Environmental Implications of the Planning Application to Extend the Consent for Quarrying at Glenquey Moss 10/02181/FLM

The committee report of 7th March 2012 states: "Given the extant consent for the site and the identification of it in the Local Plan as a mineral site the applicant considers that it makes both economic and environmental sense to continue the consent rather than release a new greenfield site elsewhere." The consent is only extant in so far as the consented period for quarrying has expired, but the consent remains live while the application for its extension is being considered.

A statement is made at paragraph 74 of the committee report in relation to national planning policy, that the "sand and gravel reserve at this site has already been accounted for by Perth & Kinross Council in its obligation to contribute to the 10 year supply of minerals and it's support of the application site is confirmed through it's identification as a mineral site M2 in the Local Plan." The inclusion of the development site in the Strathearn Local Plan 2001 is a Proposal and not a Policy, and as we are told in the Plan, a Proposal "is an intended act of land use" and a Policy is the Council's "attitude to the use of land", which is the proper reflection of its "status" in the Development Plan referred to in the next paragraph. The application is contrary to several of the policies in this and other plans and other legislative requirements as will be demonstrated in the following account.

The committee report also states that "there is inevitably going to be adverse impacts to the immediate site area with loss of blanket bog habitat, however this is considered to be acceptable given the extant consent on the site, its Development Plan status and that satisfactory restoration and aftercare can be achieved". The following account and the attached report on Glenquey Moss will also demonstrate that the Environmental Statement provided with the planning application is unable to demonstrate that any mitigation or site restoration is possible and that the proposals in the application will lead to irreparable environmental damage.

If the development site had been commercially worked, the consideration of the application would have been quite different, but the relatively small amount of material that was excavated and left on site has had minimal impact on Glenquey Moss, therefore the site remains a greenfield site, and almost largely intact in a condition that it has remained in for many years.

The development site is also identified in the Council's Main Issues Report and the Draft Local Development Plan, which were supported by an Environmental Report under the Environmental Assessment (Scotland) Act 2005, and logic would indicate that the Council also needs to provide its own Environmental Statement and Environmental Report which has been subject to public consultation to accompany a decision on this application.

Environmental Impact Assessment
In order to support an application of the nature submitted, a properly formed Environmental Statement must be submitted by the applicant under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. Planning Circular 3, 2011 issued by the Scottish Government to cover the regulations states:

"8. The main aim of the EIA Directive is to ensure that the authority granting consent (the 'competent authority') for a particular project makes its decision in full knowledge of any likely significant effects on the environment.

"9. Since the Directive first came into effect in 1988, it has been amended several times. The most recent amendments were made by Directive 2009/31/EC ('the Geological Storage Directive'), to update the list of projects falling within the scope of the Directive in light of new technology around carbon capture and storage."

"126. It is important to ensure that all the information needed to enable the likely significant environmental effects to be properly assessed is gathered as part of the EIA process. If tests or surveys are needed to establish whether there are likely to be significant effects, the results of these should be taken into account in deciding whether planning permission should be granted. If the full environmental information as defined in Regulation 2(1) is not taken into account due to the inadequacy of the Environmental Statement, any planning permission granted runs the risk of being quashed. (See the case of R v Cornwall CC ex parte Hardy [2001 JPL 786, where a condition attached to a planning permission required, on the advice of environmental bodies, surveys to be carried out to obtain information on the likely effects on protected species. The permission was quashed on the grounds that the outcome of the surveys, and any necessary mitigation measures, should have been included in the Environmental Statement, enabling the public to comment and the competent authority to take account of the information in determining the application)."

"135. Before determining any EIA application, the planning authority, Scottish Ministers or a reporter as the case may be, must take into consideration the information contained in the Environmental Statement (ES), including any additional information (see paragraphs 127-129), any comments made by the consultation bodies, and any representations from members of the public about environmental issues."

"136. Mitigation measures proposed in an ES are designed to limit any negative environmental effects of a development. Planning authorities will need to consider carefully how such measures are secured, particularly in relation to the main mitigation measures specified in the decision to grant planning

permission (paragraph 142)."

"137. Conditions attached to a planning permission may include mitigation measures. However, a condition requiring the development to be 'in accordance with the Environmental Statement' is unlikely to be valid unless the ES was exceptional in the precision with which it specified the mitigation measures to be undertaken. Even then, the condition would need to refer to the specific part of the ES rather than the whole document."

Having taken these comments into account, the Environmental Statement provided with the planning application can be shown not to have identified all the significant effects of the proposals, and neither is there any "precision" that allows the Council to support the mitigation measures proposed, because SNH has stated that they will not work. There is also information in the report attached to this account and within this account itself that demonstrates the substantial information lacking in the Environment Statement which should have been provided.

The Directive referred to in section 9 of the planning note concerns reduction in the emissions of carbon dioxide, which is covered later in this account, and on which the Environmental statement is silent. The Directive referred to in section 8 of the planning note is Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. This is the Directive which is translated by the Scottish EIA Regulations.

Article 3 of the Directive states:
"The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect effects of a project on the following factors:- human beings, fauna and flora;
- soil, water, air, climate and the landscape;- material assets and the cultural heritage;
- the interaction between the factors mentioned in the first, second and third indents."

From this Article of the Directive the Environmental Statement which was submitted can be seen to have made no assessment of the local community and its environment, or of the climate, or of the landscape, or of the interactions between them.

Article 4 of the Directive states:
"2. Subject to Article 2 (3), for projects listed in Annex II, the Member States shall determine through: (a) a case-by-case examination, or (b) thresholds or criteria set by the Member State, whether the project shall be made subject to an assessment in accordance with Articles 5 to10. Member States may decide to apply both procedures referred to in (a) and (b).
3. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the relevant selection criteria set out in Annex III shall be taken into account."

The proposals in the application fall within Annex II of the Directive. The relevant sections in Annex III are:
"The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to:- the existing land use,- the relative abundance, quality and regenerative capacity of natural resources in the area,- the absorption capacity of the natural environment, paying particular attention to the following areas:(a) wetlands;…
(h) landscapes of historical, cultural or archaeological significance."

A pertinent matter to the application referred to Article 5 (3) of the Directive is the following: "The information to be provided by the developer in accordance with paragraph 1 shall include at least:- ... - an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects."

The Environmental Statement can also be shown to have failed in providing any consideration of the value of the existing land use, the relative abundance, quality and regenerative capacity of the blanket bog, and its value as a water store. Neither has an outline of the main alternatives been provided.

Environmental Background
The annex of the letter from Scottish Natural Heritage to the Council of 11th March 2011 states "There appears to be little justification for the claim in the ES that the proposal will result in no loss of peatland diversity at the species level, given that 86% of the bog surface will be stripped." In relation to the 14% of the bog which the applicant stated would be retained, SNH stated "We are unconvinced that the method employed to protect the area of retained bog will be successful."

The statement in SNH's letter "we recommend that further work should be carried out to reconsider the restoration and mitigation plans so that the impact on blanket bog habitat is minimised" did appear contradictory, but having contacted SNH on this matter they advised "if planning permission is granted, the bog will be lost and restoration as planned in the EIA will not be effective." This is supported by separate SNH's reports and publications.

The Council now has the results of four surveys, SNH's of 17th February, 2011, Scottish Badgers of 21st October, 2012, Alastair Lavery's of September 2012 and the one attached. In summary, the potential loss of habitats and species outlined in these reports are:

- Loss of habitats covered by the Bern Convention and two listed as priority action habitats in Annex 1 of the European Habitats Directive
- Loss of species covered by Protection of Badgers Act 1992 as amended by the Nature Conservation (Scotland) Act 2004
- Loss of breeding species covered by Annex 1 of the European Birds Directive, two other breeding species on the UK red list and three on the amber list
- Five species of spiders not recorded locally, two that are nationally notable species and one local and declining

- One planthopper species on the UK Red Data List, one species of beetle on the Scottish Biodiversity List and Clackmannanshire Local Biodiversity Action Plan and six other species of which one is sparse, two are local, and three are very local in Scotland.

None of these surveys are complete in their coverage of the development site and further surveys would almost certainly reveal other uncommon or rare species, which would also reflect the high conservation value of the habitat. SNH noted that the applicant had not carried out an invertebrate survey to support its assertions in the Environmental statement. The surveys carried out, not by the applicant, but concerned members of the public with interests in the natural environment, demonstrated that the assertions cannot be supported. Similarly, Scottish Badgers advised the applicant to conduct a survey when preparing the Environmental statement, but none was carried out until Scottish Badgers itself carried out a survey.

In the attached report, Glenquey Moss is identified as having 45% of the active bog south of and including its own location in Perth and Kinross; the total reserve of this habitat is only 24.80 hectares for this area. Glenquey Moss and has more active bog than any in the same area and more than either of two other sites included in *An Inventory of lowland raised bogs in Great Britain*, which are Sites of Special Scientific Interest. Although Glenquey Moss has been re-classified as blanket bog, it is the active element of any kind of bog that is the most important, and the site has better preserved active bog than any other blanket bog in the Ochils. The combination of the bog on the geomorphological structure on which it rests, its relatively low elevation and its location at the edge of the range of blanket bog in Scotland makes Glenquey Moss very special.

There are also inaccuracies in the Environmental statement. The area of so called "dry modified bog" on page 153 of the habitat map is occupied by two fields, the one to the east has very little bog, and the one to the west has little more than five metres of from the fence, the majority of the fields being grass and rushes. Part of this area can be seen in photo 1 of the attached report.

During a visit to the site on 8th September to gather information for the attached report, over 10 locations for Heath Spotted-orchid, *Dactylorhiza maculata* subsp. *ericitorum* were seen *,* over and above the two locations shown in the Environmental Statement. This species is extensive over the southern and western areas of the site and less extensively in the eastern half. A population estimated to be in the region of 300 was found, ten times more than reported in the Environmental Statement, and these results were achieved without making a particular search for the species.

The result of the lack of survey data and inaccuracies being incorporated into the Environmental Statement meant that they were incorporated into the Council's committee report. Proper information should have been available because the case officer sought this in his scoping opinion to the developer's agent of 13th August, 2010. "The environmental statement must address the baseline conditions, likely significant impacts, the probability of effects and the proposed mitigation". Further to this he made references to the bog vegetation

of the site and its importance as a carbon store, and under geology noted that "superficial geological features of interest may be exposed affording an opportunity to assess geo-conservation and the value of the geological resource and potential access and conservation of features of geological interest in the short and long term." The applicant either failed to provide the information required or made an inadequate assessment.

Climate Change

SNH covered the consequences for climate change if the peat on the site were destroyed, with the release of greenhouse gases and the loss of capacity for further storage. These issues were covered in a letter of objection to the application, pointing out that "A typical molecule of carbon dioxide stays airborne for over a century" and "a methane molecule absorbs 20-25 times more infrared energy in that time than a molecule of carbon dioxide does over roughly a century."

At section 6.13.1 of the Environmental Statement, even the applicant is uncertain if storing the peat will be successful. At Section 6.7.4 of the Environmental Statement the applicant states the peat resource on the site is 78,000m^3. This is equivalent to 7,800 tonnes of carbon. Sphagnum bogs store up to 10 times the amount of carbon as trees and if the Woodland Trust's comparison is used based on the Forestry Commission's research, "a typical hectare of mature Woodland Trust woods will lock up around 400 tonnes of atmospheric CO^2, or 108 tonnes of carbon" this would mean the equivalent area of mature woodland to lock up the same amount of carbon as Glenquey Moss would be 72.2 hectares (178 acres). The equivalent loss of carbon from Glenquey Moss would be equivalent to burning all the Council's trees on Kinnoull Hill.

Landscape and Geodiversity

There is nothing in the applicant's Environmental Statement in relation to geodiversity as was sought by the case officer. The Council's most recent statement on the subject appears to be the Council's Proposed Local Development Plan within the note appended to policy ER6. "Until it is possible to assess the acceptability of development proposals against Perth and Kinross-wide Supplementary Guidance on Landscape, priority will be given to safeguarding and enhancing the landscape of National Scenic Areas. The Tayside Landscape Character Assessment will be used for assessing development proposals, along with other material considerations."

In the Tayside Landscape Character Assessment at Section 5.8 .11 Minerals, the following appears in relation to the Ochils and Sidlaws "Should the number, or scale of quarries increase in response to demand, mineral working could have quite a significant impact on this generally open landscape." The management approach recommended at page 258 for the Ochils is to "maintain the upland/lowland distinction", "minimise upgrading of roads" and "steer development to existing centres".

One of SNH's approaches to the conservation of geodiversity is through the Geological Conservation Review. Examining this for sites which might be similar to Glenquey, reveals The North Esk and West Water Glaciofluvial Landforms and Almondbank landforms from the same

period, with which Glenquey and the suite of connected glaciofluvial features would appear to have at least equal importance, but they are not covered by the Review. Professor Russell's paper on the gravel delta of Glenquey Moss is covered in the attached report, and the advice received from two professional geomorphologists who assisted in compiling the report, having read the paper and visited the site, remarked on the importance of the feature, which is said to be central to the story of deglaciation of the Ochil Hills. They said that that this period of geological history has not been fully explored in the Ochils, therefore were the proposal to go ahead an important feature of considerable importance would be lost to future generations.

SNH's publication *Fife and Tayside A Landscape Fashioned by Geology* refers to "U-shaped valleys of which Gleneagles is the best upland example" and if the wider area around Glenquey Moss is taken into account, there is a suite of post-glacial features which are highly significant, and which are within easy sight or access by the public. The formation of the glaciofluvial delta at Glenquey Moss and the formation of Glen Queich are connected by the same post-glacial episodes and losing the former would have an adverse effect on the Site of Special Scientific Interest status of the latter in the understanding of its geological history.

At Section 10.6.12 in the applicant's Environmental Statement, there is a suggestion that loss of water to the Howcleugh Burn could be restored by using a small pump to transfer water from the lagoons to be formed as part of the restoration, and that they could be powered from a wind/solar system if required. As identified in the attached report, the major source of the Howcleuch Burn would be lost because it is fed by the blanket bog. The applicant's rationale is vague, and presumably a pump would be required at this location forever after to maintain something akin to the existing flow.

A matter not taken into account by the applicant is what would happen in the proposed lagoons as part of the restoration. These will be deep, more than 15 metres depth at one point, with little water movement, and with release of minerals from quarrying, the water would become eutrophic, with consequent development of algae. The material of the site would be unstable after being worked, and the edges of the lagoons would be loose, therefore the restoration plan is unlikely to achieve a safe environment for the public and wildlife haven as claimed.

Section 7 of the Environmental Statement deals with mitigation measures relating to the impact on the visual aspect of the site. The high visual impact of the proposal is acknowledged from several viewpoints overlooking the site. A bund and screen of trees around the site is proposed as an early mitigation measure, and there is considerable reliance on existing and planned tree growth to mitigate the visual impact. "7.7.18, As previously identified the Woodland Trust has undertaken significant native tree planting throughout the study area. This extensive tree planting, which will mature significantly over the next five to ten years, will substantially change the overall character of the surrounding landscape." However, this claim cannot be substantiated because the trees which have been planted are slow growing, and they won't grow quickly enough to screen the site as claimed. The poor growth of the trees can be seen in

one of the following photographs, which reflects the harsh environment in which they are growing.

Many parts or all of the development site can be seen from the Reservoirs Trail on both sides of Glenquey Moss and from the right of way between Glendevon and Dollar. A selection of photographs follows which illustrates this. Not only are the trees slow growing, but being planted on a slope most are well below eye level at higher elevations. These paths are popular routes for walking and cycling, and the proposal is likely to discourage the public from using the area, which would have a negative impact on health and the local economy. The negative impact of the proposal can be heard from members of the public currently using the area.

The report by David Tyldesley and Associates to the Council concludes that "there will be significant landscape and visual effects of the proposed development" but "are likely to be restricted to a relatively limited number of sensitive receptors. The report suggests including evergreen species such as pine in the planting to improve screening, however pine is likely to be slow growing as well, and conifers such as spruce would be unsuitable, and the backdrop of conifer plantations in the area already have a negative impact on the landscape. That many of the trees can be overlooked from several places above the site does not appear to have been considered as part of this report.

Geordie's Wood tree cover at Glenquey Moss from NN 9877 0326 @ 323m aod, 17.11.12

Glenquey Moss from the south below Geordie's Wood, 17.11.12

Glenquey Moss from NN 9883 0325 @ 330m aod, above Geordie's Wood, 17.11.12

Glenquey Moss from NN 9877 0326 @ 323m aod, above Geordie's Wood 17.11.12

Glenquey Moss from Glenquey Hill, 10.11.12

Glenquey Moss from Glenquey Hill, 10.11.12

Legislative Context-Biodiversity

As well as not providing a sufficient Environmental Statement, the application is also contrary to the following legislation, plans and strategies.

There are two international contracts to which the UK is party to that are relevant to this application; the UN Convention on Biological Diversity and the Bern Convention. Both were agreed to and were signed by heads of state, and where a decision is required concerning the future of a feature covered by these contracts, the parties making such a decision are placed with the expectation of upholding them.

The relevant sections of the UN Convention on Biological Diversity state that "each Contracting Party shall, as far as possible and as appropriate:
Article 8 (c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;
Article 8(i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;
Article 10 (e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.
Article 14 (b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account."

The Scottish Government's website states "The Convention on Biological Diversity (CBD) is an international treaty adopted at the Earth Summit in Rio de Janeiro in June 1992. It now has 192 signatories. Scotland as part of the UK has an international obligation to conserve and protect biodiversity." The duty is imposed on the Council by Section 1 (2) of the Nature Conservation (Scotland) Act 2004.

The Bern Convention (Convention on the Conservation of European Wildlife and Natural Habitats CETS No.: 104) states:

"Article 4 (1) Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species, especially those in Appendices I and II, and the conservation of endangered habitats." The emphasis on the conservation of endangered habitats is particularly relevant to the planning application.

The Bern Convention is reinforced by the Habitats Directive (Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora). The relevant Articles relating to this application are the following.
"Article 1 For the purpose of this Directive:
(a) conservation means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status as defined in (e) and (i);
(b) natural habitats means terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural;

(c) natural habitat types of Community interest means those which, within the territory referred to in Article 2:
Such habitat types are listed or may be listed in Annex I;
(e) conservation status of a natural habitat means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2.
The conservative status of a natural habitat will be taken as 'favourable' when:
- its natural range and areas it covers within that range are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable as defined in (i)"

"Article 2
1. The aim of this Directive shall be to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies.
2. Measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.
3. Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics."

There are two habitat types listed on Annex 1 that are found on Glenquey Moss. Article 2 is quite clear in seeking these habitats to be maintained in a favourable condition; the proposals in the planning application would eradicate them. Any form of mitigation or restoration presented in the Environmental Statement has been proved to be impossible, any planning consent in breach of EC Directives would be questionable.

Legislative Context – Climate Change
The application is also contrary to the interests of another international and EC agreement. The UK and the rest of the European Union are parties to the Kyoto Protocol. The EU states that "Under the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) concluded in 1997, the European Community committed itself to achieving an overall reduction in CO2 emissions of 8% in the period 2008-12 compared with 1990 levels. This target is shared between the Member States under a legally binding burden-sharing agreement, which sets individual emissions targets for each Member State. All contracting parties committed themselves to reducing the six greenhouse gases responsible for climate change: carbon dioxide (CO2), methane, nitrous oxide, hydrofluorcarbons, perfluorcarbons and sulphur hexafluoride. On 31 May 2002, the EU and all its Member States ratified the Kyoto Protocol."

The Kyoto Protocol and provisions for other environmental protection was given further recognition by Decision No 1600/2002/EC of the European Parliament and of the Council of

22nd July 2002, laying down the Sixth Community Environment Action Programme, which is part of the EU Climate Policy:

Article 2
Principles and overall aims
"1. The Programme constitutes a framework for the Community's environmental policy during the period of the Programme with the aim of ensuring a high level of protection, taking into account the principle of subsidiarity and the diversity of situations in the various regions of the Community, and of achieving a decoupling between environmental pressures and economic growth. It shall be based particularly on the polluter-pays principle, the precautionary principle and preventive action, and the principle of rectification of pollution at source.
The Programme shall form a basis for the environmental dimension of the European Sustainable Development Strategy and contribute to the integration of environmental concerns into all Community policies, inter alia by setting out environmental priorities for the Strategy."
2. The Programme aims at:
"- protecting, conserving, restoring and developing the functioning of natural systems, natural habitats, wild flora and fauna with the aim of halting desertification and the loss of biodiversity, including diversity of genetic resources, both in the European Union and on a global scale;..."
Article 6
Objectives and priority areas for action on nature and biodiversity
"1. The aims set out in Article 2 should be pursued by the following objectives:
- halting biodiversity decline with the aim to reach this objective by 2010, including prevention and mitigation of impacts of invasive alien species and genotypes;
- protection and appropriate restoration of nature and biodiversity from damaging pollution;
- conservation, appropriate restoration and sustainable use of marine environment, coasts and wetlands;
- conservation and appropriate restoration of areas of significant landscape values including cultivated as well as sensitive areas;
- conservation of species and habitats, with special concern to preventing habitat fragmentation;
- promotion of a sustainable use of the soil, with particular attention to preventing erosion, deterioration, contamination and desertification..."

Of particular interest is achieving a decoupling between environmental pressures and economic growth. The development site is clearly an example of where this measure is required, and development should be steered elsewhere.

Scottish policy on climate change is set out in the Climate Change (Scotland) Act 2009, the targets set by the Scottish Government on reducing greenhouse gas emissions and as supported by Scottish Planning Policy 2010. The Act states "Scottish Ministers must ensure that the net Scottish emissions account for the year 2020 is at least 42% lower than the baseline." Perth and Kinross Council has signed Scotland's Climate Change Declaration, which pledges a commitment to reduce impacts on climate change.

Legislative Context - Geodiversity

Geodiversity is recognised in the Recommendation of the Council of Europe Committee of Ministers, Rec(2004)3 on conservation of the geological heritage and areas of special geological interest, that "geological heritage constitutes a natural heritage of scientific, cultural, aesthetic, landscape, economic and intrinsic values, which needs to be preserved and handed down to future generations." The Recommendation recognises some operations may reveal the geological heritage, while other activity "destroys this information: the removal of glacial landforms for use as building material, armouring (and obscuring) of rock sections on coasts and infilling of old quarries with waste, are all examples of destructive activities." The term "geodiversity" is used to describe the geological heritage.

On 6th June, 2012, Stewart Stevenson, MSP, Minister for Environment and Climate Change, launched Scotland's Geodiversity Charter. Mr Stevenson said "Geological diversity is often taken for granted but it is key to our environment and our quality of life ." The Charter is supported by the Scottish Government. The following appears in the Charter:

"Geodiversity has an essential part to play in dealing with the challenges we face today, such as sustainable economic development, changes in climate and sea-level, loss of biodiversity and improving people's health and well-being. Considered management of Scotland's geodiversity aligns with, and supports, the Scottish Government's purpose of increasing sustainable economic growth and its five Strategic Objectives. It also supports the delivery of the Scottish Biodiversity Strategy, the Scottish Soil Framework, the Land Use Strategy and Scotland's Landscape Charter."

"To achieve the vision, future action should address four main areas of activity:
1. raising awareness of the importance of geodiversity and its wider links with landscape, culture and sense of place, and encouraging a sense of pride through education (at all levels including schools, universities and life-long learning),promotion and interpretation;
2. integration of geodiversity in relevant policies to ensure sustainable management of the natural heritage, land and water at a landscape/ecosystem scale for the wider benefit of Scotland's people, environment and economy;
3. conservation and enhancement of our geoheritage and its special character: within existing designated sites and areas, by further designation of local sites, and in the wider rural, urban and marine environments; and
4. research to improve our understanding of the role of geodiversity in providing benefits to ecosystems and people, and to address key knowledge gaps such as the functional links between geodiversity and biodiversity in terrestrial, freshwater and marine environments."

"Developers, industry and business sector
Ensure that new developments aim to maintain and enhance geodiversity and provide long-term, safe access to local sites of interest for education and enjoyment."

"D. Local authorities, public agencies and government departments

Ensure that due consideration, management, enhancement and promotion of geodiversity and Local Geodiversity Sites are an integral part of decision making, and support action by local communities to achieve this."

"Actions: 1. Acknowledge the value and importance of geodiversity in policy and guidance documents at national and local level, including national planning policy and Local Plans, and policies and guidance for biodiversity, nature conservation, climate change, tourism, landscape, greenspace, land & water management and marine conservation, and seek advice from appropriate expert bodies and agencies in decision making where appropriate.
2. Promote Scotland's geodiversity as a tourism asset that adds value to visitor experience and enjoyment.
3. Form partnerships with local geoconservation groups to audit geodiversity sites and develop geodiversity action plans, and involve local communities in collating information about sites of interest (e.g. former quarries, building stones).
4. Encourage developers to allow access to temporary exposures to record and sample, and to contribute borehole and other factual geological data to the British Geological Survey."

Scotland's Geodiversity Charter was launch after the application was heard by committee, but it is now an important consideration for the applicant in the Environment Statement and for the Council to consider.

Local Plan
The application is contrary to the Approved Strathearn Local Plan 2001. "The Plan recognises the increasing importance of European Community Directives such as the EC Wild Birds Directive and the EC Habitats Directive. The impact of these directives includes the conservation of individual species (such as otters and ospreys) and vast tracts of land that contain important habitats (such as active blanket bogs). Indeed the implications of these Directives, in the context of development, can require the assessments of the affects from any scale of development." The Policy on minerals allows for the "extraction of economically valuable resources only where conflicts with natural conservation are minimised and residential amenity is protected."

In this case, the conflicts ser out in the application are overwhelming.

Policy 1 states:
"(a) The consumption of non-renewable resources should be at levels that do not restrict the options for future generations...
(c) The quality of the natural environment should be maintained or improved.
(d) Where there is great complexity or there are unclear effects of development on the environment, the precautionary principle should be applied....
(f) Biodiversity is conserved."

The application is contrary to Policy 1, because removal of the bog and a large part of the feature of the geomorphological feature would be denied to future generations. Using these resources as proposed would not be self replenishing, biodiversity would be lost and not conserved; the precautionary principle should be applied.

Policy 3 states:
"Development proposals should seek to conserve landscape features and sense of local identity, and strengthen and enhance the landscape character. The Council will assess development that is viewed as having a significant landscape impact against the principles of the Tayside Landscape Character Assessment produced by Scottish Natural Heritage."

The landscape feature of the site would be destroyed by the proposals in the application and the sense of local identity would be lost.

Policy 14 states: "Development which would affect:-
(a) Sites supporting species mentioned in schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981 as amended and Annex II and IV of the European Community Habitats Directive or Annex I of the European Community Birds Directive
(b) Those habitats in Annex I of the European Community Habitats Directive will only be permitted where appropriate assessments have demonstrated to the Council as the planning authority that:-
(i) There will not be an adverse on the species or habitat, or
(ii)There is no alternative solution and there are imperative reasons of over-riding public interest, including those of a social or economic nature."

The applicant has not been able to prove that there would be no adverse effect on species and habitat. SNH's position on the loss of habitat is clear, which has not been addressed in the Environmental Statement. Surveys carried out this year have shown a species listed Annex I of the European Community Birds Directive is probably breeding on site, and that other scarce and threatened species have been identified. No alternative solutions or imperative reasons as stated have been justified within the Environmental statement.

Policy 17 states:
" The Council will seek to protect and enhance habitats of local importance to nature conservation, including grasslands, wetlands and peat-lands, habitats that support rare or endangered species, together with those habitats associated within the Earn and Almond river systems in the Plan area."

This supports the statements in the preceding paragraph.

Policy 50 states: "In assessing the impact of proposed mineral developments the Council will have particular regard to: (g) a satisfactory environmental statement."

As stated, a satisfactory Environmental Statement has not been provided.

Policy 51 states:
"The commercial exploitation of peat will not be permitted within the Plan area."

The objective of this policy is quite clear, to preserve the peat resource. The proposal is to strip off the peat to extract the gravel underneath. Preservation of the peat as part of this process is not possible, and its removal would be undertaken as part of a commercial operation, therefore the proposal is entirely contrary to the policy.

Local Development Plan
The application is also contrary to the environmental provisions in the following policies in the Council's Local Development Plan - Proposed Plan January 2012

Policy NE3: Biodiversity
"The Council will seek to protect and enhance all wildlife and wildlife habitats, including grasslands, wetlands and peat-lands and habitats that support rare or endangered species. The Council will apply the principles of the Tayside Biodiversity Partnership Planning Manual and will take account of the Tayside Local Biodiversity Action Plan (LBAP) when making decisions about all applications for development. Proposals that have a detrimental impact on the ability to achieve the guidelines and actions identified in these documents will not be supported unless clear evidence can be provided that the ecological impacts can be satisfactorily mitigated. In particular developers may be required to (a) ensure a detailed survey is undertaken by a qualified specialist where one or more protected or priority species is known or suspected...(b) demonstrate all adverse effects on species and habitats have been avoided wherever possible (c) include mitigation measures and implementation strategies where adverse effects are unavoidable..."

Policy NE4: Green Infrastructure
"Development will contribute to the creation, protection, enhancement and management of green infrastructure by the: …(c) protection of the countryside from inappropriate development whilst supporting its positive use for agriculture, recreation, biodiversity, health, education and tourism; …(e) protection, enhancement and management of existing species and habitats and the creation of new habitats and wildlife corridors, including trees, hedgerows and woodlands where appropriate ;(f) protection, enhancement and management of watercourses, floodplains and wetlands which are important contributors to the network of blue and green corridors for the alleviation of flood risk, wildlife, recreation and the amenity needs of the community."

Policy ER4: Extraction
"Favourable consideration will be given to proposals for the extraction of minerals, where:(a) it can be demonstrated that there are local, regional and/or national market requirements for the mineral that cannot be satisfied by greater efficiency at existing workings or other alternative sources; or (b) it would assist in maintaining, as a minimum, a ten-year landbank for aggregates within a recognised market area. And in all cases, their impact on local communities and the

environment has been assessed and does not have an adverse effect having regard to all the following: …(ii) the visual effect of the proposals; …(iv) the effect on the quality and quantity of water resources including the ecology of water courses and wetlands, and on water supply and flood protection interests;(v) ensuring there are no unacceptable adverse cumulative impacts arising from development proposals."

Policy ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes
"Development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscapes. Accordingly, development proposals will be required to conserve and enhance the landscape qualities of Perth and Kinross. They will need to demonstrate that either in the case of individual developments, or when cumulatively considered alongside other existing or proposed developments:(a) they do not erode local distinctiveness, diversity and quality of Perth and Kinross's landscape character areas, the historic and cultural dimension of the area's landscapes, visual and scenic qualities of the landscape, or the quality of landscape experience;(b) they safeguard views, viewpoints and landmarks from development that would detract from their visual integrity, identity or scenic quality;(c) they safeguard the tranquil qualities of the area's landscapes;(d) they safeguard the relative wildness of the area's landscapes;(e) they provide high quality standards in landscape design, including landscape enhancement and mitigation schemes when there is an associated impact on a landscape's qualities;(f) they incorporate measures for protecting and enhancing the ecological, geological, geomorphological, archaeological, historic, cultural and visual amenity elements of the landscape; and(g) they conserve the experience of the night sky in less developed areas of Perth and Kinross through design solutions with low light impact.

Note: Until it is possible to assess the acceptability of development proposals against Perth and Kinross-wide Supplementary Guidance on Landscape, priority will be given to safeguarding and enhancing the landscape of National Scenic Areas. The Tayside Landscape Character Assessment will be used for assessing development proposals, along with other material considerations."

Scottish Planning Policy
The application is also contrary to the environmental provisions in Scottish Planning Policy 2010.

Sustainable Economic Growth
Section 36
"Sustainable economic growth means building a dynamic and growing economy that will provide prosperity and opportunities for all, while respecting the limits of our environment in order to ensure that future generations can enjoy a better quality of life too."

Climate Change
Section 41
“The need to tackle climate change, and in particular reduce emissions of the greenhouse gases that contribute to it, is a principal challenge of sustainable economic growth. Section 44 of the Climate Change (Scotland) Act 2009 requires all public bodies to act:
in the way best calculated to contribute to the delivery of the emissions targets in the Act,
in the way best calculated to help deliver the Government's climate change adaptation programme, and in a way that it considers is most sustainable.”

Landscape & Natural Heritage
Section 126
“ Planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area. A strategic approach to natural heritage in which wildlife sites and corridors, landscape features, watercourses, and areas of open space are linked together in integrated habitat networks can make an important contribution to the maintenance and enhancement of biodiversity and to allowing ecosystems and natural processes to adapt and respond to changes in the climate. Planning authorities should seek to prevent further fragmentation or isolation of habitats and identify opportunities to restore links which have been broken. Where possible, planning authorities should seek benefits for species and habitats from new development including the restoration of degraded habitats.”

Section 133
There is an outstanding requirement by the applicant. “The disturbance of some soils, particularly peat, may lead to the release of stored carbon, contributing to greenhouse gas emissions. Where peat and other carbon rich soils are present, applicants should assess the likely effects associated with any development work.”

Minerals
Sections 230 & 231
“ Commercial peat cutting raises particular environmental concerns, and will only be acceptable in areas of degraded peatland which has been significantly damaged by human activity and where the conservation value is low and restoration is not possible. All areas of peatland that retain a high level of natural heritage conservation interest, archaeological interest or are of value as carbon stores should be protected through development plans and development management decisions.”

231. “Development plans and development management decisions should aim to minimise significant negative impacts from minerals extraction on the amenity of local communities, the natural heritage and historic environment and other economic sectors important to the local economy, and should encourage sensitive working practices during extraction. Extraction should only be permitted where impacts on local communities and the environment can be adequately controlled or mitigated. “

National Initiatives
In October 2012, the Scottish Government announced £1.7 million for peatland restoration. Minister for Environment and Climate Change Paul Wheelhouse said: "Over 20 per cent of Scotland's land is covered by peat or peaty soils, and it is estimated that they store fifteen times more carbon than UK vegetation. We know that peatlands in good condition can provide many benefits to our biodiversity, wildlife, and economy, and could also play a critical role in our fight against climate change." "This Government is committed to protecting our natural environment and reducing greenhouse gas emissions. Despite clear pressures on public finances, we have ensured that environmental measures are at the very heart of our budget, and I believe this will deliver significant environmental benefits and play a pivotal role in supporting our nation's economic recovery."

The application is contrary to this Scottish Government proposal and would negate the benefit of its expenditure from the public purse. The application is also contrary to other Scottish initiatives. Scottish Natural Heritage carries out projects to restore peatland vegetation and Forestry Commission Scotland supports the same.

Perth & Kinross Council
The Council has produced a State of the Environment Report on the condition of the environment within its area. On the current position on peat stores the report states:

"There are 870 hectares of identified raised lowland and blanket bog in Perth and Kinross, in 22 separate sites. Six of these sites are designated SSSIs, all of which were in favourable condition in 2008 with the exception of Connachan Marsh which is in an unfavourable and declining condition. As part of the lowland raised bog inventory SNH surveyed a number of the additional sites identified in Perth and Kinross, details of the damage recorded in these surveys in 1994 are recorded in the adjacent table. **Relevance of this indicator** Negative impacts on geology and soils will affect the economy through loss of tourism, loss of mineral resources and reduction in agricultural and forestry yields. Degradation of geology and soils can also lead to increased water treatment costs due to loss of natural filtration capacity. Damage to soils can negatively impact biodiversity and habitats. It is estimated that UK soils contain the order of 10,000 billion tonnes of carbon, and over 50% off this is believed to be in Scotland's Soils 1. If the trend for decreased soil organic carbon concentrations identified in England and Wales is occurring in the carbon rich soils of Perth and Kinross there would be serious implications for the state of the environment through the contribution of carbon dioxide to climate change."

The implications of the application in relation to those expressed above are worse, because the 1994 data used by the Council are out of date as shown in the attached report.

Perth & Kinross Communities
The community of Portmoak and the RSPB at Vane Farm have been working hard to restore their bogs. The proposals in the application would remove the entire place and very meaning of "Glenquey Moss". The application runs contrary to every interest and initiative from the international to the local level.