

## **EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 30 OCTOBER 2009**

### **09/0178/FL: EXTRACTION OF COAL BY SURFACE MINING METHODS WITH RESTORATION TO FARMLAND AND NATURE CONSERVATION AND RETENTION OF EXISTING INFRASTRUCTURE (LANEHEAD EXTENSION) AT HOUSE OF WATER OCCS, NEW CUMNOCK**

#### **EXECUTIVE SUMMARY**

##### **1. DEVELOPMENT DESCRIPTION**

1.1 Planning Permission is sought for an extension of the existing House of Water site for the winning and working of coal by opencast method. The proposed Lanehead extension will be developed as a distinct phase of the existing operational site using the same plant and infrastructure that is in operation at the existing House of Water site. In particular the existing coal treatment area will be used to process coals extracted from the proposed extension.

1.2 This proposal will allow the recovery of approximately 1 million tonnes of coal mainly for the power generation industry. Production will be at a rate of approximately 4000 tonnes per week which equates to an average of 3 loaded coal carrying HGVs per hour leaving the site. The seams of coal (18 in total) present within the Lanehead extension will be extracted to a maximum depth of 100 metres below original ground level. The coals will be worked in a series of phases commencing in the northern part of the site, working in a west to east direction, with subsequent phases proceeding in a similar fashion in a southerly direction, stripping soils and storing them in separate topsoil and subsoil storage mounds, generally within the extension area.

1.3 As extraction commences, overburden will initially be taken to an area adjacent to the existing overburden tip within the existing House of Water site. This necessitates overburden storage on an area that has already been restored as part of the existing House of Water operations. This will involve the re-stripping and storage of top soils and subsoil on the additional overburden storage area. This extended overburden mound will be constructed to a maximum height of 30 metres above original ground levels. The proposal will involve limited blasting operations to fracture overburden. Other infrastructure work will include the formation of a new internal haul road to link the Lanehead extension area to the existing internal haul roads in the House of Water site.

1.4 In terms of timescale, following commencement of operations in the Lanehead extension, extraction of minerals is estimated to take 5 years to complete and this will be followed by approximately 12 to 18 months of backfilling and final site restoration works i.e. a total operational life of 6.5 years. The final timescale will be dependent on a number of factors including

the exact rate of production, the coal tonnage recovered and weather experienced during the life of the site.

1.5 It is proposed to use different hours of operation and shift system to the existing House of Water site, this being primarily to minimise noise impacts on residential properties lying in the vicinity of the Lanehead extension site. It is proposed to work a single shift system i.e. between 0700 and 1900 hours Monday to Friday and between 0700 and 1300 hours on a Saturday. No operations are to be undertaken on Sundays or Public Holidays with the exception of routine maintenance and emergency works.

1.6 Access to the site is via the existing main access off the Uc20 Dalrickett Road at Whitehill Farm (then by overland haul routes). In terms of dispatch of coal from the site, the applicant has indicated that coals won from the Lanehead extension shall be taken via the consented Kyle Forest overland haul route, via the former Piperhill opencast site towards the Killoch rail disposal point. This would avoid significant HGV movements through both New Cumnock and Ochiltree and would involve only a short haul on public roads which have only a few residential properties located along the route.

1.7 The dispatch of minerals by public road (and along the Kyle Forest overland haul route) will be confined to between 0800 and 1800 hours Mondays to Fridays with no dispatch on Saturdays or Sundays. The number of HGV movements along this transportation route associated with the Lanehead Extension will be approximately 6 per hour (3 laden and 3 unladen). Water treatment areas will be provided for the settling of solids and interception of potential contaminated surface water run-off.

1.8 The proposed Lanehead extension area is planned to commence upon the completion of coaling within the main House of Water site, which is expected to cease in early 2010, and will operate concurrently with the proposed Burnston extension area which is located some 1.5 km to the north of the Lanehead extension area (see Figure 1.1). The proposal will ensure continuity of existing employment in the area, but moreover, will require the employment of an additional 40 site staff. Employment will also be generated / sustained within nearby businesses in the supply of site services and coal transportation. These jobs will be maintained throughout the working life of Lanehead extension. From the experience gained at the current site, approximately 70% of employees reside within a 10 km radius of the site, with remaining employees coming from Muirkirk, Patna, Kirkconnel and Sanquhar.

1.9 Progressive restoration will be integral to the proposed development, with worked areas being backfilled with newly excavated overburden, and re-vegetated as work progresses. Restoration operations and replanting of the site are weather dependent but are expected to take approximately 12-18 months. The applicant has submitted plan information indicating the proposed restoration masterplan for the entire House of Water complex which has been developed to ensure a coordinated restoration approach for the whole site is achieved. The masterplan draws on the approved restoration schemes for both the main House of Water site and the proposed Burnston extension area

and incorporates proposals for the Lanehead area which are consistent with the aims and objectives of the existing restoration proposals whilst enhancing the biodiversity potential of the land at Lanehead.

1.10 Notwithstanding these aims, the overall strategy for the restoration of the Lanehead extension area is to reinstate the farm holding at Lanehead through the reinstatement of the original farmhouse and outbuildings, the re-establishment of three large grazing compartments separated by fence lines and hedgerows in order to reinstate the original landscape character and provide a functional farm unit. The proposed restoration scheme incorporates enhancement of the Lane Burn corridor through fencing, planting, creation of ponds, reinstatement of pasture and/or species-rich grasslands, creation of corridors of tall grassland and hedges and planting of shrub and native woodland areas. These measures will improve the habitat along the Lane burn corridor, benefit a broad range of wildlife, as well as enhancing the biodiversity of this part of the site. The restoration works will be completed in consultation with the existing Technical Working Group established for the House of Water site which includes representatives from SEPA, the Nith District Salmon Fishery Board, SNH, RSPB and New Cumnock Angling Club. Following completion of restoration works, the site will be the subject of aftercare and land management for a period of 5 years.

1.11 The Lanehead extension application has been accompanied by an Environmental Statement together with the subsequent submission of Supplementary Environmental Information following initial consultations. The information provided in both documents suggests that, subject to the implementation of a range of mitigation measures as described in the Environmental Statement and Supplementary Environmental Information, the development can take place without significant adverse, long term impacts on the environment or more particularly on local communities. The existing operations at the House of Water site are already subject to appropriate monitoring and management measures to minimise any adverse impacts arising from 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 Section 75 Agreement.

1.12 Although not a statutory requirement for this major application, the applicant has voluntarily undertaken pre-application consultation with the local community with regard to the proposed development. The applicant has undertaken a full programme of engagement involving different sectors of the community in order to elicit views on the development proposals and issues which should be considered in the EIA process. Regard has been had to PAN 81 and to the Scottish Government's Regulations on planning application consultation in respect of engaging with the community. As far as possible the applicant has taken community comments on board in bringing forward this planning application.

## **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 should 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 8.8 of this report.**

## **3. SUMMARY OF ANALYSIS**

3.1 As is indicated in Section 5 of the report, the application is considered to be generally in accordance with the development plan, albeit it represents a minor technical departure from Policy MIN3 of the EAOCSP. 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 not of sufficient weight to justify refusal of the application.

3.2 The proposals represent a lateral extension to the south of the existing operational House of Water opencast coal site and will involve the extraction of additional 1 million tonnes of coal which in environmental terms is considered to present no significant additional adverse impacts to the current operations, and this is essentially borne out by the consultation process. In this case the proposed development has not attracted a significant body of objection to the proposal.

3.3 It is considered that, given the fact that the Lanehead extension site lies some 4.4 km from the nearest community of New Cumnock and that coals will be dispatched from the site via the Kyle Forest overland haul route, this proposal will not result in any 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.

3.4 The existing House of Water operation provides full time employment for approximately 77 staff, operatives and contractors. With the proposed Burnston extension and this present proposal for the Lanehead extension, these jobs will be maintained throughout the additional 6.5 years working life of the site, with a further 40 additional jobs being created. This is considered to be of significant ongoing community benefit.

3.5 All coal from the Lanehead extension area will be transported off site via the approved Kyle Forest haul road to the B7046 and onwards to the Killoch Rail Disposal Point via the A70. The proposed coal transport

arrangements represent a significant environmental improvement to the current approved coal haulage route from the House of Water site, in so far as removing the requirement for any coal carrying HGVs from the site to travel along the B741 through the settlements of Dalleagles, Bank Glen, Connel Park, the Leggate and the Castle in New Cumnock.

3.6 The proposal will result in the demolition of the derelict Sunnyside steading and the currently unoccupied Lanehead Farm building, resulting in the destruction of a bat roost. While a licence to disturb this feature will be required from the Scottish Government, the applicant has provided sufficient information and mitigation to allow SNH to remove its initial objection to the proposal, and confirms that insofar as meeting appropriate tests to allow the granting of such a licence, the proposal would not be detrimental to the maintenance of bat populations at a favourable conservation status in their natural range.

3.7 The proposal also results in the re-use of part of the restored area within the current House of Water site, primarily for overburden storage. This will result in an addition to the existing overburden mound associated with the House of Water site. While this presents acknowledged visual and landscape impacts, they are reversible.

3.8 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 no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved but subject to the following obligations that should be secured through an amended Section 75 Agreement covering the following matters:

#### Section 75 Agreement

- (i) The extension of the remit of the existing House of Water Technical Working Group to embrace the proposed Lanehead Extension with the provision that the group shall meet at least bi-annually.
- (ii) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement and the Supplementary Environmental Information that accompanied the planning application. The applicant shall provide a Mitigation Plan for the site that shall be the subject of an annual audit with a monitoring report provided to the Planning Authority assessing the effectiveness of mitigation measures. This monitoring report shall also be the subject of consultation with the House of Water Technical Working Group. In particular, the mitigation measures outlined in the 2009 bat survey report and the Contract Works Method Statement (appendix 2 of the 2009 bat survey report) shall be strictly adhered to and shall include the implementation of a 100 metre buffer zone around the Lanehead Farm buildings until a licence from the Scottish Government has been

granted for the destruction of the bat roost and surrounding foraging and commuting habitat.

- (iii) The provision and maintenance of an artificial roost, constructed within the loft space in one of the barns at the south-east of the site, to compensate for the loss of the brown long-eared bat roost. This artificial roost shall be installed prior to the demolition of any buildings at Lanehead Farm.
- (iv) The provision and maintenance of three bat boxes installed in suitable positions in the broadleaved woodland located on the neighbouring Knockburnie Farm outwith the proposed development site and prior to the felling of any trees within the Lanehead extension site.
- (v) The provision and maintenance of two artificial barn owl nest boxes to mitigate for the loss of Lanehead farm buildings, prior to the demolition of these buildings.
- (vi) The undertaking of annual bird monitoring of the whole House of Water site, including bird breeding surveys and specialist barn owl surveys as required.
- (vii) The undertaking and establishment of baseline conditions in respect of the water environment and water quality on the site. Appropriate monitoring systems shall be put in place together with appropriate management measures to address any water quality issues arising from operations on site, which shall be the subject of agreement with the Planning Authority in consultation with SEPA.
- (viii) The establishment of noise, dust and vibration monitoring programmes, including locations to be used for monitoring, for the Lanehead Extension site following consultation with the Planning Authority and the Environmental Health Division, such monitoring schemes to be in place prior to the commencement of operations associated with this development;
- (ix) The undertaking of an assessment of the fish population in the burns proposed for diversion with an appropriate fish rescue plan implemented if necessary, to be undertaken prior to diversion of the burns.
- (x) The provision of a Restoration and Aftercare Bond provided and monitored in accordance with the provisions of Policy MIN 36 of the East Ayrshire Opencast Coal Subject Plan 2003.
- (xi) The maintenance of any private water supply or drainage services to private residential properties, which may be affected by the opencast operations, throughout the life of the site, or the provision of alternative supplies or services where appropriate;

- (xii) A contribution to the Minerals Trust Fund at the rate of 27.5 pence per tonne of coal extracted from the development site.
- (xiii) The securing of agreed road maintenance contributions, towards repair works to be carried out on the A70, B7046 and U728 public road haulage route between the Piperhill site access and Killoch DP, with the Roads Authority under section 96 of the Roads (Scotland) Act 1984 incorporated into a Section 75 agreement.
- (xiv) The right to suspend operations on site should there be justifiable and actionable noise complaints shown to be in breach of the stipulated day time noise limits, pending the introduction of additional noise mitigation measures.
- (xv) A Comprehensive Habitat Management Plan shall be prepared for the wider House of Water site to be agreed with the House of Water Technical Working Group. The implementation of this plan will be undertaken by the applicant and guided by an appropriately qualified specialist employed either directly or indirectly by the applicant.

#### **CONTRARY DECISION NOTE**

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to the Full Council as such a decision would not 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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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 under the scheme of delegation because it represents a major application in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 which is not significantly contrary to the Development Plan.

## 2. APPLICATION DETAILS

2.1 **Site Description:** The site is located approximately 4.4 km to the west of New Cumnock and lies immediately south of the existing operational House of Water Opencast Coal Site. The application proposes a physical extension to south of the existing operational House of Water site, which the applicant has termed the Lanehead Extension, and extends to approximately 51.4 hectares of land associated with the Lanehead farm. The application site boundary however extends to some 263.9 hectares as the site comprises 212.5 hectares of the existing House of Water site encompassing existing overburden storage, soils storage, haul roads and existing infrastructure areas.

2.2 The physical extension area slopes to the south from an approximate elevation of 272m AOD along its northern boundary with the House of Water site, to approximately 225m AOD along the Lane Burn which demarcates the southern boundary of the extended site. The greater part of this area of the extension area generally comprises rough grazing land with a small area of coniferous plantation towards the southern and western boundaries, with the current land use being livestock farming.

2.3 The area is drained by the Lane Burn which flows to the east into the River Nith. The extension area is located within a relatively secluded valley, enclosed by Peat Hill (385m AOD) to the south, a coniferous plantation to the west, and the existing House of Water site to the north. To the east the ground rises towards Whitehill. The B741 New Cumnock - Dalmellington road runs almost parallel with the site boundary to the south. The Lanehead

farmhouse is located within the application site boundary. This property is owned by the applicant and is not permanently occupied. The closest occupied residential properties to the physical extension area are two farm dwellings at Knockburnie Farm which lie approximately 500m to the south of the site boundary.

**2.4 Proposed Development:** Planning Permission is sought for an extension of the existing House of Water site for the winning and working of coal by opencast method. The proposed Lanehead extension will be developed as a distinct phase of the existing operational site using the same plant and infrastructure that is in operation at the existing House of Water site. In particular the existing coal treatment area will be used to process coals extracted from the proposed extension.

2.5 This proposal will allow the recovery of approximately 1 million tonnes of coal mainly for the power generation industry. Production will be at a rate of approximately 4000 tonnes per week which equates to an average of 3 loaded coal carrying HGVs per hour leaving the site. The seams of coal (18 in total) present within the Lanehead extension will be extracted to a maximum depth of 100 metres below original ground level. The coals will be worked in a series of phases commencing in the northern part of the site, working in a west to east direction, with subsequent phases proceeding in a similar fashion in a southerly direction, stripping soils and storing them in separate topsoil and subsoil storage mounds, generally within the extension area.

2.6 As extraction commences, overburden will initially be taken to an area adjacent to the existing overburden tip within the existing House of Water site. This necessitates overburden storage on an area that has already been restored as part of the existing House of Water operations. This will involve the re-stripping and storage of top soils and subsoil on the additional overburden storage area. This extended overburden mound will be constructed to a maximum height of 30 metres above original ground levels. The proposal will involve limited blasting operations to fracture overburden. Other infrastructure work will include the formation of a new internal haul road to link the Lanehead extension area to the existing internal haul roads in the House of Water site.

2.7 In terms of timescale, following commencement of operations in the Lanehead extension, extraction of minerals is estimated to take 5 years to complete and this will be followed by approximately 12 to 18 months of backfilling and final site restoration works i.e. a total operational life of 6.5 years. The final timescale will be dependent on a number of factors including the exact rate of production, the coal tonnage recovered and weather experienced during the life of the site.

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Saturday. No operations are to be undertaken on Sundays or Public Holidays with the exception of routine maintenance and emergency works.

2.9 Access to the site is via the existing main access off the Uc20 Dalrickett Road at Whitehill Farm (then by overland haul routes). In terms of dispatch of coal from the site, the applicant has indicated that coals won from the Lanehead extension shall be taken via the consented Kyle Forest overland haul route, via the former Piperhill opencast site towards the Killoch rail disposal point. This would avoid significant HGV movements through both New Cumnock and Ochiltree and would involve only a short haul on public roads which have only a few residential properties located along the route.

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2.11 The proposed Lanehead extension area is planned to commence upon the completion of coaling within the main House of Water site, which is expected to cease in early 2010, and will operate concurrently with the proposed Burnston extension area which is located some 1.5 km to the north of the Lanehead extension area (see Figure 1.1). The proposal will ensure continuity of existing employment in the area, but moreover, will require the employment of an additional 40 site staff. Employment will also be generated / sustained within nearby businesses in the supply of site services and coal transportation. These jobs will be maintained throughout the working life of Lanehead extension. From the experience gained at the current site, approximately 70% of employees reside within a 10 km radius of the site, with remaining employees coming from Muirkirk, Patna, Kirkconnel and Sanquhar.

2.12 Progressive restoration will be integral to the proposed development, with worked areas being backfilled with newly excavated overburden, and re-vegetated as work progresses. Restoration operations and replanting of the site are weather dependent but are expected to take approximately 12-18 months. The applicant has submitted plan information indicating the proposed restoration masterplan for the entire House of Water complex which has been developed to ensure a coordinated restoration approach for the whole site is achieved. The masterplan draws on the approved restoration schemes for both the main House of Water site and the proposed Burnston extension area and incorporates proposals for the Lanehead area which are consistent with the aims and objectives of the existing restoration proposals whilst enhancing the biodiversity potential of the land at Lanehead.

2.13 Notwithstanding these aims, the overall strategy for the restoration of the Lanehead extension area is to reinstate the farm holding at Lanehead through the reinstatement of the original farmhouse and outbuildings, the re-establishment of three large grazing compartments separated by fence lines

and hedgerows in order to reinstate the original landscape character and provide a functional farm unit. The proposed restoration scheme incorporates enhancement of the Lane Burn corridor through fencing, planting, creation of ponds, reinstatement of pasture and/or species-rich grasslands, creation of corridors of tall grassland and hedges and planting of shrub and native woodland areas. These measures will improve the habitat along the Lane burn corridor, benefit a broad range of wildlife, as well as enhancing the biodiversity of this part of the site. The restoration works will be completed in consultation with the existing Technical Working Group established for the House of Water site which includes representatives from SEPA, the Nith District Salmon Fishery Board, SNH, RSPB and New Cumnock Angling Club. Following completion of restoration works, the site will be the subject of aftercare and land management for a period of 5 years.

2.14 The Lanehead extension application has been accompanied by an Environmental Statement together with the subsequent submission of Supplementary Environmental Information following initial consultations. The information provided in both documents suggests that, subject to the implementation of a range of mitigation measures as described in the Environmental Statement and Supplementary Environmental Information, the development can take place without significant adverse, long term impacts on the environment or more particularly on local communities. The existing operations at the House of Water site are already subject to appropriate monitoring and management measures to minimise any adverse impacts arising from 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 Section 75 Agreement.

2.15 Although not a statutory requirement for this major application, the applicant has voluntarily undertaken pre-application consultation with the local community with regard to the proposed development. The applicant has undertaken a full programme of engagement involving different sectors of the community in order to elicit views on the development proposals and issues which should be considered in the EIA process. Regard has been had to PAN 81 and to the Scottish Government's Regulations on planning application consultation in respect of engaging with the community. As far as possible the applicant has taken community comments on board in bringing forward this planning application.

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

3.1 Consultations have been carried out both in respect of the Environmental Statement and the Supplementary Environmental Information. Where appropriate, the final letters of consultation from some consultees are summarised below, with initial responses available as background papers.

3.2 East Ayrshire Council Roads and Transportation Division indicates that there are no objections to the proposed development. The Roads and

Transportation Division supports the proposal to transport coal to the Killoch railhead via the consented Kyle Forest overland haul road. The applicant will require to agree road maintenance contributions, towards repair works to be carried out on the A70, B7046 and U728 public road haulage route between the Piperhill site access and Killoch DP, with the Roads Authority under Section 96 of the Roads (Scotland) Act 1984 and in line with the original section 75 agreement for Kyle Forest overland route. The simplest method to attribute maintenance costs is by a contribution under section 96 of the Roads (Scotland) Act 1984 incorporated into a Section 75 agreement. The applicant's contribution on this route is expected to be between £0.05p and £0.10p pence per tonne of coal or other minerals extracted by road haulage and will vary depending on the repairs required per annum, determined by the Roads Authority, to maintain the route in a safe and serviceable condition. This level of contribution reflects the commitment of the applicant to utilise the overland route coupled to the need to maintain the proposed coal haulage route.

***The requirements of the Roads and Transportation Division can be secured through an obligation within an amendment to the existing Section 75 Agreement associated with the House of Water site.***

3.3 The Forestry Authority states that it is broadly content with the measures outlined in the Environmental Statement in respect of matters pertaining to forestry and notes that the proposed restoration works for the extension area would appear to result in no net loss of woodland and that the replacement woodland proposed appears to be appropriate for the site in question.

***Noted.***

3.4 The Scottish Environment Protection Agency considers that outstanding issues at this site, including the details of the proposed mitigation measures, could be addressed through planning conditions. These issues are important and require further consideration prior to the commencement of any works at this site. The recommendations in the ES and in this letter should be taken into consideration during the detailed design stage. Therefore, SEPA does not have any objection in principle to this proposal provided that any planning permission granted at this site includes suitable conditions to address these issues. The main issues focus on hydrogeology and hydrology; surface water management; and ecology and river engineering.

***Noted.***

In this regard, SEPA provides the following detailed comments.

SEPA recommends that any planning permission granted at this site should also be subject to a suitable condition requiring implementation of the proposed Environmental Commitments.

## Hydrogeology and Hydrology

Our comments on hydrogeology and hydrology are based on section 9 of the ES. In particular, section 9.4 of the ES highlights the potential impacts of the proposed activities at this site on the groundwater regime, i.e. alteration of the groundwater recharge regime, acid mine drainage and contamination of groundwater from backfill material. It also identifies the following potential hydrological impacts: degradation in the quality of surface watercourses; discharge of contaminated site drainage; alteration to surface drainage patterns/flow regimes; impacts on water quality, habitats, etc due to temporary watercourse diversions; contamination of watercourses due to fuels, oils, etc; and contamination of surface watercourses by acid mine drainage. Section 9.5 of the ES proposes mitigation measures in order to address these issues. We also note that surface and ground water sampling will be carried out in order to establish the baseline conditions against which future sampling results could be compared.

The details of the proposed mitigation measures have not been provided at this stage. It is important to ensure that appropriate mitigation measures are in place to ensure that pollution of the water environment does not occur from the potential impacts highlighted in the ES and that only suitable material is used for backfilling. Mitigation measures should also be in place in order to prevent pollution from onsite activities such as from the use of potential contaminants such as fuels/oils used by onsite machinery.

The ES also states that groundwater dewatering will be required at this site. Details of how dewatering will be managed and the amount of groundwater proposed to be abstracted should be provided. The ES highlights that there are two wells close to the site relating to former collieries and two springs used for private water supply. The applicant should provide an assessment of the likely impacts of the proposed dewatering activity on all sensitive receptors in the area, including any private water supplies, nearby wetlands and surface water bodies.

SEPA recommends that any planning permission granted at this site should include suitable conditions to ensure that the recommendations and proposed mitigation measures in the ES are followed / implemented and taken into consideration at the detailed design stage for this proposal. In particular, we would require the applicant to submit:

- details of proposed mitigation measures to address the risks to the water environment and the likely impacts associated with acid mine drainage, contamination from backfilling, alterations to the groundwater recharge regime and impacts on groundwater quality;
- proposals for surface and ground water sampling to establish the baseline conditions and proposals for subsequent sampling/monitoring during site preparation and operation;

- details of the proposed dewatering and abstraction activities at this site, including the amount and quality of water to be abstracted, and an assessment of the likely impacts of these activities on sensitive receptors in the area and detailed proposals for mitigation;
- suitable drawings showing that the top soil, boulder clay and overburden storage mounds and peat storage areas (if any) will be located away from sensitive receptors (e.g. watercourses) and that suitable measures will be adopted in order to prevent risks to the water environment; and
- proposals for pollution prevention in respect of both surface and ground waters, taking also into consideration the advice in SEPA's Pollution Prevention Guide Notes as required.

Proposals addressing the above issues should be acceptable to the Planning Authority and SEPA.

### Surface Water Management

SEPA welcomes the recommendation in the ES for preparation of a water management scheme for this site. We also note the outline proposals for collection, treatment and disposal of surface water. At this stage, we would note that discharges to the water environment (ground and/or surface waters) will require authorisation from SEPA under CAR. Discharge of contaminated water may require a CAR licence. The applicant is advised to discuss these matters directly with SEPA's Ayrshire Regulatory Team.

The ES states that excavated top soil, boulder clay and overburden will be stored in engineered mounds within the existing site with the run-off from these being treated in the existing House of Water surface coal mine through the existing lagoon system. The ES also states that the proposed Lanehead extension would be excavated following the cessation of coaling operations at the existing House of Water site. SEPA would require confirmation that the lagoons can accommodate the additional run-off.

SEPA recommends that any planning permission granted at this site should include a suitable condition requiring the applicant to submit details of proposals for a water management system for this site including detailed Method Statements for the approval of the Planning Authority in consultation with SEPA. The proposed discharge of surface water to the water environment should be in accordance with the approved water management system and Method Statements which should ensure compliance with the terms of CAR.

Contaminated site drainage should be collected, contained and treated to ensure that adjacent surface waters and groundwater are not polluted. As part of the water management system at this site, the applicant should identify the location of the discharge point/s for the treatment lagoons. The applicant should also demonstrate that the existing lagoon is suitable and has sufficient

capacity to receive and treat the additional runoff from this site. The detailed proposals for surface water management should be discussed directly with SEPA's Ayrshire Regulatory Team.

### Ecology and River Engineering

The boundaries of the proposed excavation would appear to be extremely close to the Lane Burn. The ES states that a 5 metres buffer zone will be maintained from this watercourse. SEPA would highlight that the upper Nith catchment has been subject to various river diversions and watercourse disturbance. The Lane Burn is therefore a valuable, good biological status feeder stream, despite its relatively small size, and should be protected from any direct disturbance. Environmental impacts on watercourses are a material planning consideration. Moreover, any proposed works which are likely to impact on watercourses and/or their riparian areas may also require authorisation from SEPA under CAR in accordance with the requirements of the Water Framework Directive.

Prior to the commencement of any works at this site, the operator should submit a detailed risk assessment of the hydrological impacts of working in close proximity to the Lane Burn and its riparian areas. The assessment should examine the potential impacts of the proposed works on the watercourse corridor as a whole, including its riparian areas, into more detail. This should also include a macro-invertebrate survey of the Lane Burn which will also be required at the CAR authorisation stage prior to installation of the surface water treatment system/s. SEPA also recommends that the buffer zone between the proposed works and the Lane Burn should be increased. We suggest that a 10 metre buffer zone from this watercourse is maintained; this will ensure that both the watercourse and its riparian habitat are protected from the proposed works. This would be in line with the ES recommendation to minimise the environmental impacts of the proposal on the watercourse.

Moreover, a number of relatively minor watercourses will be lost to excavation. SEPA recommends that these affected watercourses should be restored after the mining operations cease. Therefore, it is important that the catchment area of each tributary should be accurately calculated and reinstated to such figures at the restoration stage. CAR does not normally apply to watercourses which are not shown on the 1:50,000 scale Ordnance Survey maps. However, given that the affected watercourses will be temporarily blocked off, a simple CAR licence application(s) may still be required irrespective of their size.

The above issues should be discussed directly with SEPA's Ayrshire Regulatory Team.

At this stage, SEPA recommends that any planning permission granted at this site should include suitable condition/s requiring the applicant to submit:

- a detailed risk assessment of the likely impacts of the proposed works on the Lane Burn corridor as a whole and details of suitable

mitigation measures to address these impacts. This should also take into consideration the extension of the proposed buffer zone between the proposed works and the watercourse.

- an assessment of the affected catchment area/s of all affected watercourses, including accurate calculations of each tributary, and detailed restoration plans for their reinstatement to their current or improved status. Detailed Method Statements for the implementation of the proposed works, including restoration, should also be submitted.

These assessments and proposals should be submitted prior to the commencement of any works at this site and these should be acceptable to the Planning Authority and SEPA.

#### The Water Environment (Oil Storage) (Scotland) Regulations 2006

The Water Environment (Oil Storage) (Scotland) Regulations 2006 were implemented on 1 April 2006. The storage of oil is considered a Controlled Activity which will be deemed to be authorised if it complies with the Regulations. If fuel oil or other substances are to be stored on site, it will be necessary to provide bunding or containment to retain spillage or leakage. The standard requirement is the provision of containment capacity for 110% of the volume stored. SEPA would strongly discourage the storage and use of loose drums of fuel on site.

#### Local Air Quality

The proposal for the extension of the OCCS would highlight a number of significant sources of particulate matter including fugitive dust from the materials handling, site operations and from transport sources and unpaved haul roads. There would appear to be numerous relevant exposure sources within 1km of the site and in particular to the north east of the site boundary and prevailing winds. Considering the close proximity of receptors, the Local Authority should consider requesting the developer to conduct ambient background air monitoring at these receptors prior to the commencement of any operations in order to assess the likely impacts on air quality. Furthermore, these locations should be monitored for PM10 using a particulate monitor which is compliant with Local Air Quality Management Technical Guidance TG(03) rather than dust gauges which are more synonymous with dust nuisance monitoring.

#### Pollution Prevention and Control (PPC)

The site currently holds an authorisation (reference number APC/W/000357) under the auspices of the Environmental Protection Act 1990 (as amended). This authorisation is near completion of the deeming process which will result in a permit being issued under the Pollution Prevention and Control (Scotland) Regulations 2000 (as amended). The existing site boundary would require alteration to reflect the proposed extension; SEPA should be consulted regarding the permit variation required for this change. Examples of

best practice are referred to within the environmental commitments section; if these mitigation measures are followed, dust emissions from coal should be minimised.

### Environmental Noise (Scotland) Regulations 2006

This legislation may be applicable to the operations proposed at this site (drilling /blasting) and further discussion on the scope of the site activities may be required with SEPA and other statutory bodies in order to ensure compliance with these Regulations.

### Waste Management

The re-use of soils, peat and overburden on site or its removal off site will require adherence to the Waste Management Licensing Regulations and SEPA's Ayrshire Regulatory Team office should be consulted in this respect.

### Pollution Prevention and Site Management

Works at this site should follow mitigation and management plans with full site specific Method Statements. SEPA's Pollution Prevention Guidance Notes (available on SEPA's website at [www.sepa.org.uk/guidance](http://www.sepa.org.uk/guidance)) should be incorporated into the Method Statements prepared for these works. Method statements should be produced for all aspects of site work, including storage of material on-site, that might impact upon the water environment, e.g. watercourses, containing further preventative action and mitigation to limit impacts. It is essential that SEPA is provided with the opportunity to view these method statements in draft form prior to any works commencing at the site their being finalised should development take place.

In particular, SEPA would expect all necessary mitigation measures to be identified and assessed to ensure that the pollutants typically associated with this type of activity do not enter the water environment. SEPA would encourage the use of a closed cycle system for site water needs. SEPA would also expect details of all operations involving water usage, e.g. wheel washing, coal preparation, etc. to be specified. Proposed temporary and long-term welfare arrangements for workers on site should be in accordance with SEPA's guidance note PPG4 "Disposal of sewage where no mains drainage is available". Discharge of foul effluent to the water environment will require SEPA's prior authorisation under CAR.

These issues should be discussed directly with SEPA's Ayrshire Regulatory Team.

***Conditions can be attached to any consent granted for the proposed development or by means of obligations secured through a Section 75 Agreement to meet the requirements of SEPA as indicated in the above response.***

With regard to the comments of SEPA regarding the potential for groundwater contamination from backfilling operations, the applicant has submitted a Backfill Risk Assessment for further consideration by SEPA. In this regard SEPA has undertaken a technical review of the Backfill Risk Assessment and, in summary, states that its previous recommendation to address the risks to the water environment and the likely impacts associated with backfilling through a suitable planning condition still stands, since SEPA considers that further work is required on this issue.

***Noted.***

3.5 The Health and Safety Executive has no comments to make on the planning proposals or Environmental Statement.

***Noted.***

3.6 Scottish Natural Heritage in its response to the Environmental Statement (ES) dated 12th May 2009 made a precautionary objection to the proposed development above and requested additional bat survey information. The applicant has now submitted an additional bat survey report (Supplementary Environmental Information) and SNH makes the following comments.

The 2009 bat survey found evidence of a brown long-eared bat roost within the farm house of Lanehead Farm. Two brown long-eared bats were also observed emerging from part of the collapsed roof in the courtyard of Lanehead Farm. Activity surveys found evidence of foraging and commuting, especially along the Lane Burn. The survey report notes that the site contains a small number of mature broadleaved trees which may provide potential roosting habitat for bats. It is the opinion of SNH that the proposed development even with the inclusion of the proposed mitigation is likely to result in one or more actions which are contrary to the species protection elements of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) and therefore cannot proceed unless a licence is obtained from Scottish Government. SNH therefore advise that an application for a licence be obtained in this case.

***Noted.***

The bat survey report provides sufficient information for SNH to determine that, with appropriate mitigation, the proposed development would not be detrimental to the maintenance of the population of the species concerned at a Favourable Conservation Status in their natural range and, therefore, satisfies the third test as described in the document "European Protected Species, Development Sites and the Planning System: Interim Guidance for Local Authorities on Licensing Arrangements, (October 2001)".

***Noted.***

SNH maintains its objection unless the following conditions are addressed in the planning consent:

(1) Mitigation measures outlined in the 2009 bat survey report and the Contract Works Method Statement (appendix 2 of the 2009 bat survey report) are adhered to. These should include the implementation of a 100 metre buffer zone around the Lanehead Farm buildings until a licence from the Scottish Government has been granted for the destruction of the bat roost and surrounding foraging and commuting habitat.

(2) An artificial roost should be constructed within the loft space in one of the barns at the south-east of the site to compensate for the loss of the brown long-eared bat roost. This artificial roost should be constructed prior to the demolition of any buildings at Lanehead Farm.

(3) Prior to any mature trees being felled, three bat boxes should be installed in suitable positions in the broadleaved woodland located on the neighbouring Knockburnie Farm and outwith the proposed development site.

(4) No tree felling, vegetation clearance, soil stripping or building demolition should take place during the bird breeding season (March to July inclusive) unless with the approval of the planning authority.

(5) Prior to the demolition of any buildings, vegetation clearance, soil stripping or tree felling surveys for otters, bats and badgers should be carried out by a suitably qualified surveyor.

(6) Mitigation and restoration proposals, including the five year aftercare period, as outlined in the Environmental Statement should be adhered to and enforced using planning conditions.

(7) A habitat restoration bond should be secured covering the 5 year aftercare period.

(8) A suitably qualified ecological clerk of works should be employed for the entire duration of the proposed development and 5 year aftercare period.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of SNH.***

If the above conditions numbered 1 to 3 are not addressed in the planning conditions then SNH would consider that the third test mentioned above has not been satisfied.

***Noted.***

3.7 Scottish Power Energy Networks and Scotland Gas Networks have no objections to the proposed development

***Noted.***

3.8 The Scottish Wildlife Trust has no objections to the proposed development. The controls, objective and guidelines described in the application appear to be appropriate to the site and development.

***Noted.***

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

***Noted.***

3.10 The Royal Society for the Protection of Birds (Scotland) does not believe that the proposed development will have a significant impact on bird populations of conservation importance although it will result in a significant increase in the area of the House of Water opencast mine. RSPB Scotland therefore does not object to this development, subject to certain mitigation measures being secured using appropriate conditions or by legal agreement as follows:

- (1) Finalisation of a restoration plan and Conservation Management Plan (CMP) for the whole of the House of Water site, in consultation with the House of Water Technical Working Group (TWG).
- (2) Bi-annual meetings of the TWG, following an initial meeting to develop the CMP.
- (3) Annual bird monitoring of the whole House of Water site, including bird breeding surveys and specialist barn owl surveys as required.
- (4) Completion of soil strip and vegetation clearance outwith the bird breeding season (March – July inclusive).
- (5) Removal of buildings used by barn owls and swallows outwith the bird breeding season (March – July inclusive).
- (6) Installation of two artificial barn owl nest boxes to mitigate for the loss of Lanehead farm buildings.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of RSPB.***

RSPB also notes that a significant area of the restored ground within the House of Water site would be used for overburden storage during the working of the Lanehead Extension. From its knowledge of the site RSPB Scotland

believes this to be an area of relatively early restoration which has not been as successful as areas restored more recently. This present development should therefore provide an opportunity to improve the quality of the restored habitat.

***Noted.***

3.11 Scottish Water has no objections to the proposed development.

***Noted.***

3.12 The West of Scotland Archaeology Service indicates that there appears to be no impediment to the development proceeding in this area as there are no recorded sites of proven significance affected by the proposals. Also, as the ground is semi-improved, there is less of a chance of the development encountering remains so well preserved that refusal of the whole application would be warranted. Thus the application could be dealt with by conditions on consent requiring archaeological mitigation. WOSAS states that in order to achieve the relevant archaeological investigations, it advises that a condition relating to the archaeological issue should be placed on any consent granted for these or future proposals. This condition, which is based on PAN 42 but is worded to reflect current circumstances and in light of experience elsewhere, is as follows:

*'No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.'*

WOSAS further states that the applicant will need to retain the services of a professional archaeologist to carry out the required works. Any significant discoveries made will require to be excavated before their destruction through a staged series of further works including any post excavation analyses and publication, as required.

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

3.13 The Coal Authority has no objection to the proposal but draws attention to the following comments:

1. The Coal Authority will process any subsequent application for an operating licence under Part II of the Coal Industry Act 1994 in accordance with its statutory duties.

2. As owner of the coal the Authority encourages and supports the working of coal in environmentally and socially acceptable ways to meet the market requirements. This forms part of the Government's policy framework for a diverse and secure energy supply and incorporates the principles of sustainable development. This framework was incorporated into SPP16 which sets out the national planning policy framework for the working of opencast coal. SPP16 sets the most challenging standards for surface coal mining in Scotland and the Coal Authority believes that the coal industry can successfully operate within these principles provided they are applied equitably by all mineral planning authorities.
3. It is essential that the planning process takes account of the occurrence of minerals which can only be worked where they occur. The role of surface mining is critical to the continued supply of good quality coal for the market in the UK and it should be recognised that coal currently provides the basis for up to half of the electricity generated in the UK.
4. The Coal Authority believes that the coal supply in the UK should contain a significant proportion of indigenous production. The electricity generators have made similar statements in their submissions to the Energy Review. Coal supplied from the UK offers security against the volatility of international coal prices, freight rates, exchange rates and a reliance on port capacity. It should, therefore, be recognised that the importation of coal from many thousands of miles away has its own environmental footprint by way of increased transport related carbon and sulphur emissions.
5. The ability of the industry to continue its significant contribution to the energy supply in the UK is dependent equally on success in an extremely competitive energy market place and success through a rigorous planning regime. With site life varying typically between one and five years it is essential to bring environmentally acceptable new sites on stream to replace exhausted sites on a regular basis. There is no shortage of coal in the ground, the ground rules have been laid out in MPG3 and the Coal Authority believe that the industry can find sites that meet the strict criteria provided that the planning system is conducted fairly and professionally.
6. SPP16 recognises that it is essential that any unnecessary sterilisation of coal reserves through permanent development should be avoided and in principle it is desirable to secure extraction prior to permanent development above coal reserves. The active recognition of this will allow the sustainable development of an important national resource in accordance with Government policy. The working of coal prior to such developments should be encouraged.
7. Surface mining frequently assists in the removal of surface dereliction but the Coal Authority believes that the local benefits of mining go well beyond the removal of this dereliction. Whilst the advantages of removing dereliction on the surface may be obvious, the benefits of treatment of surface and sub-surface contamination and instability may

not be so well recognised or understood. In this proposal the removal of shallow old mine workings, shafts and adits with subsequent restoration may also provide a stable platform for future surface developments. Rather than divert investment away from an area, surface mining of coal has often created inward investment particularly with improved transport infrastructure. Other local benefits include reduced hazard from mine gases and spontaneous combustion, improved water quality from treating minewater discharges and the recovery of minerals other than coal which helps to support the fireclay, building and brick clay industries.

8. With regard to minewater, any site investigations and/or excavations on the site may have the potential to interfere with minewater pathways in the area. The applicant should be made aware of this and consult with the Coal Authority's Environment Department at the earliest opportunity to discuss these issues.
9. The applicant should be reminded that any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated. Further Information can be obtained from the Services section of the Coal Authority web site.

***Noted.***

3.14 East Ayrshire Council Environmental Health Division has no objections in principle to the proposed development but has the following comments to offer:

- (i) Any waste arising from the works during construction should be disposed of to the satisfaction of the Waste Management Authority, and otherwise by burning.
- (ii) Given the nature of the proposed works and the predictions for noise impact contained within the Environmental Statement, it is recommended that a condition be imposed requiring routine noise monitoring at the five identified sensitive receptors whilst the works are ongoing and further, that the applicants should be required to cease operations at the request of the local authority in the events of complaints being received and verified, and the operations remain halted until remedial works to reduce exposure can be implemented.
- (iii) All drainage should be completed to the satisfaction of SEPA and / or Scottish Water.

***Noted. Where appropriate conditions can be attached to any consent granted for the proposed development to meet the requirements of the Environmental Health Division.***

3.15 Historic Scotland broadly concurs with the conclusions reached in the Environmental Statement, that there will be no significant impacts on any historic environment assets of national importance and has no further comments to offer on the proposal.

***Noted.***

3.16 The Scottish Government (Climate Change and Water Industry Directorate) 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.***

3.17 The Nith District Salmon Fishery Board states that it is satisfied that the Lanehead extension area proposals do not present a threat to the fish communities present in its vicinity. The Board has conducted fishery surveys in all watercourses in the vicinity of Lanehead and has established baseline data. NDSFB currently monitor fish stocks in the vicinity of House of Water OCCS annually and the applicant has requested that the Lanehead watercourses are included from 2009 onward. This commitment to annual monitoring, which enables the Board to demonstrate that it is fulfilling statutory duty of care for salmon and sea trout, gives reassurance. The Board also considers that opportunities exist within these proposals to improve the riparian corridor adjacent to the Lane Burn and thus improve the habitat which will benefit all species of fish. The applicant has demonstrated the commitment to protecting fish habitats in the existing House of Water site. NDSFB has no objection to this proposal and will continue to work with the applicant to protect fish in the vicinity of the site.

***Noted.***

3.18 Transport Scotland (TRNMD) states that the proposed development represents an intensification of the use of this site; however the percentage increase in traffic on the trunk road is such that the proposed development is likely to cause minimal environmental impact on the trunk road network. On that basis, TRNMD has no comments to make.

***Noted.***

3.19 East Ayrshire Economic Development Section states that the coaling operations will ensure continued employment for personnel at the House of Water site and this continuity of employment is to be welcomed. Further, as the Council is working to develop and promote tourism in the southern area, the commitment to enhance wildlife and ecology conservation interests within the restoration programme, is also to be welcomed.

**Noted.**

3.20 The Ayrshire Joint Planning Unit raises no strategic objection to the proposed development.

**Noted.**

#### **4. REPRESENTATIONS**

4.1 Two letters of objection have been received objecting to the proposed development. The main points of objection are summarised as follows:

4.2 What impact will this development have on any villages affected by this proposal?

***For the reasons set out in Section 5 below, it is not considered that the proposed development will result in any significant adverse impacts on any local community.***

4.3 What impact will the transport of material from the site have on the roads infrastructure?

***As indicated in Section 3.2 above, the Roads and Transportation Division has no objections to the proposed development subject to appropriate measures for the recovery of extraordinary road maintenance costs associated with the haulage of coal on public roads. Minerals extracted from the Lanehead Extension will be taken by the Kyle Forest overland haul route to Killoch Railhead, with only the section of public road from the former Piperhill OCCS to Killoch being used for transportation. This avoids the need for coal laden HGVs travelling through any community.***

4.4 This will impact on our scenic landscape which thousands of tourists come to enjoy which is extremely relevant due to the fact that many of our small rural community villages are trying to regenerate through tourism. Is it true that no new employment would be generated?

***The Lanehead Extension site does not fall within any national or local scenic or sensitive landscape character areas and it is not considered that the proposed development will have any significant impact on the tourist economy. However, as the proposed development will result in the creation of 40 new jobs, it is considered that significant benefits will accrue to the local economy in socio-economic terms.***

4.5 How will the Council ensure that rare areas of land, rare plants and animals, historic settlement remains or Covenanted areas will be protected?

Would any areas of scientific and historic significance be protected and catalogued or destroyed willy-nilly?

***There are no features of significant nature conservation, built heritage or historic interest within the development site as described in the Environmental Statement that accompanies the planning application. As indicated in the consultation response from SNH, the potential impact on bats can be mitigated to the extent that the proposed development would not adversely impact on their conservation status.***

4.6 The proposal involves putting overburden from this extension on to what the applicant describes as restored grassland. This makes a mockery of the applicant's notion of just borrowing parts of East Ayrshire for opencasting and then restoring them to a better condition than existed before development.

***The objector is correct in that the Lanehead extension proposal involves the use of a restored part of the existing House of Water site for the storage of additional overburden. While this is "borrowing" the land yet again, this in itself is considered to be an opportunity to improve on the previous restoration works which, as indicated by RSPB Scotland, is an area of relatively early restoration which has not been as successful as areas restored more recently. This present development should therefore provide an opportunity to improve the quality of the restored habitat.***

4.7 Until the current site is properly restored to a satisfactory standard, the developers should not be allowed further development. The aerial photograph dated February 2009 submitted within the EIA shows very little restoration. The developer's plan supposedly showing restored areas is somewhat optimistic, possibly untruthful. This disparity needs to be checked by EAC and the Technical Working Party.

***The aerial photograph of the House of Water site used in Figure 1.2 of the ES is for illustrative purposes only to show the boundaries of various phases of development forming the House of Water mining complex. This aerial photograph was taken during 2004 which significantly predates Figure 1.4 which reflects the correct operational status of the site and extent of site restoration as of 18 February 2009, just prior to the submission of the current planning application. There have been no concerns expressed by SNH, RSPB Scotland, SEPA or the Nith District Salmon Fishery Board regarding the progress of restoration on the House of Water site or the accuracy of the information on restoration contained within the Environmental Statement, these being members of the Technical Working Group for the site.***

4.8 Elected members and the public should be informed as to whether the amount of restoration claimed to have been carried out is at the rate approved and of the required standard. Of particular interest is the large overburden mound so clearly visible from the B741. This surely should have been removed by now, within the ground restored in Phase 1 of this long running development.

***The rate of progressive restoration within the House of Water complex does not give rise to any particular concerns at this time. In terms of the quality of restoration, particularly in relation to the re-diversion of the River Nith, this has been overseen by the House of Water Technical Working Group, with invaluable input from all of the interested parties involved in this process. Again, as part of the formal consultation process on this present application, these parties have been consulted and have raised no particular concerns about the quality of recent restoration works. While RSPB Scotland has indicated that some of the early restoration work has not been as successful as more recent work, it has not made adverse comments about the quality of earlier works.***

4.9 The developer claims that the site is within a Preferred Opencast Area. Examination of the approved EAC Opencast Coal Subject Plan shows that this is not so, as only approximately half the extension is within this designation.

***In the Planning Statement that accompanies this application, the applicant states that “the Lanehead extension area is a lateral extension to the House of Water site which lies substantially within a Potential Coal Extraction Area”.***

***As indicated in Section 5 below, having assessed the Lanehead Extension site against the criteria for identification of the Potential Coal Extraction areas in the Opencast Coal Subject Plan, the part of the Lanehead extension that does not fall within a PCEA has been excluded solely on the basis that information provided by the British Geological Survey did not indicate the presence of recoverable coal reserves within this part of the extension site. It has not been excluded for landscape, environmental, nature conservation or built heritage reasons.***

4.10 Opencast operations at House of Water commenced in 1995 and should have been completed (i.e. finished and restored) by 2007. Burnston has planning consent and so only that operation should go ahead. The developer states that they might operate Burnston and Lanehead together finishing in 2016; but given the start stop development at House of Water, this is only an aspiration. This statement is only made by the applicant to reduce the time of unacceptable local impact, which even the developer knows has gone on far too long.

***Operations in House of Water site commenced in 1996. Given the planning history as indicated in section 6 of the report, the site has the benefit of a number of subsequent planning approvals that mean that the current consented life of the site potentially extends to 2016, albeit that due to a legal dispute, the planning consent for the Burnston extension has not yet been issued as the required Section 75 Agreement for the development has not yet been concluded. Concurrent working of both the Burnston and Lanehead extensions, if consented, would add a further 6 months to the overall life of the House of Water site i.e. completion of all operations and site restoration by the end of 2016.***

4.11 According to SPP16 (s43), “proposals are likely to cause difficulty and may be unacceptable where they involve a substantial area for extraction over an extended extraction period i.e. more than 10 years” and “are in an area already subject to nearby opencasting where the cumulative impact may be unacceptable”. Twenty one years is unacceptable. The cumulative impact with Greenburn OCCS, Rigghead OCCS (not properly restored / completed) Chalmerston OCCS, Skares OCCS (not completed) and Piperhill (still not properly restored so considered operational – this is clearly also unacceptable.

***Section 43 of SPP16 relates to minimising traffic impacts by the use of dedicated off-road haul routes. The objector is quoting from NPP16 – Opencast Coal and Related Minerals issued on 31 March 1999 but was this superseded by the issue of SPP16 – Opencast Coal issued in July 2005. It is suggested that the objector is referring to the sections of SPP16 relating to the safeguarding of communities (sections 36-39). Section 36 states that proposals are unlikely to be acceptable where they:***

- are likely to result in a period of disturbance to communities that, including extensions, involves extraction for a period of more than 10 years; or***
- are in an area already subject to other nearby developments that also have negative environmental impacts, e.g. other mineral extraction operations, landfill sites etc, and the simultaneous or sequential working will result in a cumulative and unacceptable impact on a local community;***

***The operations at House of Water are located a considerable distance from the nearest community of New Cumnock, which lies some 4.4 km away. The site operations are well managed and disturbance to groups or individual dwellinghouses has been minimised throughout operations and this is reflected in the very few number of complaints received by the Planning Authority or***

***the site itself in relation to its operations. Upon the cessation of coaling within the main House of Water site, all coal will be transported off site via the approved Kyle Forest haul road removing the requirement for any coal haulage vehicles to travel through the settlements along the B741. Whilst the operations at the House of Water complex have been ongoing for a period in excess of 10 years, the Lanehead extension operations do not give rise to significant environmental effects and will secure an environmental improvement in removing all coal traffic from passing through the closest community of New Cumnock. The closest community of New Cumnock will not be significantly affected by the Lanehead extension proposal.***

***Potential cumulative impacts have been thoroughly considered in chapter 12 of the ES. Whilst there are other developments within 5km of the Lanehead extension area, the working of this site at the same time as others will not have significant cumulative impacts on local communities. It is of particular note that there are no letters of representations from the local community of New Cumnock, particularly as the application has been the subject of community engagement and associated publicity.***

4.12 It is noted that in the 'alternatives' section, that the cliché "coal can only be extracted where it is located" is brought out again. The essential point is that the applicant has 4 operating sites in East Ayrshire. The applicant has other operational sites in Scotland to ensure a continuation of indigenous coal supplies (if that is national policy?).

***It is unclear what point the objector is trying to make on this issue but there is nothing within the planning system that restricts any particular developer from having a range of developments or interests within East Ayrshire or Scotland for that matter. It is also interesting to note that the cliché referred to is also contained within SPP16 (Scottish government policy) which states "in the context of opencast working, policies must also recognise that coal is a finite resource that can only be worked where it is found."***

4.13 The restoration plan submitted with this application is little different from the last one produced 2 years ago. It highlights the fact that many farmhouses and buildings have disappeared from the landscape – 10 in this locality. Recreation of four of these is of little use if the restored ground is not up to acceptable agricultural quality.

***It is not surprising that the restoration plan has changed little in the last two years as the restoration concept has generally been agreed in conjunction with the House of Water Technical Working Group over a period of time. The restoration masterplan provided in the current application draws on the approved restoration***

**schemes for both the main House of Water site and the Burnston extension area and incorporates proposals for the Lanehead area. These are consistent with the aims and objectives of the existing restoration proposals whilst enhancing the biodiversity potential of the land at Lanehead. While the objector makes inference of the unacceptability of the quality of site restoration, there is no suggestion within the ES or the consultation responses that this quality is not currently being, or will not be achieved.**

4.14 The southern extension of House of Water to include Lanehead and Sunnyside will be even more conspicuous than the ugly overburden mound lying west of Whitehill. There are no trees intervening between the application site and the B741 road.

**The ES recognises and acknowledges that the proposal will inevitably alter the local landscape in the short term albeit in a phased way. However, the careful siting and design of the overburden storage areas within the existing House of Water site will ensure that the temporary visual impact of the overburden storage areas will be minimised from nearby sensitive receptors. The restoration scheme provides for the return of the land to a landform and after use similar to that which exists with reinstatement of Lanehead farm and the existing field pattern, including the enhancement of the Lane Burn corridor.**

4.15 There is reference to an otter / water vole survey in the ES but we can find no details, yet the Lane Burn is clearly a suitable habitat for both. We recall the care that was supposed to be taken with otter habitats on the River Nith after its first approved diversion; related planning conditions not being implemented at the right time if at all. Because of the huge area of disturbance at this opencast site, much wildlife will have already been driven to its margins. Now these margins are under threat which is unacceptable.

**The ES and the planning application have been the subject of statutory and non-statutory consultations, in particular with SNH, RSPB, SEPA, the Scottish Wildlife Trust and the Nith District Salmon Fishery Board. With the exception of the disturbance of bats, there has been no significant issue raised by these consultees in respect of impact on flora and fauna, subject to, where appropriate, the imposition of planning conditions or by means of obligations within a Section 75 Agreement. With regard to the disturbance of bats, the applicant has provided supplementary environmental information and again, subject to the delivery of required mitigation and appropriate planning conditions, SNH concludes that the proposed development would not be detrimental to the maintenance of the population of the species concerned at a Favourable Conservation Status in their natural range. In this case it will be necessary however, for the**

***applicant to obtain an appropriate licence to disturb the roost which is located within the buildings at Lanehead Farm.***

4.16 The ecological survey appears to have been carried out on 2 days in early September 2008 which hardly seems the best time at the end of the growing season. The breeding bird survey for which we have seen no survey data, just a plan, shows that Lanehead contains breeding areas for Reed Bunting, Song Thrush and Lesser Redpoll; birds which are becoming all too rare in this area. Given the rough grass, marshy habitat, stream margins and adjacent woodland, we would have expected some sighting of heron, barn owls etc. and amphibians and insects too. We note that brown hare were observed both on the north-east part of the site and on the southern boundary. These are protected and highlighted species in the Ayrshire Biodiversity Plan. These too will have nowhere to go and may well head towards the B741.

***The ecological section of the submitted ES is a summary of the various specialist surveys carried out in assessing the potential impacts on flora and fauna and the comments by the objector stating that this work appears to have been carried out on two days in early September is quite disingenuous to the actual work undertaken by consultants acting on behalf of the applicant. The ecology section of ES contains no less than 8 technical appendices which set out the assessments undertaken, the methodologies used and the results of the survey works. While some of this information has been treated as being confidential in the interests of preventing potential persecution of species, the greater part of this information is within the public domain.***

***Notwithstanding this, the ES has been the subject of wide consultation, particularly with those parties having specific interest in nature conservation. With the imposition of appropriate conditions in any consent granted or by means of obligations within a Section 75 Agreement, none of these parties have formally objected to the proposed development on the basis of significant adverse impacts on flora or fauna. This is presumably due to the fact that all of the information within the ES and Supplementary Environmental Information has been appropriately considered and assessed.***

4.17 East Ayrshire Council is on record that it has informed the Scottish Government that "it has done its fair share of supplying energy for national use" through deep mining, opencasting and renewable energy production.

***The comments were made in response to a consultation from the Scottish Government in relation to a large scale wind farm development. However it was also made in the context that the wider area in which the wind farm was to be sited had already been identified as Potential Coal Extraction Areas where there would be a presumption in favour of coal extraction in these***

**areas, subject to general compliance with the East Ayrshire Opencast Coal Subject Plan.**

4.18 If consideration of this latest application comes down to “the economy versus the environment” then it is time for the Council to sit back and take a long hard look at the Cumnock and Doon Valley area. Has unemployment decreased in the last 10 years of opencasting? Is the quality / safety of employment in opencasting acceptable? What apart from the Trust Fund contributions has been the gain to this area?

***The present application requires to be determined on its merits having regard to the provisions of the development plan and any material considerations. It is about weighing up the benefits and disbenefits that the proposed development is likely to generate as advocated in SPP16. The comments of the objector unfairly infer that opencast development is promoted as the panacea for declining employment levels. However, given the socio-economic importance opencast developments play in the local economy of East Ayrshire through the significant numbers of people employed both directly and indirectly as a result of this activity, unemployment levels would certainly be higher in its absence. The proposal under consideration will result in up to 40 additional jobs being created. From the experience gained at the existing House of Water site, approximately 85% of employees reside within a 10 km radius of the site. Socio-economic gains include:***

- ***The site staff contribute over £1.95 million in wages into the local economy each year;***
- ***The House of Water site spent over £2.02 million on fuel, materials and supplies locally during the period 2005/2006;***
- ***The House of Water site contributes approximately £145,000 per annum to public finances through local business rates;***

***The quality and safety of the employment provided on opencast sites is covered by separate legislation not within the remit of the Council as Planning Authority.***

***Contributions to the Minerals Trust Fund are not a material consideration in the determination of 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 (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 being promoted in the new joint structure plan 2007 and the current provisions of the 1999 approved structure plan remain relevant to this application. The Approved Ayrshire Joint Structure Plan 1999 indicates in its Key Diagram that the House of Water development site lies within a Preferred Area of Search which represents an area which has few environmental constraints, is isolated from most local communities and is close to existing railheads. The proposed development requires to be assessed against Policy E14 which states:

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

***The proposed Lanehead Extension site falls within a Preferred Area of Search.***

5.3 Policy E13 states that proposals to extend the supply of land with planning consent for the winning and working of minerals shall be considered against the following criteria:

- (i) *impact on the countryside, landscape character, visual amenity and the natural and built environment.*
- (ii) *the impact caused by noise, dust and the contamination of ground and surface water.*
- (iii) *any adverse effect on communities within Ayrshire.*
- (iv) *opportunity to maximise transport by rail or sea.*
- (v) *extent of directly related community benefit derived such as enhancement and creation of landscapes and habitats, and removal of dereliction.*
- (vi) *cumulative impact of proposals in one area and the extraction period.*

***The proposed Lanehead Extension application has been assessed and determined against the stated criteria. The proposals promoted by the current application will be implemented under the existing planning controls within the existing consent and Section 75 Agreement (as may be amended) for the existing House of Water site and subject to additional requirements referred to elsewhere in this report. It is considered that the proposed extension would not conflict with the stated criteria in terms of its operational conduct.***

***The current application is therefore considered to be in accordance with the approved Structure Plan.***

## East Ayrshire Opencast Coal Subject Plan

5.4 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.*

***The Lanehead Extension operation is effectively a stand-alone excavation area but detailed consideration has been given to the phasing of operations in the total House of Water complex to ensure that the whole site is worked and restored in a logical and structured manner.***

- (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 Lanehead Extension site, even when considered in tandem with the potential Burnston Extension, will not result in any net increase in the rate of output from the site or number of vehicle trips generated in comparison to that of the House of Water site when working at full production.***

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

***The proposed Lanehead extension will result in part of the currently restored area of the House of Water site being re-used for the purposes of soils and overburden storage and retention of site infrastructure for the processing and dispatch of coals. However, it is considered that this will not significantly prejudice plans for the restoration as the existing House of Water site will be progressively restored.***

***However, part of the proposed Lanehead Extension area does not fall within a Potential Coal Extraction Area.***

5.5 Policy MIN3 further states that outwith the Potential Coal Extraction Areas, the Council will assess any extension on its own merits against the

above criteria, and will not generally be supportive of such developments except where:

- (v) *there is a clearly demonstrated environmental benefit to be achieved through the removal of existing areas of dereliction;*

***There will no existing areas of dereliction removed as a result of the proposed extension.***

- (vi) *there is an overall benefit for communities affected, including local employment; and*

***The working of the proposed northern extension area will result in direct employment of 40 additional jobs being provided at the House of Water site for a further period of 6.5 years.***

- (vii) *there are no conflicts with any other Subject plan policies*

***See comments below.***

*Any extension to an existing opencast operation which 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.*

***Operations at the House of Water site have been carried out over a period of some 13 years with operations having first commenced in 1996. However it is considered that the current 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.***

***With the proposal to direct all extracted minerals from the Lanehead Extension via the consented Kyle Forest overland haul route to the Killoch rail disposal point, the potential for perpetuation of disturbance to local communities through the transportation of coal by road through local communities has essentially been avoided. In addition as indicated within this report there are significant local and community benefits to be accrued from the proposed development in socio-economic terms.***

***It should be further noted that having assessed the Lanehead Extension site against the criteria for identification of the Potential Coal Extraction areas in the Opencast Coal Subject Plan, the area has been excluded solely on the basis that information provided by the British Geological Survey did not indicate the presence of coal reserves within this part of the extension site. It has not been***

***excluded for landscape, environmental, nature conservation or built heritage reasons.***

***It is considered that the proposal represents a minor technical departure from Policy MIN3***

5.6 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. In this regard, the applicant has indicated that consideration has been given to the likelihood of further reserves of coal in proximity to the site. Geology largely rules out the potential for lateral extensions to the site as the coal seams within the site dip steeply to the south, and go beyond economic depth to the south of the Lane Burn on the southern boundary of the site.***

5.7 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 House of Water site, albeit a significant area of 51.4 hectares. Nonetheless it is considered that the proposed***

***extension would not conflict with the provisions of policy MIN 12 with respect to the stated criteria, also for the reasons stated in paragraph 5.5 above***

5.8 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 House of Water site and the proposed Lanehead Extension is designed to deliver some improvements to 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. The Lanehead Extension site will be restored as an active farm unit, but with opportunities for enhancing the Lane Burn corridor to provide improved habitats. Overall within the wider House of Water complex, positive benefits to nature conservation interests are being and will continue to be delivered. 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 existing House of Water site. The remit of the TWG can be extended to include overseeing of the Lanehead Extension as indicated in the consultation responses from SNH and RSPB.***

5.9 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. The Council will also encourage the provision of a network of off-road haulage routes and covered conveyors linking opencast sites with any existing or proposed railhead for the transportation of extracted materials

***The applicant is now implementing the planning consent for an overland haul route from the House of Water site through the Kyle Forest to the former Piperhill opencast site. Access to the public road system would then be made taking coal along an agreed transport route via the A70 to the Killoch coal disposal point. This proposal is consistent with Policy MIN18.***

5.10 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.***

5.11 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 House of Water site contains an obligation in respect of this matter which will be amended to encompass the Lanehead Extension.***

5.12 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 Lanehead 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.

***Operations at House of Water have been carried out over a period of some 13 years with operations having first commenced in 1996. However it is considered that the current 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 and in light of the proposed coal transportation arrangements. In addition, as indicated within this report, there are significant local and community benefits to be accrued from the proposed development. Operations in the Lanehead Extension area will last approximately 6.5 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.

***It is considered that the current proposal will not, in itself, result in perpetuation of disturbance to local communities.***

5.13 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;

***There are no residential properties outwith the control of the applicant that lie within 500 metres of the working faces of the proposed extension 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 control of the applicant that lie within 100 metres of the operational areas of the site.***

5.14 Policy MIN27: the Council will ensure that opencast coal proposals do not have unacceptable adverse impact on the natural and built environment. In particular, development proposals will not be supported where they would:

(v) result in the destruction of any areas of peat which are considered to be of significant ecological value.

***There are no areas of peat within the site considered to be of significant ecological value.***

5.15 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 House of Water opencast site is the subject of a current Section 75 Agreement that would be extended and amended to encompass the proposed Lanehead Extension.***

5.16 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 House of Water opencast site and would contribute in respect of the Lanehead Extension.***

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

***The existing House of Water 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 Lanehead Extension.***

***It is therefore considered that the proposed development is generally consistent with the relevant EAOCSF policies pertinent to this application with the exception of the technical departure from Policy MIN3.***

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

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

### Consultation Responses

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

### Representations

6.3 It is considered that the points of objection are not of sufficient weight to merit refusal of the application, on the basis that the points of objection have not been substantiated through the comprehensive consultation process with statutory and non-statutory consultees or can be addressed through the imposition of appropriate planning conditions or by means of a Section 75 Agreement.

## Scottish Planning Policy

6.4 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.

6.5 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 part of the Lanehead Extension development lies within such an area. Of the part that lies outwith the PCEA, this has been excluded solely on the basis that information provided by the British Geological Survey did not indicate the presence of coal reserves within this part of the extension site. It has not been excluded for landscape, environmental, nature conservation or built heritage reasons.***

6.6 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 Lanehead Extension does meet 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 proposed Lanehead Extension will allow continuation and expansion of employment by the creation of 40 new jobs, which is particularly beneficial in those areas where the extraction takes place. It is therefore considered that both tests are satisfied in assessing the Lanehead Extension.***

## Planning Advice Notes

6.7 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

6.8 The more relevant planning history relates to the original House of Water application for the winning and working of 4.5 million tonnes of coal which was approved on 17 April 1996 (Ref. No. CD/94/0072/MIN).

6.9 An application for an extension to the House of Water site and Diversion of the River Nith was approved on 19 June 1998 (Ref. No. 96/0400/FL).

6.10 An application for a modification to the working hours at House of Water was approved on 09 January 1997 (Ref. No. 96/0635/FL).

6.11 An application for a proposed variation and extension to the House of Water site was approved on 05 December 2003 (Ref. No. 03/0506/FL).

6.12 An application for a proposed variation to the approved scheme and extension to the extraction area and a re-diversion of the River Nith was approved on 05 November 2004 (Ref. No. 04/0397/FL).

6.13 An application for the construction of an overland haul route at Green Hill / Kyle Forest was approved on 07 February 2003 (Ref. No. 98/0844/FL). Works on the proposed haul road have since commenced on site.

6.14 An application for the Burnston Extension to the House of Water site was considered by the former Development Services Committee on 27 March 2007 at which time it was resolved to grant consent subject to the concluding of a Section 75 Agreement and subject to notification to the Scottish Ministers (Ref. No. 06/0583/FL). While the application was subsequently cleared by the Scottish Ministers, the Section 75 Agreement has not yet been formally concluded due to land ownership issues.

6.15 In order to try and minimise the impact on continuity of employment and coal production while land ownership issues were being resolved, an application for the part of the Burnston site wholly within the control of the applicant, known as the Tappet Hill Extension, was submitted and approved on 29 September 2009 (Ref. No. 09/0286/FL).

## The Conservation (Natural Habitats, &c.) Regulations 1994

6.16 As indicated in the consultation response from SNH, bat surveys from the Environmental Statement (ES) and Supplementary Environmental

Information show evidence of a brown long-eared bat roost within the farm house of Lanehead Farm. Two brown long-eared bats were also observed emerging from part of the collapsed roof in the courtyard of Lanehead Farm. Activity surveys found evidence of foraging and commuting, especially along the Lane Burn. The survey report notes that the site contains a small number of mature broadleaved trees which may provide potential roosting habitat for bats. It is the opinion of SNH that the proposed development even with the inclusion of the proposed mitigation is likely to result in one or more actions which are contrary to the species protection elements of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) and therefore cannot proceed unless a licence is obtained from Scottish Government. SNH therefore advise that an application for a licence be obtained in this case.

Scottish Government interim guidance to planning authorities states that no planning decision may be made until the planning authority can assure itself that a licence may be forthcoming. An application for a licence will fail unless all of 3 tests on acceptability for a licence are satisfied. In summary these tests are:

*Test 1: The licence application must demonstrably relate to ... the purpose of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.*

***It is considered that the licence (and the disturbance of the bat roost that it would authorise) is necessary in order to allow work to proceed that is of overriding public interest of a social and economic nature. Furthermore, the development, through the restoration scheme will bring about beneficial consequences for the environment. The strategic and economic importance of coal extraction is recognised in various statements and policies at national, regional and local level. The Planning Statement that was submitted with the planning application provides a robust assessment against those relevant policies etc. and concludes that the development is in general terms compliant with those policies etc. In summary, the following points confirm the overriding public interest in the proposed extension:***

***• At the local level, the proposed extension would make a direct contribution to the East Ayrshire economy through the sustained employment of the current staff and personnel directly employed in the surface mining and haulage operations together with the creation of up to 40 additional jobs. The majority of the staff employed in the operations live within the communities of East Ayrshire. The proposed extension would also contribute to the sustained indirect employment in the local area for numerous workers and subcontractors in connection with the onward haulage, handling and disposal of the coal produced.***

- ***The retention and creation of employment is considered to be of overriding public interest in the current economic climate.***

- ***The extension presents what is likely to be the only opportunity to extract the 1m tonnes of coal which underlie the extension area. If the coal is not worked as part of this current scheme an undesirable consequence may be that the coal is permanently sterilised. National planning guidance in SPP16 cautions against the sterilisation of coal reserves.***

***It is considered that that there is clear overriding public interest in permitting the development to proceed and that Test 1 can be clearly met.***

Test 2: *“that there is no satisfactory alternative”*

***With regard to Test 2, it is considered that there is no satisfactory alternative to the granting of a licence and to the consequent disturbance to bats. The ability to consider alternative locations for the extension is restricted given that the location of the extension is guided in the first instance by the geological occurrence of the coal at this location. There are also clear benefits of extending the supply of coal at existing sites rather than allowing that coal to be sterilised.***

Test 3: *A licence cannot be issued unless Scottish Government is satisfied that the action proposed “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range” (Scottish Government will, however, seek the expert advice of Scottish Natural Heritage on this matter).*

***The interim guidance issued to planning authorities indicates that SNH is the main body to advise on whether the granting of a licence would be “detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range” and so be capable of meeting Test 3. In its consultation response to the Supplementary Environmental Information, SNH states that, subject to matters to mitigate the impacts of the proposed development being addressed by conditions or by planning legal agreement, the proposed development would not be detrimental to the maintenance of the population of the species concerned at a Favourable Conservation Status in their natural range and, therefore, satisfies the third test as described in the document “European Protected Species, Development Sites and the Planning System: Interim Guidance for Local Authorities on Licensing Arrangements, (October 2001)”.***

**In this regard it is considered that for the reasons and justifications set out above it is a reasonable expectation that a licence would be granted and that in arriving at this conclusion the Council, as Planning Authority, has fulfilled the general requirement established under Regulation 3(4) to have regard to the provisions of the Habitats Directive, and in particular to the provisions of Articles 12 and 13 of the Directive and Regulations 39 and 43 of the 1994 Regulations.**

## **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 Lanehead Extension and as required to be amended by the terms of this report.

## **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, albeit it represents a minor technical departure from Policy MIN3 of the EAOCSP. 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 not of sufficient weight to justify refusal of the application.

8.2 The proposals represent a lateral extension to the south of the existing operational House of Water opencast coal site and will involve the extraction of additional 1 million tonnes of coal which in environmental terms is considered to present no significant additional adverse impacts to the current operations, and this is essentially borne out by the consultation process. In this case the proposed development has not attracted a significant body of objection to the proposal.

8.3 It is considered that, given the fact that the Lanehead extension site lies some 4.4 km from the nearest community of New Cumnock and that coals will be dispatched from the site via the Kyle Forest overland haul route, this proposal will not result in any 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.

8.4 The existing House of Water operation provides full time employment for approximately 77 staff, operatives and contractors. With the proposed

Burnston extension and this present proposal for the Lanehead extension, these jobs will be maintained throughout the additional 6.5 years working life of the site, with a further 40 additional jobs being created. This is considered to be of significant ongoing community benefit.

8.5 All coal from the Lanehead extension area will be transported off site via the approved Kyle Forest haul road to the B7046 and onwards to the Killoch Rail Disposal Point via the A70. The proposed coal transport arrangements represent a significant environmental improvement to the current approved coal haulage route from the House of Water site, in so far as removing the requirement for any coal carrying HGVs from the site to travel along the B741 through the settlements of Dalleagles, Bank Glen, Connel Park, the Leggate and the Castle in New Cumnock.

8.6 The proposal will result in the demolition of the derelict Sunnyside steading and the currently unoccupied Lanehead Farm building, resulting in the destruction of a bat roost. While a licence to disturb this feature will be required from the Scottish Government, the applicant has provided sufficient information and mitigation to allow SNH to remove its initial objection to the proposal, and confirms that insofar as meeting appropriate tests to allow the granting of such a licence, the proposal would not be detrimental to the maintenance of bat populations at a favourable conservation status in their natural range.

8.7 The proposal also results in the re-use of part of the restored area within the current House of Water site, primarily for overburden storage. This will result in an addition to the existing overburden mound associated with the House of Water site. While this presents acknowledged visual and landscape impacts, they are reversible.

8.8 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 no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved but subject to the following obligations that should be secured through an amended Section 75 Agreement covering the following matters:

#### Section 75 Agreement

- (i) The extension of the remit of the existing House of Water Technical Working Group to embrace the proposed Lanehead Extension with the provision that the group shall meet at least bi-annually.
- (ii) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement and the Supplementary Environmental Information that accompanied the planning application. The applicant shall provide a Mitigation Plan for the site that shall be the subject of an annual audit with a monitoring report provided to the Planning Authority assessing the effectiveness of

mitigation measures. This monitoring report shall also be the subject of consultation with the House of Water Technical Working Group. In particular, the mitigation measures outlined in the 2009 bat survey report and the Contract Works Method Statement (appendix 2 of the 2009 bat survey report) shall be strictly adhered to and shall include the implementation of a 100 metre buffer zone around the Lanehead Farm buildings until a licence from the Scottish Government has been granted for the destruction of the bat roost and surrounding foraging and commuting habitat.

- (iii) The provision and maintenance of an artificial roost, constructed within the loft space in one of the barns at the south-east of the site, to compensate for the loss of the brown long-eared bat roost. This artificial roost shall be installed prior to the demolition of any buildings at Lanehead Farm.
- (iv) The provision and maintenance of three bat boxes installed in suitable positions in the broadleaved woodland located on the neighbouring Knockburnie Farm outwith the proposed development site and prior to the felling of any trees within the Lanehead extension site.
- (v) The provision and maintenance of two artificial barn owl nest boxes to mitigate for the loss of Lanehead farm buildings, prior to the demolition of these buildings.
- (vi) The undertaking of annual bird monitoring of the whole House of Water site, including bird breeding surveys and specialist barn owl surveys as required.
- (vii) The undertaking and establishment of baseline conditions in respect of the water environment and water quality on the site. Appropriate monitoring systems shall be put in place together with appropriate management measures to address any water quality issues arising from operations on site, which shall be the subject of agreement with the Planning Authority in consultation with SEPA.
- (viii) The establishment of noise, dust and vibration monitoring programmes, including locations to be used for monitoring, for the Lanehead Extension site following consultation with the Planning Authority and the Environmental Health Division, such monitoring schemes to be in place prior to the commencement of operations associated with this development;
- (ix) The undertaking of an assessment of the fish population in the burns proposed for diversion with an appropriate fish rescue plan implemented if necessary, to be undertaken prior to diversion of the burns.

- (x) The provision of a Restoration and Aftercare Bond provided and monitored in accordance with the provisions of Policy MIN 36 of the East Ayrshire Opencast Coal Subject Plan 2003.
- (xi) The maintenance of any private water supply or drainage services to private residential properties, which may be affected by the opencast operations, throughout the life of the site, or the provision of alternative supplies or services where appropriate;
- (xii) A contribution to the Minerals Trust Fund at the rate of 27.5 pence per tonne of coal extracted from the development site.
- (xiii) The securing of agreed road maintenance contributions, towards repair works to be carried out on the A70, B7046 and U728 public road haulage route between the Piperhill site access and Killoch DP, with the Roads Authority under section 96 of the Roads (Scotland) Act 1984 incorporated into a Section 75 agreement.
- (xiv) The right to suspend operations on site should there be justifiable and actionable noise complaints shown to be in breach of the stipulated day time noise limits, pending the introduction of additional noise mitigation measures.
- (xv) A Comprehensive Habitat Management Plan shall be prepared for the wider House of Water site to be agreed with the House of Water Technical Working Group. The implementation of this plan will be undertaken by the applicant and guided by an appropriately qualified specialist employed either directly or indirectly by the applicant.

## **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 should 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 8.8 of this report.**

### **CONTRARY DECISION NOTE**

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to the Full Council as such a decision would not represent a significant departure from the development plan.

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

19 October 2009  
HM/HM  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letter of representation
5. Adopted East Ayrshire Opencast Subject Plan (2003)
6. Approved Ayrshire Joint Structure Plan (1999)
7. Finalised Ayrshire Joint Structure Plan (2006)
8. Previous applications CD/94/0072/MIN, 96/0400/FL, 96/0635/FL, 98/0844/FL, 03/0506/FL, 04/0397/FL, 06/0548/FL and 09/0286/FL.
9. SPP16: Opencast Coal
10. 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	House of Water Opencast Coal Site Whitehill Farm New Cumnock
Nature of Proposal:	Extraction of coal by surface mining methods with restoration to farmland and nature conservation and retention of existing infrastructure
Name and Address of Applicant:	The Scottish Coal Company Limited Castlebridge Business Park Gartlove ALLOA
Name and Address of Agent	Theo Philip The Scottish Coal Company Limited Castlebridge Business Park Gartlove ALLOA

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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 development hereby permitted shall enure for the benefit of the applicant only, and the approved operations shall be completed within 6.5 years of the date of commencement of operations on the Lanehead Extension site, or at such other time as may be formally agreed in writing with the Planning Authority.

REASON –The development is acceptable only because of the individual circumstances pertaining to the applicant and on a temporary basis.

2. The applicant shall give notice in writing to the Planning Authority of the commencement of operations on site, one month prior to their commencement.

REASON – To ensure that the development is undertaken in accordance with the submitted plans and conditions, and to ensure that appropriate monitoring systems are in place in the interests of environmental protection.

3. Prior to any works commencing on site, the applicant shall submit the following information in relation to hydrology and hydrogeology matters for the approval of the Planning Authority in consultation with the Scottish Environment Protection Agency:

(i) details of proposed mitigation measures to address the risks to the water environment and the likely impacts associated with acid mine drainage, contamination from backfilling, alterations to the groundwater recharge regime and impacts on groundwater quality;

(ii) proposals for surface and ground water sampling to establish the baseline conditions and proposals for subsequent sampling/monitoring during site preparation and operation;

(iii) details of the proposed dewatering and abstraction activities at this site, including the amount and quality of water to be abstracted, and an assessment of the likely impacts of these activities on sensitive receptors in the area and detailed proposals for mitigation;

(iv) suitable drawings showing that the top soil, boulder clay and overburden storage mounds and peat storage areas (if any) will be located away from sensitive receptors (e.g. watercourses) and that suitable measures will be adopted in order to prevent risks to the water environment; and

(v) proposals for pollution prevention in respect of both surface and ground waters, taking also into consideration the advice in SEPA's Pollution Prevention Guide Notes as required.

REASON – In the interests of environmental protection.

4. Prior to the commencement of operations on site, the applicant shall submit to, and have had approved by the Planning Authority in consultation with the Scottish Environment Protection Agency, details of proposals for the proposed water management system for the site including a detailed Work Method Statement. The detailed water management and treatment proposals shall include provisions to collect, store and return intercepted waters to the natural environment in a manner that is acceptable to the Planning Authority and SEPA.

REASON – To prevent pollution of watercourses and minimise risk of flooding.

5. Prior to the commencement of any works at this site, the applicant shall submit a detailed risk assessment of the hydrological impacts of working in close proximity to the Lane Burn and its riparian areas. The assessment shall include:

(i) the likely impacts of the proposed works on the Lane Burn corridor as a whole and details of suitable mitigation measures to address these impacts. This should also take into consideration the extension of the proposed buffer zone between the proposed works and the watercourse.

(ii) an assessment of the affected catchment area/s of all affected watercourses, including accurate calculations of each tributary, and detailed restoration plans for their reinstatement to their current or improved status. Detailed Method Statements for the implementation of the proposed works, including restoration, should also be submitted.

This assessment, including any additional mitigation proposed, shall be submitted to the Planning Authority for approval in consultation with the Scottish Environment Protection Agency.

REASON – In the interests of environmental protection.

6. Prior to the commencement of operations on site, the applicant shall establish a comprehensive restoration programme and plan for the proposed Lanehead Extension and the wider House of Water area and shall submit the details of this programme and plan to the Planning Authority for approval. The required programme and plan shall be the subject of prior consultation with the House of Water Technical Working Group. This plan should include the establishment of habitat suitable for use by legally protected or other important species affected or displaced by the proposals such as peregrine falcon, black grouse, breeding waders, badger and otter.

REASON – In the interests of environmental protection and to ensure a high standard of site restoration.

7. No development shall take place within the development site as outlined in red on the approved plan until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the

satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

REASON – In order to identify and record any archaeological resource that may be present on site, prior to disturbance or destruction by the proposed operations.

8. Except in the case of emergency and with the prior agreement of the Planning Authority minerals extracted from the Lanehead Extension shall be transported off site via the consented Kyle Forest overland haul route to Piperhill and thereafter by the public road system to Killoch railhead for dispatch to markets.

REASON – In the interest of residential amenity.

9. Except in case of emergency and with the prior agreement of the Planning Authority, the hours of operation for the Lanehead Extension shall be confined between 0700 and 1900 hours Mondays to Fridays inclusive and between 0700 and 1300 hours on Saturdays. No works shall take place on Sundays or recognised Public Holidays with the exception of essential site maintenance works.

REASON – In the interest of residential amenity.

10. Except in the case of emergency and with the prior agreement of the Planning Authority, the dispatch of coal from the site by road, including via the Kyle Forest overland haul route, shall be confined to between the hours of 0800 and 1800 hours Mondays to Fridays inclusive. No transportation of coal by road shall take place on Saturdays or Sundays except in cases of emergency as indicated.

REASON – In the interest of residential amenity.

11. All demolition of buildings, vegetation clearance, tree and forest felling and soil stripping shall be carried out outwith the bird breeding season (March to July inclusive). 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 House of Water Technical Working Group.

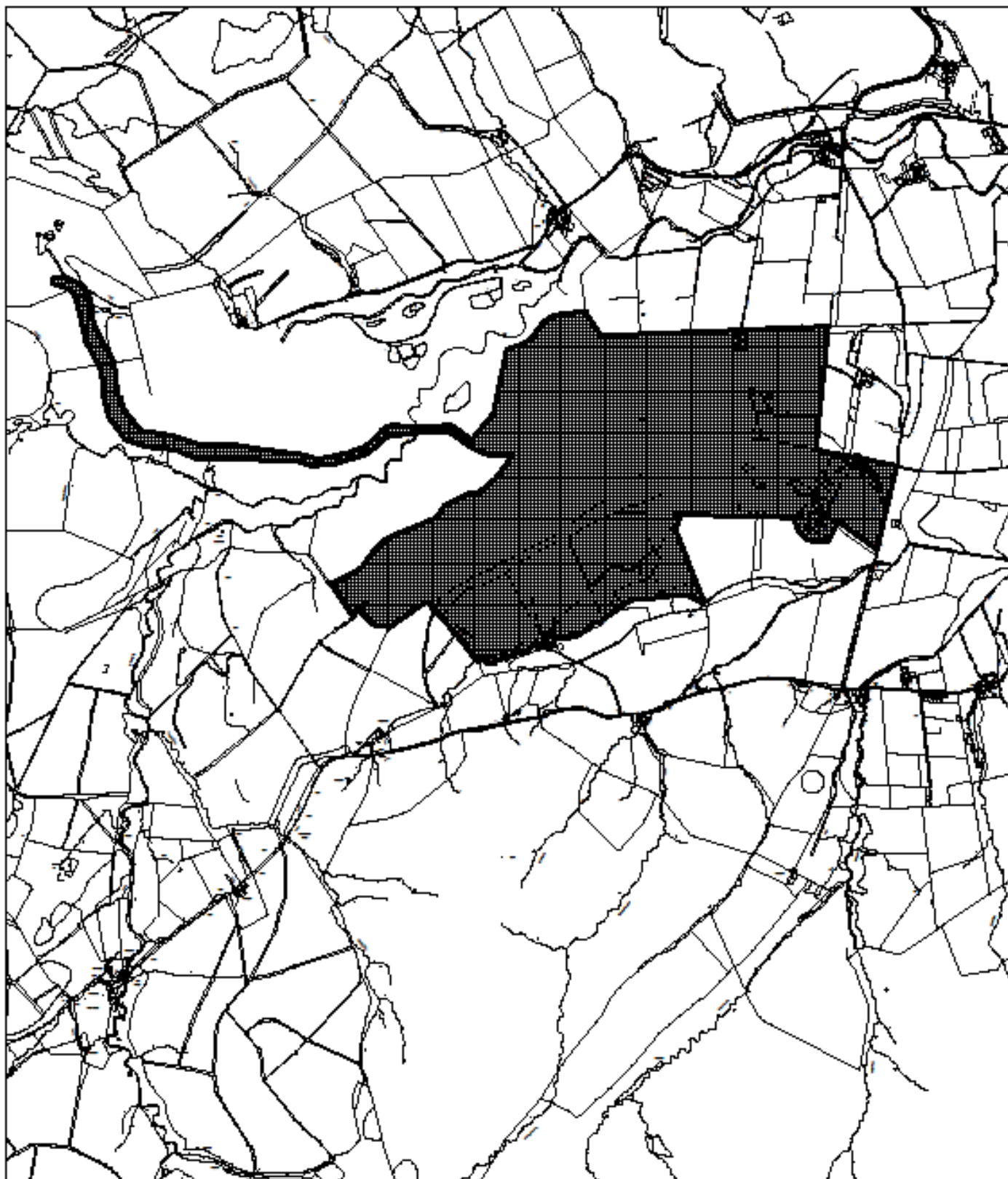
REASON – In the interests of environmental protection.



12. The proposed development hereby approved shall otherwise be undertaken in accordance with the conditions pertaining to planning consents CD/94/0072/MIN dated 17 April 1996, as amended by consent 94/0400/FL dated 19 June 1998, as amended by consent 96/0635/FL dated 09 January 1997, as amended by consent 03/0506/FL dated 05 December 2003, as amended by consent 04/0397/FL dated 05 November 2004 and as amended by consent 09/0286/FL dated 29 September 2009.

REASON: To retain effective planning control over the proposed development in accordance with current consents relating to the House of Water 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 House of Water site in respect of legislation administered by that body.



<p><b>Title/Location</b></p> <p><b>Lanehead Area House of Water</b></p> <p><b>NEW CUMNOCK</b></p> <p><b>Application No. 09/0178/FL</b></p>	<p><b>East Ayrshire Council</b>          Planning &amp; Economic          Development Division.          6 Croft Street          Kilmarnock KA1 1JB          Tel: (01563) 576790 Fax: (01563) 576774          E-Mail : <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a></p> <p><b>Com Date: 30/10/09</b>      <b>Checked By</b></p>
<p><b>Key</b></p> <p> <b>Application Site</b></p>	<p style="text-align: right;"></p>