

Agenda Item	6.4
Report No	PLS 069/17

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 12 December 2017  
**Report Title:** 17/02899/S42: Tarmac Caledonian Limited  
Dunain Mains Quarry, Inverness  
**Report By:** Area Planning Manager – South/Major Developments

### **Purpose/Executive Summary**

**Description:** Section 42 Application for Non-Compliance with Condition 1 of Planning Permission Ref No 01/00796/FULIN  
**Ward:** 12 - Aird and Loch Ness

**Development category:** Major

**Reason referred to Committee:** Major Development

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

### **Recommendation**

Members are asked to agree the recommendation to **GRANT** planning permission as set out in section 11 of the report.

## **1. PROPOSED DEVELOPMENT**

- 1.1 This application has been submitted under Section 42 of the Planning Etc (Scotland) Act 2006 and relates to Condition 1 attached to planning permission 01/00796/FULIN granted on 10 May 2002 in respect of the Dunain Mains Sand and Gravel Quarry. The applicant seeks to extend the timescale for working of the quarry for a further 20 years.
- 1.2 The quarry at Dunain Mains has a remaining consented reserve of approximately 740,000 tonnes of sand and gravel. The operations on site involve extraction, processing and distribution of the material with restoration of the previously worked areas. Restoration of the site is undertaken concurrently with extraction. It is envisaged that quarrying of the site will take place over the next 20 years with final restoration taking a further 12 months.
- 1.3 The original planning permission was granted in 1997 following a Public Local Inquiry and conclusion of a Section 50 agreement, securing a financial guarantee for the restoration of the site. The site first came into operation in 2007. A copy of the original planning permission for the quarry is included as Appendix 2.
- 1.4 This application has been supported by the following information:
- Supporting statement / letter;
  - Previously approved plans for the development;
  - Environmental Statement assessing matters including:
    - Geomorphology;
    - Water Environment;
    - Landscape and Visual;
    - Ecology;
    - Cultural Heritage;
    - Noise;
    - Air Quality.

The Environmental Statement has also been used in support of the application for extension to the quarry, subject to a separate report under

- 1.5 Variations: None.

## **2. SITE DESCRIPTION**

- 2.1 The site comprises an existing quarry to the south of Inverness. Access is from the A82(T) via a previously upgraded junction and access track. The site itself is back dropped by woodland. The River Ness and Caledonian Canal are to the north of the site.

### 3. PLANNING HISTORY

3.1	07.05.1997	IN/1994/80 - Winning and Working of Sand and Gravel	Permission Granted
3.2	13.09.2002	01/00796/FULIN - Application for non-compliance with conditions 1 and 2 of previous granted permission at Dunain Mains Quarry.	Permission Granted
3.3	19.07.2017	Extension of Dunain Mains Quarry	Pending Consideration

### 4. PUBLIC PARTICIPATION

- 4.1 Advertised: EIA Development  
Date Advertised: 20.07.2017  
Representation deadline: 18.08.2017  
Timeous representations: 0  
Late representations: 0

### 5. CONSULTATIONS

- 5.1 **THC Flood Team:** do not object to the application. They request a condition to maintain a buffer between the site boundary and the pond to the west-north-west.
- 5.2 **THC Forestry Officer:** does not object to the application. He notes that the application would have no additional impact on trees / woodland.
- 5.3 **THC Transport Planning Team:** do not object to the application as the site is accessed via the trunk road network.
- 5.4 **Health and Safety Executive:** do not advise against the development.
- 5.5 **Transport Scotland:** do not object to the application. A condition is requested to ensure delivery of the previously approved scheme for the improvements to the junction into the site.
- 5.6 **Scottish Environment Protection Agency:** do not object to the application. A condition is sought to secure an updated Site Environmental Management Plan.
- 5.7 **Scottish Natural Heritage:** do not object to the application.

### 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

#### 6.1 Highland Wide Local Development Plan 2012

- 28 - Sustainable Design
- 29 - Design Quality & Place-making

- 30 - Physical Constraints
- 51 - Trees and Development
- 53 - Minerals
- 54 - Mineral Wastes
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 62 - Geodiversity
- 63 - Water Environment
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage
- 72 - Pollution
- 73 - Air Quality
- 74 - Green Networks
- 77 - Public Access

**6.2 Inverness Local Plan 2006 (as continued in force)**

No specific policies apply.

**6.3 Inner Moray Firth Local Development Plan 2015**

No specific policies apply

**6.4 Supplementary Guidance**

- Flood Risk & Drainage Impact Assessment (Jan 2013)
- Green Networks (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (March 2013)
- Trees, Woodlands and Development (Jan 2013)
- Standards for Archaeological Work (March 2012)
- Physical Constraints (March 2013)
- Managing Waste in New Developments (March 2013)
- Construction Environmental Management Process for Large Scale Projects (August 2010)

**7. OTHER MATERIAL POLICY CONSIDERATIONS**

**7.1 Scottish Government Planning Policy and Guidance**

National Planning Framework 3 (2014)

Scottish Planning Policy (2014)

PAN 50 - Controlling the Effects of Surface Mineral Workings (1996)

PAN 51 - Planning, Environmental Protection and Regulation (2006)

PAN 60 - Planning for Natural Heritage (2000)  
PAN 63 - Waste Management Planning (2002)  
PAN 64 - Reclamation of Surface Mineral Workings (2002)  
PAN 79 - Water and Drainage (2006)  
PAN 1/2011 - Planning and Nosie (2011)  
PAN 2/2011 - Planning and Archaeology (2011)

## **8. PLANNING APPRAISAL**

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

### Determining Issues

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### Planning Considerations

- 8.3 The principle of the development has been established through the previous permissions. This is an application to modify Condition 1. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material considerations.

### Development Plan

- 8.4 Development Plan Policy has changed since the time of the determination of the original application. The Highland Structure Plan (2001) is no longer in force and the Inverness Local Plan (2006) in relation to this site and the policy provisions have been superseded by the Highland-wide Local Development Plan (2012). The Inner Moray Firth Local Development Plan (2015) has also since been adopted.
- 8.5 The key issue therefore is whether the amendment of the condition applied for would result in the development being incompatible with the Development Plan. The remainder of this report will consider the modification proposed and assess its compatibility with the Development Plan.

### Modification to Condition 1

- 8.6 The applicant has sought to modify the wording of the condition to allow for the working of the quarry for a further 20 years. In principle, the extension of time for working of the quarry is supported by the relevant policies in the Highland-wide Local Development Plan. However, this extension to the timescale for working of the quarry can only be supported if appropriate conditions exist to ensure appropriate environmental mitigation is in place and the site is satisfactorily restored.

- 8.7 It is worth highlighting that an application submitted under S42 of the Planning Act provides the Planning Authority with an opportunity, as part of the process in considering the proposed variation, to amend any, or each of the original conditions previously applied which it considers necessary to regulate the development proposed. Following consideration of the conditions attached to the extant planning permission, it is considered appropriate to revisit all the conditions attached to the original consent to ensure the wording is in line with current good practice and to ensure the conditions are suitable to regulate the proposed development. In doing so, this has provided an opportunity to strengthen the terms of the conditions and provide greater clarity as to the requirements of these, including the information required to satisfy the conditions.
- 8.8 As part of these conditions, there will be a condition requiring a financial guarantee to be placed with the Council to safeguard finances to restoration of the site. This is inline with established practice.

#### Other material considerations

- 8.9 There are no other material considerations.

#### Matters to be secured by Legal Agreement

- 8.10 Restoration of the quarry is being undertaken on a phase by phase basis. However, in order to ensure that the restoration is completed to the satisfaction of the Planning Authority and in a timeous manner, a financial guarantee will continue to be required. This will be secured via legal agreement and will comprise:

Full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan approved under condition 3 of this permission.

Thereafter, the Quarry Operator will be required to:

- i. Ensure that the bond or other financial provision is maintained throughout the duration of this permission; and
- ii. Pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the quarry is decommissioned and the site is fully restored.

## **9. CONCLUSION**

- 9.1 The extension of time for working the quarry is acceptable and will provide a resource for the delivery of construction schemes across Highland. Subject to the application of appropriate conditions, the development is unlikely to have a significant adverse impact on the environment.
- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

## 10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

- 11.1 **Subject to the above**, it is recommended that planning permission be **GRANTED**, subject to the following:

### Conditions and Reasons

1. The permission hereby granted shall endure until 20 December 2037 by which time all workings shall have ceased, all plant and equipment removed and the site restored in accordance with the approved plan to agricultural land (pasture) with trees and scrub planting with exposed quarry faces retained for geodiversity value to the satisfaction of the Council.

In the event that working ceases for a period of more than 24 months prior to the expiry of this permission then the site shall be restored to the satisfaction of the Council within 36 months from the cessation of working, or in any case before the expiry of this permission.

**Reason:** to clarify the terms of the permission and ensure the site is fully restored to an appropriate use.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (As Amended), no fixed plant (including any tar making or concrete making plant), other than those specifically approved through this consent, shall be operated on the site without the express grant of planning permission.

**Reason:** To clarify the terms of the permission and to ensure the amenity impacts of any additional plant are properly assessed.

3. Within 6 months of the grant of this planning permission, a detailed scheme to ensure the decommissioning and phased restoration of the site for the purpose of agriculture with trees and scrub planting with exposed quarry faces and its aftercare, in line with the approved restoration plans, has been submitted to and subsequently approved in writing by the Planning Authority. The scheme be known at the Decommissioning and Restoration

Plan and shall ensure:

- a. The grading of all ground to stable slope angles and the shaping and contouring of the ground such as to be sympathetic to adjacent geological features;
- b. The progressive phasing of restorations works to ensure early restoration of any excavated phase;
- c. The treatment of surfaces prior to and after topsoiling and proposals to establish suitable vegetative cover (including tree and scrub planting);
- d. A programme of after care for each phase or sub-phase of restoration;
- e. A programme of aftercare and maintenance for a minimum of 36 months following the last working of the site.

**Reason:** To ensure an appropriate scheme is in place for the interim and final restoration of the site.

4. The following activities shall not take place outwith the hours of 0800-1800 Monday to Friday, 0800-1230 on Saturday without prior written approval of the Planning Authority and in consultation with the Inverness West Community Council:

- Production or maintenance operations;
- Loading of lorries;
- Driving of lorries;
- Soil stripping;
- Bund formation

Works outlined above may be undertaken if they are required for saving of life or property or for the safety of the works. If works are carried out for this reason, the Planning Authority must be informed within 72 hours of such works.

**Reason:** In the interests of amenity due to the potential noise impacts of the above activities on noise sensitive receptors.

5. The development shall be undertaken entirely in accordance with the submitted application, the mitigation highlighted within the supporting Environmental Statement, and the approved plans as amended by the specific conditions attached to this planning permission or by the prior written approval of the Planning Authority. For the avoidance of doubt: -

1. The maximum output of the quarry shall not exceed 100,000 tonnes in any calendar year.
2. No additional sand and gravel material is to be imported to the site in order to maintain production of plant or sustain the dispatch of materials.

**Reason:** In order to ensure the production capacity of this quarry does not exceed levels considered through Environmental Statement.



6. No stockpile of material on the site shall exceed 5 metres in height.

**Reason:** In the interests of visual amenity.

7. Within 6 months of the grant of this planning permission written confirmation that the junction improvements (including signage alterations) at the site access with the A82(T) have been completed in accordance with the details provided in 0209/54B prepared by Fraser Stewart Architect and dated December 2010 shall be provided to the Planning Authority.

**Reason:** To minimise interference with the safety and free flow of the traffic on the trunk road; ensure drivers of vehicles leaving the site are enabled to see and be seen by vehicles on the trunk road carriage way and join traffic stream safely; and ensure that the standard of access layout complies with current standards and that the safety of traffic on the trunk road is not diminished.

8. Within 6 months of the grant of this planning permission, passing places on the access road shall be completed in accordance with the details, to include exact location and construction specification, that shall be submitted to, and approved in writing by, the Planning Authority in advance of the work commencing.

**Reason:** In the interests of free flow of the access road and road safety.

9. At no time during the operation of the development shall anything obscure visibility between a driver's eye height of 1.05m along the visibility splays of 9m x 215m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction, positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

**Reason:** In order to ensure the safety and free flow of traffic on the public road.

10. Within 6 months of the grant of this planning permission a site Environmental Management Plan (EMP) shall be submitted to, and approved in writing by, the Planning Authority. The EMP shall include, but will not necessarily be limited to:

- a. Maintenance of a 10m buffer between the extraction area and any watercourse or waterbody;
- b. A site map showing the location of pollution prevention measures such as spill kits, oil interceptors, drainage associated with welfare facilities, recycling and bin storage and vehicle washing areas;
- c. A site log sheet detailing how often the pollution prevention and drainage measures will be checked and maintained which will be kept on site ready for inspection at any time;
- d. An updated site map showing where soils and overburden will be stored including details of the heights and dimensions of each store, how long the material will be stored for and how

- soils will be kept fit for restoration purposes;
- e. Sections and plans detailing how restoration will be progressed including the phasing, profiles, depths and types of material to be used;
  - f. Details of cut of drains, ensuring that these maximise diversion of water from entering quarry works;
  - g. A scheme for monitoring excavations for signs of groundwater ingress and outlining the mitigation which will be undertaken if such an event occurs;
  - h. Details of the location of the water recycling sump and associated and associated cut off drains;
  - i. Location of any processing plant;
  - j. A Silt Management Plan, identifying locations and details of silt management devices and settlement lagoons;
  - k. Locations of proposed borehole(s);
  - l. Dust management, monitoring and suppression plans for the site and access road (including wheel washing facilities);
  - m. Noise management and control plans;
  - n. Details of any and all lighting on the site;
  - o. Details of the person(s) who will oversee the implementation and adherence to the Environmental Management Plan;
  - p. A detailed plan identify all proposed nature conservation mitigation measures, such as: -
    - i. Continued protection for the identified badger sett;
    - ii. Measures for protected species / breeding birds that may be found using the site;
    - iii. Areas of vegetation removal – with timings of work outwith spring / summer months to avoid impact on breeding birds and other wild life interests.

The Environmental Management Plan shall be implemented as approved, ensuring all on site staff are familiar with and adhere to its terms.

The EMP shall be reviewed every 5 years from the date of the approval of the permission to ensure that it remains in line with good practice. The reviewed and updated documents shall be submitted and approved in writing to the Planning Authority by 01 March of any review year.

**Reason:** In order to enable the Planning Authority to adequately control the development below the water table and to minimise its impact on the nature conservation and amenities of the local area.

11. From the date of any commencement of this development until completion of the final restoration, a copy of this planning permission, all approved plans and associated documentation together with any approved amendments shall be made available for inspection at the site offices during approved working hours.

**Reason:** In order to ensure the site operator and visiting officials are aware of the details of the planning permission and any approved amendments.

12. For the avoidance of doubt, chute linings and rubber screen decks shall be applied to any plant and equipment to be used on site.

**Reason:** In the interests of amenity to reduce noise impacts

13. Within 6 months of the grant of this planning permission, an access management statement/plan shall be submitted to, and approved in writing by the Planning Authority. The access arrangements contained within shall then be implemented as approved.

**Reason:** In order to make clear the public access rights regarding quarrying activities, sustain existing public access connections away from quarry activities and promote access to the area following restoration.

14. The noise levels arising from the workings on the site at the nearest noise sensitive receptors at the time of the commencement of this planning permission shall not exceed:

- 49.5 db LAeq 1hr, as measured at Dunain Park Hotel;
- 45.0 db LAeq 1hr, as measured at Dunain Mains Farm;
- 45.0 db LAeq 1hr, as measured at Lower Dunain;
- 50.0 db LAeq 1hr, as measured at Dunaincroy;

For the avoidance of doubt 1hr means any one hour period during the defined working day.

Noise monitoring must be carried out at the start of each new phase of workings and a report of the monitoring thereafter to be submitted to the Planning Authority.

Monitoring to be undertaken during typical normal working hours and should avoid meal breaks and periods of plant breakdown. All noise monitoring is to be carried out by a competent person.

Monitoring to be carried out in accordance with BS4142:1997. In the event of a valid complaint in relation to noise, the operator shall at his own expense carry out an investigation into the complaint, including undertaking noise monitoring to assess compliance with the permitted noise levels detailed above, and where necessary cease the operations giving rise to the complaint until such time as appropriate mitigation measures have been implemented.

**Reason:** In order to ensure the operations cause no adverse impact on amenity of nearby residents.

15. The operator of Dunain Mains Quarry shall submit an annual statement and illustrative drawings to the Planning Authority by 28 February each year following the commencement of this permission. The annual statement will present an audit of the workings undertaken in the preceding calendar year, illustrating: -

1. The rates of extraction against the projected operations,
2. Areas of final restoration delivered on site, and
3. The results of monitoring from the mitigation actions as presented in the application, the Site Environmental Management Plan and or in compliance with the conditions attached to this planning permission.
4. The results of ongoing groundwater monitoring.

**Reason:** In order to ensure the planning authority can monitor the workings undertaken and retain effective control over the dry quarry operations.

## **REASON FOR DECISION**

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

## **FOOTNOTE TO APPLICANT**

### **Flood Risk**

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

### **Scottish Water**

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

### **Septic Tanks & Soakaways**

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

### **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and

Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

[http://www.highland.gov.uk/info/20005/roads\\_and\\_pavements/101/permits\\_for\\_working\\_on\\_public\\_roads/2](http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2)

### **Mud & Debris on Road**

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

### **Protected Species – Halting of Work**

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: [www.snh.gov.uk/protecting-scotlands-nature/protected-species](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

Signature: Nicola Drummond  
Designation: Area Planning Manager – South/Major Developments  
Author: Simon Hindson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Location Plan  
Plan 2 - Site Layout Plan Phase 1  
Plan 3 - Site Layout Plan Phase 2  
Plan 4 - Site Layout Plan Phase 3  
Plan 5 - Site Layout Plan Phase 4  
Plan 6 - Site Layout Plan Phase 5  
Plan 7 - Site Layout Plan Phase 6  
Plan 8 - Restoration Plan

## **Appendix 1 – Letters of Representation**

None.

Appendix 2 - Existing Planning Permission



THE SCOTTISH OFFICE

Inquiry Reporters

-8 MAY 1997

2 Greenside Lane  
Edinburgh EH1 3AG

Telephone 0131-244 - 5662  
Fax 0131-244 5680

McGrigor Donald  
Solicitors  
Erskine House  
68-73 Queen Street  
Edinburgh  
EH2 4NF

Your ref: JH/JN/KF/  
MO492740  
Our ref: P/PPA/HC/255

7 May 1997

Dear Sirs

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972: SECTION 33 AND SCHEDULE 7  
APPEAL BY MORRISON QUARRIES LTD: SAND AND GRAVEL QUARRY AT DUNAIN MAINS, INVERNESS

1. I refer to your clients' appeal, which I have been appointed to determine, against the refusal of planning permission by the former Highland Regional Council for the winning and working of sand and gravel at Dunain Mains, Inverness. I held a public inquiry into the appeal on 26-29 September and 5 October 1995, during the course of which I made accompanied and unaccompanied inspections of the site and its surroundings. In my letter to you dated 29 January 1996 I stated that I was minded to sustain the appeal and grant planning permission for the proposed development along the lines indicated in that letter. I asked you to advise me of the details of the section 50 agreements which your clients and the regional council agreed should be entered into, and I advised you that once it had been confirmed that the agreements had been signed and despatched for recording in the appropriate register I would be in a position to issue my decision letter. That letter and this one should be read together. Together they contain my decision on the appeal and my reasons for that decision. ✓

2. In your letter dated 1 April 1997 you stated that the section 50 agreement, a copy of which was enclosed, had been signed by the Highland Council, Mr Alexander Baillie, the Rt Hon Michael Burton and Morrison Construction Ltd. You stated that the agreement was forwarded to the Registers of Scotland for recording in the Register of Sasines on 1 April. The delivery of the agreement to the Keeper of the Registers of Scotland was confirmed by the Highland Council in a letter dated 16 April. ✓

3. The agreement appears to deal satisfactorily with the 2 issues to which I referred in my letter of 29 January 1996. Firstly, it provides for the lodging of a bond or financial guarantee for a maximum sum of £60,000 to cover the cost of site restoration. Secondly, it

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REC-1997

provides for the protection of the tree belts to the north east and south east of the site during the period in which the planning permission is extant. ✓

4. In October 1996 Planning Advice Note 50 (PAN 50) on Controlling the Environmental Effects of Surface Mineral Workings and PAN 50 Annex A on The Control of Noise at Surface Mineral Workings were published. There is nothing in these documents which materially affects the conclusions which I have reached. ✓

#### DECISION

5. Accordingly, for the reasons stated above and in my letter of 29 January 1996, I hereby sustain the appeal and grant planning permission for the proposed development, as amended (ie with phase 5 deleted), in accordance with planning application No IN/1994/80, dated 12 January 1994, and subject to the conditions contained in the attached schedule, which comprises part of the decision. ✓

6. The foregoing decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks from the date hereof as conferred by sections 231 and 233 of the Town and Country Planning (Scotland) Act 1972; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts. ✓

7. Copies of this letter have been sent to the Highland Council, Inverness Civic Trust, the Association for the Protection of Rural Scotland, Dunain Park Hotel, Mr Fraser and Mr Mackay. The other parties who made representations have been advised of my decision. ✓

Yours faithfully



D N GORDON  
Principal Reporter



**SCHEDULE OF CONDITIONS ATTACHED TO THE GRANT OF  
PLANNING PERMISSION FOR THE WINNING AND WORKING OF SAND  
AND GRAVEL AT DUNAIN MAINS, INVERNESS**

**PLANNING APPLICATION No IN/1994/80, DATED 12 JANUARY 1994**

- ✓ 1. The permission hereby granted shall lapse if the development is not begun within 5 years from the date of this decision. [REDACTED]
- ✓ 2. The permission shall last for a period of 12 years from the date of this decision. By the expiry of this period all quarry operations shall have ceased and the land shall have been fully restored to the satisfaction of the planning authority. [REDACTED]
- ✓ 3. The detailed boundary of the quarry shall be pegged out and agreed on site with the planning authority before any operations commence. This exercise shall clearly identify the following:
  - (1) a limit to excavation on the north west boundary such as to form stable slope angles which will protect the integrity of adjacent geological formations;
  - (2) the delineation of phasing areas and areas for the storage and stockpiling of topsoil, subsoil and any overburden;
  - (3) the delineation of the working quarry, which shall be bounded by stockproof fencing before any soil stripping or excavation commences (and this fencing shall be maintained and protected from damage for the duration of the operation of the quarry); and
  - (4) the edge trees and woodland on the north west, south east, and north east boundaries, which shall be protected from damage throughout the life of the quarry to the satisfaction of the planning authority.
- ✓ 4. No fixed plant or any buildings (including any temporary buildings) shall be erected on the site without the written consent of the planning authority. [REDACTED]
- ✓ 5. The mobile screening plant shall not be operated until its location has been agreed with the planning authority.
- ✓ 6. For the avoidance of doubt, no tar making or concrete making plant shall be operated on site without the express grant of planning permission.
- ✓ 7. No production or maintenance operations, and no loading of lorries, shall take place outwith the hours of 08.00 - 18.00 on Monday to Friday, and 08.00 - 12.30 on Saturday. No lorries shall be driven along the access road or into the site before 08.00 hours. Nothing in this condition shall be taken as preventing or prohibiting the execution of works which are absolutely necessary for the saving of life or property or for the safety of the works.
- ✓ 8. No soil stripping or bund formation shall take place outwith the hours of 9.00 - 18.00 on Monday to Friday, and 09.00 - 12.30 on Saturday.

- ✓ 9. The location and height of stockpiles shall be controlled such as to limit dust arisings and to prevent stockpiles protruding above the height of the south west quarry boundary and any bunding agreed on that boundary. In any event, no stockpile shall be higher than five metres.
- ✓ 10. The proposed access road shall join the A82 at a new "ghost island" (ie right turning refuge lane) junction which shall be formed in accordance with the Department of Transport Advice Note TA 20/84 "Junctions and Accesses: The Layout of Major/Minor Junctions" (as amended for Scotland). The ghost island shall be constructed in accordance with details to be submitted to and approved by the planning authority, in consultation with the trunk roads authority. In addition a deceleration taper shall be provided which is 55m long, widening from 0m to 3.5m over this length, or as may otherwise be approved by the planning authority, in consultation with the trunk roads authority.
- ✓ 11. A visibility splay shall be provided and maintained on each side of the proposed access such that there shall be no obstruction to visibility above a height of 1m measured from the adjacent carriageway levels. The visibility area is the triangle of ground bounded on 2 sides by the length of the first 9m of the centreline of the access road and the nearside trunk road carriageway measured 215m in both directions from the intersection of the access with the trunk road.
- ✓ 12. Details of the location and construction of the proposed passing place or places on the access road shall be submitted to and approved by the planning authority, in consultation with Scottish Natural Heritage, prior to the start of the development.
13. Before the development hereby permitted commences, schemes shall be agreed with the planning authority which specify the provisions to be made for the control of noise and dust emanating from the site. The noise and dust control schemes shall include the matters outlined in conditions 5, 7, 8 and 9 above and in conditions 14-25 below.
14. Details of the location, height and form of the protective screen bunds on the north east and south west boundaries, and their landscaping, shall be submitted to and approved by the planning authority before the start of operations on site. The bunds shall be constructed before the extraction of any sand and gravel from the site. The bunds shall be designed to blend in, as far as practical, with the existing landscape, and shall be approximately 4m high. The bund on the south west boundary shall maintain an effective height of 49.5m AOD. The landscaping, which shall incorporate indigenous species, shall be completed by the end of the first planting season following the construction of the bund, and any plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the planning authority gives written consent to any variation.
- ✓ 15. The cattle grids on the access road shall be removed, and the access road shall be provided with a smooth bitmac surface and maintained free of potholes throughout


the life of the quarry. Any roadside vegetation damaged by the road construction works shall be reinstated within the first planting season following the works.

- ✓ 16. Chute linings and rubber screen decks shall be applied to the plant and equipment on site.
- ✓ 17. Where reversing warning devices are fitted to site vehicles, these shall be of the infra-red type, not the acoustic type.
- ✓ 18. A noise monitoring system shall be employed at the site. The monitoring shall be carried out in accordance with the methods specified in MPG 11 - "The Control of Noise at Surface Mineral Workings" to ensure that the level of noise from the site during normal operations, but not during soil stripping and bund formation activities, does not exceed:

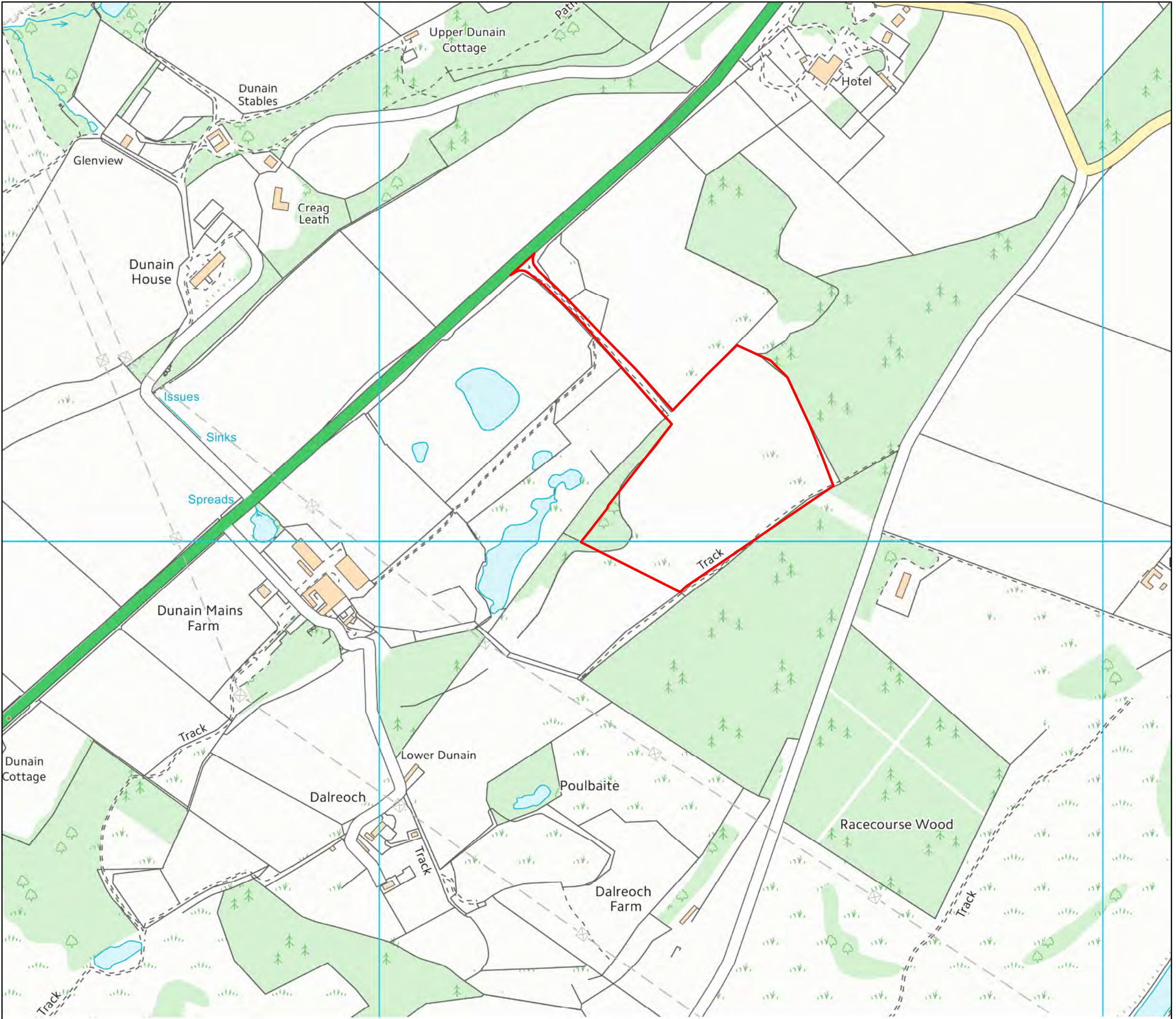
49.5 dB LAeq 1hr, as measured at Dunain Park Hotel  
45.0 dB LAeq 1hr, as measured at Dunain Mains Farm  
45.0 dB LAeq 1hr, as measured at Lower Dunain  
50.0 dB LAeq 1hr, as measured at Dunaincroy

- ✓ 19. A bowser shall be permanently stationed on site, and shall be used up to 3 times per day in dry conditions throughout the site and on the access road.
- ✓ 20. The access road shall be cleaned regularly to avoid the accumulation of sand, silt, dust or other debris arising from the quarry operation.
- ✓ 21. The processing and grading plant, including all screening and crushing equipment, shall be properly enclosed at all times.
- ✓ 22. A wheel trough shall be located between the haul road and the exit road, so that all laden lorries leaving the site shall pass through it. It shall be kept full of water at all times, and cleaned out regularly to ensure its efficient operation.
- ✓ 23. All site vehicles shall have upward facing exhausts.
- ✓ 24. A monitoring system to measure dust arisings from the operations shall be established to the satisfaction of the planning authority. Measurements shall be taken of the deposition flux rate ( $\text{mg}/\text{m}^2/\text{day}$ ). Deposit gauges shall be placed (1) on the north side of the access road; (2) on top of the bund on the north east site boundary, north east of the main quarry plant; and (3) in the grounds of Dunain Park Hotel. Subject to the review of results, sampling shall be undertaken monthly for a period of 7 days for the first year only and thereafter quarterly.
- ✓ 25. Prior to operations commencing, background dust levels shall be measured for at least 6 months, and dust levels as measured at sample locations shall not exceed  $37 \text{ mg}/\text{m}^2/\text{day}$  above a running mean calculated and agreed from the background dust survey.


- ✓ 26. Details of any proposals to lay subsurface water pipes to the site shall be submitted to and approved by the planning authority, in consultation with Scottish Natural Heritage, prior to the start of work on site.
- ✓ 27. All arrangements for washing sand and gravel shall be agreed by the planning authority prior to operations commencing.
- ✓ 28. All relevant precautions shall be undertaken to ensure that groundwater, watercourses and areas of standing water in the vicinity of the site are not polluted as a result of operations on site.
- ✓ 29. All oil storage and fuel facilities shall be protected by bunds, without outlets, and with a capacity of 10% in excess of tank capacity, and they shall be erected on an impervious base.
- ✓ 30. All fixed lighting on the site shall be designed and installed to avoid extraneous light emissions arising which might affect nearby residential property, to the satisfaction of the planning authority.
- ✓ 31. Before any development commences on site a detailed scheme to ensure the phased restoration of the site for the purposes of agriculture or forestry, and its aftercare, shall be submitted to and approved in writing by the planning authority, in consultation with Scottish Natural Heritage and The Scottish Office Agriculture, Environment and Fisheries Department. The scheme shall seek to ensure the following:
  - (1) the grading of all ground to stable slope angles and the shaping and contouring of the ground such as to be sympathetic to adjacent geological features of scientific interest;
  - (2) the progressive phasing of restoration works to ensure early restoration of any excavated phase;
  - (3) the treatment of surfaces prior to and after topsoiling and proposals to establish a suitable vegetative cover; and
  - (4) proposals for tree and shrub planting and fencing and any other landscaping matter.

  
D N GORDON  
Principal Reporter  
7 May 1997





**Legend**

 Further Application (Sec. 42) Boundary



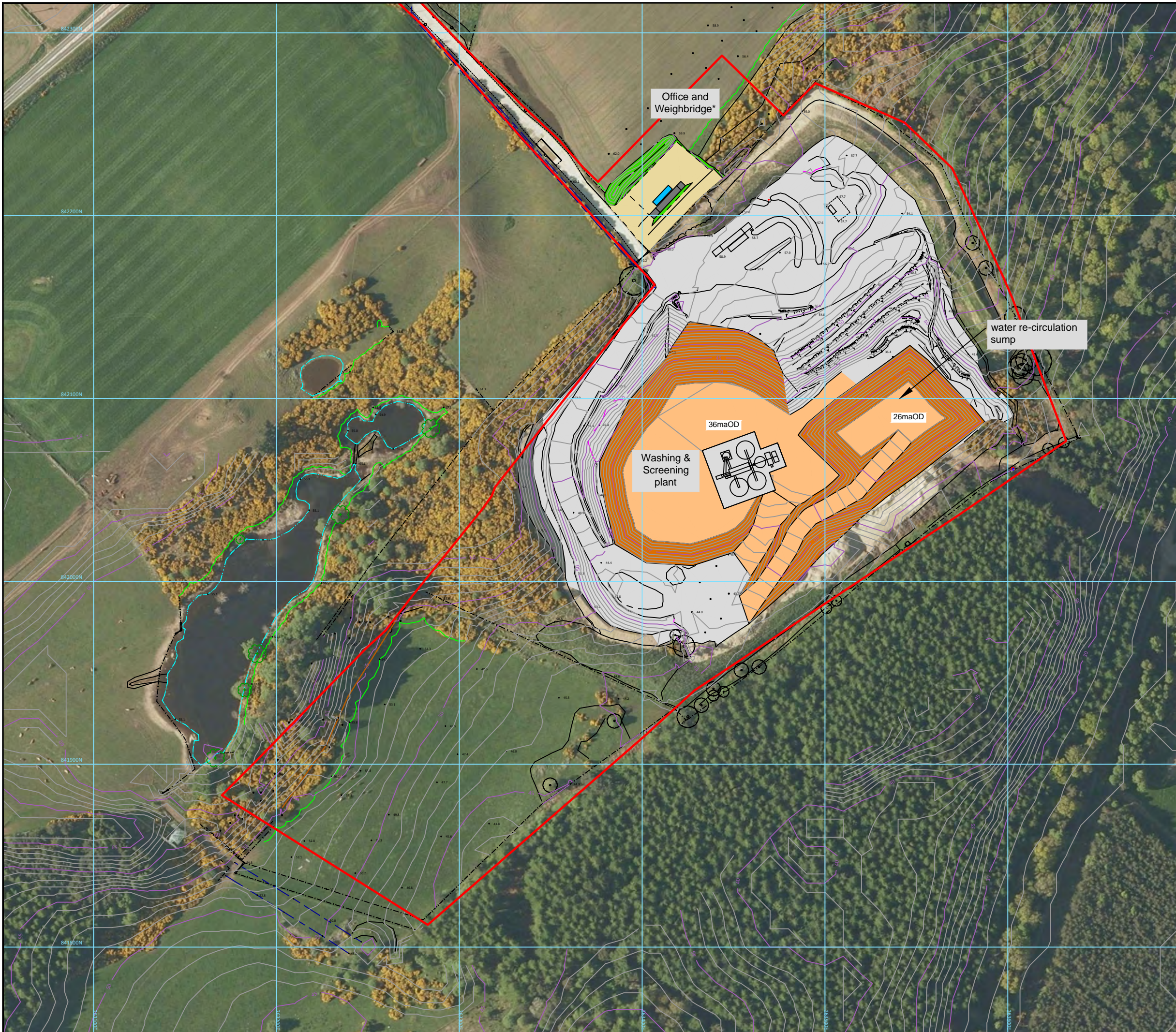
**Site Name:**  
Dunain Mains

**Drawing Name:**  
Further Application (Sec. 42)  
Site Boundary







<b>Drawn By:</b> AB	<b>Scale @ A3:</b> 1:5,000
<b>Date:</b> 26/05/2017	<b>Drawing No:</b> D086-00027-3







**Legend**

-  Site Boundary
-  Quarry Floor - Active in this phase
-  Quarry Face - Active in this phase
-  Quarry Floor - Inactive in this phase
-  Quarry Face - Inactive in this phase
-  Quarry Area - Undisturbed

\* Office and weighbridge relocated during phases 1 and 2



**Site Name:**  
Dunain Mains Quarry

**Drawing Name:**  
Planning Application and EIA  
Extraction Working Scheme  
Phase 1 / Current Situation







<b>Drawn By:</b> BM	<b>Scale @ A3:</b> 1:2,000 @A3
<b>Date:</b> 11/05/2017	<b>Drawing Number:</b> D086-00027-11







**Legend**

-  Site Boundary
-  Quarry Floor - Active in this phase
-  Quarry Face - Active in this phase
-  Quarry Floor - Inactive in this phase
-  Quarry Face - Inactive in this phase
-  Quarry Area - Undisturbed

\* Office and weighbridge relocated during phases 1 and 2



**Site Name:**  
Dunain Mains Quarry

**Drawing Name:**  
Planning Application and EIA  
Extraction Working Scheme  
Phase 2








<b>Drawn By:</b> BM	<b>Scale @ A3:</b> 1:2,000 @A3
<b>Date:</b> 11/05/2017	<b>Drawing Number:</b> D086-00027-12







**Legend**

-  Site Boundary
-  Quarry Floor - Active in this phase
-  Quarry Face - Active in this phase
-  Quarry Floor - Inactive in this phase
-  Quarry Face - Inactive in this phase
-  Quarry Area - Undisturbed
-  Soil Storage Bund



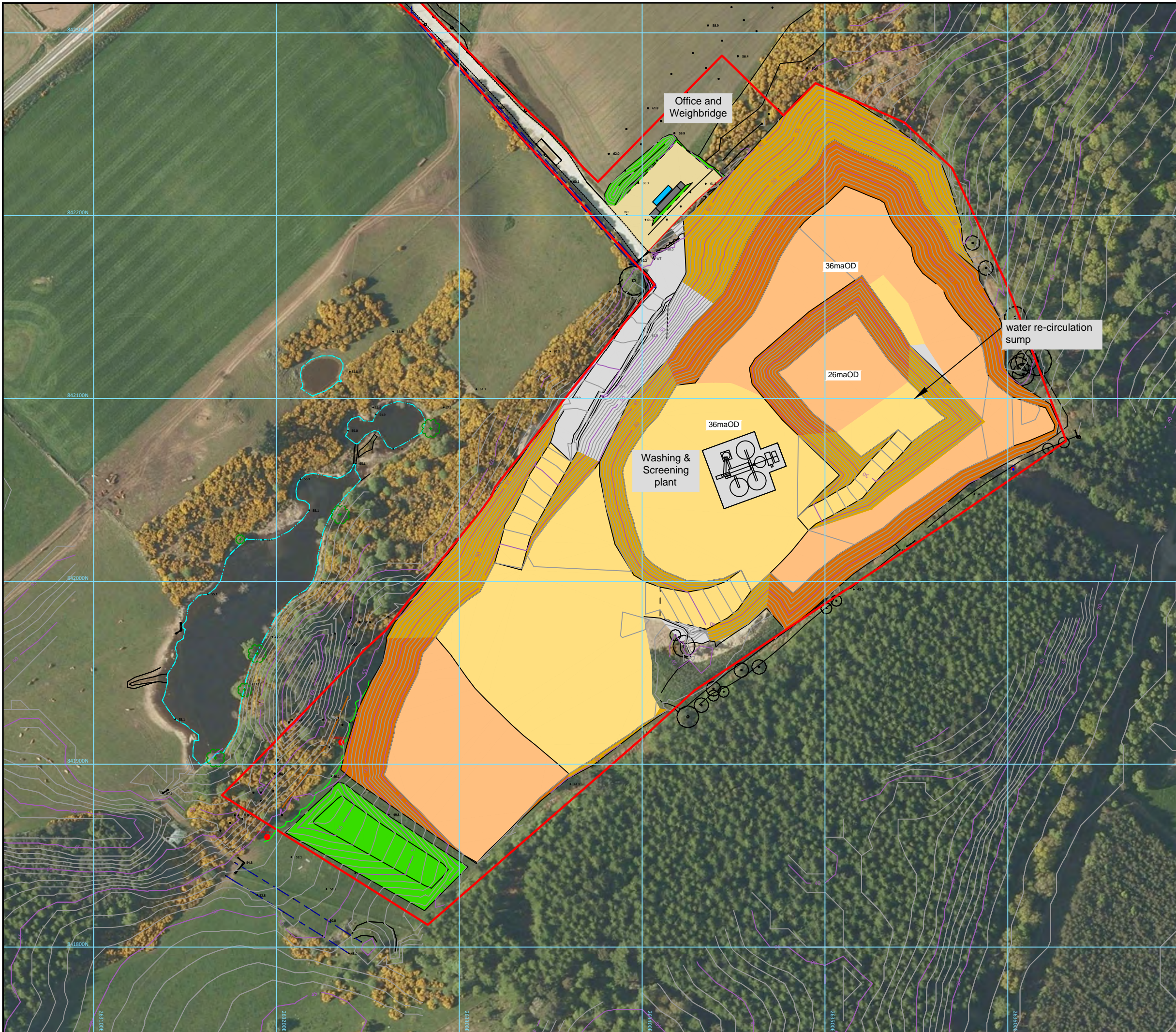
**Site Name:**  
Dunain Mains Quarry

**Drawing Name:**  
Planning Application and EIA  
Extraction Working Scheme  
Phase 3

<b>Drawn By:</b> BM	<b>Scale @ A3:</b> 1:2,000 @A3
<b>Date:</b> 11/05/2017	<b>Drawing Number:</b> D086-00027-13







**Legend**

- Site Boundary
- Quarry Floor - Active in this phase
- Quarry Face - Active in this phase
- Quarry Floor - Inactive in this phase
- Quarry Face - Inactive in this phase
- Quarry Area - Undisturbed
- Soil Storage Bund

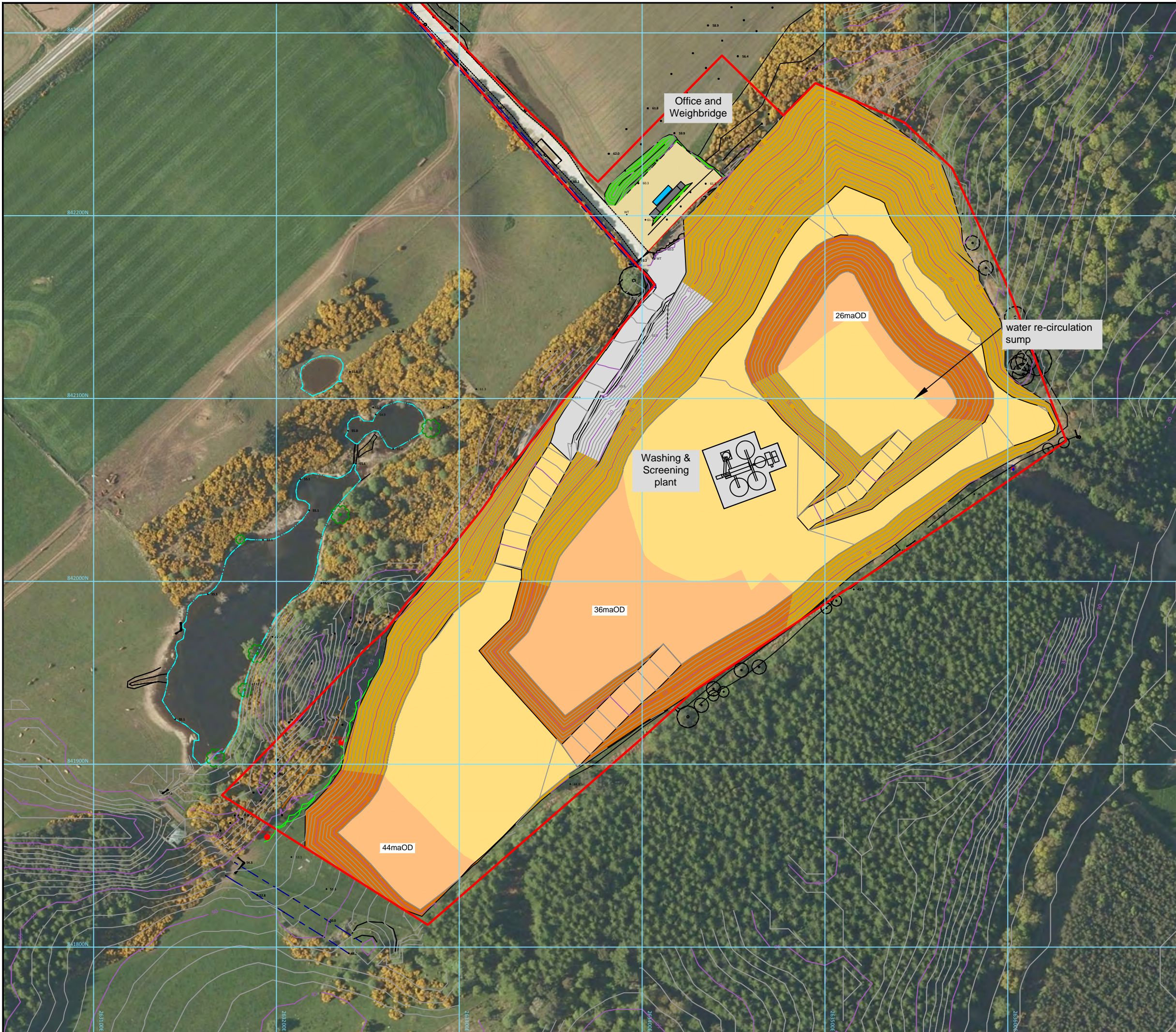


**Site Name:**  
Dunain Mains Quarry







**Drawing Name:**  
Planning Application and EIA  
Extraction Working Scheme  
Phase 4

<b>Drawn By:</b> BM	<b>Scale @ A3:</b> 1:2,000 @A3	
<b>Date:</b> 11/05/2017	<b>Drawing Number:</b> D086-00027-14	






**Legend**

-  Site Boundary
-  Quarry Floor - Active in this phase
-  Quarry Face - Active in this phase
-  Quarry Floor - Inactive in this phase
-  Quarry Face - Inactive in this phase
-  Quarry Area - Undisturbed

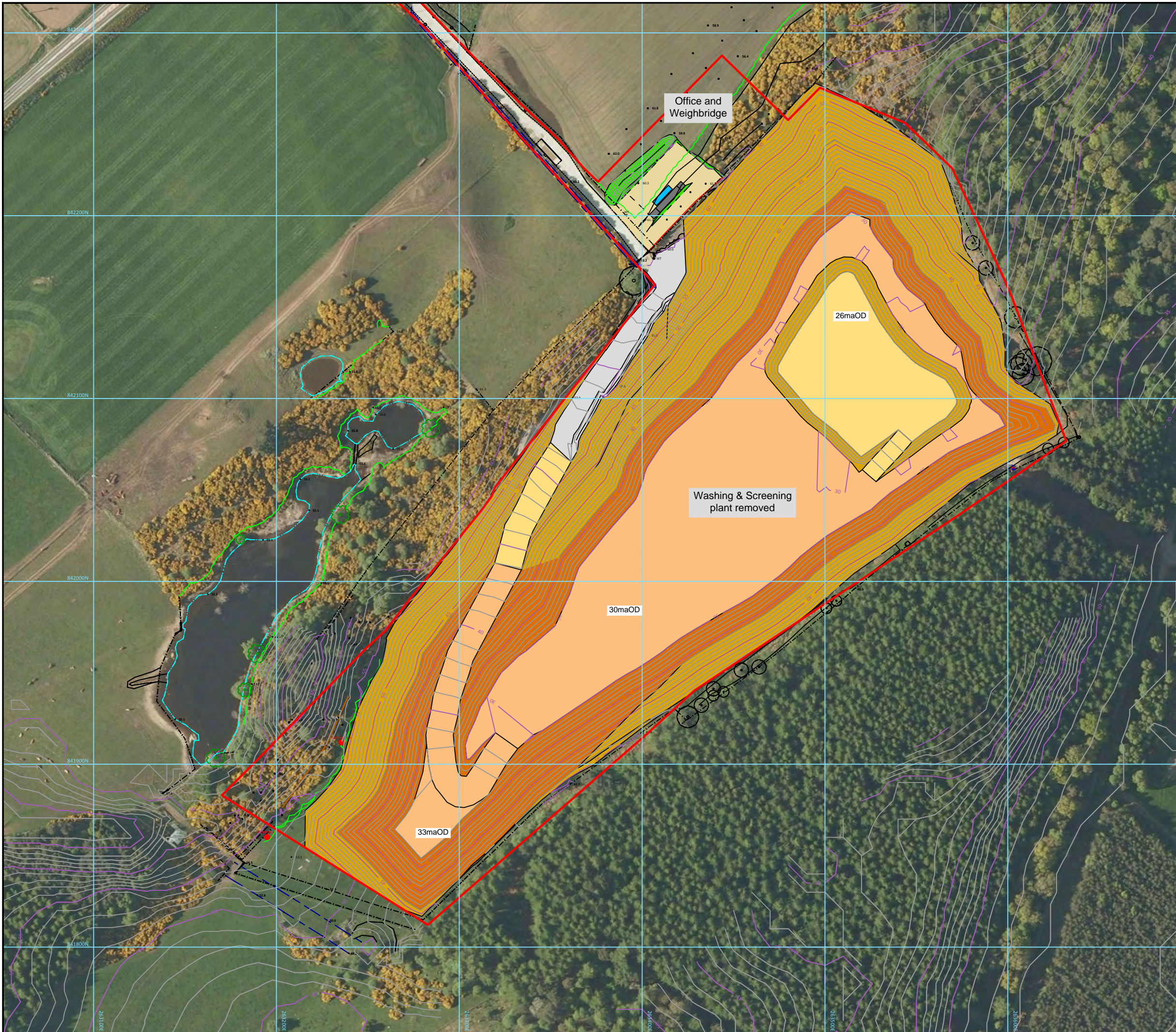


**Site Name:**  
Dunain Mains Quarry







**Drawing Name:**  
Planning Application and EIA  
Extraction Working Scheme  
Phase 5

<b>Drawn By:</b> BM	<b>Scale @ A3:</b> 1:2,000 @A3	
<b>Date:</b> 11/05/2017	<b>Drawing Number:</b> D086-00027-15	






**Legend**

-  Site Boundary
-  Quarry Floor - Active in this phase
-  Quarry Face - Active in this phase
-  Quarry Floor - Inactive in this phase
-  Quarry Face - Inactive in this phase
-  Quarry Area - Undisturbed



**Site Name:**  
Dunain Mains Quarry













**Drawing Name:**  
Planning Application and EIA  
Extraction Working Scheme  
Phase 6

<b>Drawn By:</b> BM	<b>Scale @ A3:</b> 1:2,000 @A3	
<b>Date:</b> 11/05/2017	<b>Drawing Number:</b> D086-00027-16	





**Legend**

-  **Site Boundary**
-  **Proposed Contours (2m Intervals)**
-  **Existing Tracks/Roads**
-  **Existing Agricultural Farmland**
-  **Existing Ponds / Water Bodies**
-  **Existing Woodland / Scrub Planting**
-  **Proposed Access Track**
-  **Proposed Woodland / Hedgerow and Scrub Planting**
-  **Proposed Grazing / Pasture Land**
-  **Proposed Species Rich Grassland**
-  **Drainage Ditches and Grassland Strip**
-  **Section Line**



**Site Name:**  
Dunain Mains Quarry

**Drawing Name:**  
Planning Application and EIA  
Extraction Working Scheme  
Restoration Plan

<b>Drawn By:</b> SM	<b>Scale @ A3:</b> 1:2,500
<b>Date:</b> 10/05/17	<b>Drawing Number:</b> D086-00027-18

