

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 20 MARCH 2008**

**07/0908/FL: PROPOSED EXTENSION OF OPENCAST COAL SITE  
AT GREENBURN OPENCAST COAL SITE, NEW CUMNOCK  
(DALGIG FARM ALTERNATIVE SCHEME)**

**APPLICATION BY KIER CONSTRUCTION LIMITED**

**Report by Head of Planning and Economic Development**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Permission is sought for an extension of the existing Greenburn site for the winning and working of coal, fireclay and other minerals by opencast method. The Dalgig Farm extension will be developed as a sequential phase of the existing Greenburn site using predominantly the same plant and infrastructure. In particular the existing coal treatment area, railhead and railway line will be used to process and transport coal extracted from the Dalgig Farm extension, with all extracted coal transported to the railhead via internal haul roads. With the Dalgig Farm extension and the existing operational site the total Greenburn development site will extend to 510 hectares.

1.2 This proposal will allow the recovery of up to a further 1.5 million tonnes of high quality coal, distributed mainly via the new dedicated railhead and line to the power generation industry. Production will be at a rate of around 500,000 tonnes per annum, similar to the current annual production rate of the existing operational site.

1.3 The current coaling operations at Greenburn are anticipated to cease by the early part of 2010 and the proposed operations in the Dalgig Extension are to be phased to commence towards the end of 2009 in order for the applicant to achieve a continuous supply of coal to the market. The Dalgig Farm extension is expected to have an operational life of 3 years coaling with a further 2 years being required to complete the progressive restoration programme. It is therefore anticipated that the Dalgig Extension will be fully completed and restored during 2014/2015. A five year aftercare programme will continue beyond this date. The current Greenburn operation is consented until mid 2014 and with the adjustments to the phasing of the Greenburn operation, the Dalgig Farm extension operation will result in only a minor limited additional period of operation beyond the current consented dated.

1.4 In terms of site infrastructure and maintenance, the only significant amendment to the existing Greenburn operation will be the relocation of the existing plant maintenance building from its present site to a site on the

proposed extension just north of the U719 Dalgig Road. The proposals also include the permanent diversion of a section of the U719 Dalgig Road. The new section of road will be constructed to East Ayrshire Roads Division adoption standards. The proposed permanent diversion of the Dalgig Road will require to be the subject of a formal road closure order promoted in terms of the Town and Country Planning (Scotland) Act 1997. Furthermore, the existing road will not be closed until the new diverted section is complete and commissioned.

1.5 Under the original Dalgig Extension scheme, some 148 hectares (60,000 tonnes) of commercial forestry consisting of semi-mature Sitka spruce and Japanese larch was to be felled to enable mining operations to take place. With the reduced alternative Dalgig Farm extension scheme, there will be no timber recovery or export as the forest area no longer forms part of the development site.

1.6 It is proposed to use the same hours of operation and shift system as currently used at the Greenburn site i.e. between 0700 hours on a Monday through to 1600 hours on a Saturday (24 hour working). No haulage of minerals from the excavation area to the coal processing area will take place between 1900 and 0700 hours during the 24 hour working period. Coal processing and dispatch of minerals via the railhead will be limited to between 0700 and 1900 Mondays to Fridays and between 0800 and 1300 hours on Saturdays. The dispatch of minerals by road will be confined between 0800 and 1800 hours Mondays to Fridays with no dispatch on Saturdays and Sundays. With the exception of essential site maintenance

1.7 The Greenburn operation provides full time employment for 80 staff, operatives and contractors. All of these jobs will be maintained throughout the additional 5 year working life of the Dalgig Farm Extension. In addition the proposed increase in resources employed, in terms of plant and equipment, will result in the creation of a further 14 full time jobs. The proposed development will therefore provide direct, full-time employment for 94 people for a period of up to 5 years. In addition to direct employment, a number of indirect jobs (approximately 133) will also continue to be supported in terms of site servicing. The projected annual wage bill during the life of the proposed development is some £3.2 million, a large proportion of which will contribute towards the local economy. In addition in excess of £3 million per year will be expended with local businesses.

1.8 An amendment to the original Dalgig Extension Environmental Statement has been provided by the applicant that considers the potential changes to impacts when compared with the original scheme. The ES suggests that with, the significant reduction in the size of the proposed extension area, the proposal will still have no significant additional impacts relative to noise, dust, blasting, traffic and hydrology and in most instances the potential adverse impacts will be less than those of the original scheme. The exception to this is in relation to socio-economic benefits where, due to the reduction in timescale, benefits that would accrue will be less. The existing operations are subject to appropriate monitoring and management measures

to minimise any adverse impacts arising to the development. All other aspects of the proposed development will be in accordance with the terms of the existing planning consents for the site and associated conditions and obligations within the Greenburn Section 75 Agreement.

1.9 The current application under consideration represents an alternative, reduced extension to the Greenburn site to that which was promoted under planning application 06/0538/FL for the Dalgig Extension. This previous application promoted a much larger extension (284 hectares) for which a resolution to grant consent was made by the Development Services Committee on 12 December 2006, subject to the concluding of a Section 75 Agreement. This application was subsequently notified to and cleared by the Scottish Ministers.

1.10 At this time the Section 75 Agreement for this previous application has not yet been concluded. However, due to issues regarding securing land ownership interests in respect of the original scheme, the applicant seeks to promote the Dalgig Farm extension which relates to land in which they have secured a legal interest. The extension now proposed is now approximately only a third of the area of the original application site.

## **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants in respect of the matters detailed in Paragraph 8.5 of this report.**

## **3. SUMMARY OF ANALYSIS**

3.1 As is indicated in Section 5 of the main report, the application is considered to be generally in accordance with 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 approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. However, these material considerations are also generally supportive of the proposed development as it is considered that the objections raised are either not of sufficient weight to justify refusal of the application or are not relevant to the proposal.

3.2 The proposal represents a significant extension to the existing consented site at Greenburn and includes the re-location of the U719 Dalricket Road. It will involve the extraction of additional coals which in environmental terms is considered to present no significant additional adverse

impacts and this is essentially borne out by the consultation process. In addition, the proposed development has not attracted any objections.

3.3 It is considered that, given the relatively remote and sparsely populated area in which the existing Greenburn site and the proposed Dalgig Farm extension site are located, the proposal to extend the existing consented site 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 proposed can be undertaken within acceptable environmental standards. It is noted further that the current application represents a much reduced alternative scheme for the larger Dalgig Extension for which a resolution to grant has already been made by this Council subject to a Section 75 Agreement, this development also having been cleared by the Scottish Ministers.

3.4 The existing Greenburn operation provides full time employment for 80 staff, operatives and contractors. All of these jobs will be maintained throughout the additional 5 year working life of the proposed Dalgig Farm extension. In addition the proposed increase in resources employed, in terms of plant and equipment, will result in the creation of a further 14 full time jobs. The proposed development will therefore provide direct, full-time employment for 94 people for a period of up to 5 years. This is still considered to be of significant community benefit.

3.5 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved subject to the following obligations that should be secured through an amended Section 75 Agreement covering the following matters:

#### Section 75 Agreement

(i) An agreement to an ongoing road maintenance regime to continue to maintain roads in a safe and serviceable condition during the future term of the haulage of materials from the site over the route (U720/U719/C36) between the site access and the A76. This will be achieved by:

(a) A joint 3 monthly safety inspection will be carried out to identify safety defects requiring attention, such works to be carried out at the applicant's expense;

(b) A joint annual detailed inspection of the route (U720/U719/C36) will be carried out to identify any programmed remedial work required due to deterioration of the road surface.

(c) On completion of haulage of materials from the site, a joint inspection of the route will be undertaken to identify works to be carried out to ensure that there has been no detrimental effect to the road fabric by HGV movement generated from the Greenburn OCCS. To

assist in determining before and after road condition a Road Maintenance and Condition Survey will be undertaken and compared to that undertaken by the Council in 2003 (U719) and 2004 (C36). Any works identified will require to be undertaken at the applicant's expense.

(ii) The extension of the remit of the existing Greenburn Technical Working Group to embrace the proposed Dalgig Farm extension.

(iii) The monitoring of the restored Greenburn and Dalgig extension sites through to the final aftercare period ending during 2019, as overseen by the Greenburn / Dalgig Technical Working Group.

(iv) The production of a comprehensive Conservation Management Plan for the Greenburn site as extended by the Dalgig Farm extension, this plan to be agreed by the Greenburn / Dalgig Farm Technical Working Group and to incorporate the requirements of Scottish Natural Heritage and the Royal Society for the Protection of Birds (Scotland) as indicated in their respective consultation responses.

(v) The involvement of an ecologist for detailed operational and restoration design and consideration of wider ornithological interests.

(vi) The preparation of a Bird Management Strategy within the comprehensive Conservation Management Plan.

(vii) The undertaking of a bat survey prior to the demolition of any buildings.

(viii) The undertaking of an otter survey prior to any works excavating the streams.

(ix) The undertaking of a badger survey prior to any works.

## **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 on the basis of the principle of the proposed development, it will require to be referred to the Principal Planning Committee because it would represent a significant departure from the development plan.

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

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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**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 under the scheme of delegation because it represents an extension of working for an existing opencast site which is generally in accordance with the Opencast Coal Subject Plan and will require to be notified to the Scottish Ministers.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The Greenburn opencast coal site lies approximately 5 kilometres west of New Cumnock and approximately 6 kilometres south of Cumnock and comprises the farmlands of Greenburn, Fardenreoch and Auchincross. The application site relates to the approved Greenburn Opencast Coal Site, works for which commenced in August 2003. Planning permission for the extraction of 3.5 million tonnes of coal by opencast method from the application site was granted on 06 August 2002 under planning application 00/0793/FL. Full permission was also granted at that time for the construction and operation of a new dedicated railhead and rail link to serve the proposed opencast site.

2.2 The current application site which the applicant has termed the Dalgig Farm extension (Alternative Scheme) extends to approximately 100.4 hectares and lies to the west of the existing operational Greenburn site, to the north of the House of Water opencast coal site, the River Nith and the unclassified Dalgig Road (U719), and to the south of the Carsgailoch Forest. In terms of topography, the application site slopes at varying gradients from the aforementioned forest at an elevation of 280m AOD and falling directly down to the River Nith at 215m AOD. The most prominent watercourse within the application site is the Dalgig Burn, which forms from the confluence of the Small and the Linn Burns, and runs to the west of the Dalgig Farm steading. The application site is predominantly farmland based upon grassland and stock production. Although the area is sparsely populated, the lands of Dalgig Farm and its associated farmhouse lie within the application site and is currently occupied.

**2.3 Proposed Development:** Permission is sought for an extension of the existing Greenburn site for the winning and working of coal, fireclay and other minerals by opencast method. The Dalgig Farm extension will be developed as a sequential phase of the existing Greenburn site using predominantly the same plant and infrastructure. In particular the existing coal treatment area, railhead and railway line will be used to process and transport coal extracted from the Dalgig Farm extension, with all extracted coal transported to the railhead via internal haul roads. With the Dalgig Farm extension and the existing operational site the total Greenburn development site will extend to 510 hectares.

2.4 This proposal will allow the recovery of up to a further 1.5 million tonnes of high quality coal, distributed mainly via the new dedicated railhead and line to the power generation industry. Production will be at a rate of around 500,000 tonnes per annum, similar to the current annual production rate of the existing operational site.

2.5 The current coaling operations at Greenburn are anticipated to cease by the early part of 2010 and the proposed operations in the Dalgig Extension are to be phased to commence towards the end of 2009 in order for the applicant to achieve a continuous supply of coal to the market. The Dalgig Farm extension is expected to have an operational life of 3 years coaling with a further 2 years being required to complete the progressive restoration programme. It is therefore anticipated that the Dalgig Extension will be fully completed and restored during 2014/2015. A five year aftercare programme will continue beyond this date. The current Greenburn operation is consented until mid 2014 and with the adjustments to the phasing of the Greenburn operation, the Dalgig Farm extension operation will result in only a minor limited additional period of operation beyond the current consented dated.

2.6 In terms of site infrastructure and maintenance, the only significant amendment to the existing Greenburn operation will be the relocation of the existing plant maintenance building from its present site to a site on the proposed extension just north of the U719 Dalgig Road. The proposals also include the permanent diversion of a section of the U719 Dalgig Road. The new section of road will be constructed to East Ayrshire Roads Division adoption standards. The proposed permanent diversion of the Dalgig Road will require to be the subject of a formal road closure order promoted in terms of the Town and Country Planning (Scotland) Act 1997. Furthermore, the existing road will not be closed until the new diverted section is complete and commissioned.

2.7 Under the original Dalgig Extension scheme, some 148 hectares (60,000 tonnes) of commercial forestry consisting of semi-mature Sitka spruce and Japanese larch was to be felled to enable mining operations to take place. With the reduced alternative Dalgig Farm extension scheme, there will be no timber recovery or export as the forest area no longer forms part of the development site.

2.8 It is proposed to use the same hours of operation and shift system as currently used at the Greenburn site i.e. between 0700 hours on a Monday through to 1600 hours on a Saturday (24 hour working). No haulage of minerals from the excavation area to the coal processing area will take place between 1900 and 0700 hours during the 24 hour working period. Coal processing and dispatch of minerals via the railhead will be limited to between 0700 and 1900 Mondays to Fridays and between 0800 and 1300 hours on Saturdays. The dispatch of minerals by road will be confined between 0800 and 1800 hours Mondays to Fridays with no dispatch on Saturdays and Sundays. With the exception of essential site maintenance

2.9 The Greenburn operation provides full time employment for 80 staff, operatives and contractors. All of these jobs will be maintained throughout the additional 5 year working life of the Dalgig Farm Extension. In addition the proposed increase in resources employed, in terms of plant and equipment, will result in the creation of a further 14 full time jobs. The proposed development will therefore provide direct, full-time employment for 94 people for a period of up to 5 years. In addition to direct employment, a number of indirect jobs (approximately 133) will also continue to be supported in terms of site servicing. The projected annual wage bill during the life of the proposed development is some £3.2 million, a large proportion of which will contribute towards the local economy. In addition in excess of £3 million per year will be expended with local businesses.

2.10 An amendment to the original Dalgig Extension Environmental Statement has been provided by the applicant that considers the potential changes to impacts when compared with the original scheme. The ES suggests that with, the significant reduction in the size of the proposed extension area, the proposal will still have no significant additional impacts relative to noise, dust, blasting, traffic and hydrology and in most instances the potential adverse impacts will be less than those of the original scheme. The exception to this is in relation to socio-economic benefits where, due to the reduction in timescale, benefits that would accrue will be less. The existing operations are subject to appropriate monitoring and management measures to minimise any adverse impacts arising to the development. All other aspects of the proposed development will be in accordance with the terms of the existing planning consents for the site and associated conditions and obligations within the Greenburn Section 75 Agreement.

2.11 The current application under consideration represents an alternative, reduced extension to the Greenburn site to that which was promoted under planning application 06/0538/FL for the Dalgig Extension. This previous application promoted a much larger extension (284 hectares) for which a resolution to grant consent was made by the Development Services Committee on 12 December 2006, subject to the concluding of a Section 75 Agreement. This application was subsequently notified to and cleared by the Scottish Ministers.

2.12 At this time the Section 75 Agreement for this previous application has not yet been concluded. However, due to issues regarding securing land

ownership interests in respect of the original scheme, the applicant seeks to promote the Dalgig Farm extension which relates to land in which they have secured a legal interest. The extension now proposed is now approximately only a third of the area of the original application site.

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

3.1 While further consultations have been carried out in respect of this reduced alternative scheme, many of the issues raised in the original Dalgig extension proposal remain pertinent to the current application under consideration as indicated by consultees. In some instances these consultation responses are repeated below for information and clarity, and have been updated with additional responses received.

3.2 East Ayrshire Council Roads and Transportation Division indicates that it has no objections to the proposed development subject to the following conditions:

(1) The developer must agree an ongoing road maintenance regime incorporated into a Section 75 Agreement with the Council to continue to maintain the road in a safe and serviceable condition during the future term of the haulage of materials from the site over the route (U720/U719/C36) between the site access and the A76. This will be achieved by the following:

- (a) A joint 3 monthly safety inspection will be carried out to identify safety defects requiring attention, such works to be carried out at the applicant's expense;
- (b) A joint annual detailed inspection of the route (U720/U719/C36) will be carried out to identify any programmed remedial work required due to deterioration of the road surface. This work identified could comprise of resurfacing, including lengths at property frontages as indicated in the Environmental Statement, potholing, patching edge strengthening, kerbing and drainage/ verge repair work.

(2) The new junction onto the U719 will require Road Construction Consent with visibilities of 4.5 metres by 160 metres and no object greater than 1 metre in height within the splay areas formed and will require to be bituminously surface for a minimum distance of 20 metres from the public road with the details being approved by the Roads and Transportation Division.

(3) The total mineral haulage from the site on the public road system must not exceed that consented to previously (i.e. 80,000 tonnes per annum) at an average daily rate of 12 -16 HGV's per day.

(4) The Transportation Management Plan (incorporating the Transport Protocol) must continue to be implemented and observed by the applicant and their hauliers.

(5) The new section of U719 public road must be completed prior to the removal of the existing road. Road Construction Consent will be required to be issued to the developer prior to the commencement of road works on site.

(6) The redundant section of road will require to be stopped up by order under the provisions of the Town and Country Planning Act for permitted development should the application be approved.

***Conditions can be attached to any consent granted for the proposed development or by means of obligations in a Section 75 Agreement to meet the requirements of the Roads and Transportation Division.***

3.3 The Scottish Environment Protection Agency states that any pumping of groundwater will probably require authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR). If the abstraction rate is greater than 100 cubic metres per day then the applicant will be required to undertake a Water Features Survey. The applicant should consult with SEPA on this.

***A note can be attached to any consent granted to advise the applicant to make early contact with SEPA.***

During the working of the site it is noted that headwaters of some small watercourses will be diverted into other watercourse catchments. There is no indication in the report of the percentage increase in flows as a result of this. Additional information will require to be submitted to SEPA on this in order to determine if mitigation measures require to be put in place to prevent increased risk of erosion of the watercourses which would result in increased sediment movement into the River Nith. This activity will probably require a CAR authorisation.

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

During a recent Technical Working Group meeting the applicant agreed to install a gauging station on the Dalgig Burn to provide flow data and also for long term monitoring. The applicant should consult SEPA with regard to this.

***Noted.***

If the current settlement lagoons are to be used for the contaminated site drainage from the extension then the applicant should ensure that these do not require to be reviewed. Any new settlement lagoon discharges will require an authorisation under CAR. SEPA should be consulted in this regard. The restoration of the watercourses should match the existing profiles as closely as possible. This will require River Habitat Surveys to be undertaken which will provide information on the slope, width and depth of the channel as well as invertebrate and substrate information. The applicant must consult SEPA with regard to this. All River Habitat Surveys and hydrological investigations

must be undertaken before any work is undertaken in this proposed area. SEPA is in agreement with the procedure of restoring burns in one year but not diverting waters until the autumn of the following year to try and allow the establishment of vegetation on the bankings and stability of the channel. Part of the restoration of the Dalgig Burn is the removal of a dam, to allow the passage of fish. The applicant requires to examine the means by which the gradient of the stream will be changed. A hydrogeomorphologist must be employed to provide expert advice on the restoration of the Dalgig Burn and other watercourses. The burn restorations are a controlled activity and will require to be authorised by SEPA.

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

SEPA further states that the current OCCS at Greenburn is permitted by SEPA in terms of the Pollution Prevention and Control Regulations 2000 in respect of emissions to air. This permit is fairly standard for sites of this nature save that monitoring was required for particulates less than 10mm diameter (PM10) following consultations with the local health board. Should the proposed development proceed, the applicant will have to notify SEPA regarding such and apply for a variation of permit. The requirement for continuing and/or extending PM10 monitoring will be considered in detail during the determination of any application. It is noted however that the applicant does not foresee any particular problems with dust emissions from the proposed extension.

***Noted.***

Restoration of the site should be agreed with the Technical Working Group which was set up for the existing Greenburn site. At the last TWG meeting it was stated that monitoring of the restored site should be undertaken until 2022. SEPA would be obliged if this could be included as a planning condition.

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

3.4 The Scottish Wildlife Trust states that it was regularly consulted during the preparation of the Environmental Statement and is generally satisfied with the result. The Trust is concerned however about the potential dewatering of Glaisnock Moss and would seek reassurance that this matter has been addressed before coming to a final conclusion about the proposal. While it is correct that sections of the provisional wildlife sites within the proposed development site no longer have significant wildlife interest, loss of species-rich grassland along the Dalgig Burn was a concern. The Trust is pleased to see that grassland has been addressed in the restoration plan, although the long term maintenance of this feature is going to depend on appropriate management not under the applicant's control. It is noted that the ES contains some confusion over conservation designations, mainly between Wildlife Reserve, pLNR and Wildlife Site. Thankfully in this case, the mistakes will not

result in any locally important sites being damaged or lost. With regard to birds, the Trust wishes to see the implementation of the recommendations presented by JDC Ecology in their May/June 2006 report. Finally the Trust would wish to see habitat continuity and links made with the restoration plan for the House of Water OCCS.

***The applicant has indicated that further hydrogeological assessment and groundwater monitoring will be undertaken as part of the mitigation measures proposed in the ES. The implementation of the recommendations contained within the bird survey report can be achieved through a Section 75 Agreement for the Dalgig Extension. In respect of habitat continuity and links to the propose restoration plan for the adjacent House of Water OCCS can be achieved through the respective Technical Working Groups which are common to both sites.***

3.5 Scottish Natural Heritage stated in its original response to the Dalgig Extension that it had no objection to the proposed extension but recommended conditions, to further minimise any adverse ecological impacts arising from the proposal, as follows:

- (1) Management works must be agreed by the competent authority under a Section 75 Agreement with management work being incorporated into a main plan for review by the Technical Working Group.
- (2) The Otter Protection Plan as highlighted in the ES is produced and used through the development of the Dalgig Extension.
- (3) Topsoil is carefully collected and stored to be used as part of the restoration process following operations.
- (4) Retention of trees and hedges and the drystone dyke along the minor road west of Dalgig Farm

***Conditions can be attached to any consent granted for the proposed development or by means of obligations in a Section 75 Agreement to meet the requirements of SNH.***

SNH has now additionally commented that it still has no objections to the development subject to the previous comments being taken into account together with the following additional requirements being included as conditions:

- (5) The undertaking of a bat survey prior to the demolition of any buildings.
- (6) The undertaking of an otter survey prior to any works excavating the streams.
- (7) The undertaking of a badger survey prior to any works.

***Conditions can be attached to any consent granted for the proposed development or by means of obligations in a Section 75 Agreement to meet the additional requirements of SNH***

3.6 Power Systems, Transco and Scottish Water have no objections to the proposed development

***Noted.***

3.7 New Cumnock Community Council has not responded to the consultation letter.

***Noted.***

3.8 The Royal Society for the Protection of Birds does not object to the development subject to mitigation measures being implemented through appropriate planning conditions or a legal agreement.

***Noted.***

RSPB is pleased to see several useful mitigation measures proposed, particularly as part of the supplementary report in 2006. The position of RSPB of non-objection to this development is conditional on:

- The provision of 9 barn owl boxes to a specification and in locations approved by the TWG;
- The involvement of an ecologist for detailed operational and restoration design and consideration of wider ornithological interest;
- The preparation of a Bird Management Strategy within the Conservation Management Plan;
- Vegetation clearance and soil stripping being carried out outwith the bird breeding season. Where this is not possible, surveys for nesting birds must be carried out and suitable mitigation measures put in place, as agreed by the TWG.

***Conditions can be attached to any consent granted for the proposed development or by means of obligations in a Section 75 Agreement to meet the requirements of the RSPB.***

The draft restoration concept contains a mix of habitats that will be of benefit to a range of bird species. RSPB is pleased to see inclusion of habitats that could benefit breeding waders and black grouse. Although not recorded on the site, this species occurs in the vicinity and restoration that increases forest edge habitat could encourage the species to spread in the long term. However the success of such a plan is dependant on the details of implementation and the TWG should be given a key role during finalisation and implementation of the restoration plan which must be backed up by a full Conservation Management Plan. RSPB notes that while it submitted comments on the original CMP for Greenburn, these were never incorporated. It is crucial that a CMP for the whole site is agreed by the TWG and that successful implementation of this plan is ensured through appropriate conditions or legal agreement. East Ayrshire Council must see monitoring of this work as part of their enforcement role at the site. A revised schedule of monitoring for the site should be developed in consultation with the TWG as part of the CMP. This

should include extension areas within ongoing bird breeding surveys. Reports should be written up and reported to the TWG annually.

***Conditions can be attached to any consent granted for the proposed development or by means of obligations in a Section 75 Agreement to meet the requirements of the RSPB.***

3.9 National Air Traffic Services has no objections to the proposed development.

***Noted.***

3.10 The West of Scotland Archaeology Service has no adverse comments to make on the proposed development.

***Noted.***

3.11 The Nith District Salmon Fishery Board states that in fisheries terms, this alternative scheme, whilst very much reduced in area, still contains similar issues to the original proposals. This is due to the fact that the major fisheries interests at this location are in the Dalgig Burn which is still included in this alternative scheme. Therefore the NDSFB comments in response to the original Dalgig extension (Application 06/0538/FL) are still valid. The NDSFB agreed with the applicant detailed fisheries mitigation plans for the original proposals and we would expect these to be honoured in this alternative scheme. However, there would be no requirement to monitor the water courses which are outwith the alternative scheme, namely March Burn, Burnston Burn and an unnamed watercourse. All other measures intended to mitigate for the loss of the Dalgig Burn, including fish rescues, monitoring, restocking, habitat restoration and removal of the redundant hydro electric dam will all be required. Providing that all mitigation measures referred to above and in our original response are adopted by the applicant, the NDSFB would not object to this proposal.

***Noted.***

The applicant is aware of the potential difficulties in restoring a watercourse as mentioned in the submitted ES and when restoration of the Dalgig Burn is complete the NDSFB would like to be reassured that the watercourse will be constructed to a standard which will ensure the watercourse does not flow subsurface. This watercourse does not suffer from these seasonal events currently and if it did it would not sustain migratory salmonids.

***The present Technical Working Group for the Greenburn site would continue to support and oversee the restoration proposals for the Dalgig Extension and in this regard, the NDSFB is presently a member of the Greenburn TWG.***

The NDSFB considers that there are opportunities to improve the Dalgig Burn, post coaling as mentioned in section 8.8.2 in the ES. However as an absolute

minimum measure of success of restoration, the Board would insist that the reinstated Dalgig Burn does sustain salmonid populations, no fewer than it currently does prior to opencast operations commencing. Using this yardstick to measure restoration success, coupled with the other mitigation measures mentioned, the NDSFB would not object to this proposal to extend the Greenburn OCCS.

***Noted.***

3.12 East Ayrshire Council Environmental Health Division has no objections to the proposed development in principle, subject to compliance with existing conditions regarding dust, noise and vibration control measures. The Division would request sight of any noise monitoring results submitted by the applicant for perusal and comparison with the assessed data.

***Noted.***

3.13 Historic Scotland is content that the Environmental Statement adequately addresses its statutory interests. HS is content to agree with its findings and has no further comments to offer.

***Noted.***

3.14 The Scottish Executive Trunk Road Network Management Directorate indicates that the proposed development represents an intensification of the use of this site and will increase the associated traffic movements on the local road network. However the percentage increase in traffic is such that the proposal is likely to cause minimal environmental impact on the trunk road network and as such, the TRNMD has no comment to offer.

***Noted.***

3.15 The Health and Safety Executive has no comments to make on the Environmental Statement.

***Noted.***

3.16 East Ayrshire Council Economic Development Division notes that the proposal is an extension of an existing opencast operation and as such will ensure continuity of employment, where many of the jobs require a high degree of skill in the operation of plant and machinery and where the employer will already have made a significant investment in terms of training. Accordingly this Division would be supportive of the planning application.

***Noted.***

3.17 The Scottish Executive Environment Group has no comments to make on the Environmental Statement in respect of the responsibilities for water supply, water protection, sewerage, flood prevention waste disposal and air quality.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 None.

***Noted.***

#### **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 (2007) and the Adopted East Ayrshire Opencast Coal Subject Plan (2003).

##### Ayrshire Joint Structure Plan

5.2 There are no policy changes with regard to opencast coal mining in the new joint structure plan. The previous structure plan identified preferred areas for opencast coal extraction and this remains relevant. A subject plan has been approved by East Ayrshire Council which will guide development over the next 10 years and no further preferred areas are identified in the Key Diagram.

***Noted.***

##### East Ayrshire Opencast Coal Subject Plan

5.3 The proposed Dalgig Farm extension falls wholly within a Potential Coal Extraction Area as identified in the EAOCSP. 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 approved site.*

***Extraction will be carried out as a sequential phase of development of the overall Greenburn 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; and*

***The scale of operations, rate of extraction and number of vehicle movements generated by the extended site are commensurate with those as existing currently on site.***

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

***The proposed extension will not significantly prejudice plans for the restoration as the site will be progressively restored.***

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 applicant has provided information based on current knowledge of the geology of the area and is included in the plans accompanying the application. The applicant contends that the information put forward on its future interests is as detailed as it could reasonably be at this stage. In this regard, the applicant has indicated an interest in land to the south of the existing Greenburn site.***

5.5 Policy MIN 12: 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*

- (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*

- (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*

(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 not a new site but an extension to the existing Greenburn site. It is considered that the proposed extension would not conflict with the provisions of policy MIN 12 with respect to the stated criteria.***

5.6 Policy MIN 15: 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 restoration of the existing Greenburn site and the proposed Dalgig Farm extension is designed to improve the wildlife conservation value of the land that would provide for greater benefits to the area both in bio-diversity terms and also in general amenity terms. Restoration to high standards will be overseen by the Technical Working Group which has been set up, and is operational, as part of the existing Section 75 Agreement for the current operational Greenburn site. The remit of the TWG can be extended to include overseeing of the Dalgig Farm extension.***

5.7 Policy MIN 18: 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.

***A minimum of 90% of coals won from the proposed extension area require to be dispatched via the existing dedicated railhead facilities at the Greenburn site, as per the current Section 75 Agreement for Greenburn. To date, some 98% of minerals won from the site have been dispatched to markets by rail.***

5.8 Policy MIN 19: All haulage of extracted materials between the area of excavation and the point of dispatch from the opencast site should be via internal haul roads only.

***All coals won from the proposed extension area will be taken to the coal preparation area via internal haul roads.***

5.9 Policy MIN 20: Haulage of opencast coal on the public road system to be along clearly defined haulage routes agreed with the Council. With the exception of the 'A' Class Roads throughout East Ayrshire, opencast operators will be required, at their own expense, to bring all roads used by their haulage vehicles up to an acceptable standard for haulage purposes,

prior to the use of the route for dispatch purposes. Requirement for operators to pay for any necessary upgrading and maintenance of routes used by opencast traffic.

***Contributions by the operator to the maintenance of public roads are secured through the existing Section 75 Agreement for the Greenburn site and this will be extended to encompass the Dalgig Farm extension in terms of the consultation response received from the Roads and Transportation Division.***

5.10 Policy MIN 21: Expectation for potential opencast developers and their approved sub-contractors to enter into a Section 75 agreement with the Council:-

(i) to ensure the highest possible operational standards for the transportation of extracted minerals;

(ii) to ensure best operational practice regarding road safety and operational matters;

(iii) to agree, regulate and monitor the routes taken by coal haulage vehicles, the arrival of coal haulage vehicles, the dispatch of coal from the site and the numbers of haulage vehicles using the agreed haulage routes

(iv) to audit and record operational details of the transportation of coal on a regular basis; and

(v) to provide the Council with monitoring information regarding transportation and haulage of materials, breaches of protocol etc.

The Council is currently formulating with the co-operation of the opencast operators, a 'Transportation of Coal by Road Protocol' addressing the above issues to which existing and potential opencast operators and their approved sub-contractors will be invited to subscribe.

***The existing Section 75 Agreement for the Greenburn site contains an obligation in respect of this matter which will be amended to encompass the Dalgig Farm extension.***

5.11 Policy MIN 23: 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.

***The proposed Dalgig Farm extension area does not encroach within 500 metres of any settlement.***

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

***Although the overall lifespan of the Greenburn operation as extended by the Dalgig Extension would be a total of 11 years (and an extraction period of 9 years) it is considered that the proposal will not result in any perpetuation of disturbance to a local community given the location of the site and its relative remoteness from local communities. Other impacts such as mineral transportation through local communities is considered to be acceptable given that to date some 98% of the minerals recovered from the existing Greenburn operation have been dispatched via the dedicated railhead at Greenburn. In addition as indicated within this report there are significant local and community benefits to be accrued from the proposed development.***

(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 site operator is currently exploring the potential for further extraction of coal in the vicinity of the existing site. However, it is considered that the current proposal will not, in itself, result in perpetuation of disturbance to local communities.***

5.12 Policy MIN 25: 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 and where all of the following criteria are met:

(i) the Council is satisfied that there are no objections which cannot be overcome through the expeditious use of conditions or planning agreements from residents, owners, tenants or occupiers of properties located within 500 metres of the proposed working face of the site;

***The applicant states that there are no residential properties, outwith its potential ownership or control that lie within 500 metres of the amended working face of the site.***

(ii) the extraction or operational area does not encroach within 100 metres of any group of dwellings, individual dwellinghouse(s) or sensitive establishment concerned.

***There are no residential properties, outwith the applicant's potential ownership or control that lie within 100 metres of the amended working face of the site.***

5.13 Policy MIN33: The Council will, if mindful to grant planning permission for an opencast coal development and if considered appropriate, request an applicant to enter into an agreement with the Council under Section 75 of the Town and Country Planning (Scotland) Act 1997 in order to regulate, by agreement, such matters as cannot adequately be regulated by the imposition of planning conditions.

***The existing Greenburn opencast site is the subject of a current Section 75 Agreement that would be extended and amended to encompass the proposed Dalgig Farm extension in response***

5.14 Policies MIN34 and MIN35: 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.

***The applicant is currently a contributor to the Mineral Trust Fund in respect of the existing Greenburn opencast site and would contribute in respect of the Dalgig Farm extension.***

5.15 Policies MIN36 and MIN37: Requirement for operators to lodge restoration bonds and requirement to fund aftercare schemes.

***The existing Greenburn opencast site is subject to a Section 75 Agreement encompassing the above matters and appropriate amendments to this Agreement would ensure that safeguards to site restoration and aftercare would be in place for the Dalgig Farm extension.***

***It is therefore considered that the proposed development is consistent with the relevant EAOCSP policies pertinent to this application.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, SPP16 on Opencast Coal and associated PAN50 and relevant planning history.

### Consultation Responses

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

### Scottish Planning Policy

6.3 Guidance on opencast coal extraction has been given in Scottish Planning Policy 16: 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 adopted East Ayrshire Opencast Coal Subject Plan has identified Potential Coal Extraction Areas and in this regard the whole of the Dalgig Farm extension development lies within such an area.***

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 Dalgig Farm extension does meet this first test, not surprisingly since all of the application site lies within a PCEA as identified in the EAOCSP, which seeks to guide developers to those areas of least environmental constraints.***

(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 proposed Dalgig Farm extension will allow continuation and expansion 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 the Dalgig Extension.***

#### Planning Advice Notes

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

***Noted.***

## Planning History

6.7 Planning permission for the extraction of 3.5 million tonnes of coal by opencast method from the application site was granted on 06 August 2002 under planning application 00/0793/FL. Full permission was also granted at that time for the construction and operation of a new dedicated railhead and rail link to serve the proposed opencast site.

6.8 Planning permission for a variation of conditions 7 and 35 of consent 00/0793/FL to allow the formation of a vehicle underpass within the application site was approved on 10 October 2003.

6.9 Planning permission for a variation to condition 39 of consent 00/0793/FL to allow extended haulage hours between the excavation area and the coal processing area was approved on 25 June 2004.

6.10 Planning permission for an extension to the excavation area (Ref. No. 04/0717/FL) was approved on 08 October 2004.

6.11 A planning application (Ref. No. 05/0583/FL) for the recovery of minerals other than coal at the Greenburn site was approved on 13 April 2006.

6.12 Planning permission for an extension to the Greenburn site (North Extension) was approved on 29 February 2008 (Ref. No. 07/0211/FL).

6.13 Planning permission for an extension to the Greenburn site (North East Extension) was approved on 29 February 2008 (Ref. No. 07/0745/FL).

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

7.1 There are no financial implications for the Council in the determination of this application. Legal implications will arise through the requirement to amend the existing Section 75 Agreement for the site to include the Dalgig Farm extension and as required to be amended by the terms of this report. In addition, formal procedures will require to be undertaken to promote the stopping up of the exiting U719 Dalgig Road under the Town and Country Planning (Scotland) Act 1997.

7.2 In terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2007, certain categories of development require to be formally notified to the Scottish Ministers should the Planning Authority be minded to approve opencast proposals. This includes development subject to Environmental Impact Assessment.

***As the application is accompanied by an amended ES, it will therefore require to be notified to the Scottish Ministers in accordance with the Direction.***

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of the report, the application is considered to be generally in accordance with 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 approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. However, these material considerations are also generally supportive of the proposed development as it is considered that the objections raised are either not of sufficient weight to justify refusal of the application or are not relevant to the proposal.

8.2 The proposal represents a significant extension to the existing consented site at Greenburn and includes the re-location of the U719 Dalricket Road. It will involve the extraction of additional coals which in environmental terms is considered to present no significant additional adverse impacts and this is essentially borne out by the consultation process. In addition, the proposed development has not attracted any objections.

8.3 It is considered that, given the relatively remote and sparsely populated area in which the existing Greenburn site and the proposed Dalgig Farm extension site are located, the proposal to extend the existing consented site 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 proposed can be undertaken within acceptable environmental standards. It is noted further that the current application represents a much reduced alternative scheme for the larger Dalgig Extension for which a resolution to grant has already been made by this Council subject to a Section 75 Agreement, this development also having been cleared by the Scottish Ministers.

8.4 The existing Greenburn operation provides full time employment for 80 staff, operatives and contractors. All of these jobs will be maintained throughout the additional 5 year working life of the proposed Dalgig Farm extension. In addition the proposed increase in resources employed, in terms of plant and equipment, will result in the creation of a further 14 full time jobs. The proposed development will therefore provide direct, full-time employment for 94 people for a period of up to 5 years. This is still considered to be of significant community benefit.

8.5 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved subject to the following obligations that should be secured through an amended Section 75 Agreement covering the following matters:

## Section 75 Agreement

- (i) An agreement to an ongoing road maintenance regime to continue to maintain roads in a safe and serviceable condition during the future term of the haulage of materials from the site over the route (U720/U719/C36) between the site access and the A76. This will be achieved by:
  - (a) A joint 3 monthly safety inspection will be carried out to identify safety defects requiring attention, such works to be carried out at the applicant's expense;
  - (b) A joint annual detailed inspection of the route (U720/U719/C36) will be carried out to identify any programmed remedial work required due to deterioration of the road surface.
  - (c) On completion of haulage of materials from the site, a joint inspection of the route will be undertaken to identify works to be carried out to ensure that there has been no detrimental effect to the road fabric by HGV movement generated from the Greenburn OCCS. To assist in determining before and after road condition a Road Maintenance and Condition Survey will be undertaken and compared to that undertaken by the Council in 2003 (U719) and 2004 (C36). Any works identified will require to be undertaken at the applicant's expense.
- (ii) The extension of the remit of the existing Greenburn Technical Working Group to embrace the proposed Dalgig Farm extension.
- (iii) The monitoring of the restored Greenburn and Dalgig extension sites through to the final aftercare period ending during 2019, as overseen by the Greenburn / Dalgig Technical Working Group.
- (iv) The production of a comprehensive Conservation Management Plan for the Greenburn site as extended by the Dalgig Farm extension, this plan to be agreed by the Greenburn / Dalgig Farm Technical Working Group and to incorporate the requirements of Scottish Natural Heritage and the Royal Society for the Protection of Birds (Scotland) as indicated in their respective consultation responses.
- (v) The involvement of an ecologist for detailed operational and restoration design and consideration of wider ornithological interests.
- (vi) The preparation of a Bird Management Strategy within the comprehensive Conservation Management Plan.
- (vii) The undertaking of a bat survey prior to the demolition of any buildings.
- (viii) The undertaking of an otter survey prior to any works excavating the streams.
- (ix) The undertaking of a badger survey prior to any works.

## **9. RECOMMENDATION**

**9.1** It is recommended that the application be approved subject to the conditions indicated on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants in respect of the matters detailed in Paragraph 8.5 of this report.

**Alan Neish**  
**Head of Planning and 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 on the basis of the principle of the proposed development, it will require to be referred to the Principal Planning Committee because it would represent a significant departure from the development plan.

10 March 2008  
HM/HM  
DVM/FV

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of representation
5. Adopted East Ayrshire Opencast Subject Plan (2003)
6. Approved Ayrshire Joint Structure Plan (2007)
7. Previous applications 00/0793/FL, 03/0726/FL, 04/0263/FL, 04/0717/FL, 0605/558/FL, 06/0538/FL, 070211/FL and 07/0745/FL
8. SPP16: Opencast Coal
9. PAN50 and Annexes.

Any person wishing to inspect the background papers listed above should contact Mr Hugh Melvin on 01563 555481.

**Implementation Officer: Dave Morris**

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Location	Greenburn OCCS, New Cumnock
Nature of Proposal:	Extension of Opencast Coal Site (Dalgig Extension)
Name and Address of Applicant:	<a href="#">Kier Construction Limited</a> <a href="#">Tempsford Hall</a> <a href="#">SANDY</a> <a href="#">Beds. SG19 2BD</a>
Name and Address of Agent	Mark Harrington Per Kier Mining Tempsford Hall SANDY Beds. SG19 2BD

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

The above [FULL](#) application should be granted subject to the following conditions:

1. The total mineral haulage from the site on the public road system shall not exceed a total of 80,000 tonnes per annum at an average daily rate of 12 -16 HGV's per day.

REASON –In the interests of residential amenity and road safety.

2. The proposed new section of U719 public road shall be completed and operational prior to the removal of the existing section of road.

REASON – In the interests of public road safety.

3. The proposed new access junction onto the U719 shall have visibilities of 4.5 metres by 160 metres with no object greater than 1 metre in height being allowed within the splay areas formed. The access shall be bituminously surfaced for a minimum distance of 20 metres from the edge of the public road.

REASON – In the interests of public road safety.

4. Prior to the commencement of operations on the Dalgig Extension area, the applicant shall submit to and have approved by the Planning Authority, in consultation with the Scottish Environment Agency, details of the construction of the proposed aquitard to be used during the restoration of the Burnston Burn.

REASON – To ensure effective restoration of the site.

5. Prior to the commencement of operations on the Dalgig Extension area, the applicant shall submit to and have approved by the Planning Authority, in consultation with the

Scottish Environment Protection Agency, information regarding the increased flows in watercourses taking additional diverted waters and an assessment of the mitigation measures proposed to prevent increased risk of erosion in these watercourses.

REASON – In the interests of environmental protection.

6. Prior to the commencement of operations on the Dalgig Farm extension area, the applicant shall undertake River Habitat Surveys and hydrological investigations, the details of which shall inform the process of restoration of watercourses affected by the proposed development.

REASON – To ensure a high standard of restoration of watercourses.

7. The existing trees, hedges and the drystone dyke running along the U719 road west of Dalgig Farm shall be retained insofar as is reasonably practical.

REASON – In the interests of nature conservation and visual amenity.

8. Prior to the commencement of works on the Dalgig Farm extension, the applicant shall provide 9 barn owl boxes to a specification and in locations approved by the Planning Authority in consultation with the Greenburn / Dalgig Technical Working Group.

REASON – In the interest of environmental protection.

9. All vegetation clearance and soil stripping shall be carried out outwith the bird breeding season. Where this is not possible, surveys for nesting birds shall be carried out and suitable mitigation measures put in place, as approved by the Planning Authority in consultation with the Greenburn / Dalgig Technical Working Group.

REASON – In the interests of environmental protection.

10. The proposed development hereby approved shall otherwise be undertaken in accordance with the conditions pertaining to planning consent 00/0793/FL dated 06 August 2001 as amended by planning consent 03/0726/FL dated 10 October 2003, as amended by planning consent 04/0263/FL dated 24 June 2004, as amended by planning consent 04/0717/FL dated 28 October 2004, as amended by planning consent 05/0583/FL dated 13 April 2006, as amended by planning consent 07/0211/FL dated 29 February 2008 and planning consent 07/0745/FL dated 29 February 2008.

REASON: To retain effective planning control over the proposed development in accordance with current consents relating to the Greenburn opencast site.

#### **Note to Applicant**

1. The applicant is advised to make early contact with the Scottish Environment Protection Agency with regard to any amendments to existing authorisations in place for the Greenburn site in respect of legislation administered by that body.

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PLANNING OFFICE IN LUGAR. FOR INFORMATION ON  
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