

**EAST AYRSHIRE COUNCIL**

**PLANNING COMMITTEE 21 AUGUST 2015**

**COMPLIANCE MONITORING UPDATE OF  
MAJOR DEVELOPMENTS IN EAST AYRSHIRE**

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

**Economy and Skills**

**PURPOSE OF REPORT**

1. The Purpose of the Report is to provide an update to the Planning Committee in respect of compliance monitoring activity relating to environmental projects which are subject to planning consents and comprising the following development types:- opencast coal, quarries, landfill, onshore windfarms and the electrical interconnector between the period April 2015 and June 2015.

**BACKGROUND**

2. The Independent Review of the Regulation of Open Cast Coal Operations in East Ayrshire included a recommendation that quarterly reports should be submitted to the Planning Committee recording progress of mining activity and restoration of the particular sites and complexes. At the Planning Committee on 27 June 2014 it was agreed that the remit of this quarterly report be widened to include the other environmental development subject to compliance monitoring including quarries, landfills, onshore wind farms and the electrical interconnector.

**PROGRESS/UPDATE**

3. As detailed below the Independent Consultants have been carrying out regular inspections at the four active open cast coal surface mines and the Electrical Interconnector site. A progress report is provided within each of the appendices. The individual Compliance Monitoring Reports from the Independent Consultants are being made available on the Council Web site following formal sign off by the Operations Manager. For clarity the Appendices are separated into development types as follows:-

**Table 1**

<b>Appendix</b>	<b>Development Type</b>
1	Open Cast Coal Surface mines (OCCS)
2	Onshore Windfarms
3	Quarries

4	Electrical Interconnectors
5	Landfill
6	Land Use map of East Ayrshire

## COMPLIANCE MONITORING VISITS

4. Within the four operational opencast coal surface mines, Dalgleish Associates Ltd (DAL), the Council's Independent Mining Engineer carry out Monitoring Visits on a monthly basis. These visits include the review of the Phased Mining Plans against the works carried out on site to verify operational coaling and restoration activity against the approved scheme. Planning Officers attend the site with DAL and following each visit an assessment is carried out to establish whether any current or future works necessitate a variation of the Planning Consent. DAL produce a compliance monitoring report of the development which are published on the Council's web site following the assessment and sign off by the Planning Authority.
5. In respect of the Interconnector project the compliance monitoring visit is carried out by Ironside Farrar and Planning Officers on a monthly basis. These visits involve the review of site works against the planning conditions and the various technical and environmental reports which were approved following the discharge of the relevant Planning Conditions. Ironside Farrar produce a quarterly report detailing the status of compliance of the construction works. The sign off procedure is the same as referred to above.
6. Members will note the scheduled compliance monitoring inspections of the sites which have taken place in this quarter are as detailed in the table below.

**Table 2**

<b>Site (Operator)</b>	<b>Date of Visits</b>	<b>Consultant</b>
<b>SWS Renewables Connection Project (Scottish Power Energy Networks)</b>	<b>6<sup>th</sup> May 2015</b> <b>10<sup>th</sup> June 2015</b>	<b>Ironside Farrar</b>
<b>Duncanziemere OCCS (Hargreaves)</b>	<b>7<sup>th</sup> April 2015</b> <b>5<sup>th</sup> May 2015</b> <b>9<sup>th</sup> June 2015</b>	<b>Dalgleish Associates Ltd</b>
<b>Netherton OCCS (Hargreaves)</b>	<b>7<sup>th</sup> April 2015</b>	<b>Dalgleish Associates Ltd</b>

	5 <sup>th</sup> May 2015 9 <sup>th</sup> June 2015	
House of Water OCCS (Hargreaves)	21 <sup>st</sup> April 2015 14 <sup>th</sup> May 2015 17 <sup>th</sup> June 2015	Dalgleish Associates Ltd
Greenburn OCCS (Kier)	16 <sup>th</sup> April 2015 14 <sup>th</sup> May 2015 17 <sup>th</sup> June 2015	Dalgleish Associates Ltd
Tincornhill Quarry (Breedan Aggregates)	No visits during this quarter	No visits during this quarter
Garlaff Landfill (Barr Environmental)	No visits during this quarter	No visits during this quarter
Craignaught landfill (LafargeTarmac)	No visits during this quarter	No visits during this quarter
Clawfin Quarry (Breedan Aggregates)	28 <sup>th</sup> August 2015	Dalgleish Associates Ltd
Dunstonhill Patna Restoration contract (Hargreaves)	16 <sup>th</sup> July 2015	Dalgleish Associates Ltd
Townhead of Greenock (Hillhouse Quarry)	17 <sup>th</sup> June 2015	Ironside Farrar

#### **TECHNICAL WORKING GROUPS/ COMMUNITY LIAISON COMMITTEES**

7. Table 3 below details the Technical Working Groups and Community Liaison Committees which have taken place during the last quarter and/or forthcoming meetings due to the frequency the meetings are held. All the Technical Working

Groups and Community Liaison Committees which took place during this quarter were attended by Planning Officials. Copies of the Minutes and Agendas of these meetings are published within the online Planning Register and the Council Planning web site has been redesigned to accommodate all Compliance Monitoring data within a central location for public access.

**Table 3**

<b>Complex (operator)</b>	<b>Community Liaison Committee</b>	<b>Technical Working Group</b>
<b>Greenburn OCCS (Kier)</b>	14 <sup>th</sup> April 2015, next 20 <sup>th</sup> October 2015	21 <sup>st</sup> April 2015
<b>Duncanziemere OCCS (Hargreaves)</b>	20 <sup>th</sup> May 2015	8 <sup>th</sup> May 2015 5 <sup>th</sup> August 2015
<b>Garlaffen Coal Distribution Yard (Hargreaves)</b>	23 <sup>rd</sup> April 2015	N/A
<b>Netherton OCCS (Hargreaves)</b>	9 <sup>th</sup> April 2015 9 <sup>th</sup> July 2015	17 <sup>th</sup> March 2015 Scheduled to follow the serving of Enforcement Notice.
<b>House of Water OCCS (Hargreaves)</b>	14 <sup>th</sup> August 2015	14 <sup>th</sup> August 2015
<b>Chalmerston OCCS (Hargreaves)</b>	30 <sup>th</sup> March 2015	Not Scheduled until further commencement of the OCCS
<b>SWS Renewables Connection Project (SPEN)</b>	3 <sup>rd</sup> February 2015 5 <sup>th</sup> May 2015 4 <sup>th</sup> August 2015 and scheduled for 3 <sup>rd</sup> November 2015	N/A
<b>Dunstonhill Patna (Restoration contract)</b>	12 <sup>th</sup> August 2105	12 <sup>th</sup> August 2015
<b>Townhead of Greenock</b>	26 <sup>th</sup> August 2015	26 <sup>th</sup> August 2015

8. The Planning Authority acknowledges that the Technical Working Groups and the Community Liaison Committee Meetings continue to be well attended by members of the local community, the various statutory bodies and other interested parties. It was also welcomed that the meetings continue to be conducted in a frank and open manner with all parties participating fully in discussions. Each meeting involved an opportunity

for all attendees to have a tour of the opencast operations to view the coaling and restoration operations. No public site visit has taken place at the Interconnector project.

### **ANNUAL ENVIRONMENTAL AUDITS (AEA)**

9. Under the terms of MIN40 of the Opencast Coal Subject Plan 2003, the operators are required to submit an Annual Environmental Audit to the Planning Authority for assessment which considers the following matters:-

- (i) The effects of the development on the environment including noise, vibration, dust and water impacts;
- (ii) The measures taken to complement the operational, restoration and aftercare provisions of the consent insofar as they affect the environment; and
- (iii) The effectiveness of mitigation measures promoted in Environmental Impact Assessments to reduce adverse environmental impacts

10. An Annual Environmental Audit was due October 2014 for the House of Water complex and whilst it was received in January 2015, it was withdrawn due to erroneous information being provided within the report. An updated report has been received, however the Annual Audit has not been signed off due to the inaccuracy of the drawings submitted. This matter has been formerly raised with the operator who has advised that the drawings are being reviewed.

11. The schedule for the submission of the Environmental Audits over the next 12 months for each open cast coal site is noted as follows:-

House of Water Complex	October 2015
Greenburn Complex	November 2016
Netherton Complex	April 2016
Duncanziemere Complex	December 2015

### **PLANNING COMMITTEE SITE VISIT**

12. During the last quarter, the Planning Committee visited the Dalgig section of the Greenburn Complex as part of the assessment of the application on the 16<sup>th</sup> of June 2015. The Committee is also programmed to visit the site at Duncanziemere on 20<sup>th</sup> August 2015 which has now concluded coaling (see appendix 1) and is subject to final shaping and soiling operations to conclude the partial restoration proposals in line with the "Scenario B" Planning Permission 13/0865/PP.

### **Developer Contributions**

13. As requested at the recent Planning Committee, the following is a summary of the developer contributions made by Operators for Quarries and Opencast Sites.

<b>Site</b>	<b>Year</b>	<b>Tonnage</b>	<b>Amount Paid</b>	<b>Trust</b>
<b>Greenburn</b>	2013/14	829,180	£228,024.51	<b>Mineral Trust</b>
	2014/15	563,584	£154,985.61	<b>Mineral Trust</b>

<b>Duncanziemere</b>	2013/14	264,690	£ 69,791.68	<b>Mineral Trust</b>
	2014/15	158,001	£ 43,450.28	<b>Mineral Trust</b>
<b>Netherton</b>	2013/14	407,874	£ 112,165.36	<b>Mineral Trust</b>
	2014/15	306,957	£ 84,413.18	<b>Mineral Trust</b>
<b>House of Water</b>	2013/14	54,147	£ 14,890.43	<b>Mineral Trust</b>
	2014/15	202,519	£ 55,692.73	<b>Mineral Trust</b>
<b>Townhead of Greenock</b>	2014/15	N/A	N/A	
<b>Tincornhill Sorn</b>	2013/14	Set payment	£10,000	<b>Tincornhill Quarry Fund</b>
	2014/15	Set Payment	£10,000	<b>Tincornhill Quarry Fund</b>

14. For clarity, in terms of the Planning Permissions for these operations, the Planning Authority is only required to ensure that the payments are made to the appropriate Trust. The Planning Authority has no responsibility in relation to the management of the funds thereafter.

#### **MATTERS ARISING FROM COMPLIANCE MONITORING**

15. While the appendixes detail the current status of each of the development sites it is considered appropriate to highlight the following matters:-

#### **Stockpiling of Coal on Opencast sites**

16. It has been noted across the four active coal sites and the three railheads that while coal continues to be extracted, limited coal is being dispatched to the market place. This is as a result of three factors; the low coal price; the milder summer weather hence reduced electricity production; and the recent change in the tax on coal paid by the power generators. The tax change which came into force in April 2015 resulted in the power generators buying extra coal reserves prior to the tax increase. Thus they now have large stockpiles of reserves at their power stations and currently do not need to purchase additional coals at this current time. This matter is being closely monitored to ensure it does not impact on the restoration obligations of the sites.

#### **GREENBURN OCCS**

17. It has been indicated to the Council, by Keir Mining that the sale of the Greenburn Opencast Coal mining complex is currently the subject of discussion with a potential purchaser. No indication has been given of the identity of this potential purchaser. The Planning Authority has indicated to Keir that any potential purchaser will require to complete the coaling and restoration operations in line with the current planning permissions and legal obligations for the Complex, including the provision of suitable financial restoration guarantees.

#### **GLENMUCKLOCH CONVEYOR**

18. As indicated in both the October and January Reports, the planning permission for the Glenmuckloch Conveyor Belt has expired and OCCW (Duncanziemere) indicated

that they would not be utilising it to transport coal from the Glenmuckloch OCCS to Crowbandsgate Coal depot due to the cost of bringing the redundant conveyer belt up to operational standards. Therefore, given a section of the Conveyer is located within the Special Protection Area (SPA) which utilised the former mineral railway and is subject to a complaint to the European Commission relating to the breach of Habitats Regulations, the removal of the unauthorised conveyer was paramount. Hargreaves has now commissioned removal of the conveyer. Final restoration of the track where it impacts the SPA is currently the subject of discussion between the Planning Authority, HSML, SEPA and SNH. These works to this route have commenced with the work on the SPA area scheduled to commence after 1<sup>st</sup> of August 2015 thus avoiding working in the SPA during the bird breeding season.

## **SOUTH WEST SCOTLAND RENEWABLES CONNECTION PROJECT**

19. Operations on the Southwest Scotland Renewables Connection Project Part A are progressing. The extension to Coylton Sub-Station is complete, installation of the overland pylons continues and a substantial number of the power lines have been strung. Restoration is being carried out at a few of the pylon pads and a number of the access tracks and pads are in the process of being removed as required by the planning consent. The Meiklehill Sub-Station construction is nearing completion with final works underway in preparation for the installation of the Transformers which are expected to be delivered to the site on the 9<sup>th</sup>, 13<sup>th</sup> and 23<sup>rd</sup> August 2015. Ironside Farrar is carrying out compliance inspections for the Planning Authority on a monthly basis. As discussed in the previous Compliance Monitoring Reports, compliance issues have been raised with the developer, Scottish Power Energy Networks (SPEN) in relation to transport, peat management, environmental and ecology issues. The developer has been working towards addressing those issues to the Councils satisfaction and reporting mechanism have improved however significant non-compliance issues remain particularly in relation to peat management. Those matters have been raised with both SEPA and SNH and remain to be resolved. It has also been noted that good practise has been adhered to along the OHL route in relation to silt management, COSHH storage and peat storage.
  
20. Further consent has been issued by the Energy and Climate Change Directorate for further parts of the Southwest Scotland Renewables Connection Project namely:
  - Part B 132kV lattice steel tower, double circuit transmission line between the Meikle Hill Substation and the proposed Black Hill Substation (OS Ref NS612048). Includes construction of Black Hill Substation 1.7km west of Afton Reservoir.
  - Part C 132kV lattice steel tower, double circuit transmission line between the proposed Black Hill Substation and the proposed Glenglass Substation (OS Ref NS721067). Includes construction of Glenglass Substation 5km south of Kirkconnel (outwith EAC).
  - Part D2 132kV wood pole, single circuit transmission line between the proposed pole No 1 (OS Ref NS515082) and proposed pole No 138 (OS Ref NS433053) between the Meikle Hill substation and the proposed Dersalloch wind farm substation.

21. Some initial site surveying and peat probing has been undertaken across Part B, C and D2 but no initiation of development notifications have been received. A number of documents have been submitted to the Council providing information relating to matters that are required by planning conditions to be agreed prior to the commencement of any development. A number of those documents relating to environmental and ecological matters have not been agreed to date. The majority of the planning conditions require works to be undertaken throughout the life of the project therefore the conditions will not be fully discharged until all the matters have been implemented on site as per the approved documentation.

### **WHITELEE WINDFARM**

22. In line with all other consents of this nature a full review of the Whitelee windfarm consents and operations within the development site is ongoing and Ironside Farrar have reviewed the Bond provision over the entire development for East Ayrshire, East Renfrewshire and South Lanarkshire Councils. Discussions are currently ongoing with the windfarm operator, Scottish Power Renewables (SPR), in relation to the continued maintenance of the restoration guarantee for the windfarm. As a result of previous noise complaints, which have been investigated but not substantiated from local residents, noise monitoring equipment has been installed at two properties, Meadowhead and East Collarie to monitor noise levels being experienced by local residents.

### **SNEDDONS LAW**

23. While the windfarm at Sneddon Law has not yet officially commenced operations, as several planning conditions and legal obligations remain to be discharged, Work continues to progress the applicants submission to determine the pre-commencement Planning Conditions.

### **FUTURE COMPLIANCE MONITORING**

24. There are a number of major developments which are either in the final stages prior to operation or if approved either by East Ayrshire Council, as Planning Authority, the Energy Consent and Deployment Unit (ECDU) on behalf of Scottish Ministers or the Division of Planning and Environmental Appeals (DPEA), following appeal, will result in a significant additional increase in the compliance monitoring workload. Below is a list of the current and potential developments where compliance monitoring arrangements will be required. These developments are noted in Table 5 as noted below and are also illustrated on the Council's cumulative Land Use map as detailed at appendix 6.

#### **Table 5**

## MAJOR RENEWABLE PROJECTS:- OVERVIEW

<b>Operational Wind Farms</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Whitelee Wind Farm	W3	Section 36	
2	Whitelee Phase 1 Wind Farm	W4	Section 36	
3	Whitelee Phase 2 Wind Farm	W5	Section 36	
4	Harehill Wind Farm	W8	Planning application	<b>4</b>
<b>Wind Farms/Interconnector Under Construction</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Galawhistle Wind Farm	W6	Section 36	
2	Interconnector:- Part A	Green Line	Section 37	<b>2</b>
<b>Approved Wind Farm/Interconnector:- Discharging Planning Conditions</b>				
1	Sneddon Law Wind Farm	W2	Planning Application	
2	Interconnector:- Parts B,C and D2	Green Line	Section 37	<b>2</b>
<b>Approved Wind Farm: Subject to Variation</b>				
1	Afton Wind Farm	W11	Section 36	<b>1</b>
<b>Approved Wind Farm</b>				
1	Hare Hill Extension Wind Farm	W9	Planning Application	<b>1</b>
<b>Appealed and with the DPEA</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Whitelee Phase 3 Wind Farm	W19	Section 36	
2	Kiers Hill Wind Farm	W18	Section 36	
3	South Kyle Wind Farm	W17	Section 36	
4	High Cumnock Wind Farm	W14	Planning Application	<b>5</b>
<b>Windfarms Refused by DPEA</b>				
1	Ashmark Wind Farm	W10	Planning Application	
<b>Wind Farms: Pending Assessment</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Pencloe Wind Farm	W12	Section 36	
2	Lethans Wind Farm	W16	Section 36	
3	Penbreck Wind Farm	W7	Planning Application	

4	Garlaffen Wind Farm	W15	Planning Application	
5	Polquhairn Wind Farm	W25	Planning Application	
6	Blair Farm Wind Farm	W27	Planning Application	
7	Glenlouthier Moor Wind Farm	W28	Planning Application	<b>7</b>
<b>Proposed Wind Farms to be submitted</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Monquhill Wind Farm	W20	Planning Application	
2	Auchenlongford Wind Farm	W24	Planning Application	
4	Alton Muirhouse Wind Farm	W29	Planning Application	
			<b>Total</b>	<b>26</b>

## QUARRIES OVERVIEW

<b>Commencement Stage</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Townhead of Greenock-	Q3	Planning Application	
2	Clawfin Farm, Dalmellington	Q4	Planning Application	<b>2</b>
<b>Minded to Approve Quarry: Subject to Legal Agreement</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	North Drumbooy by Fenwick -	Q5	Planning Application	<b>1</b>

## OPEN CAST COAL SITES

<b>Minded to Approve Quarry: Subject to Legal Agreement</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Duncanziemere extension	67	Planning Application	<b>1</b>
<b>Pending Assessment</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	House of Water OCCS restoration	17, 51,58, 60, 61,68	Planning Application	<b>1</b>
<b>Restoration Enforcement Notice</b>				
	<b>Project</b>	<b>Map Key</b>	<b>Application Type</b>	<b>Total</b>
1	Nethererton OCCS restoration	57	Planning Application	

2	Dunstonhill OCCS restoration	48	Planning Application	2
			<b>Total</b>	<b>4</b>

## FORMER OPEN CAST COAL SITES UPDATE

25. As members will be aware, significant efforts by the Coal Team in relation to the former SCCL and ATH sites has resulted in several bond calls having now been settled and in these instances the Council is progressing with the relevant procurement processes with an aim of getting best value for the bond money retrieved in the delivery of the strategy, Make Safe, Make Good, Make New set out in the "Steps To Recovery" Report of September 2013.
26. Dunstonhill - As detailed previous Hargreaves, were successful in winning the restoration contract for this project at the Dunstonhill OCCS. These operations commenced on the 29<sup>th</sup> of June 2015. As detailed in the tables above the operations are being monitored by the Council's Compliance Monitor (DAL) while both the Technical Working Group and Community Liaison Committee have visited the site (during August 2015) and met to review the ongoing operations.
27. Netherton -The restoration of Netherton OCCS has been agreed in principle, with an opportunity to achieve best value from money through utilising the onsite operators to undertake the restoration works. As the on-site operators, Hargreaves will undertake restoration works, as set out within the positive Enforcement Notice which was prepared in consultation with the landowners, DAL and Council Officers. The Enforcement Notice was approved by the Planning Committee on the 2<sup>nd</sup> April 2015 to be served to secure the restoration works for Netherton.
28. Ponesk – Discussions are ongoing with the land owner (Mines Restoration Limited) regarding the utilisation of the £3million bond money to determine an alternative scheme on the site. Public meetings will be arranged following conclusion of those discussion to ensure appropriate community engagement in the process.

### Disclaimed Land Belonging to Aardvark

29. As reported in the Chief Executive's Report to Council of the 19<sup>th</sup> September 2013 KPMG sought to disclaim three areas of land within the former Aardvark sites at Garleffan, Grievehill and Skares Area D. If these Disclaimers are competent (they have not yet been challenged by any party) then the ownership of the disclaimed sites falls to the Crown.
30. The Crown has a period of three years in which to decide if they wish to disclaim the property; it remains unclear what the Crown's position will be in relation to these sites which are likely to have significant responsibilities flowing from their ownership of the sites. It remains unclear who will "own" and have responsibility for the sites in the event that the Crown subsequently also disclaims the land.
31. The Council has statutory responsibilities under the Environmental Protection Act 1990 to address any statutory nuisance identified on any site (i.e. any risk to public health or safety). While the Council has statutory obligations to carry out certain assessments in relation to statutory nuisance, the Council itself is not the

person/authority responsible to put in place specific measures to ensure the health and safety of these sites although it could, in certain circumstances, have the power to do so. The Council as authority of last resort may have responsibilities for contaminated land as set out within Part II A of the Environmental Protection Act 1990.

32. In view of the health and safety hazards that disclaimed sites present and in order that the risks at these are clearly understood by the Council, the Council has undertaken a programme of Health and Safety Risk Assessments at the three disclaimed sites. These assessments are based on information provided by the Independent Mining Engineers together with additional assessments, including site visits undertaken by Officers from the Council's Environmental Health and Health & Safety Sections. As an interim measure to ensure public safety the Council has agreed for Hargreaves to carry out regular safety checks of the sites as they manage the remainder of the former opencast Cola sites in the locality in line with the Quarry Regulations on behalf of the Hive-cos.
33. As already stated, the Council does not have specific statutory duties and responsibilities in relation to implementing necessary health and safety measures at disclaimed sites; however, the Council may require to step in as the authority of last resort in the event that any necessary measures require be put in place in order to prevent serious threat to life or limb where no one else can be held to be responsible.

#### **SCOTTISH MINES RESTORATION TRUST/MINES RESTORATION LTD**

34. Mines Restoration Ltd (MRL), a wholly owned subsidiary of Scottish Mines Restoration Trust (SMRT), retain responsibility for all the Health and Safety aspects at Dunstonhill, Dalfad/Powharnal, the Ponesk/Spireslack complex and Shiel Farm. As detailed previously, the Council continues to work with SMRT/MRL in relation to these sites.

#### **POTENTIAL INFRACTION PROCEEDINGS**

35. As noted in the Steps to Recovery Report to Council dated 19<sup>th</sup> of September 2013, a complaint has been made to the European Commission (EU) in relation to a potential breach of the Special Protection Area (SPA) Habitat Directive, following the loss of habitat from the Muirkirk and North Lowther Uplands SPA due to the unrestored opencast mines in the area.
36. If the EU has evidence that a Member state has failed to transpose a directive properly, or is not enforcing legislation correctly, then it may begin legal proceedings to rectify the situation, known as Infraction Proceedings.
37. The Council continues to be a key member of the Scottish Government working group to identify solutions to mitigate this issue and the group is currently reviewing alternative restoration schemes for the sites affected in the SPA. It should be noted that discussions continue between the Scottish Government and the European Commission in relation to this potential breach, as well as the legal and financial implications of the Infraction proceedings. Once final details of the work programme are agreed with the Scottish Government the action plan will be implemented.
38. As detailed above, the Glenmuckloch Conveyor belt is one of the sites which is subject of potential breach of the Special Protection Area (SPA) Habitat Directive compliant. It is noted that works to remove the conveyor belt from this route within the SPA have

commenced with specifically the work within the SPA being delayed until 1<sup>st</sup> of August 2015 when the bird breeding season is over.

## **RECOMMENDATION**

39. It is recommended that the Planning Committee:
- (i) Notes the progress reports and status of each of the Environmental Projects detailed in the Appendix 1 to 5;
  - (ii) Notes the numbers of Technical Working Groups and Community Liaison Committees and Compliance Monitoring visits which have taken place during the period April to June 2015;
  - (iii) Notes that discussions continue between the Scottish Government and the European Commission in relation to the potential breach of the Habitats Directive and the potential legal and financial implications of the Infraction proceedings thereof; and
  - (iv) Otherwise note the report.

**Michael Keane**  
**Head of Planning and Economic Development**  
**August 2015**

## **BACKGROUND PAPERS**

1. Opencast Mining in East Ayrshire – Steps to Recovery: Report submitted to the meeting of East Ayrshire Council on 19 September 2013.
2. Opencast Mining in East Ayrshire – Compliance Monitoring: Report submitted to the meeting of East Ayrshire Council Planning Committee on 29 November 2013.
3. Update on Operational Opencast Coal Sites in East Ayrshire: Report submitted to the meeting of East Ayrshire Council Planning Committee on 12 November 2013.
4. Independent Review of the Regulation of Opencast Coal Operations in East Ayrshire: Report submitted to the meeting of East Ayrshire Council on 28 January 2014.
5. Opencast Mining in East Ayrshire - Compliance Monitoring update: - Report submitted to the meeting of East Ayrshire Council Planning Committee on 4 April 2014
6. Opencast Coal Mining in East Ayrshire – Compliance Monitoring Update on 27 June 2014
7. Opencast Coal Mining in East Ayrshire – Compliance Monitoring Update on 14<sup>th</sup> October 2014
8. Opencast Coal Mining in East Ayrshire – Compliance Monitoring Update on 30<sup>th</sup> January 2015  
Opencast Coal Mining in East Ayrshire – Compliance Monitoring Update on 24<sup>th</sup> April 2015

Anyone wishing to review the above papers should contact Craig Iles on 01563 576749.

**Implementation Officer: - David McDowall Operations Manager**

## Appendix 1: Open Cast Coal Sites

<b>Site</b>	Greenburn Complex
<b>Operator</b>	Kier Mining
As indicated above Kier have indicated that they are in discussions with a potential purchaser for the Greenburn Complex. General coal operations across the Wellhill and Braehead sites recommenced in July 2015 while the restoration works in Dalgig have been suspended.	

<b>Site</b>	Greenburn Complex:- Wellhill Farm
<b>Operator</b>	Kier Mining
<b>Application Ref No.</b>	12/0066/PP
<b>Date Approved</b>	2 <sup>nd</sup> February 2013
<b>Site Commenced</b>	March 2013
<b>Site duration</b>	5 years
<b>Expiry Period</b>	March 2018
<b>Approved Estimate Coal Reserves (tonnes)</b>	750,000
<b>Estimated Coal Reserves remaining (tonnes)</b>	80,000
<b>Site Status</b>	Works suspended.
During the period of January 2015 – June 2015, coaling was suspended in the Wellhill Farm area of the overall Greenburn Complex. General care and maintenance of the site has been carried out, with monthly compliance visits to the site on-going. Coaling recommenced in July 2015 despite the period of in action whilst not coaling, the development is not currently in breach of the Planning Permission. Coal is currently being stockpiled within the application site.	

<b>Site</b>	Greenburn Complex:- Braehead Farm
<b>Operator</b>	Kier Mining

<b>Application Ref No.</b>	10/0491/PP & 13/841/PP
<b>Date Approved</b>	22 February 2011
<b>Site Commenced</b>	June 2012
<b>Site duration</b>	5 years
<b>Expiry Period</b>	June 2017
<b>Approved Estimate Coal Reserves (tonnes)</b>	1,500,000
<b>Estimated Coal Reserves remaining (tonnes)</b>	844,160
<b>Site Status</b>	Works suspended
<p>During the period of January 2015 – June 2015, coaling was suspended in the Braehead Farm area of the overall Greenburn Complex. General care and maintenance of the site has been carried out, with monthly compliance visits to the site on-going. Coaling recommenced in July 2015 despite the period of in action whilst not coaling, the development is not currently in breach of the Planning Permission. Coal is currently being stockpiled within the application site.</p>	

<b>Site</b>	Greenburn Complex:- Dalgig Farm
<b>Operator</b>	Kier Mining
<b>Application Ref No.</b>	00/0793/FL, 03/0726/FL, 04/0263/FL, 04/0717/FL, 05/0452/FL, 05/0583/FL, 07/0211/FL, 07/0745/FL, 07/0908/FL
<b>Date Approved</b>	19 August 2008
<b>Site Commenced</b>	June 2009 (Dalgig)
<b>Site duration</b>	Original site 10 years
<b>Expiry Period</b>	March 2015
<b>Approved Estimate Coal Reserves (tonnes)</b>	0

<b>Estimated Coal Reserves remaining (tonnes)</b>	0
<b>Site Status</b>	Active - Restoration
<p>Coaling was completed at Dalgig Farm in December 2014. Keir intensified the restoration operations on the site during the cessation of coaling operations at Wellhill and Braehead. It is anticipated that approximately 13million tonnes of overburden materia requires to be relocated into the Dalgig void from the overburden in order to comply with the current planning permission. However as the coaling operations have recommenced in other areas of the Complex these restoration operations have been suspended by the operator. It is noted that planning application for the revision of the restoration scheme in this area is currently being considered by the Planning Authority.</p>	

<b>Site</b>	Duncanziemere and Laigh Glen Muir
<b>Operator</b>	Hargreaves Surface Mining Ltd on behalf of OCCW (Duncanziemere)
<b>Application Ref No.</b>	05/0232/FL, 06/0291/PP, 09/0511/PP 09/0770/PP, 12/0837/PP – 24hr working & 13/0578/PP
<b>Date Approved</b>	30 March 2011
<b>Site Commenced</b>	October 2010
<b>Site duration</b>	5.5 years
<b>Expiry Period</b>	March 2016
<b>Approved Estimate Coal Reserves(tonnes)</b>	800,000
<b>Estimated Coal Reserves remaining(tonnes)</b>	0
<b>Site Status</b>	Restoration
<p>The Coaling operations have concluded while restoration operations continue at the Duncanziemere site, in line with the Scenario B scheme approved by Committee on the 29<sup>th</sup> November 2013 with current operations expected to finish in Autumn 2015.</p>	

<b>Site</b>	Netherton
<b>Operator</b>	Hargreaves Surface Mining Ltd on behalf of OCCW (Netherton)
<b>Application Ref No.</b>	09/0891/PP & 11/0535/PP
<b>Date Approved</b>	19 October 2010
<b>Site Commenced</b>	October 2011
<b>Site duration</b>	10 years
<b>Expiry Period</b>	October 2021
<b>Approved Estimate Coal Reserves (tonnes)</b>	4,100,000
<b>Estimated Coal Reserves remaining (tonnes)</b>	104,000
<b>Site Status</b>	Active
<p>Coaling is expected to conclude in December 2015 while progressive restoration is continuing within the Northern void. On the 2<sup>nd</sup> April 2015, the Planning Committee approved the serving of a positive Enforcement Notice on the Landowners to facilitate the spending of £3.96m of restoration bond monies within the site. Given Hargreaves are currently on site working for OCCW Netherton, the Council is negotiating with them regarding the carrying out of the enforcement restoration work, with works expected to commence imminently, with the monthly compliance visits reviewing the site as works progress.</p>	

<b>Site</b>	House of Water – Burnston Remainder
<b>Operator</b>	Hargreaves Surface Mining Ltd on behalf of OCCW (House of Water)
<b>Application Ref No.</b>	12/0022/PP, 13/0636/PP, 13/0638/PP & 13/0056/NMV
<b>Date Approved</b>	13 February 2013
<b>Site Commenced</b>	1 May 2014
<b>Site duration</b>	5 years coaling + 1 year for restoration.

<b>Expiry Period</b>	December 2015
<b>Approved Estimate Coal Reserves(tonnes)</b>	1,800,000
<b>Estimated Coal Reserves remaining(tonnes)</b>	1,568,000
<b>Site Status</b>	Active
<p>Mining operations are being carried out in general accordance with the current Planning permission with the main working void being extended and deepened. The ongoing operations have resulted in the historic A5 void being infilled, to a level above the water table level and thus it no longer retains water, while infilling works continue to take place at Burnston Fields Extension and the Craigman Void.</p> <p>A revised restoration plan for the entire site has been subjected to public consultation in September 2014 by OCCW (House of Water) and a formal application setting out the restoration proposals was submitted 19<sup>th</sup> November 2014, and is currently under consideration.</p>	

<b>Site</b>	Tardoes
<b>Operator</b>	Law Mining
<b>Application Ref No.</b>	CD/96/0097/MIN
<b>Date Approved</b>	1996
<b>Site Commenced</b>	1996
<b>Site duration</b>	8
<b>Expiry Period</b>	2004
<b>Approved Estimate Coal Reserves (tonnes)</b>	0
<b>Estimated Coal Reserves remaining (tonnes)</b>	0
<b>Site Status</b>	Restored and subject to aftercare
<p>This site is fully restored in its final year of aftercare. The aftercare is being carried out by the Landowner financed through the restoration bond.</p>	

<b>Site</b>	Darnconner
<b>Operator</b>	VWM (Scotland) Ltd
<b>Application Ref No.</b>	CD/84/0081/Q, CD/85/0148/Q, CD/87/0153/Q, CD/89/0241/Q, CD/91/169/Q, CD/95/0058/MIN  CD/95/0230/DPP, 00/0118/FL  06/0480/FL, 08/0932/FL &  11/0293/PP
<b>Date Approved</b>	1984
<b>Site Commenced</b>	1984
<b>Expiry Period</b>	Site subject to current Planning Application
<b>Approved Estimate Coal Reserves (tonnes)</b>	n/a
<b>Estimated Coal Reserves remaining (tonnes)</b>	n/a
<b>Site Status</b>	Partially restored.
<p>Since the decision of the Planning Committee in February 2015 requiring the developer to redesign their landscaping plans to remove the overburden from the proposals, the Planning Authority has not received any further submissions from the Developer. However, discussions are ongoing between the Landowner and the Planning Authority about the restoration of this site.</p>	

<b>Site</b>	Dunstonhill Patna
<b>Contractor</b>	Hargreaves Surface Mining Ltd
<b>Enforcement Notice</b>	EN/15/0085/BPC
<b>Date Approved</b>	17 <sup>th</sup> June 2015

<b>Contract Commenced</b>	29 <sup>th</sup> June 2015
<b>Contract duration</b>	18 months
<p>The restoration contract has commenced onsite in line with the restoration contract drawings. Work to the exposed rock face in the southern in area has delayed until the end of the bird breeding season to allow the sand martins to finish breeding this area. However the project timescales will be met through the redeployment of resources on site to maximise restoration at the northern and central sections of the site.</p>	

## Appendix 2:- Onshore Wind Farms

<b>Site</b>	Whitelee Windfarm
<b>Operator</b>	Scottish Power Renewables (SPR)
<b>Application Ref No.</b>	Whitelee windfarm Section 36
<b>Date Approved</b>	2007
<b>Site Commenced</b>	2009
<b>Site duration</b>	25 years
<b>Site Status</b>	Operational
<p>In line with all other consents of this nature a full review of the Whitelee windfarm consents and operations within the development site is ongoing and Ironside Farrar have reviewed the Bond provision over the entire development for East Ayrshire, East Renfrewshire and South Lanarkshire Councils. Discussions are currently ongoing with the windfarm operator, Scottish Power Renewables (SPR), in relation to the continued maintenance of the restoration guarantee for the windfarm. As a result of previous noise complaints, which have been investigated but not substantiated from local residents, noise monitoring equipment has been installed at two properties, Meadowhead and East Collarie to monitor noise levels being experienced by local residents.</p>	

<b>Site</b>	Harehill Windfarm New Cumnock
<b>Operator</b>	Scottish Power Renewables (SPR)
<b>Application Ref No.</b>	CD/94/0097/DPP
<b>Date Approved</b>	1996
<b>Site Commenced</b>	1997(approximately)
<b>Site duration</b>	25 years
<b>Site Status</b>	Operational
<p>This windfarm has been operational since 1997. A review of the Planning consent is in the workplan which will be considered in line with the recently granted Harehill extension. At present there are no current compliance issue with this development.</p>	

### Appendix 3:- Quarries

<b>Site</b>	Loudoun Hill by Darvel
<b>Operator</b>	LafargeTarmac
<b>Application Ref No.</b>	KL/FL/94/288A, 97/0032/FL, 97/0100/FL, 02/0524/FL, 02/0525/FL 02/0526/FL & 04/0681/FL
<b>Date Approved</b>	22.04.1995
<b>Site Commenced</b>	1995
<b>Site duration</b>	12 years
<b>Expiry Period</b>	2007
<b>Site Status</b>	Partially restored.
Discussions are ongoing with the Operator relating to a revised restoration schemes for this site.	

<b>Site</b>	Tincornhill by Sorn
<b>Operator</b>	Breeden Aggregates
<b>Application Ref No.</b>	A/971/Q, CD/91/27/Q, CD/91/28, 02/0889/FL, 02/0890/FL, 03/1135/FL, 12/0066/PP & 14/0554/PP
<b>Date Approved</b>	28.07.2007
<b>Site Commenced</b>	28.07.2007
<b>Site duration</b>	15 year
<b>Expiry Period</b>	2022
<b>Site Status</b>	Active
The Annual Site compliance visit was undertaken 18 <sup>th</sup> November 2014. The Planning Committee May 2015 approved the revised restoration 15 year proposals. There are no operational concerns relating to this site.	

<b>Site</b>	Clawfin Quarry
<b>Operator</b>	Breeden Aggregates on behalf of Scottish Power
<b>Application Ref No.</b>	14/0269/PP
<b>Date Approved</b>	13.07.2007
<b>Site Commenced</b>	19.01.2015
<b>Site duration</b>	16 months
<b>Expiry Period</b>	19.04.2016
<b>Site Status</b>	Active
The use of Clawfin quarry is to provide stone for the SWS Interconnector Project. There are no operational concerns relating to this site.	
<b>Site</b>	Townhead of Greenock
<b>Operator</b>	Hillhouse Quarries
<b>Application Ref No.</b>	12/0831/PP
<b>Date Approved</b>	23 <sup>rd</sup> April 2014
<b>Site Commenced</b>	Not commenced.
<b>Site duration</b>	21 years
<b>Expiry Period</b>	2036
<b>Site Status</b>	Active – Site clearance works underway.
This development has commenced on site and was the subject of a Compliance visit by Planning Officers and Ironside Farrar. As is expected when commencing such a project, issues of best practise and water management were discussed with the operator, however no significant operational concerns were identified.	

#### Appendix 4:- SWS Renewables Connection Project

<b>Site</b>	SWS Renewables Connection Project – Part A Meiklehill to Coylton
<b>Operator</b>	Scottish Power Energy Networks (SPEN)
<b>Application Ref No.</b>	09/0131/EB
<b>Date Approved</b>	December 2013
<b>Site Commenced</b>	January 2014
<b>Expiry Period</b>	N/A
<b>Site Status</b>	Under construction

#### **Coylton Sub-Station:**

All sub-station extension works have been completed. The porta-cabins associated with the SWS Project have been removed but the temporary hardstanding will be retained as re-stringing the adjoining WA towers is programmed. SPEN have been informed that this retention of the hardstanding is a change from the approved scheme and will require to be regularised. The screening bund will require ripping to ease compaction & top soiling prior to any landscaping works taking place. Landscaping is planned after the WA route has been completed. Waste material south of sub-station is still to be removed and the relevant Waste Transfer Notice provided to PMO's. Excess material has been generated on site, mainly consisting of subsoils and stone. This is still being stored in bunds to the south of the sub-station.

#### **Meiklehill Sub-Station:**

All main excavation work has ceased. Works completed on the control building with interior fit-out ongoing. Sub-Station electrical works are ongoing and the platform is substantially complete awaiting installation of the transformers which are scheduled for delivery on the 9<sup>th</sup>, 13<sup>th</sup> and 23<sup>rd</sup> August 2015. Restoration of the surroundings of the sub-station and temporary compounds is still to commence. It is anticipated that works will be substantially complete by Spring 2016.

The compliance monitoring process highlighted that peat bunds around the Meiklehill sub-station were significantly different to those approved in the Peat Management Plan. The developer is currently in discussion with SEPA and

Development Management regarding this matter and how best to achieve a resolution to the issue with minimum effect on the environment.

**Overhead Line Route (OHL):**

Works are progressing, with towers being erected along the route and regular inspections being undertaken. A substantial number of the power lines have been strung and works continue to complete this process. Restoration has commenced on the pylon pads and a number of the access tracks and pads are in the process of being removed in accordance with the planning consent. A number of environmental issues have been noted during compliance inspections and brought to the attention of the developer. Further inspections will be undertaken to ensure that they are resolved however an improvement in work practices has been noted along the route during further monitoring visits which is encouraging. Alterations have been made to the planned access along the OHL route resulting in the OHL access track breaking between Tower 29 and 30 to avoid crossing the Black Water. Some micro-siting of towers has been undertaken within the agreed tolerances.

**Project wide:**

A number of ecology issues have been raised in particular the developer's failure to carry out the necessary ecology pre-commencement surveys across the project. This matter has been raised with the developer and SNH. It has been agreed following consultation with the Council's Environmental and Ecological consultants that whilst the ECOW information provided by the developer does not in their view constitute pre-commencement surveys, and following the undertaking of additional Fresh Water Pearl Mussel surveys that we are satisfied that the reporting addresses protection of ecological sensitivities in relation to Part A of the project. The deliveries of concrete and stone to the site continue to be audited by Ironside Farrar. Discrepancies between the delivery dockets recorded on site and the delivery records submitted by SPEN to Ayrshire Roads Alliance (ARA) identified during the audit process have been significant enough to merit a closer review of non-recording of vehicle movements which may in turn be significant in terms of the Section 69 Bond remuneration. The increased auditing regime is continuing however some issues have arisen regarding the availability of delivery dockets at the site. This is being discussed with the developer and ARA. Stone is now being provided to the site from Clawfin Quarry rather than from sources further afield or is being recycled from bases that have been restored where this is appropriate and the material is suitable for reuse.

## Appendix 5: Landfill Sites

<b>Site</b>	Garlaff Landfill by Skares
<b>Operator</b>	Barr Environmental
<b>Application Ref No.</b>	CD/90/362/Q, CD/95/0273/DPP, 97/0596/FL, 00/06/85/FL, 01/0077/FL  02/0307/FL, 03/0723/FL, 09/0555/PP & 13/0708/PP
<b>Date Approved</b>	26.06.1991
<b>Site Commenced</b>	1991
<b>Site duration</b>	On-going
<b>Expiry Period</b>	18.9.2022 (20yrs from 00/0685/FL approval)
<b>Site Status</b>	Active
<p>An existing application is under consideration for the revised size of the waste management facility comprising manual and mechanical treatment plant equipment and associated ground enabling works (13/0708/PP), this item will be presented to the Planning Committee for determination.</p>	

<b>Site</b>	Craignought By Lugton
<b>Operator</b>	LafargeTarmac
<b>Application Ref No.</b>	KL/W/77/018B, 98/0791/FL, 00/0038/FL  01/0493/FL, 07/0143/FL & 10/0463/PP
<b>Date Approved</b>	1976
<b>Site Commenced</b>	1976
<b>Site duration</b>	34
<b>Expiry Period</b>	2014
<b>Site status</b>	Under restoration

Discussions are ongoing with the operator relating to the final restoration of the development site.

<b>Site</b>	Dalricket Mill
<b>Operator</b>	East Ayrshire Council
<b>Application Ref No.</b>	CD/79/50/LA
<b>Date Approved</b>	20 <sup>th</sup> December 1979
<b>Site Commenced</b>	1984
<b>Site duration</b>	12 Year
<b>Expiry Period</b>	1996
<b>Site status</b>	Restored, subject to further capping

The site which extends to approximately 6 hectares was formerly operated as a landfill site by Cumnock and Doon Valley District Council between 1984 and 1996 for the disposal of domestic waste. The site is currently restored with a works package being prepared by East Ayrshire Councils Corporate Infrastructure Section to undertake further capping works to encapsulate the site and prevent potential leachate from the site to the adjacent watercourse. These works will be subject to compliance monitoring by DAL.

# Appendix 6 Land Use map of major developments within East Ayrshire

