

21 November 2012

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## UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISIONS

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### A) INTRODUCTION

This report advises of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to the case set out below.

### B) RECOMMENDATION

Members are asked to note the contents of the report.

### C) DETAILS OF APPEAL DECISION

#### **Appeal Reference ENA-130-2006**

**Council Reference – 10/00323/ENOTH2: Land at Camsail Woodland Roseneath Road, Roseneath - Unauthorised Engineering and other Operations.**

This report has been prepared to inform members that an appeal against the serving of an Enforcement Notice at the above site, requiring restoration and planting works by Mr. D Bruce the site owner, has been dismissed and the Enforcement Notice served by the Council upheld.

The main issues addressed in the appeal were as follows:

- a) Whether the works carried out constituted development
- b) Whether the restoration works required were excessive
- c) Whether the timescale to comply with the notice was too short.

The Reporters findings are summarised below:

#### a) Whether the works carried out constituted development

The Reporter found that the Council was correct in determining that unauthorised development had occurred, and that planning permission was required for the works carried out to scour the quarry face and both remove rock from the quarry face and transfer materials around the site.

#### b) Whether the restoration works required were excessive

The Reporter considered that the steps the council required, including the making safe of the quarry face, and tree and grass replanting to assist in habitat creation and amenity improvements, were both justified and necessary in the context of the unauthorised development which had been undertaken. The Reporter considered that the replanting scheme would assist in the regeneration of the quarry and improve both the visual

appearance of the site, as well as assisting in reinstating the habitat features destroyed by the unauthorised works.

However, the Reporter did consider the requirement to bring in additional soil in to resurface the new terrace slope along the exposed quarry face in its entirety to a depth of 150mm, formed in making safe the quarry face, was not required. He also did not consider the erection of a new fence 4metres back from the edge of the quarry face necessary for safety reasons.

c) Whether the timescale to comply with the notice was too short.

As the appeal process had delayed the planting works commencing by a number of months, and given the ground conditions at the quarry caused by adverse weather this year, the Reporter felt that it was reasonable to alter the period of compliance to allow the grass seeding to take place in more favourable conditions next spring.

He therefore amended the period of compliance contained in the notice from within 6 months starting from 1 October 2012, to within 6 Months starting from 30 April 2013. Therefore works will take place in next year's planting season, and require to be completed by 31 October 2013.

Conclusions

The Councils contention that unacceptable engineering operations had taken place was upheld by the Reporter, as was the Councils view that a replanting scheme and other engineering works are required to restore and make safe the former quarry. Mr. Bruce the site owner is required to carry out the restoration works, as altered, by the Reporter in his decision notice within the amended timescale.

Members will be updated on whether the works are carried out in accordance with the notice. If they are not further authorisation to pass the matter to the procurator fiscal will be sought.

**D) IMPLICATIONS**

Policy: None.  
Financial: None.  
Personnel: None.  
Equal Opportunities: None

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