

WITHOUT PREJUDICE

ADDENDUM TO DRAFT PLANNING CONDITIONS LANDSCAPE AND VISUAL IMPACT

LA10/2017/1249/F
Conditions LSC16 to LSC18

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WITHOUT PREJUDICE DRAFT CONDITIONS – LA10/2017/1249/F

LANDSCAPE – ADDENDUM

This addendum supplements the conditions previously submitted under this topic and addresses the duration of the development, the removal of surface development on cessation, and the long-term monitoring of the permanent engineered structures. Conditions LSC16, LSC16A, LSC17 and LSC18 are additional. The conditions previously submitted are unaffected and are not reproduced. Numbering continues from that submission and is subject to renumbering on consolidation.

Monitoring of the geotechnical stability of the Dry Stack Facility, of leachate and of water quality, and the financial provision for that monitoring, are not advanced under this topic. They are reserved to the mine waste and water topics.

LSC16. Duration of development and removal of surface development. All mineral extraction, mineral processing and associated operations hereby permitted shall permanently cease not later than twenty-five years from the date of first mineral extraction.

(a) Within twelve months of that cessation, the following shall be removed from the site in their entirety, together with all foundations, bases and hardstandings, and the land beneath and around them restored in accordance with the Method Statement agreed under condition LSC17:

the process plant buildings; the covered ROM stockpile; the maintenance workshop; the warehouse facilities; the administration buildings; the conveyor and its housing; all surface portal structures and headframes; the weighbridge; all tanks, silos, gantries and pipework; all car parking areas; and all lighting columns, masts and signage other than any retained under condition LSC16A.

No structure listed in sub-paragraph (a) shall be retained for any aftercare, monitoring or maintenance purpose.

(b) For the purposes of this condition and of conditions LSC16A to LSC18, mineral extraction and processing shall be taken to have permanently ceased where no mineral has been extracted from, or processed at, the site for a continuous period of twelve months. Any period during which the site is held on care and maintenance, or during which operations are suspended, shall count towards that period.

(c) No structure to which this condition applies shall be retained beyond the date in sub-paragraph (a) for any alternative use, whether or not that use would otherwise be lawful, and no such structure shall be retained in reliance upon any permitted development right.

(d) Berms. Within the period in sub-paragraph (a) the berm to the south of the conveyor shall be removed, or regraded so as to accord with the profile of the adjoining natural landform, as agreed in writing by the Planning Authority. Nothing in this condition shall require the removal of the starter berm, which shall be retained, maintained and monitored in accordance with condition LSC18.

Reason: The development has been assessed, and if permitted found acceptable, on the basis that it is of finite duration and that the surface development is removed at its conclusion. Paragraph 114 of the Landscape and Visual Technical Report states that the operational phase is expected to be between 20 and 25 years and that closure and complete restoration will take one year. Paragraph 108 identifies the process plant buildings and the surface portal and conveyor as principal components of the development, and paragraph 209 records that the covered stockpile and processing plant will break the existing ridgeline in closer views. The starter berm forms part of the permanent landform of the Dry Stack Facility and is retained accordingly. Permanent retention of other surface development would not accord with Policies LO1 and MINO2 of the Fermanagh and Omagh Local Development Plan 2030 Plan Strategy, or with paragraphs 6.158, 6.165 and 6.187 of the Strategic Planning Policy Statement. This condition is fundamental to the grant of planning permission, and its removal or variation would constitute a fundamental alteration to the development permitted.

LSC16A. Retention of aftercare infrastructure and water management ponds.

The water treatment plant, the water management ponds, monitoring apparatus, the minimum length of access track required to reach them, the minimum extent of security fencing required for public safety, and the substation and electrical connection to the extent required to power them, may be retained after the date in condition LSC16(a) only for so long as each is required for the treatment of water arising from the site or for the monitoring and maintenance obligations of the aftercare period, and in any event not later than twelve months after the expiry of that period.

(a) Each item retained under this condition shall be removed as soon as it is no longer required.

(b) From the date in condition LSC16(a), an Annual Retention Statement shall be submitted to the Planning Authority identifying each structure retained, the reason for its retention, the anticipated date of its removal, and the reduction in retained footprint since the previous statement. Where the Planning Authority determines in writing that an item is no longer required, it shall be removed within six months.

(c) The water management ponds shall be removed and the pre-existing landform reinstated within the period specified above, unless the Planning Authority has agreed in writing, on an application supported by a landscape and biodiversity assessment, that their retention in a regraded form would deliver a net landscape and biodiversity benefit and that they can be retained without security fencing, without the water treatment plant and without the substation.

(d) Retention of the substation, or of any part of the electrical connection, beyond the period specified above shall require an express grant of planning permission on an application made and determined on its own merits.

Reason: Paragraph 109 of the Landscape and Visual Technical Report states that it is proposed that the substation will remain in perpetuity, and paragraph 259 identifies its long term retention as one of only two permanent elements of the scheme. The Restoration Plan indicates that the water management ponds would be left in place with their embankments graded out, and that this is contingent upon water no longer requiring treatment. To ensure that infrastructure retained for aftercare purposes is limited to what is required for that purpose, is reduced progressively, and does not become permanent by default, in the interests of the visual amenity of the Sperrin Area of Outstanding Natural Beauty.

LSC17. Removal and restoration method statement. No development shall commence until a Removal and Restoration Method Statement has been submitted to and agreed in writing by the Planning Authority, comprising: a schedule of every building, structure and item of apparatus to be removed under conditions LSC16 and LSC16A; the programme and sequence of removal; the method of demolition and the destination of all arisings; the restored profile, soil placement depth and planting proposed for each footprint; and a costed estimate of the cost to a third party of carrying out those works, prepared at current rates and independently verified.

(a) An updated costed estimate, independently verified, shall be submitted not later than the tenth, fifteenth and twentieth anniversaries of the commencement of development, and within three months of any material change to the development.

(b) The Method Statement shall be reviewed and resubmitted for agreement not later than the twentieth anniversary of the commencement of development, and shall be implemented as agreed.

(c) The financial provision required by condition LSC14 shall extend to the works required by conditions LSC16 and LSC16A, shall be in the sum of the verified estimate required by this condition as most recently updated, and shall not be released in whole or in part until the Planning Authority certifies in writing that removal and restoration have been completed in full.

Reason: To ensure that the removal required by conditions LSC16 and LSC16A is defined, programmed and costed from the outset, and that the financial provision required by condition LSC14 is set at, and maintained at, a sum sufficient to deliver it.

LSC18. Long-term monitoring of the restored landform. The restored profile of the Dry Stack Facility, including its slopes, benches and crest, and the vegetation established upon it, shall be monitored against the approved final landform profile and against the success criteria in condition LSC2.

(a) Monitoring shall be carried out from the completion of restoration and thereafter until the Planning Authority certifies in writing that monitoring is no longer required having regard to the permanence of the landform; and in any event for not less than 100 years from the date on which the Planning Authority certifies completion of restoration.

(b) Monitoring shall comprise: an annual topographic survey of the Dry Stack Facility, certified by a chartered surveyor and compared against the approved final landform profile including bench widths, bench intervals and slope gradients; a survey of vegetation cover by species group against each success criterion in condition LSC2, carried out twice yearly for the first five years following each phase of planting and annually thereafter; and fixed-point photography from the locations agreed under condition LSC3, carried out in summer and in winter.

(c) A report shall be submitted to the Planning Authority within one month of each survey and shall be made available for public inspection. Where any deformation of the landform, or any failure to meet a success criterion, is recorded, remedial works shall be submitted to and agreed in writing by the Planning Authority within one month and implemented within three months, and monitoring under sub-paragraph (b) shall revert to twice yearly for a period of not less than three years and until the Planning Authority confirms in writing that it may be reduced.

(d) No development shall commence until the operator has granted, and registered against the title to the land, a deed securing rights of access for the Planning Authority and for any person appointed by it to enter the land for the purpose of the monitoring required by this condition, for the whole of the period in sub-paragraph (a). Those rights shall bind successors in title.

(e) Compliance with this condition shall not be affected by the cessation of mining operations, by the removal of any structure under condition LSC16 or LSC16A, by the expiry of the aftercare period, or by any change in the ownership or occupation of the land.

Reason: The Dry Stack Facility is a permanent engineered landform which the Landscape and Visual Technical Report identifies at paragraph 259 as one of only two permanent elements of the development, and which the Second Addendum (2020) records at paragraph 3.7 as a permanent change to the topography. The reduction in landscape and visual effects relied upon in the assessment depends upon the restored profile being achieved and retained, and upon the vegetation being established and sustained upon it. To enable those matters to be verified over the life of the landform, and to secure remedial action where they are not achieved.