

EAST AYRSHIRE COUNCIL

CABINET – 24 MARCH 2010

**CONSULTATION ON POTENTIAL NEW COAL EXTRACTION RATE FOR THE
MINERALS TRUST FUND**

Report by Depute Chief Executive/ Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1 To notify Cabinet of the proposed consultation arrangements regarding the contribution rate and other matters relating to the Minerals Trust Fund under Policy MIN 33 and 34 of the adopted Opencast Coal Subject Plan and to note the proposed review arrangement that will be undertaken as part of the proposed Local Development Plan process.

2. BACKGROUND

- 2.1 The Opencast Coal Subject Plan, which was adopted in March 2003, provides the context for community improvements through contributions to the Minerals Trust Fund, which are requested in respect of opencast operations. The contributions to the Minerals Trust Fund are implemented through Policy MIN 33 and policy MIN 34 of the Subject Plan. Policy MIN 33 states that:

The Council, if mindful to grant planning permission for an opencast coal development will encourage applicants to contribute by agreement to a general Minerals Trust Fund which will be used for community improvements, with contributions being set at a suggested minimum rate of 27.5 pence per tonne of coal removed from the site, linked to the retail price index as of 1 January 1998. Contributions made to the Minerals Trust Fund will not be treated as a material consideration in the Council's assessment of the particular opencast coal application to which they relate. Applicants will also be encouraged to contribute to an appropriate Fund with regard to any other material/minerals extracted in association with the coal, such as fireclay etc, at a rate to be agreed with the Council.

- 2.2 To date, the coal operators have agreed voluntary contributions to the Minerals Trust Fund of 27.5 pence per ton through agreements under Section 75 of the Town and Country Planning (Scotland) Act 1997.
- 2.3 The contribution rate of 27.5 pence per ton of coal extracted was agreed during the preparation of the Opencast Coal Subject Plan but the policy does allow for review using the Retail Price Index from 01 January 1998. The RPI has fluctuated upwards and downwards from January 1998 until

January 2005, where it has been increasing yearly, reaching its highest point in January 2009.

3 CONSULTATION

- 3.1 It is proposed that the Head of Planning and Economic Development will undertake a ten week consultation period with the coal operators, the Members of the Minerals Trust Fund, Local Elected Members and relevant Community Councils regarding the potential introduction of a new contribution rate. The proposed consultation will gauge the views of the consultees on the possibility of introducing a new rate and what the new rate should be set at, taking into account the current economic climate and the profitability of the industry as a whole. It is proposed that the consultation will consist of individual meetings between the coal operators, Members of the Minerals Trust Fund, Community Councils and Local Elected Members and the Head of Planning and Economic Development, which will be followed up by written correspondence, seeking written responses on the proposed new contribution rate. In addition it is proposed, in advance of the review of the Open Cast Coal Subject Plan (see section 4 below) to gauge the views of those consulted on the type and range of projects that should be funded, the composition of the receiving body for contributions and the decision taking process.
- 3.2 Whilst the contribution to the Minerals Trust is not a material planning consideration it is important to engage with the coal operators in this manner as it must be borne in mind that the contributions are entirely voluntary and there needs to be broad agreement on any new rate.
- 3.3 Once the consultation period has expired, the outcomes will be reported to Cabinet.

4. LOCAL DEVELOPMENT PLAN

- 4.1 The Planning etc (Scotland) Act 2006 and the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 require East Ayrshire Council to prepare a new Local Development Plan. As agreed by Cabinet in March 2009, the new Local Development Plan will replace the existing Ayrshire Joint Structure Plan and the Alteration to the East Ayrshire Local Plan, once adopted, and the Opencast Coal Subject Plan.
- 4.2 Subject to the conclusions of the Reporters appointed to examine the unresolved objections to the Alteration to the East Ayrshire Local Plan, which includes objections to developer contributions as well as the proposed consultation exercise detailed above, it is anticipated that the forthcoming Local Development Plan will clarify the nature and status of the contributions received, identify the range and types of community improvements that can be funded by future contributions received by the coal operators and detail how funds will be managed.

- 4.3 It should be noted that preparation of the Local Development Plan will commence this summer and will involve extensive public consultation on all of the issues affecting East Ayrshire and will include those relating to coal extraction and contributions from coal operators.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications for the Council directly arising from this report.

6. LEGAL IMPLICATIONS

- 6.1 There are no legal implications for the Council as a result of this report.

7. POLICY IMPLICATIONS

- 7.1 There are no policy implications directly arising as a result of this report.

8. COMMUNITY PLAN IMPLICATIONS

- 8.1 There are no community plan implications for the Council as a direct result of this report, but there may be when Cabinet considers the outcome of this consultation.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There are no risk management implications for the Council as contributions from the coal operators are entirely voluntary.

10. RECOMMENDATIONS

10.1 It is recommended that Cabinet agrees:

(i) to agree the subject matter and approach to the proposed consultation exercise as detailed in section 3 above; and

(ii) otherwise note the contents of this report.

Elizabeth Morton

Depute Chief Executive / Director of Corporate Support

22 February 2010 (AMcG/)

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For further information on the contents of this report, please contact Antony McGuinness, Planning Officer on (01563) 576757.

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