains that the key consideration in assessing potential impacts is whether or not a proposed development will impact upon the Outstanding Universal Value (OUV). This accords with Scottish Planning Policy (CD1 para 147). This states that where a development would affect the WHS or its setting then the 'planning authority must protect and preserve its Outstanding Universal Value'.

3.10 This is supported by HES guidance on World Heritage published in 2016 ([H.39](#)). The guidance states that: 'It [a Buffer Zone] is designed to ensure that all proposals for development within it are considered carefully, as they may have the potential to affect the World Heritage Site. When development is proposed in a buffer zone, it should be considered in terms of likely impact on the OUV, and the authenticity and integrity of the World Heritage Site itself' (H.39, 10).

3.11 Supplementary Planning Guidance 9 supports this stating that ‘It is necessary to distinguish between Buffer Zone and Setting of New Lanark. The Management Plan for New Lanark advises that the terms ‘buffer zone’ and ‘setting’ are not interchangeable as the setting can potentially cover a different area, and elements of the setting may be outwith the buffer zone and vice versa.

3.12 Buffer zones are considered by UNESCO to represent zones that are not in themselves of outstanding value, but that may influence a WHS. A key function of the buffer zone is to make sure protection of the setting of the WHS is considered in the assessment of any development proposals in the area ([B35](#), 12). These changes would not alter the conclusions reached in the Environmental Statement or the Hearing Statement and so do not constitute new material circumstances. The setting and Outstanding Universal Value of New Lanark World Heritage Site would be protected in accordance with Scottish Planning Policy (paragraph 147) because of a lack of inter-visibility with the proposed extraction areas and proposed mitigation measures. The proposal complies with Policy 15, NHE1, MIN 2 and with the relevant Historic Environment Scotland policies and guidance in respect to the World Heritage Site.

Falls of Clyde Designed Landscape

3.13 On the matter of new research Evidence for Thomas White’s involvement comes from an untitled estate plan for Bonnington. This contains annotations referring to a ‘Mr White’ or ‘Mr W.’ As these annotations deal with suggestions for designed landscape features, it is likely that the ‘Mr White’ referred to is indeed one of the Thomas Whites. However, the extent of any such involvement that Thomas White had at Bonnington remains unclear. Mr Dingwall himself states that no Thomas White plan of Bonnington has been found.

3.14 It should be noted that Blaeu’s map was reproduced within the ES ([A.5, Figure 4](#)), as was Pont’s early map (ibid, (Figure 3)) upon which Blaeu’s is based. The Archaeology and Cultural Heritage Chapter noted that Bonnington appeared as an important estate surrounded by established parkland on Blaeu’s map. It should also be noted that Blaeu’s map is highly schematic and not to scale. The depiction of features cannot be taken as providing accurate locations, but rather only to indicate generally the relationships between landmarks and settlements.

3.15 The argument that the route follows the alignment of a park pale is not accepted. While this may be a possibility, it cannot be verified. Even if it is accepted that the wall follows the alignment of a former park pale, this would not elevate the importance of the wall from Regional, as a heritage asset, as set out in Paragraphs 5.110 to 5.116 of the Hearing Statement (CEMEX 2014).

3.16 Given the above, it is clear that the evidence presented as new by the Working Group would not elevate the importance of the Bonnington element of the Falls of Clyde Landscape or the boundary wall above the levels of National and Regional importance, respectively, noted in the Environmental sssRAstAsTAS (A.5) and the applicant’s earlier hearing Statement (CEMEX 2014). As such the assessment of effects upon these assets, as predicted in the ES and the Hearing Statement, is maintained. Further, it is submitted that there is no ‘new’ evidence as to the involvement of Thomas White in the design of the Bonnington landscape and all evidence on this point was made available to the Reporters in 2014.

3.17 Ms. Leppla picks out Paragraphs 1.9b and 3.76 of HESPS ([H40](#)) Both statements were contained, word for word, in Scottish Historic Environment Policy (C.16) at Paragraphs 1.14b and 3.78, respectively. As such the policy position has not changed in respect of these considerations. Without new or additional material considerations being presented, it seems likely that HES would have come to the same conclusions reached in 2013.

3.18 It is agreed that Gardens and Designed Landscapes are worthy of protection in their own right, it is important to note that HESPS (H.40) states that: 'Informed change should be managed carefully with the aim of ensuring that the significant elements justifying designation are protected or enhanced' (Paragraph 3.79). Impacts resulting from the proposed development will be limited to the Bonnington element of the designed landscape. Further the area of the Bonnington estate south of the South Drive and east of the walled garden, where the quarry extension is proposed has lost the majority of its parkland features.

3.19 The south-eastern portion of the park at Bonnington, in its current state, does not allow for an understanding of the value of the estate, as a picturesque landscape and as such cannot be considered a significant element of the designation. Those elements which do contribute to this understanding and significance will be preserved in line with Paragraph 3.79 of HESPS (H.40) noted above. Historic Scotland concluded, during the previous examination, that there would be a direct impact on part on the Designed Landscape, however, overall the development did not raise issues of national significance that warranted an objection.

3.20 It was acknowledged previously that the restoration proposals would not result in a complete restoration of the current landform. It has always been acknowledged that extraction will result in a final landform lower than the natural landform, including the loss of Primrose Hill. This would result in the restoration of the boundary wall at a lower level.

3.21 However, it is also argued that restoration proposals have the potential to rehabilitate the parkland and re-establish a connection between the south-eastern corner of the estate with the wider designed landscape. This, combined with the proposed interpretation, could increase understanding and appreciation of and access to the Bonnington estate. This mitigation should be seen as offsetting the predicted impacts by enhancing understanding, appreciation and access. PAN 1/2013 ([C.8](#)) recognises offsetting measures as a form of mitigation which can be acceptable where avoidance or minimisation of harm are not feasible. It is, therefore, maintained that the proposed restoration and enhancement proposals mitigate the impacts of the proposed development upon the designed landscape to an acceptable level. The proposals have also been designed to protect the Falls of Clyde Designed Landscape, as advocated by paragraph 148 of Scottish Planning Policy. The proposal complies with Policy 15, NHE4, MIN2 and with the relevant Historic Environment Scotland policy and advice in relation to the Historic Designed Landscape.

Listed Buildings

3.22 No new matters were raised in this context and the applicant relies on its case as led in 2014 as summarised below. Chapter 16 of the Environmental Statement found that there were potential impacts on the setting of 6 listed buildings. The Historic Environment

Addendum October 2017 confirmed there was no significant change to the relevant policy context.

3.23 Bonnington Pavilion is category A-listed primarily because it is an important and early example of a building and garden feature specifically designed to enjoy a picturesque view (document D.12). Given the function of the building as a garden feature within the Bonnington Estate and the fact that it was designed with specific views over Corra Linn, it is obvious that setting of the pavilion is key to understanding and appreciating its significance. Evidence indicates that the building has been subject to a number of modification since its early 18th century construction, and it is reported in the McGowan report that it was ruinous in 1772 but had obviously been restored by 1822 (document H.16, page 59). More recently, it has been both directly and indirectly impacted upon by the construction and existence of Bonnington Power Station. The stairs, which were originally orientated towards the terraced walk so that visitors could promenade along the path and straight up into the pavilion, were re-orientated to allow for the excavation of the pipe trench which is located immediately east of the stair (document D.12).

3.24 The approach from the former Bonnington House along the terraced walk or along the curved path from the walled garden contribute to an understanding of how a visitor was meant to encounter the pavilion. Both walks were originally lined with trees and woodland surrounding Bonnington House and along the east side of the walled garden would have prevented views of the parkland in the southeast of the estate. As it is today, views of the area to the south-east of the walled garden are limited as result of topography, though there will be some visibility from the curved path.

3.25 The development of Bonnington Power Station (also a listed building) in the 1920's had a significant impact upon the pavilion and in many ways severed it from the rest of the designed landscape at Bonnington with the pipes cutting the entrance off from the terraced walk. The surge tank located immediately south-east of the pavilion dominates the building. McGowan's Designed Landscape Management Study states that "the continuity of the terrace path is now severed by the aqueduct pipes serving the Power Station, although they can be crossed at a point. The setting of the building is compromised further by a large surge tank beside the building" (page 59).

3.26 The function of the building to provide picturesque views over the Falls can still be appreciated, however, the design intention which sought for a visitor to proceed along the terraced walk, straight up the stairs and into the pavilion overlooking the Falls can no longer be experienced.

3.27 The proposed quarry extension would not be visible from the pavilion. Historic Scotland note that the quarry may impact upon views from the terraced walk which forms part of the setting of the pavilion and therefore consider there could be a minor impact upon the pavilion's setting. However, as outlined above it is unlikely, given topography and historic tree cover around Bonnington House that the area of the quarry was visible from the pavilion or approaches to it or departures from it in the past. Furthermore, the quarry extension would not prevent or detract from an observer's ability to understand or appreciate the building's importance as an early picturesque landscape feature, which is appreciable despite previous impacts upon its setting by the Power Station. Consequently, there would be no significant impact upon the listed building or its setting. This assessment is shared by

the council (see paragraph 5.6 of document A.21). There is no breach of Policy 15, NHE3 or Policy MIN2.

3.28 The environmental statement assessed impacts upon the setting of Corehouse (a Category A listed building) to be potentially significantly adverse. Historic Scotland agreed with this, though it did not consider that impacts reached a level which warranted objection. Corehouse was revisited in advance of the 2014 hearing sessions and it was considered that the current height of the trees in immediate vicinity of the house and the distance to the proposed extraction area would greatly limit any impact of the proposed development upon the setting of the building. Impacts are therefore not considered to be significantly adverse and as such the development can be seen to comply with policy MIN 2 in this respect. The council revised its conclusion on this matter at the hearing sessions and agreed that there would be no harm to Corehouse.

New Lanark and Falls of Clyde Conservation Area

3.29 No new matters were raised in this context and the applicant relies on its case as led in 2014 as summarised below.

3.30 At its nearest point the proposed extraction boundary is located some 230 metres from the conservation area. The proposed western extension would be visible from very limited areas of the conservation area; primarily this visibility would be in the vicinity of the Walled Garden at Bonnington. New Lanark itself and the majority of the conservation area (with the exception of some limited visibility at Bankhead) would not be inter-visible with the quarry extension. Indeed, the character appraisal (document B.9) makes several references to the significance of the “contained”, “enclosed”, and “secluded” setting of New Lanark and the importance of maintaining this. As the extraction area would be well beyond the conservation area boundaries its setting would not be harmed.

3.31 Regardless of inter-visibility, the proposed extension would not impact upon an observer’s ability to understand, appreciate or experience the significance of the conservation area. The development would not have a significant adverse impact upon the value of the conservation area.

3.32 Based on the proposals as a whole, including restoration, mitigation and enhancement measures, working within the proposed western extension would generate no significant impacts on the landscape character and visual amenity of the conservation area. Therefore, whilst there are adverse effects in the short term, which only affect a very small proportion of the conservation area, in the medium to long term, the proposals would not adversely affect the integrity of this site. Therefore, it is agreed with the council that the proposal complies with Policy 15, NHE7 or MIN2.

Non Designated Heritage Features

3.33 The Boathough remains (a non-designated remains of a former house) are located some 132 metres beyond the proposed southern extension area. While there is potential for impacts upon the setting of Boathough, it should be noted that the permitted quarry extends to within 230 metres of the remains. It is unlikely that the proposed extension of the quarry by around 100 metres would materially increase the impact on setting. There would be no direct impact upon the remains, its former garden grounds, or its visual connection with the

River Clyde. There would be no significant impact on the undesignated remains as a result of development.

Special Landscape Areas

3.34 No new matters were raised in this context and the applicant relies on its case as led in 2014 as summarised below .

3.35 It is acknowledged that the landscape and visual assessment contained within the environmental statement assessed the impacts on various landscape character types rather than assessing impact on the Middle Clyde Valley Special Landscape Area in its own right. However, the findings of the assessment process in terms of overall significance levels still apply to the designation itself.

3.36 It was concluded that the Rolling Farmland and Incised River Valley landscape character types which cover the Middle Clyde Valley Special Landscape Area were both 'high' in sensitivity to change. The impact of the proposed development would result in a Substantial adverse impact to the Rolling Farmland, and a Slight adverse impact to the Incised River Valley landscape types. These would be short-term (less than 10 years). However, following mitigation (see the restoration proposal section below) the result would be beneficial to the landscape.

3.37 Based on the proposals as a whole, including restoration, mitigation and enhancement measures, working within the proposed western extension would generate no significant impacts on the landscape character and visual amenity to the Middle Clyde Valley Special Landscape Area. Therefore, whilst there are adverse effects in the short-term (up to eight years), which only effect a very small proportion of this landscape designation, in the medium to long-term, the proposals would not adversely affect the integrity of this designation and the development is assessed as being compliant with the development plan. The level of predicted effects are also capable of being monitored and controlled by planning conditions and the proposed planning obligation. The proposal is therefore consistent with local development plan policy 15, Supplementary Guidance Policy NHE16 and Policy MIN 2.

Fluvio Glacial Landform

3.38 The Working Groups submission (as made previously) that the western extension would adversely impact on the unique geomorphology was shown to be without foundation by reference to its own evidence in Dr Gordon's statement in 2017. There was agreement between the experts, Dr Gordon and Andrew Highton, that the site was not even of local importance. Thus the submission that the geomorphology is unique and extra-ordinary in paragraph 29 of the Working Groups closing submissions 2018 can be properly classified as being made in the face of the evidence and disingenuous. The suggested link between areas could be achieved regardless of the current proposals as referenced in the ES. The role of Scottish Natural Heritage is misrepresented as they have engaged with the process as recorded in Chapter 7 of the ES.

The Council's Case

World Heritage Site

3.39 The minor change made between the Local Plan 2009 and the LDP 2015 relevant to this application is the differentiation made between the buffer zone and the setting of New Lanark which can potentially cover different areas, as explained in Policy 15 and Supplementary Guidance 9; Natural and Historic Environment paragraphs 3.5 to 3.14 and in particular 3.8. This was discussed at the hearing, but makes no difference to the assessment in the Council's Committee Report [A.21]. In The Report to the Scottish Ministers [B.26] the Reporters addressed the difference between buffer zone and setting to the same effect.

3.40 The council submits that nothing said by the Working Group or Ms Leppla at the hearing and no documents produced since the South Lanarkshire Council Report [A.21] or for the previous Inquiry, amount to a material change that would require a reassessment or a different conclusion. It relies on its previous conclusions that there would be a limited temporary impact contrary to local development plan Policy 15, supplementary guidance Policy NHE1 and Policy MIN 2 as updated in its non-statutory guidance. However, the impacts of development would be offset in the medium to long-term as restoration and enhancement of the site were undertaken. The impact would become neutral to beneficial. Therefore, approval would not represent a significant departure from the development plan.

Historic Designed Landscape

3.41 The council relies on its previous submissions that the proposed development would cause a temporary significant adverse impact within the Falls of Clyde Designed Landscape technically contrary to local development plan Policy 15, Supplementary Guidance Policy NHE4 and minerals Policy MIN 2 as updated in its non-statutory guidance. However, the need for minerals together with the restoration and enhancement proposals mean that on balance there would be long-term improvement of the designed landscape.

Listed Buildings

3.42 The council relies on its previous submissions in this respect updated to reflect the current policy references.

3.43 Bonnington View House (A-listed), also known as Bonnington Pavilion, was designed as a viewpoint and its focus is therefore directed towards the Falls of Clyde. The environmental statement suggest that the presence of Bonnington Power Station has a negative impact on the setting of the Bonnington Pavilion. This, however, is mainly caused by the presence of modern poorly designed fencing. Historic Scotland considers the proposed development is likely to cause an impact of minor significance on the pavilion. Views of the application site from the Pavilion are affected by topography, trees, power lines and distance to the proposed workings, and the adverse effect of the proposed development on the pavilion is not considered significant.

3.44 The environmental statement predicts no direct impact on any A-listed buildings. A moderate indirect impact on Corehouse (A-listed); a minor impact to Harperfield House (B-listed); and minor impacts to Harperfield House, Stables and the Dovecot at Corehouse (both C-listed). These findings were agreed at the hearing session where it was conceded that there would be no impact on Corehouse. The proposed development would not result in

an unacceptable impact on any listed buildings, or their integrity. The development is therefore compliant with local development plan Policy 15, Supplementary Guidance Policy NHE3 and minerals Policy MIN 2.

New Lanark and Falls of Clyde Conservation Area

3.45 The council relies on its previous submissions in this respect updated to reflect the current policy references.

3.46 The western boundary of the application site abuts the New Lanark and Falls of Clyde Conservation Area. The closest extraction would be some 220 metres from this conservation area. The extraction operations would be visible from limited parts of the conservation area, principally in the south eastern extent near the walled garden.

3.47 However, views would be interrupted to the extraction area from this point due to the distance and intervening topography. Any impact from extraction would be indirect on the setting of the conservation area and temporary. The proposals to re-introduce structure planting and improve opportunities for public access through the formation of footpaths are not considered likely to adversely affect the setting of the conservation area or its setting. Having regard to the New Lanark and Falls of Clyde Conservation Area Character Appraisal, it is considered that the development would not result in an adverse impact on the conservation area. The proposal would therefore comply with local development Policy 15 and Supplementary Guidance Policy NHE7 as well as minerals Policy MIN 2.

Scheduled Ancient Monuments

3.48 The council relies on its previous submissions in this respect updated to reflect the current policy references.

3.49 The proposal is predicted to have a minor impact on four scheduled ancient monuments during extraction – Hyndford House, Crannog; Corra Castle; Blackhouse Burn; and Cleghorn. There is no objection from Historic Environment Scotland in relation to the impact on these monuments. Furthermore, the West of Scotland Archaeological Service are satisfied that any on-site archaeological remains can be protected/recorded by use of a planning condition. The proposal would therefore comply with local development plan Policy 15 and NHE2 in this regard. The proposal would technically not be compliant with Policy MIN 2 but that can be set aside as there would be no direct harm to a scheduled ancient monument as a result of development, and the minor impact would be temporary.

Special Landscape Areas

3.50 The council relies on its previous submissions in this respect updated to reflect the current policy references.

3.51 The proposed western and southern extensions would be located within the Middle Clyde Valley Special Landscape Area. The designated landscape extends from Lanark northwest to the edge of Hamilton but excludes the existing Hyndford Quarry site. It is

significant due to a combination of landscape qualities and uniquely important sites, including its scenic qualities, cultural features, semi-natural woodlands, and accessibility.

3.52 The visual impact of the extraction areas would be restricted to the local area (up to one kilometre from the extraction area), and longer views would be constrained as a result of intervening topography and screening. This also applies to walking routes in the area. Consequently, it is considered that the impact of the proposal on the Middle Clyde Special Landscape Area would be limited, and that the development would not create a significant adverse impact on the landscape qualities and unique sites of the designation. Furthermore, the restoration and enhancement proposals would result in an improvement of the landscape through the creation of footpaths, structure planting and reinstatement of historical features.

3.53 The application site is also located on the edge of the Upper Clyde Valley and Tinto Special Landscape Area. No mineral extractions are proposed within this designation but enhancement works are proposed. Views from this special landscape area to the southern extension would be possible from the A70 from Hyndford Bridge to Sandilands. However, these views would be restricted by intervening topography and transient. It is considered that the proposal would not have a significant adverse impact on this special landscape area. Therefore, in this matter the proposal is compliant with local development plan Policy 15 and NHE16 and minerals Policy MIN 2.

The case for the working group

Outstanding Universal Value, Setting and Buffer Zone

3.54 Since February 2015 changes have been made to the “Operational Guidelines for the Implementation of the World Heritage Convention” in relation to buffer zones. The revised guidelines are listed in the Parties’ Documents List as [New Document H 28](#). (This supersedes the 2013 version which was listed as I 2.) Under the section on Management Systems, the following has been added – “The broader setting, beyond the buffer zone, may relate to the property’s topography, natural and built environment, and other elements such as infrastructure, land use patterns, spatial organisation, and visual relationships. It may also include related social and cultural practices, economic processes and other intangible dimensions of heritage such as perceptions and associations. Management of the broader setting will be related to its role in supporting the Outstanding Universal Value.”

3.55 This emphasis on setting, to include natural features, socio cultural and intangible context, whether or not within the Buffer Zone, confirms the importance of the geological context, the linkages between the burgh, local estates and the new industrial community of New Lanark in the eighteenth century and of the appreciation of Enlightenment values represented in the man-made landscape and in the artistic responses to the entire landscape as supportive of the OUV of the New Lanark WHS.

3.56 At the time of the first hearing, a State of Conservation Report was made by the UK state party with regard to New Lanark to the World Heritage Committee, 2014. The decision of the Committee ([New Document 29](#)) highlighted:

a) the need for a detailed Heritage Impact Assessment (HIA) to be undertaken to define the potential impact of the extraction scheme, in line with ICOMOS Guidelines on Heritage Impact Assessments for cultural World Heritage properties; and

b) the need for the setting of the property to be more adequately defined, particularly in relation to how it supports the Outstanding Universal Value of the property.

3.57 The decision of the World Heritage Committee in 2016, in receipt of a report that the Scottish Ministers were minded to reject the western extension, was to formally note with satisfaction the measures taken to address its previous requests to mitigate the threats on the Outstanding Universal Value of the World Heritage property. ([see New Document H 30.](#))

3.58 The applicant made a public commitment in its 2015 Sustainable Development Report and on the UNESCO website as follows “CEMEX fully recognises the need to protect the outstanding universal value of World Heritage sites and that these sites should be considered no go areas and nothing should impinge on their settings and buffer zones.” This commitment has not been publicly withdrawn in its 2016 report.

3.59 The Working Group is at a loss as to the reason for the continued quest by the applicant for consent for the western extension in view of this undertaking and the concerns of UNESCO.

3.60 In September 2016, Historic Environment Scotland published “Managing Change in the Historic Environment: World Heritage” in its ongoing series of guidance notes on managing change. This takes its high level policy reference as the Scottish Planning Policy 2014 (SPP) which requires planning authorities “to protect and preserve a Site’s OUV. This responds to the international importance of World Heritage Sites and the obligations associated with their inscription.” Accordingly, “The purpose of local (development plan) policies is to protect the OUV of the Site, in recognition of its international status.” The document goes on to summarise the effects of the UNESCO World Heritage inscription and its obligations on planning authorities and site managers.

3.61 In its reference to Buffer Zones the document states “The buffer zone is not part of the inscribed Site. It defines an area around it that helps protect its OUV. In most cases, the buffer zone will include: — the immediate setting of the World Heritage Site — important views to or from it — features or other attributes that support its OUV. In some cases, the buffer zone may include buried archaeological evidence on the edge of the inscribed Site.” This reflects the terms of the UNESCO Operational Guidelines (New Document H 28) and confirms that adverse impacts on the OUV of the WHS from development within the Buffer Zone (or setting generally) need not be confined to direct visual impacts on the WHS itself.

3.62 The working Group maintains its position that the proposal is contrary to Local Development Plan Policy 15, NHE1 and MIN2 given the harm to the international designation and its setting (buffer zone). The previous reporters erred by attempting to interpret Outstanding Universal Value too narrowly, and ignoring the expert guidance of Susan Denyer (Secretary of ICOMOS-UK and ICOMOS World Heritage Advisor) that, “A full understanding of the attributes and their relationship to OUV emerges from details in the nomination dossier and the ICOMOS evaluation.”([Document H.20](#)).

The Falls of Clyde Designed Landscape

3.63 With reference to other designations which may co-incide with the WHS and buffer zone the Managing Change document 2016 states- “Each designated asset has to be considered in its own right. The fact that a designated feature falls within the World Heritage

Site or its buffer zone also means that its relationship to the reasons for the Site's inscription must be carefully considered." This is a very relevant issue in the case of the western extension site where both the Buffer Zone and the Inventory Designed Landscape are involved. It is therefore important that the obligations carried in respect of BOTH designations separately and together are discharged and that a preoccupation with a narrow view of obligations to protect the OUV of the WHS does not overshadow obligations to safeguard the designed landscape AND its functional relationship with the WHS.

3.64 Historic Environment Scotland Policy Statement 2016 replaces Scottish Historic Environment Policy (SHEP) and updates the role of HES in relation to designations, management and control. With regard to Gardens and Designed Landscapes which are included in the Inventory, paragraph 2.75 relating to the designation criteria for Gardens and Designed Landscapes states "In particular it would have to be demonstrated that it had sufficient integrity in its design to merit inclusion." Dealing with the processing of planning applications in such areas, paragraph 3.76 states "Historic Environment Scotland expect planning authorities to have careful regard for the specific qualities, character and integrity of gardens and designed landscapes."

3.65 The proposed western extension of the quarry threatens the integrity of the Falls of Clyde Designed Landscape at Bonnington with regard to both its fluvio glacial substrate and its design philosophy, regardless of the loss of plantings or buildings which has taken place.

3.66 The recent study of the location of the mediaeval park pale, which confined the deer within the hunting forest at Bonnington, establishes a much longer provenance for the estate boundary wall along the length of the Drove Road to Boat Haugh, as it most likely sits on the line of the pale. Accordingly, both the line and the contouring of the drove road and the wall are significant in taking an easy route to the river crossings but also sitting wherever possible on rising ground in order to more easily retain the game within the forest.

3.67 The work of Thomas White makes this one of the most significant designed landscapes in Scotland and, from a topographic point of view is entirely intact with the location of key features easily identified. The key issue in any scorecard on economic benefit is to take into account the offsetting losses of others. The New Lanark Trust evidence is that there may well be greater losses for New Lanark and the tourism potential of the area if the western extension goes ahead. These conclusions lead to conflict with the relevant local plan Policy 15 of the South Lanarkshire Local Development Plan as well as Policy NHE4 of Supplementary Guidance 9 and Policy MIN2 of the Minerals Local Plan 2012.

New Lanark and Falls of Clyde Conservation Area

3.68 The working group relies on its previous submissions in this respect updated to reflect current policy references.

3.69 The proposed development would not result in a limited and temporary impact on the conservation area as asserted by the council. The outcome of the impact is determined by the acceptance of the restoration proposals as a permanent arrangement which would interact with the conservation area and its setting. The temporary period of eight years of mineral workings would be harmful to the conservation area (particularly from the walled garden), but also the proposed restoration (as a pastiche) is inappropriate to the special architectural and historic interest of the conservation area. These conclusions lead to

conflict with the Policy 15 of the South Lanarkshire Local Development Plan as well as Policy NHE7 of Supplementary Guidance 9 and Policy MIN2 of the Minerals Local Development Plan 2012.

Listed Buildings

3.70 The working group relies on its previous submissions in this respect updated to reflect the current policy references.

3.71 Bonnington View House was built by James Carmichael in 1708 and is recognised as being the first building in Scotland (and possibly Britain) built as a viewing pavilion. Together with the approach terrace, it acted as a link between the two parts of the landscape – the beautiful parkland of the Bonnington Estate and the sublime view of the river gorge and Corra Linn.

3.72 Consequently, the setting of Bonnington View House is considered to be both the focus on the falls and the Bonnington parkland. Although the proposed extraction area would not be visible from View House it is noted that Historic Scotland setting guidance (document C.17) advises that “key viewpoints from approaches, routeways...natural features, etc. should be considered” as part of setting. Therefore, an appropriate delineation of the setting is the circular walk from the site of the former Bonnington House, along the terrace to the View House, then following Curved Terrace (the high path above Corra Linn) to the walled garden, and following the path to the top of Peacock Hill which provides a significant panoramic viewpoint across the parkland.

3.73 The Historic Scotland (now Historic Environment Scotland) setting guidance also clarifies that impact “should not be confined to whether key views to and from the historic asset...are interrupted.” Instead, the focus is on “our ability to understand and appreciate the historic asset.” The council suggest that there would be no significant impact on the View House due to “topography, trees, power lines and distance from the proposed workings”. However, this response reflects a poor understanding of ‘setting’ and the reference to power lines (which may be temporary in heritage terms) confuses the impact on views and the ability to interpret the landscape.

3.74 The permanently altered landscape would be clearly visible from both along the Curved Terrace and Peacock Hill. These walks were laid out to be appreciated as you progressed through them, not just from specific viewpoints, and are each inter-related. The impact of the proposal on the historic walk, which being centred on View House constitutes its setting, would be diminished by the permanently altered landform, which would be particularly visible from Peacock Hill. Further impact on the setting is likely to include a diminution of the ‘sense of place’ as a natural landform would be scarred permanently by a significant industrial intervention. This is considered contrary to local development plan Policy 15 as well as Policy NHE3 of Supplementary Guidance 9 and Policy MIN2 of the Minerals Local Development Plan 2012.

Middle Clyde Valley Special Landscape Area

3.75 The working group relies on its previous submissions in this respect updated to reflect the current policy references.

3.76 The Middle Clyde Valley Special Landscape Area has recently had its boundaries reviewed. It is clear that the boundaries are defensible and described in the review (document D.10) as being built on permanent physical landscape features. The existing quarry operations were removed from the landscape designation at the review. Further encroachment of this landscape designation by the proposed development would render the designation meaningless – protected in name until it is expedient to destroy it. The impact on views to and from this special landscape area are also of utmost importance (particularly from Lady Mary’s Walk and from the Drove Road). The proposal would be inconsistent with local development plan Policy 15 as well as Policy NHE16 on development in Special Landscape Areas.

3.77 SNH has been excluded from the process but informal correspondence (document H18) clarifies that the western extension would involve “potential loss of the glacial depositional landscape and the associated geomorphological 'story'” and that “any restored landform would have little if any geomorphological value, being as it would be, entirely artificial”.

3.78 Further encroachment of the Middle Clyde Valley Special Landscape Area would render the designation meaningless. At the hearing sessions it was suggested that there was a distinction between the impact on the landscape in the proposed southern extension and the western extension (both covered by the special landscape area designation) in that the western extension is also designated for its cultural significance as part of a designed landscape. And, in addition, the western extension has more geomorphological significance. Therefore, the impact of the proposals on the southern extension would be acceptable but not on the western extension.

Fluvio-Glacial Landform

3.79 In advance of the 2017 a hearing a statement was submitted from Dr John Gordon to provide additional evidence on this matter. It states that the proposed sand and gravel quarry extension area does not contain any landforms of outstanding national scientific importance for geomorphology, and the proposed development should not impact directly on the nationally important geomorphological interest of the Falls of Clyde SSSI.

3.80 However, the proposed quarry extension area forms part of a corridor within the New Lanark WHS buffer zone that connects the Falls of Clyde and the glacial landforms north of the minor road at Bonnington Mains, outside the proposed extension area. The latter are one of the best remaining intact examples of an ice-contact landform assemblage associated with the deglaciation of the last ice sheet (c. 15,000 years ago), with particularly well-developed kame and kettle topography located adjacent to an outwash plain to the east. The site is considered to be a strong candidate for Local Geodiversity Site Status.

3.81 The proposed quarry extension does not include any exceptional landforms but it could form an integral part of an intact and authentic connective corridor for wider landscape interpretation as part of a geo-heritage interpretation trail. Such an 'Ice Age' trail is proposed in the New Lanark World Heritage Site Mill Village and Falls of Clyde Draft Consultation Document 'A Vision for Our Future' (November 2017).

Other relevant matters

3.82 New material considerations (as of 2017) are identified in respect of a) clarifying the heritage significance of the application site in the area of the western extension and the margins of the southern extension; b) indicating the relative importance of this heritage to the social and economic welfare of the Lanark area; c) underlining the value of the heritage and of the opportunities for access and interpretation to the future viability of the management of New Lanark WHS; and d) confirming the value placed on this heritage by the local community and its readiness to engage in its protection, enhancement and interpretation. Further submissions include:

3.83 **Future role of the New Lanark Trust** : The forthcoming review of the Management Plan will be undertaken by New Lanark Trust rather than as previously by Historic Environment Scotland. This transfer early next year will enable a more proactive and less reactive approach to the priorities in the Management Plan and its Action Programme which includes proposals in support of heritage protection and enhancement in the Buffer Zone as well as in the WHS itself. This should enable a proactive and visionary stance as indicated in the recent Strategy and Implementation Strategy prepared by New Lanark Trust.

3.84 The Chief Executive confirms the Strategy will inform the review of the WHS Management Plan. The strategy also confirms the New Lanark Trust's view that the purpose of the Buffer Zone is to protect the setting of the WHS not only in relation to visual impact but in relation to functional relationships, as recognised by the UNESCO Operational Guidelines (Ref New Document H 28). In this respect, it forms the immediate setting of the WHS by definition and supports the Outstanding Universal Value of the WHS.

3.85 It is the Trust's view that any detrimental impact on the Falls of Clyde designed landscape or its setting, such as that of the temporary effects of mineral working or the permanent removal of the landscape's authenticity, would have a negative effect on the Trust's business and vital potential for growth, greatly outweighing that which refusal of the western extension would have on the business of the applicant.

3.86 **South Lanarkshire Local Development Plan Main Issues Report 2017**: Chapter 4 of the MIR ([new document H25](#)) identifies the issue "The Council is considering ways of improving visitor access to the New Lanark World Heritage Site. This is at early stages and options will be developed and if an appropriate solution is identified this will be included within the Local Transport Strategy and the Proposed Local Development Plan 2." The MIR also proposed changes to Local Landscape Designations in the LDP in respect of the recent guidance from SNH and HES.

3.87 In its response of May 2017 ([H26](#)) the New Lanark Trust stated "there is an urgent need for a unifying concept which could be defined in the policies for landscape in the LDP". This goes onto list proposals including the extension of the conservation area to include the designed landscape and a commitment to an extension of the Clyde Walkway to connect with Tulliford and the Drove Road. It is clear that the western extension of the quarry would not only be incompatible with the policy measures proposed but with the suggested positive planning projects for better access and enjoyment.

3.88 **Clyde and Avon Valley Landscape Partnership Geology Project**: [Document H27](#) is a report prepared by the British Geological Survey and commissioned by the Clyde and Avon Valley Landscape Partnership to inform the setting out of geology trails throughout the project area, including New Lanark and the Falls of Clyde Designed Landscape. The report

emphasises the significance of the whole complex of ice-marginal sand and gravel deposits at Bonnington and the buried former valley of the Clyde in its the association with the gorge and Falls. It also confirms that the pre glacial course of the Clyde in the Bonnington area was through the area of the proposed western extension of the quarry after which it was blocked and diverted. The report scores Bonnington and the Falls of Clyde in the highest category as far as geological interest and access is concerned.

3.89 Consultants have been engaged to mount an interactive exhibition in New Lanark before the end of 2017 which will draw attention to the features of the Bonnington and Falls of Clyde area and will form the basis of a resource for permanent use.

3.90 **Lanark Heritage and Tourism Group Strategy:** The Lanark Heritage and Tourism Group have produced a strategy lodged as ([document H32](#)) and some of the issues are of direct relevant to the western extension area the further development of New Lanark as a tourism attraction, the undervalued significance of the glaciated and man-made landscape around the Falls of Clyde and the opportunities for better access and interpretation of this landscape.

3.91 **Lanark and District Archaeology Society Publication:** The publication of a comprehensive history of Clydesdale in 2016 ([Document H33](#)) has a chapter on the falls of Clyde and how the gorge influenced settlement in the area as well as the layout of the Bonnington estate. [Document H34](#) states “Thus, in a Scottish context, I would go so far as to suggest that the significance of White’s involvement at Bonnington should be seen as comparable with that of the English landscape designers Lancelot Brown and Humphrey Repton in landscapes south of the Border.” Regrettably, the reporters in 2014 did not record the evidence given both orally and in writing to the hearing regarding the exact form of the design by White, how it responded to the fluvio glacial landscape in a manner which Dingwall felt was unique in Scotland and how it exploited the natural features to give the house seclusion and a surprise reveal while at the same time allowing the diverted driveway to provide a panoramic approach to the assets of the wider estate. Document H 20 (2) for the first hearing refers.

3.92 **Falls of Clyde Heritage Group and other community events:** The group was formed early in 2016 to provide a focus for organisations and individuals interested in the Falls of Clyde. This group has taken a particular interest in the Bonnington estate and useful comparative analysis has been made with other notable estates in the Clyde Valley, some of which are mentioned by Dingwall as having associations with Thomas White. It has held local events ([document H35](#)) and exhibitions.

3.93 **Friends of New Lanark Publications:** The group has global membership and is noted for a number of books and academic articles on the area. Document H36 is referenced. Research on the Blaeu maps adds even greater significance to the line and contouring of the Bonnington Estate boundary wall alongside the Drove Road.

3.94 The Working Groups written submission on Historic Environment as attached through Appendix 9 to this report includes statements by the Chief Executive of the New Lanark Trust, the Chair of the Lanark Heritage and Tourism Group, the Chair of Lanark and District Archaeology Society, a member of the Falls of Clyde Heritage Group, the Chair of the Friends on New Lanark, a statement from the local interest group known as “Lost Houses of

the Clyde Valley and from a local artist. All of these demonstrate the extent of local concern and the value placed on the landscape and heritage resource.

Case for Annette Leppla

3.95 In June 2016, Historic Environment Scotland published its new Policy Statement, as a result of the Historic Environment Scotland Act 2014. It sets out how Historic Environment Scotland (HES) fulfils its regulatory and advisory roles and how it expects others to interpret and implement Scottish Planning Policy (SPP). It is a material consideration in the Scottish planning system. The policy statement is also a relevant document in the statutory planning, Environmental Impact Assessment and Strategic Environmental Assessment processes and replaces the Scottish Historic Environment Policy (SHEP) for operational matters.

3.96 As far as gardens and designed landscapes are concerned, the effect of proposed development on a garden or designed landscape is a material consideration in the determination of a planning application (Scottish Planning Policy, paragraph 148). Where I believe the parties in this appeal process differ is in what constitutes an effect, how that effect is viewed, and what weight and value judgment is placed on that effect.

3.97 Apart from the Horticultural merit, the Falls of Clyde Garden and Designed Landscape score 'high' or 'outstanding' across the categories of Work of Art, Historical Value, Scenic value, Archaeology and Nature Conservation. The site is of national importance.

3.98 One of the 2016 HES Policy Statement's key principles is that "there should be a presumption in favour of preservation of individual historic assets and also the pattern of the wider historic environment; no historic asset should be lost or radically changed without adequate consideration of its significance and of all the means available to manage and conserve it (para 1.9.b)."

3.99 The wording "pattern of the wider historic environment", which could usefully be applied to the wider setting and context of New Lanark with the historic environment beyond the immediate World Heritage Site, to encompass its setting, such as the designated Gardens and Designed Landscape of the Falls of Clyde, but not restricted to it. It is submitted that granting the application to extend Hyndford Quarry into the Designed Landscape of the Falls of Clyde runs counter to the HES's stated policy of a presumption in favour of preservation.

3.100 The term "Necessary" is not defined within this policy document. It is submitted that the changes proposed to Hyndford Quarry by the applicant's wish to extend, when weighed against the impact on the historic environment which is, at least in part, uncertain, are not necessary.

3.101 In para 3.76 of the HES Policy Statement, HES states that it expects planning authorities to have careful regard for the specific qualities, character and integrity of gardens and designed landscapes. Planning authorities should therefore continue to extend protection to designed landscapes through the inclusion of appropriate policies in their development plans.

3.102 The non-objection position of HES is difficult to align with its 2016 policy statement "to extend protection to designed landscapes" although it puts the onus of doing so on the

planning authorities. It is submitted that most reasonable people would take that policy to mean that designed landscapes should be protected from development. That HES has failed to support that protection, that presumption in favour of preservation, casts an element of doubt over whether HES is properly fulfilling its role. The Garden and Designed Landscape are worthy of protection in their own right, but more so because they also form part of the wider setting of New Lanark.

3.103 What has been overlooked, and needs to be looked at afresh in this process, is the important statement Historic Scotland made about what the applicant is presenting as an enhancement to the current landscape, namely the mitigation measures, once the however many years of minerals extraction have passed. It is not the effect on the site/landscape/setting itself that is disputed, but what view one takes of the effect.

3.104 The applicant suggests, and the previous Reporters appeared to adopt that view, that these effects are mostly if not all temporary, that once they are done with the sand and gravel, they can put most of what was there back, plant some trees (which will take decades to mature) and that is presented as equally good if not better than what is there now. Para 5.30 of the Jackman/Edwards report relays Historic Scotland's view that the restoration activities proposed by the applicant do not in fact mitigate the impact of the quarry. Rather, what will be created will be a new landscape. It is submitted that if what is created by the quarry and its mitigation measures is a new landscape, the impacts on the site are very much not temporary but permanent.

Reporter's Conclusions

World Heritage Site

3.105 The proposed southern extension is not located within the New Lanark World Heritage Site or its buffer zone. The principal parties agree that the proposed southern extension does not raise concerns relative to the World Heritage Site. Instead, dispute relates to mineral extraction in the proposed western extension. This is identified in the local development plan as being within the buffer zone of the New Lanark World Heritage Site.

3.106 The western extension is located some 750 metres south of the New Lanark World Heritage Site. It would be more than 1,100 metres from the New Lanark mill buildings. It would occupy around 22 hectares of the identified 667 hectare New Lanark World Heritage buffer zone. Currently, the land to be worked within the western extension is primarily grassland pasture used for grazing. Over the period of the works the proposal would involve progressive excavation of Primrose Hill, loss of 3 parkland trees, impacts on Robiesland Bog/Woodland and loss of a path described as the route of the former servants path, loss of access and of a stone wall feature.

3.107 Paragraph 14.212 of the Environmental Statement 2012 states that the western extension has the potential to generate significant levels of impact on both the landscape and historic character of the area, which also includes the Buffer Zone of the New Lanark Mills World Heritage Site.

3.108 The local development plan which was in draft form at the time of the previous reporters' assessment is now the adopted plan. Consequently this now carries the relevant

weight of section 25 of the Town and Country Planning Act 1997 as does its associated Supplementary Guidance 9 (SG9) on Natural and Historic Environment.

3.109 Policy 15 and its associated guidance clarify that development proposals within the buffer zone will be assessed for their potential impact on the World Heritage Site's Outstanding Universal Value.

3.110 It was clarified at the hearing that the development plan does not contain a definition of Outstanding Universal Value. In this context I was directed to document D4 and the criteria as summarised in paragraph A3.62 (Appendix 3 of my report). In my assessment the focus of these statements is centred on the factory, housing and industrial community. The link to spiritual needs and Robert Owen's social philosophy establishes a link to the surrounding environment. I note that in giving evidence to the 2014 hearing Historic Scotland (now Historic Environment Scotland) advised that the landscape setting of New Lanark is an essential part of its significance and key to its appreciation.

3.111 Paragraph 3.9 of SG9 states that it is necessary to distinguish between the buffer zone and the setting of New Lanark. The [New Lanark Management Plan](#) 2013-2018 (D6) which is referenced in the local development plan remains relevant despite noted plans for its replacement. It recognises some potential for confusion over the protection afforded buffer zones, that these areas are considered sensitive to development and that for New Lanark the purpose was to take account of key views into and from the site as well as important relationships between the site and the surrounding area. The text of SG9 clarifies in paragraph 3.13 that there may be less tangible elements to setting including function, sensory perceptions or the historical, literary and scenic associations of places or landscapes. It also explains that setting relates to visual impact and key attributes that are functionally important as a support to the property and its function (paragraph 3.9 of SG9).

3.112 My assessment from the local development plan policy context is that the buffer zone is in place to signal that development within it must be carefully considered in relation to its impact on the World Heritage Site. However in raising awareness of a potential impact the effect must then be considered on a location specific basis.

3.113 From my site visits and the submitted evidence I understand that the proposed western extension would have negligible inter-visibility or consequent direct visual effect on the World Heritage Site. The landscape setting is strongly influenced by the lower sections of the gorge of the River Clyde. Any impact would be limited to the wider setting of the river and falls. There would be some visibility of the western extension in the wider historic context of New Lanark where views towards Primrose Hill are possible. This would be focussed in the vicinity of the former Bonnington House and from the upper edge of the Falls of Clyde Walkway and Peacock Hill.

3.114 Mitigation as proposed in the form of the bund screening and progressive restoration mean that visible excavation would be limited and of a temporary nature. My assessment is that the western extension would not be a defining or dominant feature to an extent that would detract from the character of the wider setting of New Lanark given the focus of views, the distances involved and the presence of intervening trees and landform. I do not consider the proposal would depreciate the visual setting of the World Heritage Site or prevent visitors understanding its values. Noise conditions would apply and no party raises this as a

significant issue. There is nothing otherwise to suggest any potential harm to the ambience of the World Heritage Site in terms of its sense of place.

3.115 Whilst I accept that enhancement would not be secured in the short term enhancement could be secured once the works are complete. In any event I do not consider the application site, given its more peripheral location relative to important views, historical and landscape assets contributes to the visual setting of New Lanark in any notable way.

3.116 Consequently my assessment concurs with that of the previous reporters and the environmental statement. My conclusion is that the proposal would not result in an adverse effect on the visual setting of the New Lanark World Heritage Site.

3.117 In terms of the less tangible but nonetheless important elements of setting the location of New Lanark Mills relative to the Falls of Clyde and gorge has a clear functional as well as valued scenic relationship. Visitors to one will appreciate the power source of the river and be very aware of its presence and focus as a scenic landscape feature. This is also the focus of paintings and writings submitted by the Working Group. I agree that there is also a contextual and historical relationship with the wider surroundings of the Historic Designed Landscape. This is established through heritage and landscape features and through footpath links. These enable appreciation and understanding of the historical and landscape context of New Lanark. For this reason I consider any assessment of the impact on the Historic Designed Landscape has some bearing on the World Heritage Site.

3.118 The national importance attached to the Historic Designed Landscape is reflected in the context of the council's statutory and non- statutory Minerals policies. I return to these below. In general terms, as suggested by Historic Environment Scotland, I agree that a buffer zone has no prescribed heritage value. However, in this case it has recognised value albeit as part of a separate historic designed landscape designation. I do not consider these matters are easy to separate given the importance of both in the hierarchy of protection as established through Local Development Plan Policy 15 and Policy MIN2 of the Minerals Local Plan. I return to this matter in my conclusions below.

Falls of Clyde Designed Landscape

3.119 Supplementary Guidance (SG9) Policy NHE4 has a number of components. The first being that development affecting sites in the Inventory must protect, preserve and where appropriate enhance such places. I can understand that on face value it is difficult to reconcile the location of a quarry within this landscape with its protection and preservation. However it is clear from the wording when read in full that the premise of the policy is not to presume against development. This is further clarified by the references to avoiding significant adverse effects on character, important views to, from and within them or upon the site or setting that contribute to their value. The subsequent reference to considering mitigation in the overall assessment further clarifies this distinction.

3.120 The plan should be read as a whole and paragraph 3.40 of SG9 states the primary aim of the policy is to protect the historic integrity of this landscape and avoid damage to its special character. In turn paragraph 3.41 explains a role for Historic Environment Scotland in advising the planning authority on these matters. Policy 15 places emphasis on the objectives of the designation and its overall integrity.

3.121 Consequently any assessment of impact is more subtle than simply drawing a line on a map and applying a blanket approach to protection. Clearly all the component parts of a landscape have a part to play. However inevitably some elements of that landscape will be intrinsic to its stated values and others will have less to contribute. In some areas restoration may be required and in others loss of features over time and a general degradation of the quality of the landscape mean that its current value and relationship to the whole is more tenuous.

3.122 Designated in 2006, the Falls of Clyde Designed Landscape includes a collection of estates (Braxfield, Castlebank Park, Corehouse and Bonnington) and New Lanark. The environmental statement identifies a high magnitude of impact and a major significant visual impact on the Bonnington Estate, particularly from the summit of Peacock Hillock. The focus of the impact is on Bonnington Estate where the proposed western extension encroaches into this area and where the estate boundary is marked by a substantial traditional stone wall. This was historically associated with the main route to the ferry crossing at Boathough. The wall forms a clear boundary to the estate beyond which the current quarry works are contained.

3.123 There is no dispute between parties that the proposal would have a significant impact on an element of the Designed Landscape. The development itself would result, through extraction, in the loss of some local landform in the short term and an altered form following re-instatement. Part of the boundary wall would be removed in the short term to be re-instated on completion of the works. Three mature parkland trees would also be lost and I accept that any replacement planting would take a significant time to mature. However this is placed in the context of a part of the landscape where much of the historic woodland that would have characterised this landscape is already lost. The routes referenced as the servants path and the Old Drove Road would be affected. However these, as advised by Historic Environment Scotland, are relatively minor components of the overall value of this landscape in which focus is placed on the view towards and across the falls and the river.

3.124 Whilst my site visits confirmed this assessment I consider that the view from higher ground including Lady Mary's walk and the various hillocks visited on the accompanied site visit enable an understanding of the estate layout and its boundary and that the proposed works would be a component of these views. However, I do not consider that the site would be the focus of these views given its location relative to other features of note such as Lanark, New Lanark and Tinto. The boundary wall is in my view a significant and attractive 18th century feature. Whilst it is not listed or otherwise protected that does not negate its value as a historic feature in this landscape. The wall is associated with the historic designed landscape and in any event Scottish Planning Policy paragraph 137 promotes the care and protection of the designated and non-designated historic environment.

3.125 However, I appreciate that the fields to be excavated are relatively featureless and demonstrate little evidence of a historic landscape. My conclusions below on the setting of the former Bonnington House indicate that any adverse impact on that feature or its setting would be avoided. In addition, whilst the impact on the wall and walkways would be significant this would mainly be time limited over the course of the works. The servants path would be lost but is already difficult to identify and it would be replaced by new paths. The impact on the Old Drove Road would be for a temporary period. The wall shows some signs of disrepair and the proposed mitigation would secure that it was appropriately re-instated.

The proposed footpath enhancements would afford some longer term access and interpretation improvements.

3.126 The proposals would not be subject to a high degree of inter-visibility with the main features which are the focus of the designed landscape. The localised nature of any effects means the proposal would not impact adversely on the wider designation beyond Bonnington Estate. Following restoration there would be a perceptible change in the original landform and this would be a permanent change in the landscape that would have been evident in the historical estate layout. However my assessment is that progressive restoration, reinstatement of the boundary wall, proposed planting and enhanced access arrangements should at least result in no net detriment to the appreciation of the historical designed elements of the landscape and at best result in some betterment.

3.127 All of this leads me to the conclusion that the effects on the historic designed landscape would be localised, focussed on a peripheral location and in the main short term with effects diminishing over the 8 years of the proposed works. Consequently in considering the detail of the relevant policy wording and the nature of the impacts over the period of operation and beyond my conclusion is that significant adverse effects relative to those matters referenced in Policy 15 and NHE4 would be avoided.

Development Plan Policies 15, NHE1, NHE4

3.128 My assessment above is that the impacts on the historic designed landscape would be localised in nature and would not impact on the overall integrity of the designation. This is also relevant in the context of the World Heritage Site. I consider that this conclusion counters the alternative view, as expressed by the Working Group, that harm to the designed landscape and buffer zone would translate to a consequent unacceptable impact on the Outstanding Universal Value of the World Heritage Site. I find nothing to lead me to disagree with the clearly expressed conclusion of the previous reporters that:

“The Outstanding Universal Value of New Lanark World Heritage Site is particularly focused on the establishment of New Lanark and the ideology of Robert Owen. The wider landscape surrounding the village is a component of the Outstanding Universal Value as New Lanark was positioned to allow a juxtaposition and connection to its natural surroundings. However, the proposed western extension area contributes little, and nothing of significance, to the Outstanding Universal Value of New Lanark.” I adopt this conclusion as my own.

3.129 Drawing on my assessment above I do not consider the proposal would create either an adverse impact on the World Heritage Site’s Outstanding Universal Value or conflict with the aim of preserving and protecting the character, integrity, authenticity and quality of that designation and its setting. Given my view above on setting relative to the application site I do not consider temporary loss of the estate boundary wall impacts on the World Heritage Site as this would be only a very minor component feature within the buffer zone. I do not consider this contributes to the visual setting of the World Heritage Site or reflects its Outstanding Universal Values. I have addressed the issue of the wall above relative to its contribution within the Historic Designed Landscape.

3.130 I understand the landform on which this part of the designed landscape was originally planned would be altered. In turn this would also impact on the interpretation of its original glacial formation. I return to this matter below. However, in terms of my interpretation of the

relevant development plan policies and the protection they apply I am not persuaded that the link between the glacial landform in this location and the designed elements of the landscape is of a magnitude to indicate any policy conflict.

3.131 Consequently, in the context of the local development plan and the protection it affords to the World Heritage Site and the Falls of Clyde Designed Landscape I find no conflict with Policy 15, Policy NHE1 or Policy NHE4. This view is supported by the response from Historic Environment Scotland given its assessment that the proposal avoids any impacts of a scale and nature which would warrant its objection.

Minerals Local Plan Policy MIN 2

3.132 The adopted Minerals Local Plan 2012 does not include the same clarity in relation to a distinction between the buffer zone and its setting as the more recent Local Development Plan. In fact paragraph 3.7 states that the setting is referred to as the buffer zone but “for the avoidance of doubt the meaning of buffer in this case is equivalent to setting”. Policy MIN 2 refers to an adverse effect on the integrity of a Category 1 site and the accompanying table clarifies that includes not only the World Heritage Site but also its buffer.

3.133 The variance of this approach from that established in the more recent local development plan is further clarified in Paragraph 3.7. This states that any development which adversely affects the setting and consequently the buffer will not be permitted. This is tempered by the wording of the actual policy which references an adverse effect on the integrity of a Category 1 site following the implementation of any mitigation measures. Given my conclusions above that there would be no adverse effect on the integrity of the World Heritage Site or its buffer zone I consider that any conflict with Policy MIN 2, as far as it relates to the World Heritage Site and its buffer zone, would be avoided. Following mitigation my assessment is that any perceptible impact would be negligible.

3.134 For Designed Landscapes which fall into Category 2 the policy reference is to avoid development that would adversely affect the site. The policy clarifies that the bar is set at adverse rather than significant adverse effect. However the policy also references the effect following mitigation. Paragraph 3.8 refers to a rigorous assessment being required with regard to minerals development and any adverse impact must be capable of being mitigated to an acceptable degree. Where this is not the case development would only be permitted if there was an over-riding need in the national interest. As stated in chapter 3 no national need case is advanced in this instance. However, this is only required where there is an identified adverse effect following the implementation of mitigation.

3.135 I consider this policy applies a more stringent test than the more recent Policy 15 and Policy NHE 4 where reference is to avoiding significant adverse impacts with specific reference to overall integrity, character and the component features which contribute to the value of the designation. Nevertheless Policy MIN 2 still enables the consideration of mitigation and the supporting text places the assessment of adverse in the context of acceptability.

3.136 As referenced above the environmental statement and all parties accept a significant effect on a part of the Historic Designed landscape and in the absence of mitigation this signals to me an adverse effect. My conclusions above accept a significant impact on part of the Falls of Clyde Designed Landscape with a loss of landform on which this part of the

estate was originally laid out as well as well as impact on the boundary wall and a few mature parkland trees.

3.137 The restoration would not be an exact re-instatement of the landform or levels but that adverse effect would in my view be offset by other elements of the proposed landscape restoration. My conclusion is that following mitigation at completion of the works any net adverse effect would be negligible. In this context any conflict with Policy MIN 2 would resolve over time. However, I accept that for the 8 years of proposed works there would be a significant adverse effect on part of the Historic Designed Landscape. Consequently whilst focussed on the period of the proposed works there would be a degree of conflict with Policy MIN 2, when read in isolation, in so far as it applies to the Historic Designed Landscape.

3.138 At the current time this subject plan is over 5 years old. It is also out of synch with the rest of the development plan which includes policies which apply specifically to the referenced category 1 and 2 designations. It cannot draw, as through the previous assessment in 2014, on the detailed wording of a plan that is no longer extant. However the current Local Development Plan and its supplementary guidance detail the up to date approach relevant to these categories of designation. I note that to resolve this time-lag the council has approved non statutory guidance to update its mineral's policies until such times as they are replaced. I have considered this below as a material consideration. However this does not alter the fact that the Minerals Local Plan 2012 remains part of the statutory development plan or the fact that the development plan must be considered as a whole.

Other Material Considerations (World Heritage Site and Historic Designed Landscape).

3.139 **Scottish Planning Policy:** I note that there is no mention of a buffer zone in Scottish Planning Policy. The focus of the policy as expressed through paragraph 147 is placed on protecting the site's Outstanding Universal Value. For the reasons stated above I find no conflict with this policy. Paragraph 148 addresses national policy as it applies to Gardens and Designed Landscapes. This is a general statement regarding protection and where possible enhancement. Whilst I have acknowledged above some short term impacts I do not consider these are unacceptable in terms of the objectives and key features of the designation.

3.140 For the reasons stated above I consider that the proposal achieves compliance with the relevant sections of Scottish Planning Policy in relation to the Historic Environment (paragraphs 135-151).

3.141 **South Lanarkshire Council's Non Statutory Planning Guidance on Minerals:** As stated in Appendix 3 to this report at paragraph 3.69, this guidance provides some update to the Minerals Local Plan 2012 recognising that it is now more than 5 years old. The guidance is a statement of council policy. It recognises the need to provide an update to the Minerals Local Plan relative to the protection afforded to the World Heritage Site and other designations. I consider this non statutory guidance supports my conclusions above regarding the absence of an up to date local development plan policy on the assessment of minerals. I return to this in applying the overall planning balance in the concluding sections of this report. When read with the current local development plan I find that the proposal would accord with this guidance.

3.142 **UNESCO Operational Guidelines (document [H.28](#))**: I have considered paragraphs 103-107 of the document as published in July 2017 and agree that there has been no change from the previous position. I do not consider that the references to “an added layer of protection” and the role of the World Heritage Committee change my conclusions above. The text clarifies that the buffer zone is not part of the nominated site. I note that the section on management systems has changed since the earlier document. It references the broader setting of the designation to include related social and cultural practices, economic processes and other intangible dimensions of heritage such as perceptions and associations. However, I consider these references are placed in the context of “maintenance of all aspects of Outstanding Universal Value.” I have addressed this above and note this interpretation is translated through the wording applied in Scottish Planning Policy.

3.143 I find nothing in this document to alter my conclusions above that the buffer zone is a planning tool rather than an additional layer of protection or a designation in its own right. A significant impact on a buffer zone would not automatically translate to a significant or unacceptable impact on the objectives of the designation. I have also read the expert statement ([H20](#)) provided by the Working Group regarding the interpretation of Outstanding Universal Value. I consider that my assessment above has taken these wider considerations into account and that this does not alter my conclusions which broadly reflect those reached previously by the council, Historic Environment Scotland and the reporters who assessed this case previously.

3.144 **Extract from the World Heritage Committee 2016 ([H.30](#))**: It is notable that the committee welcomed a “no go” commitment by CEMEX and the Scottish Government’s decision (at that time) to refuse the western extension. However it is unclear to me whether that support was based on a full assessment of the likely effects or rather an assumed threat and a statement welcoming any decision to mitigate such a threat. However, regardless of how their decision was informed I must consider this application on the basis of the evidence presented to me. On the basis of that evidence I find nothing to suggest the proposals are a threat to the Outstanding Universal Value of the New Lanark World Heritage Site.

3.145 **Historic Environment Scotland Guidance on World Heritage Sites ([H.39](#))**: This document as published in 2016 places a similar emphasis on Outstanding Universal Value and the integrity of the designation as assessed above so does not alter my conclusions.

3.146 **Historic Environment Scotland Policy Statement ([H40](#))**: Paragraph 1.9b reflects a presumption in favour of preservation of individual historic assets and the pattern of the wider historic environment. This is stated as a key principle that underpins the role of Historic Environment Scotland. In addition I recognise, as stated in paragraph 3.76, that there is a need to have careful regard for the specific qualities, character and integrity of gardens and designed landscapes. However set in the wider context of this document I do not consider that the policy presumes against development and change. Paragraph 3.79 states that “Informed change should be managed carefully with the aim of ensuring that the significant elements justifying designation are protected or enhanced.”

3.147 **Value of the Heritage Resource**: I have considered the matters raised regarding the involvement of Thomas White and have referenced the submissions on historical mapping. However, the mapping is difficult to interpret precisely and I have applied the relevant policy protection to the Historic Designed Landscape. I have also taken account of the advice of

Historic Environment Scotland who were aware of Blaeu's mapping at the time of the last hearing.

3.148 My assessment above accepts the value of the boundary wall whether or not it follows the alignment of a former park pale. I have considered the various other documents referenced through the previous hearing process including the nomination document (document D.2), the Xian declaration on setting and the concerns of the World Heritage Committee of UNESCO. I consider that this application must be assessed on its merits based on the information available at this time and in recognising, as referenced previously by then Historic Scotland, that the relevant protection is translated and dealt with through domestic policies and procedures.

3.149 I understand from the submissions that the New Lanark Trust is charged with review of the Management Plan. Its current strategy document as confirmed by its Chief Executive envisages a more pro-active stance with regard to the Buffer Zone recognising its functional relationship with the World Heritage Site. I have also carefully considered the submissions relative to the South Lanarkshire Main Issues Report, the Lanark Heritage Tourism Group and the referenced publications along with the statements provided by the various interest groups. At the hearing the Lanark Development Trust and the New Lanark Trust explained the importance they place on the area and progress with current initiatives related to promoting wider access and interpretation.

3.150 I appreciate that this has been a long process and that the various groups referenced in the summary above place a high value on this landscape as a heritage and visitor resource. I can understand why these proposals may be viewed as a potential threat in the context of current aspirations to progress with visitor and other access initiatives. I also understand that another 8 years or more could stall progress on some of these initiatives. However, I note that given the lack of any current financial commitments there is a lack of conclusive evidence on this matter.

3.151 Whilst my assessment above is based on policy compliance I appreciate that a quarry may be seen by some to detract from the overall visitor experience of those who combine a trip to New Lanark with walks in the Bonnington Estate. The proposal would also cause some disruption to access routes over a period of 8 years. I accept this is not an inconsequential time period. This matter and any potential impact on visitor numbers are considered further below. Issues relating to the geological interest of the site and its glacial formation are also addressed further below.

3.152 Taking all of this into account I accept some negative time limited implications. In my view these are at least partly offset by the economic and land supply case for the development as outlined in Chapter 2. In the longer term I do not consider that the development and the local community aspirations for the area need be mutually exclusive. At the hearing it was accepted that whilst progress has been made there is an absence of firm alternative proposals or funding. The current development includes mitigation which could address at least some of the communities aspirations for landscape improvement, access and interpretation.

3.153 **Temporary nature of impacts:** I have considered whether the 8 year duration of the potential impacts leads to a different conclusion in the context of the assessed impacts and the weight to be attached to the proposed mitigation. The relevant development plan

policies refer to impacts after mitigation and it is not unusual to consider residual effects in the context of environmental assessment. The local development plan and Minerals Local Plan clearly reference “the effects following mitigation”. This is an unambiguous statement and in the context of minerals is clearly linked to restoration following excavation as well as mitigation applied during the period of the works. I agree that discounting impacts on the basis of future restoration is a matter to be carefully considered relative to the location and the nature of any impacts. Clearly there are some locations where the assessed impacts relevant to a specific proposal may not be acceptable even over a temporary period.

3.154 I appreciate that in this instance 8 years is a considerable time and that assessed impacts would not be fully addressed until the works were to cease. However, in this case the proposed mitigation and restoration works would apply progressively throughout the eight year period of extraction. The western extension would be extracted first but in a phased manner and would be restored over the time frame of the proposed works. For these reasons and given the scale, nature and location of the identified effects I consider that the impacts could be appropriately managed over the time frame of the works to an extent that would avoid harm to the recognised landscape and heritage value of the local area.

3.155 Balanced against this is the enclosure and loss of access during the period of the works. However in my view this is offset by clear and enforceable commitments to enhancement of access at the end of the period with the opportunity to align these funded improvements with community aspirations. The benefits to the economy and in the supply of minerals would also be a balancing consideration. The only visible change at the end of the works would be in terms of levels and landform. I do not consider these changes to be of a magnitude to alter my conclusions above. For these reasons I consider that it is appropriate to have regard to the proposed mitigation and the limited residual effects of the proposal at the end of the extraction period.

Listed Buildings Policy NHE3

3.156 The policy context remains the same as previously reported albeit referenced differently and included in Supplementary Guidance 9, Policy NHE3.

3.157 The environmental statement identifies six listed buildings within five kilometres of the application site: Bonnington View House (A-listed); Corehouse (A-listed); Bonnington Linn, Foot Bridge (B-listed); Harperfield House (B-listed); Harperfield House, stables (C-listed); and Corehouse, dovecot (C-listed). In addition, the then Historic Scotland noted that the Falls of Clyde Bonnington Power Station Weir and Bridge (A-listed), and Falls of Clyde Bonnington Station with Tank and Pipes (A-listed) should have been included. All parties have agreed that there would also be no impact on the settings of Bonnington Linn, Foot Bridge; Harperfield House and stables; dovecot; the power station bridge, weir, tank and pipes. I have found nothing in the submissions to the contrary and agree with parties and the previous reporters on this matter.

3.158 No new material on the remaining listed buildings has been received and the areas of disagreement remain as previously stated:

- Setting of Corehouse: There is some risk that trees could be felled over the limited period of the works but there is nothing to demonstrate this is the case. In any event the proposed works are some one kilometre distance and any visual impact would in

my opinion be negligible given the orientation of views to the west rather than east, the mitigating effects of distance and intervening landform.

- Bonnington View House(or pavilion): Disagreement here revolves around the definition of setting and whether this is defined by the view to the West and the Falls of Clyde or whether it extends to past use and associations. The working group references past visitors and the enjoyment of wider views. My assessment is that the function of the platform is readily apparent in relation to the view of the Falls. The linkages between the other remnant or currently non existing elements of the historic landscape are of relevance and interest but I do not consider that the setting of the house extends to include all of the view out from all of these individual features.

3.159 Consequently I consider that the proposal would achieve compliance with Policy 15, NHE3, Policy MIN 2 and with the statutory protection afforded to listed buildings.

Conservation Area: Policy NHE7.

3.160 Again this was not a focus of the re-opening of the case. However it has some bearing on the setting considerations of New Lanark and the World Heritage Site and I must consider this matter in terms of the Act. Any potential impact is limited to setting given the site is not within the New Lanark and Falls of Clyde Conservation Area. The impact on views out from the conservation area is a matter of dispute between parties. I note that the New Lanark and Falls of Clyde Conservation Area Character Appraisal notes extensive views including of the Bonnington Estate in approaching New Lanark. However I do not consider this can be translated to imply a potential impact relative to the application site. I understand that there would be a temporary impact from a single view-point which is not on a defined walkway although it is in proximity to the curved walkway (south of Bonnington View House). However I share the view of the previous reporters, the environmental statement and Historic Environment Scotland that any impact would be of a minor impact. The view from the conservation area would be restricted and at some 250 metres distance. Consequently I find no conflict with Policy 15, NHE7 or Policy MIN 2 or with the statutory protection afforded to conservation areas.

Scheduled Ancient Monuments and Archaeology Policy 15 and NHE2, NHE6.

3.161 Whilst Policy 15, NHE2(Scheduled Monuments and their Settings) and NHE6 Non designated archeological sites and monuments now applies no new evidence was led on these matters. I find no reason to differ from the conclusion of the previous reporters that there would be no harm to any scheduled ancient monuments and their settings and I note that this conclusion was not disputed by parties.

Non Designated Heritage Assets.

3.162 I have considered the matter of the boundary wall above. I have also carefully considered the most recent response received from Sir William Lithgow regarding Boathaugh as summarised in Appendix 4 to this report. I note that his concerns are raised in relation to the proposed Southern Extension. The current proposals would extend the existing quarry some 100 metres closer to the remains of the property (from 230 metres to 132 metres). On my accompanied site visit I noted the strong visual connection between the river and the remains. However the nature of the landscape and its natural screening would

in my view prevent any adverse impact on the setting of Boathough. Consequently I find no conflict with Scottish Planning Policy paragraph 137.

Landscape Considerations Policy NHE16

3.163 The environmental statement does not specifically assess the impact on special landscape areas (areas of great landscape value) but does assess the impact on landscape character types. Further assessment on the impact on special landscape areas was contained within the applicant's hearing statement and was discussed at the hearings. The council also provided a thorough response on this topic.

3.164 The policy title has changed since 2015 and its content is now contained in Supplementary Guidance. However there is no change in the wording or the application of this designation. The proposed development is within the Middle Clyde Valley Special Landscape Area. My conclusions on this reflect those on the Historic Designed Landscape and draw on the information in the environmental statement (albeit the landscape assessment there is focussed on landscape character areas). I have also referenced the hearing statements from 2014 which address this matter.

3.165 This special landscape area includes an area from Lanark through to Hamilton. There would be significant effects on a relatively small portion of this area. There would also be some visibility from the adjacent Upper Clyde Valley and Tinto Special Landscape Areas along the A70 and for a limited stretch from Hyndford Bridge to Sandilands. However I find that these limited visual effects would be around one kilometre distant and that intervening features would mean that any views would be glimpsed. Consequently, I consider that awareness of the works would be limited.

3.166 My conclusion is that the proposals would not detract from the overall value of these landscapes given they are not of a scale or nature to significantly change their character or become a dominant or defining feature. Where significant effects do occur these would be very localised and subject to mitigation. Consequently I find the proposal achieves compliance with Policy 15 and NHE16.

Fluvio-Glacial Landform.

3.167 I have considered this matter above in relation to the Historic Designed Landscape and I have noted the earlier response of Scottish Natural Heritage regarding the loss of geomorphological "story" as a result of the artificial nature of the proposed land restoration. I note however that this was not expressed as an objection. The issue was also discussed at the 2018 hearing and I find the evidence led by the applicant and the Working Group includes substantial agreement in so far as the site is not considered to display fluvio-glacial geomorphology which is of national importance. I accept that it is a component of a wider fluvio-glacial landscape and can be viewed in the context of the glacial landforms north of the minor road at Bonnington Mains. These are considered to be of more notable value to an extent that they could be considered for Local Geodiversity Site Status. Nonetheless from the available evidence it is not clear to me that the application site could merit such distinction and there is agreement it does not include any exceptional landforms.

3.168 I have considered the suggestion that the site could form part of a corridor for wider landscape interpretation as part of a geo-heritage interpretation trail and that such an 'Ice

Age' trail is proposed in the New Lanark World Heritage Site Mill Village and Falls of Clyde Draft Consultation Document 'A Vision for Our Future' (November 2017). However, there are no current firm proposals for this and the current application could enable interpretation of the landscape through information boards and enhanced access following restoration. Once restored the contouring of the landscape would change but the design seeks to resemble esker and kame characteristics and the ridge of Primrose Hill would be retained. For these reasons I do not consider the identified effects would be unacceptable.

Overall Conclusions on Heritage and Landscape

3.169 As suggested in submissions I consider that it is important to consider the impacts on the historic environment and landscape in the round before coming to a conclusion on consistency with the development and acceptability overall. I return to this balance in the final chapter of this report. My conclusions on this chapter are summarised as follows:

- significant adverse effects would be localised, time limited over a period of 8 years and confined to a relatively small area of the Bonnington Estate within the wider Historic Designed Landscape and the Special Landscape Area;
- there would be no adverse visual effect on the World Heritage Site and a time limited adverse effect on part of the Historic Designed Landscape;
- development in this location, albeit within the buffer zone, is not part of the visual setting of the World Heritage Site;
- there would be no adverse effects on the Outstanding Universal Value of the World Heritage Site;
- the proposals would not impact on the integrity of the World Heritage Site or the Historic Designed Landscape;
- the proposal avoids harm to listed buildings, the conservation area, scheduled ancient monuments or their settings;
- the proposal, subject to mitigation, would achieve compliance with Local Development Plan Policies 15, NHE1, 3, 4, 7 and 16 in so far as these relate to heritage and landscape issues;
- there would be some time limited conflict with Policy MIN 2 of the Minerals Local Plan 2012 in so far as it relates to the Historic Designed Landscape; and
- other material considerations indicate the value placed on these heritage assets and concerns around further delay in realising community proposals.

4. OTHER MATTERS

The case for the Applicant

Environmental Statement

4.1 The proposal is subject to environmental assessment as detailed in the [Environmental Statement](#) 2012 (ES). Chapter 5 of the 2012 ES outlines the main alternatives studied by Cemex and indicates the main reasons for the choice made. It also addresses geological assessment (chapter 7), Hydrogeological impact (chapter 8), soils (chapter 9) and transport (chapter 10), impact of dust (chapter 11), noise (chapter 12), ecology and nature conservation (chapter 13), landscape and visual assessment (chapter 14), impact on recreation and amenity (chapter 15), archaeology and cultural heritage (chapter 16), cumulative impacts and population (chapter 17).

4.2 There is no obligation on a developer through the environmental impact assessment process to examine alternatives; these are only to be set out if investigated.

4.3 [An Environmental Statement Addendum](#) was prepared in 2017 to supplement the Environmental Statement that was submitted in support of the Planning Application. In carrying out this assessment the applicant drew on the initial responses from the consultation authorities and others following the re-opening of the case in 2017. This process confirmed that the 2012 assessment mainly remained valid. However some update was carried out with respect to Chapter 13 on Ecology and on Chapter 16 Historic Environment. South Lanarkshire Council requested that all baseline information was reviewed and that surveys and a habitat appraisal were prepared to take account of any changes since 2012. Attention was also drawn to a number of a planning applications granted which make have been of some relevance including:

CL/12/0091 - Erection of a 47.1 m Wind Turbine

CL/13/0509 - Formation of 4 House Plots (CL/17/X0401 NEW - application to renew this permission)

CL/14/0520 - Erection of a 48.5m Wind Turbine

CL/15/0151 - Development of quarry to extract sand with formation of new access and final reinstatement to agriculture.

4.4 The additional information does not identify any new effects or mitigation other than that as previously stated in the 2012 ES.

Heritage Impact Assessment

4.5 On the matter of Heritage Impact Assessment the applicant re-iterates its previous position and the guidance in Managing Change (H39) that in a Scottish context this should be incorporated into the EIA process. The ICOMOS guidance (2011) was considered when producing the Archaeology and Cultural Heritage chapter of the ES and the assessment is deemed to have met the criteria for assessment as set out in the [ICOMOS Guidance 2011](#)

(CEM38). Further, the assessment is considered to meet all assessment criteria set out in the new Historic Environment Scotland Guidance on WHS (H.39). This guidance would not have changed the scope or method, or indeed the conclusions, of the assessment.

4.6 This is in line the ICOMOS guidance which states that: 'Where statutory environmental impact assessments apply, the cultural heritage sections must take account of this'.

Benefits of the proposal

4.7 The following positive benefits are identified as summarised through the 2014 reporters' report:

- a restoration scheme that is in scale and context to the setting of the Falls of Clyde Designed Landscape and would complement and enhance the area – therefore overall an improvement to the parkland character of the area;
- improved connectivity in the area through tree planting and path formation and enhancement;
- landscape enhancements that will ultimately lead to an increase in biodiversity in the area;
- in the context that minerals can only be worked where they are found, the proposals would release mineral with above average coarse context lying adjacent to an existing working;
- a continuation of supply of mineral resources to support the construction sector thereby securing sustainable growth in the economy;
- sustaining employment directly/indirectly;
- continued payment of business rates;
- continuation of Annual Aggregates Levy payments resulting in circa £10 million over the life of the project.

4.8 The proposed development would help to maintain jobs at Hyndford Quarry (21) and would also support 60 jobs indirectly in areas including haulage, sales, administration, environmental support and technical services. From a strategic perspective the applicant also employs 154 people with Hyndford being the company's key site in the country. The proposal would also support national policy to maintain sustainable economic growth through the provision of raw materials.

4.9 The Working Group's point that the development would have an "adverse impact on maximising the regenerative effect of the World Heritage Site as a major catalyst for future sustainable tourism" is considered to be aspirational. In any case, the proposal would only have a temporary impact and longer term enhancement which would not conflict with any aspiration for future tourism. For these reasons the proposal is compliant with Local

Development Plan Policy 11 (economic development and regeneration) which supports activities that maximise economic development and regeneration.

Ecology, Nature Conservation, Flooding, Peat and Green Network

4.10 Ecology is addressed through Chapter 13 of the ES as updated through section 21 of the ES Addendum 2017. The updated information confirmed that the identified impacts and mitigation remained as stated in the ES.

4.11 The bog at Robiesland would naturally be treeless and it is only via the relatively recent intervention of human cut drains that has led to colonisation of trees on the site. The peat accumulation is around 2.2 metres and demonstrates that the site was a bog long before 1750.

4.12 It is refuted that the Robiesland woodland is an ancient woodland. Scottish Natural Heritage define ancient woodland as land that is currently wooded, and has been continually wooded, at least since 1750. Ordnance survey mapping from the 1860's shows the site as wooded, and incorporated within woodland that has the appearance of being plantation woodland of the Bonnington Estate. It is submitted as probable that the drainage ditches cut in this bog have led to the growth of trees as the peat surface dried out (a view shared by Scottish Natural Heritage). The age of the current trees is closer to 80 years.

4.13 The bog material would be translocated using specialist contractors who will carry out a detailed study of the site before works are undertaken to create a hydrological feature similar to how Robiesland bog would have been thousands of years ago (an open water body). Once it is demonstrated that the body could hold water it will be drained and the translocation of the bog will be undertaken, in accordance with a method statement prepared by the specialist consultants. When the peat has been translocated, the hydrology can then be controlled to re-wet the peat with the objective of restarting the growth of sphagnum mosses. This will preclude the planting of new trees on this site. The study and methodology for translocation and management can be controlled by condition.

4.14 A buffer of at least 200 metres has been implemented to ensure that ancient woodland around the River Clyde, and the wildlife reserve to the south of the proposal, is not harmed from the proposed development. Otter is only an occasional visitor to the existing woodland/bog and no resting places have been recorded there. Otters have been recorded using the existing quarry. Bats forage over the area as part of their wider foraging territory and have also been found foraging over the restored areas of the existing quarry. There would be no harm to these species as a result of the development.

4.15 The existing trees are sub-optimal for bat roosts. It is noted that the restoration proposals would provide for significant woodland planting which could provide new foraging for bats and other species within eight years. It is also noted that the existing quarry has its own wildlife value with otters, pink footed geese (500 on restored land), sand martin nests, breeding ringed plover, teal, snipe, yellowhammer, twite, meadow pipit, skylark (on restored land), bats, bullfinch, jack snipe, lapwing, golden plover, oystercatcher and badger recorded. Development would therefore be compliant with local plan Policy 15 and NHE9-15, 19 and

20 as well as Minerals Plan Policies MIN5 Water Environment and MIN 6 subject to the appropriate mitigation.

4.16 The translocation and retention of the peat resource on the land to be excavated within the proposed western extension is a sustainable solution as the peat is currently degraded by the presence of woodland. The translocation of the peat resource and its future management would have nature conservation benefits. It is noted that both Scottish Natural Heritage and the Scottish Environment Protection Agency have no objection to the removal and translocation of the peat. Consequently, the proposal is compliant with policy MIN 6 (peat).

4.17 The proposed development's restoration (see paragraphs 2.140 to 2.145) would involve extensive improvements to public access, improving connectivity with no unacceptable impact on the green network. Therefore, the proposal is compliant with Policy 14 Green Network and Greenspace.

4.18 There is no disagreement between parties on the provisions of relevant policies 1 (spatial strategy), 2 (climate change), 4 (development management and regeneration), and 17 (water environment and flooding).

Mitigation and Restoration

4.19 Mineral extraction commences within the western extension so that the area can be restored early within the life of the development. The proposals also include for the commencement of extensive management and enhancement works to the remaining areas of Bonnington Estate that fall within the planning boundary at the start of development works as well as other previously restored areas within Hyndford Quarry. This will help bring maturity to the surrounding landscape and increase biodiversity early within the development.

4.20 Although significant levels of landscape and visual impacts are present during the operational period, partly mitigated by screen bunding, these are relatively short lived and in the long term will provide substantial improvements to the historic character of the southern half of Bonnington Estate. This relates to both the re-introduction of planting as well as the implementation of long term management programmes as part of the proposed mitigation measures, which commence at the same time (or prior, depending on the season) as the initial development works. Therefore by the time the western area has been extracted and the landform restored after some eight years, tree growth will have already started to have made a difference visually to the currently denuded state of the Bonnington Estate.

4.21 The design associated with the restoration scheme was an iterative process that evolved over a number of years from October 2009. Various versions of the overall masterplan and site restoration plan were produced cumulating in a final version in October 2013.

4.22 The restoration pays attention to the physical attributes of the area, namely the characteristic landform formed by the forces of erosion and deposition associated with the last Ice Age when large ice sheets that covered the area (or following retreat of the ice), created many features that distinguish the landscape of the area today, in particular the steep incised gorge of the Clyde, its many waterfalls and rapids, as well as the numerous

geomorphological features within the locality including eskers, drumlins, kettle holes, and wash out holes.

4.23 The physical surface characteristics associated with the geology and geomorphology of the area strongly influenced and guided the restoration design, particular the landform, gradient and scale. The new landform would be contoured back into the surrounding land and landscaped in accordance with a carefully thought out restoration scheme seeking to reflect the historic parkland setting.

4.24 Another important factor in the physical design of the western extension was associated with the reinstatement of the Bonnington Estate boundary wall. Rather than simply reinstating it along the adjacent restoration contours, the line of the wall is to be re-graded and backfilled with material left after quarrying operations in order to both reduce overall gradients as well as increase the overall elevation of the wall. This serves several purposes:

- to reinstate the western boundary of Bonnington Estate along its original line, albeit at a different level;
- to reinforce the role of the wall as a physical barrier separating the restoration of the parkland from the remainder of Hyndford Quarry; and
- to make the setting of the wall more naturalistic in appearance as well as allowing disabled access along the path/track.

4.25 As far as the physical surface characteristics of landform, gradient and scale are concerned, the proposed final design within the western extension compares favourably with those that currently exist within the Bonnington Estate. The proposed restoration contours would be in keeping with and reflect the main physical characteristics and scale of the designed landscape.

4.26 Through the 2017 hearing it was explained that immediate steps will be taken in terms of landscape enhancement between the quarry extension and the areas which are currently visited and such visual impact as there is will be capable of significant mitigation. Secondly, restoration will be progressive as the working ensues, i.e. the areas of land closest to the areas where they may have an impact will be worked first and will be restored long before the end of the 8 year period. There is no basis upon which to doubt the evidence that 8 years is an entirely reasonable estimate

4.27 In conclusion to this matter, the design iterations were developed over a period of four years, during which time full consultations were held with both statutory and non-statutory bodies in order to achieve a restoration scheme that is in scale and context to the setting of the designed landscape and compliments and enhances both the area that would be subject to mineral extraction, as well as adjacent areas that are to be managed and enhanced. There is real benefit to be obtained from the proposal in terms of the restoration proposals which will last for the foreseeable future, unlike the quarry workings which will be for a short period only and of receding importance during that period. The proposal is consistent with Policy MIN 4.

Walking Routes and Visitor Impact

4.28 This issue is partly covered in the summaries of the applicant's case relative to the historic environment where some more recent update is provided. The summary below reflects the case as led in 2014.

4.29 Mitigation measures to reduce visual impacts to adjacent receptors and walking routes include for the creation of small screening bunds around the perimeter of the extraction area, including alongside the serpentine road (path WN 04 - see document A.5 and Phase 1 proposals in document A.8 (f)) at the commencement of operations. These will be carefully designed/constructed so that whilst the bunds are of sufficient height to screen the main working areas from view, they still enable receptors walking within the adjacent parkland to retain panoramic views across the site. These bunds would generally be no more than approximately 1.5 metres high. Their exact shape, height and location to achieve this are capable of being monitored and controlled by planning conditions.

4.30 The level of visual impacts as stated above has been assessed as worst case scenarios and are generally associated with the construction and removal of the screening bunds, limited areas of workings visible above these bunds over short timescales (a few weeks/months), as well as some impacts associated with the bunds themselves changing foreground visual amenity. With regards to the old Drove Road (path WN 05 - see document A.5, Volume 2), it is the applicant's intention to close this road during the operational life of the western extension, until the track and wall are reinstated. Therefore, there would be no visual impacts associated with this path/track during the operational life in the short term (up to eight years).

4.31 The Clyde Walkway Recreational route (core path CL/321405 – see document A.5 Volume 2), is predominately within the gorge itself, although a section rises up the valley sides to join the line of the hydroelectric pipes to the Pavilion and the adjacent surge tanks before dropping again into the gorge. This is to the north of the walled garden and is capable of gaining partial views over the parkland, but the hillocks along the southern boundary of the central parkland area curtail views of the development area itself. Therefore, there would be no visual impacts associated with these paths.

4.32 Further non designated 'de facto' paths also exist that rise from the gorge to the south of Corra Linn that link with the location of the walled garden as well as the serpentine road. These paths would have probably been associated with paths from the mansion house through the parkland, both to the southern knoll and to Corra Linn. Views of the proposed extraction area from this location are generally curtailed by the walled garden and surrounding vegetation, although glimpses may be gained towards Primrose Hill. Therefore, there would be very minimal or no visual impacts associated with these paths during the operational life in the short term.

4.33 It is also possible to cross the central drain by a farm gate to the east of the walled garden that crosses the adjacent field to run north-south along the route of the original 'western avenue' gaining access to Bonnington Linn, the 'Ironbridge' and the southern path that links with Tulliford and the old Drove Road, plus restricted access to Primrose Hill itself. Views of the proposed western extension would be possible from these locations. However, the height and location of perimeter screening bunds within the higher ground adjacent to the extraction area will generally curtail views of the Phase 1 development, apart from working the upper sections of Primrose Hill, which is expected to last only a few months. Therefore,

there would only be very minimal visual impacts associated with these paths during the operational life in the short term (up to eight years).

4.34 There would be a partial view of the upper elevations of Primrose Hill that partly forms the proposed western extension from one south facing property within Bankhead Farm, off Braxfield Road (identified on OS mapping as 'The Vu'), lies within the designation. Other sections of this view are obtained from a small section of Braxfield Road itself and two adjacent properties (No. 75 and 75a Braxfield Road) but this lies outwith the designed landscape boundary. It is considered that views of this section of the development would give rise to a Moderate adverse significance of visual effects whilst the area is disturbed. Once the area has been restored the effects are generally Neutral or beneficial in nature as woodland planting matures.

Sustainable Development.

4.35 The proposals were designed to be consistent with the provisions of national planning policy and the Scottish Planning Policy presumption in favour of development that contributes to sustainable development. The proposal meets with the principles of Scottish Planning Policy in supporting good design; giving due weight to net economic benefit; and protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment. The short term impact of development would be mitigated to offset harm. The development proposed is not a trade-off between economic benefit and the environment – the proposal would be compatible with the national policy in terms of growing the economy and safeguarding the environment.

Legal Agreements, Planning Obligations and Conditions

4.36 The applicant has reviewed the heads of terms of the legal agreement and the planning conditions recommended by the Reporters in February 2015 and have raised no additional comments on these. Neither the development plan position or the updated environmental information raise the need for any additional mitigation to be addressed through condition or agreement.

4.37 The applicant would seek to agree the extent of any stopping up order which is required under Section 208 of the Town and Country Planning (Scotland) Act 1997. The applicant is also prepared to enter into an agreement under section 96 of the Roads (Scotland) Act 1984 to cover extraordinary damage to the public road network. In addition, subject to agreeing the precise terms with the council, the applicant is willing to enter into a section 75 planning obligation to: (1) secure contributions to the council's Aggregates Quarry Fund; (2) undertake to cease operations under the existing consent in the event that the application is granted and the permission is implemented; and (3) prepare a long-term management plan for the implementation and continued maintenance of the restoration/enhancement proposals.

4.38 The objective of policy MIN 8 (community benefit) is to secure financial provision for communities adversely affected by the residual impacts of mineral extraction. The policy encourages contributions. The working group is incorrect in its understanding of the applicant's offer to provide community support via a contribution to the Aggregate Quarries Fund. The contribution carries no weight in the decision making process (as highlighted in the council's committee report).

4.39 **Southern extension only:** The applicant agrees with the Council and remain of the opinion that the planning application complies with the development plan and that planning permission should be approved in its entirety. Concerns are expressed about any decision to approve the southern extension only and refuse consent for the western extension by the imposition of planning condition. The purpose of planning conditions should be to mitigate and control adverse effects of a development, rather than fundamentally changing the development.

4.40 Condition 1 as included previously precludes development within the Buffer of the World Heritage Site is not justified by the reasoned planning judgement of the Council or the previous Reporters and is therefore considered to fail the 'necessity' test as set out within Circular 4/1998. Regarding conditions 2,4,6,7 and 8 the eastern side of Phase 1 contains a reserve of sand and gravel outwith the Buffer zone of the WHS and Designed Landscape. Condition 1 does not preclude extraction within this area and the area should therefore be included within this condition.

4.41 Section 32B of the Town and Country Planning (Scotland) Act 1997 (as amended) would not be engaged as the application is not being varied by the applicant. The relevant issue is whether Scottish Ministers can grant permission for the southern extension only by way of a condition attached to the permission (in which case the Bernard Wheatcroft case is relevant in that the High Court indicated there was no reason for a housing proposal to be reduced by condition).

4.42 It is proposed that the issue is whether the substance of the application would be altered and it is submitted that it would not be should only the southern extension be permitted as it would merely be the extent to the material to be extracted that would be reduced. The situation with the Overburns decision (document B.13) is different in context as the appellant suggested amendments to make an unacceptable development acceptable – that is not the case here.

4.43 There is sufficient information in the environmental statement about the southern extension to assess its impacts and conditions could be amended acceptably to account for the southern extension only. It is noted that there is only one objection to the southern extension (Sir William Lithgow regarding the Boathaug) but those concerns have been adequately resolved. It is stressed that there is no reason why both the western and southern extensions should not be granted. However, if Scottish Ministers were not convinced there is no reason why the southern extension could not be granted alone.

Case for the Council

Environmental Assessment

4.44 Following re-opening of the case in 2017 the council commented on the current sufficiency of the 2012 ES. It indicated the need for some update of the survey material relied on in relation to ecology matters. Following submission of this information it made no further comment in this respect.

Benefits of the proposal

4.45 In assessing the proposals, and considering job retention (see paragraph 3.25), the development would be in the right location and environmental impacts could be successfully mitigated with benefits to the local area. Therefore, the proposal is compliant with policy Policy 3 and Policy GBRA1 of its associated supplementary guidance (see Appendix 3, paragraph A3.7).

Ecology, Nature Conservation, Flooding and the Green Network

4.46 An area of 1.5 hectares of woodland would be felled as part of the proposed western extension. This area is incorrectly identified within the minerals local development plan and the local plan as an Ancient Woodland. The woodland is actually 'an area of long established woodland or woodland of high conservation value'. A further three mature trees (part of the parkland landscape) would also be lost as a result of the proposed quarrying in the western extension. The tree loss would create an adverse impact but this would be offset by new structure planting as part of the restoration proposals which would significantly exceed the area being felled. It is noted that Scottish Natural Heritage has no objection to the felling.

4.47 An area of peat below the aforementioned woodland would require removal and storage during the extraction period. It is argued that this peat resource is currently being deteriorated by the trees. In any case, it is believed, together with Scottish Natural Heritage and the Scottish Environment Protection Agency, that the translocation of the peat resource could be suitably addressed through a method statement (controlled by condition) and thereafter implemented successfully. The proposal would comply with policy MIN 6.

4.48 Scottish Natural Heritage is content with the findings of the species protection plan for otters and bats. Further details on survey records and impacts of on-site traffic, and pre-start checks could be suitably controlled by condition. Consequently, it is argued that there would be no adverse impact on protected species. The proposal is consistent with policy NHE19 (European protected species) and MIN 2.

4.49 Any impact on the nearby Falls of Clyde Site of Special Scientific Interest (450 metres from the nearest extraction point) and the Clyde Valley Woodlands National Nature Reserve (200 metres from the nearest extraction point) would be indirect through hydrology and hydrogeology. Scottish Natural Heritage and the Scottish Environment Protection Agency did not object to the proposal. Monitoring of drainage and habitat can be controlled by condition to ensure no adverse harm to these designations.

4.50 There would be no significant impact on nature conservation or biodiversity interests. Indeed, it is argued that the restoration proposals should improve habitats and biodiversity in the area.

4.51 There would be no 'wet working' on the site below the water table. Conditions could suitably control measures to ensure no adverse effect on the water environment. In consideration of the submitted flood risk assessment, it is also agreed that the risks of flooding from the proposal are low. Consequently, the proposal would comply with policy MIN 5.

4.52 A condition would ensure a satisfactory record of any archaeology found. Site monitoring could be controlled by condition satisfying policy MIN 15. Noise, dust and

vibration and air pollution could all be suitably controlled by condition satisfying policy MIN 7, and local plan Policy 4 (development management and placemaking).

4.53 Only a small portion of the proposed western extension would be within the green network identified in the local plan. There may be a temporary impact on the green network during extraction but enhancement following restoration. The proposal is therefore compliant with Policy 12 of the Strategic Development Plan.

Legal Agreements, Planning Obligations and Conditions

4.54 It is considered that the planning application should be granted subject to the planning obligations and conditions set out within the committee report, and that these requirements comply with the relevant tests contained within Scottish Government Circulars 4/1998 on planning conditions and 1/2010 on planning obligations.

4.55 It is noted that the applicant has volunteered to make a contribution to the Aggregate Quarries Fund (as per policy MIN 8). A planning obligation covering the following issues would also be required:

- contributions to the Aggregate Quarries Fund, or similar community benefit fund;
- contributions to cover extraordinary wear and tear on the public road network and associated cycle lanes, in terms of section 96 of the Road (Scotland) Act 1984;
- an undertaking to cease, and not restart, operations under planning permission CL/11/0285 following commencement of operations under this permission;
- provision for the establishment of a management group to advise on the management of the western extension area including the restoration and other works agreed to be undertaken by the developer (as suggested at the hearing).

4.56 The proposed extension to the quarry would not increase traffic onto the A73 but would prolong the life of the operation. Payment for extraordinary wear and tear on the public road network and the provision of signage to warn cyclists of heavy goods vehicles is therefore justified. This would be consistent with minerals policies MIN 12 (transport) and MIN 13 (legal agreements).

4.57 The cessation of the extant planning permission CL/11/0285 would ensure clear changes in the phasing of the development, and ensure that all parties would know what is being implemented when, as well as aiding monitoring as the development progresses.

4.58 A stopping up order under section 208 of the Town and Country Planning (Scotland) Act 1997 (as amended) would be required to stop up the part of the drove road located on the proposed extraction site.

Southern extension only

4.59 Planning permission for the southern extension only should not be recommended. To grant such a limited permission is either incompetent or, if competent, the change is so substantial that it should not be considered. Section 32B of the Town and Country Planning

(Scotland) Act 1997 (variation of application referred to Scottish Ministers) requires an application by the applicant for a variation of the planning permission. Such an application would require details of the proposed variation with such new environmental information as it required to support the variation. The applicant has not applied for such a variation and therefore it is not competent for the Scottish Ministers, of their own volition, to grant consent subject to a variation. In any event, sub-section 32B(3) states that if there is “a substantial change” then the Scottish Ministers “are not to agree the variation.”

4.60 It is argued that the following would amount to development which would be, in substance, different from that currently proposed:

- deleting the western extension with all the restoration “benefits” that have been promised in respect of that extension;
- the requirement substantially to change and re-work the phasing of the extraction, particular as phase 1 (western extension) was intended to work back into the main quarry area;
- the conditions that will be required to safeguard the parliamentary wall and drove road;
- the consideration that might be required in respect of restoration “benefits” linked to the southern extension only.

4.61 It is accepted that under sub-section 32B(4) the Scottish Ministers could require notification of the variation so that there could be further consultation. However, if there is need for further consultation that is a clear indication that the variation is substantial.

4.62 The following legal submissions were produced to support the view that the southern extension should not be recommended, Ministers should note these for their own purposes (they can be viewed within the council’s closing submission): *Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982)*, and *Walker v Aberdeen City Council 1998*.

Case for the Working Group

The Environmental Statement

4.63 The environmental statement is deficient in its approach, and consequently undermines the applicant’s case. It relies heavily on selective use of its own assessment and value of the area, and fails:

- to identify alternatives to the proposed development
- to use or pay sufficient regard to original designation documents
- to identify the meaning of “integrity” or “authenticity”
- to adapt the environmental assessment to New Lanark World Heritage Site, its setting and buffer zone
- to relate its findings back to planning policies
- to provide adequate geological assessment.

4.64 No further comments were received with respect to the Environmental Assessment Addendum 2017.

Heritage Impact Assessment and consideration of alternatives.

4.65 Expert evidence (**Document H 20(3)**) was submitted to the 2014 hearing on the availability of gravel resources in South Lanarkshire, considering that paragraph 1.20 of the Minerals LDP states that *“due to the extensive range and geographical location of economically viable mineral resources within South Lanarkshire, the Council considers that the whole area should be treated as an “Area of Search”*. This evidence suggested that even a restricted rural part of south Lanarkshire (between Lesmahagow and Newbigging) *“contains a quantity of the order of 500 million tons of glacial sand and gravel”*, offering a significant unworked resource, albeit that some of it is constrained. Under the circumstances, it is not acceptable under the Environmental Assessment Regulations that no alternatives had been considered at any stage by the applicant, considering the criticality of the environmental risks at Bonnington. This was not considered by the previous reporters.

Benefits of the proposal

4.66 The proposal ignores the structures and funds available to enhance the area without the need to quarry for minerals. The claimed benefits of the proposed restoration scheme is exaggerated in large part due to the alternative mechanisms to improve access and enhance the designed landscape, which are entirely ignored in the environmental statement. The very long timescale proposed for quarrying also detracts from any benefits. By failing to build on the economic potential of the area the proposal is also contrary to local development plan Policy 3 and GBRA1.

Ecology/Nature Conservation/ Flooding and the Green Network

4.67 The translocation of peat is a developing technique that is not always successful and that dealing with complex ecological systems inevitably entails a risk of failure. The applicant’s acceptance that the peat bog would cease to be active means that it cannot comply with Policy MIN 6 or NHE15 because removing the bog would damage the area’s natural diversity and ecology.

4.68 Policy 14 (green network and greenspace) supports the principles of Policy 12 of Clydeplan. The Clyde Valley is identified in the development plan as a potentially nationally important leisure and tourist resource. Due to the loss of landform from quarrying, and authenticity following restoration, there would be a harmful impact on this resource contrary to these policies.

The Restoration Proposals

4.69 The proposal would cause the integrity of the designed landscape and landscape setting of New Lanark to be lost, and the integrity of the World Heritage Site to be damaged. The loss of landform would be permanent and irreversible despite any restoration.

4.70 It is proposed to replicate an approximation of a tree planting scheme seen on the 19th century map of the area. The planting would be centred on the circular hillock at the immediate edge and within the proposed extraction area. Tree planting makes this a

prominent feature on the 19th century map. However, it is crucial to appreciate that the planting was chosen to reflect the particular topography of the natural landscape. Since the proposed western extension would slice the circular hillock in half the natural topography would be lost, replacing one rounded side with a steep slope. Planting trees on the altered landscape feature would therefore be a pastiche and deeply inauthentic.

4.71 The proposed development inevitably requires a permanent alteration of landform. The chaotic and complex pattern of kettles and kames, including a lowland raised bog, would be replaced by an elongated bowl running from east to west, with uncharacteristic steep sides, uniformity and depth. The permanent lowering of the boundary treatment (the Drove Road and Parliamentary wall) would also create a fundamentally altered aspect across the entire landscape.

4.72 Scottish Natural Heritage commented that “we are aware that any restored landform would have little if any geomorphological value, being as it would be entirely artificial.” This is the nub of the issue. A designed landscape is founded on natural landform and if the landform is radically altered then its integrity and authenticity is destroyed. Proper provision has not been made for the restoration contrary to minerals policy MIN 4.

Walking Routes and Visitor Impact

4.73 Aside from the updates provided in Chapter 3 in relation to the value of the heritage asset the working group’s earlier submissions raised a number of other matters relevant to recreation, access and visitors. The reporters previous summaries are relied on in this respect.

4.74 The proposed footpath extensions offered by the applicant are more limited than implied. The total additional paths amount to little more than 1.5 kilometres, much of which can already be walked today. The temporary replacement of the Drove Road is likely to provide an especially unattractive route as an industrial site would emerge on either side of it. The provision of a visitor car park in the north-east corner of the quarry would not reinstate the historic access of the Bonnington Estate and would create a new entry to the Falls of Clyde previously unknown. This demonstrates that the applicant has failed to understand the context, that the Falls of Clyde is centred on the network of paths and tracks around the area with natural entry points from New Lanark, Lanark, The Beeches, and opposite Lanark Loch (the racecourse).

4.75 The proposal ignores the structures and funds available to enhance the area, including Save Our Landscapes’ own proposals for enhancing the area, without the need to quarry for minerals. The claimed benefits of the proposed restoration scheme is exaggerated in large part due to the alternative mechanisms to improve access and enhance the designed landscape, which are entirely ignored in the environmental statement. The very long timescale proposed for quarrying also detracts from any benefits. By failing to build on the economic potential of the area the proposal is also contrary to local development plan Policy 3 and Policy GBRA1.

4.76 The working groups’ public consultation of 110 people indicates that the public amenity impact of the proposed extension is negative, even after restoration. The evidence shows that the western extension would likely have important negative knock-on effects on the local economy by deterring visitors. Undoubtedly, these effects would be cumulative as

awareness of the extraction would increase if it were to go ahead. In contrast, there is clear potential for developing the area around the Falls of Clyde by improving access to it, replanting trees, and improving information for the public on the area's history. The consultation suggests that this would make people more likely to visit the area, stay for longer, and hence increase spending in the local area.

4.77 Safety is a concern of the wider public represented by the group due to the location of the quarry in the immediate vicinity of an area used for leisure. Although there is a safety programme for quarries they cannot be secured against determined trespassers. And, it is noted that the proposed extension would be within 200 metres of the Falls of Clyde Wildlife Reserve, where young adults play.

Sustainable Development

4.78 Ultimately the proposed development would entail the removal of something irreplaceable and replacement with something different. Therefore, the proposal could not be considered to be "sustainable development" as described in Scottish Planning Policy. It is suggested that the economic benefit is being pitched against the cultural and heritage assets of the area. However, the cultural and heritage assets are highlighted as being of economic benefit in their own right also, bringing tourists to the area for some 300 years. The presumption in favour of sustainable development only applies if the development plan is out of date.

Legal Agreements, Planning Obligations and Conditions

4.79 It is noted that the stopping up of part of the Drove Road could mean a period where there was no alternative route inconveniencing regular users and visitors. However, it was intimated at the previous hearing session that the working group would be reluctant to object to the a future stopping up order should permission be granted.

4.80 No progress has been made on a 'holistic management plan' proposed by the applicant and it is uncertain how this would be constructed under a planning obligation. The idea of a liaison group involving the New Lanark Trust and local community council's is welcomed as there is concern about the "aftercare" of the site. The council could act as the coordinator of such a group.

4.81 There is broad agreement with the proposed conditions. However, it was noted that where a condition requires consultation there should be consideration of whether the New Lanark Trust and/or a local community council should also be involved.

Southern expansion only

4.82 The working group has not objected to the proposed southern extension subject to its subject to its submissions already made concerning Boathough. However, it did highlight at the hearing session that it held reservations about the use of conditions to restrict and control the southern extension only. Suitable conditions should require a buffer strip along the mutual boundary of the southern extension (should it proceed) with the protected areas at Bonnington

4.83 Proposed Condition 2 is an entirely reasonable condition and reflects exactly what the Scottish Ministers proposed in their decision. The condition was framed by the Reporters as a consequence of Scottish Ministers' judgement and not of their own judgement in recommending consent for the western extension. Clearly, Scottish Ministers considered that the western extension would NOT preserve, protect and enhance the character integrity and quality of the WHS Buffer Zone (or of the Falls of Clyde Designed Landscape, as stated in the reason for the condition). This is consistent with their original notification and call in directions which were based from the start on concerns for the protection of both the Buffer Zone and the Designed landscape.

4.84 For Proposed Conditions 3, 4, 6, 7, 8 the Reporters for the first hearing did not accept the Working Group's request for a condition specifying a 50 metre buffer strip as an integral part of the consent. The Working Group still considers that such a buffer strip is so critical to the visual protection of the setting of the Buffer Zone, the Designed Landscape and the route to Boat Haugh, and to their uninterrupted interpretative appreciation, that it should be specified as part of the consent and should not be a matter left undetermined for approval of an MSC submission at a later date.

4.85 A buffer strip must include the entire length of the boundary between the quarry (existing and proposed) and the Buffer Zone and Designed Landscape, including Phase 1. The strip which currently exists for the purposes of the pre-existing planning consent, and which is not included in the western extension, was deliberately left for this purpose when originally granted.

Reporter's Conclusions: Other Matters

Environmental Assessment

4.86 The Environmental Statement Addendum as prepared by the applicant was submitted in November 2017 and advertised in accordance with the Regulations. No additional significant effects were identified and the responses received are summarised in Appendix 4 of this report. A further procedure notice was issued to Scottish Natural Heritage to clarify its response in relation to comments on the required mitigation.

4.87 My assessment of the submitted environmental information accords with that of the previous reporters. The recent addendum has not changed that assessment or indicated any variation in the scale or nature of the identified effects. I consider the content of the environmental statement to be satisfactory subject to any detailed comments or conclusions as stated elsewhere in this report.

4.88 Chapter 5 of the Environmental Statement covers the consideration of alternatives. Whilst it is clear that this does not extend to other locations it has addressed different approaches to the proposed scheme. I agree that minerals can only be worked where they can be found and that in circumstances where there is an existing ongoing operation and supporting infrastructure utilising existing reserves as opposed to starting a new operation elsewhere has potential to secure environmental as well as operational advantages. There are undoubtedly sensitivities in the proposed location, particularly of the western extension. However I note that substantive amendments were made to the original scheme to reduce its footprint and timescale of operation. Consequently I agree with the applicant and the council

that the matter of alternatives in the context of the Environmental Statement has been sufficiently addressed.

4.89 No new evidence was heard on the issue of Heritage Impact Assessment and parties reference their earlier submissions. In this context I agree with the applicant, the council, Historic Environment Scotland and the previous reporters that this matter is sufficiently addressed through the scoping process and subsequent environmental assessment. Chapter 16 of the Environmental Statement addresses Archaeology and Cultural Heritage and I consider that this information is sufficient.

Benefits of the Proposal

4.90 The proposed development would retain existing quarry jobs (21) and indirect jobs (60). It would contribute to an adequate and steady supply of minerals required for the construction industry promoting sustainable economic growth. The landscape enhancements would improve biodiversity and the parkland character of the area. New paths/connections would be provided as part of the restoration and enhancement of the area. For these reasons I find the proposal is compliant with policy Policy 3 and Policy GBRA1 of its associated supplementary guidance (see Appendix 3, paragraph A3.7).

Ecology, Nature Conservation, Flooding and the Green Network

4.91 On re-opening the case in 2017 and following publication of additional environmental information only Scottish Natural Heritage raised any specific matters in relation to nature conservation issues (see appendix 4). However in response to my procedure notice on this matter it was confirmed that its comments could be addressed by condition. Conditions 29-33 as set out in Appendix 1 address these matters and Scottish Natural Heritage has confirmed that these conditions provide appropriate mitigation.

4.92 Aside from that matter I have relied on the conclusions of the previous reporters and find nothing to indicate to the contrary. The following section replicates their conclusions in this respect and includes the updated policy references.

4.93 The Robiesland woodland is sub-optimal for bats but is part of a foraging route. In time (predicted at less than 10 years) the newly planted trees would provide enhanced foraging opportunities for bats. There would be no significant or lasting impact on any other species as a result of the proposed development. Indeed, it is noted that the existing quarry provides benefits for many species for foraging and nesting in its own right, particularly nesting areas for sand martins.

4.94 As noted by Scottish Natural Heritage, the Scottish Environment Protection Agency, and the council, there would be no harm to the Falls of Clyde Site of Special Scientific Interest or the Clyde Valley Woodlands National Nature Reserve as a result of the proposed development.

4.95 Drawing on these previous conclusions I find no conflict with Policies NHE11(Ancient and semi natural woodland), NHE14(woodland), NHE19 (protected species) or NHE20 (Biodiversity).

4.96 The woodland on the Robiesland bog has been harmful to the active peatland. Concerns about the translocation are acknowledged as it is a relatively unknown process. However, the translocation would involve an initial hydrological assessment and use of specialist contractors, and the absence of any objection from Scottish Natural Heritage and the Scottish Environment Protection Agency, suggests that the process would be positive and there would be a good chance at restarting sphagnum moss growth. There are risks in association with the translocation of the bog but these are considered to be acceptable. Any hydrological impacts on these sites would be monitored and adequately controlled by condition. Therefore, I agree with the previous reporters' that the proposal satisfies policy MIN 6 (peat) or Policy NHE16 (peatland).

4.97 Although the Working Group raise concerns about impact on the terminus of the green network these were not shared by any other party. I consider that any impact on the green network would be restricted to a very limited area on the margins of the Clyde walkway and would only be experienced for a temporary period (up to eight years) with enhancement to the network following the restoration with substantial tree planting and additional paths.

4.98 There would be no 'wet working' and consequently no predicted flooding impacts. The Scottish Environment Protection Agency has no objection to the proposed development.

4.99 There was no dispute that conditions and careful management of the extraction operations would ensure no harmful impact from dust, vibration, air pollution and noise could be suitably controlled. Therefore, the development complies with the provisions of Policy 4 Development Management and place-making.

Walking Routes and Visitor Impact.

4.100 I have addressed above the potential progress on initiatives by various groups with an interest in the heritage and landscape of the area as a visitor and recreational asset. I do not doubt the assertion that some of the landscape and biodiversity enhancement could be provided without the need for a minerals development. However as stated above there is no current commitment to these schemes or certainty as to the delivery which could be secured other than through this application. A late submission was received from the landowner referencing the lack of any agreement for an alternative approach to access and footpaths. However, I find this does not change my reasoning given that the working group had already accepted, at the hearing, that uncertainty over this planning application had restricted progress on confirming any more detailed plans or securing funding for alternative initiatives.

4.101 With regard to visitor numbers I have addressed the matters raised by local interest groups in the context of the value placed on the heritage resource above. I note the survey carried out previously (document H.5). The working group, in its closing submission 2018, provide some clarification on this with reference to their earlier hearing statement. I do not doubt the authenticity of the research or its conclusions. It reflects public concerns as expressed more generally in the volume of representations.

4.102 The existing quarry operates in close proximity to the Historic Designed Landscape and there is no evidence that this has had a negative effect on visitors. However, I accept that perceptions may vary and there are clearly genuine concerns about the impact on visitors. Nonetheless for the reasons stated above I consider the proposals would avoid

harm to the integrity of the relevant designations and in the context of the hierarchy of protection established in Policy 15 of the local development plan. Identified localised effects would be short-lived with mitigation over the 8 years of works and restoration and improvement on completion. Consequently I do not accept any significant impact would result from the proposed quarry operations in relation to visitor numbers. The normal safety requirements would apply and there is no evidence to suggest unacceptable impacts in relation to noise or dust. The detail of the means of enclosure could be addressed through an appropriately worded condition (see Appendix 1 Condition 4).

Strength of Opposition

4.103 Whilst fewer parties responded to the targeted re-opening of this case all of the responses received previously have been considered. The proposals have attracted a lot of concern reflecting the strength of feeling towards protecting the Falls of Clyde and New Lanark area. These matters are addressed in my conclusions above. I understand these concerns regarding the introduction of quarry operations as proposed through the Western extension close to the World Heritage Site and within the Historic Designed Landscape. However subject to the proposed mitigation and restoration I consider that there would be no significant effect on these assets.

The restoration proposals

4.104 The applicant has spent a period of years involving research and consultation to provide various versions of the restoration scheme for the application site. This has been an iterative and involved process. I agree with the Working Group that the proposals would not be a full “restoration” as landform would be lost as a result of the extraction process, the land would be re-graded, and the Bonnington Estate boundary wall would be rebuilt at a lower level than at present.

4.105 I note the description of ‘pastiche’ as applied by the Working Group in relation to the restoration scheme. However I do not consider it is necessary to require a complete replication of the land form so long as the end result reflects elements of the landscape and is of an appropriate quality and design. In this respect the ridge of the hill would be retained and the main change would be the regrading of the slope. The new gradients would mimic esker and kame landscape characteristics; there would be substantial replanting; new and improved walking routes would be provided together with enhanced interpretation information. The restoration proposals provide an opportunity to improve the landscape and the visitor experience of the Bonnington Estate and wider landscape; as well as creating opportunities for wildlife and peatland restoration albeit in the longer term. There is an opportunity to further refine the proposals in the context of the relevant planning conditions and the management plan as referenced below.

4.106 The suite of recommended conditions (see Appendix 1) would control the phasing of the proposed development; provide a mechanism to approve the progressive restoration and enhancement proposals for each phase of the development; give a means of controlling the aftercare arrangements (including a long-term management plan); and provide financial guarantees to cover the site restoration and aftercare liabilities in the event that the operator is no longer able to fulfil this requirement. The conditions are suspensive meaning that the planning authority must approve details before works can begin on each phase of the

proposed development. I consider these controls to be satisfactory and that conditions 2 and 3 are important to enable control over the timeframes for each phase and the associated restoration which is particularly important in the context of the western extension. Consequently the proposal is consistent with the Minerals Local Plan Policy MIN 4 (restoration).

Sustainable Development

4.107 Scottish Planning Policy includes a presumption in favour development that contributes to sustainable development. Whilst the local development plan is up to date and contains a number of relevant policies only the more dated Minerals Local Plan includes a policy framework relevant to minerals. Scottish Planning Policy advises that in such circumstances, where the relevant local development plan policies, are out of date then the presumption in favour of development that contributes to sustainable development should be considered to be a significant material consideration. In this case there is a more recent statement of council policy on minerals and whilst this is also a consideration it is non statutory. Paragraph A3.48 (Appendix 3 of this report) details the principles that should apply in assessing whether the proposal contributes to sustainable development.

4.108 In this respect my assessment is that the proposal would supply sand and gravel and help to maintain reserves for the longer term. There are also employment benefits. Whilst net economic benefit requires consideration of potential costs such a loss of tourism revenue evidence to this inquiry does not in my view demonstrate any conclusive losses in this respect. The design and mitigation process has been iterative in consultation with the relevant authorities resulting in a scheme which has not attracted any objection from Scottish Natural Heritage, Historic Environment Scotland, the Scottish Environmental Protection Agency or the council as roads and planning authorities.

4.109 The Working Group are not convinced of the qualitative and co-location case for the proposed western extraction area. However, I consider there are clear operational advantages to concentrating activities as an extension to the existing quarry in terms of the efficient use of land and resources.

4.110 I appreciate the sensitivity of the location in respect to heritage assets of national and international importance. From my conclusions in Chapter 3, I find no conflict with the objective of these designations and their integrity would be protected. The historic environment is also a tourist asset and whilst there would be some interim disruption focussed over 8 years substantial mitigation and improvement is proposed over the course of the phased works and beyond. There is an opportunity for the details of the restoration and mitigation to be further refined through the management plan as part of the proposed section 75 obligation.

4.111 Consequently I consider that the proposal would contribute to sustainable development in the context of Scottish Planning Policy.

Legal agreement and planning obligations

4.112 I note that it was agreed through the previous process :

- That a stopping up order under section 208 of the Town and Country Planning (Scotland) Act 1997 (as amended) would be necessary if planning permission were to be granted and the development were to proceed. This would relate to the Drove Road. The council would initiate the stopping up of the route under a separate statutory process once planning permission had been granted.
- That a contribution should be made for wear and tear on the public road. The applicant and the council discussed the matter and agreed that a legal agreement following sections 95 and 96 of the Road (Scotland) Act 1984 would be appropriate. I concur that a contribution is necessary and that an agreement using the Roads (Scotland) Act 1984 would be satisfactory.
- That currently permitted operations should cease to ensure that all operations are consolidated into one planning permission. The council consider that consolidation would provide clarity when discharging and monitoring conditions, and for enforcement purposes. I agree with that approach and that it would meet the tests of Scottish Government circular 3/2012 on 'planning obligations and good neighbour agreements' being necessary; serving a planning purpose; related to the development proposed; and being fair and reasonable.
- That a long term management plan was required. There was previous discussion about this and it was agreed that a planning obligation could facilitate the maintenance of the site once mineral operations had ceased and would ensure the starting up of a liaison group. The parties agreed that the final details could be arranged if planning permission was granted.

4.113 I agree that a long-term management plan is necessary to ensure that the landowner and successors in title continue to maintain the site once development has ceased. An obligation would serve a planning purpose; be related to the development proposed; it would be fair to parties; and reasonable in all other aspects. However, I agree with the previous reporters that further details of the terms of such a plan are required to avoid any subsequent ambiguity about the scope and purpose of such a plan. Therefore, an agreement under Section 75 or as otherwise secured should be addressed in the following items:

- An undertaking to cease and not restart extant planning permission for mineral operations on the site (South Lanarkshire Council reference number CL/11/0285).
- An undertaking to provide a long-term management plan (as part of the aftercare of the site) once quarrying has ceased on the application site; and the setting up of a liaison group to help guide the future management of the site.

The long-term management plan is to be submitted to and approved by the council as planning authority as part of the aftercare scheme prior to the commencement of phase 1 as illustrated on drawing P2/184/5 – Proposed Block Phasing.

The long-term management plan is to include details of:

- (1) maintenance plans for the site once quarrying has ceased covering a reasonable period;
- (2) the parties responsible for implementing the maintenance plans;

- (3) members of a liaison group (which should include the council; the landowner; and the mineral operator; and may include the New Lanark Trust and local community councils);
- (4) the role and responsibilities of those on the liaison group;
- (5) dates when the liaison group will convene (for example, annually);
- (6) dates when the management plan will be reviewed (for example, annually).

Conditions

4.114 Whilst new submissions were invited on these matters submissions to the February 2018 hearing did not signal any significant shift in the position of parties. The applicant's closing submission confirms agreement with the conditions as included in the 2015 reporters' report. These are as replicated in Appendix 1 to this report. I have carefully considered the terms of these conditions which include some minor changes from those previously proposed by the council. I find no reason to depart from the conditions as recommended by the previous reporters given that they remain relevant and in accordance with Scottish Government Circular 4/1998 on 'The use of conditions in planning permissions'.

Southern expansion only

4.115 Following submission of the previous reporters' report on 20 February 2015 (AL06) , which recommended approval, Scottish Ministers issued a notice of intention to grant planning permission for the southern extension only on 26 June 2015. At that time reporters were instructed to prepare a supplementary report with their advice on the legal agreements/conditions that should apply if permission for the southern extension were to be granted. I have included the consultation responses received at that time in Appendix 5 to this report for the information of Ministers.

4.116 Scottish Ministers did not reference this matter in relation to the re-opening the case and their previous decision was quashed. Nevertheless I have considered this matter in the context of my conclusions above. The western extension is undoubtedly the focus of concern and impacts given the relatively greater sensitivity of this area within and in proximity to heritage designations and assets. The southern extension alone could make a substantial contribution to the mineral supply to provide 1.4 million tonnes of mineral. Any adverse impact on designations or assets would be avoided and there would also be no significant adverse impact on the remains of the non-designated Boathough. However drawing on my conclusions in Chapter 2 I consider that the southern extension alone would be insufficient to support a land supply capable of meeting future growth assumptions.

4.117 My report and recommendations focus on the scheme as submitted which includes both the proposed western and southern extensions. I can only recommend a limited approval of part of the site if my conclusions support such a step based on an overall assessment that the proposal as submitted is contrary to the development plan or that an alternative decision is justified by other material considerations.

4.118 The previous reporters recommended a set of conditions in the event that Scottish Ministers consider it appropriate to approve only the southern extension. I find no reason to disagree with these conditions should this eventuality arise. However, I consider that this would not secure a scheme comparable in design and mitigation to that proposed in this application. In addition, the potential advantages of co-location and use of the available resource, rather than opening up reserves in a new location, would be lost.

4.119 Consequently, setting aside the legal aspects of the competency of any decision to approve only the southern extension, I share the concerns of the council and the previous reporters. In the event that Ministers consider that the western extension is unacceptable but that the southern extension is acceptable it would be better for the current proposal to be refused. It would then be open to the applicant to design and develop a separate application for the southern extension. This could then be assessed in detail, including by the necessary technical and statutory consultees.

4.120 For ease of reference I have included the set of conditions previously recommended in the event of a permission for the southern extension only for the information of Ministers as Appendix 2. However these do not form part of my recommendation. In this respect it is worth noting the remaining concerns of the working group regarding the need for a buffer zone. On that issue I agree with the previous reporters that the wording of the conditions and the details to be submitted would enable an appropriate boundary to be established. The only other matter raised on conditions was the suggestion by the applicant that Conditions 2,4,6,7 and 8 should also reference the eastern side of Phase 1 which contains a reserve of sand and gravel outwith the buffer zone of the World Heritage Site and Designed Landscape. The council does not object to this and Condition 1 would not preclude extraction so long as it is outwith the World Heritage Site Buffer Zone.

4.121 I note this matter was not raised previously and I can see advantages in the conditions as currently drafted and included in Appendix 2. These enable more precision by defining the area in relation to the submitted phasing. In addition, the conditions as currently worded would enable the detail of the boundary to be agreed subject to the submission and approval of plans defining the area. In this context, whilst I draw this matter to the attention of Ministers I have not sought to alter the conditions as previously recommended through the reporters' 2015 report.

Overall Conclusions: Other Matters

- There is no identified deficiency in the submitted Environmental Information or a requirement for a separate Heritage Impact Assessment.
- The proposal would deliver jobs and contribute to economic growth.
- Impacts on walking routes are subject to mitigation which would secure enhanced provision in the longer term.
- There is no conclusive evidence of an adverse effect on visitor numbers and the scheme could achieve long term enhancement of access and interpretation.
- The proposal would contribute to sustainable development.
- Compliance with other relevant development plan policies could be achieved subject to appropriate mitigation to be secured through legal agreement and conditions.

5. DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Background

5.1 The council as requested at the start of the 2017/2018 re-opening of the case provided detail on the relevant development plan policies that should now apply. The re-opening of the case focussed on specified matters. However I am required to assess these in the overall balance of the development plan and other material considerations. Whilst parties did not re-visit all of the relevant policy content through the re-opened process agreement of the policy context as provided by the council was confirmed. In addition parties confirmed that their position as stated previously on the development plan had not changed other than as rehearsed and updated elsewhere in this report. However all the relevant policy references required updating.

5.2 The closing submissions as received in March 2018 reflected the overall conclusions of the parties following the re-opening of the case. On this basis the following chapter brings together the overall conclusions of the main parties before I return to my overall conclusions and recommendation in Chapter 6.

The applicant's case

5.3 The applicant provided some updated policy response through its Environmental Statement Addendum. It concurs with the council's view that whilst the policy references have changed the policy content remains very similar. Consequently it relies mainly on the details led through the 2015 hearing. The only substantive change is in relation to the description of the buffer zone relative to setting. The applicant shares the view of the other parties that the Minerals Local Development Plan 2012 remains extant.

Glasgow and Clyde Valley Strategic Development Plan

5.4 For this application, it is the principles of the strategic development plan that are important and the support provided through Policy 15 (see summary in chapter 2).

5.5 With regard to the Clyde Gateway Strategic Green Network designation (Policy 12) there would only be a temporary adverse impact on this designation after which there would be improved connectivity in the area through tree planting and path formation (see summary chapters 2 and 3).

South Lanarkshire Local Plan

5.6 The proposal is consistent with the objectives of Policy 1 (accessible rural area) as the mineral operations would be satisfactorily mitigated. The existing use is for farmland with limited public access opportunities but the proposals would offer landscape enhancements and improved public access.

5.7 Supplementary Guidance Policy GBRA1 reflects the previous Policy CRE 2 (stimulating the rural economy). The proposal is complaint given the conclusions above on

mitigation and environmental enhancement in the long term. Minerals can only be worked where they are found, and in this instance the western extension area would provide mineral with an above average gravel content lying adjacent to an existing working.

5.8 The proposed development's restoration (see paragraphs 2.140 to 2.145) would involve extensive improvements to public access, improving connectivity with no unacceptable impact on the green network.

5.9 The impacts on the landscape and historic environment are temporary and can be mitigated (chapter 3).

5.10 It is noted that the council consider the temporary impact contrary to policy 15, NHE1, NHE4 and MIN2. However, the proposals would not affect the integrity of the landscape or historic environment because of the mitigation measures and long term benefits of a high quality restoration scheme. Accordingly, it is considered that the proposed development is compliant with policy 15 and its associated guidance for the reasons as rehearsed in the applicant's case above.

5.11 The area of proposed extraction would not be visible or audible from the New Lanark World Heritage Site due to distance, and lack of inter-visibility. The temporary aspects of the proposal should not be accorded adverse weight given the mitigation measure proposed and the overall outcome of the whole development.

5.12 There would be no harm to the New Lanark and Falls of Clyde Conservation Area so the proposal would comply with policy NHE7(conservation areas). If the proposals were found to harm the conservation area then a policy balancing exercise would again be required as the proposal would provide regional not national benefits.

5.13 The outcome of the proposal should be tested against the objectives of policy NHE4 (historic gardens and designed landscapes). Therefore, although the council identified the temporary impacts as contrary to this policy (previously ENV 28) it is argued that the overall development is consistent with these policies as per the applicant's case as set out above.

5.14 Similarly the proposal would comply with Policy NHE16 on Landscape.

5.15 Given the benefits of the proposal as described above it would comply with Policy 11 which supports activities that maximise economic development and regeneration.

5.16 The proposal achieves compliance with the relevant policies of the South Lanarkshire Local Development Plan.

Minerals Local Plan 2012

5.17 For the reasons stated in chapter 2 the proposal is supported by Policy MIN 1.

5.18 The proposal would not fail to comply with the first part of policy MIN 2 (environmental protection hierarchy) in relation to protecting the World Heritage Site and its buffer zone. In relation to policy MIN 4 (restoration), the requirement for a restoration bond and a condition to control the restoration and aftercare (details to be approved prior to development commencing) is accepted.

5.19 Policy MIN 4 requires “*proper provision*” to be made for restoration and aftercare. This has, and would be, suitably provided with sufficient reference to the landscape character of the area. Therefore, the proposal is compliant with the requirements of the policy.

5.20 As stated above the peat resource is to be excavated within the proposed western extension. The translocation of the peat resource and its future management would have nature conservation benefits. Scottish Natural Heritage and the Scottish Environment Protection Agency have no objection to the removal and translocation of the peat. Consequently, the proposal is compliant with policy MIN 6 (peat).

5.21 The purpose of Policy MIN 8 (community benefit) is to secure financial provision for communities adversely affected by the residual impacts of mineral extraction. The policy encourages contributions. The working group is incorrect in its understanding of the applicant’s offer to provide community support via a contribution to the Aggregate Quarries Fund. The contribution carries no weight in the decision making process (as highlighted in the council’s committee report).

Other Policies

5.22 As rehearsed through the applicant’s case above the proposal is consistent with the various provisions of Scottish Planning Policy in contributing to sustainable economic development. The proposal meets the requirements of paragraph 135 on Conservation Areas, Paragraph 147 on World Heritage Sites and Paragraph 148 on Historic Designed Landscapes. The proposal meets with the principles of Scottish Planning Policy in supporting good design; giving due weight to net economic benefit; and protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.

5.23 The short term impact of development would be mitigated to offset harm. The development proposed is not a trade-off between economic benefit and the environment – the proposal would be compatible with the national policy in terms of growing the economy and safeguarding the environment. The proposal is consistent with paragraph 238 to maintain a land bank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identified areas of search.

National Planning Framework 3

5.24 The proposal contributes to the objective of increasing sustainable economic growth and the mineral resource would support the construction and energy sectors. There is no conflict with the recognition to Scotland’s World Heritage Sites and historic environment as integral to the county’s well-being and cultural identity.

Scottish Government Planning Advice

5.25 In preparing the proposals reference was made to the provisions of many Scottish Government planning advice notes (documents C.9 to C.14), in particular Planning Advice Note 50 (controlling the environmental effect of surface mineral workings) and Planning Advice Note 64 (reclamation of surface mineral workings).

Other Policies and Advice

5.26 The applicant's case relevant to the New Lanark and Falls of Clyde Conservation Area Character Appraisal, the New Lanark World Heritage Site Management Plan 2013-2018, the Retrospective Statement of Outstanding Universal Value for New Lanark, Nomination of New Lanark for inclusion in the World Heritage list and the Operational Guidelines for the implementation of the World Heritage Convention, UNESCO World Heritage Paper (25), the Xain declaration and current Historic Environment Scotland Policy is set out in Chapter 3 and Appendix 6 respectively.

Other Matters

5.27 For the reasons states in Chapter 4 there would be no unacceptable impact on Geodiversity and geomorphology. Walking routes (see applicant's case Chapter 4) are an integral part of the development, mitigation measures are included to reduce visual impacts to adjacent receptors and walking routes. There would be no unacceptable effects on existing routes and longer term enhancement would be secured.

Overall Conclusion

5.28 In the context of the relevant documentation as agreed by all the interested parties it is considered that the council's committee report was extremely thorough in its assessment of the proposal and its impact, and that, consequently in its application of policies, the recommendation to approve was the correct one. The proposal does not conflict with the development plan or national policy. In any event, the council was correct in deciding, on balance, that the application should be granted in accordance with the council's recommendation. A holistic view has to be taken in determining whether or not a proposal accords with the development plan as a whole. There was no misrepresentation by the previous Reporters. The Report demonstrated a thorough understanding of the issues and circumstances. Other parties disagree but point to nothing which undermines that view.

Case for the Council

Background

5.29 The council provided an updated list of policies relevant to the now adopted Glasgow and Clyde Valley Strategic Development Plan 2017 and the South Lanarkshire Local Development Plan 2012. Its submissions explain that whilst the policy references differ it relies on the assessment made in the Report to the Planning Committee of 17 December 2013 (A21). It is the councils position that the position has not changed to any material extent since that assessment and the recommendation was made by the council and the application referred to the Scottish Ministers.

5.30 SLC submits that nothing said by the Working Group or Ms Leppla at the hearing and no documents produced in re-opening the case or through the previous process amount to a material change that would require a reassessment or a different conclusion.

Glasgow and Clyde Valley Strategic Development Plan

5.31 The principle of development at a strategic level is acceptable. There is no presumption against mineral extraction within the application site. Policy 15 provides support but is checked by the need to protect the environment as another element critical to a low carbon economic future.

South Lanarkshire Local Plan

5.32 As identified there would be a temporary adverse impact on a number of designations, however the restoration and proposed enhancements would offset these negative impacts and result in a beneficial impact within the local area. Consequently, the proposal would comply with policy 1.

5.33 For The reasons stated in Chapter 3 there would be a limited temporary impact (up to eight years) contrary to local development plan Policy 15, Supplementary Guidance NHE1, NHE4 and Policy MIN2 given the temporary nature of impacts on the World Heritage Site and buffer zone, and on the Falls of Clyde Designed Landscape.

5.34 However, the impacts of development would be offset in the medium to long-term as restoration and enhancement of the site were undertaken. The impact would become neutral to beneficial. Therefore, approval would not represent a significant departure from the development plan.

5.35 For the reasons rehearsed in the council's case above the proposed development would comply with: NHE2 Scheduled Ancient Monuments; NHE3 Listed Buildings; NHE6 Non-scheduled archaeology sites; NHE7 Conservation Areas; NHE9 26 (sites of special scientific interest / national nature reserves) and NHE 16 Special Landscape Areas

5.36 The council find the proposal to comply with all other relevant policies: policy 1 in that it promotes sustainable economic growth; policy 2 (climate change) in that it would use existing facilities and would be unlikely to harm the natural environment; policy 4 (development management and place making) in that it would protect amenity; policy 11 in that it would retain jobs and contribute required minerals; and policy 17 (water environment and flooding) as it would not be at risk of flooding or harm any water courses.

South Lanarkshire Minerals Local Plan

5.37 The benefits of the proposal and its contribution to the minerals reserve are in accordance with Policy MIN 1. The other criteria could be met as there would be no adverse vibration arising from operations. Mitigation measures (controlled by condition) could control dust from the site, and operations could be carried out within set noise parameters. The site currently operates without vibration, noise or dust nuisance.

5.38 Proposals should be assessed against short term, long term and overall impacts. Restoration can be considered a form of mitigation. Therefore, the terms of policy MIN 2 (environmental protection hierarchy), in stating "following the implementation of any mitigation measures" would be met.

5.39 There would be no significant cumulative impacts as a result of the proposed development and other mineral developments in the area consistent with policy MIN 3 (cumulative impact). See paragraphs 6.4.88 to 6.4.92 of document A.5 for more details.

5.40 Proper provision has been given by the applicant for the restoration and aftercare of the site under the terms of policy MIN 4 (restoration), and as advised by annex D of Planning Advice Note 64 (document C.9). Further information can be sufficiently sought through conditions.

5.41 The proposal would not harm the water environment as protected by policy MIN 5 (water environment), Policy MIN 6 (peat) requires best practice in handling, storage and restoration of peat all as stated through the council's summary of case in Chapter 4. As stated in paragraph 3.77, the proposal would comply with best practice. Also, any environmental impacts would be protected as per policy MIN 7 (see paragraph 3.82).

5.42 The funding sought through policy MIN 8 (community benefit) would be collected by the council following which interested parties could seek a contribution from the community fund to address the impacts of the development or for an un-related project. The funding is sought by the minerals plan policy but, as a volunteered financial gain, should not be considered in the decision-making process. Policies on transport (MIN 12) and legal agreements (MIN 13) are not disputed.

5.43 It is noted that the supportive text for policy is relevant to the interpretation of policy but is not policy itself as in R (on app of Cherkley Campaign Ltd) v Mole Valley District Council [Council's closing submissions 2014].

Non Statutory Planning Guidance Minerals 2017

5.44 The council confirmed at the hearing that this non statutory document sought to provide continuity to the context set out in the now dated adopted minerals plan. It replicates the policies of the Minerals Development Plan 2012. The only significant change is to reflect the wording of the South Lanarkshire Local Development Plan 2015 in relation to the buffer zone. The council however confirms no change to its policy assessment as set out above.

Scottish Planning Policy

5.45 Scottish Planning Policy advocates the balancing of costs and benefits over the longer term. It is argued that the proposed development would contribute to sustainable development by providing net economic benefit, making efficient use of land, and protecting the cultural and natural environment. The provisions of the development plan are consistent with those of Scottish Planning Policy.

National Planning Framework 3

5.46 The National Planning Framework 3 supports the protection of the environment but also provides support for construction through the supply of minerals. It is noted that the Clyde walkway (close to the application site) is part of a national development – the Clyde Walkway Long Distance Route.

Scottish Government Planning Advice

5.47 The control of noise, dust and traffic can be controlled by condition following the provisions of Planning Advice Note 50 (controlling the effects of surface mineral workings). Best practice on the reclamation of mineral sites given in Planning Advice Note 64 (reclamation of surface mineral workings) has been undertaken by the applicant.

Other policy documents

5.48 The nomination document (document D.2) was prepared for the purposes of gaining world heritage status alone, and is therefore not to be used in assessment of the proposal. In relation to heritage designation documents is that these relate to an international convention - The Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention). Therefore, these should only be considered to the extent that they have been incorporated into Scots or UK law. Drafts, preparatory documents, and submissions as to what should be in documents should not be referred to in determining the meaning of the finally agreed document. These points are raised in response to the working group and other parties reliance on a number of preparatory and other documents (mainly core documents D and F) in relation to the intent of the designation of the New Lanark World Heritage Site including the buffer zone and the meaning of Outstanding Universal Value.

5.49 The primary concern should be on the Scottish Government documents, such as Scottish Planning Policy that bring the effect of the World Heritage Site designation into Scots Law and the trickle down from the Scottish Planning Policy to the development plan. It is submitted that one only needs to refer to other documents where there is ambiguity.

5.50 The council's assessment is generally supported by Historic Environment Scotland and the applicant.

5.51 The proposed development complies with the development plan overall and is supported by important material considerations, therefore permission should be granted.

The Working Group

Background

5.52 Subject to appropriate conditions, it does not oppose the proposed southern extension. Ultimately, its view is that the proposal should be rejected because it is contrary to policy and that there are no material considerations which would justify permission being granted.

5.53 Supporting its stance, it is noted that the proposal has attracted a high level of public opposition. It is believed that this range of opposition to a simple quarrying proposal is unique and reflects the value of the area both as an international tourist attraction and as a truly world class, and accessible, heritage asset.

5.54 The Working Group has submitted that the application should be considered as a whole de novo. While the previous reporters' conclusions have no formal status, nor do they afford any form of binding precedent, the Reporter is free to share them if she is satisfied from her own examination that they are sound. It is submitted that she should look at them

in a discriminating manner and not in any sense be bound by them. That is because the (Scottish Ministers') decision based upon their report and supplementary report has been quashed.

5.55 The first Reporters fell into in error in concluding that the proposal was in accordance with the development plan. A "temporary impact" on the OUV of the World Heritage Site is not "temporary" if it lasts eight years or more, as the appellants suggested, neither does it cease to be a breach of policy if and when some "restoration" - certainly if it does not achieve full reinstatement – takes place.

5.56 It is agreed that the development plan comprises the approved Glasgow and Clyde Valley Strategic Development Plan 2017, the adopted South Lanarkshire Local Development Plan 2015. There was agreement at the hearing that the development plan also continues to include the South Lanarkshire Minerals Local Development Plan 2012. The updated list of planning policies as provided by the council and as summarised in Appendix 3 was not disputed.

5.57 It is stressed that the interdependent nature of many of the policies and the aggregate effect of them makes a compelling case against the proposed development.

5.58 In general terms, it is agreed that the development plan encourages sustainable economic growth but cultural and heritage assets are an important component of sustainable economic growth. From the summary of case in Chapter 2 there is no shortage of minerals as the whole of South Lanarkshire is identified as an area of search. Development plan policies are intended to filter where mineral extraction could occur. In this instance, policies MIN 2 and Policy 15 are clear that the proposed western extension should not go ahead. Such development should be directed to less sensitive areas. A full policy analysis was provided within the working group's 2015 hearing statement. Whilst this references the policy context as it stood at the previous hearing it is still of relevance given that many of the policies remain unchanged.

Glasgow and Clyde Valley Strategic Development Plan

5.59 As detailed above in Chapter 4 the proposal in combination with the local development plan would conflict with Policy 15 and Policy 12 Glasgow and Clyde Valley Green Network

Local Development Plan

5.60 It is believed that the environmental impact of the proposal would be sufficient for the proposal to fail to comply with Policy 1.

5.61 For the reasons stated in Chapter 3 the proposal would not comply with Policy 15 (protection of the natural and built environment), Policy NHE1 (World Heritage Site) or NHE4 (Gardens and Designed Landscapes). The restoration proposals would not provide long term enhancement. As also detailed in Chapter 3 the proposal would have an adverse impact on the setting of Bonnington View House (A-listed), and potentially on the setting of Corehouse (A-listed) contrary to Policy NHE3. The New Lanark and Falls of Clyde Conservation Area should not be compromised in any way. Consequently, the proposal is contrary to Policy NHE7.

5.62 The proposal would fail policy NHE16 (Special Landscape Areas) .

5.63 Policy 3 (green belt and rural area) is applicable as it seeks to build on the economic potential of the accessible rural area's (of which the application site is within) high quality natural and built environment. The proposed development is contrary to this policy, and also to the provisions of policy GBRA 1 relative to the rural economy.

5.64 Even if there was no impact on tourism it is felt that the economic benefits of the proposals are outweighed by the environmental dis-benefits contrary to Policy 11 which supports activities that maximise economic development. Even if there was no impact on tourism it is felt that the economic benefits of the proposals are outweighed by the environmental dis-benefits.

5.65 Policy 14 (strategic green network) supports the principles of Strategic Support Measure 8. The Clyde Valley is identified in the development plan as a potentially nationally important leisure and tourist resource. Due to the loss of landform from quarrying, and authenticity following restoration, there would be a harmful impact on this resource contrary to Policy 14 (and the provisions of Strategic Support Measure 8 of Clydeplan.

South Lanarkshire Minerals Local Plan

5.66 In the context of Policy MIN1 the policy "seeks to ensure", not ensure, an adequate supply of minerals and maintain a 10 year land bank. A shortfall in the land bank does not provide a presumption in favour of development – maintenance of a land bank is not an absolute requirement and must be weighed against environmental factors. There is no conclusive shortfall in the land-bank and current output should be taken into account.

5.67 For the reasons stated in Chapter 3 the development is contrary to Policy MIN2.

5.68 The restoration proposals are not appropriate to satisfy policy MIN 4 (restoration) for the reasons stated in Chapter 4 including in relation to the effects on the fluvio-glacial landform.

5.69 The proposed development would fail to comply with policy MIN 6 on peat for the reasons stated in Chapter 4.

5.70 In relation to policy MIN 8 (community benefit) it is noted that should the western extension go ahead the monies collected should go back to improving the site and surroundings.

Scottish Planning Policy

5.71 The proposal could not be considered to be "sustainable development" as described on page 29 of Scottish Planning Policy (document C.1). The cultural and heritage assets are highlighted as being of economic benefit in their own right also, bringing tourists to the area for some 300 years.

5.72 There is conflict with paragraph 151 of Scottish Planning Policy on non-designated heritage assets (the Parliamentary wall for example) as an important part of Scotland's heritage and should be protected and preserved wherever feasible.

5.73 With regard to paragraph 238 South Lanarkshire has identified such an area and should be more proactive in guiding aggregate developments to the right (less sensitive) locations. There is no need to place pressure on environmentally sensitive areas to meet a small shortfall in supply.

National Planning Framework 3

5.74 Paragraph 4.7 of document C.2 recognises that “*a planned approach to development helps to strike the right balance between safeguarding assets which are irreplaceable, and facilitating change in a sustainable way.*” Paragraph 4.19 of the Framework recognises that need to take a landscape-scale approach to environmental planning to safeguard important ecosystems. And, paragraph 4.27 notes that rural Scotland provides significant opportunities for tourism, outdoor sports and recreation, including World Heritage Sites.

Other material considerations.

5.75 These are as set out in the Working Group's Summary of case in Chapters 2 and 3 and in Appendix 6. These support the conclusions of the Working Group including through the support given by the UNESCO World Heritage Site to the previous, now quashed decision, by Scottish Ministers to refuse planning permission for the Quarry development within the buffer zone.

Working Group: Overall Conclusion

5.76 The proposal is not in accordance with the development plan. The proposal does not comply with any policy relevant to it. There are no material considerations which would allow the highest level of protection bestowed on the World Heritage Site and its buffer zone, the area entered into the Inventory of Gardens and Designed Landscapes, the special landscape area, and the conservation area, to be set aside for some inchoate and uncertain economic benefit.

5.77 In summary the overall conclusion of the Working Group is:

- Sections 25 and 37 apply. The application is contrary to the development plan. There are no material considerations indicating that planning permission should be granted
- The impact on the WHS Buffer Zone of development in the Western Extension will be significant, adverse, and irreversible and will diminish the Outstanding Universal Value of the World Heritage Site.
- The impact on the Designed Landscape will be to the same effect.
- The impact on the social aspirations of the Working Groups member organisations, currently well advanced, will be to destroy them and to set back by many years the future development of New Lanark as a desirable destination.
- There is no proven shortage of sand and gravel such as would justify or necessitate the excavation of the Western Extension.

Annette Leppla

5.78 It is quite clear that the council's policies state that the World Heritage Site and its buffer zone as Category 1 areas are to be afforded the highest level of protection, with a presumption against development, and that Category 2 sites, such as the Designed Landscape of the Falls of Clyde, would only be developed if there was an overriding need for the minerals to serve national markets. It is submitted that any reasonable person, when given an explanation of what Category 1 and Category 2 sites are would expect development to be directed away from sites so designated, by the Planning Authority. So the unanswered question remains, why are the council choosing non-compliance with their own stated policies.

5.79 At the hearing, the council stated that after quarrying operations, the Designed Landscape would be "improved" when in fact it will no longer exist because it will have been destroyed. It is submitted that this points to a failure to appreciate the role and significance of heritage designations.

5.80 The original Reporters squared that particular circle by setting aside the fairly clear non-compliances of the proposed development with the already quoted policies by deeming the application to comply "overall" [doc B.26, eg paras 3.94, 9.172]. The breaches of policy identified in the council's 2013 Report to the Planning Committee ought to have pointed decision makers back to the drawing board, rather than acknowledging them – and then setting them aside.

5.81 The need for the aggregates contained within the proposed extension at Hyndford has not been demonstrated and certainly cannot in any way be called "overriding", therefore the land-bank question carries very little weight as an argument for permitting extraction in an area with a Category 2 heritage designation, and should carry no weight at all for a Category 1 site like New Lanark and its buffer zone.

(1) It is submitted that the Reporter should recommend to Scottish Ministers that the above planning application be refused in its entirety.

(2) If the Reporter were minded not to refuse the above planning application in its entirety, then it is submitted that the Western extension should be refused, for the same reasons Scottish Ministers gave before they were judicially reviewed.

Other matters raised in written submissions and in representations.

5.82 These are as summarised in the appendices to this report. Most of these matters are included in the case as led by the Working Group and Annette Leppla. There are a significant volume of representations expressing concern regarding protection of the heritage value of the area.

5.83 In addition Sir William Lithgow objects to the proposed southern extension on the basis of the impact on the historic ancestral property at Boathough who has restated his position through this 2017/18 re-opening of the case.

6. REPORTER'S CONCLUSIONS AND RECOMMENDATIONS

Main Issues

6.1 Scottish Ministers are required to determine this called-in application in accordance with the development plan, unless material considerations indicate otherwise. Ministers must also have special regard to the desirability of preserving listed buildings, their settings and any features of historic or architectural interest which they possess. Furthermore, Ministers must pay special regard to the preservation or enhancement of conservation areas, including predicted effects on setting.

The Development Plan

6.2 Parties have agreed the updated policy context as set out in Appendix 3 to this report. The applicant and the Working Group relied on their previous submissions only highlighting the limited areas of change which are the focus of my report above. My conclusions above have highlighted the updated policy references in summarising the case of parties throughout the process.

6.3 For the area covering the application site the development plan comprises the approved Glasgow and Clyde Valley Strategic Development Plan (2017); the adopted South Lanarkshire Local Development Plan (2015); and the adopted South Lanarkshire Minerals Local Plan (2012).

Glasgow and Clyde Valley Strategic Development Plan 2017.

6.4 I find that support for the proposals can be drawn from Policy 15 and paragraph 8.17 for the reasons stated in Chapter 2. The proposal would help to maintain the supply of minerals and contribute to economic objectives. Given my conclusions above on the environmental effects of the proposal I find no other strategic policy conflict. Given the proposals for access and landscaping I find no conflict with Policy 12 on the Green Network and Green Infrastructure. The strategic plan sets the context for the more detailed assessment through the local development plan as considered below.

South Lanarkshire Local Development Plan 2015

Heritage and Landscape.

6.5 My conclusions on Policy 15 and the relevant elements of the Supplementary Guidance 9 – Policy NHE1 (New Lanark World Heritage Site) Policy NHE2 Scheduled Monuments, Policy NHE3 Listed Buildings, Policy NHE4 Gardens and Designed Landscapes and Policy NHE7 Conservation Areas as set out in Chapter 3 is that policy compliance can be achieved. This conclusion is based on the premise that the only significant effect on heritage interests is focussed on a relatively small part of the Historic Designed Landscape on the outer edge of that designation and the buffer zone of the World Heritage Site.

6.6 I consider Policy 15 when read with its supporting guidance removes any ambiguity that the buffer zone is synonymous with setting or that the buffer zone merits protection

equivalent to the World Heritage Site designation. It is clear that the focus is placed on the protection of Outstanding Universal Value. Bonnington Estate as part of the historic and landscape context of New Lanark undoubtedly contributes to those values. However the localised impact of the current proposals would not result in a significant adverse effect on the integrity of that landscape and would consequently have a negligible impact on the Outstanding Universal Value of the World Heritage Site.

6.7 For the reasons stated in my conclusions in Chapter 3 I find no development plan conflict in relation to the following:

Policy 15 and Supplementary Guidance Policy 9: NHE3 (Listed Buildings)

Policy 15 and Supplementary Guidance 9 Policy: NHE7 (Conservation Areas)

Policy 15 and Supplementary Guidance 9 Policy NHE2 (Scheduled Ancient Monuments)

Policy 15 and Supplementary Guidance 9 Policy NHE16 (Special Landscape Areas)

6.8 Drawing on my conclusions in Chapter 4 I find no conflict with the other relevant development plan policies including in relation to other designations, ancient woodlands, peat, protected species, biodiversity, geodiversity, the Green Network or in the context of the proposed restoration scheme.

Minerals Local Plan 2012

6.9 In chapter 3 I have accepted some conflict with Policy MIN 2 given the detailed wording it contains in setting out the approach to the Historic Designed Landscape. However the development plan must be read as a whole. This conflict would in any event be resolved over the 8 year timeframe of operation and at the end of that period my conclusion is that compliance would be achieved. The policy recognises the role of mitigation in securing the acceptability of proposals. I consider the proposal would be in accordance with the protection afforded within the hierarchy of designations as included in Policy MIN 2 when it is read alongside the more recent Policy 15 of the Local Development Plan and its associated Supplementary Guidance.

6.10 Policy MIN 1 : I find this policy is supportive of this proposal given the need for minerals as established through my conclusions in chapter 2 and since impacts on the environment could be addressed.

6.11 There are no other mineral proposals, or other developments, in the area which would combine to produce a negative impact on the local community. Therefore, the proposal satisfies minerals plan policy MIN 3 (cumulative impacts).

6.12 Policy MIN 4: Subject to my conclusions in Chapter 4 and the conclusion of an appropriate legal agreement my conclusion is that compliance with this policy can be achieved.

6.13 Drawing on my other conclusions in that chapter I find no conflict with Policy MIN 5 (water environment) or Policy MIN 7 (controlling impacts from extraction sites).

6.14 A voluntary contribution to the Aggregates Quarry Fund would be consistent with minerals plan Policy MIN 8 (community benefit) but is not a factor in the determination of the acceptability of the proposed development.

Overall Conclusion on the Development Plan

6.15 I accept some contradiction in the approach of the Minerals Local Plan 2012 and the up to date South Lanarkshire Local Development Plan. However this is a reflection of the time lag between them. In these circumstances I have taken account of both but when read together I have placed relatively more emphasis on the detailed approach to designations as set out in the more up to date Local Development Plan and its Supplementary Guidance.

6.16 I agree that the impacts of the proposal should be considered in the round and have carefully considered whether the impacts of a quarry in this location, albeit localised, temporary and capable of mitigation, signal conflict overall with the development plan. In this respect Local Development Plan Policy 1 seeks to promote sustainable economic growth, protect and enhance the built and natural environment and support regeneration and local economic benefit. My conclusions above are that compliance with the relevant detailed policies can be achieved. However, the focus of these policies is the protection afforded to the integrity of designations and on securing appropriate mitigation. I consider that a localised impact on the environment could still be unacceptable in the context of Policy 1 and the development plan as a whole. Certainly for those represented by the Working Group and others there is a clearly expressed view that the proposals conflict not only with the protection of national heritage and the local environment but also with their future aspirations for the local area and its economy.

6.17 However I do not consider that these various objectives conflict in this case. In Chapter 2 I have identified policy support for the proposal to enable a mineral reserve which would support wider economic growth objectives. I consider there are clear advantages in utilising the mineral resource in a location which could be worked as an expansion of the existing works. There would be employment benefits and wider enhancements to the site in terms of planting, access and interpretation in the longer term. The localised impacts would be capable of mitigation albeit progressively over a period of 8 years. Consequently, my assessment above draws me to the conclusion that the identified effects would not be unacceptable when balanced with the benefits of the proposal. My conclusion is that the proposal is in accordance with Policy 1 Spatial Strategy of the Local Development Plan.

6.18 I have only identified a minor conflict in the application of the detailed wording of Policy MIN 2 of the now dated Minerals Local Plan. When balanced in the round and given compliance with all the other relevant policies, including those which are up to date as included in the Local Development Plan, my conclusion is that the proposal would achieve compliance overall with the development plan.

Other Material Considerations

National Planning Framework 3

6.19 No party argues inconsistency with the National Planning Framework 3 (document C.2). My conclusions elsewhere in this report support my view that the proposal would contribute to sustainable economic growth, through supplying minerals to support the

construction and energy sectors but also in safeguarding assets for tourism and for future generations, including World Heritage Sites.

Scottish Planning Policy

- 6.20 From my assessment above the proposal would:
- Contribute to sustainable economic development
 - Avoid conflict with policy on the World Heritage Site and its Outstanding Universal Value
 - Avoid conflict with the Historic Designed Landscape designation or with the protection afforded listed building, conservation areas or other heritage assets.

Historic Environment Scotland Policy and Guidance, UNESCO and other publications.

6.21 These are considered in detail through chapter 3 where I have drawn on the translation of the protection afforded to the World Heritage Site and other heritage assets through national and local policy documents. I have also drawn on the specific advice of Historic Environment Scotland as the authors of relevant policies and guidance and as advisors to Scottish Ministers on these matters.

6.22 As stated above I have considered the clear views of all those involved with the Working Group as well as the others who have raised concerns about a quarry operation in this location. However whilst I appreciate these concerns and the perceived sensitivity of this location I am satisfied that compliance with the development plan would be achieved and that there are no material considerations sufficient to justify a different conclusion.

Reporter's Overall conclusions and recommendations

- 6.23 Consequently my conclusions are that the proposed development would:
- contribute to overcoming an identified shortfall in the minerals reserve (land-bank);
 - protect and preserve the character, integrity and quality of the New Lanark World Heritage Site, its setting and Outstanding Universal Value;
 - avoid compromise to the integrity of the Falls of Clyde Designed Landscape, its character and the objectives of its designation;
 - safeguard listed buildings, their settings, and any features of special interest they possess;
 - preserve or enhance the character or appearance of the New Lanark and Falls of Clyde Conservation Area;
 - protect scheduled ancient monuments and their settings;
 - not adversely affect the overall quality of special landscape areas;
 - not harm nature conservation interests;
 - support sustainable economic development; and
 - provide an acceptable restoration scheme.

6.24 Overall, I find that the proposed development complies with the provisions of the development plan. I do not consider that there are any material considerations that would justify the refusal of planning permission.

Consequently I recommend that Scottish Ministers grant planning permission subject to:

- (i) the 47 conditions recommended in Appendix 1;
- (ii) a legal agreement for contributions to cover extraordinary wear and tear on the public road network and associated cycle lanes in terms of section 96 of the Roads (Scotland) Act 1984;
- (iii) a planning obligation in terms of section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) or other appropriate mechanism covering:
 - (1) an undertaking to cease, and not restart, operations under planning permission CL/11/0285, following commencement of operations under this permission.
 - (2) An undertaking to provide a long-term management plan (as part of the aftercare of the site) once quarrying has ceased on the application site; and the setting up of a liaison group to help guide the future management of the site.

The long-term management plan is to be submitted to and approved by the council as planning authority as part of the aftercare scheme prior to the commencement of phase 1 as illustrated on drawing P2/184/5 – Proposed Block Phasing.

The long-term management plan is to include details of:

- (1) maintenance plans for the site once quarrying has ceased covering a reasonable period;
- (2) the parties responsible for implementing the maintenance plans;
- (3) members of a liaison group (which should include the council; the landowner; and the mineral operator; and may include the New Lanark Trust and local community councils);
- (4) the role and responsibilities of those on the liaison group;
- (5) dates when the liaison group will convene (for example, annually);
- (6) dates when the management plan will be reviewed (for example, annually).

6.25 Given that I recommend that the planning permission is conditional on the above agreement Ministers should issue a notice of their intention to grant planning permission and not a decision at this stage.

6.26 The applicant has indicated a willingness to contribute to the Aggregates Quarry Fund. This is a voluntary matter to be arranged between South Lanarkshire Council and the applicant.

Allison Coard
Reporter

APPENDIX 1: REPORTER'S RECOMMENDED CONDITIONS – APPLICATION AS SUBMITTED.

1. That all extraction operations on the site shall be discontinued no later than 31st December 2032 and that the entire site shall be restored in accordance with the approved restoration and enhancement plan or plans (as required by conditions 3 & 4) by 31st October 2034.

Reason: To ensure that the Council as Planning Authority retains effective control of the development.

2. Notwithstanding the terms of condition 1 above, in the event of extraction operations on site ceasing for a period of 12 months or more, the Planning Authority shall deem site operations to have ceased permanently, and the areas so occupied shall be restored within a period of 24 months in accordance with the approved restoration plan or plans (as required by condition 3).

That, in the event of extraction operations on any phase of the site ceasing for a period of 12 months or more, the operator shall submit, for the written approval of the Council as planning authority, an interim restoration scheme for that part of the site, to include timescales for restoration, and shall thereafter undertake the restoration as detailed within the approved plan in line with the approved timescales.

Reason: To secure the satisfactory reinstatement of the site.

3. That no mineral extraction operation shall commence within either phases 1, 2A, 2B, or 3, as illustrated on drawing P2/1842/5 – Proposed Block Phasing, until a detailed restoration plan or plans for that phase, and any other areas of the application site to be restored during mineral extraction operations within that phase, has been submitted to and approved in writing by the Council as Planning Authority. The detailed restoration plan or plans shall be based on drawing P2/1842/13 – concept restoration and include detailed information on landform levels, drainage (including ground water and surface water run-off flowpaths). Soil coverage, surface treatment, planting schedules, final boundaries, paths, signage, parking and the progressive restoration of the phase.

All restorative works shall be undertaken in accordance with the details and timescale stipulated within the approved detailed restoration plan or plans, unless otherwise approved in writing by the Council as Planning Authority.

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is satisfactorily restored in a phased manner.

4. That no mineral extraction operations shall commence within each Phase of development until a detailed Enhancement Plan(s) for the corresponding Enhancement Zone (as listed below) has been submitted to and approved in writing by the Council as Planning Authority. The Enhancement Plan(s) shall clearly set out the proposed enhancement works and timescales for implementation, including detailed specifications for works associated

with ecological and biodiversity enhancement, tree and hedgerow planting, fencing, information boards, footpath construction and management of existing woodland areas. All enhancement works shall be undertaken in accordance with the details and timescales stipulated within the approved Enhancement Plan(s). There shall be no deviation from the approved Enhancement Plan(s) including the timescales stated therein, unless otherwise approved in writing by the Council as Planning Authority. For avoidance of doubt, the Phases and corresponding Enhancement Zones are illustrated on drawing P2/1842/5 - Proposed Block Phasing, and are as follows:

- Phase 1 - Enhancement Zone A - (Drawing P2/1842/6A)
- Phase 2A - Enhancement Zone B - (Drawing P2/1842/7)
- Phase 2B - Enhancement Zone C - (Drawing P2/1842/8)
- Phase 3 - Enhancement Zone D - (Drawing P2/1842/9)

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is enhanced in accordance with the approved details.

5. That no mineral extraction operations shall commence within either Phases 1, 2A, 2B or 3, as illustrated on drawing P2/1842/5 - Proposed Block Phasing, until a detailed aftercare scheme for that phase, and any other areas of the application site to be restored during mineral extraction operations within that phase, is submitted for the written approval of the Council as Planning Authority. The aftercare scheme shall specify the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps to bring the land to the required standard.

Reason: To ensure effective landscape management to bring land to the required standard for the after uses.

6. Each individual phase of mineral extraction, as illustrated on drawing P2/1842/5 - Proposed Block Phasing, or such other phasing plan as may be subsequently approved in writing by the Council as Planning Authority, shall be substantially restored in a progressive and phased manner in accordance with the provisions of the approved restoration plan or plans submitted as a requirement of conditions 3 and 4. Thereafter, the aftercare scheme submitted as a requirement of condition 5 shall be implemented in a phased manner from the first planting season following completion of each individual phase wherever practicable taking into account proposed working arrangements.

Reason: To ensure satisfactory reclamation of the site and timeous completion of the work.

7. That the extraction operations shall proceed in a phased manner with phases 1, 2A, 2B and 3, as illustrated on drawing P2/1842/5 - Proposed Block Phasing, being worked progressively in that order.

Reason: To provide for progressive restoration.

8. That no development hereby approved shall commence until a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent will be submitted for the written approval of the Council as Planning Authority. Such guarantee must, unless otherwise agreed in writing by the Council as Planning Authority:

- i. be granted in favour of the Council as Planning Authority;
- ii. be granted by a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
- iii. be for a specified amount which covers the value of all site restoration and aftercare liabilities as agreed between the operator and the planning authority at the commencement of development;
- iv. either contain indexation provisions so that the specified amount of the guarantee shall be increased on each anniversary of the date of this consent by the same percentage increase in the General Index of Retail Prices (All Items) exclusive of mortgage interest published by or on behalf of HM Government or, in the event that that index is no longer appropriate or applicable, such other comparable index as the Planning Authority, acting reasonably, decide between the said date and such relevant anniversary. The amount shall be reviewable to ensure that the specified amount of the guarantee always covers the value of the site restoration and aftercare liabilities;
- v. come into effect on or before the date of commencement of development, and expire no earlier than 12 months after the end of the aftercare period.

No work shall begin at the site until (1) written approval of the Council as Planning Authority has been given to the terms of such guarantee and (2) thereafter the validly executed guarantee has been delivered to the Council as Planning Authority.

In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed in accordance with the terms of this condition is lodged with the Council as Planning Authority.

In the event the value of the guarantee held by the Council is less than the calculated site restoration and aftercare liabilities (calculated through condition 48 below), the operator shall, within four months of the submission of the annual progress plan required through condition 48, deliver a further guarantee to cover all site restoration and aftercare liabilities. Such guarantee must, unless otherwise agreed in writing by the Council as Planning Authority, comply with parts i to v, above. If this further guarantee is not submitted within four months of the submission of the annual progress plan required through condition 48, all extraction operations shall cease until the Council confirms, in writing, receipt of an acceptable guarantee.

Reason: To ensure that provision is made for the restoration and after care of the site.

9. That unless otherwise agreed in writing by the Council as Planning Authority:

(a) No haulage vehicles shall enter or leave the site; before 07.00hrs and after 17.00hrs on Mondays to Fridays, before 07.00hrs and after 13.00hrs on Saturdays and at any time on Sundays.

(b) No operations or activity (except water pumps for the management of water, security or in connection with essential maintenance within the plant site area) shall take place at the site,

before 06.30hrs and after 19.00hrs on Mondays to Fridays; before 06.30hrs and after 13.00hrs on Saturdays and before 08.00hrs and after 16.00hrs on Sundays.

No activities shall take place on Public Holidays or Local Bank Holidays.

Reason: To ensure that the Planning Authority retains effective control of the development and in the interests of protecting local amenity.

10. That no development commences until a scheme setting out how noise from the site shall be managed and monitored has been submitted and approved in writing by the Council as Planning Authority. The scheme shall include:

- The day and night time nominal noise limits from site operations.
- Noise monitoring arrangements.
- Noise complaint process.
- Measures in relation to vehicle reversing alarms.
- Operation of vehicles, plant and machinery.
- Mitigation measures for temporary or exceptional operations.

The agreed scheme shall be implemented unless otherwise approved in writing by the Council as Planning Authority.

Reason: To minimise noise nuisance from the operation.

11. That no development shall commence until a detailed scheme setting out dust control and monitoring has been submitted and approved in writing by the Council as Planning Authority. The scheme shall include:

- A dust management plan.
- Dust monitoring arrangements.
- Dust complaint process.
- Arrangements for ceasing operations if a dust nuisance is caused.
- Arrangements for dust suppression.

The agreed scheme shall be implemented unless otherwise approved in writing by the Council as Planning Authority.

Reason: To minimise the nuisance from dust.

12. That all aggregates laden lorries leaving the site shall be sheeted before entering the public road.

Reason: In the interests of road safety and protection of local amenity.

13. That, in the event a written request is made by the Council, the operator shall submit details, within 21 days of the written request, setting out measures to minimise the deposit of mud and debris on the public road. Thereafter, those measures shall be implemented within agreed timescales, to the satisfaction of the Council.

Reason: To prevent mud and deleterious material being carried out onto the public road.

14. The operator shall at all times be responsible for the removal of mud or other materials deposited on the public road by vehicles entering or leaving the site.

Reason: In the interests of road safety.

15. That the visibility splays for access onto the A73 shall be maintained at 2.5 x 215 metres unless otherwise agreed in writing with the Council as Planning and Roads Authority.

Reason: In the interests of road safety.

16. That all mineral dispatch vehicles shall only use the access onto the A73, unless otherwise approved in writing by the Council as Planning Authority.

Reason: To ensure that the Council as Planning Authority retains effective control of the development.

17. That no development commences until a scheme setting out how the internal access roads will be surfaced and maintained and how debris will be prevented from being carried onto the public highway has been submitted and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise approved in writing by the planning authority.

Reason: To minimise the impact on local amenity and the chances of debris being carried onto the public highway.

18. That the exportation of mineral from the site shall not exceed 650,000 tonnes per annum, without the prior written agreement of the Council as Planning Authority.

Reason: In the interest of road safety and local amenity.

19. That the importation of cement and other materials required for site processing shall not exceed 50,000 tonnes per annum without the prior written agreement of the Council as Planning Authority.

Reason: In the interest of road safety and local amenity.

20. Prior to the commencement of the development hereby approved, a sign shall be erected adjacent to the exit road from the quarry, warning motorists departing the quarry that they may encounter cyclists. The sign shall be consistent with Drawing P950 produced by the Department of Transport.

Reason: In the interests of road safety.

21. That top soil shall only be stripped, stockpiled and replaced when it is in a suitably dry and friable condition (suitably dry means that the top soil can be separated from the sub soil without difficulty so that it is not damaged by machinery passing over it), except with the prior written approval of the Council as Planning Authority.

Reason: To minimise damage to the soils and sub soils.

22. That all suitable soils, peat and soil making shall be recovered where practical during the stripping or excavation operations and separately stored, on site, for use during restoration.

Reason: To minimise damage to the soils, sub soils and peat.

23. That topsoil, sub soil, peat and soil making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during site restoration. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their formation. The sward shall be managed in accordance with the appropriate agricultural management techniques throughout the period of storage.

Reason: To minimise damage to the soils, sub soils and peat.

24. That no development commences until a scheme of weed control and a scheme of movement of plant, vehicles and machinery has been submitted and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To minimise damage to the soils and sub soils.

25. That no development commences until a drainage plan has been submitted and approved in writing by the Council as Planning Authority. The drainage plan shall include:

- Measures to avoid contamination of surface and ground water.
- Treatment of any contamination.
- Managing any drainage from areas adjoining the site.

The agreed drainage plan shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: In the interests of amenity and to protect watercourses from pollution.

26. All containers being used to store liquids within the application site shall be labelled clearly to show their contents, and located in a bund which shall be at least 110% of the capacity of the largest container stored within it. Bunds shall conform to the following standards:

- The walls and base of the bund shall be impermeable.
- The base shall drain to a sump.
- All valves, taps, pipes and every part of each container shall be located within the area served by the bund when not in use.
- Vent pipes shall be directed down into the bund.
- No part of the bund shall be within 10 metres of a watercourse.
- Any accumulation of any matter within the bund shall be removed as necessary to maintain its effectiveness.

Reason: To ensure the safekeeping of such liquids.

27. That prior to the commencement of development, a groundwater monitoring plan shall be submitted to and approved by the Council. The operator shall review and update the groundwater monitoring plan on an annual basis, in consultation with the Council and the Scottish Environment Protection Agency. The site operator shall monitor the levels and quality of groundwater in accordance with the approved plan for the duration of operations, unless otherwise approved in writing by the Council as Planning Authority.

Reason: In the interests of the water environment.

28. For the duration of extraction operations at the site, a flow meter record of any water that is abstracted from the River Clyde or from within the quarry shall be maintained on site and this record shall be made available to the Council as Planning Authority within 5 working days of a written request from the Council as Planning Authority.

Reason: In the interests of the water environment.

29. That not more than 3 months prior to the commencement of development within each phase of development as detailed on drawing P2/1842/5 - Proposed Block Phasing, a scheme for prestart checks shall be submitted and approved in writing by the planning authority, in consultation with Scottish Natural Heritage. The scheme for pre-start checks shall include:

- Measures for investigating the presence of otters, bats, badgers, amphibians and reptiles, birds and invertebrates within the site and within an appropriate buffer.
- Mitigation measures.
- Implementation programme.

The agreed scheme shall be implemented unless otherwise agreed in writing by the Council as planning authority.

Reason: In the interests of protected species.

30. The removal of any trees and the cutting of rough grasslands that could provide habitat for nesting birds will take place outside the bird breeding season (April to July inclusive), unless a survey to establish the presence or otherwise of nesting birds has been undertaken and, where required, appropriate mitigating measures have been carried out to the satisfaction of the Council as Planning Authority.

Reason: In the interests of breeding/nesting birds.

31. That prior to the commencement of any soil stripping operations and/or mineral extraction operations within Phase 1, as illustrated on drawing P2/1842/5 - Proposed Block Phasing, a comprehensive method statement detailing how the peatland habitat will be moved and thereafter sustained in the receptor site shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with Scottish Natural Heritage & the Scottish Environment Protection Agency. The following information shall include:

- What habitat type is targeted for creation and justification for the choice of target habitat.
- How the vegetation and peat soils will be stripped and handled.
- How the material will be transported to the receptor site.
- How the hydrology of the wetland will be supported.
- How surface water will be managed.
- When the peatland habitat will be moved.
- The duration of works.
- How monitoring will be undertaken during the relocation process and thereafter the regeneration of the peatland.

The approved method statement shall be implemented unless otherwise approved in writing by the Council as Planning Authority.

Reason: To ensure best practice is used for the handling, storage and restoration of peat.

32. That prior to the commencement of the development, the Council as Planning Authority shall approve the remit and reporting frequency of an Ecological Clerk of Works (ECoW), in consultation with Scottish Natural Heritage & the Scottish Environment Protection Agency. The ECoW shall be appointed prior to commencement of development and until the completion of restoration works by the operator. The scope of work of the ECoW shall include:

Monitoring impacts of operations and compliance with ecological best practice and mitigation works relevant to the development, as detailed within: the Restoration and Enhancement Plan(s), required through Conditions 3 & 4, the mitigation measures identified in Chapter 13 of the Environmental Statement (Volume 2 - November 2012); the supplementary information, dated 7th May 2013, and the Species Protection and Habitat Management Plan.

Advising on adequate protection of nature conservation interests and implementation of restoration on the site.

Monitoring the impact of the development on protected species.

Carrying out regular National Vegetation Classification habitat surveys of the site to establish any changes in habitat type.

Reason: In order to minimise the developments potential impact on the environment.

33. That prior to the commencement of development, a Species Protection and Habitat Management Plan shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with Scottish Natural Heritage and Scottish Wildlife Trust. Thereafter, the operator shall comply with the Species Protection and Habitat Management Plan and implement all mitigation measures contained within the Species Protection and Habitat Management Plan to the satisfaction of the Council as Planning Authority.

Reason: In the interests of protected, non-protected and habitats.

34. That prior to the commencement of development the operator shall submit for the Council's approval an archaeological mitigation strategy. Thereafter the developer shall

ensure that the approved strategy is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken in accordance with the approved scheme.

Reason: In the interests of archaeology.

35. The operator shall install a borehole between the site processing plant area and the Hyndford Crannog within 6 months prior to the commencement of extraction operations in the Phase 3, as illustrated on drawing P2/1842/5 - Proposed Block Phasing.

Reason: In the interests of archaeology.

36. That within 1 year of the commencement of extraction operations within Phase 2B, as illustrated on drawing P2/1842/5 - Proposed Block Phasing, the operator shall submit for the written approval of the Council as Planning Authority a monitoring programme for the borehole to be installed under Condition 35 above.

Reason: In the interests of archaeology.

37. That on the 31st March each year following the commencement of development and for the duration of extraction and restoration operations approved through this permission, an annual progress plan shall be submitted to the Council as Planning Authority. The annual progress plan shall detail:

- The extent of extraction operations undertaken that year.
- Areas prepared for extraction, including any soil stripping and removal of vegetation etc.
- The extent of restoration operations carried out.
- Recent topographical site survey undertaken within 1 month prior to the submission of the annual progress plan.
- Current and anticipated production figures.
- Total tonnage dispatched within the preceding year.
- Estimation of remaining reserve of sand and gravel material (which are likely to be exported from site).
- A calculation of the costs of restoring the area of the site disturbed by the development and the associated area of the site to be enhanced at that time.
- Progress on the implementation and success of the Habitat Management Plan.
- Compliance with statutory permissions and legal agreements.
- Site complaint log and actions taken.
- Any incidents involving pollution of watercourses.

Reason: To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.

38. That, within three months of completion of restoration works on site, a final progress plan containing the information listed in Condition 37 above, shall be submitted to the Council as Planning Authority.

Reason: To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.

39. That, as soon as practicable following the completion of extraction operations within each phase as illustrated on drawing P2/1842/5 - Proposed Block Phasing, or such other phasing plan as may be subsequently approved in writing by the Council as Planning Authority, the operator shall give notice to the Council as Planning Authority of the completion of that phase.

Reason: In order to monitor the progress of the development. In accordance with Section 27B(2) of the Town and Country Planning (Scotland) Act 1997.

40. That no development commences until a scheme of stock proof fencing or other means of enclosure (including its maintenance), for the operational boundary has been submitted and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To ensure that there is adequate site security and to prevent unauthorised entry of stock onto the site.

41. That the operator shall at all times deal with the areas forming the subject of this consent in accordance with the provision of this application, planning statement Environmental Statement and plans submitted except as otherwise provided for by this consent, and shall omit no part of the operations provided for therein except with the prior consent of the Council as Planning Authority.

All mitigation measures contained within the Environmental Statement shall be implemented in full, to the satisfaction of the Council as Planning Authority.

Reason: To ensure that the Planning Authority retains effective control of the development.

42. That notwithstanding the terms of Class 55 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, the further written consent of the Council as Planning Authority shall be required in respect of any additional buildings, plant or machinery required in connection with the approved operations within Phase 1, as illustrated on drawing P2/1842/5 - Proposed Block Phasing.

Reason: To ensure that the Planning Authority retains effective control of the development and to protect the amenity of the World Heritage Site buffer and designed landscape.

43. That from the date of commencement of works on the site, until completion of the final restoration, a copy of this permission, and all approved documents and subsequently approved documents, shall be kept available for inspection in the site offices during the approved working hours.

Reason: To ensure the site operator and visiting officials are aware of the approved details.

44. Notwithstanding the details shown on the stamped approved plans, that before any work commences on the site (including enabling works), the following details shall be submitted to and approved in writing by the Council as Planning Authority, and such details

as may be approved, shall be implemented unless otherwise agreed in writing by the Council as Planning Authority prior to the commencement of extraction works:

- (a) A detailed specification of all footpaths proposed within the application site.
- (b) Details of the location, style and height of all new boundary treatment such as fences, walls, gates and bunds and signage to be erected within or around the boundaries of the site.
- (c) Details of conveyor, including design, colour and route.
- (d) Details, including location and design, of pedestrian crossing points over the conveyor, where appropriate.
- (e) Details of the alternative access arrangements for the landowner(s) through Phase 1.

Reason: These details were not submitted at the time of the application and are required to ensure that the proposal is satisfactory.

45. That prior to any works commencing on the Bonnington Estate boundary wall and associated access track (Identified as Sites 59 & 60 within Appendix 13 of the Environmental Statement, Volume 2 - November 2012), the wall shall be surveyed and the survey report and a method statement for the demolition, storage and reconstruction of the boundary wall shall be submitted to and approved in writing by the Council as Planning Authority. Thereafter, the operator shall adhere to the method statement when demolishing, storing and reconstructing the boundary wall.

The boundary wall and access track shall be fully reconstructed within 2 years of completion of extraction operations within Phase 1, as illustrated on drawing P2/1842/5 - Proposed Block Phasing, all in accordance with the method statement.

Reason: To ensure the satisfactory restoration of the site and to reinstate the boundary wall.

46. That the operator shall permit access to the site to geo-scientists to study and document the geological and geomorphological record at the site as extraction proceeds, for the duration of the extraction operations. The documentation reporting the findings of the geological and geomorphological studies shall be retained on site and shall be submitted to the Council as Planning Authority within 28 days of a written request.

Reason: To ensure the geomorphological characteristics are recorded and made available.

47. At no time shall the site be artificially illuminated with the exception of vehicle lighting during the permitted hours of working as set out in Condition 9(b), to the satisfaction of the Planning Authority.

Reason: In the interests of amenity.

APPENDIX 2: CONDITIONS – SOUTHERN EXTENSION ONLY

Note– These are provided for information only as extracted for the previous Reporters’ Supplementary Report 2015. They do not form part of this reporter’s recommendation.

1. That notwithstanding the submitted plans there shall be no development or mineral extraction within the area identified as the New Lanark World Heritage Site Setting/Buffer Zone on plan number P2/1842/2 – May 2012.

Reason: To protect the setting of New Lanark World Heritage Site and Falls of Clyde Designed Landscape

2. That no development shall take place until plans have been submitted and approved in writing by the Planning Authority showing the extent of mineral extraction, landform level details and screening along the western boundary of phase 2A and the whole of phase 2B as shown on plan number P2/1842/5A – July 2013.

The approved plans shall be implemented unless otherwise agreed in writing by the Planning Authority.

Reason: To protect the visual amenities of the area, which include the New Lanark World Heritage Site Setting/Buffer Zone, Falls of Clyde Designed Landscape, the existing footpath and boundary wall.

3. That all extraction operations on the site shall be discontinued no later than 31 December 2030 and that the entire site shall be restored in accordance with the approved restoration and enhancement plan or plans (as required by conditions 6 and 7) by 31 October 2032.

Reason: To ensure that the Council as Planning Authority retains effective control of the development.

4. That the extraction operations shall proceed in accordance with phases 2A, 2B and 3, illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, with each phase being worked progressively in that order.

Reason: To provide for progressive restoration.

5. Notwithstanding the terms of condition 3 above, in the event of extraction operations on site ceasing for a period of 12 months or more, the Planning Authority shall deem site operations to have ceased permanently, and the application site area shall be restored within a period of 24 months in accordance with the approved restoration plan or plans (as required by condition 6).

That, in the event of extraction operations on any phase of the site ceasing for a period of 12 months or more, the operator, within 2 months of the phase having been deemed to have ceased, shall submit, for the written approval of the Council as planning authority, an interim restoration scheme for that part of the site, to include timescales for restoration, and shall

thereafter undertake the restoration as detailed within the approved plan in line with the approved timescales.

Reason: To secure the satisfactory reinstatement of the site.

6. That no mineral extraction operation shall commence within either phases 2A, 2B, or 3, as illustrated on drawing P2/1842/5A – July 2013 – Proposed Block Phasing, until a detailed restoration plan or plans for that phase, and any other areas of the application site to be restored during the period mineral extraction operations are taking place within that phase, has been submitted to and approved in writing by the Council as Planning Authority. The detailed restoration plan or plans shall include detailed information on landform levels, drainage (including ground water and surface water run-off flowpaths). Soil coverage, surface treatment, planting schedules, final boundaries, paths, signage, parking and the progressive restoration of the phase.

All restorative works shall thereafter be undertaken in accordance with the details and timescale stipulated within the approved detailed restoration plan or plans, unless otherwise approved in writing by the Council as Planning Authority.

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is satisfactorily restored in a phased manner.

7. That no mineral extraction operations shall commence within each phases 2A, 2B or 3 as illustrated on drawing P2/1842/5A – July 2013 – Proposed Block Phasing until a detailed Enhancement Plan(s) for the corresponding Enhancement Zone (as listed below) has been submitted to and approved in writing by the Council as Planning Authority. The Enhancement Plan(s) shall clearly set out the proposed enhancement works and timescales for implementation, including detailed specifications for works associated with ecological and biodiversity enhancement, tree and hedgerow planting, fencing, information boards, footpath construction and management of existing woodland areas. All enhancement works shall be undertaken in accordance with the details and timescales stipulated within the approved Enhancement Plan(s). There shall be no deviation from the approved Enhancement Plan(s) including the timescales stated therein, unless otherwise approved in writing by the Council as Planning Authority. For avoidance of doubt, the Phases and corresponding Enhancement Zones are illustrated on drawing P2/1842/5 - Proposed Block Phasing – May 2012, and are as follows:

- Phase 2A - Enhancement Zone B.
- Phase 2B - Enhancement Zone C.
- Phase 3 - Enhancement Zone D.

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is enhanced in accordance with the approved details.

8. That no mineral extraction operations shall commence within Phases 2A, 2B or 3, as illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, until a detailed aftercare scheme for that phase, and any other areas of the application site to be restored during the period mineral extraction operations are taking place within that phase, is submitted for the written approval of the Council as Planning Authority. The aftercare scheme shall specify the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps to bring the land to the required standard.

Reason: To ensure effective landscape management to bring land to the required standard for the after uses.

9. Each individual phase of mineral extraction, or such other phase as may be subsequently approved in writing by the Council as Planning Authority, shall be substantially restored in a progressive and phased manner in accordance with the provisions of the approved restoration plan or plans submitted as a requirement of conditions 6 and 7. Thereafter, the aftercare scheme submitted as a requirement of condition 8 shall be implemented in a phased manner from the first planting season following completion of each individual phase wherever practicable taking into account proposed working arrangements.

Reason: To ensure satisfactory reclamation of the site and timeous completion of the work.

10. That no development hereby approved shall commence until a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent has been submitted for the written approval of the Council as Planning Authority. Such guarantee must, unless otherwise agreed in writing by the Council as Planning Authority:

- i. be granted in favour of the Council as Planning Authority;
- ii. be granted by a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
- iii. be for a specified amount which covers the value of all site restoration and aftercare liabilities as agreed between the operator and the planning authority at the commencement of development;
- iv. either contain indexation provisions so that the specified amount of the guarantee shall be increased on each anniversary of the date of this consent by the same percentage increase in the General Index of Retail Prices (All Items) exclusive of mortgage interest published by or on behalf of HM Government or, in the event that that index is no longer appropriate or applicable, such other comparable index as the Planning Authority, acting reasonably, decide between the said date and such relevant anniversary. The amount shall be reviewable to ensure that the specified amount of the guarantee always covers the value of the site restoration and aftercare liabilities;
- v. come into effect on or before the date of commencement of development, and expire no earlier than 12 months after the end of the aftercare period.

No work shall begin at the site until (1) written approval of the Council as Planning Authority has been given to the terms of such guarantee and (2) thereafter the validly executed guarantee has been delivered to the Council as Planning Authority.

In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed in accordance with the terms of this condition is lodged with the Council as Planning Authority.

In the event the value of the guarantee held by the Council is less than the calculated site restoration and aftercare liabilities (calculated through condition 38 below), the operator shall, within four months of the submission of the annual progress plan required through condition 38, deliver a further guarantee to cover all site restoration and aftercare liabilities. Such guarantee must, unless otherwise agreed in writing by the Council as Planning Authority, comply with parts i to v, above. If this further guarantee is not submitted within four months of the submission of the annual progress plan required through condition 38, all extraction operations shall cease until the Council confirms, in writing, receipt of an acceptable guarantee.

Reason: To ensure that provision is made for the restoration and after care of the site.

11. That unless otherwise agreed in writing by the Council as Planning Authority:

(a) No haulage vehicles shall enter or leave the site; before 07.00hrs and after 17.00hrs on Mondays to Fridays, before 07.00hrs and after 13.00hrs on Saturdays and at any time on Sundays.

(b) No operations or activity (except water pumps for the management of water, security or in connection with essential maintenance within the plant site area) shall take place at the site, before 06.30hrs and after 19.00hrs on Mondays to Fridays; before 06.30hrs and after 13.00hrs on Saturdays and before 08.00hrs and after 16.00hrs on Sundays.

No activities (except water pumps for the management of water, security or in connection with essential maintenance within the plant site area) shall take place on Public Holidays or Local Bank Holidays.

Reason: To ensure that the Planning Authority retains effective control of the development and in the interests of protecting local amenity.

12. That no development shall commence until a scheme setting out how noise from the site shall be managed and monitored has been submitted and approved in writing by the Council as Planning Authority. The scheme shall include:

- The day and night time nominal noise limits from site operations.
- Noise monitoring arrangements.
- Noise complaint process.
- Measures in relation to vehicle reversing alarms.
- Operation of vehicles, plant and machinery.
- Mitigation measures for temporary or exceptional operations.

The agreed scheme shall thereafter be implemented unless otherwise approved in writing by the Council as Planning Authority.

Reason: To minimise noise nuisance from the operation.

13. That no development shall commence until a detailed scheme setting out dust control and monitoring has been submitted to and approved in writing by the Council as Planning Authority. The scheme shall include:

- A dust management plan.
- Dust monitoring arrangements.
- Dust complaint process.
- Arrangements for ceasing operations if a dust nuisance is caused.
- Arrangements for dust suppression.

The agreed scheme shall be implemented unless otherwise approved in writing by the Council as Planning Authority.

Reason: To minimise the nuisance from dust.

14. That all aggregates laden lorries leaving the site shall be sheeted before entering the public road.

Reason: In the interests of road safety and protection of local amenity.

15. The operator shall at all times be responsible for the removal of mud or other materials deposited on the public road by vehicles entering or leaving the site.

Reason: In the interests of road safety.

16. That the visibility splays for access onto the A73 shall be maintained at 2.5 x 215 metres unless otherwise agreed in writing with the Council as Planning and Roads Authority.

Reason: In the interests of road safety.

17. That all mineral dispatch vehicles shall only use the site entrance onto the A73 shown on plan number P2/1842/2 – May 2012, unless otherwise approved in writing by the Council as Planning Authority.

Reason: To ensure that the Council as Planning Authority retains effective control of the development.

18. That prior to the use of any new internal access roads a scheme setting how they will be surfaced and maintained and how debris will be prevented from being carried from them onto the public highway shall be submitted to and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise approved in writing by the Planning Authority. All existing internal access roads will be maintained in accordance with a scheme of works to be submitted to and approved by the Planning Authority within 3 months of the date of permission.

Reason: To minimise the impact on local amenity and the chances of debris being carried onto the public highway.

19. That in the event a written request is made by the Council the operator shall within 21 days of the written request being made submit, for the written approval of the Planning Authority, details setting out measures to minimise the deposit of mud and debris on the public road, including details of the timescale within which these measures will be taken. Thereafter these measures shall be implemented within the approved timescale.

Reason: To minimise the impact on local amenity and the chances of debris being carried onto the public highway.

20. That the exportation of mineral from the site shall not exceed 650,000 tonnes per annum, without the prior written agreement of the Council as Planning Authority.

Reason: In the interest of road safety and local amenity.

21. That the importation of cement and other materials required for site processing shall not exceed 50,000 tonnes per annum without the prior written agreement of the Council as Planning Authority.

Reason: In the interest of road safety and local amenity.

22. Prior to the commencement of the development hereby approved, a sign shall be erected adjacent to the exit road from the quarry, at a location to be agreed in writing with the Council as Planning Authority, warning motorists departing the quarry that they may encounter cyclists. The sign shall accord with Drawing P950 produced by the Department of Transport.

Reason: In the interests of road safety.

23. That, unless otherwise agreed in writing with the Council as Planning Authority, top soil shall only be stripped, stockpiled and replaced when it is in a suitably dry and friable condition (suitably dry means that the top soil can be separated from the sub soil without difficulty so that it is not damaged by machinery passing over it).

Reason: To minimise damage to the soils and sub soils.

24. That all suitable soils, peat and soil making material shall be recovered where practical during the stripping or excavation operations and separately stored, on site, for use during restoration.

Reason: To minimise damage to the soils, sub soils and peat.

25. That topsoil, sub soil, peat and soil making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during site restoration. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their formation. The sward shall be managed in accordance with the appropriate agricultural management techniques throughout the period of storage.

Reason: To minimise damage to the soils, sub soils and peat.

26. That no development shall commence until a scheme of weed control and a scheme of movement of plant, vehicles and machinery has been submitted and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To minimise damage to the soils and sub soils.

27. That no development shall commence until a drainage plan has been submitted and approved in writing by the Council as Planning Authority. The drainage plan shall include:

- Measures to avoid contamination of surface and ground water.
- Treatment of any contamination.
- Managing any drainage from areas adjoining the site.

The agreed drainage plan shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: In the interests of amenity and to protect watercourses from pollution.

28. All 28. All containers being used to store liquids within the application site shall be labelled clearly to show their contents, and be located in a bund which shall be at least 110% of the capacity of the largest container stored within it. Bunds shall conform to the following standards:

- The walls and base of the bund shall be impermeable.
- The base shall drain to a sump.
- All valves, taps, pipes and every part of each container shall be located within the area served by the bund when not in use.
- Vent pipes shall be directed down into the bund.
- No part of the bund shall be within 10 metres of a watercourse.
- Any accumulation of any matter within the bund shall be removed as necessary to maintain its effectiveness and capacity.

Reason: To ensure the safekeeping of such liquids.

29. That prior to the commencement of development, a groundwater monitoring plan shall be submitted to and approved by the Council. The operator shall review and update the groundwater monitoring plan on an annual basis, in consultation with the Council and the Scottish Environment Protection Agency. The site operator shall monitor the levels and quality of groundwater in accordance with the approved plan for the duration of operations, unless otherwise approved in writing by the Council as Planning Authority.

Reason: In the interests of the water environment.

30. For the duration of extraction operations at the site, a flow meter record of any water that is abstracted from the River Clyde or from within the quarry shall be maintained on site and this record shall be made available to the Council as Planning Authority within 5 working days of a written request from the Council as Planning Authority.

Reason: In the interests of the water environment.

31. That not more than 3 months prior to the commencement of development within each phase of development a scheme for prestart checks shall be submitted and approved in writing by the planning authority, in consultation with Scottish Natural Heritage. The scheme for pre-start checks shall include:

- Measures for investigating the presence of otters, bats, badgers, amphibians and reptiles, birds and invertebrates within the site and within an appropriate buffer around the site.
- Mitigation measures to address impacts on otters, bats, badgers, amphibians and reptiles, birds and invertebrates.
- An implementation programme for such measures.

The agreed scheme shall be implemented in accordance with the approved programme unless otherwise agreed in writing by the Council as planning authority.

Reason: In the interests of protected species.

32. The removal of any trees and the cutting of rough grasslands that could provide habitat for nesting birds will take place outside the bird breeding season (April to July inclusive), unless a survey to establish the presence or otherwise of nesting birds has been undertaken and, where required, appropriate mitigating measures have been carried out to the satisfaction of the Council as Planning Authority.

Reason: In the interests of breeding/nesting birds.

33. That prior to the commencement of the development, the Council as Planning Authority shall approve the remit and reporting frequency of an Ecological Clerk of Works (ECoW), in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The ECoW shall be appointed prior to commencement of development and remain in post until the completion of restoration works by the operator. The scope of work of the ECoW shall include:

- Monitoring impacts of operations and compliance with ecological best practice and the mitigation works or measures relevant to the development, as detailed within:
- the Restoration and Enhancement Plan(s), required through Conditions 6 and 7;
- the mitigation measures identified in Chapter 13 of the Environmental Statement (Volume 2 - November 2012) and those arising from the pre-start checks required under the terms of condition 31 above;
- the supplementary information, dated 7th May 2013, and;
- the Species Protection and Habitat Management Plan required under the terms of condition 34 below.
- Advising on adequate protection of nature conservation interests and implementation of restoration on the site.
- Monitoring the impact of the development on protected species.
- Carrying out regular National Vegetation Classification habitat surveys of the site
- establish any changes in habitat type.

Reason: In order to minimise the developments potential impact on the environment.

34. That prior to the commencement of development, a Species Protection and Habitat Management Plan shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with Scottish Natural Heritage and Scottish Wildlife Trust. Thereafter, the operator shall comply with the Species Protection and Habitat Management Plan and implement all mitigation measures contained within the Species Protection and Habitat Management Plan to the satisfaction of the Council as Planning Authority.

Reason: In the interests of protected, non-protected and habitats.

35. That prior to the commencement of development the operator shall submit for the Council's approval an archaeological mitigation strategy. Thereafter the developer shall ensure that the approved strategy is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken in accordance with the approved scheme.

Reason: In the interests of archaeology.

36. The operator shall install a borehole between the site processing plant area and the Hyndford Crannog within 6 months prior to the commencement of extraction operations in the Phase 3, as illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing.

Reason: In the interests of archaeology.

37. That within 1 year of the commencement of extraction operations within Phase 2B, as illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, the operator shall submit for the written approval of the Council as Planning Authority a monitoring programme for the borehole to be installed under Condition 36 above.

Reason: In the interests of archaeology.

38. That on the 31st March of each year following the commencement of development and for the duration of extraction and restoration operations approved through this permission, an annual progress plan shall be submitted to the Council as Planning Authority. The annual progress plan shall detail:

- The extent of extraction operations undertaken that year.
- Areas prepared for extraction, including any soil stripping and removal of vegetation etc.
- The extent of restoration operations carried out.
- Recent topographical site survey undertaken within 1 month prior to the submission of the annual progress plan.
- Current and anticipated production figures.
- Total tonnage of minerals dispatched from the site within the preceding year.
- The total tonnage of cement and other materials imported into the site for processing
- Estimation of remaining reserve of sand and gravel material (which are likely to be exported from site).
- A calculation of the costs of restoring the area of the site disturbed by the development and the associated area of the site to be enhanced at that time.
- Progress on the implementation and success of the Habitat Management Plan.
- Compliance with statutory permissions and legal agreements.
- Site complaint log and actions taken.
- Any incidents involving pollution of watercourses.

Reason: To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.

39. That, within three months of completion of restoration works on site, a final progress plan containing the information listed in Condition 38 above, shall be submitted to the Council as Planning Authority.

Reason: To enable the Council as Planning Authority to monitor the development to ensure that it is carried out in accordance with the terms of this consent.

40. That, within four weeks following the completion of extraction operations within each phase or such other phasing plan as may be subsequently approved in writing by the

Council as Planning Authority, the operator shall give notice to the Council as Planning Authority of the completion of that phase.

Reason: In order to monitor the progress of the development. In accordance with Section 27B(2) of the Town and Country Planning (Scotland) Act 1997 (as amended).

41. That no development shall commence until a scheme of stock proof fencing or other means of enclosure (including its maintenance), for the operational boundary has been submitted and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To ensure that there is adequate site security and to prevent unauthorised entry of stock onto the site.

42. That from the date of commencement of works on the site, until completion of the final restoration, a copy of this permission, and all approved documents and subsequently approved documents, shall be kept available for inspection in the site offices during the approved working hours.

Reason: To ensure the site operator and visiting officials are aware of the approved details.

43. Notwithstanding the details shown on the stamped approved plans, that before any work commences on the site (including enabling works), the following details shall be submitted to and approved in writing by the Council as Planning Authority, and such details as may be approved, shall be implemented unless otherwise agreed in writing by the Council as Planning Authority prior to the commencement of extraction works:

- (a) A detailed specification of all footpaths proposed within the application site.
- (b) Details of the location, style and height of all new boundary treatment such as fences, walls, gates and bunds and signage to be erected within or around the boundaries of the site.
- (c) Details of conveyor, including design, colour and route.
- (d) Details, including location and design, of pedestrian crossing points over the conveyor, where appropriate.

Reason: These details were not submitted at the time of the application and are required to ensure that the proposal is satisfactory.

44. That the operator shall permit access to the site to geo-scientists to study and document the geological and geomorphological record at the site as extraction proceeds, for the duration of the extraction operations. The documentation reporting the findings of the geological and geomorphological studies shall be retained on site and shall be submitted to the Council as Planning Authority within 28 days of a written request.

Reason: To ensure the geomorphological characteristics are recorded and made available.

45. At no time shall the site be artificially illuminated with the exception of vehicle lighting during the permitted hours of working as set out in Condition 11(b), to the satisfaction of the Planning Authority.

Reason: In the interests of amenity



APPENDIX 3: DEVELOPMENT PLAN AND POLICY CONTEXT (as at 2017).

Glasgow and the Clyde Valley Strategic Development Plan 2017 (GCVSDP)

A3.1 Policy 15 Natural Resource Planning: Mineral Resources Spatial Framework states that an adequate and steady supply of minerals will be maintained and minerals development will be supported where they are in accordance with, inter alia, Local Development Plans. The GCVSDP is a strategic document and apart from supporting delivery of sustainable mineral extraction, it does not provide a level of detail for the assessment of a specific site of this nature and location but instead defers to the Local Development Plan in this respect.

A3.2 Policy 15 states that a land-bank for construction aggregates equivalent to at least 10 years extraction shall form part of the required adequate and steady supply of minerals.

Policy 15 also states that Supplementary Guidance shall set out how this land-bank is to be achieved. Currently there is no available Supplementary Guidance in support of the SDP policy.

A3.4 Clydeplan 2017 sets out a strategic direction and Spatial Development Strategy for Glasgow and the Clyde Valley area in order to support economic competitiveness and social cohesion, set within a sustainable environmental approach. Paragraph 8.17 states that consented reserves of sand and gravel within the Glasgow and Clyde Valley area are forecast to be constrained beyond 2021 and as a result additional locations will be required across the city region to ensure that distances from source to market are minimised.

South Lanarkshire Local Development Plan

A3.5 SLLDP Policy 1 'Spatial Strategy' states that the SLLDP will encourage sustainable economic growth and regeneration, protect and enhance the built and natural and environment and move towards a low carbon economy and that development that accords with the policies and proposals in the development plan and supplementary guidance will be supported.

A3.6 SLLDP Policy 3 'Green Belt and Rural Area' states that the Green Belt and the rural area functions primarily for agriculture, forestry, recreation and other uses appropriate to the countryside. Support will not be given for development proposals within the Rural Area, unless they relate to uses which must have a countryside location. Policy 3 allows a relaxation for, inter alia, an extension of existing premises or uses. The application site is within land designated as rural area and does not involve any Green Belt Designation.

A3.7 Supplementary Guidance 2: 'Green Belt and Rural Area' (SG2) further expands and supports the objectives of SLLDP Policy 3 and provides a list of appropriate uses within the Green Belt and Rural Area. This includes natural resource based industries. Policy GBRA1 'Economy/ Business Related Developments' of SG2 provides further policy guidance and

states that the Council will seek to support the rural economy by promoting rural diversification and facilitating job creation by encouraging development of an appropriate type and scale where it is shown to meet the relevant criteria. The following criteria within Policy GBRA1 are considered relevant to this proposal:

- The proposal should involve an appropriate use in the Green Belt and rural area.
- A specific locational need will require to be demonstrated
- Proposals should have no adverse impact on biodiversity, including Natura 2000 sites and protected species, or features which make a significant contribution to the cultural and historic landscape value of the area.
- Trees, woodland and boundary features such as hedgerows particularly beech and hawthorn, and stone dykes should be retained.
- Meet access, parking and servicing standards and have no adverse impact on infrastructure and services.
- Respect the residential and countryside amenity of the area in terms of noise generation, odours, lighting, overlooking/overshadowing and visual impact.

A3.8 SLLDP Policy 2 'Climate Change' states that new developments must, where possible, seek to minimise and mitigate against the effects of climate change and a list of criteria is provided for this assessment. The criteria considered relevant to this proposal are:

- by being sustainably located;
- being designed to be as carbon neutral as possible;
- having no significant adverse impacts on the water and soils environments, air quality and Biodiversity (including Natura 2000 sites and protected species).

A3.9 Supplementary Guidance 1: 'Sustainable Development and Climate Change' (SG1) supports the objectives of SLLDP Policy 2.

A3.10 Policy SDCC2 Flood Risk states that, in accordance with the precautionary principle and the risk framework set out within the SPP, South Lanarkshire Council will seek to prevent any increase in the level of flood risk by refusing permission for new development where it would be at risk from flooding or increase the risk of flooding elsewhere.

A3.11 Policy SDCC3 Sustainable Drainage Systems states that any new development should be drained by an appropriately designed sustainable drainage system.

A3.12 Policy SDCC4 Water Supply states that development will only be permitted where there is an adequate supply of water to serve the site including a supply of water for human consumption, adequate in quantity and quality as prescribed under EC Directive 80/778; the Water Supply (Water Quality) (Scotland) Regulations 1990 and the Private Water Supplies (Scotland) Regulations 1992.

A3.13 Policy SDCC 6 Air Quality states, inter alia, that development proposals which have the potential to have a detrimental impact on air quality will not be acceptable unless

measures to mitigate the impact of air pollutants are proposed and can be agreed with the planning authority.

A3.14 SLLDP Policy 4 'Development Management and Placemaking' states that development proposals should have no significant adverse impacts on the local community, landscape character, habitats or species including Natura 2000 sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates. Policy 4 also states that development should be integrated with the local context and landscape.

A3.15 Development Management, Placemaking and Design Supplementary Guidance under Policy DM1 – Design. Policy DM1 expects new development to be assessed in relation to the criteria listed. Of relevance to the proposal is the requirement to assess the proposal in relation to New Lanark and Falls of Clyde Conservation Area Appraisal (Core Document B.9) and New Lanark World Heritage Site Management Plan (Currently not on Core Document list).

A3.16 SLLDP Policy 15 'Natural and Historic Environment' states that the Council will assess all development proposals in terms of their effect on the character and amenity of the natural and built environment and sets out a 3 tier category of protected designations, Categories 1 (International), 2 (National) and 3 (Local). Where protected designations are affected as detailed under Table 6.1 – Hierarchy of Natural and Historic Designations of the development plan the proposed development must be considered in relation to its impact on that category/designation, including cumulative impact.

A3.17 The following protected designations require consideration in relation to the proposal and have been grouped into the relevant hierarchical category:

Category 1 – World Heritage Site and its setting, and its buffer zone. In this area the policy states that the Council will seek to protect and preserve the Outstanding Universal Value of New Lanark World Heritage Site. Development proposals affecting the world heritage site and its setting will be assessed against the detailed criteria set out in supplementary guidance. Development proposals within the buffer zone will be assessed for their potential impact on the World Heritage Site's Outstanding Universal Value.

Category 2 – Scheduled Monuments and their setting, Category A Listed Buildings and their setting, National Nature Reserves, Sites of Special Scientific Interest, Inventory of Gardens and Designed Landscapes, The Water Environment and Ancient Semi-natural Woodland (categories 1a and 2a on SNH Ancient Woodlands Inventory). In these areas, development will be permitted where the objectives of the designation and the overall integrity of the area can be shown not to be compromised following the implementation of any mitigation measures. Any significant adverse effects must be clearly outweighed by social or economic benefits of national importance.

Category 3 – Special Landscape Area, Category B and C Listed Buildings and their setting, other archaeological sites and monuments, Conservation Areas, other long established woodlands and woodlands of high conservation value, Peatlands and Core Paths, Core Water Routes (Paths) and water access/egress points and Rights of Way. In these areas, development which would affect these areas following the implementation of

any mitigation measures will only be permitted where there is no significant adverse impact on the protected resource.

A3.18 Whilst not within the hierarchy as set out above, Policy 15 states that development which will have an adverse effect on protected species following the implementation of any mitigation measures will not be permitted unless it can be justified in accordance with the relevant protected species legislation.

A3.19 Supplementary Guidance 9: 'Natural and Historic Environment' (SG9) further expands and supports the objectives of SLLDP Policy 15. Within SG9 Table 2.1 Hierarchy of natural and historic environment designations provides the relevant policy link within the SG in which to assess the proposed development.

A3.20 Taken together Policy 15 and Supplementary Guidance 9 largely reflect the previous policy context established through Policy ENV4 as discussed at the 2014 hearing with the exception of some further clarification on the respective roles of the Buffer Zone and the World Heritage Site.

A3.20 Policy NHE 1 – New Lanark World Heritage Site of SG9 provides additional guidance on the assessment of planning applications, conservation area and listed building consent applications within the World Heritage Site; its buffer zone and its setting. It states that 'the character, integrity, authenticity and quality of the New Lanark World Heritage Site and its setting, recognised by UNESCO will be protected, conserved and enhanced. Development will require to respect the sustainable future of the New Lanark World Site and its setting, recognised by UNESCO will be protected, conserved and enhanced.

A3.21 Development will require to respect the sustainable future of the New Lanark World Heritage Site both as a viable community and as an internationally recognised heritage asset for educational and cultural enrichment. It goes on to state that in determining planning applications, conservation area and listed building consent applications within the World Heritage Site and its buffer zone and setting, the Council will not permit development that adversely impacts on the:

- historical and topographical character and landscape quality
- skylines and views to and from the site
- area's natural diversity and ecology
- landscape and ecological links with the surrounding areas.

A3.22 Policy NHE 1 provides 9 criteria that require to be applied when assessing proposals that could affect the World Heritage Site and its buffer zone and setting. These are:

Development will not create an adverse impact on the Outstanding Universal Value of the World Heritage Site.

Development must preserve, protect and where appropriate enhance, the character, integrity, authenticity and quality of the New Lanark World Heritage Site and its setting.

Development shall be of a design and form which respects the visual envelope of the World Heritage Site and its setting and conserves and enhances the essential character of the World Heritage Site and its buffer zone in its topographical and

wider landscape setting.

Development shall be of a design quality to reflect and complement the character, townscape and form of that part of the World Heritage Site to which it relates and shall respect historic plot patterns, street patterns, layout, building frontages, key views, landmarks and skyline.

Design of buildings shall reflect the scale, form, massing, proportions, roof-scape, features and details of their context and materials will need to be of an appropriate size, colour and texture to the World Heritage Site and its setting.

Development will not be permitted where it will result in the loss of important built or landscape features such as walls, traditional boundary treatments, ancillary buildings, trees or hedgerows within the World Heritage Site or those which may affect its setting.

Development shall take full account of the archaeology of the site.

Development will not be permitted on open spaces which make a positive contribution to the character of the World Heritage Site and its setting, or which provide important settings for, or views to and from, existing buildings and features.

Development will not be permitted which leads to the coalescence of the World Heritage Site and the settlement of Lanark.

Development will not be permitted which leads to the coalescence of the World Heritage Site and the settlement of Lanark.

A3.23 Policy NHE 2 – Scheduled monuments and their setting states that scheduled monuments and other identified nationally important archaeological resources shall be preserved in situ and in an appropriate setting and that developments which have an adverse effect on scheduled monuments or their setting shall not be permitted unless there are exceptional circumstances.

A3.24 Policy NHE 3 – Listed Buildings states, inter alia, that development affecting a listed building or its setting shall, as a first principle, seek to preserve the building and its setting, and any features of special architectural interest which it has and that the layout, materials, scale, siting and use of any development shall be sensitive to, and respect the character and appearance of, the listed building and its setting.

A3.25 Policy NHE 4 – Gardens and designed landscapes states that development affecting sites listed in the Inventory of Gardens and Designed Landscapes shall protect, preserve and, where appropriate, enhance such as places and shall not significantly impact adversely upon their character, upon important views to, from and within them, or upon the site or setting of component features which contribute to their values. It further states that development which would affect these areas following the implementation of any mitigation measures will only be permitted where there is no significant adverse impact on the protected resource, or where the conservation value of the designed landscape is enhanced. Finally the policy states that where possible, any development proposals which affect the

protected resource should include measures to enhance the conservation value of the site affected.

A3.26 Policy NHE 6 Non-scheduled archaeological sites and monuments states that all non-scheduled archaeological resources shall be preserved in situ wherever feasible and that the Council will weigh the significance of any impacts on archaeological resources and their settings against other merits of the development proposals in the determination of planning applications. The policy also outlines that the developer may be requested to supply a report of an archaeological evaluation prior to determination of the planning application. Where the case for preservation does not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication, in advance of development.

A3.27 Policy NHE 7 Conservation Areas states, inter alia, development affecting a conservation area's setting shall preserve or enhance its character and be consistent with any relevant conservation area appraisal or management plan that may have been prepared for the area. The design, materials, scale and siting of any development shall be appropriate to the character of the conservation area and its setting. Trees which are considered by the Council to have amenity value and contribute to the character and appearance of the conservation area shall be preserved.

A3.28 Policy NHE 9 National Nature Reserves and Sites of Special Scientific Interest states that development that affects a Site of Special Scientific Interest will only be permitted where an appraisal has demonstrated:

- a) the objectives of designation and the overall integrity of the area will not be compromised; or
- b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

A3.29 Policy NHE 11 Ancient semi-natural woodland states that development proposals that involve the loss or fragmentation of areas of ancient semi-natural woodland (categories 1a and 2a on SNH Ancient Woodlands Inventory) will only be supported where any significant adverse effects are clearly outweighed by social or economic benefits of national importance. It further states that in all cases where felling of existing woodland is proposed, the criteria set out in the Scottish Government's Policy on Control of Woodland Removal will be taken into account to determine the acceptability of woodland removal.

A3.30 Policy NHE 14 Woodland states that developments that involve the loss or fragmentation of long established woodland and woodlands of high conservation value (including categories 1b, 2 and 3 on SNH Ancient Woodlands Inventory and woodlands identified in Forestry Commission Native Woodland Survey of Scotland) will only be supported where any significant adverse effects are clearly outweighed by significant social or economic benefits and:

- Measures can be taken to conserve the nature conservation interest through
- planning conditions; and/ or
- The conservation interest loss can be compensated for by habitat creation or site enhancement elsewhere by planning agreements or conditions.

A3.31 Where felling of existing woodland is proposed, the criteria set out in the Scottish Government's Policy on Control of Woodland Removal will be taken into account to determine the acceptability of woodland removal. Development proposals should seek to protect existing woodlands, hedgerows and individual trees, from significant adverse impact and proposals likely to significantly affect these should be accompanied by a full tree survey with written justification for any losses. New amenity tree planting will be encouraged, including, where appropriate, through a requirement to submit and implement a landscaping scheme for new developments.

A3.32 Policy NHE 15 Peatlands states, inter alia, that minerals development on undesignated peatland will be assessed in relation to Policy MIN 6 of the Minerals Local Development Plan (now the Non-Statutory Planning Guidance – Minerals – Policy MIN6).

A3.33 Policy NEH16 Landscape states that development proposals within the Special Landscape Areas (SLA) identified on the Strategy Map will only be permitted if they satisfy the requirements of SLLDP Policy 3 and can be accommodated without significantly and adversely affecting the landscape character, scenic interest and special qualities and features for which the area has been designated. All development proposals within or adjacent to an SLA shall take into account the guidance within the Council's Report on Validating Local Landscape Designations (Core Document B.10) . In this instance 2 SLAs are relevant and they are:

- Middle Clyde Valley
- Upper Clyde Valley and Tinto.

A3.34 Policy NEH16 Landscape further states that within the SLAs and the wider landscape of South Lanarkshire, development proposals should maintain and enhance landscape character including:

- The pattern, scale and design of development within the landscape
- The setting of settlements and buildings within the landscape
- The pattern of woodland, fields, trees, hedgerows, waterbodies and other features, particularly where they define/ create a positive settlement/ urban edge
- The historical qualities of the area and its sensitivity to change
- Skyline and hill features, including key views.
- Policy NEH16 Landscape finally notes that all proposed development should take into account the detailed guidance contained in the South Lanarkshire Landscape Character Assessment, 2010 (B.37).

A3.35 Policy NHE 19 Protected Species states that:

A) Development that would be likely to have an adverse impact on a European Protected Species will not be permitted unless it can be shown that:

- The development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment
- There is no satisfactory alternative

- The development would not be detrimental to the maintenance of the population of the species at a favourable conservation status in its natural range.

B) Development that would be unlikely to have an adverse effect on wild birds protected under the Wildlife & Countryside Act 1981 (as amended), will not be permitted unless it can be shown that:

- The development is required for preserving public health or public safety
- There is no other satisfactory solution.

C) Development that would be likely to have an adverse effect on a non-bird species protected under the Wildlife & Countryside Act 1981 (as amended), will not be permitted unless it can be shown that:

- The development will contribute to significant social, economic or environmental benefit
- There is no other satisfactory solution.

D) Development likely to have a significant effect on any other protected species following the implementation of any mitigation measures will not be permitted unless it can be justified in accordance with the relevant legislation.

E) Where non-native species are present on a development site, or where planting is planned as part of a development, planning permission will only be granted where developers can demonstrate that the provisions of the Wildlife and Countryside Act 1981 relating to non-native species have been fully accounted for.

A3.36 Policy NHE19 states that all the requirements of A – E will be given full consideration in the assessment of development proposals and developments that cannot meet the terms of the above policy shall be judged not to accord with the SLLDP.

A3.37 Policy NHE 20 Biodiversity states that in order to further the conservation of biodiversity:

- i) Development proposals should demonstrate that they have no significant adverse impact on biodiversity, including cumulative impacts.
- ii) Applications which impact upon a biodiversity asset shall be accompanied by appropriate ecological surveys to enable a site-specific decision to be reached by the Planning Authority.
- iii) Development proposals likely to lead to significant loss of biodiversity will only be supported if adequate mitigation and offsetting measures are agreed with the Council.
- iv) Development proposals should consider opportunities to contribute positively to biodiversity conservation and enhancement, proportionate to the scale and nature of the proposal.

A3.38 Policy NHE 21 Geodiversity and soils states that in order to further the conservation of geodiversity and soils:

- i) Development proposals should demonstrate that they have no significant adverse impact on geodiversity and soils, including cumulative impacts.
- ii) Where there is potential for local geodiversity features to be affected by a proposal, these should be retained in situ wherever feasible. Where it is not feasible to retain such features,

the developer should make provision for these to be recorded and documented in advance of development.

iii) where peat and other carbon rich soils are present, the applicant should assess the likely effect of development on carbon dioxide (CO₂) emissions.

A3.39 SLLDP Policy 16 'Travel and Transport' states that new development must consider, and where appropriate, mitigate the resulting impacts of traffic growth, particularly development related traffic, and have regard to the need to reduce the effects of greenhouse gas emissions and at the same time support and facilitate economic recovery, regeneration and sustainable growth. Proposals must conform to South Lanarkshire Council's Guidelines for Development Roads.

A3.40 SLLDP Policy 17 'Water Environment and Flooding' states that sites where flooding may be an issue shall be the subject of a local flood risk management assessment. Development will only be supported if suitable flood management can be achieved. As with Policy 2, Supplementary Guidance 1: 'Sustainable Development and Climate Change' (SG1) further expands and supports the objectives of SLLDP Policy 17. Policies SDCC2 Flood Risk, SDCC3 Sustainable Drainage Systems and SDCC4 Water Supply are considered relevant in relation to this proposal

Minerals Local Development Plan 2012

A3.41 Policy MIN 1 – Spatial framework states that:

The council will seek to ensure an adequate and steady supply of minerals and maintain a land bank for construction aggregates equivalent to at least 10 years extraction. In considering all planning applications for mineral development, the Council will balance the economic benefit from the mineral development against potential impacts on the environment and local communities. The council will seek to ensure that any development proposals for extraction, processing and deposition of material minimises and mitigates impact, having particular regard to the relevant policies and guidance contained both within this local development plan and the South Lanarkshire Local Plan on the protection of the natural and built environment.

A3.42 Policy MIN 2 – Environmental protection hierarchy states that:

"The Council will seek to protect important natural and built heritage sites and features as listed in Table 3.1 from the adverse effects of minerals development. Development which will adversely affect the integrity of Category 1 sites following the implementation of any mitigation measures will not be permitted.

Development which will adversely affect Category 2 and 3 sites following the implementation of any mitigation measures will only be permitted if:

- a) there is an over-riding need for the minerals to serve appropriate markets, and
 - b) it is shown that the adverse impact of the proposed development can be mitigated to an acceptable degree, and/or
 - c) the proposed development will result in a net improvement to the Category 2 or 3 sites.
- The distinction to be drawn between Category 2 and 3 sites is that for Category 2 sites the appropriate markets referred to in a) above, must be of national importance, whereas for

Category 3 sites they may be of regional or local importance only. In addition, the adverse impact for Category 3 sites referred to in b) above, will be evaluated as a “significant adverse impact”.

The sub headings relating to protected species, flood risk areas and settlements are not directly relevant. It should be noted that the environmental protection policies of the minerals local development plan and local plan have to be read together.

Table 3.1 defines the hierarchy to be used in policy MIN 2:

Category 1 World Heritage Site and its buffer (policies ENV 7 and ENV 22)

Category 2 Category A Listed Buildings (policy ENV 24), Historic Gardens and Designed Landscapes (policy ENV 28) and Ancient Woodland

Category 3 Special Landscape Areas and Conservation Areas (policy ENV 25)

A3.43 Policy MIN 4 – Restoration states that:

“The Council will only grant planning permission for mineral extraction where proper provision has been made for the restoration and aftercare of the site. Restoration proposals should take account of the specific characteristics of the site and its locality and restore and/or enhance the landscape character of the area. Any opportunities for enhancing biodiversity, community recreation and access should be considered. The Council will normally require applicants to provide a restoration and aftercare bond or make other financial provision to ensure full restoration and reinstatement of the site should the developer fail to implement the previously agreed restoration plan.”

A3.44 Policy MIN 6 – Peat states that:

“Proposals for the extraction of peat will only be permitted where:

- They do not conflict with any other policies in this plan and the South Lanarkshire Local Plan;
- The peat land is already degraded or significantly damaged by human activity; and
- The conservation value is low and restoration is not possible.

For ancillary extraction of peat associated with other mineral development, the Council will seek to ensure that best practice is used for the handling, storage and restoration of the peat, in order to minimise potential degradation and promote active peat formation and where appropriate the creation of habitats of nature conservation interest”

A3.45 Policy MIN 8 - Community benefit states that:

“The Council will encourage mineral operators working within South Lanarkshire to contribute to the South Lanarkshire Rural Communities Trust, Quarry Fund or the Council’s Renewable Energy Fund or another similar mechanism as appropriate. Contributions will be based upon an appropriate rate per tonne of minerals worked to be agreed between the operators and the Council and this will be reviewed as appropriate during the period of the local development plan.”

A3.46 Policies MIN 5 (water environment), MIN 7 (controlling impacts from extraction sites), MIN 12 (transport), MIN 13 (legal agreements) and MIN 15 (monitoring) are also of relevance.

Non-Statutory Planning Guidance – Minerals 2017 (NSPG)

A3.47 The Non-Statutory Planning Guidance ([Core B22](#)) - Minerals was prepared to extend the life of policy guidance and advice contained within Minerals Local Development Plan 2012 and does not introduce any new policies. However it takes account of the policies and Supplementary Guidance contained in the adopted 2017 local development plan as well as government legislation, national, strategic and other relevant specific council policies. Policy MIN 2 is now linked to an updated table 3.1. Paragraph 3.6 explains the focus to be placed on the Outstanding Universal Value in the context of Policy 15 (of the local development plan) and Policy NHE1 of Supplementary Guidance 9. Aside from this update the relevant policies reflect those stated above in the context of the Minerals Local Plan 2012.

Scottish Government policy and guidance

A3.48 Scottish Planning Policy ([Core C1](#)) sets out Scottish Ministers' priorities for the planning system. A key policy principle is a presumption in favour of development that contributes to sustainable development. Paragraph 28 explains that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. Paragraph 29 provides principles to guide the assessment of whether a proposal contributes to sustainable development as follows:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;
- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

A3.49 Paragraph 137 states that the planning system should:

- promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning; and
- enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.

A3.50 Paragraph 141 states that where planning permission is sought for development affecting a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest.

A3.51 Paragraph 143 advises that for development outwith a conservation area, which will affect its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area.

A3.52 Paragraph 147 In relation to World Heritage Sites, where a development proposal has the potential to affect a World Heritage Site, or its setting, the planning authority must protect and preserve its Outstanding Universal Value. The meaning of Outstanding Universal Value is given in the glossary: The Operational Guidelines for the Implementation of the World Heritage Convention, provided by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) states that OUV means cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. The Statement of OUV is the key reference for the future effective protection and management of the World Heritage Site.

A3.53 Paragraph 148 in relation to Gardens and Designed Landscapes states that planning authorities should protect and, where appropriate, seek to enhance gardens and designed landscapes included within the inventory.

A3.54 In relation to minerals development, paragraph 236 advises of the need to ensure that adequate supplies of construction aggregates are available. Paragraph 238 advises that development plans should support the maintenance of a land-bank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas.

A3.55 The National Planning Framework 3 ([document C2](#)) indicates the overall spatial strategy for Scotland. It encourages economic activity and investment across Scotland, whilst protecting natural and cultural heritage assets. Reference is made to the need for construction materials. World Heritage Sites are referred to in the context of increasing tourism in rural areas.

Other policy guidance and advice

A3.56 [Historic Environment Scotland Policy Statement](#) (HESPS) 2016 sets out Scottish Ministers' own policies in relation to listed buildings, conservation areas and historic gardens and designed landscapes. This includes guidance in relation to designation and how development proposals should be assessed.

A3.57 In June 2016 HES published an updated version of its Managing Change Guidance on setting. In September 2016 HES published a [Managing Change in the Historic Environment Guidance note on Gardens and Designed Landscapes](#). This is HES's first full guidance on Gardens and Designed Landscapes though it does not present any change in position but rather builds upon the guidance set out in SPP (2014) and HESPS (2016).

A3.58 [New Lanark World Heritage Site Short Guide](#) was published in April 2016. It is a short document which largely sets out the key facts regarding the WHS, its history and its OUV. The guide also provides an overview of the management of the WHS and gives details of its protection through the planning system. This protection is largely through SPP (2014) and Policy 15 of the SLLDP (SLC 2015a) as outlined above. The guide also gives a brief description of the Buffer Zone stating that its purpose is: To indicate areas where development proposals require careful consideration by developers and decision makers to determine whether they are likely to significantly impact the WHS, its Outstanding Universal Value (OUV), or its authenticity and integrity (HES 2016b, 4).

A3.60 Advice and guidance has also been provided specifically in relation to mineral development including Planning Advice Note 64 – Reclamation of surface mineral workings and Planning Advice Note 50 – Controlling the environmental effects of surface mineral workings.

A3.61 Changes have been made to the "Operational Guidelines for the Implementation of the World Heritage Convention" in relation to buffer zones. The revised guidelines are listed in the Parties' Documents List as New [Document H 28](#). (This supersedes the 2013 version which was listed as I 2.) This provides guidance on various aspects of designating and protecting World Heritage Sites. The Xi'an declaration (see [document D.9](#)), is an international agreement amongst heritage professionals regarding the importance of setting.

A3.62 The criterion for inclusion from the Statement of Outstanding Universal Value for New Lanark. This is detailed below drawing on ([document D.4](#)) and [Annex 1 of H20](#) .

Criterion (ii) *'to exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design'* . *When Richard Arkwright's new factory system for textile production was brought to New Lanark the need to provide housing and other facilities for the workers and managers was recognised. It was there that David Dale and Robert Owen created a model for industrial communities that was to spread across the world in the 19th and 20th centuries.*

Criteria (iv) *'to be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history'*

New Lanark saw the construction not only of well-designed and equipped workers' housing but also public buildings designed to improve their spiritual as well as their physical needs. (D.4)

Criteria (vi) *'to be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance.'* (1.2, Paragraph 77)

'The name of New Lanark is synonymous with that of Robert Owen and his social philosophy in matters such as progressive education, factory reform, humane working practices, international cooperation, and garden cities, which was to have a profound influence on social developments throughout the 19th century and beyond.' (D.4)

A3.63 [Document D.2](#) is the nomination document for New Lanark prepared in 2000 by Historic Scotland. It was an important document in securing agreement that New Lanark should be included as a World Heritage Site.

A3.64 Documents [D.6](#) and [D.7](#) are the New Lanark Management Plan and New Lanark Management Plan Action Plan. Together the documents form the basis for the management of the New Lanark World Heritage Site. It was prepared as a partnership between New Lanark Trust, South Lanarkshire Council and then Historic Scotland. The management plan identifies a number of management issues, for example, image, promotion and funding. The action plan lists specific actions to address the issues.

Appendix 4 Consultation Responses 2017

Comments on Additional Information 2017

SEPA 12 December 2017 Confirm that having completed our review of the additional environmental information provided by the applicant we are content to rest on our previous submissions as the updated site specific information has not highlighted any new issues that could prejudice SEPA's interests.

Clydesdale Community Initiatives 12 December 2017 Neighbours to Cemex quarry support the approval of the application without conditions to the quarry extension. There would be no negative impact from their works.

Historic Environment Scotland 14 December 2017 The assessment set out in the Further Environmental Information on historic environment policy and whether this would have influenced either the method of assessment or conclusions reached is noted. In terms of the assessment of the historic environment policy context, including the development plan process, there is nothing to add to the earlier response to the procedure notice which we issued on 4 September 2017 or further correspondence on the pre-examination meeting issued on 19 September 2017.

The addendum largely focusses its consideration of changes to the policy context for heritage assets of international and national importance and that it does not deal in any detail with sites of regional or local importance. However, such sites are a matter for South Lanarkshire Council's archaeological and conservation advisors and we have no further comments to make on these issues.

However, the applicant's commentary on some recent applications within the World heritage Site and its buffer zone, as set out in section 3 of Appendix 7 are noted. The conclusions of the review are set out at 3.21 to 3.25. It is worth putting this review in the context of the relevant regulations, to ensure that any conclusions drawn about the approach of Historic Scotland/Historic Environment Scotland are accurate. There are a number of points that would benefit from clarification in respect of the applications identified, as follows:

- Prior to 2014 there was no requirement to consult Historic Scotland on planning applications affecting a World Heritage Site. This requirement was introduced through the Town and Country Planning (Neighbouring Planning authorities and Historic Environment) (Scotland) Direction 2014, and brought into schedule 5 of the DMPR by the Town and Country Planning (Historic Environment Scotland) amendment regulations 2015.
- Any consultation required prior to that was because of a potential impact on another heritage asset or its setting (e.g. Inventory Designed Landscape, Category A listed building, Scheduled Monument, or required under the EIA regulations).

- These regulations do not bring with them an automatic requirement to consult HES on planning applications within a buffer zone. The trigger for consultation is ‘development which may affect a World Heritage Site’.
- Prior Notification: Historic Scotland/Historic Environment Scotland is not consulted as a matter of course on Applications for Prior Notification.
- CL/12/0320 (Braxfield Gardens) was an application for listed building consent for a C listed building. Historic Scotland was not consulted on applications for LBC affecting C listed buildings. Separately, any assessment applications for LBC would have focussed on the impact on the character of the building itself, and not the World Heritage Site.
- In relation to 6 Cleghorn Road, HES was consulted on the related application for Conservation Area Consent. The impact on the Conservation Area arising from the demolition was the only impact we considered, and we were not consulted on the related planning application.

In summary, in reviewing this section there should be no assumption that Historic Scotland/Historic Environment Scotland was consulted on the applications mentioned.

Transport Scotland 8 December 2017 The AEI states that the assessment and conclusions of the Transport Assessment (Chapter 10) of the ES remain valid. Consequently, we can confirm that our previous conclusion as indicated by our letter dated 6th December 2012 remains valid. This stated that Transport Scotland has no objection to the proposed development in terms of the environmental impacts associated with increased traffic on the trunk road network.

Scottish Water 23 November 2017 Confirm that the comments provided on 18th September 2017 still stand.

SNH 14 December 2017 SNH will for the most part confine our comments to Appendix ESA 5 (Ecology Update / October 2017). We note that the most recent walkover surveys were undertaken in August and September 2017 and that the overall conclusion was that there had been no significant changes with respect to species or habitats since the previous surveys. Consequently, SNH’s position will remain as stated in the response of 4th February 2013.

There are no particular concerns with regard to the proposed southern extension, but the proposed western extension is a more sensitive matter. Our position as previous is that in order for the western extension to be considered, three key concerns would require to be satisfactorily addressed by the applicant:

Predicted changes to the hydrological regime which influences the ecological character of SSSI/Wildlife Reserve. This would include any additional borehole data specific to the western extension that would enable assessment of the hydrological impacts.

Analysis of the local drainage regime, direction and quantity/quality of surface and subsurface water flows, and hydrological implications of the removal of Robiesland bog; and

The applicant should provide robust Species Protection Plans for a range of species (including otters, bat species and badgers).

As previously agreed, SNH is content that the precise methodology for the relocation / re-instatement of Robiesland Bog be treated as a planning condition. The applicant has argued that they wish to further consider the merits of relevant research in this field to inform their final methodology for securing a successful and sustainable relocation of the bog.

Whilst SNH considers this to be a reasonable approach, it is essential that the bog and its associated wetland habitats are effectively relocated. To this end, it is expected that CEMEX provide a timetable as to a) when a relocation plan will be produced and b) approximate dates for the implementation of this plan (i.e. the actual relocation of Robiesland Bog).

Protected Species

The previous recommendation is repeated that should either or both extensions be granted permission, then pre-start surveys / checks should be carried out by an appropriately qualified person to determine the presence / absence of otters, bat species and badgers.

Appendix ESA 5 (Ecology Update / October 2017) Section 3.0 Statutory and Non-Statutory Designated Sites The SSSI and NNR boundaries are not the same in the vicinity of the western extension as stated in the Ecology Update. Whilst the SSSI is indeed quite narrow, adhering closely to the line of the River Clyde, the National Nature Reserve boundary extends some way to the east of the SSSI (extending an additional 100m to 500m further east), encompassing most of the woodland to the south-west of Robiesland Cottage.

Other Comments Received in response to the 2017 re-opening of the case.

[Historic Environment Scotland 4 September 2017](#)

HES, as a new public body, has not been consulted on this proposed development, we would observe that HES has taken over the responsibilities of Historic Scotland in the planning system. HES is a Consultation Body for Environmental Impact Assessment, as was Historic Scotland through the Scottish Ministers; we work to the same planning policy framework and have the same statutory remit.

The documents identified within the procedure notice under the historic environment policy context heading bring in no new policy provisions which would require to be examined. In addition, we are not aware of any material changes to the proposed development which would warrant further assessment for our interests. There is no role for HES in any further procedure.

[New Lanark Trust](#)

That New Lanark Trust, is a member of the New Lanark and Falls of Clyde Working Group, wishes to continue to be an active party to this case and is represented on the Working Group. The Trust remains firmly opposed to the western extension of Hyndford Quarry into the Buffer Zone of the World Heritage Site and into the Bonnington estate part of the Falls of Clyde Designed Landscape, both of which define a vital setting for New Lanark. The Trust is in the course of preparing a strategic plan for the future development of the World Heritage

Site and its setting and BOTH the integrity of the heritage of the area AND the potential development of the area as one of Scotland's best rural visitor attractions would be seriously prejudiced by the intrusion of an active quarry and of such alteration to an historically and geologically important landscape. Fulfilling this potential is vital to the future management of the WHS which is under threat from funding pressures on the Trust as the responsible charity for the site.

New material considerations which we will submit through the Working Group will include confirmation of the significance of the assembly of fluvio-glacial landforms in the vicinity of the Falls of Clyde, which comprise some of the deposits which are subject of the application, to the understanding of the origins of the Falls and the gorge within which they are situated. This is contained within a report from the British Geological Survey for the Clyde and Avon Valley Landscape Partnership. The Trust has also been working with local groups on a heritage tourism initiative for the area around Lanark, New Lanark and the Falls of Clyde which depends, inter alia, on the protection of the designed landscape as a resource for interpretation of the major contribution which the 18th century estate improvers of the area made to the opportunity for the founding of New Lanark as the entrepreneurial climax of Enlightenment Scotland.

The emerging proposals from South Lanarkshire Council to extend the Clyde Walkway upstream of Bonnington dam provide a major opportunity to improve access to the area for the purpose of interpretation and enjoyment, especially in the area of the drove road to Tulliford and Boat Haugh, where it is part of the application site. We hope not only that the western extension will be refused but that any consent for the southern extension will be subject to effective conditions to protect the buffer zone and the setting of the Bonnington estate, the Drove Road and Boat Haugh.

[Sir William Lithgow](#)

Whilst this objector made representations as summarised below he was also represented by the New Lanark and Falls of Clyde Working Group (WG) who were one of the main parties through the examination process.

The applicant's statutory environmental impact study was cursory and superficial in its assessment of the ruinous buildings at the strategic site of Boathough, despite legal obligation to research archaeological sites.

The Scottish national database (Canmore) Historic Scotland and RCAHMS had erroneously located Boathough on the wrong side of the Clyde a mile downstream, a site that had been excavated and found to be without remains, this despite the buildings, correctly located and with photographs, being accessible on Google. At my urging a site visit was made (see Canmore for an unquestioning initial visual examination report) to the buildings alone which served as a farm until after WWI, described in mid nineteenth century as one of the two most significant holdings in the parish of Lanark.

Had Historic Scotland referred to Timothy Pont's seminal sixteenth century map they would not only have found Boathough correctly located, but the place by its depiction identified as being of considerable importance, and confirmed in the 1654 Blaeu atlas of Scotland. It is probable that this was the main all weather crossing of the Clyde, perhaps from the time of great Roman activity in the area until the Lanark to Biggar road took the traffic to Hyndford

where in due course the bridge was built in 1773. After this development Boathaugh was reduced in scale to a large farmhouse. The Director of Heritage of HES writing to me on 18th August refers to the relatively modern map of the area surveyed by Roy nearly two hundred years after Pont. Since the enquiry Historic Environment Scotland has been created recognising that preservation of old buildings and battlefields is but an empty shell without understanding of those that brought them about, the driving forces in their lives, and without appreciation of the environment. We have a duty to future generations to cherish from whence we came. The Scottish Government has been right to set aside a catalogue of omission and error and call for a report.

Consideration of the environment of Boathaugh is dismissive of heritage, bizarrely citing the absence of listed status of the substantial ruins. Historic Scotland maintained, as Historic Environment Scotland now does, that they do not list subjects of importance whilst a planning application is current. By this Orwellian logic, were a remnant of previously unrecognised historic importance to come to light, a developer could turn a Roman pavement, perhaps a bronze age or Celtic chief's grave into aggregate.

The many Lithgows in Poland today, are a reminder of the Lanark merchants of medieval times who traded abroad, particularly to the Baltic, from their secure base using cobbles on Clyde and Tweed for inland carriage via Glasgow and Berwick and pack horse to Crammond. A Polish author recently wrote an imagined account of Lugless Wull back in old age on the Clyde's banks. Lanark Grammar, one of the oldest schools in Britain, was the springboard of many remarkable men; General Roy was the father of accurate surveying that brought order in the British Empire; his Ordnance Survey is an essential tool of Town and Country Planning. The Falls of Clyde were formerly famed throughout Europe; the applicant is seeking to encroach on their environment further as they are at Boathaugh.

What has changed is the World wide holistic perception of environment and heritage. The Mission Statement of Historic Environment Scotland tell us "Historic Environment Scotland is the lead public body established to investigate, care for and promote Scotland's historic environment." It is required in the implementation of Planning law that current and future public interest be foremost if it is to comply with fundamental freedoms as in the paramount European Convention on Human Rights (Art1:1). This whole area cries out for protection and the vision to ensure that in time, caring conservation can be enjoyed by future generations. The situation requires a new beginning and an end to the demanding barren processes of objection.

Scottish [Wildlife](#) Trust

No new evidence is put forward but the previous objection to the western extension is confirmed due to the proposed translocation of the peatland known as Robiesland Bog, pending the submission of a detailed methodology which should be produced prior to planning approval.

[Working Group 28 August 2017](#)

The Working Group's submission at this stage reflects its further submissions leading up to the February 2017 hearing which are rehearsed elsewhere in this report. It raises concerns about the right to constrain proceedings, the scope of the re-opening of the case, the need for a hearings and the relevance of new documentation.

[Liz McIntosh September 2017](#)

Remains strongly opposed and against any further progression of any expansion of this companies site near New Lanark. Concerned that the fight to save this beautiful part of the countryside is still ongoing. For everyone living in and around Lanark it's about fighting for something that's beautiful, natural and that can never be replaced once it's taken. All the nature that would be affected as well as historical value, so in truth it should never just be about financial gain for either sides. What would be lost if this were to be approved would be a site of beauty and history to Lanark as well as a loss of faith in the trust and support that Lanark would probably feel lacking from local Scottish MSP's and Ministers. There would be the sense of do we actually mean anything that's worth fighting for. Lanark is already, in a lot of locals eyes, a diminishing town with stores closing at an alarming rate because of such high rental and rateable cost. Losing to this large conglomerate would be a final slap in the face.

APPENDIX 5: EXTRACT FROM REPORTERS' SUPPLEMENTARY REPORT 2015

Comments made on draft conditions for southern extension only (2015).

Cemex UK Operations Limited

2.1 No comments were made in relation to the proposed heads of terms for a planning obligation. Comments were made in relation to conditions 3, 5, 7, 11, 19 and 21.

2.2 Condition 3 – Instead of operations discontinuing in December 2030 they should be discontinued in December 2040. This is because the southern extension area is likely to contain only fine sands. There is less demand for fine sands as the core business is coarse aggregate for the concrete market. The reserves of coarse sand and gravel were predominately located in the western extension. Extraction of material has to align with market demand. The rate of extraction for the southern extension area only, is more likely to be between 150,000 to 200,000 tonnes per annum. Therefore, a longer timescale should be permitted.

2.3 Condition 5 – The period should be increased from 12 to 24 months. For similar reasons as stated above, the demand for fine sand is less, extraction may have to cease for periods of time in excess of 12 months so that the applicant can sell from sand stocks until levels of production are sustainable again.

2.4 Condition 7 – It is not reasonable to be required to provide enhancements to the southern extension area if consent is not granted for the more substantial and valuable coarse mineral rich western extension area. The existing restoration scheme approved under planning permission CL/11/0285 should suffice for restoration of phases 2A, 2B and 3¹. If condition 7 was removed, there would be consequential changes to conditions 9 and 33.

2.5 Condition 11 – circumstances have moved on since the hearing session held a year ago and in order to remain competitive the quarry should be allowed to open between 06:00 – 20:00 week days with no restrictions on public or local bank holidays.

2.6 Condition 19 – this condition is unnecessary as the southern extension would not result in any changes to the roads currently used.

2.7 Condition 21 – the importation of cement and other materials should be increased from 50,000 to 100,000 tonnes per annum. As explained previously, without the coarse mineral deposits it is likely that the importing of aggregates on site for blending will be necessary if the quarry is to remain economic.

South Lanarkshire Council

2.8 The council would request that an agreement under Section 96 of the Roads (Scotland) Act 1984 be secured as a planning obligation in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended). The reason for this is that a

Section 96 agreement is difficult to enforce in practice. Any costs have to be recovered from the vehicle operator. However, it can sometimes be difficult to identify the operator. In particular, there can be many heavy vehicle movements, the site owner is often not the vehicle operator and operators can change over the duration of the planning permission. On the other hand, it is relatively easy for the site operator to identify the heavy vehicles visiting its premises.

2.9 The council has had other unfortunate experiences regarding the enforcement of Section 96 agreements. It is binding only on the party who signed the agreement. Any changes to the operator can render the Section 96 agreement unenforceable, resulting in the council being unable to recover significant amounts of money

2.10 It would be inappropriate to use a planning condition requiring a Section 96 agreement to be signed by the applicant. However, it would be competent and comply with the relevant tests for there to be a planning obligation to have a Section 96 agreement in place for the duration of the consent.

2.11 The council also suggested minor alterations to the detailed wording of conditions 1, 4, 5, 6, 7, 8, 9, 11, 12, 13, 15, 18, 19, 22, 23, 24, 26, 27, 28, 31, 33, 36, 37, 38, 40 and 41.

The New Lanark and Falls of Clyde Working Group²

2.12 A planning condition or the heads of terms for the planning obligation should include the requirement for the establishment of a liaison group. The group should include three representatives of the Working Group in order to ensure appropriate input from key stakeholders regarding the protection and enhancement of the New Lanark World Heritage Site and the Falls of Clyde Designed Landscape.

2.13 Condition 1 – should be revised to exclude any mineral extraction from the New Lanark World Heritage Site Buffer Zone, the Falls of Clyde Designed Landscape and 50 metres from these designated sites. The reason for the condition should be consistent with the reasoning contained in the decision letter, otherwise the decision would be vulnerable to judicial review.

2.14 Condition 2 – in addition, no mineral working should take place within a buffer strip of at least 50 metres adjacent to the Drove Road and its extension adjacent to the track towards the property known as Boat Haugh.

2.15 Condition 3 – As phase 1 was intended to take 5 years to quarry, it is questioned why the time for completion is reduced by only 2 years.

2.16 Conditions 12 and 13 – question the consolidation of the council's original wording with less specific terms.

2.17 Condition 44 – reword as the existing landforms should be fully recorded prior to their removal.

Comments made on other parties' comments

Cemex UK Operations Limited

² [Response from The New Lanark and Falls of Clyde Working Group dated 6 August 2015.](#)

a) Comments on South Lanarkshire Council's comments

2.18 No comments to make on the council's proposed revisions to the detailed wording of a number of conditions. The council's proposed revised wording for condition 19 and its new condition is also acceptable.

2.19 In relation to condition 7, it should be noted that the council did not require an enhancement scheme in relation to the conditions applied to consent reference CL/11/0285. The enhancements previously proposed related solely to the western extension area. As the southern extension area is some considerable distance from the New Lanark World Heritage Site, any enhancements (as opposed to restoration) are not necessary.

b) Comments on The New Lanark and Falls of Clyde Working Group's comments

2.20 The reason for the establishment of a liaison group was in relation to the significant proposals for enhancement regarding the western extension area. There is no reason for a liaison group in relation to the southern extension only. South Lanarkshire Council has access to expert advice, if appropriate. The southern extension is not controversial and is not comparable with the development at Menie Estate, Aberdeenshire or with other mineral developments. Neither a condition nor a planning obligation would comply with the relevant Scottish Government guidance. In any event, the detailed wording provided would only establish a liaison group, it would not oblige the council to consult with such a group.

2.21 Amendments to conditions 1 and 2 – It is unnecessary to create a further buffer strip. Condition 2 requires the details of the western boundary to be approved by South Lanarkshire Council, which will address the matters raised by the New Lanark and Falls of Clyde Working Group. The reporters' conditions 12 and 13 are considered appropriate. There are no noise or dust problems at the site at present.

2.22 Amended condition 44 – The reporters' wording is appropriate. It should be noted that a wide working face is used which is gradually worked. The most efficient way for geological and geomorphological recording is to allow access as the extraction proceeds. Allowing recording prior to extraction is impractical and would mean extraction operations would have to be suspended.

2.23 Due to the misapprehension by the New Lanark and Falls of Clyde Working Group, the process for commenting on conditions has had to be extended from 24 August 2015 to 16 October 2015, thus further delaying the final decision on the application.

*South Lanarkshire Council*³

a) Comments on CEMEX Operations UK Limited's comments

2.24 The proposed amendments to conditions 3, 7, 11 and 21 would constitute a substantial change to the application proposed. Reference is made to the cases of *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1982) 43 P+CR 233*⁴

³ Rebuttal response from South Lanarkshire Council dated [13 August 2015](#) and [16 October 2015](#).

⁴ [Copy of Wheatcroft Ltd v Secretary of State for the Environment and Another \(1982\) 43 P+CR 233](#).

and *Walker v City of Aberdeen Council 1998 SLT 427*⁵. These proposed amendments raise substantial new planning issues not raised in the original objection. It would not be competent for the reporters to impose such conditions.

2.25 In relation to extending the timescale of operations (condition 3) this could more appropriately be carried out by an application under Section 42 of the Act, should circumstances justify. An extension of time by 10 years beyond that originally proposed should not be accepted.

2.26 In relation to condition 5, 12 months is considered to be a reasonable period. Twenty four months would have an adverse impact on the amenity of the surrounding area and is not acceptable.

2.27 Condition 7 remains appropriate in order to make sure that restoration/enhancement works proposed in zones B, C and D are completed. The suggested changes to the hours of operation (condition 11) materially change the original proposal and therefore should not be accepted.

2.28 Increasing the limit on the importation of materials to the site (condition 21) will generate an increase in vehicle movements. This increase has not been assessed as part of the transport assessment that accompanied the original application. In any event, condition 21 as drafted by the reporters allows an increase to be agreed by the council if accompanied by the appropriate supporting information.

2.29 In the light of Cemex UK Operations Ltd comments on condition 19, the council has suggested an alternative wording. In addition, a new condition is suggested to prevent debris being carried onto the public road.

b) Comments on The New Lanark and Falls of Clyde Working Group's comments

2.30 The establishment of a liaison group either by a planning condition or as a planning obligation is not necessary and would not be legally competent. South Lanarkshire Council can consult with Scottish Natural Heritage and Historic Scotland as well as its own Countryside and Greening Service. There is no need to consult with the New Lanark and Falls of Clyde Working Group in order to ensure that the restoration and enhancement proposals are acceptable. References by the council in its submissions to consulting with the Scottish Environment Protection Agency and the surrounding community are not comparable situations and do not provide suitable justification for the requirement to set up a liaison group.

*New Lanark and Falls of Clyde Working Group*⁶

a) Comments on Cemex UK Operations Ltd.'s comments

2.31 Both the applicant and the council consider that the establishment of a liaison group is unnecessary. The New Lanark and Falls of Clyde Working Group would argue that a liaison group is both necessary and reasonable (and with precedent) and would comply with the relevant guidance. Arguments in favour include:

⁵ [Copy of Walker v City of Aberdeen Council 1998 SLT 427.](#)

⁶ Rebuttal responses from the working group dated [13 August 2015](#) and [4 October 2015](#).

- Other proposed planning conditions refer to the council consulting with other parties as part of the condition approval process (see condition 28 which refers to the Scottish Environment Protection Agency).
- The council in response to some of the comments from Cemex UK Operations Ltd have stressed the need to consult with the surrounding community. The New Lanark and Falls of Clyde Working Group comprises a number of local and national organisations which can fairly be considered to represent the surrounding community.
- There was no objection from Cemex UK Operations Ltd and the council to the setting up of a liaison group for the western extension area.
- A liaison group is considered necessary to ensure the continuing protection of the setting of the buffer zone and the designed landscape. It is unreasonable that there should be no provision for the community or expert consultation in the approval of the various outstanding matters.
- The New Lanark and Falls of Clyde Working Group has a spread of expertise and could therefore fulfil a similar role as the Menie Environmental Management Group endorsed by Scottish Ministers for the golf course and resort complex at Menie Estate, Aberdeenshire.
- It is stressed that the New Lanark and Falls of Clyde Working Group is not seeking disproportionate measures for restoration and enhancement. However, detailed matters relating to working, finished levels, landscape treatment and access arrangements as they affect the setting of the World Heritage Site and the designed landscape require especially sensitive consideration.

2.32 The applicant considers that a 50 metre buffer strip is not necessary to protect the setting of the World Heritage Site. The New Lanark and Falls of Clyde Working Group argue that their revisions to conditions 1 and 2 are both necessary and reasonable, although the precise purpose can only be clarified with reference to the terms of the final decision letter.

2.33 It is anticipated that the justification for the Scottish Ministers' decision will not only include the setting of the World Heritage Site but also the setting of the Falls of Clyde Designed Landscape. The setting of the drove road, the boundary wall and the site of Boat Haugh also need to be protected in their own right.

2.34 In addition, the following points are relevant:

- There is already a buffer strip for the pre-existing consent.
- The extent of the workings would not be controlled unless a buffer strip is required.
- A buffer strip would screen the workings from the Bonnington Estate and other views. In the longer term, a buffer strip would also screen the inevitably man made restored workings. This would avoid an unfortunate contrast with the

visually distinctive natural features of the designed landscape immediately to the west. The effectiveness of the screening by a buffer strip was noted on the site visit.

- The Working Group proposed a 100 metre buffer strip at the conditions hearing which was not objected to by Cemex UK Operations Ltd at the time⁷.

2.35 The extension of the life of the quarry (condition 3) cannot be agreed. Extending the life of the quarry was not discussed at the conditions hearing session under item 5. The original planning application and associated material is based on the tonnage to be extracted, not on its possible composition. Extending the life of the quarry would raise fundamental questions about the overall phasing and whether that should be altered to protect the New Lanark World Heritage Site's buffer zone and the Falls of Clyde Designed Landscape. Again, in relation to the proposed amendment to condition 5, the applicant did not say this at the appropriate hearing session.

2.36 In relation to condition 7, it is argued that the enhancement of the entire area surrounding the southern expansion, especially the Drove Road and Boat Haugh is an essential part of the Area of Great Landscape Value/Special Landscape Area. There is no basis for the deletion of condition 7, although it is accepted that the relevance and cost burden must be reasonable. The extension of the operating hours in condition 11 is also questioned.

2.37 In relation to condition 44, the applicant argues that the suggested addition would be unnecessary and result in the suspension of operations. The New Lanark and Falls of Clyde Working Group are not suggesting invasive investigation of deposits prior to working but the topographical survey of the landforms which need not impact on operations.

Sir William Lithgow

2.38 In a letter dated 6 August 2015, Sir William Lithgow hopes that Scottish Ministers' would be able to attach conditions that deliver public access, sustainable conservation of the historic river side area of great beauty and the ruin of Boathaugh.

APPENDIX 6: ANNEXE TO CHAPTER 3

Summary Extract of Parties Cases 2015

Case for the Applicant

The buffer zone and setting

Buffer zones are primarily required to ensure that any development or change within them is given adequate consideration as to how such change may impact on the Outstanding Universal Value of the World Heritage Site. Therefore, a buffer zone does not necessarily equate to setting. This approach is consistent with the advice from Historic Scotland to this application and to assessing development in other World Heritage Site buffer zones throughout Scotland (see document CEM.14 as an example).

Following advice from English Heritage (document CEM.10 on 'The Setting of Heritage Assets') it is suggested that setting is not a heritage asset in and of itself. The concern should be with impacts on the surroundings of the asset which adversely affect the significance of the asset.

It is clear from the above that a buffer zone and setting cannot necessarily be conflated. Further, it is clear that not all areas within a buffer zone, and indeed not all elements of setting, are equally sensitive to change or development. Consequently, it follows that changes resulting from development would not necessarily result in the realisation of an adverse impact upon a heritage asset.

Outstanding Universal Value

New Lanark World Heritage Site was inscribed as a cultural site of Outstanding Universal Value in 2001 meeting four of the required criteria (see document I.2, paragraph 77; and document D.4).

It is submitted that the Outstanding Universal Values associated with New Lanark are tightly focused on the village's association with Robert Owen and his social, utopian and cooperative ideals. The village provides a tangible and material link reflecting these ideals and this time in history.

Impact on the World Heritage Site, setting and buffer zone

It is undoubted that the setting of New Lanark contributes to its significance. However, not all elements of setting contribute equally to the significance of a heritage asset.

During the nomination process the New Lanark Trust (see document CEM.22) stressed that while Outstanding Universal Value was clearly evident in New Lanark, that other areas proposed for inclusion (at that time) were demonstrably not of international significance and did not convey Outstanding Universal Value including the Bonnington Estate. This view was supported in correspondence between the World Heritage Coordinator in 2000 where it was presented that including elements of the surrounding landscape would "dilute the

nomination” (see document CEM.22). Accordingly, it is clear that the iterative process of preparing the nomination resulted in the Falls of Clyde being excluded from the World Heritage Site and being included in the buffer zone.

Further separation between the World Heritage Site and the buffer zone is found in the draft management plan for New Lanark (document D.5, part 1, section 1.1.2) where it states that “the boundaries were determined by a combination of past historic associations and the visual envelope; broadly, land visible from the historic village at the foot of the gorge is within the nominated site; that which forms part of the backdrop when looking down on or across the village and is not directly historically associated with New Lanark may be in the buffer zone.”

While the buffer zone contains elements of the setting of New Lanark, it is clear that not all of the buffer represents the heritage setting of the World Heritage Site. This is because, as per the Xi'an Declaration, which defines setting as being “... the immediate and extended environment that is part of, or contributes to, [a heritage asset's] significance or distinctive character” (document D.9, article 1), not all elements within the buffer zone contribute to the significance or character of New Lanark. Nor, as per Historic Scotland's guidance on setting, do they contribute to an understanding, appreciation or experience of the World Heritage Site, its Outstanding Universal Value, authenticity and integrity. It is put forward that the proposed western extension to Hyndford Quarry, while included in the buffer zone, does not form part of the heritage setting of the World Heritage Site such that it contributes to its Outstanding Universal Value. However it should be noted that even if the area were found to be part of the setting of the New Lanark World Heritage Site, it does not directly follow that quarrying of the site will result in an adverse impact upon the

Sensitivity to change within a designated buffer zone needs to be considered in terms of location within the buffer zone and relationship to the inscribed site, the type of change proposed and ultimately the resultant impact upon Outstanding Universal Value. It therefore follows that certain areas of buffer zones may be more sensitive to changes, dependent upon how that area of buffer zone supports the World Heritage Site. Indeed, such an argument was put forward by Historic Scotland at an early date following the inscription of the site on the World Heritage List.

In the information released by Historic Scotland (see CEM.22) was a precognition written by Historic Scotland with regard to the allocation of an area of housing at the Pleasance in the then proposed Lower Clydesdale Local Plan. In the document Historic Scotland set out that not all developments within the buffer zone will have a significant adverse impact upon the World Heritage Site. In discussion of the housing allocation differentiation is made between the possibility of development within a low lying area, largely shielded from views from New Lanark and the area of higher ground beyond this, which Historic Scotland noted contributes significantly to New Lanark's back drop. While it is stated that development on this higher rising ground should be resisted because of potential impacts upon the value of the World Heritage Site (paragraphs 1.14-1.15 of CEM.22), it is argued by Historic Scotland that development in the lower lying area, where there is limited visibility, would ‘... not constitute such a threat’ (paragraph 1.21 of CEM.22).

Such a statement by Historic Scotland reinforces the point that not all development within the buffer zone will result in an adverse impact upon the Outstanding Universal Value of the site. This point was reiterated by Historic Scotland in their consideration of this proposal.

As demonstrated above, several documents submitted as part of the nomination dossier indicate that the area proposed for quarrying has no direct historic link with New Lanark. Indeed, the 1995 review of the New Lanark and Falls of Clyde Conservation Area boundaries stated that this was the case. The adopted Conservation Area Character Appraisal has indicated that the current boundaries of the conservation area provide sufficient protection of the visual setting of New Lanark. This, along with consideration of the definition and function of buffer zones and the Outstanding Universal Value for which New Lanark is inscribed along with consideration of setting, were considered when undertaking the cultural heritage assessment and have been expanded upon here.

The specific area of land proposed for the western extension does not directly contribute to an understanding and appreciation of the significance of New Lanark as outlined in the Statement of Outstanding Universal Significance. Furthermore, the western extension would not harm the setting of New Lanark or reduce the ability to understand, appreciate or experience New Lanark and its Outstanding Universal Value.

Reference has been made throughout to the corroboration of Historic Scotland's assessment with that of the applicant's witness. It is reiterated here that Historic Scotland has found no '... objectionable impact on the setting of the WHS or its constituent parts' (document I.1, paragraph 4.7.3). Indeed in their comments to UNESCO, provided via the DCMS, Historic Scotland noted that, '... the likely impact on the OUV, authenticity and integrity of the WHS is minimal and was not significant to any extent and certainly well below a level where we would consider lodging an objection.' (document I.1).

The council has also noted that "The proposed development is not therefore likely to create a direct adverse impact on the New Lanark WHS and its setting, its Outstanding Universal Value, Integrity or Authenticity." (document A.21, paragraph 6.4.23). Furthermore, the council states that "... it is considered the setting of the WHS can be different from the area encompassed with the buffer." (document A.21, paragraph 6.4.27). This assessment corroborates that of Historic Scotland and that set out by the applicant.

While the impact is located within the buffer zone, neither Historic Scotland, the council nor the applicant have found significant adverse impacts upon the World Heritage Site or its setting. Further they have, in general, agreed that buffer zone does not necessarily equate to setting.

It has been argued here that area proposed for development does not form part of the heritage setting of the World Heritage Site, even if it were found to form part of the setting, its contribution to the significance of the asset, defined in the statement Outstanding Universal Value, must be seen to be neutral. Furthermore, the development is of such a type that it will not affect important views from the site.

It has been shown that the area of Bonnington Estate which is proposed for mineral extraction is not historically or visually associated with New Lanark and in any case no significant adverse impact has been found upon the World Heritage Site and its setting. Therefore, the council's assessment is agreed.

It has been shown that there will be no significant adverse impacts upon the World Heritage or its setting. A buffer zone is a management tool designed to provide additional protection

for the Outstanding Universal Value of a World Heritage Site. Whilst the development impact will be located within the buffer zone, the World Heritage Site, its setting and its Outstanding Universal Value will not be significantly adversely affected, as such the integrity of the buffer zone as an effective management tool remains intact.

It is acknowledged that “historical, artistic, literary, linguistic and scenic associations” can make a contribution to setting and therefore to significance of heritage assets. However, it must be reiterated that not all elements of setting contribute equally to significance and that the proposed extraction area does not directly relate to any of these elements of New Lanark’s setting, as set out above.

The environmental statement concludes that the proposed western extension would cause moderate to notable adverse significance of impact to Bonnington Estate and notable to substantial adverse significance of impact to the buffer zone in the short term during the operational life (up to eight years). Following final restoration, impacts were found to be beneficial in nature, giving rise to moderate beneficial significance of impact to Bonnington Estate and notable beneficial significance of impact to the buffer zone in the medium (10-15 years) and in the longer term (15-25+ years) (see paragraph 5.45, Table 15 of document A.5).

The environmental statement concludes (through its landscape and visual impact assessment) that “although the boundary of to the World Heritage Site itself lies approximately 750 metres away at its closest point and the buildings associated with the Mill lies approximately 1.1 kilometres away, the immediate surroundings and landscape setting of New Lanark is associated with the lower sections of the gorge of the River Clyde, is therefore only very marginally affected by the presence of the proposed western extension.”

It is accepted that the above assessment missed that views from ‘The Vu’ property within the New Lanark World Heritage Site, and two properties on Braxfield Road (75 and 75a) in the buffer zone, would be able to view workings on Primrose Hill. Primrose Hill would be worked very early in the operation allowing early restoration or interim restoration works to be undertaken – any visual disturbance to this area from these viewpoints would be limited to a few weeks. The impact of development is considered to be moderately adverse from ‘The Vu’ and slightly adverse from those properties on Braxfield Road but, following restoration, generally neutral. The impact from these properties would not be significant or change the overall conclusion that the proposal is acceptable.

Other World Heritage Site Matters

In May 2009, Scottish Ministers called in a decision by Falkirk Council to approve a planning application for the erection of a distillery, visitor centre, restaurant, six retail units, a bonded warehouse and a gatehouse, with a SUDS pond and landscaping works immediately adjacent to the Antonine Wall World Heritage Site and within its buffer zone. Historic Scotland objected to this application noting that the wall, in the location of Cadgers Brae, crossed a low-lying area of ground instead of the more defensive strategic higher ground to the south and that the setting, including particularly the local topography, was key to understanding the course of the wall in this location (document CEM.4, paragraph 5.7). There is no evidence that ICOMOS (International or UK) had any objection to or concerns with this development.

The developer made the case that, as the Antonine Wall was not upstanding in the vicinity of Cadgers Brae, it could not be understood or appreciated in its setting except by the most informed of observers and through the use of maps (CEM.4, paragraph 3.18, page 18). In addition, to offset any impacts upon the setting of the Antonine Wall, the developer offered to provide interpretation of the Antonine Wall to increase understanding, appreciation and access to the Wall at this location (CEM.4, paragraph 3.24, pages 19-20). Falkirk Council suggested that the Historic Scotland objections were academic and should be outweighed by the benefits of the proposal.

The reporter recommended Scottish Ministers refuse planning permission as he found that the benefits would not outweigh the impacts, particularly on the Antonine Wall. However, the Scottish Ministers disagreed with his interpretation and recommendation (see document CEM.5, paragraph 8).

This case is relevant to the Hyndford proposal because despite Historic Scotland's caution, included in their objection, the Antonine Wall World Heritage Site has not been placed on the World Heritage 'In Danger List' as a result of the development of the distillery and visitors centre at Cadgers Brae. This again indicates that an impact within a buffer zone and, in this case, on the setting of a World Heritage Site need not automatically result in significant adverse impacts upon the Outstanding Universal Value of the World Heritage Site. In addition, the ability to provide interpretive and enhancement features make these heritage assets more accessible and appreciable for all people.

The World Heritage Committee has recently placed Westminster Abbey & Palace World Heritage Site on the 'In Danger List' following consent for development in the vicinity – development considered by the committee to result in “a substantial adverse impact on the important views to and from the World Heritage property” (see document I.1, page 39). Only two other sites are on the 'In Danger List' as a result of impacts within their buffer zones and where “specific and proven imminent threats or 'potential' [...] threats [...] which could have negative effects on its World Heritage Values” (see document CEM.13) have been identified. These are Coro and its port, Venezuela (due to damage to structures, poor management, planning and conservation mechanisms), and Liverpool Maritime Mercantile City (due to a number of unsympathetic urban development projects). The Working Group has called into question the State Party's ability to effectively manage and conserve World Heritage Sites. It is recognised that poor management can put sites at risk but a joint UNESCO and ICOMOS monitoring mission to Edinburgh in 2008 found that “the protection arrangements are sufficiently effective. Legislation corresponds to international standards; there is no lack of legal protection of heritage – as far as heritage conservation can be regulated by law.” (See CEM.19, page 7).

Only two properties have ever had their World Heritage Status revoked – the Arabian Oryx Sanctuary in Oman (due to a reduced size in the sanctuary by 90% and a reduction in the number of Oryx from 450 to 67 with only four breeding pairs remaining – see CEM.8); and the Dresden Elbe Valley in Germany (due to the construction of a four lane bridge across the Elbe and within the World Heritage Site – see CEM.7).

UNESCO's concern is noted (see document CEM.17) in relation to New Lanark World Heritage Site and the proposed development (and that for housing – the Pleasance Housing Scheme). However, an expression of concern by UNESCO does not automatically result in a World Heritage Site being placed on the 'In Danger List'. Indeed, it was an expression of

concern that lead to the 2008 monitoring mission in Edinburgh by UNESCO and ICOMOS. Further, as can be seen from the examination of sites on the 'In Danger List' and those sites which have had their World Heritage Status revoked, and the fact that no significant adverse impacts are predicted upon New Lanark as a result of the proposed quarry extension, that it is unlikely that approval of the application would result in the World Heritage Site being placed on the 'In Danger List', let alone having its status revoked.

Falls of Clyde Designed Landscape

The Falls of Clyde Designed Landscape is a name employed by Historic Scotland to describe the four separate historic parks and gardens within 'The Inventory of Gardens and Designed Landscapes' (2006) that they maintain. The historic gardens consists of Braxfield, Castlebank Park, Corehouse and Bonnington, but also includes New Lanark Mills and village. Braxfield Historic Garden and Castlebank Park is located to the north-east of New Lanark, occupying fields and woodland that separate New Lanark village from the town of Lanark. Corehouse lies to the west of the steeply incised valley of the Clyde due west of Bonnington, and Bonnington occupies land to the east of the incised valley of the Clyde immediately to the south of New Lanark village.

The baseline historic study (paragraph 2.27 of document A.5) concluded that other historic areas and estates including Corehouse, Braxfield Park (including Castlebank Park), Castledykes Roman Fort, Monteith House and parkland, Westraw, Carmichael House and parkland have been assessed as receiving no impact from the proposed development. The main findings of the landscape assessment (paragraph 5.49 of document A.5) concluded that "no landscape impacts have been assessed as being caused to the historic setting and landscape character of the gorge of the River Clyde including The Falls of Clyde, Corehouse and Corra Castle." This is due to distance, intervening landform, including the location of the Falls of Clyde pathways generally within the incised valley and the presence of substantial woodland blocks preventing the occurrence of any landscape and/or visual impacts to these areas.

Although at one time the whole Bonnington Estate was managed as an integrated designed landscape, as can be clearly seen from 'William Forrest's map of the Country of Lanark, dated 1816' (see CEM.20, figure 1), since the sale of the estate in the 1930's, the various parcels of land have been managed to maximise agricultural usage, with the loss of many of the tree lined avenues and woodland policies, especially to the south. If the current unmanaged state of the area continues any historic value of the estate and its setting will be lost forever.

In terms of landscape character, the proposed western extension would cause moderate to notable adverse significance of impact to this section of Bonnington Estate in the short term during the operational life (up to eight years) and moderate beneficial significance of impact following final restoration in the medium (10-15 years) and in the longer term (15-25+ years) (see paragraph 5.45, table 15 of document A.5).

In terms of visual amenity the proposed western extension would cause moderate adverse significance of impact to the Drove Road and notable adverse significance of impact to the serpentine track in the short term during the operational life (up to eight years) and slight to moderate beneficial significance of impact respectively following final restoration in the

medium (10-15 years) and in the longer term (15-25+ years) (see panoramic photographs within figure 7 and the table contained within figure 7, sheet 3 of document A.5).

However, it is important to note that these levels of adverse landscape and visual impacts are generally confined to the immediate area, due to the marked variations in landform in proximity to the site. Effects to the remainder of the Bonnington Estate are generally either neutral, or beneficial in nature due to landscape management and enhancement works, as well as the establishment of new footpaths.

It is also suggested that the character and landscape setting of Bonnington Estate and parkland has severely declined following the loss of the mansion house in the early 1900's, the subsequent development of the Bonnington hydro-electric power station in 1927, and demolition of the mansion house in the 1950's. In particular, losses associated with veteran parkland trees, which are still in decline due to lack of management; the loss of water from the Falls of Clyde due to the power station's water intake which conveys water from the intake above Bonnington Linn to the turbines within the power station; plus the setting of the Pavilion (View House) and the high level path above the Falls of Clyde is further eroded by the location of a large concrete circular surge tank and exposed massive pipework taking water to the power station. Mention is also made of power lines crossing the parkland severely detracting from the historic setting.

Historic Scotland's Inventory (document D.10) notes that the parkland at Bonnington is degraded, noting also that "... The area of square parks to the southeast of the walled garden has now lost its enclosure character and the woods with radiating rides indicated on Roy's survey have been felled and the land turned over to arable use." Given this, it is difficult to see how the south-eastern portion of the park at Bonnington, in its current state, allows for an understanding of the value of the estate, as a picturesque landscape.

It is also noted that the existing quarry is visible just beyond the Bonnington Estate wall and is currently accommodated in the landscape and does not cause a significant reduction in the ability to understand or appreciate the significance of the designed landscape.

Nevertheless, there will be a loss of landform in the south-east corner of the Bonnington Estate as part of the extraction process. This will include a portion of Primrose Hill which appears to have been topographical feature which influenced the original, but no longer extant parkland planting in this area. Furthermore, the quarry extension will be visible from some locations within the Bonnington designed landscape, most notably from Peacock Hill - a key location for significant long or panoramic views.

While important views from this location are primarily on a north/south access, taking in views over New Lanark and Lanark to the north and Tinto Hill in the south, the quarry has the potential to affect an observer's experience of these views. Historic maps indicate that this hillock is not only important in terms of current views but that it also provided an important viewing location in the past as evidenced by the location of a possible view-house or folly on its summit. [Note: Ministers may wish to refer to grid references provided in paragraph 4.76 for the location of Primrose Hill, Peacock Hill and other identified landmarks.

While the area of extraction would result in a final landform which is lower than the natural landform, and indeed will result in the restoration of the boundary wall at lower level, the restoration proposals have the potential to re-establish a connection between the south-

eastern corner of the estate with the wider designed landscape. This, combined with the proposed interpretation, could increase understanding and appreciation of and access to the Bonnington Estate. Therefore, the proposed restoration and enhancement proposals mitigate this impact to an acceptable level and it is noted that Historic Scotland and the Council have satisfied themselves as to the appropriateness of this.

Given their extensive areas and continued use within the modern, evolving landscapes a preference for preservation in situ, often applied to archaeological sites and monuments is not particularly practicable in preserving the heritage value of designed landscapes. In fact, it is arguable that no intervention within these landscapes would result in a loss of features which contribute to the value of the landscapes. As such, proposals for development within gardens and designed landscapes have been granted planning permission, especially where the development includes mitigation to offset impact or enhance important elements of landscapes. Consented development at Auchincruive in Ayrshire and Fasque Estate in Angus are cited as examples that there is not an automatic presumption against development within gardens and designed landscapes, but rather that each case should be judged on its own merits.

The environmental statement considered the boundary wall along the eastern extent of Bonnington Estate to be of regional heritage value. While it is part of the estate and included within the boundaries of the Falls of Clyde Designed Landscape, it cannot on its own be considered to be of national importance. Indeed, it is as a result of its association with the Bonnington Estate and its age that it is elevated to regional value. Similar features throughout Scotland are largely considered to be of local value.

The boundary wall extends along the southern and eastern boundaries of Bonnington. It is in variable condition along this length. South of Robiesland it contains entrances into modern agricultural fields. At the south-eastern corner of the estate the wall turns west, follows along the line of some remnant boundary trees and descends the hill towards the river. The wall is in less good condition along this southern boundary with numerous area of tumble. Towards the river, near the remains of Old Tulliford, it is little more than a turf covered bank.

While the wall is a visual feature today map regression shows that the boundary was historically lined with trees. This is shown on Roy's 1752-55 map and later OS maps indicate that the entire south-eastern corner of the estate was planted (document A.5, figures 6 & 10 in chapter 16). This suggests that the wall was not necessarily an important visual feature in the development of the picturesque landscape and parkland at Bonnington. Rather, it was more likely important functionally as an ownership boundary and possibly to keep livestock or game.

The environmental statement noted that the removal of a portion of the wall would result in an impact of high magnitude and moderate significance. It suggests that the wall should be recorded to a high level, to understand its layout design, materials and method of construction (factors listed as being of possible importance by Historic Scotland's guidance on 'Managing Change in the Historic Environment - Boundaries' (document CEM.27)). This would provide preservation of the existing wall by record prior to its removal. Recording of the wall would also allow for its reinstatement along the same line, to the same design and with the same material. This would allow the reinstatement and long-term retention of the wall's function as a boundary for the Bonnington Estate, albeit at a different height above ordnance survey.

Reinstatement of the wall would be undertaken with regard to Historic Scotland's Managing Change guidance on boundaries, particularly paragraph 5.7 which gives guidance on rebuilding (CEM.27).

Historic Scotland have indicated that they welcome the restoration and enhancement proposals included in the application, including specifically the "... the rebuilding, on its original alignment, of the 18th century estate wall that marks the eastern boundary of the designed landscape" (document A.10(c)). As noted above, although this reinstatement will be at a different level, it will allow the functional retention of the wall as a boundary feature. All work undertaken in recording the wall and reinstating it will be undertaken in line with Historic Scotland guidance. Therefore, it is considered that impacts upon the wall can be mitigated to an acceptable level and comply with development plan in this respect.

The environmental statement found that there would be significant adverse impacts upon the Falls of Clyde Designed Landscape. However, it is reiterated that the proposed extension would not unduly harm an observer's ability to understand or appreciate the Falls of Clyde as a significant Picturesque Landscape. It is clear that the objectives of the designation have not been compromised though an observer's experience of the Bonnington landscape will be affected during the extraction period. However, as noted above, mitigation could enhance understanding, appreciation and experience of the overall Falls of Clyde Designed Landscape. These restoration and enhancement works form part of the application and following the completion of these works there will be beneficial impact upon the landscape. Following the restoration and enhancement works, the development will result in a beneficial impact.

Designed Landscape conclusion

Based on the proposals as a whole, including restoration, mitigation and enhancement measures, working within the proposed western extension would generate no significant impacts on the landscape character and visual amenity to the Falls of Clyde Designed Landscape. Therefore, whilst there are adverse impacts in the short-term, which only effect a very small proportion of this designed landscape, in the medium to long-term, the proposals would not adversely affect the integrity of the designed landscape and the development is assessed as being compliant with the development plan. The level of predicted effects are also capable of being monitored and controlled by planning conditions and the proposed planning obligation.

Case for the Council

Nomination of New Lanark for inclusion in the World Heritage list

The nomination document (document D.2) was prepared for the purposes of gaining world heritage status alone, and is therefore not to be used in assessment of the proposal.

Other policy comments

It is suggested that in relation to heritage designation documents is that these relate to an international convention - The Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention). Therefore, these should only be

considered to the extent that they have been incorporated into Scots or UK law. Further, that drafts, preparatory documents, and submissions as to what should be in documents should not be referred to in determining the meaning of the finally agreed document. These points are raised in response to the Working Group and other parties reliance on a number of preparatory and other documents (mainly core documents D and F) in relation to the intent of the designation of the New Lanark World Heritage Site including the buffer zone and the meaning of Outstanding Universal Value. The primary concern should be on the Scottish Government documents, such as Scottish Planning Policy that bring the effect of the World Heritage Site designation into Scots Law and the trickle down from the Scottish Planning Policy to the development plan. It is submitted that one only needs to refer to other documents where there is ambiguity.

The application site is located entirely outwith the New Lanark World Heritage Site, some 600 metres to the south-west. The closest part of the extraction area is located 900 metres from the world heritage site. As a result of local topography, and natural and built screening, the extraction area would not be visible from within the New Lanark World Heritage Site. The proposed development would not result in unacceptable visual impact on the world heritage site. Consequently, the potential impact of the proposed development on the New Lanark World Heritage Site is confined to impact on the character, integrity and quality of the buffer zone and potential impact on the setting of the site.

The majority of visitors to the area would visit New Lanark and the Falls of Clyde. Visitor experience of the gorge and New Lanark would be unaffected by the development. In the long-term, following restoration, the application site would deliver an improved area, through tree planting, footpath construction, and other improvement works, which would support the World Heritage Site and provide additional opportunities to visitors to the site.

Outstanding Universal Value

In line with the Adopted Statement of Outstanding Universal Value – United Kingdom 2011 (document D.4) the level of authenticity at the New Lanark World Heritage Site is identified as being high, and the integrity of the village is close to that of the nineteenth century.

The location of the proposed extraction areas would mean that there would be limited inter-visibility from the World Heritage Site. Therefore, the proposed operation would not likely adversely affect the value of New Lanark World Heritage Site as it relates to the interchange of human values, its architectural merits, or the living traditions of the site, and the ideas and beliefs of Robert Owen. The proposed development would not adversely affect the factors which contribute to the integrity and authenticity of the New Lanark World Heritage Site.

It is noted that ICOMOS-UK consider that the buffer zone of New Lanark World Heritage Site relates to the its Outstanding Universal Value, which is at odds with Historic Scotland's view. Historic Scotland's stance is preferred in this instance because:

- there is limited inter-visibility between the application site and New Lanark World Heritage Site;
- the buffer zone is not included within the World Heritage Site;
- the buffer zone is within the Falls of Clyde Designed Landscape designation;

- the application site is not located within the immediate setting of the World Heritage Site, nor within important views to or from it;
- the restoration proposals would provide benefit to the area; and
- Historic Scotland is a statutory consultee whereas ICOMOS-UK is not.

Having regard to the findings of the environmental statement, the advice provided by Historic Scotland, and based on the consideration of the nature and location of the proposed development, it is considered that the extraction operation would not be visible or audible from New Lanark World Heritage Site. The proposed development is unlikely to create a direct adverse impact on the World Heritage Site and its setting, its Outstanding Universal Value, integrity or authenticity. Whilst there may be inter-visibility, this would be limited and temporary and would not adversely affect the character, integrity and quality of the World Heritage Site and does not therefore merit refusal of the proposal.

New Lanark World Heritage Site Buffer Zone

The buffer zone is an area surrounding a World Heritage Site in which development may harm the site's setting, views or attributes. The buffer zone add a supplementary degree of protection to a World Heritage Site. Its purpose is therefore to ensure that planning decisions around a World Heritage Site fully consider the potential impact which they might have upon those elements which contribute to the outstanding universal value of the World Heritage Site itself. Development within the buffer zone is not precluded, but does require stringent assessment.

The geographical area of the setting of the New Lanark World Heritage Site and its buffer zone differ. Whilst there may be some coincidence between the two areas, the setting is different than the area encompassed within the buffer zone, and certain areas in the buffer zone do not form part of the setting.

The proposed extraction would encroach around 20 hectares into the eastern periphery of the 667 hectare buffer zone of the World Heritage Site. Whilst on completion of restoration, the development would permanently change the original landform within this part of the buffer zone, it is noted that the proposed restoration profile of the western extension would reflect the gradients of the surrounding area and wider landscape setting.

Whilst it is accepted that there would be a temporary negative effect of some eight years on the buffer of the World Heritage Site during extraction operations, it is not considered that there would be a resulting negative effect on the character, integrity and quality of the World Heritage Site or its setting. The proposal would ultimately lead to the enhancement of the buffer zone.

The restoration of the site, including planting and landscaping proposals which would reflect and potentially improve the parkland character of this part of the buffer zone would ensure any functional role it plays is adequately addressed.

The proposal would not conflict with the aims of the New Lanark World Heritage Site Management Plan 2013-2018, and would positively contribute to aim 4 to improve access to and within the World Heritage Site following restoration.

The Falls of Clyde Designed Landscape

The Falls of Clyde Designed Landscape was designated following an assessment against seven criteria: work of art; historical; horticultural, arboricultural, silvicultural; architectural; scenic; nature conservation; and archaeological. The proposed development should be assessed against its impact on these criteria.

The historical enhancement of the natural scenery around the Falls of Clyde through landscape design gives the designed landscape a high value as a work of art. However, as views to the extraction site from the gorge and other popular pathways would be restricted it is not considered that the development would significantly affect this quality of the designed landscape.

The development and appreciation of picturesque landscape theory is noted as being of historical significance to the Falls of Clyde and surrounding estates. It is acknowledged that the proposal would have an adverse impact on the picturesque parkland landscape within the Bonnington Estate during extraction operations. However, the restoration and enhancement proposals would result in long term and permanent benefits to the parkland.

The Inventory notes that the designed landscape has little horticultural value, and none is recorded of value within the Bonnington Estate. In terms of architectural and archaeological interest there would be no significant adverse impact on listed buildings or scheduled ancient monuments within the designed landscape.

The designated area is known and recorded for its outstanding contribution as a scenic landscape. The proposed development would cause an adverse impact on the scenery within part of the Bonnington Estate during extraction. However, this impact would be mitigated following restoration and enhancement.

In conclusion, the proposed development would cause a temporary significant adverse impact within the Falls of Clyde Designed Landscape technically contrary to local plan policies. However, the need for minerals together with the restoration and enhancement proposals mean that on balance there would be long-term improvement of the designed landscape.

Historic Scotland is directly responsible to Scottish Ministers for safeguarding the nation's historic environment, and promoting its understanding and enjoyment. It provides advice and guidance in relation to world heritage matters and for ensuring compliance with the UNESCO World Heritage Convention.

Bonnington Estate Boundary Wall

It is accepted that the Bonnington estate wall is one of the last remaining built heritage features relating to the former parkland, which survives as a relatively prominent feature in good condition. Whilst it is acknowledged that the wall would be reinstated on land of differing topography than existing, it is considered that the mitigation measures put forward

by the applicant (to rebuild the wall) are acceptable, and sufficient to offset the adverse impact.

The case for the Working Group

Role of Historic Scotland (now Historic Environment Scotland)

Historic Scotland is the only organisation with an interest in heritage matters to have made a representation and not objected. Historic Scotland's response is contrary to assurances given when the site was nominated that quarrying would not occur in the buffer zone, which reflects both deficient procedure and faulty analysis.

In the nomination document (D.2) Historic Scotland wrote that "open cast mineral working takes place between Bonnington and Hyndford, beyond the buffer zone. The draft local plan policy prevents its expansion into the buffer zone." Further assurances were given by Historic Scotland that mineral working would not occur within the buffer zone prior to the application now under scrutiny.

It is inconceivable that the council would have recommended approval of the application had the principal statutory consultee (Historic Scotland) objected. Ministers' highly unusual decision to call-in the application indicates that they were not confident of the robustness of Historic Scotland's response. Also, UNESCO's World Heritage Committee has recently expressed concern about the potential adverse impact of the proposal on the New Lanark World Heritage Site's Outstanding Universal Value.

Pre-application discussions between Historic Scotland and the applicant were inappropriately informal where Historic Scotland indicated no objection 'in principle' to quarrying in the New Lanark World Heritage Site buffer zone. Historic Scotland then confirmed that it would not object at the application stage because of assurances it had given at the pre-application stage. Its analysis was flawed in finding no inter-visibility between the proposed extraction site and the world heritage site. Its response was also contrary to its objection to a housing proposal (the Pleasance housing scheme) where the potential impact on the setting of the World Heritage Site was of concern.

Historic Scotland's failure to understand the rationale behind the boundaries of the buffer zone are at the heart of the disregard that it has shown for the area when confronted by the quarry proposals. Procedural negligence led to an early decision not to oppose the proposed development, and a reluctance to face the consequences or error has led to an unwillingness to correct its position when presented with meticulously researched evidence (from the group) that reveals the deficiencies of its original position. This represents an unambiguous failure by the State Party.

Outstanding Universal Value, Setting and Buffer Zone

Historic Environment Scotland is the only organisation with an interest in heritage matters to have made a representation and not objected. Historic Scotland's response is contrary to assurances given when the site was nominated that quarrying would not occur in the buffer zone, which reflects both deficient procedure and faulty analysis.

In the nomination document (D.2) Historic Scotland wrote that “open cast mineral working takes place between Bonnington and Hyndford, beyond the buffer zone. The draft local plan policy prevents its expansion into the buffer zone.” Further assurances were given by Historic Scotland that mineral working would not occur within the buffer zone prior to the application now under scrutiny.

It is inconceivable that the council would have recommended approval of the application had the principal statutory consultee objected. Ministers’ highly unusual decision to call-in the application indicates that they were not confident of the robustness of the Historic Scotland’s (now Historic Environment Scotland) response. Also, UNESCO’s World Heritage Committee expressed concern about the potential adverse impact of the proposal on the New Lanark World Heritage Site’s Outstanding Universal Value.

Pre-application discussions between HES and the applicant were inappropriately informal with an indication of no objection ‘in principle’ to quarrying in the New Lanark World Heritage Site buffer zone. A position of no objection was confirmed given assurances at the pre-application stage. The analysis was flawed in finding no inter-visibility between the proposed extraction site and the world heritage site. It’s response was also contrary to its objection to a housing proposal (the Pleasance housing scheme) where the potential impact on the setting of the World Heritage Site was of concern.

A failure to understand the rationale behind the boundaries of the buffer zone is at the heart of the disregard that HES has shown for the area when confronted by the quarry proposals. Procedural negligence led to an early decision not to oppose the proposed development, and a reluctance to face the consequences or error has led to an unwillingness to correct its position when presented with meticulously researched evidence (from the group) that reveals the deficiencies of its original position. This represents an unambiguous failure by the State Party.

The Xi’an declaration (document D.9) defines “setting” as “the immediate and extended environment that is part of, or contributes to, its significance and distinctive character.” There can be no doubt, either in terms of the World Heritage Site or planning policy, that the buffer zone represents the immediate setting of the World Heritage Site. It is noted that the reporter examining the proposed minerals local development plan (see document B.4) stated “I regard the buffer as being equivalent to the setting of the World Heritage Site.”

It is obvious that the part of the buffer zone which includes part of Lanark is neither a natural or designated landscape, but it clearly forms part of New Lanark’s setting. Equally, it is possible that some of New Lanark’s wider landscape setting lies outside the buffer zone, but it is clear that the proposed western extension is part of New Lanark’s immediate landscape setting. The nomination document (D.2) states that “the designed and natural landscape forms the setting and ambience of New Lanark and is intimately bound up with the value of the site.” The explicit reference to ‘designed landscape’ in this quote, and further that the significance of the sublime landscape, is derived from the juxtaposition of the gorge with the parkland, so both are essential to New Lanark’s interpretation.

The first management plan for the World Heritage Site (submitted alongside the nomination document) stated that “the landscape backdrop to New Lanark forms an essential part of its universal significance.” In addition, the ICOMOS advisory document (D.3) states that “Owen commissioned artists’ views of New Lanark that firmly place it in this awesome, yet designed,

cultural landscape.” The role that the landscape setting has contributed to the Outstanding Universal Value of New Lanark and its understanding has been demonstrated beyond doubt.

There are two relevant links between landscape setting and Outstanding Universal Value that are directly relevant to the proposed development. The first relates to the role that the Falls of Clyde Designed Landscape played in attracting visitors to New Lanark and in promulgating the social philosophy of Robert Owen. The second relates more generally to the landscape setting of New Lanark that was influenced in creating the community that Owen desired and affects our ability to interpret it today.

There is a tangible link between landscape setting and the promulgation of Owen’s views as evidenced in the ICOMOS advisory document (D.3) which stated “because of its location, on the route from Lanark to the famous Falls of Clyde, the mills became one of the features of a tour of Scotland. Contact with distinguished visitors and a high level of public consciousness widened Owen’s ideas.” Based on an examination of the visiting books kept at New Lanark Professor Donnachie prepared a peer review paper which concludes “the motivations of visitors to New Lanark and the falls combined picturesque tourism with the reformist tendencies emerging at the time...it is appropriate that the historic dimension of the community, as a focus of social conscience and environmental conservation, is sustained in its role as a UNESCO World Heritage Site and visitor attraction.”

Donnachie’s statements (documents H.13 and H.20) also suggests that “beyond New Lanark and the ideas it represents, the landscape and natural environment continue to attract large numbers of visitors, the multiplier effect on the town and South Lanarkshire being very considerable. The fact is that the community and the environment are integral in the perception visitors have of the World Heritage Site.”

Further and important evidence of the continuing link between the landscape setting of New Lanark, including Bonnington and the Falls of Clyde, is found in the mural by Alasdair Gray entitled ‘The Falls of Clyde’ (or ‘The Kirkfield Mural’) – see document H19. The mural’s essential vantage point is the Bonnington Parkland. It shows New Lanark, Lanark, Bonnington Linn, Corra Linn, the Bonnington Iron Bridge, the View House, and the pipes and other features associated with Bonnington Power Station. The mural encapsulates the enduring unity of Lanark, New Lanark and the Falls of Clyde. It confirms the tangible role that the landscape setting plays in the Outstanding Universal Value of the World Heritage Site.

In relation to the more general landscape setting, the nomination document (I.2) states that “the designed and natural landscape forms the setting and ambience of New Lanark and is intimately bound up with the value of the site.” The retrospective statement of Outstanding Universal Value (document H20 Annex 1) also states that “New Lanark is an exceptional example of a purpose built 18th century mill village, set in a picturesque Scottish landscape near the Falls of Clyde.” The recent UNESCO World Heritage Committee meeting commented that “it is recalled that the Outstanding Universal Value of the property emphasises the contribution of Robert Owen’s philosophy of industrial towns being developed within sublime landscapes, and that the buffer zone was therefore acknowledged as providing an essential setting for the property, through the way it illustrates the importance of locating factories in healthy and inspirational places.”

To further cement the argument that the landscape setting is a key component of the World Heritage Site, it is noted that Historic Scotland originally intended to include the upper Falls of Clyde (Corra Linn and Bonnington Linn) within the World Heritage Site boundaries until late in the nomination process.

The operation guidelines also suggest that “the immediate setting of the nominated property, important views and other areas or attributes that are functionally important as a support to the property and its protection” should be included within the buffer zone.

In light of the above submissions, it is argued that the landscape setting of New Lanark is functionally important as a support to the property and its protection, and that any attempt to narrow its role to direct visual impacts would be erroneous.

A full understanding of the attributes and their relationship to Outstanding Universal Value emerges from details in the nomination document (D.2) and ICOMOS advisory document (D.3). Study of these alongside the retrospective statement of Outstanding Universal Value provides an understanding of the rationale for the inscription of the World Heritage Site. These, together with the rationale behind the boundaries of the site and its buffer zone, demonstrate how the Falls of Clyde Designed Landscape contributes to the Outstanding Universal Value of the New Lanark World Heritage Site.

Guidance on heritage impact assessments (document C.17) states that “authenticity relates to the way attributes convey Outstanding Universal Value and integrity relates to whether all the attributes that convey Outstanding Universal Value are extant within the property and not eroded or under threat.” ‘Landscape setting’ is an essential attribute that conveys Outstanding Universal Value. If this is irrevocably damaged then the integrity of the World Heritage Site is damaged. It is noted that guidance from ICOMOS refers to the possibility of reducing or rehabilitating areas. However, the landscape cannot be restored to the way it was before being quarried. Attempts at restoration based on a fundamentally altered landscape form would represent an inauthentic way of conveying Outstanding Universal Value.

The Falls of Clyde Designed Landscape

The proposed western extension would represent an incursion into the designed landscape which would directly conflict with the central purpose of the protective policies, which aim to conserve and enhance it.

Scottish Historic Environment Policy sets out seven criteria to be used when assessing the value of a landscape, and what they mean, as follows: “*to be deemed as being of national importance, and therefore included in the Inventory, a site will usually have to meet a majority of the criteria. In particular it would have to be demonstrated that it had sufficient integrity in its design to merit inclusion.*” The Falls of Clyde was ranked as ‘Outstanding’ on four of the criteria employed, and ‘High’ on two others. Having reviewed the 2006 inscription of the designed landscape, it is submitted that the Bonnington Estate (part of the overall designation) contributes to the following four criteria:

Work of art: “*Throughout the 18th and 19th centuries drives, paths, viewpoints and other incidents were constructed in the surrounding estate landscapes to enhance the experience.*”

Historical: “*Bonnington Estate had a major influence on the picturesque tourist industry.*”

Architectural: Six features are listed of interest – the Bonnington Pavilion; the Fountain Bowl (Lady Mary’s Well); the foundations of the Fog House/Summer House and connecting iron bridge; “*a good drystone wall running from New Lanark to the end of the estate, south of Robiseland and down towards the Clyde*”; a lodge house (East Lodge); and Bonnington Power Station.

Scenic: Under descriptions of drives and approaches – “*the drive gives a good approach to the estate running from high ground with views over the park at Bonnington below, and to Corehouse beyond*”; and parkland – “*the parkland at Bonnington is of an undulating appearance which is the result of fluvio-glacial deposits of sands and gravels. These formations, sometimes referred to as ‘kame and kettle’ are formed as a result of fast melting snow during the iron age.*”

The Inventory of Gardens and Designed Landscapes notes that the Bonnington Parkland is “*degraded but views from the approach road give a good idea of how it must have been.*” The nature of degradation is identified as (a) tree loss, and (b) loss of ‘enclosure character’ of part of the parkland. This situation is reversible without the need to quarry the land.

Tree loss is an absurd reason to justify the destruction of the natural landform of the designed landscape. Emphasis on tree loss is evidently exaggerated as the Inventory entry was made as recently as 2006. The nature and extent of degradation has not altered materially since that time. Therefore, tree loss, and other features of the area judged by the applicant to detract from the designed landscape designation, had already been taken into account when the assessment for inclusion in the Inventory had been made.

The Inventory emphasises that “whilst the name Falls of Clyde is a collective for the above site it must be remembered that the designed landscapes of each estate area important within their own right.” Therefore, by permanently altering a distinct natural part of the Bonnington Estate landscape, as well as permanently altering noted features such as the boundary wall (see paragraphs 4.85 to 4.87) and removal of mature trees, the proposed development inherently undermines the integrity of the designed landscape.

The local plan identifies the area as a whole (the World Heritage Site, the buffer zone, the designed landscape, and the setting of heritage assets) as forming “a unique assemblage with significant associations with Scotland’s natural and cultural history.” This interdependence means that undermining the integrity of an integral part of any of the estates within the designed landscape would undermine the integrity of the designation as a whole.

In addition, the natural fluvio-glacial landform is fundamental to the interpretation of the designed landscape and hence its integrity. In particular, the impact on views would be permanent and this would undermine the ability of visitors to interpret the designed landscape. Further, it is submitted that that the council’s suggestion that the impact is local (i.e. confined to less than one kilometre) is misleading in its implication. Replication of the characteristic fluvio-glacial topography is impossible in any reasonably authentic manner. It is not only the slope replication which poses the challenge to future interpretation, but the

new feature which would be created by the substantial hollow, the form of which would be inexplicable in terms of fluvio-glacial processes.

The proposed western extension would also harm views, historic understanding, and the unique sense of place (including its ambience, quietness, and quality of natural landform) as experienced from:

- the beech-lined estate approach road from the A82 to Robiesland, after the turn to Bonnington Mains, which would overlook the extraction area and then permanently altered landform following quarrying;
- the route west of Robiesland (at East Lodge) which would follow the extraction site boundary, where bunds would also be unsightly and provide little screening;
- Lady Mary's Walk, particularly the panoramic view at its high point (grid reference NS 888790 42220);
- the high path (Curved Terrace) above Corra Linn that connects the Bonnington View House to the gorge and the walled garden (grid reference NS 884 414 to 884 413);
- the historic circular walkway from Bonnington House along the terrace to the View House, then to the walled garden (grid reference NS 88440 41270) and onto Peacock Hill (grid reference NS 88670 41300);
- two seldom used paths which are of historic importance: Green Avenue that runs roughly south from Robiesland Cottage (grid reference NS 89040 41740) and by the avenue of trees that runs south west through a mature avenue of trees from the high point of Lady Mary's Walk (grid reference NS 88790 42220).

Development would also have detrimental impacts in views from Bankhead to the designed landscape, and on the following viewpoints of importance within the designed landscape:

- Peacock Hill / Gentleman's Mound (grid reference NS 88670 41300).
- Prominent Peak (grid reference NS 89070 41300).
- Hillocks (grid reference NS 892 416, NS 89200 41860, NS 890 409, and NS 885 421).
- Drummonds Hill (grid reference NS 886 404).

Two historical maps of the Bonnington Estate have been uncovered by the group of which much has been learned about its features of interest. The western extension threatens the ability to deepen the interpretation of the estate by damaging its landform.

The crucial and unavoidable effect of quarrying in the designed landscape is that the natural landform, which is its fundamental attribute, would inevitably be altered permanently. Geologically this would be obvious, and it is equally obvious that the permanent impact of the proposed development would be detrimental to the interpretation of the landscape and

would be experienced from a wide range of routes and viewpoints throughout the landscape. The effects would be experienced not only from individual viewpoints, but as people experienced the landscape historically and as they experience it today by travelling through it. The cumulative adverse effects experienced by visitors during a visit and over time therefore would be magnified far beyond that which is suggested by the approach employed in the environmental statement.

The evidence presented by the group demonstrates that the proposed western extension would undermine the integrity of the area in its role not only as a designed landscape but also as the setting (buffer zone) of the World Heritage Site, and by extension on the attributes of the World Heritage Site.

Bonnington Estate Boundary Wall

The effective loss of the parliamentary wall is of particular concern. This boundary wall follows the section of track known as the Drove Road as it passes East Lodge at Robiesland and runs southwards and then abruptly runs south west to the former river crossing at Tulliford. The loss of the boundary treatment (the enclosure wall and track itself) would be permanent, since the wall would be replaced on a quite different topography. The subtle outline of the wall against the skyline would be lost, as its trajectory would become downwards rather than upwards then downwards as now when walking in a southerly direction. It should be noted that this wall is of at least national significance as a rare Parliamentary Wall and the southerly section is in a good condition, and has been cared for by the resident of East Lodge. Apart from the loss of the route itself, east–west views would be irrevocably removed with the full effect of the proposed bowl especially obvious through gateways, one of which existed to form the entrance to the tradesman’s entrance to Bonnington House, by the southerly side of Robiesland bog) as is clearly visible on the 19th century OS maps – an understanding that would be lost irrevocably.

The wall’s significance has not been fully recognised. Historic Scotland noted in its Scoping Opinion: “Is this boundary wall significant (check 1st edition OS)?” This is not evidence of an application well considered. The wall is important to our understanding of the designed landscape as it marked the enclosure of the estate by Sir James Carmichael. It required a Parliamentary Act in 1717 to be enacted to be constructed. According to research conducted by a local historian, Ed Archer, considerable detail about the construction of the wall and the route that it followed can be found in the Burgh records, and the quality of construction was unusually high (see document H.20). It is very unusual to have an early 18th century wall survive in such good condition.

McGowan and Dingwall’s assessment (document H.16) suggests that the function of the wall in separating the two landscapes (inside and outside the designed landscape) will be diminished by reducing the definition between them: “Changing the boundary definition of the designed landscape provided by the wall in views from within the designed landscape due to the lowering of its vertical alignment to the level of the reduced landform, resulting in more openness and significantly diminishing its function as a visual boundary.” This being the case the Group cannot accept that its dismantling and reconstruction on a radically altered topography can be achieved without an unacceptable loss of authenticity. The loss of the wall is considered contrary to local plan policies ENV 4 and ENV 28, and minerals policy MIN 2 (as the wall is a component of the Falls of Clyde Designed Landscape), but also to the provisions of Scottish Planning Policy (see paragraph 4.43).

Historic Scotland – Summary of Case

Roles

Historic Scotland were consulted on the content of the environmental statement and on the proposed planning application. Historic Scotland is restricted to its statutory remit to respond only to matters about A-listed buildings, scheduled ancient monuments, and gardens and designed landscapes (as per the terms of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended)). Issues regarding B and C listed buildings, and the conservation area, were directed to the council's archaeology and conservation advisory service.

As advised in Scottish Government Planning Circular 3/2009 on the notification of planning applications, Historic Scotland will only object to a planning application when it considers that a proposal raises issues of national significance. Each application is assessed individually and therefore the response will differ depending on the circumstances of each case. This is why Historic Scotland objected to a housing development affecting the New Lanark World Heritage Site (the Pleasance housing application) but does not object to the Hyndford proposal.

UNESCO is the governing body which agrees inscription of nominated World Heritage Sites which are considered to manifest Outstanding Universal Value, and satisfy protection and management requirements. The UNESCO World Heritage Committee is also responsible for monitoring the State of Conservation of inscribed properties, and where necessary, making recommendations to concerned countries. In this respect the committee is aided by State Parties and other non-government organisations.

The State Party is the UK Department for Culture, Media and Sport, with aspects devolved to the Scottish Government's Historic Environment Policy Unit, which undertakes State Party functions in Scotland where this relates to areas of devolved responsibility. The State Party's role is to protect and manage World Heritage Sites alongside local authorities. To clarify, the State Party role, which previously sat with Historic Scotland, is distinct from the agency's role in the planning process, and that the State Party is not involved in responding to planning consultations.

ICOMOS-UK is the UK National Committee of International Council on Monuments and Sites. At an international level, ICOMOS develops best practice in the conservation and management of cultural sites, and has a special role as adviser to the UNESCO World Heritage Committee on cultural World Heritage Sites. Further information on ICOMOS-UK is provided in paragraph 7.3 below.

The Environmental Statement

The environmental statement was found to be detailed, reasonably clear and easy to follow. The baseline gave a good account of all the information that informs the assessment, including all the features considered to be relevant to the development in terms of the matters of interest to Historic Scotland and that were requested to be considered at the scoping stage. The assessment criteria used are clear and understandable and have been applied in a consistent manner to those heritage assets identified in the baseline information.

Criteria for assessing significance are also in keeping with national policy and guidelines for the historic environment.

Overall, whilst there were some concerns about the assessment of some of the setting aspects, the most significant impacts are considered to be dealt with fairly.

New Lanark World Heritage Site

Following an unsuccessful attempt at World Heritage status in the 1980's the New Lanark World Heritage Site was inscribed in 2001. The area inscribed was smaller than that previously sought and followed debate on the extent of the heritage site and its buffer.

The nomination document (document D.2) used to apply to the UNESCO World Heritage Committee was essentially the application form for World Heritage status. The document provides the detailed justification for the boundaries of the New Lanark World Heritage Site. The nomination document has no planning status and is not a material planning consideration – being produced at the time of nomination for that purpose alone. However, it is considered that Historic Scotland's position on the Hyndford proposal is not at odds with the attention paid to the landscape setting of New Lanark in the nomination document. The landscape setting of New Lanark is an essential part of its significance and key to its appreciation.

There are various published international guidance in relation to World Heritage Sites, including the Xi'an declaration on setting - the content of which is conveyed through Historic Scotland's guidance on setting (document C.17), and the 'Operational Guidelines for the Implementation of the World Heritage Convention' (document I.2). The former guidelines aim is to facilitate the implementation of the convention; where the protection and management of World Heritage Sites is dealt with through domestic laws, policies and procedures.

Some assurances were provided in the past about a restriction on further quarrying based on the planning designations at the time of nomination. These were provided in correspondence between fellow professionals. However, it is now argued that parties must work within existing designations in assessing impacts on the New Lanark World Heritage Site and its Outstanding Universal Value.

The aim of the 'Operational Guidelines for the Implementation of the World Heritage Convention' is to facilitate the implementation of the convention; where the protection and management of World Heritage Sites being dealt with through domestic laws, policies and procedures.

Assessment of impact on New Lanark World Heritage Site

The landscape setting of New Lanark World Heritage Site is significant, and there is an intellectual relationship between the setting and the village.

In assessing the quarry proposal, although there could be minor impacts due to views of the Bonnington Parkland from specific parts of the World Heritage Site, it is not considered this would be significant enough to raise concerns. Furthermore, the key aspect in the assessment of the setting is that there is no inter-visibility between the western extension of

the quarry and the World Heritage Site itself. Whilst inter-visibility is not the only issue that needs to be taken into account, it is a key issue and in terms of setting must be given most weight. There is no inter-visibility with the core of the World Heritage Site. Whilst there may be some views of the margins from the World Heritage Site to the general area of the development these are not of sufficient significance to justify an objection.

It would have been helpful for the environmental statement to consider the setting of New Lanark in greater detail following the various policy guidance. However, having assessed the proposal following a detailed site visit, and in conjunction with the assessment of the impact on the Falls of Clyde Designed Landscape, the conclusion is that the proposed quarry extension would not significantly change the ability to understand, experience or appreciate the New Lanark World Heritage Site. Although the proposal may have some impact on the ability to appreciate, for example, the relationship between the surrounding landscape and the approach to the Corra Linn Bonnington Pavilion, the degree of change is not such that refusal of permission would be reasonable.

Outstanding Universal Value

Scottish Planning Policy (at paragraph 147) requires planning authorities to protect and preserve the Outstanding Universal Value of World Heritage Sites.

The Outstanding Universal Value refers to a World Heritage Site itself and cannot be transferred to areas beyond its boundary (for example to the buffer zone). At the time of nomination there was an informed decision as to which areas to include within the New Lanark World Heritage Site and those areas which would form its buffer zone.

In assessing the impact on the Outstanding Universal Value of New Lanark World Heritage Site, it is not considered that there would be a significant impact on the value, authenticity, or integrity, such that it would be reasonable to object to the planning application. While all of the surrounding landscape and such important sights as the Falls of Clyde undoubtedly contribute to the setting of New Lanark and combine to create an important ensemble, the reasons for the inscription of New Lanark are tight and specific and it is considered difficult to argue that the quarry has any significant impacts in these terms.

The Buffer Zone

It is noted that UNESCO's operational guidance (document I.2) defines a 'buffer zone' as, "an area surrounding the nominated property which has complementary legal and/or customary restrictions placed on its use and development to give an added layer of protection to the property. This should include the immediate setting of the nominated property, important views and other areas or attributes that are functionally important as a support to the property and its protection."

The buffer zone surrounding the New Lanark World Heritage site follows the boundaries of existing designations (at the time of nomination), including the New Lanark Conservation Area, Lanark Conservation Area, and Area of Great Landscape Value, and a Site of Special Scientific Interest. In addition, the buffer zone boundary took account of the proposal to designate the Falls of Clyde as a designed landscape, which followed in 2006. The drawing of the boundary also took account of key views into and from the site as well as important relationships between the site and other buildings and land in the surrounding area.

Consequently, it is argued that the buffer zone has no prescribed heritage value, and that there is no presumption against development within it. This is reinforced by the omission of any mention of 'buffer zone' in Scottish Planning Policy. The purpose of a buffer zone is to 'flag up' potential for an impact on a World Heritage Site should a development be proposed within it.

The New Lanark World Heritage Site buffer zone includes parts of the World Heritage Site's setting where development may impact the Outstanding Universal Value, but not all areas are equally sensitive to development. Furthermore, it should be noted that the setting of New Lanark World Heritage Site extends beyond the buffer zone (to the summit of Tinto for example).

It is accepted that the boundaries of the buffer zone reasonably delineate the area in which development could have the potential to impact on the Outstanding Universal Value. However, different parts of the buffer zone are more sensitive to different types of development. Historic Scotland's view is that quarrying in this area would not significantly impact on the setting of New Lanark World Heritage Site.

The important thing to note is the emphasis on the buffer zone in protecting the World Heritage Site, rather than emphasising the intrinsic value of the areas within the buffer zone, which in the case of New Lanark are protected through separate designations. In the case of the proposal, it is concluded that the impact in question is such that it would not threaten the integrity of the World Heritage Site, or that it would be likely to have an impact on the function of the World Heritage Site. One reason for not objecting was based on the principle that the buffer zone of a World Heritage Site does not preclude development in that area, but seeks to ensure that all development within that area is considered carefully in terms of its likely impact on the Outstanding Universal Value, authenticity and integrity of the World Heritage Site itself.

The Falls of Clyde Designed Landscape

Scottish Planning Policy requires planning authorities to protect and seek to enhance designed landscapes. Further, Scottish Historic Environment Policy stresses that, "careful regard must be given to the specific qualities, character and integrity of gardens and designed landscapes." And, that "informed change should be managed carefully with the aim of ensuring that significant elements justifying designation are protected and enhanced."

It is accepted that the loss of features of the designed landscape may reduce its integrity but that not all features are equally important. It is possible to have a significant impact on the Falls of Clyde Designed Landscape without an associated impact on the Outstanding Universal Value of the New Lanark World Heritage Site.

It is agreed that the proposal would have a major significant impact on part of the Falls of Clyde Inventory designed landscape (as concluded in the environmental statement). The quarrying of this area of the Bonnington Estate will result in the loss of landform on which this part of the designed landscape was originally laid out as well as the boundary wall and a few mature parkland trees. However, given the extensive loss of woods and parks that historically characterised this part of the designed landscape, it is not considered that the impact will be significant enough to warrant an objection.

In addition, given the topography and orientation of the Bonnington Estate, the main views are mostly inward-looking towards and across the falls and the river. The quarry may be visible for short sections of the wooded picturesque walks along the Clyde, but given the wooded nature of the valley and focus on the view towards the Corra Linn and the river, it would not have a significant impact on the understanding, appreciation and enjoyment of the picturesque qualities of the Bonnington designed landscape.

In relation to restoration following quarrying, it is accepted that this will not be wholesale restoration of the Bonnington landform and its designed landscape, but the creation of a new landscape, which will reflect elements of the historic landscape. The restoration proposals do not mitigate the impact of the quarry. Instead the proposals will reinstate built elements which will be removed during the extraction process as well as elements of the designed landscape which were lost during the 20th century. This includes the rebuilding, on its original alignment, of the 18th century estate wall that marks the eastern boundary of the designed landscape, together with its associated drove road that linked Lanark with the historic ferry crossing at Tulliford to the south. The reinstated landscape will be slightly undulating to reflect the fluvio-glacial character of the landform. Planting proposals include replanting the circular wood and parkland trees with appropriate species. It was recommended that the relocation of the extraction boundary may slightly reduce the direct impact of the proposal on the designed landscape.

Although not proposed, any works to conserve and repair the Corra Linn Bonnington Pavilion and Bonnington walled garden would be welcomed.

The concept restoration plan now shows the extraction boundary moved to the 182 metre above ordnance datum contour line. This revision is in line with the suggested mitigation and would result in the retention of the historic entrance drive into the Bonnington Estate and some of its green edge to the south, including a prominent knoll and a single parkland tree.

In relation to the Bonnington estate wall, it is noted that it is a feature of the designed landscape but has no other protection. However, it is considered that a clear estate boundary be included in any reinstatement.

It is not accepted that there would be any risk to the Falls of Clyde Designed Landscape designation boundary as a result of granting planning permission for the proposed development.

Listed Buildings

The environmental statement's conclusions that there would be no direct impacts on the A-listed buildings is accepted.

The Corra Linn Bonnington Pavilion (A-listed) was designed as a viewpoint with its focus towards the Falls of Clyde (evidenced by a large picture window). It was linked to the former Bonnington House by a tree-lined avenue (the terraced walkway), the line of which is still clearly defined in the landscape. Views to the walkway from the pavilion may be affected by the proposal to a minor degree. However, the argument presented by the Working Group

that the whole of the Falls of Clyde Designed Landscape forms part of the setting of the pavilion is not accepted or would follow policy guidance.

The views towards the Bonnington Estate from Corehouse (A-listed) are important to its setting. However, the findings of the environmental statement that the main setting of the house is dominated by surrounding woodland are accepted, and it is agreed that the views to the Bonnington Estate are more distant. There is potentially an indirect moderate impact on Corehouse but not sufficient enough to raise an objection.

The Falls of Clyde Bonnington Power Station Weir and Bridge (A-listed), and Falls of Clyde Bonnington Station with Tank and Pipes (A-listed) were omitted from the environmental statement's assessment. However, it is considered that there would be no inter-visibility between the extraction site and the weir and bridge, and that there would be only limited impact (due to vegetation and position) to the tank and pipes. Consequently, any impact on the setting of these buildings would be insufficient to raise an objection.

Many properties within New Lanark are A-listed but due to the heavily wooded gorge their settings are localised and restricted to views out of the valley. There would be no inter-visibility with the proposal. Therefore, no objection is raised.

Other Matters

The conclusions of the environmental statement that there would be no harm to scheduled ancient monuments in the area are agreed.

Legal Agreements, Planning Obligations and Conditions

5.41 Historic Scotland is content with the council's proposed conditions in relation to its interests (restoration). In relation to conditions, it is noted that there would be no need for it to be consulted on the restoration scheme.

Conclusions

The following conclusions can be drawn from Historic Scotland's case:

- The proposed development would have a direct impact on parts of the Falls of Clyde Designed Landscape, and there would be a direct impact on a number of heritage assets.
- However, overall, it is not considered that the development would affect the historic interests (such as fall within Historic Scotland's remit), including impact on the Outstanding Universal Value of New Lanark World Heritage Site, such as to raise issues of national significance that warrant an objection.

APPENDIX 7: OTHER MAIN PARTIES SUMMARY OF CASE 2014/15

The Woodland Trust Scotland

In the procedures notice, dated 15 May 2014, further written submissions were requested in relation to:

- Impacts on The Clyde Valley Woodlands National Nature Reserve.
- Impacts on the Falls of Clyde Site of Special Scientific Interest.
- Relocation of the area of peat.
- Loss of woodland in phase 1 (i.e. the proposed western extension).
- Impacts on protected species.

This request was directed at the Scottish Environment Protection Agency, Scottish Natural Heritage, Scottish Wildlife Trust, The Woodland Trust, South Lanarkshire Council and the applicant.

The Scottish Environment Protection Agency, Scottish Natural Heritage and Scottish Wildlife Trust mainly relied on their original consultation responses. Their comments in relation to the procedures notice are therefore included in chapter 7. The comments from the applicant and South Lanarkshire Council are included in chapters 2 and 3 respectively.

The Woodland Trust is the United Kingdom's leading woodland conservation charity. It objects to the planning application due to the loss of ancient woodland. Ancient woodland (i.e. land that has been continually wooded since at least 1750) has a rich habitat of some 256 species. Ancient woodland sites are irreplaceable and cannot be recreated. Scottish Natural Heritage has confirmed that woodland will have been present at this site for several hundred years.

The proposal will result in the direct loss of 1.46 hectares of ancient woodland. This would be contrary to Scottish Planning Policy (paragraphs 146-148 of the 2010 Scottish Planning Policy but paragraphs 216-217 of the 2014 Scottish Planning Policy) and the Scottish Government's Control of Woodland Removal Policy. Ancient woodland is also considered a category 3 designation in Policy 15 of the proposed South Lanarkshire Local Development Plan where development affecting the woodland would only be permitted if there were no significant adverse impact. Clearly, the removal of the woodland would be contrary to this policy.

Two European protected species were found to be present within the woodland, which indicates the significance of the habitat. The proposal suggests that the area of peat that the woodland is upon will be relocated. However, no details are provided as to how this can be done or any contingency measures if it is unsuccessful. Ancient woodland cannot be recreated. Therefore, any new planting should be considered as compensation and not mitigation.

In addition to the direct impacts, the Trust is concerned about the indirect impacts of blown dust from the quarry to the other larger areas of ancient woodland nearby. Lichens found in

ancient woodlands are particularly sensitive to dust pollution. Noise from the quarry operations could also disturb other wildlife species found in the nearby ancient woodland.

Sir William Lithgow Bt, LLD, CEng

Sir William commented on the original planning application and indicated that he wished to be involved in the examination process. However, he was unable to attend the pre-examination meeting or the hearing sessions. On 2 August 2014, he made further written representations. The comments received from the applicant in response to these further representations are included in chapter 2.

Sir William supports the objections made by the New Lanark and Falls of Clyde Working Group. However, in addition he objects to the southern extension due to the impact on Boathaugh and its surroundings.

Boathaugh falls within the planning application site area and shown on the maps, aerial photographs and photographs attached to his written submission. It is a 'bonnet lairds' house probably 15th – 16th century, located on the banks of the River Clyde at an important crossing point on a historical route to Lanark. Boathaugh is of historical importance because of its connection with William Lithgow (Sir William's namesake and ancestor), who was a 17th century traveller and writer. His books have been in print for 5 centuries.

Sir William refers to the objections to the planning application by T C Smout (Emeritus Professor of Scottish History, University of St Andrews) and Esmund Bosworth (Emeritus Professor of Arabic Studies, Manchester University) who both refer to William Lithgow's historical importance and therefore the need to protect Boathaugh.

Sir William considers that Boathaugh should have been listed because of its historical associations. The property should have been inspected and included within the assessments of the proposal's impacts. The general area has a unique cluster of natural and built heritage including, the Falls of Clyde, New Lanark World Heritage Site, the former Bonnington Estate and Boathaugh. The whole area should be protected from irreversible, low grade extraction operations. It is hard to understand how the relevant statutory bodies can have so little understanding or appreciation of the harm that will be caused. Planning permission should be refused.

APPENDIX 8: ORIGINAL RESPONSES TO PLANNING APPLICATION

Consultation responses

International Council on Monuments and Sites – UK (ICOMOS – UK). ICOMOS – UK is the United Kingdom committee of ICOMOS. ICOMOS is an international non-government organisation, which has particular responsibility for advising the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in connection with the World Heritage Convention. The proposed western extension of the quarry is on land that is subject to designations of national and international significance. The proposal would be significantly contrary to a number of development plan policies for the following reasons:

- The boundaries of the New Lanark World Heritage Site and its buffer zone were carefully considered. The incorporation of the nationally important Falls of Clyde Historic Garden and Designed Landscape reflects the importance of the landscape setting to the Outstanding Universal Value of New Lanark. The topographical characteristics provide an essential links between the designed landscape, the Falls of Clyde, New Lanark and Owen’s ideas. The destruction and irreversible change to the topography from quarrying would damage the integrity and threaten the Outstanding Universal Value of the World Heritage Site.
- Historic Scotland and the environmental statement have failed to correctly understand the reasons for the various designations and have placed too much weight on inter-visibility. Historic Scotland has not explained why it considered quarrying to be a threat in the nomination document but not now.
- The restoration proposals are two-dimensional and do not mitigate the harm caused.
- There is no shortage of sand and gravel deposits in South Lanarkshire. Mineral extraction should be directed to locations where proposals would not conflict with the development plan.

Lanark and District Civic Trust objected to the planning application because the western extension will result in mineral extraction within the buffer zone of New Lanark World Heritage Site and within the designed landscape of Bonnington Estate. The proposal would irreversibly change the topography and would be contrary to Policies MIN 2 and MIN 3 of the South Lanarkshire Minerals Local Development Plan and Policies ENV 4, ENV 7, ENV 22 and ENV 28 of the South Lanarkshire Local Plan. The site is important for the setting of New Lanark. The general area should be exploited for tourism, which would have a longer term economic benefit than for mineral extraction.

New Lanark Community Council objected to the planning application. Quarrying within the western extension is unnecessary (as there are many years of reserves left for the existing quarry) and unacceptable as the site is protected as part of the World Heritage Site buffer zone in the South Lanarkshire Minerals Local Development Plan. The proposed enhancement works would be better achieved without creating a different landscape due to the extraction operations.

New Lanark Trust had no objection in principle to the southern extension of the quarry, subject to there being an acceptable impact on the drove road and estate boundary wall.

However, it objected to the proposed western extension of the quarry for the following reasons:

- The site falls within the buffer zone of the World Heritage Site, is located within the Falls of Clyde Historic Gardens and Designed Landscape and within an Area of Great Landscape Value (now called Special Landscape Areas). The irreplaceable change to the topography of the site would destroy fluvioglacial features that should be retained as a coherent tract of unaltered landforms for future interpretation.
- The mitigation measures do not compensate for the adverse impact and therefore the proposal is contrary to Policy MIN 2 of the South Lanarkshire Minerals Local Development Plan and Policies ENV 4, ENV 7, ENV 22 and ENV 28 of the South Lanarkshire Local Plan.
- The proposal would result in the destruction of the drove road and visually important estate boundary wall.
- The new planting would only be an imitation of the original Bonnington Estate and the future understanding and interpretation of the historic landscape would be compromised by the radical change to the topography.
- The recently approved World Heritage Site Management Plan advocated the development of the buffer zone for public enjoyment and understanding. This would be compromised if the proposal went ahead.
- Supplies of sand and gravel can be adequately met from existing consented reserves.

Royal Burgh of Lanark Community Council objected to the planning application due to the following:

- The area covered by the extension is of historical significance, an area of outstanding beauty, close to New Lanark World Heritage Site and used for outdoor leisure. The mineral extraction would detract from these features, deter tourism and visitors and is therefore unsuitable.
- The road network would be unable to handle the traffic.
- The site of the existing quarry is in poor shape and the extension can only exacerbate the problems.
- There is no need for an extension as the existing quarry still has significant remaining life.

Royal Society for the Protection of Birds (Scotland) had no objection to the planning application or supplementary environmental information subject to the following conditions:

- The development to make a contribution to offsite peat restoration.
- The proposed restoration plan provides for enhanced habitat features.
- That a habitat management group be set up to oversee the delivery of a habitat management plan that should be submitted at least 3 months before development commences and subject to annual reports.
- All vegetation clearance should be undertaken outwith the bird nesting season.
- A financial bond for restoration and aftercare in accordance with Policy MIN 4 should be provided.

Scottish Environment Protection Agency originally objected to the planning application on the grounds of insufficient information. However, the Scottish Environment Protection Agency considered that the supplementary environmental information demonstrated that a significant

impact on the ground water environment was unlikely to occur. Any permission should be subject to a condition requiring a detailed habitat plan to create a new blanket bog and wet woodland of the same ecological value as the wetland to be relocated.

Scottish Natural Heritage originally objected to the planning application on the grounds of insufficient information. However, Scottish Natural Heritage considered that the supplementary environmental information was sufficient to demonstrate that unacceptable impacts to the adjoining Site of Special Scientific Interest (and National Nature Reserve) were unlikely to occur. Any permission should be subject to the following conditions:

- Details of the methodology and timetable for relocating Robiesland Bog should be submitted for approval.
- Regular monitoring of the drainage regime to make sure that the ecological integrity of the adjoining Site of Special Scientific Interest is not compromised.
- Species protection plans covering otters, bats, badger, amphibians and reptiles, birds and invertebrates.
- Appointment of an Ecological Clerk of Works with a clearly defined role, scope and duration.
- Access for geo-scientists to study and document the geological/geomorphological record at the site as extraction proceeds.

Scottish Power and Scottish Water had no objections.

Scottish Power Generation Limited comment that some of the suggested enhancement works are on land in their ownership. Tree planting and other works may not be appropriate close to power cables or above the tunnels serving the power station.

Scottish Wildlife Trust did not object to the southern extension. However, it objected to the proposed western extension due to the loss of the Robiesland Bog peat land and wet woodland as it considered that the successful relocation would be unlikely. In addition, the following should be noted:

- In the event that planning permission is granted, workings should be east to west to reduce the potential disturbance to the breeding pair of peregrine falcons.
- The tensions between designed landscape planting and nature conservation interests would need to be resolved in any approval of the detailed enhancement plans.
- Long term maintenance arrangements need to be addressed if planning permission is to be granted.

South Lanarkshire Council's Countryside and Greenspace Service had no objections subject to conditions regarding phasing of the enhancement works and arrangements for long term management and maintenance.

South Lanarkshire Council's Environmental Services had no objection subject to conditions relating to dust management and noise control.

South Lanarkshire Council's Flood Prevention Section had no objection subject to conditions and reference to standard design advice.

South Lanarkshire Council's Roads and Transportation Service had no objection subject to conditions and a section 96 agreement.

The Architectural Heritage Society of Scotland objected to the proposal as it stands but not to further extensions of the quarry workings as such.

The Garden History Society is a voluntary society dedicated to the conservation of Scotland's rich heritage of gardens, parks and designed landscapes. The western extension falls within the Bonnington Estate, which is part of the Falls of Clyde Designed Landscape and part of the buffer zone for New Lanark World Heritage Site. The estate is relatively free from damaging development and its condition was considered when it was included within the Inventory of Historic Gardens and Designed Landscapes in 2006. Any neglect is repairable and a quarry is not necessary to secure restoration or enhancements. The Garden History Society objected to the proposal because it would be contrary to Scottish Planning Policy 2010, Scottish Historic Environment Policy 2011, Policy MIN 2 of the South Lanarkshire Minerals Local Development Plan and Policies ENV 22 and ENV 28 of the South Lanarkshire Local Plan.

Transport Scotland had no objection

West of Scotland Archaeology Service recommended refusal of planning permission as the proposal would be contrary to planning policies designed to protect the World Heritage Site, World Heritage Site buffer zone, the Falls of Clyde Historic Garden and Designed Landscape and archaeology. However, if the council was minded to grant planning permission, a condition should be attached requiring the approval of an archaeological mitigation strategy.

Original Representations

Petition

Save Our Landscape organised a petition with 7006 signatories, which stated, "*I am opposed to any quarrying in the Buffer Zone of the New Lanark World Heritage Site.*" The petition was gathered between Easter and November 2012 and predated the submission of the planning application.

Pro-forma Letters of Objection

In the committee report, it was stated that the council received some 10,900 pro forma style letters collated by Save Our Landscape. The file passed to the Directorate for Planning and Environmental Appeals contained 11,124 letters (for a copy see Appendix 5). The letters were from addresses throughout Scotland, the rest of the United Kingdom and internationally. The pro forma letters included the following key points:

- The proposal would adversely affect the Falls of Clyde designed landscape, which is an essential part of the buffer zone of the New Lanark World Heritage Site.
- Mineral extraction would destroy the natural fluvial-glacial topography, the drove road and estate wall.
- Tourism would be threatened by the proposal.
- There are adequate supplies of sand and gravel in South Lanarkshire and the existing quarry has 8 years of reserves.

- The restoration proposals would do little to enhance the area and other mechanisms are more appropriate.
- The proposal would be contrary to Policy MIN 2 of the South Lanarkshire Minerals Local Development Plan and Policies ENV 7, ENV 22 and ENV 28 of the South Lanarkshire Local Plan.

Individual Letters of Objection

In the committee report, it was stated that the council received 546 individual letters of objection. The file passed to the Directorate for Planning and Environmental Appeals contained 565 individual letters. However, some letters were duplicates, some were pro forma letters and it included letters from organisations and Sir William Lithgow, which in this report are summarised in chapters 6 or 7.

Taking these into account, there were 521 individual letters or e-mails objecting to the proposal written between December 2012 – November 2013. It should be noted that some individuals wrote more than once, generally in response to the initial planning application and then again, when the scheme was amended.

The letters and e-mails were from addresses throughout Scotland, the rest of the United Kingdom and internationally. The letters and e-mails frequently referred to a previous visit to the area and included the following key points:

- The proposal would be detrimental to the setting and buffer zone of the New Lanark World Heritage Site.
- Development would create a harmful precedent making it harder to resist further proposals.
- Assurances were given that there would be no further quarry development in the buffer zone.
- Granting planning permission would harm Scotland's reputation for conservation and would risk the removal of New Lanark from the list of World Heritage Sites.
- A quarry would harm the experience of visiting and appreciating the Falls of Clyde.
- The proposal would remove the natural topography, which would be detrimental to the Falls of Clyde Historic Garden and Designed Landscape.
- The quarry would create an unacceptable visual impact for local walkers.
- The quarry would destroy the drove road and part of the estate wall.
- The quarry would increase noise, dust and traffic in the area.
- The quarry would harm the adjoining Site of Special Scientific Interest.
- The proposal would result in the loss of the Robiesland peat moss, which is a rare habitat.
- The natural geological features should be left as a coherent group.
- Harm would be caused to badgers, bats and the nearby breeding pair of Peregrine Falcons.
- The proposal would be contrary to Policy MIN 2 of the South Lanarkshire Minerals Local Development Plan and Policies ENV 4, ENV 7, ENV 22 and ENV 28 of the South Lanarkshire Local Plan.
- The proposal would be contrary to Scottish Planning Policy and the Scottish Historic Environment Policy.
- There are less disruptive mechanisms to enhance the area than extending the existing quarry.

- The restoration proposals are inadequate and do not represent an enhancement.
- New quarries should be directed to areas that are not protected by planning policies.
- There is no need for more sand and gravel quarries as there are adequate existing reserves with planning permission.
- The existing quarry has reserves until 2027 and so there is no need for an extension.
- The jobs created at the quarry are small in number and relatively temporary.
- The quarry risks far greater economic loss as it would reduce visitors and tourism spend.

Letters of Support

There were 8 letters of support making the following key points:

- There is a need for good quality sand and gravel products.
- Seeking alternative supplies elsewhere would increase travel costs.
- The proposal would support existing jobs at the quarry.
- The proposal has addressed all reasonable concerns.
- There will be no impact on New Lanark.

One objector also indicated that if the restoration proposals could be guaranteed they would not object to the proposal.

Aileen Campbell MSP

Constituents objecting to the quarry and those supporting the proposal contacted their local MSP. Aileen Campbell MSP organised a small survey to help appreciate the opinion of her constituents who reside in or near New Lanark. Fifty-four questionnaires were received out of 385 distributed. Whilst no claim is made as to the methodology employed, the overwhelming number of residents who responded were against the quarry extension.

Aileen Campbell MSP asked that the Planning Committee and Scottish Ministers consider the survey before reaching a decision. The key responses were as follows:

- Do you agree with the proposal by CEMEX to extend the Hyndford Quarry – No 96%, Yes 4%.
- The proposal could negatively impact on New Lanark's World Heritage Status and damage an important scenic area – Strongly Agree 89%, Agree 7%, Disagree 4%.
- The proposal will bring jobs and investment to the local economy - Agree 4%, Neither Agree or Disagree 22%, Disagree 31%, Strongly Disagree 43%.
- The proposal could have a detrimental effect on tourism in New Lanark and the wider community – Strongly Agree 87%, Agree 7%, Disagree 6%.
- I am content with CEMEX's plans for restoration and enhancement of the affected area – Strongly Disagree 73%, Disagree 17%, Neither Agree or Disagree 4%, Agree 6%.

On 27 November 2014 Aileen Campbell MSP passed onto Scottish Ministers a briefing note prepared by the New Lanark and Falls of Clyde Working Group. The key points made were as follows:

- The proposed western extension to the quarry has attracted considerable opposition from the public and local community groups.

- By calling in the planning application Scottish Ministers recognised the potential impacts and the national importance of the management of World Heritage Sites
- South Lanarkshire Council attached weight to the advice of Historic Scotland. Historic Scotland's position has attracted considerable criticism because the nomination document gave assurances that the buffer zone would be protected from any extension of the quarry.
- UNESCO's World Heritage Committee has passed a motion expressing concern and that no decision should be taken without a full heritage impact assessment being undertaken.
- The proposed South Lanarkshire Local Development Plan reverses the explicit link between the buffer zone and setting that exists in the existing (ie 2009 Local Plan). The Local Development Plan Examination Report accepted this change without the benefit of impartial and expert evidence.
- Planning policies for the New Lanark World Heritage Site should be developed in the light of the decision on the Hyndford proposal. The Working Group intends to make representations to Scottish Minister's asking them not to allow the adoption of the South Lanarkshire Local Development Plan.
- Orkney, the Antonine Wall and New Lanark World Heritage Sites each have a buffer zone. Historic Scotland say that the role of the buffer zone is mis-understood but its own interpretation is questionable. It is important for Scotland's reputation in the management of World Heritage Sites that such an important issue is clearly and transparently addressed.

Claudia Beamish MSP

Claudia Beamish MSP met with objectors and CEMEX. In a letter to the council, she made the following key points:

- The proposal is located within the buffer zone of the New Lanark World Heritage Site and must be subject to the highest scrutiny.
- It is noted that CEMEX have amended the application in response to concerns.
- There are concerns that the relocation of the peatland habitat is not realistic and these must be investigated.
- The glacial formations at the site need to be addressed and their rarity and quality taken into account.
- The measures recommended by the Scottish Wildlife Trust to protect Peregrine Falcons should be adopted.
- Should the development go ahead any restoration must be appropriate and proportionate.
- It is accepted that an extension may be preferable to a new quarry elsewhere and that there is a need for sand and gravel products generally.
- I wish to submit a mild objection to the western extension but I have no objection to the southern extension.

Requests for Call-in

In February 2013, Save Our Landscape and ICOMOS – UK wrote to the Scottish Government requesting that the planning application be called-in for the following reasons:

- New Lanark World Heritage Site and buffer zone is of international interest and importance.
- Historic Scotland's advice regarding the application is unsound.
- The proposal is contrary to Scottish Government policy.
- Commitments have been given that quarrying would not be permitted in the buffer zone.

Pro-forma Call-in Letters

After consideration by the Planning Committee of South Lanarkshire Council on 17 December 2013, 298 pro forma letters, addressed to the First Minister, were received requesting that the planning application be called in for the following reasons:

- There have been more than 11,500 letters of objection.
- The nomination document for World Heritage status gave assurances that the quarry would not be allowed to extend into the buffer zone.
- Historic Scotland has failed in its role as advisors to Scottish Ministers.
- The quarry supports only 10 jobs whereas the New Lanark World Heritage Site supports 200. There are adequate supplies of sand and gravel left at the existing quarry and plenty generally.

Individual Call-in Letters

One hundred and thirty three individual letters addressed to Scottish Ministers were passed onto the Directorate for Planning and Environmental Appeals. However, some of these letters were duplicates. The vast majority of letters were written after consideration by the Planning Committee on 17 December 2013. The letters requested that the planning application be called-in for the following reasons:

- The decision would be of national importance and should be made after a more detailed independent assessment.
- The proposal would be harmful to a protected historic garden and designed landscape, which is also an important component of the New Lanark World Heritage Site.
- A commitment had been given that quarrying would not be permitted in the buffer zone of the New Lanark World Heritage Site.
- The council have set aside the views of some 11,500 local, national and international objectors and a petition signed by 7000 people.
- Scotland's international reputation for conservation is at stake.
- Historic Scotland's advice has been inconsistent and based on inadequate analysis.
- The proposal would breach a number of important planning policies.
- The proposal would harm Scotland's tourism industry.
- The proposal would result in the destruction of a historic drove road and estate wall.
- Noise and dust pollution could harm the Falls of Clyde nature reserve.

Other Letters

After consideration by the Planning Committee on 17 December 2013, Cameron Buchanan MSP, Aileen Campbell MSP, Patrick Harvie MSP, Jim Hume MSP, Joan McAlpine MSP, Graeme Pearson MSP and Dave Thompson MSP requested or passed on constituent requests for the planning application to be called in.

In January 2014, ICOMOS-UK, New Lanark Trust, The Garden History Society, Save Our Landscape and the Scottish Civic Trust asked Scottish Ministers to call-in the planning application for the following reasons:

- The impact on New Lanark World Heritage Site and its buffer zone.
- Adequacy of the environmental impact assessment.
- Impact on the Falls of Clyde Historic Garden and Designed Landscape.
- The role of key national agencies in the consideration of the application.
- The implications of the proposals for the New Lanark World Heritage Site Management Plan.
- There were over 11,500 letters of objection.
- The credibility and reputation of the Scottish planning system.

On 31 December 2013, Sir William Lithgow also wrote to Scottish Ministers supporting the representations made by Save Our Landscape but also adding a specific interest in relation to Boathough and the competence of Historic Scotland as additional reasons for calling-in the planning application.

On 20 December 2013, Councillor Vivienne Shaw, who is a member of the Planning Committee and had proposed that the application be refused, wrote to Scottish Ministers requesting that the application be considered by the Scottish Government and be refused.

Whilst the report was being finalised in January and February 2015 some 450 pro-forma letters were sent to the Minister for Local Government and Community Empowerment. These pro-forma letters, also from addresses throughout Scotland, the rest of the United Kingdom and internationally made the following key points:

- The proposal lies within the buffer zone of the New Lanark World Heritage Site where assurances were given that quarrying would be prevented.
- UNESCO's World Heritage Committee has expressed its concern about the proposal.
- The Falls of Clyde are recognised as a historic designed landscape in its own right.
- 70,000 people visit the Falls of Clyde supporting some 200 jobs. The 13 jobs at the quarry are not under threat and there are plenty of mineral resources elsewhere.
- A survey found that 87% of visitors were less likely to visit the area if the quarry went ahead.
- Public consultation has supported Save Our Landscapes' proposals for community led improvements.
- There is strong public, community and expert organisation opposition to the proposal.
- Scottish Planning Policy recognises the importance of the historic environment as a cultural and economic asset.

8.20 At the same time 143 individual letters of objection were received by the Scottish Government. Many had previously written to the council objecting to the application or to Scottish Ministers asking the application to be called in. The key points made are included in paragraph 8.5 above.

APPENDIX 9: DOCUMENTS, WRITTEN SUBMISSIONS, APPEARANCES, NOTE OF PRE-EXAMINATION MEETING 2017/18.

Documents

[Core Document List 15 December 2017](#)

[Parties Document List 31 January 2018](#)

Closing Submissions 2018

[Applicant: 13 March 2018](#)

[Working Group: 26 February 2018](#)

[Annette Leppla: 26 February 2018](#)

[South Lanarkshire Council: 22 February 2018](#)

Closing Exchanges/Hearing Statements 2017/18

[Hearing Statement The Working Group : Dr John Gordon 31 January 2018](#)

[Applicant Final Comments on Written Exchanges 22 December 2018](#)

[Working Group Final Comments on Written Exchanges 22 December 2017](#)

[Annette Leppla Final Comments on Written Exchanges 22 December 2017](#)

[South Lanarkshire Council Final Comments on Written Exchanges 22 December 2017](#)

Written Submissions Heritage and Landscape 2017

[Applicant Response to Working Groups Submissions 15 December 2017](#)

[AOC Archeology Group response on behalf of the applicants 15 December 2017](#)

[The Working Group Submission on HES Policy](#)

[Annette Leppla Historic Environment Context Submission 27 November 2017](#)

Written submissions on Minerals 2017

[Applicants Response Minerals Monitoring Statement Update 8 December 2017](#)

[Applicants response to Minerals Addendum 24 November 2017](#)

[The Working Group Response on Sand and Gravel 27 November 2017](#)

[Annette Leppla Response to Minerals Monitoring Statement 8 December 2017](#)

Written Submissions on the Development Plan 2017

[South Lanarkshire Council Development Plan position November 2017](#)

[Applicant response to council's update 13 December 2017](#)

Written Submissions on Conditions and Planning Obligations

[The Applicant's response to SLC 8 December 2017](#)

[The applicant Appendix 1](#)

[South Lanarkshire Council 24 November 2017](#)

Earlier representations and Consultation Responses 2017

[Historic Environment Scotland 4 September 2017](#)

[New Lanark Trust](#)

[Sir William Lithgow](#)

Scottish [Wildlife](#) Trust

[Working Group 28 August 2017](#)

[Liz McIntosh September 2017](#)

Note of pre-examination meeting, agendas and appearances 2017/2018

[Note of Pre Examination Meeting](#)

[Agenda for hearing](#)

[Addendum to hearing agenda](#)

For the appellant: James Findlay QC, Mark Kelly, Rob Marsden, Drew Crombie, Vicky Olesky and Andrew Highton.

For South Lanarkshire Council: Sir Crispin Agnew QC, Gordon Cameron, James Wright and Gwen McCracken.

For the Working Group: John Campbell QC, Professor Mark Stephens, Graham Uren, Scott McCauley, Sylvia Russel.

Other main party: Annette Leppla.

ANNEX B – DPEA SUPPLEMENTARY REPORT DATED 10 JUNE 2019

Planning and Environmental Appeals Division



Scottish Government
Riaghaltas na h-Alba
gov.scot

Supplementary Report to the Scottish Ministers

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by Allison Coard a reporter appointed by the Scottish Ministers

- Case reference: NOD-SLS-001-1
- Site Address: Hyndford Quarry, Lanark, South Lanarkshire, ML11 9TA
- Application for planning permission dated 23 November 2012 called-in by notice dated 29 January 2014. Targeted re-opening of case commenced following the decision by the Court of Session dated 9 May 2017 to quash the Scottish Minister's Decision of 7 December 2016
- The development proposed: extension to mineral extraction and associated restoration and enhancement works
- Further written submissions invited on 13 March 2019 following Ministers Notice of Intention dated 18 February 2019

Date of this report and recommendation: 10 June 2019

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Appendix 2: Responses from parties 2019	

DPEA case reference: NOD-SLS-001-1

The Scottish Ministers
Edinburgh

Ministers

In accordance with your intentions letter dated 18 February 2019 I enclose a Supplementary Report. This provides advice on the planning obligations and conditions that should be attached to a grant of planning permission for the proposed southern extension of Hyndford Quarry.

This follows on from a Supplementary Report dated 16 November 2015 as prepared by Mr Jackman and Mr Edwards. That report advised Ministers on the conditions and obligations as relevant to the southern extension at that time.

To inform my Supplementary Report I issued a Procedure Notice on 13 March 2019. Comments were invited from the parties who took part in the 2018 re-opening of the case as well as the consultation authorities. The previously recommended conditions for the southern extension were attached as a starting point for that process. Parties were invited to provide any updated information, including environmental information, which might indicate the need for amendment to these conditions. These exchanges concluded on 25 April 2019.

In addition to these further written submissions I have referenced the evidence as submitted through the 2018 process, including the hearing held in February 2018, in so far as relevant to the southern extension. I have also had regard to the reasoning as included in the Ministers recent statement of intention. My report also takes account of the Environmental Assessment, Addendum and other environmental information submitted by the parties, and all the written representations made in connection with the proposal.

On 16 May 2017, the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 Regulations continue to have effect for an application (and any subsequent appeal) for planning permission where the applicant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. The present application should therefore be determined in accordance with the 2011 regulations as they applied before 16 May 2017.

CHAPTER 1: BACKGROUND

1.1 On 23 November 2012, the applicant submitted a planning application to South Lanarkshire Council to extend the existing quarry. The general location, the proposed site boundary and the proposed new areas for mineral extraction are shown in [document A.8\(a\)](#).

1.2 The subject of this report is confined to the conditions/legal agreement that should apply to the proposed southern extension area following the [Scottish Ministers Intentions Letter dated 18 February 2019](#). This follows the instruction from Scottish Ministers in paragraph 52 of that letter to “advise them on what conditions or legal agreements would be appropriate in respect of a permission granted on that basis”.

1.3 The legislative basis for planning obligations is set out in Sections 75, 75A, 75B and 75C of the Town and Country Planning (Scotland) Act 1997 (as amended). Scottish Ministers guidance is contained in Scottish Government Circular 3/2012 – Planning Obligations and Good Neighbour Agreements.

1.4 The legislative basis for the imposition of planning conditions is set out in Sections 37 and 41 of the Act. Scottish Ministers guidance and advice on the use of planning conditions is contained in Circular 4/1998 - The Use of Conditions in Planning Permissions, this includes reference to legal principles that have been developed through case law.

1.5 The conditions that might apply to a southern extension only have been rehearsed previously. On that basis the conditions drafted by Mr Jackman and Mr Edwards in their [Supplementary Report dated 16 November 2015](#) were considered as a starting point for this current report. By way of procedure notice dated 13 March 2019 comments were sought on these and the conditions that should apply in relation to the Ministers most recent Intentions Notice dated 18 February 2019. The following chapter of this report summarises the comments received. The responses received are as attached in full at Appendix 2. The final chapter sets out my conclusions following the instruction from Scottish Ministers to “advise them on what conditions or legal agreements would be appropriate”.

CHAPTER 2: COMMENTS MADE BY THE MAIN PARTIES

Applicant's position

2.1 With regard to the conditions proposed for the southern extension in the Reporters' Supplementary Report of 2015 the comments made to the Reporter on 8 December 2017 apply.

2.2 With regard to the comments on Conditions 2 and 4, [a plan is attached](#) showing the area within Phase 1 which is located beyond the buffer zone shown shaded red. A reference to this plan in the conditions would provide clarity that this area can be worked. This would also allow for better restoration of this area of the quarry. A long term management plan and the setting up of a liaison group is not necessary for development of the southern extension only.

2.3 The Working Group has confirmed that it has no objections to the southern extension. It is not located close to any residential properties so as to affect amenity. A planning obligation to secure a management plan and liaison group is therefore not necessary to make the development acceptable in planning terms. Nor is it the case that the proposed obligation is so directly related to the regulation of the development that the development should not be permitted without the obligation. The Working Group's proposed obligation does not therefore meet the tests in Scottish Government Circular 3/2012.

2.4 The attached [Section 75 agreement](#) remains registered against the title to the quarry and contains obligations relating to contributions to cover wear and tear on the public road network and undertakings to cease operations under permission CL/11/0285. There is therefore no need for a new obligation to be entered into. The agreement was registered on 31 August 2016. This secures the obligations set out in the Reporter's procedure notice. In response to the comments of the Working Group no operations have been carried out under the planning permission issued by Ministers in December 2016. Operations under CL/11/0285 were and are authorised.

2.5 The following section details the comments made in relation to the wording of the proposed conditions.

Condition 1

2.6 In relation to the first proposed condition the Reporters' report dated February 2015 concluded that the proposed development would preserve, protect and enhance the character, integrity and quality of the New Lanark World Heritage Site and its setting (and its Outstanding Universal Value). The reason for Condition 1 is not therefore supported by planning judgment. This condition therefore fails the necessity test as set out within Circular 4/1998 and is unreasonable.

Condition 2

2.7 The eastern side of Phase 1 contains a reserve of sand and gravel outwith the buffer zone of the New Lanark World Heritage Site and Designed Landscape. Condition 1 does not preclude extraction within this area and the area should therefore be included within this condition. There is no reason to exclude the area to the east of the Drove Road and Bonnington Estate boundary from the permitted extraction and restoration area and to create a further buffer to the World Heritage Site buffer zone. Excluding this area would result in an inferior restoration scheme.

2.8 The World Heritage Site buffer zone exists to protect the Outstanding Universal Value of the World Heritage Site. It has no intrinsic value of its own. The Working Group are seeking to apply a buffer zone to a buffer zone. The specification of a buffer strip in conditions is not necessary to protect the setting of Bonnington Estate and the Drove Road. The inclusion of the area up to the Bonnington Estate boundary wall area in the extraction area would allow a much better restoration scheme. It would enable slopes to be profiled to a more gentle gradient, thereby improving the overall restoration of the quarry and the subsequent after-use of the site.

Condition 3

2.9 This condition requires that all extraction operations should be discontinued no later than 31 December 2030 and that the site be restored in accordance with the approved restoration and enhancement plans by 31 October 2032.

2.10 The timescale for discontinuing operations at Hyndford should be extended to 31 December 2040 with restoration and enhancement completed by 31 October 2042. Timescales were previously agreed in a condition proposed by the Council to discontinue operations by 31 December 2032 and to complete restoration by 31 October 2034. These timescales were predicated on the grant of permission for both the western and the southern extensions.

2.11 If permission is to be granted for the southern extension only, that will change the nature of the operations. The removal of the western extension area does not mean that less time would be needed overall to complete extraction. In fact it will take longer to extract mineral economically from the southern extension if there is no extraction from the western extension. This is because most of the more valuable coarse mineral (coarse sand and gravel) deposits are in the western extension area. The coarse mineral deposits in the southern extension are likely to be exhausted within the first five years of working. The remaining material in the deposit will be predominantly fine sands for use in building and asphalt products. There is less demand for fine sands as the core business is focussed on coarse aggregate which is the key component for the concrete market.

2.12 Once the coarse deposits have been exhausted, there will be no opportunity to blend the fine and coarse final products together. Operations would then be scaled back severely from the 500,000 per annum tonnes proposed in the planning application for the whole of the Hyndford extension to a level which is more realistically aligned with market demand. This is likely to be in the region of 150,000-200,000 tonnes per annum. At this rate, it will take longer to extract the minerals. A corresponding increase in the timescale permitted to complete extraction and restoration of the site is requested. There is certainly no reason to reduce the period for extraction and restoration proposed in the Reporter's draft conditions. To do so would threaten the economic viability of the quarry.

Condition 4

2.13 Again this should include the eastern side of Phase 1 as this contains a reserve of sand and gravel outwith the buffer zone of the World Heritage Site and Designed Landscape. Condition 1 does not preclude extraction within this area and the area should therefore be included within this condition.

Condition 5

2.14 This condition requires that, in the event of extraction operations ceasing on the site for a period of 12 months or more, the planning authority shall deem site operations to have ceased permanently and the occupied areas restored within 24 months in accordance with the approved restoration plans. The 12 month timescale should be increased to a period of 24 months after which if extraction operations have ceased then they shall be deemed to have ceased permanently. The reason for this is, as noted above, because the southern extension contains very large stocks of fine sand, as opposed to the more valuable coarse minerals found in the western extension. Extraction may have to cease for periods of time in excess of 12 months so that sand stocks can be sold until levels of production are sustainable again.

Condition 6

2.15 The eastern side of Phase 1 contains a reserve of sand and gravel outwith the Buffer zone of the World Heritage Site and Designed Landscape. Condition 1 does not preclude extraction within this area and the area should therefore be included within this condition.

Condition 7

2.16 The eastern side of Phase 1 contains a reserve of sand and gravel outwith the buffer zone and Designed Landscape. Condition 1 does not preclude extraction within this area and the area should therefore be included within this condition.

2.17 The enhancement works were primarily proposed within the planning application in order to restore the degraded parkland area (Enhancement Zone A and Phase 1) and offset any adverse impacts associated with Phase 1 operations. Phase's 2A and 3 already benefit from planning permission (CL/11/0285). Enhancement proposals within Phases B, C and D are not necessary in order to ensure extraction within Phase 2B is acceptable. Therefore this condition does not meet the necessity test contained within Circular 4/1998.

Condition 8

2.18 The eastern side of Phase 1 contains a reserve of sand and gravel outwith the buffer zone of the World Heritage Site and Designed Landscape. Condition 1 does not preclude extraction within this area and the area should therefore be included within this condition.

Condition 11

2.19 This condition restricts haulage vehicle movements to 0700 - 1700 hours Monday to Friday and 0700 - 1300 hours on Saturdays and limits operations on site to 0630 - 1900 hours Monday to Friday, 0630 - 1300 on Saturday and 0800-1600 on Sundays with no working on public or local holidays. The opening hours should be extended to allow operations between 0600 and 2000 hours Monday - Friday. Restriction on lorry movements before 0700 hours has a huge impact on the operation of the quarry as over 20 lorries arrive most mornings at 0700. This means that, by the time the lorries are loaded at the quarry, they then arrive at their delivery destination during the rush hour which exacerbates traffic problems.

2.20 The limit on movements of vehicles from Hyndford results in problems providing material daily within the timescales required for large road works projects, such as concrete pours for motorway works. If the quarry was allowed to open at 0600 (with a restriction on all vehicles from turning left until 0700), all traffic from the quarry could be cleared from Lanark before 0730, which would ease congestion in the town. The restriction on activities taking

place on public and local bank holidays should be lifted. This restriction obliges staff to take days off when it does not suit them. Other quarries in Scotland are permitted to open on public and local holidays and the requirement to close at Hyndford means that it is less competitive. Proposed restrictions on working hours and vehicle movements could be accepted on Saturdays and Sundays.

Condition 19

2.21 This condition requires that a scheme setting out how internal access roads will be surfaced and maintained and debris prevented from being carried onto public roads be submitted for the Council's approval and thereafter implemented. This condition is not necessary as the grant of permission for the southern extension will not require any changes to be made to the access roads that are currently used. There are no problems associated with use of the access roads at present so this condition is not required.

Condition 21

2.22 This condition restricts the importation of cement and other materials for site processing to 50,000 tonnes per annum. As a result of the refusal of permission for the western extension, the limit on the importation of materials should be increased to 100,000 tonnes per annum. As outlined above, it is likely that the coarse material deposits within the southern extension will be exhausted within the first few years of operation. In order for the quarry to be economic, it is likely that the import of aggregates would be required for blending. This would include importation of coarse aggregates, bagging materials and blockworks, which is estimated to be in the region of 100,000 tonnes per annum.

Council's position

2.23 The conditions and obligations attached as Appendix 1 to the Procedure Notice remain up to date and relevant. Consequently, no further amendment is proposed.

2.24 For the avoidance of doubt, the previously expressed position that the council considers the granting by the Scottish Ministers of the southern extension alone is not competent and that such a proposal should rightly have been the subject of a new planning application. In relation to the matters raised by the applicant on conditions 3, 5, 7, 11, 19 and 21 the council relies on its comments as submitted to Reporters in August 2015.

2.25 In relation to the Working Groups comments on conditions 1, 2 and 3 reference is also made to the council's 2015 response. The Planning Obligation signed and registered on the 31 August 2016 remains extant and that the continued operations under permission CL/11/0285 are authorised.

2.26 In 2015 the main issues referenced by the council were to secure the contribution to roads repairs through the proposed Section 75 agreement. This matter was subsequently addressed and is included in the concluded agreement. Minor suggested word changes were generally incorporated in the Reporters final set of conditions as advised to Ministers at that time. In response to changes proposed by the Working Group at that time the council did not consider the establishment of a liaison group was necessary. In response to the applicant's proposed changes to conditions 3,7,11 and 21 these were considered substantial changes raising new issues not addressed in the original planning application.

Condition 3

2.27 It would not be appropriate to simply increase the timescale by 10 years at this stage.

Condition 5

2.28 A 12 month period proposed is reasonable and appropriate. For the site to lie idle for 24 months, prior to any prospect of restoration taking place, would have an adverse impact on the amenity of the surrounding area and is not acceptable.

Condition 7

2.29 The works are not dependant or, in terms of their nature and appearance, reliant upon the works originally proposed for the western extension. The removal of the requirement to carry out the works shown on the current proposal materially alters the application and has not been the subject of consultation with other agencies or with the surrounding community and therefore for the reasons outlined above should not be accepted.

Condition 11

2.30 Amending the working hours or days on which the quarry can operate would materially alter the terms of the original proposal and could impact on the surrounding area. The hours proposed have not been the subject of consultation with other agencies or with the surrounding community and therefore for the reasons outlined above should not be accepted.

Condition 21

2.31 The proposed condition allows the applicant to seek an increase. Such a request could be accompanied by the necessary supporting information to allow a decision to be made at that time. The change as proposed has not been considered as part of the transport assessment that accompanied the original application.

The Working Group's position

2.32 The evidence considered by the reporter was in the context of a full grant of planning permission. It should be revisited afresh in the context of a partial permission. Paragraphs 4.115 to 4.121 of the reporter's report deal with the consequences of granting Planning Permission for the southern extension alone. However, no meaningful consideration was given to the question of conditions for the grant of the southern extension alone. The conditions for a part grant of Planning Permission at Appendix 2 were not recommended. It is simply stated without any justification that "*I find no reason to disagree with these conditions [as recommended by the first reporters and accepted by Ministers in 2016] should this eventuality arise*" [i.e. that Scottish Ministers approve the southern extension only]. There is no explanation for this conclusion.

2.33 The current consultation must be consistent with a fresh consideration of the evidence in this case and the need, therefore, to explore issues relevant to obligations and planning conditions in full detail for the southern extension only. It is especially clear that such a fresh view of the appropriate conditions is necessary as a result of the detailed reasoning available from the Notice of Intentions letter of 28 February 2019 with regard to the Ministers' intended decision. The current reporter's consideration should not be confined to changes in circumstances but to "*de novo*" consideration of the reasoning for amendments required to the conditions in Appendix 2 of the Report.

2.34 The Section 75 agreement signed and registered on 31 August 2016 has already taken effect from the issue of the decision on 7 December 2016, to date, or at least during the period from 7 December 2016 to 9 May 2017. That is the date when the first decision was quashed. The continued operations under the ROMP permission CL/11/0285 may have been unauthorised from that date. They were not made the subject of an application for approval of matters specified in the conditions of the 2016 permission, while it was in force. This may in turn have prejudiced the effective implementation of conditions to mitigate the effects of the workings of the southern extension. These have continuously been stressed to be significant for the setting of the adjacent heritage landscape, the features and amenity.

2.35 The Environmental Statement for the ROMP (CL/11/0285) concluded that the impact of the currently consented workings on the designated Falls of Clyde Designed Landscape would be 'high' in magnitude and 'major' in significance, and that the close proximity of the Drove Road, even to the current workings, would be audible as well as visible, and would "*extend further an uncharacteristic industrial land use into this part of the landscape which had previously been valued as parkland and for its views and serenity...*".

2.36 Further heads of terms are required to address a Liaison Committee at community level to consider the detailed proposals for the extent and nature of the workings, reinstatement, restoration, landscaping and aftercare. The relevant representations in this respect are summarised in Paragraphs 2.12 of the first Reporters' Supplementary Report of November 2015.

2.37 The area of greatest concern is that of the boundary zone between the southern extension and the areas protected by the proposed refusal of the western extension. A 50 metre buffer strip, must be specified by condition. Any details of the workings which are likely to affect this area and which are then to be approved by the planning authority on application for approval of matters specified in a suspensive condition should be the subject of community and expert consultation. An appropriate approach to community and expert consultation on this whole vital matter can only be guaranteed by the obligation to convene a liaison group for the purpose. Concerns on this matter reflect those of other objectors, such

as Sir William Lithgow (in relation to Boat Haugh) and Ms Annette Leppla, who objected to the western and the southern extensions.

2.38 The proposed heads of terms do not accommodate the representation by the Working Group that a Liaison Committee should be established by means of a planning obligation to allow consultation at community level on the detailed proposals for the extent and nature of the workings, reinstatement, restoration, landscaping and aftercare. These representations are summarised in Paragraphs 2.12 of the first Reporters' Supplementary Report of November 2015. The following head of terms is recommended:

“That prior to the submission of any application to the planning authority for any approval of matters specified in conditions relating to the extent and nature of the workings, reinstatement, restoration, landscaping and aftercare of the southern extension area within a distance of at least 50 metres from the Drove Road, a liaison group shall be established. It will consist of the applicants, the planning authority, member organisations of the New Lanark and Falls of Clyde Working Group, Historic Environment Scotland and Scottish Natural Heritage. It will be established and administered by the applicants for the purpose of consultation on the detailed specifications for the treatments of the specified area. The liaison group will be convened at least once a year for the duration of the permission.”

2.39 Much of the submission to the first Reporters on the matter of conditions remains relevant. The terms of the Notice of Intention from Scottish Ministers of 18 February 2019 (at paragraphs 23, 26, 27 and 30, for example) adds considerable weight to the view that certain principles with regard to the treatment of that part of the southern extension area adjacent to Bonnington estate and to the Drove Road as far as Boat Haugh must be stated in specific terms in the conditions. They are as important to the overall terms of the permission now proposed as is the exclusion of the western extension. Reference is made to setting in the context of the definition provided in Document C17-Managing Change in the Historic Environment. The setting of Bonnington estate and its features should be protected in this context.

2.40 Within the context of the setting of the World Heritage Site (in functional terms as well as visual terms, in accordance with the UNESCO Guidelines at Doc H28) and of the Designed Landscape, such individual components as the Drove Road, the estate boundary wall (on top of the Mediaeval park pale) and the continuity of the fluvio glacial landforms are an essential part of the setting and require in turn to be seen in their own setting. There is a clear remit for Scottish Natural Heritage in relation to geology and geomorphology and it should be included with Historic Environment Scotland as part of a liaison group. The existing quarry has already removed a part of the Lanark ice margin landform. The southern extension will remove a further large part.

2.41 The Drove Road, following the best contour to the ancient river crossings and the wall/park pale, built on rising ground, can only be fully interpreted from these features if the existing rising ground beyond them is preserved. The protection of the view of these areas in a continuous panorama from Bonnington (especially from Peacock Hill, or Gentleman's Mound) and along the Drove Road, is vital to permit the authentic and integrated interpretation of the glacial landform. This is the key to the understanding of how the Falls of Clyde were created. The impact of the southern extension on its western edge is highly sensitive and important.

2.42 The applicants have sought to include the existing buffer strip of approximately 50 metres between the workings under the ROMP consent CL/11/0285 and its predecessor,

and the Drove Road. The purpose of this strip was clearly to protect the adjacent heritage assets as far as the southern limit of the current consent from the impacts described in the applicants' own Environmental Statement. The beneficial effects of this are clear to be seen, and should be continued for the same reason, and extended to the entire length of the southern extension. The rising ground within the current buffer strip extends to the end of the estate boundary wall at the turn to Tulliford, after which the ground undulates or falls in the direction of the workings as far as Boat Haugh.

2.43 On the falling ground, the 50 metre distance is the least that should be provided to protect the amenity of the users of the Drove Road during workings, although it is accepted that in the long term the artificial landform will be open to view. No attempt at landscape screening should be permitted within any buffer strip as this will not take effect until after the operations are completed, and may therefore be at odds with the character of the adjacent designed landscape.

2.44 The strip the applicants wish to include was to have been included in the western extension and is therefore now excluded.

Conditions 1 and 2

2.45 It is not appropriate for such a vital matter as the western edge treatment of the southern extension to be dealt with under a suspensive condition. The planning authority has given no indication during this case of its own recognition of the sensitivity of this issue, and the process of approval would involve no statutory requirement to consult any party or to advertise the application for public comment. A 50 metre undisturbed buffer strip is a simple concept to describe and enforce. More detailed aspects, which may also be critical but more difficult to define in planning conditions, should be the subject of consultation through the liaison group as proposed above under the Heads of Terms for planning obligations.

2.46 The applicant now not only rejects the continuation of the strip to Boat Haugh, as we seek, but that they wish to include within their consent the existing buffer strip which falls in the western extension as shown on the application plan and is thus excluded from the consent proposed in the Notice of Intentions. The applicants only reason to include the "red area" is based on allowing better restoration. However this is insubstantial and the strip in question was clearly important in original 1995 consent and the restoration contours were established by CL/11/0285. Attached [Appendix 1](#) provides evidence of this.

2.47 The following wording should be included for Condition 1:

1. That notwithstanding the submitted plans there shall be no development, mineral extraction or landscaping within the area identified as the New Lanark World Heritage Site Buffer Zone or the Falls of Clyde Designed Landscape as currently designated, or within the buffer strip referred to in condition 2. Accordingly, no consent is given for Phase 1 as shown on Plan P2/1842/5A – July 2013 – Proposed Block Phasing, and for the avoidance of doubt, this includes the strip of land beyond the common boundary of the above designations which falls within Phase 1.

Reason: To protect the setting of New Lanark World Heritage Site, the Falls of Clyde Designed Landscape and adjacent parts of its setting.

2.48 Condition 2 should then read:

2. That no development shall take place until plans have been submitted and approved in writing by the Planning Authority showing the extent of mineral extraction, landform level details and screening along the western boundary of phase 2A and the whole of phase 2B as shown on plan number P2/1842/5A – July 2013. The approved plans shall be implemented unless otherwise agreed in writing by the Planning Authority. Notwithstanding the generality of the above, a 50 metre buffer strip between the application site and the Drove Road shall be maintained as a continuation of the existing strip, at all times free from any disturbance from the approved operations throughout the duration of the permission.

Reason: To protect the integrity of the heritage interpretative value and the visual amenity of the area, which comprises the settings of the New Lanark World Heritage Site, the Falls of Clyde Designed Landscape and its fluvio glacial landforms, the Drove Road to Tulliford and Boat Haugh and the Bonnington estate boundary wall.

Condition 3

2.49 The original application, and the terms of the recommended permission by the first Reporters was for completion of restoration by 31 October 2032. As the western extension has been excised and was to have taken 5 years to extract, no evidence has been submitted for a duration of consent for later than 2027.

2.50 It has always been made clear that there would be impacts of a temporary and a permanent nature. Others have objected outright to the southern extension on this basis. There is no special case for the prolongation of the consent to the greater detriment of environmental impact than is already the case.

2.51 Condition 3 should read –

3. That all extraction operations on the site shall be discontinued no later than 31 December 2025 and that the entire site shall be restored in accordance with the approved restoration and enhancement plan or plans (as required by conditions 6) and 7) by 31 October 2027.

Reason: In the interests of amenity and to ensure that the Council as Planning Authority retains effective control of the development.

Annette Leppla

2.52 As the reporter did not recommend conditions for the southern extension these need to be looked at again although the previous reporters report on this matter could be used as a starting point. Any demands to vastly increase the timescale of the operations, the working hours, closure on public holiday and being allowed to pause extraction for up to 24 months without consequence must be resisted.

2.53 The discussion around the establishment of a management plan and a liaison group is noted. The Working Group has not objected to the southern extension but I and others did. Some form of liaison group therefore remains a valid proposition. The involvement in such a liaison group including local community groups with an interest in what is going to happen to their landscape and their amenities is surely a sensible idea. Important decisions should not be made over local people's heads by the planning authority.

2.54 The Working Group's detailed case for the firming up of a buffer zone to protect elements of the Designed Landscape is persuasive. A condition to create a protective strip

should be adopted. It is quite wrong of the applicant to call a request for this protective strip the application of a buffer zone to the buffer zone, they are clearly two separate matters (and areas in need of protection).

Sir William Lithgow

2.55 As indicated in my original report to Ministers Sir William Lithgow objected to the Southern Extension given concerns about its impact on Boat Haugh and this objection is again referenced in the comments received above from the Working Group. On the matter of conditions he responded in 2015 that he hoped the proposed conditions could deliver public access, sustainable conservation of the historic river side area of great beauty and the ruin of Boat Haugh.

Other Consultation responses

2.56 Responses received from Historic Environment Scotland and Scottish Natural Heritage confirm they have no additional comments to make. The Scottish Environment Protection Agency (SEPA) confirms it has no further comments at this stage but that conditions 29-33 remain relevant to the protection of SEPA's interests and that the issues being disputed by parties fall outwith its remit. Transport Scotland confirms it has no comments to make.

CHAPTER 3: REPORTER'S CONCLUSIONS

Context

3.1 The Scottish Ministers' Intention to grant planning permission for the southern extension and the reasons for this are as stated in their letter dated 18 February 2019.

3.2 From the summary of cases above Ministers will note the remaining reservations of South Lanarkshire Council regarding the legal competency of granting planning permission for the southern extension only. I note that Scottish Ministers address this matter in paragraph 50 of their February 2019 letter. Questions about the legal context for restricting the scope of the permission are raised by the applicant in its comments on Condition 1. However my remit here is confined to the consideration of conditions in the context set by the Ministers' Intentions Notice. The Working Group cautions that the reasoning for the conditions must be firmly based on the decision as proposed and considered afresh in light of Ministers' intentions.

3.3 I have considered the context and need for any associated legal agreement bearing in mind the terms of the [extant legal agreement](#) and the advice set out in Circular 3/2012 on Planning Agreements and Good Neighbour Developments. My assessment takes account of:

- whether any necessary provision could otherwise be secured through planning condition or through other legislation;
- whether such provision is supported by the development plan; and
- whether it is related to and proportionate with the proposed development in terms of the mitigation of its impacts and necessity to enable the development to go ahead.

3.4 In addition my assessment below considers the planning conditions which would be necessary, relevant to planning, relevant to the development to be permitted, enforceable and reasonable in the context of the stated intention to grant planning permission for the southern extension only. This assessment follows the advice set out in Circular 4/1998 on the use of Planning Conditions.

3.5 Paragraph 9 of Circular 4/1998 states that conditions should only be imposed where they will meet clear land use planning objectives. Drawing on the terms of the Circular I have considered the appropriate conditions in the context of whether they are:

- clearly justified to support any approval and on whether the proposal would be unacceptable without such provision;
- relevant to planning and fairly and reasonably related to the development to be permitted or its effect on the surroundings;
- a consequence of the proposed development;
- capable of being enforced; and
- suitably precise and reasonable.

Planning Obligations

3.6 An agreement was registered under Section 75 of the Planning Act on 31 August 2016. This followed the reasoning that consolidation of all operations into one planning permission would provide clarity when discharging and monitoring conditions, and for enforcement purposes. This reasoning remains valid and I find nothing to indicate that the concluded agreement cannot continue to serve its intended purpose in the context of Ministers' current intentions. I consider that this agreement continues to serve this planning purpose and is necessary and relevant in the context of Circular 3/2012 on "planning obligations and good neighbour agreements".

3.7 A copy of the registered agreement is attached. There is no dispute between parties on the issue of consolidating the two permissions.

3.8 In addition, I consider that this extant agreement remains relevant to address wear and tear on the local road network through an annual road repairs payment. Again the agreed wording indicates that it can remain applicable in the current context. I consider that addressing the impact on local roads as a consequence of the assessed vehicle movements remains a relevant land use planning consideration that can be appropriately addressed in this way. There is no dispute between parties on this matter. I am satisfied that this approach meets the terms of the Circular given that alternative provision under the Roads Act (Section 96) relies on cost recovery from the operator. I agree with the council that reliance on Section 96 alone may not have provided sufficient surety of recovery for longer term quarry operations.

3.9 Whilst the Working Group raises matters about this agreement in relation to the progress of current operations I consider these are matters which fall to the remit of the council as planning and enforcement authority.

3.10 In the context of the recommended legal agreement, had planning permission been granted for the whole site, I previously recommended that there was a need for a long term management plan to be secured through legal agreement. This would have included provision to help guide the future management of the site and also included the establishment of a liaison group. I have considered whether such a requirement would remain reasonable in the context of the reduced scheme bearing in mind the clear opinions of the Working Group in this respect.

3.11 For the larger scheme there was in my view a clear planning justification for such consultation and agreement given the operations extended into the Historic Designed Landscape and had a greater degree of interface with sensitive areas, public access and residential properties. However, the reduced scheme relates to the original application area and avoids relatively more sensitive areas. The council with its experience of minerals operations anticipates no need for such provision preferring to rely upon the stated conditions to regulate this more limited expansion of the existing operations. The applicant takes a similar view and the current operations are progressing without such provision. So whilst I can understand the concerns of the Working Group I am unclear what the planning necessity would be in these reduced circumstances. I am concerned that it would be overly onerous and unreasonable to require such an agreement in this case. In these circumstances I do not consider that such a requirement would meet the test of necessity or reasonableness as set out in the Circular.

Planning Conditions

3.12 The conditions that should apply to any grant of planning permission have now been rehearsed on a number of occasions. Firstly by the council, then by Mr Jackman and by Mr

Edwards in relation to the whole scheme, then in relation to the southern extension (the reduced scheme) and most recently through the 2018 re-opening of the case. I must now look at these conditions afresh in the context of the Ministers' current intentions notice. However, the previously advised conditions for the reduced scheme provide a helpful starting point for that assessment.

3.13 In the main the conditions as set out previously in the Supplementary Report (2015) are not disputed. No additional reasoning or change in circumstance has been brought to my attention to justify any change. In taking account of the Ministers' intended decision and the stated reasons for these conditions I find no conflict with the terms of the Circular. Many of these conditions reflect those that would have been applied in any event had the application as a whole been approved. Consequently I advise that the following conditions 9,10,12,13,14,15,16,17,18,20,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39,40, 41,42,43,44 and 45 would remain appropriate in the context of Ministers' current intentions.

3.14 On the remaining conditions similar issues are raised as previously and as rehearsed through my 20 June 2018 report to Ministers through paragraphs 4.115-4.121. However my focus in that report was on the scheme as a whole. Whilst I provided some commentary on the conditions that might apply to a southern extension there was no recommendation other than to advise Ministers of the matters raised and of the conditions as recommended by the reporters in 2015. In this Supplementary Report I have addressed these matters in further detail and my conclusions and recommendations are as set out below.

Condition 1

3.15 The restriction of the developable area to protect the New Lanark World Heritage site and avoid its identified buffer zone is fundamental to the Ministers' reasoning. This area also includes the Bonnington Estate as part of the Falls of Clyde Historic Designed Landscape. Given that emphasis I consider that, regardless of any other adjustments to the boundary of the site, a condition is required to exclude these areas from the terms of any planning permission.

3.16 In that respect I consider the condition below remains appropriately framed to serve that planning purpose and is necessary in the context of the proposed decision. Reference to the plan ([P2/1842/2 Document A8b](#)) showing the New Lanark Heritage site buffer zone clarifies the area to be protected and reflects Ministers' intentions in this respect:

1. That notwithstanding the submitted plans there shall be no development or mineral extraction within the area identified as the New Lanark World Heritage Site Setting/Buffer Zone on plan number P2/1842/2 – May 2012.

Reason: To protect the setting of New Lanark World Heritage Site and to protect the Falls of Clyde Designed Landscape

3.17 However, the Circular advises that any condition must be sufficiently precise and in that context I have carefully considered the area to be included within the terms of any planning permission for the Southern Extension only. To assess this I have reproduced below the description of the various areas relevant to this application from [paragraph 7.2 of the original planning application](#) and as repeated in the accompanying [Environmental Statement \(paragraph 1.23\)](#). This description should be read alongside plan P2/1842/5A – July 2013 - Proposed Block Phasing ([document A8e](#)).

Phase 1 – This is a 22ha area located immediately west of the current excavation area and south of Robiesland Farm and East Lodge. It is known as the Western Extension Area.

Phase 2A – This measures 41ha and is the current extraction area. This phase consists entirely of mineral that is already permitted for excavation under the current consent. This area will be progressively worked and restored whilst the extension application is considered.

Phase 2B – This is a 20ha area located immediately south of Phase 2A. It is known as the Southern Extension Area.

Phase 3 – This is the plant site area. This phase also consists entirely of mineral that is already permitted for excavation

3.18 As it stands and as described above Phase 2A already has planning permission. Reference to the plan P2/1842/5A shows the extent of Phase 2a and the boundary drawn away from the estate boundary. Proposed Phase 1 (the Western Extension Area) whilst contained mainly to the west of the Drove Road and within the Historic Designed Landscape/buffer zone also includes a strip of land to the east of the Bonnington Estate boundary and outwith the Historic Designed Landscape and New Lanark World Heritage Site buffer zone. This extends to adjoin the boundary of Phase 2A and the current extraction area.

3.19 This is the eastern area of Phase 1 as shown in red on [the applicant's submitted plan](#) (the "red area"). The applicant considers this should be included as part of any grant of planning permission for the southern extension. In response The Working Group clearly state that as this strip was to have been included in the Western Extension (taken as Phase 1) the intention of Ministers is to exclude this area.

3.20 I consider the definition of the boundary of the approved extraction area (CL/11/0285) and its treatment are relevant considerations given that the extent of Phase 2A has already been established. Inclusion of the area shown in red on the applicant's plan would in effect extend Phase 2A. I note the council has no objection to inclusion of this area. I recognised in 2018 that a suspensive condition 3 could enable clarification of the boundary. However, I also accepted the advantages of reflecting the established phasing and on the need for precision.

3.21 In that context and on further consideration of the original application description above I consider it is clear which areas represent the western and southern extensions. In considering the terms of the already concluded legal agreement, as discussed above, the premise for consolidation of the extant permission with the extended area to the south is accepted and agreed. This has the effect of bringing Phase 2A within the terms of the reduced scheme. However there is nothing to suggest to me that the limits of that phase could be other than as shown in plan P2/1842/5A – July 2013.

3.22 Without any clear evidence to the contrary I find it is reasonable to assume that the reduced scheme subject of this report would include only the remaining workings in Phase 2A and inclusion of the new extraction area shown as Phase 2B. It would not apply to any part of Phase 1 (the Western Extension) which Ministers intend to exclude.

3.23 In terms of a reduced scheme I therefore consider that there is no premise to revisit the terms on which Phase 2A was defined. To do so would involve making potentially

uninformed judgements about inclusion of part of the western extension beyond the limit of the current approved extraction works. I accept that my previous recommendation to Ministers included Phase 1. However, that consideration was based on the entire area and the consequent phasing and mitigation proposals. Extension of Phase 2A to establish the limits of extraction along the Drove Road was not part of my consideration. This is not a matter highlighted in the Ministers' Intentions Notice.

3.24 Taking all of the above into account I can understand that the previously proposed framing of condition 1 could lack precision and leave some ambiguity in terms of the area to which this planning permission would relate. In turn this could run contrary to the terms of the Circular. Consequently, for the purposes of clarity and precision I agree with the Working Group that the first condition should go further to clarify the area to which the proposed permission would relate.

3.25 However, given my assumption that the Ministers' Intention and reasoning relates to exclusion of the western extension as a whole (Phase 1) I am not persuaded that the "red area" should be differentiated. Consequently I do not consider that the additional reference to this area as proposed by the Working Group need be included.

3.26 In addition, my assessment is that any reference to the mitigation to be applied to protect the amenity of adjoining areas is more appropriately left to be addressed through a separate condition. This enables condition 1 to be solely concerned with the restriction of the terms of the planning permission to the southern extension. I consider it is necessary to make sure this condition is sufficiently precise to identify the area to which permission for a southern extension only is to apply. However, I find that the wider consideration of any required mitigation should be addressed separately. I return to that matter in relation to condition 2 below.

3.27 I understand the applicant's position that the "red area" is distinct and severable as it is not within the World Heritage site buffer zone nor the Historic Designed Landscape. However it falls within a phase of development that is. As stated above I am not persuaded that this additional area can simply be added to either of the phases that I am considering as part of this report. To do so may have implications for the mitigation already considered through the previous approval of Phase 2A and extend this permission beyond that intended by Ministers. The applicant's submissions reference the benefits to be gained in terms of restoration and a more gentle profile of slopes. However, I do not consider the basis for this is sufficiently demonstrated. In the absence of further details on the proposed works, phasing and restoration of this area, were it to be severed from Phase 1, I do not consider it appropriate to add it to the terms of any permission for the Southern Extension.

3.28 Drawing together all of the above my recommendation is that the following wording for Condition 1 should be included:

1. That notwithstanding the submitted plans there shall be no development or mineral extraction within the area identified as the New Lanark World Heritage Site Buffer Zone or the Falls of Clyde Designed Landscape identified on plan number P2/1842/2 – May 2012. Accordingly, no consent is given for Phase 1 as shown on Plan P2/1842/5A – July 2013 – Proposed Block Phasing.

Reason: To protect the New Lanark World Heritage Site buffer zone and to protect the Falls of Clyde Designed Landscape.

3.29 Clearly it would remain for Ministers in light of their stated reasoning to consider whether to support inclusion of the “red area”. However, in the event that request is viewed positively I would suggest that this matter should be left for further detailed consideration in light of the appropriate details. Such an approach could be secured by means of a suspensive condition. In that scenario I would advise that the first version of condition 1 above is attached. Condition 2 could then reserve consideration of the appropriate treatment for the western boundary as a whole subject to further details and to the prior approval of the planning authority.

Condition 2

3.30 Paragraph 27 of the Ministers’ letter notes the protection of the Falls of Clyde Designed Landscape including the impact on the Bonnington Estate boundary wall and a few mature parkland trees. Scottish Ministers also note that “following restoration there would be a perceptible change in the original landform and this would be a permanent change in the landscape that would have been evident in the historical estate layout”. Further the Ministers state in paragraph 35 that the the western extension is designated for its cultural significance as part of a designed landscape and Scottish Ministers consider that further encroachment and mineral extraction within the Middle Clyde Valley Special Landscape Area is unacceptable and conflicts with Policy NHE16. Paragraph 42 on compliance overall with the development plan references the need to avoid significant disturbance into protected areas.

3.31 The Working Party references these matters in support of its concerns about extraction extending up to the boundary of the World Heritage Site buffer zone given the potential to impact on landform and on the setting of the Drove Road, boundary wall and Historic Designed Landscape. I understand that the main area of concern relates to the boundary zone between the southern extension and the areas protected by the refusal of the western extension.

3.32 I have also had regard to Paragraphs 23, 26, and 30 of the Notice of Intention as referenced by the Working Group. I can understand that the areas of the reduced scheme in immediate proximity to the Drove Road and Estate Boundary are relatively more sensitive in terms of protecting the amenity of the area. The sensitive treatment of the boundaries of the extraction operations would be a material planning consideration in taking into account the relevant matters of amenity, landscape and heritage impacts.

3.33 In that respect the application as submitted provided details of mitigation, phasing and boundary treatment but this was based on the whole proposal including the western extension. The details of the application did not address the southern extension area in isolation. Consequently, I consider that further consideration and detailing of the boundary treatment and any relevant mitigation in the interests of visual amenity and landscape impact to apply in the context of Ministers’ current intentions are relevant matters. Such mitigation would be necessary in order to secure the acceptability of the reduced scheme. On approval of the reduced scheme the Drove Road would continue as a recreational route during the operational phase and would link through to Boat Haugh along the boundary of the Bonnington Estate.

3.34 As described above the Working Group has referenced the “red area” on the western boundary of Phase 2A as the current buffer strip and emphasise the importance of retaining this. Indeed it advises that a 50 metre buffer strip should be extended further to include a similar strip along the Western Boundary of Phase 2B. This is considered necessary in

order to protect the setting, interpretation and amenity of heritage assets and the recreational route along the Drove Road.

3.35 The reduced scheme, in terms of the agreed legal agreement, would amalgamate the extant and new permission to include Phase 2A and the proposed Phase 2B. For the reasons stated above I do not consider that either condition 1 or condition 2, based on the available information, should be worded in such a way as to specify that the eastern portion of Phase 1 should be included in any permission.

3.36 In addition, I consider that application of a 50 metre buffer between the Drove Road and Phase 2B would lack any substantive justification. Whilst a similar strip reflects the separation of the Drove Road and extraction for Phase 2A the definition of that area reflects the particular circumstances of the site, its context and the mitigation proposed at that time. Without sectional drawings and details of screening and ground treatment I consider it would be inappropriate to require this to be mirrored for Phase 2b. I do not consider that it would be reasonable to be so prescriptive at this stage in the absence of the relevant detailed information.

3.37 That said I consider that the treatment of this boundary and the definition of a limit to the extraction area requires to be addressed not only in respect of adjoining heritage assets but also in the context of the landscape setting of the surrounding area and the amenity of recreational users of the Drove Road. Condition 44 as previously recommended enables geomorphological conditions to be recorded. I consider that this provision along with the wider requirements of a suspensive condition 2 sufficiently address the matters raised by the Working Group. I consider that provisions in the interests of protecting the amenity of the area also reflect Ministers' reasoning as set out in their Intentions Notice. In that context, I consider that a suspensive Condition 2 as set out below should be applied. This reflects that previously recommended but with some minor adaption to specify the matters to be addressed.

2. That no development shall take place until plans have been submitted and approved in writing by the Planning Authority showing the extent of mineral extraction, landform, level details and screening along the western boundary of phase 2A and the whole of phase 2B as shown on plan number P2/1842/5A – July 2013. The approved plans shall demonstrate how appropriate boundary treatment will protect the heritage, landscape and visual amenity of the adjoining area. The approved plans shall be implemented unless otherwise agreed in writing by the Planning Authority.

Reason: To protect the heritage, landscape and visual amenity of the adjoining area which includes the setting of the New Lanark World Heritage Site(buffer zone), the Falls of Clyde Designed Landscape, the Middle Clyde Valley Special Landscape Area and recreational access along the Drove Road.

3.38 In the event that Ministers take an alternative view and consider that inclusion of the "red area" should be specifically supported a consequent variation of this condition would be required to reference an extended Phase 2A (including the relevant portion of Phase 1 which is not within the New Lanark World heritage Site Buffer Zone). This would provide assurance through the need for prior approval of detailed plans by the planning authority that the objectives of this condition should not be compromised by such inclusion.

Condition 3

3.39 In 2015 the timescales recommended by the previous reporters would have extended extraction operations from 2027 (as stated on the extant permission) to 2030 with restoration by 2032. The Working Group consider that with removal of the Western area there is no case for extension beyond 2027. I note the applicant's case for further extension to reflect not only the passage of time but the lower extraction rates that are predicted. However, having considered the smaller scale of the extraction area an operational timeframe extending to 2040 would significantly prolong the works and the consequent period over which local impacts would be experienced. My conclusion is however that a timeframe to 2027 would be unreasonably restrictive given the extraction rates indicated. On balance I consider that the timescale proposed in 2015 should provide some additional flexibility to take account of the time that has elapsed since then and to allow for a realistic period over which extraction can be completed. Consequently, I advise that the timescales be stated as 2032 and 2034 respectively:

3. That all extraction operations on the site shall be discontinued no later than 31 December 2032 and that the entire site shall be restored in accordance with the approved restoration and enhancement plan or plans (as required by conditions 6 and 7) by 31 October 2034.

Reason: To ensure that the Council as Planning Authority retains effective control of the development.

Condition 4

3.40 The only disputed matter on this condition is linked to the arguments above regarding the inclusion or otherwise of the "red area".

3.41 My conclusions above apply in this context and Ministers should note that should they take an alternative view then amendment of this phasing condition would require to include reference to the eastern side of Phase 1 outwith the Buffer zone, World Heritage Site and Historic Designed Landscape. I have assumed that the progressive working would incorporate that area as an extension of the current phase 2A.

3.42 That aside my recommendation is that the condition as suggested previously is in accordance with the Circular and should be attached to any grant of planning permission for the southern extension:

4. That the extraction operations shall proceed in accordance with phases 2A, 2B and 3, illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, with each phase being worked progressively in that order.

Reason: To provide for progressive restoration.

Condition 5

3.43 The applicant requests that the 12 month period after which operations will be deemed to have ceased should be increased to 24 months. I understand this request is linked to the nature of the finer sand material in the southern extension and that the applicant considers that as this is less valuable it is likely to prove more difficult to sustain production levels. I can understand the potential difficulties if this were to be the case. However for land use planning purposes I consider that a cessation of operations for up to two years would create unreasonable uncertainty and an increased risk that the required restoration and timeous re-instatement of the site would not be secured.

3.44 For this reason I consider that provision for the satisfactory restoration of the site is more effectively and reasonably controlled by retention of the shorter 12 month period. Consequently I recommend inclusion of the condition as previously proposed and as recommended by the council as planning and enforcement authority.

5. Notwithstanding the terms of condition 3 above, in the event of extraction operations on site ceasing for a period of 12 months or more, the Planning Authority shall deem site operations to have ceased permanently, and the application site area shall be restored within a period of 24 months in accordance with the approved restoration plan or plans (as required by condition 6). That, in the event of extraction operations on any phase of the site ceasing for a period of 12 months or more, the operator, within 2 months of the phase having been deemed to have ceased, shall submit, for the written approval of the Council as planning authority, an interim restoration scheme for that part of the site, to include timescales for restoration, and shall thereafter undertake the restoration as detailed within the approved plan in line with the approved timescales.

Reason: To secure the satisfactory reinstatement of the site.

Condition 6

3.45 I find no question that this condition responds to the terms of the Circular and that provision for the necessary re-instatement of the site is an appropriate requirement for the proposed quarry operations.

3.46 Again the applicant raises the issue of inclusion of the “red area” within the scope of this condition. In that respect I refer back to my conclusions above that this area is not appropriately included.

6. That no mineral extraction operation shall commence within either phases 2A, 2B, or 3, as illustrated on drawing P2/1842/5A – July 2013 – Proposed Block Phasing, until a detailed restoration plan or plans for that phase, and any other areas of the application site to be restored during the period mineral extraction operations are taking place within that phase, has been submitted to and approved in writing by the Council as Planning Authority.

The detailed restoration plan or plans shall include detailed information on landform levels, drainage (including ground water and surface water run-off flowpaths). Soil coverage, surface treatment, planting schedules, final boundaries, paths, signage, parking and the progressive restoration of the phase.

All restorative works shall thereafter be undertaken in accordance with the details and timescale stipulated within the approved detailed restoration plan or plans, unless otherwise approved in writing by the Council as Planning Authority.

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is satisfactorily restored in a phased manner.

Condition 7

3.47 Initially the enhancement works were to start around Phase 1 the Western extension. Operations were to commence from the western extent of Phase 1 and progress easterly back toward the existing quarry, returning to an area currently consented for extraction operations (Phase 2A), and then progress in a southerly direction into the proposed southern

extension area (Phase 2B). The final extraction area (Phase 3) is located beneath the current processing area in the north eastern area of the application site. The condition as proposed had planning permission been granted for the entire development included the following clarification regarding the relevant enhancement areas:

Phase 1 - Enhancement Zone A
Phase 2A - Enhancement Zone B
Phase 2B - Enhancement Zone C
Phase 3 - Enhancement Zone D

3.48 The applicant states that much of this enhancement was proposed to offset impacts associated with the Phase 1 operations. I can appreciate that the enhancement was proposed as a package of measures and that Phase 2A and 3 were considered through planning permission (CL/11/0285). Nonetheless the proposal involves a substantial extension of the workings southwards and an extension to the life of the quarry. In that context I agree with the council that it remains appropriate to require the works which form part of this current application. These are clearly associated with the relevant phases as shown on the applicant's submitted plan P2/1842/5A - Proposed Block Phasing – July 2013. To remove such enhancement proposals would risk running contrary to the terms of the planning application as submitted and the mitigation assessed through the environmental assessment and as understood by the public and other agencies.

3.49 Consequently, I consider there is a remaining requirement to address those elements of the proposed scheme relevant to the mitigation of the effects of Phases 2A, 2B and 3 to fully address the impacts of the albeit reduced scheme. I find no reason to depart from the wording as proposed by the previous reporters and consider this condition continues to comply with the terms of the Circular. In addition, the applicant also makes the point about inclusion of the "red area". I have addressed this matter above.

7. That no mineral extraction operations shall commence within each phase 2A, 2B or 3 as illustrated on drawing P2/1842/5A – July 2013 – Proposed Block Phasing until a detailed Enhancement Plan(s) for the corresponding Enhancement Zone (as listed below) has been submitted to and approved in writing by the Council as Planning Authority. The Enhancement Plan(s) shall clearly set out the proposed enhancement works and timescales for implementation, including detailed specifications for works associated with ecological and biodiversity enhancement, tree and hedgerow planting, fencing, information boards, footpath construction and management of existing woodland areas. All enhancement works shall be undertaken in accordance with the details and timescales stipulated within the approved Enhancement Plan(s). There shall be no deviation from the approved Enhancement Plan(s) including the timescales stated therein, unless otherwise approved in writing by the Council as Planning Authority. For avoidance of doubt, the Phases and corresponding Enhancement Zones are illustrated on drawing P2/1842/5 - Proposed Block Phasing – May 2012, and are as follows:

Phase 2A - Enhancement Zone B.
Phase 2B - Enhancement Zone C.
Phase 3 - Enhancement Zone D.

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is enhanced in accordance with the approved details.

Condition 8

3.50 Again the only issue raised is in relation to the inclusion or otherwise of the “red area” and I have addressed that matter above. I consider the wording as previously revised remains relevant and in accordance with the terms of the Circular.

8. That no mineral extraction operations shall commence within Phases 2A, 2B or 3, as illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, until a detailed aftercare scheme for that phase, and any other areas of the application site to be restored during the period mineral extraction operations are taking place within that phase, is submitted for the written approval of the Council as Planning Authority. The aftercare scheme shall specify the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps to bring the land to the required standard.

Reason: To ensure effective landscape management to bring land to the required standard for the after uses.

Condition 11

3.51 The following reflects the hours of operation as set out in the Environmental Statement paragraph 1.43:

Hours of operation will be the same as existing namely;

- 06.30 to 19.00 Monday to Friday
- 06.30 to 13.00 Saturday
- 08.00 to 16.00 Sundays

There will no working on Public Holidays or Local Bank Holidays

3.52 It may be that other quarries operate under extended hours and are open on public holidays and I can understand that such restrictions can impact on the efficient operation of the business and indeed on traffic congestion at certain times. However each scheme must be considered on its merits and I agree with the council that any proposals to amend the working hours or days on which the quarry can operate would materially alter the terms of the original proposal and could impact on the surrounding area. In addition a change to extend operational hours as suggested by the applicants has not been the subject of consultation with other agencies or with the surrounding community. Consequently, I consider that the condition as originally framed remains necessary to reflect the terms of the application as proposed and in the interests of local amenity.

11. That unless otherwise agreed in writing by the Council as Planning Authority:
- (a) No haulage vehicles shall enter or leave the site; before 07.00hrs and after 17.00hrs on Mondays to Fridays, before 07.00hrs and after 13.00hrs on Saturdays and at any time on Sundays.
 - (b) No operations or activity (except water pumps for the management of water, security or in connection with essential maintenance within the plant site area) shall take place at the site, before 06.30hrs and after 19.00hrs on Mondays to Fridays; before 06.30hrs and after 13.00hrs on Saturdays and before 08.00hrs and after 16.00hrs on Sundays. No activities (except water pumps for the management of water, security or in connection with essential maintenance within the plant site area) shall take place on Public Holidays or Local Bank Holidays.

Reason: To ensure that the Planning Authority retains effective control of the development and in the interests of protecting local amenity.

Condition 19

3.53 The grant of planning permission for the reduced scheme would bring with it some change in the nature and extent of the current operations. In addition it includes the extant permission. Whilst this may not currently be an issue it is a potential consequence of the nature of this development and one over which I can understand the council as planning and roads authority should retain control. I consider that it remains necessary to retain a condition to address the risk of mud and debris being brought onto the public road in the interests of road safety. Consequently I consider the following condition should apply:

19. That in the event a written request is made by the Council the operator shall within 21 days of the written request being made submit, for the written approval of the Planning Authority, details setting out measures to minimise the deposit of mud and debris on the public road, including details of the timescale within which these measures will be taken. Thereafter these measures shall be implemented within the approved timescale.

Reason: To minimise the impact on local amenity and the chances of debris being carried onto the public highway in the interests of road safety.

Condition 21

3.54 Increasing the limit on the importation of materials to the site would have the effect of an increase in vehicle movements. The resulting change would not have been considered as part of the transport assessment that accompanied the original application. In any event I consider the condition as proposed can enable an increase to be sought from the council, a request which could be accompanied by the necessary supporting information to allow proper assessment of this matter. I consider that the following condition is relevant and necessary in the interests of road safety and local amenity.

21. That the importation of cement and other materials required for site processing shall not exceed 50,000 tonnes per annum without the prior written agreement of the Council as Planning Authority.

Reason: In the interest of road safety and local amenity.

Conclusion

3.55 The conditions that could apply to a planning permission for the southern extension only have been considered through the various stages of this process. In light of Ministers Notice of Intention dated 18 February 2019 I have invited comments from the main parties and consultation authorities on this matter. The conditions as advised through the Reporters 2015 Supplementary Report to Ministers, which applied to the southern extension only, were used as a starting point for that process.

3.56 The above report summarises the responses received and my conclusions on the matters raised. I have taken into account the Ministers Intentions Notice, the previous evidence as rehearsed through the 2018 re-opening of the case and the submissions of all parties as well as the terms of the relevant Circulars on planning conditions and legal agreements.

3.57 From that my conclusion is that there is no need for a further legal agreement given that there is an extant agreement in place that covers the necessary matters relating to cessation of the current planning permission and to make provision to address wear and tear

to the local road network. My conclusions above do not support any additional requirements for agreement to include establishment and provision for the involvement of a liaison group.

3.58 The majority of the conditions that were advised previously both in the context of the whole scheme (in so far as they remain applicable to the reduced scheme) and as advised in 2015 through the Supplementary Report prepared by Mr Jackman and Mr Edwards are agreed by all parties.

3.59 The remaining issues relate to the area to which the permission should apply (conditions 1 and 2), the application of a 50 metre buffer zone (conditions 1 and 2), the time periods that should apply (condition 3), the extent of the enhancement works (condition 7), hours of operation (condition 11), the requirement in terms of roads maintenance(condition 19) and the limit on the importation of materials(condition 21).

3.60 On these issues my conclusions above advise that further clarification of the area to which the proposed planning permission would apply is required to remove any ambiguity in that respect. I have drawn this matter to the attention of Ministers. There may be an option to reserve this matter for further consideration through the suspensive nature of condition 2. However, my advice based on the description of the original application and my understanding of Ministers Intentions letter is that all of Phase 1 is defined as the western extension. Consequently this area should be excluded from the terms of the reduced scheme. I have included wording through condition 1 to this effect.

3.61 On the matter of the 50 metre buffer zone I have no details sufficient to demonstrate that 50 metres would represent the appropriate set back in the particular circumstances of Phase 2B. That said I consider the sensitive treatment of the western boundary is necessary and a relevant planning matter to be addressed through condition.

3.62 Consequently, I consider that the matters raised and the relevant points, in so far as they relate to amenity and the appropriate establishment of the boundary relative to sensitive areas of historic and recreational value, are most appropriately handled through a suspensive condition. In this respect I have proposed some relatively minor adjustments to condition 2 to clarify its purpose and the matters to be addressed to secure that an acceptable boundary in the interests of amenity can be secured.

3.63 The proposed timeframes for operation and restoration, as advised through Condition 3, are 2032 and 2034 respectively.

3.64 On the other matters I have found no reason to depart from the terms of the previously advised conditions. I do not consider the changes proposed by the applicant should be supported as they do not meet the terms of the Circular and/or would represent a substantive change to the application as originally submitted.

3.65 Taking all of the above into account my recommended conditions, in the context of Ministers Intentions Letter dated 19 February 2019, are as attached through Appendix 1. Given that the agreement under Section 75 has already been concluded and registered there would be no need to delay issue of the decision notice.

Allison Coard
Reporter

APPENDIX 1 RECOMMENDED PLANNING OBLIGATION AND CONDITIONS

Planning Obligation

Note: The following heads of terms for a Planning Obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) remain relevant and are addressed by the extant obligation as agreed on 31 August 2016:

- a) An undertaking to cease, and not restart, operations under planning permission CL/11/0285, following commencement of operations under this permission.
- b) That the operator has an agreement under Section 96 of the Roads (Scotland) Act 1984 for the duration of the consent.

Planning Conditions

1. That notwithstanding the submitted plans there shall be no development or mineral extraction within the area identified as the New Lanark World Heritage Site Buffer Zone or the Falls of Clyde Designed Landscape identified on plan number P2/1842/2 – May 2012. Accordingly, no consent is given for Phase 1 as shown on Plan P2/1842/5A – July 2013 – Proposed Block Phasing.

Reason: To protect the New Lanark World Heritage Site buffer zone and to protect the Falls of Clyde Designed Landscape.

2. That no development shall take place until plans have been submitted and approved in writing by the Planning Authority showing the extent of mineral extraction, landform, level details and screening along the western boundary of phase 2A and the whole of phase 2B as shown on plan number P2/1842/5A – July 2013. The approved plans shall demonstrate how appropriate boundary treatment will protect the heritage, landscape and visual amenity of the adjoining area. The approved plans shall be implemented unless otherwise agreed in writing by the Planning Authority.

Reason: To protect the heritage, landscape and visual amenity of the adjoining area which includes the setting of the New Lanark World Heritage Site (buffer zone), the Falls of Clyde Designed Landscape, the Middle Clyde Valley Special Landscape Area and recreational access along the Drove Road.

3. That all extraction operations on the site shall be discontinued no later than 31 December 2032 and that the entire site shall be restored in accordance with the approved restoration and enhancement plan or plans (as required by conditions 6 and 7) by 31 October 2034.

Reason: To ensure that the Council as Planning Authority retains effective control of the development.

4. That the extraction operations shall proceed in accordance with phases 2A, 2B and 3, illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, with each phase being worked progressively in that order.

Reason: To provide for progressive restoration.

5. Notwithstanding the terms of condition 3 above, in the event of extraction operations on site ceasing for a period of 12 months or more, the Planning Authority shall deem site

operations to have ceased permanently, and the application site area shall be restored within a period of 24 months in accordance with the approved restoration plan or plans (as required by condition 6).

That, in the event of extraction operations on any phase of the site ceasing for a period of 12 months or more, the operator, within 2 months of the phase having been deemed to have ceased, shall submit, for the written approval of the Council as planning authority, an interim restoration scheme for that part of the site, to include timescales for restoration, and shall thereafter undertake the restoration as detailed within the approved plan in line with the approved timescales.

Reason: To secure the satisfactory reinstatement of the site.

6. That no mineral extraction operation shall commence within either phases 2A, 2B, or 3, as illustrated on drawing P2/1842/5A – July 2013 – Proposed Block Phasing, until a detailed restoration plan or plans for that phase, and any other areas of the application site to be restored during the period mineral extraction operations are taking place within that phase, has been submitted to and approved in writing by the Council as Planning Authority. The detailed restoration plan or plans shall include detailed information on landform levels, drainage (including ground water and surface water run-off flowpaths). Soil coverage, surface treatment, planting schedules, final boundaries, paths, signage, parking and the progressive restoration of the phase.

All restorative works shall thereafter be undertaken in accordance with the details and timescale stipulated within the approved detailed restoration plan or plans, unless otherwise approved in writing by the Council as Planning Authority.

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is satisfactorily restored in a phased manner.

7. That no mineral extraction operations shall commence within each phases 2A, 2B or 3 as illustrated on drawing P2/1842/5A – July 2013 – Proposed Block Phasing until a detailed Enhancement Plan(s) for the corresponding Enhancement Zone (as listed below) has been submitted to and approved in writing by the Council as Planning Authority. The Enhancement Plan(s) shall clearly set out the proposed enhancement works and timescales for implementation, including detailed specifications for works associated with ecological and biodiversity enhancement, tree and hedgerow planting, fencing, information boards, footpath construction and management of existing woodland areas. All enhancement works shall be undertaken in accordance with the details and timescales stipulated within the approved Enhancement Plan(s). There shall be no deviation from the approved Enhancement Plan(s) including the timescales stated therein, unless otherwise approved in writing by the Council as Planning Authority. For avoidance of doubt, the Phases and corresponding Enhancement Zones are illustrated on drawing P2/1842/5 - Proposed Block Phasing – May 2012, and are as follows:

Phase 2A - Enhancement Zone B.
Phase 2B - Enhancement Zone C.
Phase 3 - Enhancement Zone D.

Reason: These details were not submitted at the time of the application and are required. To ensure the application site is enhanced in accordance with the approved details.

8. That no mineral extraction operations shall commence within Phases 2A, 2B or 3, as illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, until a detailed aftercare scheme for that phase, and any other areas of the application site to be restored during the period mineral extraction operations are taking place within that phase, is submitted for the written approval of the Council as Planning Authority. The aftercare scheme shall specify the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps to bring the land to the required standard.

Reason: To ensure effective landscape management to bring land to the required standard for the after uses.

9. Each individual phase of mineral extraction, or such other phase as may be subsequently approved in writing by the Council as Planning Authority, shall be substantially restored in a progressive and phased manner in accordance with the provisions of the approved restoration plan or plans submitted as a requirement of conditions 6 and 7. Thereafter, the aftercare scheme submitted as a requirement of condition 8 shall be implemented in a phased manner from the first planting season following completion of each individual phase wherever practicable taking into account proposed working arrangements.

Reason: To ensure satisfactory reclamation of the site and timeous completion of the work.

10. That no development hereby approved shall commence until a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent has been submitted for the written approval of the Council as Planning Authority. Such guarantee must, unless otherwise agreed in writing by the Council as Planning Authority:

- i. be granted in favour of the Council as Planning Authority;
- ii. be granted by a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
- iii. be for a specified amount which covers the value of all site restoration and aftercare liabilities as agreed between the operator and the planning authority at the commencement of development;
- iv. either contain indexation provisions so that the specified amount of the guarantee shall be increased on each anniversary of the date of this consent by the same percentage increase in the General Index of Retail Prices (All Items) exclusive of mortgage interest published by or on behalf of HM Government or, in the event that that index is no longer appropriate or applicable, such other comparable index as the Planning Authority, acting reasonably, decide between the said date and such relevant anniversary. The amount shall be reviewable to ensure that the specified amount of the guarantee always covers the value of the site restoration and aftercare liabilities;
- v. come into effect on or before the date of commencement of development, and expire no earlier than 12 months after the end of the aftercare period.

No work shall begin at the site until (1) written approval of the Council as Planning Authority has been given to the terms of such guarantee and (2) thereafter the validly executed guarantee has been delivered to the Council as Planning Authority.

In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed in accordance with the terms of this condition is lodged with the Council as Planning Authority.

In the event the value of the guarantee held by the Council is less than the calculated site restoration and aftercare liabilities (calculated through condition 38

below), the operator shall, within four months of the submission of the annual progress plan required through condition 38, deliver a further guarantee to cover all site restoration and aftercare liabilities. Such guarantee must, unless otherwise agreed in writing by the Council as Planning Authority, comply with parts i to v, above. If this further guarantee is not submitted within four months of the submission of the annual progress plan required through condition 38, all extraction operations shall cease until the Council confirms, in writing, receipt of an acceptable guarantee.

Reason: To ensure that provision is made for the restoration and after care of the site.

11. That unless otherwise agreed in writing by the Council as Planning Authority:

(a) No haulage vehicles shall enter or leave the site; before 07.00hrs and after 17.00hrs on Mondays to Fridays, before 07.00hrs and after 13.00hrs on Saturdays and at any time on Sundays.

(b) No operations or activity (except water pumps for the management of water, security or in connection with essential maintenance within the plant site area) shall take place at the site, before 06.30hrs and after 19.00hrs on Mondays to Fridays; before 06.30hrs and after 13.00hrs on Saturdays and before 08.00hrs and after 16.00hrs on Sundays.

No activities (except water pumps for the management of water, security or in connection with essential maintenance within the plant site area) shall take place on Public Holidays or Local Bank Holidays.

Reason: To ensure that the Planning Authority retains effective control of the development and in the interests of protecting local amenity.

12. That no development shall commence until a scheme setting out how noise from the site shall be managed and monitored has been submitted and approved in writing by the Council as Planning Authority. The scheme shall include:

- The day and night time nominal noise limits from site operations.
- Noise monitoring arrangements.
- Noise complaint process.
- Measures in relation to vehicle reversing alarms.
- Operation of vehicles, plant and machinery.
- Mitigation measures for temporary or exceptional operations.

The agreed scheme shall thereafter be implemented unless otherwise approved in writing by the Council as Planning Authority.

Reason: To minimise noise nuisance from the operation.

13. That no development shall commence until a detailed scheme setting out dust control and monitoring has been submitted and approved in writing by the Council as Planning Authority. The scheme shall include:

- A dust management plan.
- Dust monitoring arrangements.
- Dust complaint process.
- Arrangements for ceasing operations if a dust nuisance is caused.
- Arrangements for dust suppression.

The agreed scheme shall be implemented unless otherwise approved in writing by the Council as Planning Authority.

Reason: To minimise the nuisance from dust.

14. That all aggregates laden lorries leaving the site shall be sheeted before entering the public road.

Reason: In the interests of road safety and protection of local amenity.

15. The operator shall at all times be responsible for the removal of mud or other materials deposited on the public road by vehicles entering or leaving the site.

Reason: In the interests of road safety.

16. That the visibility splays for access onto the A73 shall be maintained at 2.5 x 215 metres unless otherwise agreed in writing with the Council as Planning and Roads Authority.

Reason: In the interests of road safety.

17. That all mineral dispatch vehicles shall only use the site entrance onto the A73 shown on plan number P2/1842/2 – May 2012, unless otherwise approved in writing by the Council as Planning Authority.

Reason: To ensure that the Council as Planning Authority retains effective control of the development.

18. That prior to the use of any new internal access roads a scheme setting how they will be surfaced and maintained and how debris will be prevented from being carried from them onto the public highway shall be submitted to and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise approved in writing by the Planning Authority. All existing internal access roads will be maintained in accordance with a scheme of works to be submitted to and approved by the Planning Authority within 3 months of the date of permission.

Reason: To minimise the impact on local amenity and the chances of debris being carried onto the public highway.

19. That in the event a written request is made by the Council the operator shall within 21 days of the written request being made submit, for the written approval of the Planning Authority, details setting out measures to minimise the deposit of mud and debris on the public road, including details of the timescale within which these measures will be taken. Thereafter these measures shall be implemented within the approved timescale.

Reason: To minimise the impact on local amenity and the chances of debris being carried onto the public highway in the interests of road safety.

20. That the exportation of mineral from the site shall not exceed 650,000 tonnes per annum, without the prior written agreement of the Council as Planning Authority.

Reason: In the interest of road safety and local amenity.

21. That the importation of cement and other materials required for site processing shall not exceed 50,000 tonnes per annum without the prior written agreement of the Council as Planning Authority.

Reason: In the interest of road safety and local amenity.

22. Prior to the commencement of the development hereby approved, a sign shall be erected adjacent to the exit road from the quarry, at a location to be agreed in writing with the Council as Planning Authority, warning motorists departing the quarry that they may encounter cyclists. The sign shall accord with Drawing P950 produced by the Department of Transport.

Reason: In the interests of road safety.

23. That, unless otherwise agreed in writing with the Council as Planning Authority, top soil shall only be stripped, stockpiled and replaced when it is in a suitably dry and friable condition (suitably dry means that the top soil can be separated from the sub soil without difficulty so that it is not damaged by machinery passing over it).

Reason: To minimise damage to the soils and sub soils.

24. That all suitable soils, peat and soil making material shall be recovered where practical during the stripping or excavation operations and separately stored, on site, for use during restoration.

Reason: To minimise damage to the soils, sub soils and peat.

25. That topsoil, sub soil, peat and soil making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during site restoration. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their formation. The sward shall be managed in accordance with the appropriate agricultural management techniques throughout the period of storage.

Reason: To minimise damage to the soils, sub soils and peat.

26. That no development shall commence until a scheme of weed control and a scheme of movement of plant, vehicles and machinery has been submitted and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To minimise damage to the soils and sub soils.

27. That no development shall commence until a drainage plan has been submitted and approved in writing by the Council as Planning Authority. The drainage plan shall include:

- Measures to avoid contamination of surface and ground water.
- Treatment of any contamination.
- Managing any drainage from areas adjoining the site.

The agreed drainage plan shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: In the interests of amenity and to protect watercourses from pollution.

28. All containers being used to store liquids within the application site shall be labelled clearly to show their contents, and be located in a bund which shall be at least 110% of the capacity of the largest container stored within it. Bunds shall conform to the following standards:

- The walls and base of the bund shall be impermeable.
- The base shall drain to a sump.
- All valves, taps, pipes and every part of each container shall be located within the area served by the bund when not in use.
- Vent pipes shall be directed down into the bund.
- No part of the bund shall be within 10 metres of a watercourse.
- Any accumulation of any matter within the bund shall be removed as necessary to maintain its effectiveness and capacity.

Reason: To ensure the safekeeping of such liquids.

29. That prior to the commencement of development, a groundwater monitoring plan shall be submitted to and approved by the Council. The operator shall review and update the groundwater monitoring plan on an annual basis, in consultation with the Council and the Scottish Environment Protection Agency. The site operator shall monitor the levels and quality of groundwater in accordance with the approved plan for the duration of operations, unless otherwise approved in writing by the Council as Planning Authority.

Reason: In the interests of the water environment.

30. For the duration of extraction operations at the site, a flow meter record of any water that is abstracted from the River Clyde or from within the quarry shall be maintained on site and this record shall be made available to the Council as Planning Authority within 5 working days of a written request from the Council as Planning Authority.

Reason: In the interests of the water environment.

31. That not more than 3 months prior to the commencement of development within each phase of development a scheme for prestart checks shall be submitted and approved in writing by the planning authority, in consultation with Scottish Natural Heritage. The scheme for pre-start checks shall include:

- Measures for investigating the presence of otters, bats, badgers, amphibians and reptiles, birds and invertebrates within the site and within an appropriate buffer around the site.
- Mitigation measures to address impacts on otters, bats, badgers, amphibians and reptiles, birds and invertebrates.
- An implementation programme for such measures.

The agreed scheme shall be implemented in accordance with the approved programme unless otherwise agreed in writing by the Council as Planning Authority.

Reason: In the interests of protected species.

32. The removal of any trees and the cutting of rough grasslands that could provide habitat for nesting birds will take place outside the bird breeding season (April to July inclusive), unless a survey to establish the presence or otherwise of nesting birds has been undertaken and, where required, appropriate mitigating measures have been carried out to the satisfaction of the Council as Planning Authority.

Reason: In the interests of breeding/nesting birds.

33. That prior to the commencement of the development, the Council as Planning Authority shall approve the remit and reporting frequency of an Ecological Clerk of Works (ECoW), in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The ECoW shall be appointed prior to commencement of development and remain in post until the completion of restoration works by the operator. The scope of work of the ECoW shall include:

(1) Monitoring impacts of operations and compliance with ecological best practice and the mitigation works or measures relevant to the development, as detailed within:

- the Restoration and Enhancement Plan(s), required through Conditions 6 and 7,
- the mitigation measures identified in Chapter 13 of the Environmental Statement (Volume 2 - November 2012) and those arising from the pre-start checks required under the terms of condition 31 above;
- the supplementary information, dated 7th May 2013, and;

(ii) the Species Protection and Habitat Management Plan required under the terms of condition 34 below to:

- Advise on adequate protection of nature conservation interests and implementation of restoration on the site.
- Monitoring of the impact of the development on protected species.
- Carrying out regular National Vegetation Classification habitat surveys of the site to establish any changes in habitat type.

Reason: In order to minimise the developments potential impact on the environment.

34. That prior to the commencement of development, a Species Protection and Habitat Management Plan shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with Scottish Natural Heritage and Scottish Wildlife Trust. Thereafter, the operator shall comply with the Species Protection and Habitat Management Plan and implement all mitigation measures contained within the Species Protection and Habitat Management Plan to the satisfaction of the Council as Planning Authority.

Reason: In the interests of protected, non-protected and habitats.

35. That prior to the commencement of development the operator shall submit for the Council's approval an archaeological mitigation strategy. Thereafter the developer shall ensure that the approved strategy is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken in accordance with the approved scheme.

Reason: In the interests of archaeology.

36. The operator shall install a borehole between the site processing plant area and the Hyndford Crannog within 6 months prior to the commencement of extraction operations in the Phase 3, as illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing.

Reason: In the interests of archaeology.

37. That within 1 year of the commencement of extraction operations within Phase 2B, as illustrated on drawing P2/1842/5A – July 2013 - Proposed Block Phasing, the operator shall submit for the written approval of the Council as Planning Authority a monitoring programme for the borehole to be installed under Condition 36 above.

Reason: In the interests of archaeology.

38. That on the 31st March of each year following the commencement of development and for the duration of extraction and restoration operations approved through this permission, an annual progress plan shall be submitted to the Council as Planning Authority. The annual progress plan shall detail:

- The extent of extraction operations undertaken that year.
- Areas prepared for extraction, including any soil stripping and removal of vegetation etc.
- The extent of restoration operations carried out.
- Recent topographical site survey undertaken within 1 month prior to the submission of the annual progress plan.
- Current and anticipated production figures.
- Total tonnage of minerals dispatched from the site within the preceding year.
- The total tonnage of cement and other materials imported into the site for processing
- Estimation of remaining reserve of sand and gravel material (which are likely to be exported from site).
- A calculation of the costs of restoring the area of the site disturbed by the development and the associated area of the site to be enhanced at that time.
- Progress on the implementation and success of the Habitat Management Plan.
- Compliance with statutory permissions and legal agreements.
- Site complaint log and actions taken.
- Any incidents involving pollution of watercourses.

Reason: To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.

39. That, within three months of completion of restoration works on site, a final progress plan containing the information listed in Condition 38 above, shall be submitted to the Council as Planning Authority.

Reason: To enable the Council as Planning Authority to monitor the development and to ensure that it is carried out in accordance with the terms of this consent.

40. That, within four weeks following the completion of extraction operations within each phase or such other phasing plan as may be subsequently approved in writing by the Council as Planning Authority, the operator shall give notice to the Council as Planning Authority of the completion of that phase.

Reason: In order to monitor the progress of the development. In accordance with Section 27B(2) of the Town and Country Planning (Scotland) Act 1997 (as

amended).

41. That no development shall commence until a scheme of stock proof fencing or other means of enclosure (including its maintenance), for the operational boundary has been submitted and approved in writing by the Council as Planning Authority. The agreed scheme shall be implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To ensure that there is adequate site security and to prevent unauthorised entry of stock onto the site.

42. That from the date of commencement of works on the site, until completion of the final restoration, a copy of this permission, and all approved documents and subsequently approved documents, shall be kept available for inspection in the site offices during the approved working hours.

Reason: To ensure the site operator and visiting officials are aware of the approved details.

43. Notwithstanding the details shown on the stamped approved plans, that before any work commences on the site (including enabling works), the following details shall be submitted to and approved in writing by the Council as Planning Authority, and such details as may be approved, shall be implemented unless otherwise agreed in writing by the Council as Planning Authority prior to the commencement of extraction works:

- (a) A detailed specification of all footpaths proposed within the application site.
- (b) Details of the location, style and height of all new boundary treatment such as fences, walls, gates and bunds and signage to be erected within or around the boundaries of the site.
- (c) Details of conveyor, including design, colour and route.
- (d) Details, including location and design, of pedestrian crossing points over the conveyor, where appropriate.

Reason: These details were not submitted at the time of the application and are required to ensure that the proposal is satisfactory.

44. That the operator shall permit access to the site to geo-scientists to study and document the geological and geomorphological record at the site as extraction proceeds, for the duration of the extraction operations. The documentation reporting the findings of the geological and geomorphological studies shall be retained on site and shall be submitted to the Council as Planning Authority within 28 days of a written request.

Reason: To ensure the geomorphological characteristics are recorded and made available.

45. At no time shall the site be artificially illuminated with the exception of vehicle lighting during the permitted hours of working as set out in Condition 11(b), to the satisfaction of the Planning Authority.

Reason: In the interests of amenity

APPENDIX 2: RESPONSES FROM PARTIES 2019

[Planning Authorities further written submission 22 March 2019](#)

[Planning Authorities concluding response dated 24 April 2019](#)

[Applicant's further written submissions dated 3 April 2019](#)

[Applicant's comments on Conditions dated 8/12/2018 resubmitted 3 April 2019](#)

[Applicant's attached agreement registered 31 August 2016](#)

[Applicant's concluding response dated 12 April 2019](#)

[Working Group's written submissions dated 2 April 2019](#)

[Working Group's concluding response dated 24 April 2019](#)

[Annette Leppla concluding response 25 April 2019](#)

[SEPA response 15 April 2019](#)

[SEPA response 2 April 2019](#)

[Historic Environment Scotland Response 3 April 2019](#)

[Scottish Natural Heritage Response 3 April 2019](#)

[Transport Scotland Response 9 April 2019](#)

ANNEX D - Proposed Press Lines in anticipation of any media interest

SCOTTISH MINISTERS DECISION ON PROPOSED EXTENSION TO MINERAL EXTRACTION AT HYNDFORD QUARRY, NEW LANARK

Reactive Lines

- Ministers have granted planning consent only for the southern extension to Hyndford Quarry. The application was called in for Ministers' determination, in 2014, following South Lanarkshire Council's intention to grant planning consent to both the southern and western extension.
- A Scottish Government Spokesperson said: "Scottish Ministers have carefully considered all the evidence relating to the planning application at Hyndford Quarry, and considered the reporters' conclusions and recommendations.
- "A balanced approach must be taken when considering what impact any development will have on the local area."
- "The Scottish Government wants to see the right development in the right places – therefore Ministers have granted permission only for the southern extension subject to conditions and have refused the western extension works as disturbance close to the New Lanark World Heritage Site would create an unacceptable impact on the landscape."
- A SG spokesperson said: "Scottish Ministers do not consider it appropriate to make any further comment on this case at this stage as there is now a six week period for challenging this decision to the Court of Session.

Background/Timeline

-29 January 2014: Scottish Ministers issued a Direction, requiring the application for an extension to Hyndford sand and gravel Quarry to be referred to them for determination. This was because of the proposed development's potential impact on the New Lanark World Heritage Site (WHS)

-7 Dec 2016: Scottish Ministers decided to grant planning permission only for the southern extension and refuse the western extension.

- 9 May 2017: the Court of Session quashed Minister's Decision.

-20 June 2018: DPEA report was submitted to Scottish Ministers on 20 June 2018 following a targeted re-opening of the case conducted by them.

-18 Feb 2019: Ministers issued a Notice of Intention giving notice to the applicant that they were again minded only to grant planning permission for the southern extension and to refuse planning permission for the western extension.

- 10 June 2019: DPEA submitted a supplementary report to Scottish Ministers following the case being referred back to them so that they could advise Ministers on what conditions or legal agreements would be appropriate in respect of a permission granted on that basis.

-5 Sept 2019: PAD instructed Senior Counsel (Ruth Crawford QC) to advise in respect of a draft decision letter.

-19 Sept : PAD received advise from Senior Counsel.

-Current position: The report and recommendation from the Reporter are undergoing full and proper consideration and a decision will be issued as soon as possible.

-Once decision letter has issued - The report and recommendation from the Reporter were given full and proper consideration and a decision was issued on xx Dec 2019.