

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 10 AUGUST 2007**

**07/0444/FL: VARIATION TO APPROVED SCHEME OF WORKING (CONSENTS  
96/0670/FL & 01/0807/FL)**

**AT SPIRESLACK / GRASSHILL OCCS BY MUIRKIRK**

**APPLICATION BY THE SCOTTISH COAL COMPANY LIMITED**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Planning permission is sought to vary the existing Grasshill scheme to allow the recovery of an additional 250,000 tonnes of high quality coal from the currently consented opencast site. The full Grasshill site area will be fenced off and made stock and trespass proof. Cut-off and drainage ditches, along with any additional water treatment facilities required by SEPA will be installed. The commercial plantation will then be felled and the soils removed and either placed in storage tips for re-use during the restoration phase of works or placed directly onto the progressive restoration being undertaken within the Spireslack site.

1.2 Excavations will commence at the northern edge of the site and progress in a generally south easterly direction. Overburden removed from the excavation will either be used to complete restoration works in the adjacent areas D1 & D2 of Spireslack or placed in the overburden tip to the south of the excavation area for use in the final restoration of the Grasshill site once all coal extraction has been completed. It is anticipated that the final restoration contours will reflect the existing situation.

1.3 In accordance with the provisions of SPP16 (Opencast Coal) the applicant has made the Council aware that additional reserves of coal may be available in the adjacent area but due to a variety of circumstances they have yet to be fully investigated. They were included in the original Grasshill planning application and are:-

- i) Spireslack Basin – the central position of the Spireslack site lying between areas A, C, D & E that were omitted from the original site, may become economically viable should market conditions alter;
- ii) Grasshill North West – it is conceivable that the reserves may extend further towards the north-west, but the heavily disturbed nature of the geology make it difficult to conjecture coal occurring beyond the limits currently proposed; and
- iii) An area lying in the vicinity of the A70 and the site offices to the west of the Ponesk Burn.

1.4 Following discussions on the implications of the proposed variation to the Grasshill permitted site with representatives of the Council's Planning Section, it has been agreed that the application should include a review the previously submitted Environmental Statement for Spireslack and amendments submitted for the permitted

Grasshill extension. In this regard the application was accompanied by a Supporting Statement addressing these issues..

## **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.**

## **3. SUMMARY OF ANALYSIS**

3.1 As is indicated in Section 5 of this report, the application is considered to be a minor departure from the Development Plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application which are generally supportive of the proposed development.

3.2 The proposals represent the extraction of additional coals within the existing consented site at Spireslack/Grasshill which in environmental terms is considered to present no significant additional adverse impacts and this is essentially borne out by the consultation process. There should be no additional impact as the extraction of the resource can be undertaken with minimum impact on the visual amenity of the area.

3.3 It is considered that, given the relatively remote area in which the Spireslack/Grasshill site is located, the proposal to extract an additional 250,000 tonnes of coal will have no significant adverse effects on any local community. The proposal will not result in any breach of the required buffer distances promoted through the policies of the East Ayrshire Opencast Coal Subject Plan and it is considered that the extended operations can be undertaken within acceptable environmental standards.

3.4 The principle of opencast development in this area has already been established through the existing consent for the Spireslack/Grasshill site. It is considered that the proposals under the current application will have no significant additional impact on existing residential properties in the locality through noise, dust or vibration as this site is located in a remote location and the proposal is in general accordance with the existing permitted site operations.

3.5 The amendment to the current site phasing plan will allow Scottish Coal to work and extract an additional reserve of 250,000 tonnes of good quality coal from a 9.90ha site area. Upon recommencement of operations at Spireslack 75 local jobs will be re-established, either as plant operatives, engaged environmental monitoring, fitters undertaking fixed and mobile plant maintenance or in a supervisory of site management and engineering capability.

3.6 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is generally consistent with policy and that there are environmental and community benefits which would outweigh any temporary adverse impacts. Consequently it is considered that the application should be approved.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application will not require to be referred to the Parent Planning Committee because it would not be a significant departure from the East Ayrshire Opencast Coal Subject Plan.

***Alan Neish***

**Head of Planning, Development and Building Standards**

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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APPLICATION BY THE SCOTTISH COAL COMPANY LIMITED

### Report by Head of Planning and Economic Development

#### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee because it represents an extension of working for an existing opencast site which represents a major application under the Scheme of Delegation.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies on the northern side of the Muirkirk valley, within the boundary of the existing Spireslack opencast coal site, in generally open countryside approximately 4km to the north-east of the village of Muirkirk.

2.2 The application area which extends to 9.9ha is wholly contained within the existing permitted Grasshill extension site at Spireslack and is given over to areas of commercial Sitka Spruce plantation that require to be felled as part of the existing Grasshill site.

2.3 Overall the landscape is dominated by the expansive scale of the topography of this part of the southern uplands. Containing a mosaic of land-cover/land-use elements that includes peat bog, scattered coniferous plantations and locally incised valleys formed by the minor watercourses, the area surrounding the site is punctuated by the presence of isolated farmsteads usually associated with 'in-bye' fields and residual shelter planting.

2.4 There is a long history of mineral working in the local area, based around the former ironworks at Lugar and Muirkirk, that has left a legacy of spoil heaps, derelict mines, quarries and redundant mineral railways that are currently being removed and restored by the ongoing site operations.

2.5 **Proposed Development:** Planning permission is sought to vary the existing Grasshill scheme to allow the recovery of an additional 250,000 tonnes of high quality coal from the currently consented opencast site. The

full Grasshill site area will be fenced off and made stock and trespass proof. Cut-off and drainage ditches, along with any additional water treatment facilities required by SEPA will be installed. The commercial plantation will then be felled and the soils removed and either placed in storage tips for re-use during the restoration phase of works or placed directly onto the progressive restoration being undertaken within the Spireslack site.

2.6 Excavations will commence at the northern edge of the site and progress in a generally south easterly direction. Overburden removed from the excavation will either be used to complete restoration works in the adjacent areas D1 & D2 of Spireslack or placed in the overburden tip to the south of the excavation area for use in the final restoration of the Grasshill site once all coal extraction has been completed. It is anticipated that the final restoration contours will reflect the existing situation.

2.7 In accordance with the provisions of SPP16 (Opencast Coal) the applicant has made the Council aware that additional reserves of coal may be available in the adjacent area but due to a variety of circumstances they have yet to be fully investigated. They were included in the original Grasshill planning application and are:-

- i) Spireslack Basin – the central position of the Spireslack site lying between areas A, C, D & E that were omitted from the original site, may become economically viable should market conditions alter;
- ii) Grasshill North West – it is conceivable that the reserves may extend further towards the north-west, but the heavily disturbed nature of the geology make it difficult to conjecture coal occurring beyond the limits currently proposed; and
- iii) An area lying in the vicinity of the A70 and the site offices to the west of the Ponesk Burn.

2.8 Following discussions on the implications of the proposed variation to the Grasshill permitted site with representatives of the Council's Planning Section, it has been agreed that the application should include a review the previously submitted Environmental Statement for Spireslack and amendments submitted for the permitted Grasshill extension. In this regard the application was accompanied by a Supporting Statement addressing these issues.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council Roads and Transportation Division has no objection to the proposal.

***Noted.***

3.2 The Scottish Environment Protection Agency has no objections in principle to the proposals provided the following points are addressed to their satisfaction:

(i) Although not stated in the application SEPA believe that the contaminated drainage from the extension is to be treated in existing effluent treatment systems licensed under the terms of the Water Environment (Controlled Activities) (Scotland) Regulations 2003. The applicant must satisfy SEPA that these systems have sufficient capacity to accept the additional drainage and continue to comply with the licence conditions.

(ii) No information has been given in the application as to the potential impact on the Stottencleugh Burn of these works. The Water Framework Directive requires consideration of the impacts on river habitats, channel structure and flow regimes that may impact on the biology of the watercourse. This is particularly important as the watercourse is already subject to a number of iron resurgences that have an adverse impact on the ecological quality of the watercourse.

(iii) Clean surface water from the site perimeter should be intercepted and diverted away from the working area. Freshly cut interception ditches on sloping ground will require careful profiling and to prevent erosion of the bed or banks and pollution from mineral solids.

***Conditions and Notes can be attached to any consent granted for the proposed development to meet the requirements of the Scottish Environment Protection Agency.***

3.3 Scottish Natural Heritage has no objection to the proposal subject to the tree felling being carried out outwith the main bird breeding season (March to July inclusive).

***A condition can be attached to any consent granted for the proposed development to meet the requirements of Scottish Natural Heritage.***

3.4 Scottish Water has no objections to the proposed development.

***Noted.***

3.5 Muirkirk Community Council has not responded to the consultation letter.

***Noted.***

3.6 The Royal Society for the Protection of Birds has no objections to the proposal, provided that a formal restoration plan for the site is agreed as part of the consent for Grasshill site via the Technical Working Group.

***The Technical Working Group for the Spireslack/Grasshill site would reconvene and continue to support and oversee the restoration proposals for the variation to the approved scheme of working.***

3.7 The River Ayr Salmon Fisheries Board has not responded to the consultation letter.

***Noted.***

3.8 East Ayrshire Council Environmental Health Division has no objections in principle with the proviso that existing noise and dust limits remain as a condition of any new approval.

***A condition can be attached to any consent granted for the proposed development to meet the requirements of the Environmental Health Division.***

#### **4. REPRESENTATIONS**

4.1 There were no third party representations received in relation to this application.

#### **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the purposes of this application the Development Plan comprises the Approved Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Opencast Coal Subject Plan (2003).

##### Ayrshire Joint Structure Plan

5.2 The Approved Ayrshire Joint Structure Plan indicates in its Key Diagram that the Grasshill opencast site lies outwith a Preferred Area of Search and therefore the proposed development falls to be assessed against Policy E14 which states:

A - Development opportunities for opencast coal working shall be directed to the 'Preferred Areas' of Search in East Ayrshire identified on the Key Diagram. Local Plans shall bring forward detailed policies and proposals for opencast coal working within these areas.

***Although the area is not located within a 'Preferred Area' for opencast coal mining as identified within the Key Diagram, the proposed variation is wholly contained within a site that already benefits from planning permission and does not extend the area of land to be disturbed.***

B - In North Ayrshire and South Ayrshire, and the remaining parts of East Ayrshire outwith the Preferred Areas of Search, opencast coal working shall not conform to the Structure Plan except where there is a clearly demonstrated environmental benefit achieved through the removal of existing areas of dereliction, and there is an overall benefit for communities affected including local employment. In these circumstances, proposals for small scale, short term extraction shall be supported. Any proposals will be considered against the criteria in Policy E13.

***The current application area which extends to 9.9 hectares is wholly contained within the existing permitted Grasshill site. The additional reserve, estimated to be 250,000 tonnes, will be worked over a period of 18 months giving a total life to the Grasshill extension of 40 months. The proposal can be completed within the existing permitted timescale for the Spireslack site where operations are conditioned to be completed by 8th January 2011. In this regard it is considered that the proposal meets the criteria of being small scale and short term in nature. The proposal will also offer overall benefit to communities as the site will provide employment for 75 local persons upon resumption of coal mining operations.***

#### East Ayrshire Opencast Coal Subject Plan

5.3 Policy MIN3: Is pertinent to the application, the policy stating that, subject to detailed consideration, the Council will generally be supportive of any proposal to extend an existing operative opencast site within the Potential Coal Extraction Areas provided that all of the following criteria are met:

(i) that the proposed extraction operations are carried out as a sequential phase of development and not independently or in isolation from the extraction programme of the original site.

***Extraction will be carried out as a sequential phase of development of the overall site.***

(ii) that the extended operations utilise fully the facilities and site infrastructure serving the original opencast site.

***The development will utilise existing site facilities and infrastructure.***

(iii) that the scale of operations, rate of extraction and number of vehicle movements generated by the extended site are commensurate with those as existing on the original site.

***It is proposed to continue the use of the dedicated railheads located at Killoch and Knochshinnoch.***

(iv) that the proposed extension does not significantly prejudice plans for the restoration of the existing site.

***The current proposed variation will not increase the overall timescale for site operations at Spireslack/Grasshill which are scheduled to be completed by 8th January 2011.***

(v) there is a clearly demonstrated benefit to be gained through the removal of existing areas of dereliction.

***There is a long history of mineral working in the local area that has left a legacy of spoil heaps, derelict mines, quarries and redundant mineral railways; these are being removed and restored by the ongoing site operations.***

(vi) there is an overall benefit for communities affected, including local employment.

***Variation to the existing excavation area and resumption of operations at Spireslack / Grasshill will result in the re-establishment of 75 local jobs.***

(vii) there are no conflicts with any other Subject Plan policies.

***There are no conflicts with any other Subject Plan policies.***

Any extension to an existing opencast operation that would perpetuate any existing disturbance to a local community for a total extraction period in excess of 10 years will not generally be considered acceptable, unless it can be clearly demonstrated that there are significant local community and local environmental benefits to be secured by the development.

***The application relates to a variation of an approved scheme of working within a consented opencast site. It is considered that the development will not have any significant adverse impact on nearby communities and that with the benefits of re-establishing 75 jobs, the proposal is considered to be acceptable in planning policy terms.***

5.4 Policy MIN6: The applicant is required to provide information which indicates their understanding of the location of coal reserves in land surrounding the application site and information about their interest in any likely future extensions to current applications and sites in which they have an interest.

***The information required to address the above issues has been provided by the applicant***

5.5 Policy MIN7: Within potential coal extraction areas, all applicants for opencast coal development will be required to demonstrate to the Council that their proposals will not have any significant adverse effect on the community or create any permanent adverse effect on the environment. Proposals which are likely to have any such effect are unlikely to be accepted unless there are counter balancing benefits. In assessing opencast coal proposals the Council will apply the following criteria:

- (i) Whether the proposal is acceptable in planning terms with the use of appropriate planning conditions or legal agreements; or
- (ii) Whether the proposal carries benefit to the affected community or the environment which sufficiently outweighs any adverse effects; or
- (iii) Exceptionally, whether the proposal is of such importance that it should be granted planning permission even though it fails to meet either of the previous criteria. Such a proposal might, for example, propose the rehabilitation of substantial areas of dereliction or the remediation of major problems left over from previous mining operations.

Applications which do not meet any of these criteria will not be acceptable to the Council and are unlikely to receive planning permission.

***Due to the successful track record of the operations at Spirelack, the continuation of the existing monitoring regimes dictated by planning conditions will allow the proposed development to continue to operate within environmentally acceptable standards.***

5.6 Policy MIN11: The Council will seek wherever possible, to conserve all areas of active peat bog within the boundaries of an opencast coal development site. All peat which requires to be removed in order to access the coal reserves on site will require to be retained on site for future use in restoration of the area with storage being carried out to the satisfaction of the Council and Scottish Natural Heritage in purposely designed peat storage

areas. The Council will not support any export of peat from site for commercial purposes.

***There are no areas of active peat bog within the proposed amended excavation area.***

5.7 Policy MIN12: The Council will seek to ensure that a proliferation of opencast coal sites within close proximity to any one community or within one particular area does not occur. In this context, any proposed new opencast developments may be considered to contribute to an unacceptable cumulative impact on the amenity of an area where that development would:

(i) constitute a third approved or operative site within 3 Kms of each other or within a 3 Km radius of any particular community as indicated on the Opencast Coal Subject Plan Proposals Map; or

***The proposed variation to the scheme of working at Grasshill is not a new opencast site but is an amendment to an existing consented site.***

(ii) cause or exacerbate excessive adverse amenity and environmental disruption experienced by a community or group of dwellings from an existing operative site or from successive opencast operations over a total extraction period of 10 years; or

***The proposed variation to the scheme of working at Grasshill will not increase the overall lifespan of the Spireslack site. Planning consent for the original site was granted on 12th December 2000 for a period of 11 years, with operations commencing in January 2001. The site operated continuously since that date until March 2006, when the site temporarily ceased operations, with no adverse impacts to either the amenity or the environment of local communities or individual dwellings. The current proposed variation will extend operations at Grasshill to 40 months but will not increase the overall timescale for site operations at Spireslack which are scheduled to be completed by 8th January 2011.***

(iii) generate volumes of heavy traffic which taken together with the volumes of coal haulage vehicles already using the routes concerned, would cause unacceptable detriment to the amenity of any community or group of dwellings located along proposed haulage routes; or

***The proposed development will continue to utilise the existing dedicated railheads at Knockshinnoch and Killoch and will***

**therefore not increase existing traffic impacts on communities or groups of dwellings.**

(iv) result in an unacceptable accumulation of adverse impacts on international or nationally designated sites of nature conservation interest over time and place within a particular locality, or an accumulation of individual impacts which collectively have a significant adverse effect on the integrity of such areas.

***The proposed development is wholly contained within an already consented site and will not extend the overall time period for those operations. Further, it does not lie within an area of international or national significance.***

5.8 Policy MIN13: Planning applications to contain details of operational procedures including restoration proposals and aftercare.

***Full details of the method of working and restoration are contained within this submission, and it is proposed that the fine detail of the restoration proposals shall continue to be developed through the Technical Working Group.***

5.9 Policy MIN15: All developers are required to restore their operational sites progressively to the highest possible standards. Developers will be required to provide for the creation of new habitats appropriate to the particular after uses of the site concerned as an integral part of their detailed restoration and aftercare proposals.

***The overall restoration proposals for the Grasshill site are subject to development and review through the Technical Working Group.***

5.10 Policy MIN16: Developers are required, wherever possible, to divert and re-route any existing rights of way affected by opencast operations and to ensure that any rights of way or other public footpaths disrupted by opencast operations are fully reinstated as an integral part of site restoration proposals. Improved public access and the provision of additional facilities for local communities in the restoration of opencast sites are also strongly advocated by the Council.

***There are no formal rights of way identified within the proposed amended development site. However, Scottish Coal indicates that it will seek to increase public access to the area once the site is restored in line with other existing access commitments such as the creation of a multi-user path that originates in Dalmellington and ends at Coalburn in South Lanarkshire that will pass through the restored Spireslack site. Construction works on various sections of this path have already commenced and it will form an integral part of East Ayrshire's 'Core Path Network' of which Scottish Coal is a participating partner.***

5.11 Policy MIN17: Developers are required, as an integral part of a submitted planning application, to submit detailed restoration and aftercare plans for the development site.

***Although full restoration plans have been approved for the existing operations the overall restoration proposals for the Spireslack site are subject to ongoing development and review through the Technical Working Group and an emerging Management Plan.***

5.12 Policy MIN18: The Council will strongly encourage opencast coal operators to utilise existing rail facilities for the transportation of coal which is not specifically destined for local domestic Ayrshire markets.

***The proposed development will continue to utilise the Company's existing dedicated railheads at Knockshinnoch and Killoch for the transportation of coal.***

5.13 Policy MIN22: All opencast operators are required to give proper consideration to mitigating the likely impact of their proposed developments on local communities and nearby properties.

***The proposed development is a minor amendment to an already permitted remote development site, which is considered not to significantly impact on nearby communities.***

5.14 Policy MIN23: In order to ensure that opencast operations do not cause unacceptable disturbance and nuisance to residents of local communities, the Council is likely to consider opencast developments unacceptable where:

(i) a development has a boundary which encroaches within 500 metres of the community concerned; or

***No part of the proposed variation to the scheme of working at Grasshill falls within 4000 metres of any community (closest being Muirkirk) and the closest occupied dwelling is in excess of 1250 metres away.***

(ii) the proposal involves a substantial area for extraction over an extraction period in excess of 10 years.

***The proposed development will not increase the permitted coaling operations beyond the existing life of 11 years.***

(iii) the proposal is likely to be the subject of repeated extensions, perpetuating disturbance to local communities for a period substantially longer than 5 years.

***The proposed development will not increase the existing timescale for the permitted operations.***

5.15 Policy MIN25: Any proposal to undertake any extraction operations or to locate operational areas relating to the storage, processing or dispatch of coal within 500 metres of any sensitive establishment, group of dwellings or individual dwellinghouses not in the ownership or under the control of the developer will only be entertained by the Council where the development can be fully justified by the developer in environmental terms.

***In fact no part of the development site falls within 1250 metres of any sensitive establishment, local community, group of dwellings or individual dwellinghouses.***

5.16 Policy MIN28 and MIN30: Protection of landscape value and visual amenity of areas from opencast developments.

***The proposed variation to the scheme of working at Grasshill is wholly contained within an existing permitted site and is located on the northern side of the ridgeline and is remote and totally hidden from all lines of public view and will not be visible to any sensitive receptors.***

5.17 Policy MIN31: The Council will not be supportive of any opencast proposals which would disrupt or otherwise adversely impact on water catchment areas, principle water courses and other tributaries or other major water resources such as lochs and reservoirs throughout East Ayrshire.

***The proposals do not present a significant alteration to the previous hydrological assessment undertaken for the area and submitted in support of the existing planning consent for Grasshill. In addition, Scottish Coal has confirmed that they will continue to liaise closely and work in partnership with SEPA.***

5.18 Policies MIN33 and MIN34: Mineral Trust Fund contributions encouraged in respect of opencast operations to be used for community improvements. Submission of appropriate information on coal extracted from site.

***Scottish Coal already contributes into the Mineral Trust Fund in respect of the existing Spireslack site and it is proposed that this situation would remain unchanged.***

5.19 Policies MIN35 and MIN36: Requirement for operators to lodge restoration bonds and requirement to fund aftercare schemes.

***A Restoration Bond is already in place for the existing Spireslack and Grasshill sites.***

5.20 Policy MIN37: Establishment of Liaison Committee's.

***When the site was operating there was a regular and longstanding Liaison Committee in operation. It is proposed that this committee is reconvened upon the recommencement of site operations. This regular forum for communication is considered to be one of the reasons that the site has operated for many years without any significant adverse impacts to either the amenity or the environment of local communities or individual dwellings.***

***It is therefore considered that the proposed development is consistent with the relevant East Ayrshire Opencast Coal Subject Plan policies pertinent to this application.***

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are Scottish Planning Policy Guideline 16 – 'Opencast Coal', Planning Advice Notes, consultation responses, the relevant planning history for the site and the Finalised Draft Ayrshire Joint Structure Plan 2006.

### Consultation Responses

6.2 There are no consultation responses that would indicate that the application should be refused.

### Scottish Planning Policy Guideline 16: Opencast Coal

6.3 Recent guidance on opencast coal extraction has been given in SPP16: 'Opencast Coal'. Consistent with putting concern for the environment at the heart of policy, the Government seeks to apply a sustainable approach in determining where opencast coaling may take place.

6.4 Many of the provisions of SPP16 are already addressed within the adopted East Ayrshire Opencast Coal Subject Plan with regard to the proximity to local communities, repeated extensions, cumulative impact, natural and built heritage and the preference for rail transport. Nonetheless SPP16 indicates that Planning Authorities should use their development plans to identify areas where opencast coal extraction may be acceptable. There should be a presumption against development outwith these areas.

***The proposal is considered to be consistent with SPP16.***

6.5 SPP16 also indicates that in applying the principles of sustainable development and environmental justice to opencast coal extraction, there should be a presumption against development unless the proposal would meet one of two tests:

(i) is the proposal environmentally acceptable or can be made so by planning conditions and agreements?; and

***The consultation and policy assessment process indicates that the variation to the approved scheme of working meets this first test.***

(ii) does the proposal provide local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission?

***It is considered that Test 2 is also met as the variation to the approved scheme of working will allow re-establishment of employment which is particularly beneficial in those areas where the extraction takes place. It is therefore considered that both tests are satisfied in assessing this proposal.***

#### Planning Advice Notes

6.6 The proposed operations have also been designed to comply with the advice contained with Planning Advice Note 50: Controlling the Environmental Effects of Surface Mineral Workings, Annexes A, B, C and D.

***Noted.***

#### Planning Application History

6.7 The more relevant planning history of the site is as follows:-

(i) 01/0807/FL: Proposed variation of approved scheme of working (planning consent 96/0670/FL) and extension of excavation area at Grasshill by Glenbuck. Application approved by the Council on 28th April 2004.

(ii) 96/0670/FL: Proposed extraction of coal by opencast methods at Spireslack by Glenbuck. Application approved by the Council on 21st December 2000.

- (iii) 96/0014/FL: Proposed reclamation of former drift mine at Ellwood/Grasshill by Glenbuck. Application approved by the Council on 15th October 1996.

### Finalised Ayrshire Joint Structure Plan

6.8 There are no policy changes with regard to opencast coal mining being promoted in the new Finalised Joint Structure Plan and the current provisions of the approved Structure Plan remain relevant to this application.

***Noted.***

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial implications for the Council in the determination of this application. It is considered that the proposed development will not necessitate an amendment to the existing Section 75 Agreement relative to the Grasshill site as the extended excavation area fall within the area covered by the existing Section 75 Agreement.

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of this report, the application is considered to be a minor departure from the Development Plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application which are generally supportive of the proposed development.

8.2 The proposals represent the extraction of additional coals within the existing consented site at Spireslack/Grasshill which in environmental terms is considered to present no significant additional adverse impacts and this is essentially borne out by the consultation process. There should be no additional impact as the extraction of the resource can be undertaken with minimum impact on the visual amenity of the area.

8.3 It is considered that, given the relatively remote area in which the Spireslack/Grasshill site is located, the proposal to extract an additional 250,000 tonnes of coal will have no significant adverse effects on any local community. The proposal will not result in any breach of the required buffer distances promoted through the policies of the East Ayrshire Opencast Coal Subject Plan and it is considered that the extended operations can be undertaken within acceptable environmental standards.

8.4 The principle of opencast development in this area has already been established through the existing consent for the Spireslack/Grasshill site. It is considered that the proposals under the current application will have no significant additional impact on existing residential properties in the locality

through noise, dust or vibration as this site is located in a remote location and the proposal is in general accordance with the existing permitted site operations.

8.5 The amendment to the current site phasing plan will allow Scottish Coal to work and extract an additional reserve of 250,000 tonnes of good quality coal from a 9.90ha site area. Upon recommencement of operations at Spireslack 75 local jobs will be re-established, either as plant operatives, engaged environmental monitoring, fitters undertaking fixed and mobile plant maintenance or in a supervisory of site management and engineering capability.

8.6 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is generally consistent with policy and that there are environmental and community benefits which would outweigh any temporary adverse impacts. Consequently it is considered that the application should be approved.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.**

**Alan Neish**  
**Head of Planning & Economic Development**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application will not require to be referred to the Parent Planning Committee because it would not be a significant departure from the East Ayrshire Opencast Coal Subject Plan.

27 July 2007  
CG/HM  
FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Adopted East Ayrshire Opencast Subject Plan (2003)
5. Approved Ayrshire Joint Structure Plan (1999)
6. Finalised Ayrshire Joint Structure Plan (2006)
7. Previous applications 96/0670/FL & 01/0807/FL
8. Application 07/0444/FL
9. SPP16: Opencast Coal

10. PAN50 and Annexes.

Any person wishing to inspect the background papers listed above should contact Mr Colin Graham on 01563 555482.

**Implementation Officer: Dave Morris**

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Location	Spireslack/Grasshill OCCS by Muirkirk
Nature of Proposal:	Proposed Variation to Approved Scheme of Working
Name and Address of Applicant:	Scottish Coal Company Limited c/o Ayrshire Office Garan House 28 Main Street MUIRKIRK
Name and Address of Agent:	Phil Rayson, Planning & Development Manager (Address as above)

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DPO's Ref: [Colin Graham]  
PPO's Ref: [Hugh Melvin]

The above FULL application should be granted subject to the following conditions:

1. The proposed variation to the approved scheme of working shall be worked as a direct follow on to the Grasshill site over a period of 18 months in accordance with the approved plans and supporting statement received by the Council on 3rd April 2007. All works must be completed within the existing permitted timescale for the Spireslack site where operations are to be completed by 8th January 2011.

REASON - To retain effective planning control over the proposed development in accordance with the current consent relating to the Spireslack/Grasshill opencast site.

2. No works shall commence within the development **site** until the applicant provides the Council with full details of the potential impact the works will have on the Stottencleugh Burn. Particular consideration must be given to the impacts on river habitats, channel structure and flow regimes that may impact on the biology of the watercourse. Any mitigation measures required to minimise impact on ecological interests must be agreed with the Planning Authority in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency; and shall be implemented as necessary by the applicant to the satisfaction of the Planning Authority.

REASON - To protect the ecological interests associated with existing watercourses.

3. No works shall commence within the development site until the Spireslack/Grasshill Technical Working Group has been re-established and a meeting has taken place to address the detailed restoration of the opencast site.

REASON - To ensure that the site is restored in a correct and proper manner.

4. Within four months of the date of this consent the applicant shall submit to and have approved by the planning authority, a detailed restoration scheme that shall be the subject of prior consultation with the Spireslack/Grasshill Technical Working Group.

REASON - To ensure that the site is restored to the highest possible standards in the interests of habitat creation.

5. Clean surface water from the site perimeter must be intercepted and diverted away from any working area. Freshly cut interception ditches on sloping ground will require careful profiling and to prevent erosion of the bed or banks and pollution from mineral solids.

REASON - To protect the ecological interests associated with existing watercourses.

6. No tree felling shall be carried out during the main bird breeding season (March to July inclusive).

REASON - To ensure that breeding birds are protected from disturbance and nesting sites are protected from destruction.

7. The existing noise, dust and blast monitoring programmes shall continue in accordance with the original Spireslack/Grasshill site (96/0670/FL) using appropriate equipment and recording devices, the results and records of which to be made available to the Planning Authority throughout the operational life of the site.

REASON - In the interests of residential amenity.

8. The proposed development shall otherwise be carried out in complete accordance with planning consent 96/0670/FL dated 21 December 2000 and planning consent 01/0807/FL dated 28 April 2004.

REASON – To ensure that the proposed development is undertaken in accordance with the existing planning consent for Spireslack and Grasshill to which the application site relates.

#### **Note to Applicant**

1. The applicant is advised to make early contact with the Scottish Environment Protection Agency (SEPA) with regard to any amendments to existing authorisations in place for the Spireslack/Grasshill site in respect of legislation administered by that body.
2. Although not stated in this application, SEPA believe that the contaminated drainage from the extension is to be treated in existing effluent treatment systems licensed under the terms of the Water Environment (Controlled Activities) (Scotland) Regulations 2003. The applicant must therefore satisfy SEPA that these systems have sufficient capacity to accept the additional drainage and continue to comply with the license conditions.

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