Application No: 1/16/9006
District: Carlisle

Applicant: Scotts Company (UK) Ltd
Salisbury House
Catteshall Road
Parish: Kirkandrews-On-Esk
Received: 24 February 2016

PROPOSAL: Periodic review of minerals permission

LOCATION: Solway Moss Peat Works, Mill Hill, Gretna, Dumfries & Galloway, DG16 5HU
1.0 RECOMMENDATION

1.1 That after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations, conditions be imposed as set out in Appendix 1 to this report.

2.0 LEGISLATIVE BACKGROUND INFORMATION

2.1 Section 96 and Schedules 13 and 14 of the Environment Act 1995 provide for the initial review and updating of old mining permissions granted between 30 June 1948 and 22 February 1982 and the periodic review of all mineral planning permissions thereafter as a means of protecting the environment and amenity, and to provide equal treatment between sites and mineral operators.

2.2 Initially the County Council as Mineral Planning Authority (MPA) was required to prepare a list of all relevant mineral permissions and then divide the sites between those permitted between 1948 and 1969 (Phase 1 sites) and those permitted between 1969 and 1982 (Phase 2 sites). Applications for the determination of new conditions for active Phase 1 sites had to be submitted within a period of time set by the MPA, which was between 1 and 3 years of the date of publication of the MPA's list, and within the following 3 years for active Phase 2 sites. Periodic Reviews should take place every 15 years from the date of either a previous review, or if no review has taken place, from the date of the latest mineral permission relating to the site. The purpose of periodic reviews is to ensure that the conditions attached to mineral permissions do not become outdated with the passage of time.

2.3 The MPA can either approve the applicant's proposed schedule of conditions as submitted or impose their own set of conditions. The conditions imposed by the MPA should meet all the tests of planning conditions and should not restrict working rights nor prejudice adversely, or to an unreasonable degree, the economic viability of operating the site or asset value of the site. If the application is determined on terms different from those set out in the application, the applicant has a right of appeal to the Secretary of State and if his working rights are restricted he may be entitled to compensation. It is not open to the MPA to refuse a valid application.

3.0 THE PROPOSAL

3.1 Under the terms of the Environment Act 1995, the mineral permissions relating to the site are subject to periodic review. An application has been made as part of the Review of Mineral Working Permissions (ROMP) process to update the current planning permission conditions. The application includes a schedule of 16 proposed planning conditions controlling time limits; specifying approved documents; restricting depth of peat working; working areas; height of peat stocking areas; transportation of peat off site; safeguarding of watercourses and controls on drainage; noise; dust; safeguarding archaeology; site restoration, and aftercare.

3.2 The application is accompanied by an Environmental Statement (ES). The ES provides a site description including details of the site location, geology, soils and climate, flora and fauna, drainage and the historic environment; a description of the continuing development; outlines of the main alternatives; aspects of the environment likely to be affected; a description of the likely effects on the environment including on landscape, drainage, fauna and flora, traffic, historic
environment and dust; a description of measures to prevent, reduce or offset effects on the environment; and restoration principles. Further information was submitted in support of the ES relating to the drainage of the site, direction of flows, positioning of settling pools and outfall structures and water courses they drain into and sampling results to identify suspended solids discharging from each outfall.

4.0 DESCRIPTION AND LOCATION OF THE SITE

4.1 Solway Moss Peat Works is a commercial peat extraction site located to the west of Longtown and to the north east of junction 45 of the M6 motorway in a flat landscape. The site is surrounded by a combination of woodland, agricultural land beyond which to the east is MOD land, and the River Sark. Access is taken from Mill Hill the B7076 via the A6071 which similarly provides access to scattered residential properties. To the south of the site access on the opposite side of the road is the peat processing works and the closest residential property which is currently operating as kennels and cattery business. To the south is the A6071 beyond which is MOD Longtown camp.

4.2 Solway Moss is classified as a lowland raised mire (Inventory of Lowland Raised Bogs (Lindsay 1996) consisting of Sphagnum and Cotton grass. The peat workings extend to approximately 364h of which some 109.67ha is no longer worked; there remains 247.05ha still to be worked. Peat will continue to be extracted using the existing method of surface milling. The peat surface is devoid of vegetation and comprises a network of open drainage ditches approximately 20m apart delineating a system of long parallel strips with low gradients for peat milling with the appearance of ploughed fields.

4.3 The moss is in close proximity to the Upper Solway SAC and the Upper Solway Flats and Marshes SPA and the Upper Solway Flats and Marshes SSSI. Part of the Solway Moss County Wildlife Site is located within the extraction area.

5.0 PLANNING HISTORY

5.1 The site has operated since 1960. The substantive permission for peat extraction was granted in the early 1980’s (ref 1/81/0208). The site was subject to periodic review and an application for the determination of new conditions was granted in 2001 (ref 1/99/9020). The site is currently being worked in accordance with these conditions.

5.2 Planning permission for the construction of 9 wind turbines over an area of 7.28ha of the site, known as Beck Burn Windfarm, was granted by Carlisle City Council in 2013 (ref 13/0866). The windfarm includes the construction of a roadway and wind turbine plinths and the excavation and removal of peat to a depth of 2m to facilitate the development. The planning permission has been implemented.

2.4 PLANNING POLICY

6.2 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.
2.3 Local Planning Authorities are required to determine planning applications in accordance with the development plan (i.e. planning policy) unless material considerations indicate otherwise. The relevant development plan for this proposal comprises:


2.5 The key policies relevant to the determination of this planning application are considered to be:

- Policy CS 1 - Sustainable Location and Design
- Policy CS 2 - Economic Benefit
- Policy CS 3 - Community Benefits
- Policy CS 4 - Environmental Assets
- Policy CS 5 - Afteruse and Restoration
- Policy CS 6 - Planning Obligations
- Policy DC1 - Traffic and Transport
- Policy DC 2 - General Criteria
- Policy DC 3 - Cumulative Environmental Impacts
- Policy DC 8 - Applications for New Conditions
- Policy DC 9 - Minerals Safeguarding
- Policy DC 10 - Biodiversity and Geodiversity
- Policy DC 11 - Historic Environment
- Policy DC 12 - Landscape
- Policy DC 13 - Flood Risk
- Policy DC 14 - The Water Environment
- Policy DC 15 - Protection of Soil Resources
- Policy DC 16 - Afteruse and Restoration
- Policy DC 17 - Planning Obligations

2.6 The emerging Cumbria Minerals and Waste Local Plan 2015-2030 was submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between 29 November and 16 December 2016. Following this, a Table of Main Modifications to the Plan was prepared and consulted on between 27 March and 5 May 2017. The Inspector is now in the process of finalising her Report on changes necessary to ensure that the Local Plan is sound and legally compliant. As the emerging plan progresses greater weight can be attached to it in the decision making process.

2.7 The Carlisle District Local Plan 2001-2016 (CDLP 2001-2016) September 2008 (Saved Policies thereof) is the currently adopted local plan for Carlisle District.

2.8 The new emerging Carlisle District Local Plan 2015-2030 was examined by the Planning Inspectorate and found to be sound subject to proposed modifications being made in a report issued on 28 July 2016. The Plan was formally adopted on 8 November 2016. The key policies of relevance in this plan are as follows:

2.9 The National Planning Policy Framework (NPPF) which was published on 27 March 2012 and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this
application. Paragraphs 142 – 149 of the NPPF relate to mineral extraction. Whilst paragraph 144 states that planning permission should not be granted for new or extended peat sites and that restoration and aftercare of minerals sites should be achieved at the earliest opportunity through the application of appropriate conditions, this application is for a review of planning conditions for which no restrictions on operations or time periods can be imposed without affecting the working rights of the operator:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development:
  - Section 1 - Building a strong, competitive economy
  - Section 3 - Supporting a prosperous rural economy
  - Section 4 - Promoting sustainable transport
  - Section 7 - Requiring good design
  - Section 8 - Promoting healthy communities
  - Section 10 - Meeting the challenge of climate change, flooding and coastal change;
  - Section 11 - Conserving and enhancing the natural environment.
  - Section 12 - Conserving and enhancing the historic environment
  - Section 13 - Facilitating the sustainable use of minerals

3.0 CONSULTATIONS AND REPRESENTATIONS

3.1 Carlisle City Council (Planning): Considers the need for peat and the availability of non-peat alternatives; the effect of the proposal on climate change; the nature conservation status of the site; transport impacts; the effects upon the living conditions of neighbouring residents, and the planning balance (the economic benefits versus the unsustainable use of peat in horticulture and the consequences of peat extraction on climate change and biodiversity) should be assessed.

3.2 Carlisle City Council (Environmental Health): No objection.

3.3 Kirkandrews-On-Esk Parish Council: Restoration should be progressive so the wildlife and vegetation can start to return. The restored areas should be fenced off to prevent wildlife from straying onto the areas still being worked.

3.4 CCC Highway Authority and Lead Local Flood Authority: Considers that the proposed schedule of conditions meets their requirements and confirm that they have no further comments to make.

3.5 Highways England: No objection.

3.6 Natural England: Initially considered the EIA not to contain sufficient information to determine whether the development is likely to have a significant effect on the European sites in the vicinity, these being the Upper Solway SAC and the Upper Solway Flats and Marshes SPA or to assess whether the application is likely to damage or destroy the interest features for which Upper Solway Flats and Marshes SSSI has been notified. Following the submission of additional information no objection is raised subject to appropriate mitigation being secured; restrictions on the levels of suspended solids from all 6 discharge points should be retained and that the levels are acceptable for the purposes of any discharge consent; and there is an early restoration plan.
3.7 The Environment Agency: Notes that there is no proposed change to the existing site operations and that the geological map indicates that the site is underlain by Permian Sandstone at the rock head, which is covered by boulder clay under the layer of peat. Their records indicate that there is an existing abstraction borehole in close proximity to the north east boundary of the site, but that the abstraction is from the deeper solid sandstone. It is therefore considered unlikely that an existing operation would have an impact upon groundwater users in the site’s vicinity.

3.8 The RSPB: Has serious concerns over the principle of peat extraction which is considered to be unsustainable; contrary to the achievement of national climate change targets, and contrary to Government planning policies and the County Council’s Draft Minerals and Waste Local Plan. The RSPB does, however, note the commitment in the Environmental Statement to leave ‘an average minimum depth of 0.5 metres over the underlying mineral soil…at the end of extraction’ which is vital to achieve restoration aspirations, and would like to see the applicant follow through on their proposal to submit an interim restoration scheme by 22 February 2019 and restore exhausted areas while the site is still operational, if the hydrology allows for a phased restoration. They believe the key objective should be restoration of the whole hydrological unit with restoration to lowland raised bog and fen habitat.

3.9 Network Rail: No comments.

3.10 The Coal Authority: The site is located within the area defined as Development Low Risk Area. An informative should be attached to any decision notice advising of the Authority’s standing advice.

3.11 CCC Ecology: Considers the information provided does not enable the County Council to conclude that there will be no likely significant effect upon the Solway Firth SAC. In the absence of the necessary information from the applicant, the County Council is unable to satisfy its requirements under Paragraph 61 of the Conservation of Habitat and Species Regulations 2010, to undertake a Habitat Regulations Assessment. The applicant must provide further information to determine that quality of discharges from the site potentially entering the SAC and other nature conservation sites that lie downstream of the site. This should be supplemented by information on existing and any proposed mitigation measures to ensure that fine particulate peat is not causing any potential negative impacts upon these designations.

3.12 The badger report should be reviewed and updated to reflect which of the badger protection options will be implemented at the site, and confirm that annual sett monitoring will be undertaken.

3.13 A Habitats Regulations Assessment has been carried out. The Assessment concludes that the ongoing peat working at Solway Moss will not, either alone or in combination with other plans and projects, have an adverse effect upon the interest features of the Solway Firth SAC or the Upper Solway Flats and Marshes SPA and the tests required for the meeting of the favourable condition of each designated site providing there is an ongoing commitment to management, monitoring and reporting of discharges at each of the 6 outfall structures, that remedial action should take place to the functioning of the silt control and outfall structures in a timely fashion if 300mg/l suspended solid discharge levels are exceeded. For each of the Conservation Objectives, it is concluded that no detrimental impact upon the site achieving these Objectives would arise from the
ongoing peat extraction operations at the Moss and that the integrity of Solway Firth SAC and the Upper Solway Flats and Marshes SPA would be maintained.

3.14 CCC Archaeology: Recommend a condition requiring a scheme of archaeological work to be undertaken by the operator to record any assets disturbed by peat extraction, and that the work should commence within 6 months of any new consent and comprise:

- A programme of palaeo-environmental assessment and analysis of peat deposits that contain a highly significant resource for past environmental conditions, and
- A periodic inspection of exposed section faces of peat to identify and record any archaeological assets.

3.15 The application has been advertised in the press, notices posted on the land and local properties and the local county councillor notified.

3.16 Two representations have been received expressing the following summarised concerns:

- The Moss used to be a thriving High Bog which supported many species of wildlife, flora and fauna. Drainage ditches (4 to 5ft deep) once flowed east to Black Bank, however, in recent years, the flow was reversed to run west into the River Sark. The ditches (now 30ft deep) now drain off the moss at such a high rate and can flush great volumes of water into the River. There are settling ponds supposedly to catch the fine peat silt from entering the River, but these look to be in disrepair and not fit for purpose, and they do not stop the fine peat filtering straight into the river.
- Over the last 20 years there has been a very steep decline in the number of wading birds. One reason for this has been the complete desolation of habitat, heather and rushes which are very sparse. Deep ditches have been cut, making it difficult for oyster catchers, peewits, grouse and curlew to survive and raise their young.
- Was the removal of the sand bank adjacent to the River Sark, which used to be home to the largest number of sand martins in the area, permitted as part of the planning permission? If not, can the operators be required to reinstate it?
- Fish volume in the River is virtually non-existent, compared to the past.
- Hardly any of the old vegetation was set aside to re-establish areas that were worked out.
- Why could this site not have been designated a candidate SAC and redeveloped back to a natural place?
- The site has a Gretna address, so should the local community, through the Community Council, not have had some notification and means of input?

4.0 PLANNING ASSESSMENT

4.1 The Planning and Compensation Act 1991 and Environment Act 1995 provides for the updating of working and restoration conditions on Interim Development Orders and old mining permissions and for their regular review at fifteen year intervals (Schedule 14). The purpose of this legislation is to ensure that all mineral workings, including peat extraction sites, operate under modern schemes of working and restoration conditions and are subject to planning controls that reflect modern environmental standards. The legislation provides for all active sites to be subject to immediate review with periodic review at 15 year intervals thereafter. The previous review permission relating to the
extraction of peat from this site was in 2001 (ref 1/99/9020) which resulted in a new scheme of working and restoration conditions for the site. The current application is to comply with the legislation requiring the permissions for such sites to be reviewed at fifteen year intervals.

4.2 The minerals planning authority (MPA) can either approve the applicant’s proposed schedule of conditions as submitted or impose their own set of conditions. The conditions imposed by the MPA should meet all the tests of planning conditions and in these circumstances should not restrict working rights, nor prejudice adversely to an unreasonable degree the economic viability of operating the site or asset value of the site. If the application is determined on terms different from those set out in the application, the applicant has a right of appeal to the Secretary of State and if his working rights are restricted he may be entitled to compensation. It is not open to the MPA to refuse a valid application of this nature. Conditions likely to give rise to compensation claims would include for example, those that could restrict the area or depths of minerals that could be worked or those that restrict hours of operation or tonnages of minerals extracted per year.

4.3 The main issues in this application relate to the extent of the remaining peat reserves, the scope to undertake further peat extraction, discharges to water courses, fauna and flora and the restoration afteruses that are possible for the site having regard to the remaining peat resources.

4.4 The operator has reviewed the existing conditions and proposed a revised set of conditions which, whilst reflecting the previous conditions, are considered to be less onerous in terms of the operation and restoration of the site.

4.5 It is important to remember that conditions cannot be imposed as part of a review under the Environment Act that would affect the applicant’s working rights - for example by restricting the amount of peat that can be worked from the site or reducing the timescale for extraction without the risk of a compensatory claim being made. The principle of working peat on this site has been established and whilst the continuation of such may be seen contrary to certain national policies and has received local criticism or objection, this is not, in these circumstances a matter the County Council can take issue with or restrict. Nevertheless, the application and proposed conditions have been reviewed against the policies of the development plan and in light of consultee responses and representations received.

4.6 Peat has been worked from this site from the 1960’s. Peat resources are of great environmental and cultural value. They are also of importance as carbon sinks and often give rise to habitats that are of considerable biodiversity importance. They can also include significant archaeological remains.

4.7 The applicant proposes to continue the working of peat from an area of approximately 247.05ha so that a minimum peat thickness of 0.5m would be retained across the site as required by the current scheme of working and controlled by condition. Peat will continue to be extracted using the existing method of surface milling on a campaign basis (primarily between May and September), and would be used to produce a variety of horticultural products that are sold from the site in bagged form. The peat is dried by wind and sun to reduce the moisture content from around 92% to between 45/55%. The peat extracted is used in commercial horticulture, e.g. food production (mushrooms). Outside these periods operations include works to maintain ditches, ponds, outfalls, maintenance etc.
4.8 In terms of usage of peat, 68% of horticultural peat used in the UK is imported, the majority of which is from Southern Ireland (60%). To continue extracting peat at Solway Moss would therefore reduce carbon miles of transporting imported peat and maintain supply to existing markets. However, it is necessary to assess the environmental impacts associated with such.

**Drainage**

4.9 The success of the restoration operations to restore the site to peat to low land raised bog will depend largely on the ability to control water levels to the degree required to allow such habitats to develop. The ditches are 1m wide and 1.3 – 1.5m deep and are regularly cleaned. This system is linked to deeper collection ditches and main outfalls which incorporate pools and weirs to regulate drainage and the removal of suspended solids. The main function of the ditches is to accelerate the removal of surface water.

4.10 There are 6 discharge points ultimately draining into the River Sark and River Esk. No authorisation for the discharges is required from the Environment Agency who notes the existing system is not proposed to change. There would be no increase in volumes as part of the discharges other than in the event of fluctuations in meteorological conditions.

4.11 The means of draining the site is the subject of a proposed condition to manage the quality of discharge and the amount of suspended solids to ensure the quality of water being discharged and minimising the mobility of suspended solids into the Rivers Esk and Sark. Subject to such a condition it is considered that the drainage to the site is acceptable.

**Flora and fauna and restoration**

4.12 An extended habitat survey has been carried out including an assessment of badgers. The survey has reviewed previous ecological data, assessed the presence/potential of protected species including bats, badgers, otters and water vole and carried out a National Vegetation Classification. The survey concluded there was no evidence of otters, water voles, great crested newts on the moss although there is evidence of badger activity. The majority of the site is proposed to continue to be worked and as this constitutes bare peat, it has little if any conservation value. Badger activity would be monitored and appropriate action to taken to avoid disturbance and which is the subject of a condition.

4.13 A Habitats Regulations Assessment has been carried out. The Assessment concludes that the ongoing peat working at Solway Moss will not, either alone or in combination with other plans and projects, have an adverse effect upon the interest features of the Solway Firth SAC or the Upper Solway Flats and Marshes SPA and the tests required for the meeting of the favourable condition of each designated site providing there is an ongoing commitment to management, monitoring and reporting of discharges at each of the 6 outfall structures, that remedial action should take place to the functioning of the silt control and outfall structures in a timely fashion if 300mg/l suspended solid discharge levels are exceeded. For each of the Conservation Objectives, it is concluded that no detrimental impact upon the site achieving these Objectives would arise from the ongoing peat extraction operations at the Moss and that the integrity of Solway Firth SAC and the Upper Solway Flats and Marshes SPA would be maintained.

4.14 Subject to conditions controlling badger monitoring, drainage and outfalls it is
considered that there would be no unacceptable impacts on fauna or flora and that the proposal accords with the policies of the development plan.

Landscape and visual impact

4.15 In visual landscape terms the existing moss has the appearance of ploughed agricultural fields. It falls within the coastal margins landscape character type – predominantly flat open landscape. Potential receptors include local residents, local road users and walkers on the Cumbrian Coastal Way.

4.16 The site is remote from residential properties and the nature of the peat extraction operations on site are more akin to agricultural operations than to mineral working. There are no public rights of way across the site. The actual peat extraction operations utilise plant and machinery that is not dissimilar to that used in agricultural practices. The site now plays host to a number of wind turbines which dominate the visual landscape. The impacts of the peat extraction on local amenity are therefore relatively slight. It is therefore considered the continuation of peat working would not have an unacceptable visual impact on the landscape and would comply with the policies of the development plan.

Restoration

4.17 The areas that have been worked are becoming colonised by mire vegetation and these are proposed to be used as ‘doner’ areas for progressive future restoration of worked out areas and are proposed to be protected as part of the Interim Restoration plan and which can be controlled by condition.

4.18 It is proposed to retain a minimum of 0.5m of peat to restore the site back to a peat wetland habitat. Working and restoring the site, together with the treatment of the final land surface following the completion of working is the subject of a condition requiring the submission of a detailed scheme of restoration and which would address the concerns of Natural England. Subject to such conditions it is considered that the proposal would have no negative impacts on the fauna and flora of the area and in the longer term would benefit from progressive restoration and therefore would comply with the policies of the development plan.

Traffic

4.19 Peat worked from the site is transported across the B7076 to the neighbouring manufacturing and bagging plant. There are no vehicle movements directly from the Moss onto the highway network. The plant is subject to a separate planning permission and therefore is not within the remit of this application. Nevertheless it is proposed to restrict the hours of transporting peat to the manufacturing plant to protect the amenities of the area. Subject to such a condition it is considered the proposal would accord with the policies of the development plan.

Historic Environment

4.20 The whole of the application site has been disturbed by peat working. No conditions relating to archaeology were attached to the 1995 review permission. Peat deposits can sometimes contain significant archaeological remains but in assessing the need to attach planning conditions requiring further assessment work prior to each working campaign, it is necessary to have regard to the extent of the peat deposits remaining on this site. It is therefore considered that a condition should be imposed requiring a scheme of archaeological works to be submitted and approved and which forms part of the recommendation. Subject to
such a condition it is considered the proposal accords with the policies of the development plan.

**Dust**

4.21 Given the nature and scale of the operations it is considered that dust from the extraction of peat would not cause a problem on the site or migrating off the site. Nevertheless a condition is proposed requiring the suspension of operations if airborne dust migrates beyond the site boundaries to an unacceptable degree or the employment of dust suppression measures. Subject to such a condition it is considered the proposal accords with the policies of the development plan.

**Representations**

4.22 With regard to representations received, measures are proposed to prevent silt flowing into the rivers; a Habitat Regulations Assessment has concluded, subject to the imposition of conditions controlling discharges, there would be no unacceptable impact on the rivers or protected areas and by implication fauna. The river embankment does not fall within the planning application boundary. Vegetation ‘donner’ areas will be used to assist in final restoration and which will ultimately be restored back to lowland bog habitat. The application was advertised in the press and by site notice and representations invited.

**Human Rights**

4.23 Given the nature, scale and location of this proposal, no Convention Rights as set out in the Human Rights Act 1998 would be affected.

**Conclusion**

4.24 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably by mitigated. It is therefore recommended that after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations, conditions be imposed as set out in Appendix 1 to this report.

Dominic Donnini  
Director of Economy and Highways

**Contact:** Mrs Rachel Brophy BA(Hons) MA MRTPi, Kendal,  
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**Background Papers:** Planning Application File Reference No. 1/16/9006  
**Electoral Division Identification:** Longtown ED - Mrs Val Tarbitt
Proposed Planning Conditions

Time Limits

1. The winning and working of peat shall cease no later than 21 February 2042. By this date, the operations hereby permitted shall have ceased; all buildings, structures, railway lines, haul roads, storage areas, plant and machinery, including foundations and hardstandings, shall have been removed from the site, and restoration of the site shall have commenced, in accordance with the approved restoration scheme.

Reason: To secure restoration to the appropriate afteruses following the approved period for this temporary development.

2. Notwithstanding Condition 1, within 6 months of the permanent cessation of peat extraction prior to the full implementation of the approved scheme, or before 22 February 2037, a revised scheme for the final restoration of the site, to include details required by conditions 22, 24 and 25 of this permission shall be submitted to the Mineral Planning Authority for approval in writing. The approved scheme shall thereafter be implemented in full.

Reason: To secure the proper restoration of the site in accordance with Policy DC16 of the CMWLP.

3. In the event that peat extraction is temporarily suspended for a period exceeding one year, as agreed in writing by the Mineral Planning Authority, then within 15 months from the suspension of peat extraction an interim restoration scheme and timetable for its completion shall be submitted for the approval of the Mineral Planning Authority. Such an interim restoration scheme shall be fully implemented, unless otherwise agreed in writing by the Mineral Planning Authority.

Reason: To secure the satisfactory interim restoration of the site in the event of the temporary cessation of mineral working in accordance with Policy DC16 of the CMWLP.

Approved Documents

4. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following approved documents:

a) The submitted Application Form – dated 23 February 2016; and further information submitted on 23 January 2017
b) Solway Moss ROMP 2016 Environmental Statement – dated June 2016;
c) Plans numbered and named:
   - The Scotts Company (UK) Ltd, Solway Moss - Location Plan
   - The Scotts Company (UK) Ltd, Solway Moss – Plan PP1
   - The Plan Ref No. MW/A2, Section 1.5 (RML1)
   - Map 6 – Production areas exhaustion dates
d) All details or schemes and programmes approved in accordance with this
permission, and
e) The Decision Notice.  
The existence and content of the approved documents shall be made known to all operatives responsible for the operation, restoration and aftercare of the site.

Reason: To ensure the site is worked and restored in accordance with the approved scheme and to comply with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

Permitted Development Rights

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other Order amending, replacing or re-enacting that Order) planning permission shall be obtained from the Mineral Planning Authority, before any buildings, structures or erections, fixed plant or machinery, are erected, or installed on the site or on ancillary mining land.

Reason: To maintain control over additional built development upon the site in the interest of amenity.

6 No waste materials shall be deposited at the mineral site.

Reason: To maintain control over the deposit of waste material which may adversely impact upon the restoration of the site to a nature conservation afteruse.

7 No further extraction of peat shall take place within the areas referred to as ‘Unworked Areas’ and coloured green on The Scotts Company (UK) Ltd Solway Moss Plan PP1.

Reason: To clarify the areas where no further peat extraction will take place the boundary of the worked area and to delineate the areas where peat may be extracted.

8 The final gradient of the worked area from the edge of the vegetated areas at Gulf Wood (coloured purple on Map 6 Production areas exhaustion dates approved 30 January 2001 attached to and forming part of this planning permission) shall not exceed a gradient of 1 in 20. Around the remaining perimeter of the worked area there shall be no further peat extraction within 20 metres of the boundary of the application site and the final gradient of the worked area from the boundary of the application site and on internal baulks separating fields shall not be steeper than a gradient of 1 in 5.

Reason: To maintain the stability and ground water levels of the adjacent Gulf Wood area to help safeguard its natural conservation interest, to ensure the stability of the baulks and elsewhere around the periphery of the site to provide adequate support to adjacent land and to comply with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

9 Within 12 months from the date of this decision notice details of existing areas within the site to be identified as critical refuge including the criteria for such identification, the biological makeup of the areas including a list of plant species present, and the methodology for using the refugia as doner areas for the
restoration of other areas within the site shall be submitted to the Mineral Planning Authority for approval in writing. The critical refugia areas shall thereafter be protected throughout the operational life of the site the subject of this permission and used as ‘doner’ areas to assist in the restoration of the worked out site.

**Reason:** To ensure the protection of critical refugia where special environmental circumstances have enabled species or communities of species to survive after extinction elsewhere, in the interests of nature conservation, in accordance with Policy DC10 of the Cumbria Minerals and Waste Local Plan.

10 Peat or other materials resulting from the peat extraction process shall not be stockpiled at a height exceeding 5m above ground levels.

**Reason:** To protect the visual amenities of the area.

11 In the event badgers are present or become present on any part of the site measures to protect the badgers shall be employed in accordance with those set out in Option 1 of the Badger Annex

**Reason:** To ensure compliance with NERC Act Paragraph 40 ‘biodiversity duty’ and to ensure measures are in place to enable compliance with the Protection of Badgers Act 1992, in accordance with Policy DC10 of the Cumbria Minerals and Waste Local Plan.

**Safeguarding of Watercourses and Drainage - Settlement lagoons**

12 Settlement lagoons shall be installed and maintained at all water outfalls from the site to ensure that the suspended solids content of water discharged from the site is less than 300mg/1. All water outfalls (referred to as Discharge Points 1-6 on Plan 2 of the Regulation 22 Request: Further Information document, dated 23 January 2017) shall be measured at least once a year during the harvesting season and the suspended solids content measured. If the suspended solids content is greater than 300mg/1, remedial measures to reduce it to below this level shall be taken within 30 days of the receipt of the results of the measurement of suspended solids content.

**Reason:** To avoid the pollution of any watercourse or groundwater resource in accordance with Policy DC14 of the Cumbria Minerals and Waste Local Plan.

**Safeguarding of Watercourses and Drainage**

13 All fixed facilities for the storage of oils, chemicals and fuels shall be sited on impermeable bases and surrounded by impermeable bunds. The volume of the bunded compound shall be at least the equivalent to 110% of the volume of the tank(s) and storage containers. All filling points, vents, gauges and sight glasses must be located within the bunded area. The bunded area shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bunded area.

**Reason:** To avoid the pollution of any watercourse or groundwater resource in
access with Policy 14 of the Cumbria Minerals and Waste Local Plan.

Access and Traffic - Hours of transportation

14 There shall be no transport of peat from the site onto the public highway or to the adjacent processing plant outside the hours of:

- 0600 to 2100 Mondays to Fridays
- 0600 to 1800 Saturdays
- 0900 to 1600 hours Sundays

Reason: To protect the amenity of local residents in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

Access and Traffic

15 There shall be no transport of peat from the site onto the public highway other than via the existing access shown in green on plan ref: MW/A2 Section 1.5 (RML1).

Reason: To avoid vehicles entering or leaving the site by an unsatisfactory route in accordance with Policy 1 of the Cumbria Minerals and Waste Local Plan.

16 Sufficient space shall be provided within the access road to ensure vehicles can pass so that vehicles do not queue on the public highway prior to gaining access to the site.

Reason: In the interests of highway safety, in accordance with Policy 1 of the Cumbria Minerals and Waste Local Plan.

17 All vehicles used to transport bulk peat from the worked area onto the public highway (other than those delivering to the processing factory) shall be netted or sheeted so as to not deposit any mineral upon the highway.

Reason: To ensure that material is not released into the air or deposited upon the highway in the interests of local amenity and highway safety.

18 The surfacing of the access road to the public highway shall be maintained in a good state of repair, free from potholes, and effective measures shall be taken to prevent mud, peat and other material being carried onto the public highway.

Reason: To ensure that no material is carried onto the public highway from the access road in the interests of highway safety and that the access road is maintained in an adequate condition for the traffic generated by the approved operations.

Control of Noise

19 All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing or soundproofing equipment and shall be maintained in accordance with the manufacturers specification at all times throughout the development. Where reversing or other alarms are fitted to equipment they shall only be of a broadband “white noise” type.
Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

20 Noise arising from site operations within the hours specified in condition 14, as measured 3m from the façade of any noise sensitive property, shall not exceed the background noise level (dB LA 90 (1hr)) by more than 10dB (A) and shall not exceed a maximum noise level of 55dB(A) LAeq, 1hr (free field).

Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

21 Temporary operations shall be permitted to exceed the noise limits set out in condition 20 for a period which in total does not exceed eight weeks in any 12 month period. During this maximum eight week period, noise levels from such temporary operations shall not exceed 70 dB(A) LAeq, 1hr (free field) as measured at any noise sensitive property.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

Control of Dust

22 In any instance where visible airbourne dust migrates beyond the site boundaries, source activities generating the dust shall cease until such time as either weather conditions change to prevent the dust migrating beyond the site boundaries or suppression measures have been put in place to prevent the dust migrating beyond the site boundaries.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

Archaeology - Access for archaeology investigations

23 Within 6 months of the date of this permission coming into effect, the applicant shall have submitted details of a programme of archaeological work to record the assets disturbed by the extraction of peat. The scheme shall include but not be limited to:

a) A programme of palaeo-environmental assessment and analysis of peat deposits;
b) A periodic inspection of exposed sections of faces of peat to identify and record any archaeological assets;
c) Commitment to submitting to the Mineral Planning Authority a report detailing the results of the programme of archaeological work described in i and ii above;
d) A timetable for the implementation of the programme of works identified in i and ii above, and
e) Commitment to notifying the Mineral Planning Authority in writing of any items of potential archaeological interest found on the site, suspending further peat extraction operations and permitting access (at all reasonable times for the duration of the permission) by any archaeologist nominated by the Mineral Planning Authority for the purposes of carrying out archaeological investigations, examinations, recording and any necessary removal of items and suspending peat extraction.

The approved scheme shall thereafter be implemented in full, and commissioned and undertaken at the expense of the site operator.

**Reason:** To allow for suitable recording and excavation of finds of archaeological interest in accordance with Policy 14 of the Cumbria Minerals and Waste Local Plan.

**Restoration - Method of working and restoring wet dug peat extraction areas**

24 Peat shall only be worked when it is in a sufficiently dry condition to ensure a satisfactory restoration of the site.

**Reason:** To secure the effective restoration of the site, in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

**Restoration**

25 An average minimum depth of 0.5m of peat shall be left in situ throughout all the operational extraction phases to facilitate the restoration of the site.

**Reason:** To return the site to its original uses in the interests of local amenity and nature conservation in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

26 Within 12 months of the date of this permission, a scheme setting out trials of restoration techniques for the areas referred to as ‘Unworked’ and coloured green (with the exception of the operational footprint of the Beck Burn Wind Farm) on The Scotts Company (UK) Ltd, Solway Moss Plan PP1, shall be submitted to the Mineral Planning Authority for approval in writing. The scheme shall include but not be limited to:

a) Details of the final gradients and topography of the field;
b) Proposals to extend the trials into areas that have been exhausted of peat extraction during the life of this permission;
c) Proposals to manage groundwater levels in the trial area to the optimum level for growth of peat forming species;
d) Measures to ensure a suitable chemical condition of the water for optimum growth of peat forming species;
e) Techniques for the introduction and management of vegetation and other works;
f) Longer term management to secure the beneficial restoration of the site for nature conservation purposes;
g) Timescales for these trial restoration works;
h) Objective criteria for assessing the success or otherwise of the trials, and

i) The provision of a monitoring reports to be submitted to the MPA on a biennial basis for the duration of the trial.

The approved scheme shall thereafter be implemented in full.
Reason: To reserve for approval details not submitted with the application and to secure the proper restoration of the site in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

27 By 22 February 2038 the operator shall submit for approval by the Local Planning Authority a detailed scheme and plans for restoration of the whole worked area. The scheme shall be informed by the results of the trial detailed in Condition 24. The scheme shall include but not be limited to:

a) Details of the final gradients and topography of the field;
b) The location and dimension of baulks to be left and any drains to be retained;
c) Proposals to manage and restore groundwater levels to the optimum level for growth of peat forming species;
d) Measures to ensure a suitable chemical condition of the water for optimum growth of peat forming species;
e) Techniques for the introduction and management of vegetation and other works;
f) Longer term management to secure the beneficial restoration of the site for nature conservation purposes;
g) Objective criteria for assessing when the restoration is complete and the aftercare commences, and
h) Timescales for implementation of these restoration works.

The approved scheme shall thereafter be implemented in full.

Reason: To require details of the restoration of the site not submitted with the application and to secure the proper restoration of the site in accordance with Policy 16 of the Cumbria Minerals and Waste Local Plan.

Aftercare

28 By 22 February 2037, a scheme and programme for the aftercare of the site for a period of 5 years to promote the nature conservation afteruse of the site shall be submitted to the Mineral Planning Authority for approval in writing. The scheme shall include but not be limited to details of the following:

a) The management of the site to promote the establishment and formation of peat;
b) Details for water sampling in each year of the aftercare period to ensure the optimum growing conditions for peat forming species, and
c) Details of any works to drainage systems to manage groundwater levels.

The approved schedule of aftercare works shall thereafter be carried out in full.

Reason: To secure the proper aftercare of the restored land in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

29 At least once each year during the aftercare period there shall be a formal review meeting at the mineral site, under the provisions of Section 72(5) of the Town and Country Planning Act 1990, to consider the operations which have taken place and to agree a programme of management for the following year which shall be adhered to by the operator. At least 2 weeks before the date of each review, the operator shall provide the Mineral Planning Authority with a record of the management and operations carried out on each phase during the period covered by the review and a proposed programme of management
for the coming year.

Reason: To secure the detailed implementation of the approved aftercare scheme in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.