

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 10 MARCH 2004

PROPOSED EU DIRECTIVE ON THE MANAGEMENT OF WASTE FROM THE EXTRACTIVE INDUSTRIES: A CONSULTATION PAPER

Report by Director of Development Services

1. PURPOSE OF REPORT

- 1.1** To seek the views of the Committee on a consultation paper prepared by the Scottish Executive Development Department entitled ' Proposed EU Directive on the Management of Waste from the Extractive Industries' and to homologate the action taken to date.

2. BACKGROUND INFORMATION

- 2.1** On 2 June 2003, the European Commission adopted a proposal for an EU Directive on the management of waste from the extractive industries ie. mining and quarrying. The Council were formally consulted on the implementation of this Directive on December 2003. The proposal itself seeks to provide supplementary measures to the Waste Framework Directive to prevent or reduce, as far as possible, any adverse effects on the environment, and any resultant risks to human health, brought about as a result of the management of waste from these industries.
- 2.2** The proposal will affect all UK on-shore sectors of the mining and quarrying industries and, within East Ayrshire, will relate particularly to coal and sand and gravel extraction. Views on the consultation paper were requested by 31 January 2004. Detailed comments have been sent to the Executive on the proposals and the Committee is requested to homologate the actions taken to date.

3. THE CONSULTATION PAPER

- 3.1** The consultation paper explains that the proposal to manage waste from the extractive industries has been developed as a result of a number of failures at various mining sites in Europe, which led to significant environmental damage. The Commission recognises that some fractions of waste from the mining industry are hazardous or contain dangerous substances, and that even inert waste can adversely affect the environment. However, it is recognised in the consultation paper that in the UK, the extractive industries are tightly regulated through Health and Safety and Town and Country Planning legislation and that the incidence of significant operational failure of waste facilities leading to major environmental damage is very rare.
- 3.2** Concerns are expressed in the consultation paper that the proposal could lead to additional and unnecessary regulation of some waste facilities which,

based on recent UK experience, is not justified. However it is also recognised that if the proposal were not to be implemented, accidents would continue to occur elsewhere within the EU. Three options are therefore proposed within the consultation paper, ie:

- Option 1: to seek to prevent the adoption of the proposal.
- Option 2: to support the proposal as currently drafted; and
- Option 3: to negotiate for amendments to improve the proposal.

3.3 Many of the proposals detailed in the consultation paper reflect existing good practice in the UK. However, some provisions as detailed in Options 2 and 3 of the paper go beyond existing UK practice, these including:

- (i) preparation of waste management plans;
- (ii) the introduction of major-accident prevention policies; and
- (iii) a requirement for financial guarantees.

4. GENERAL OBSERVATIONS AND CONCLUSIONS

4.1 It is considered that the introduction of an EU directive on the management of waste from the extractive industries is generally worthy of support in that it introduces a consistent set of rules across the EU relating to this issue. The 'do nothing' approach advocated in Option 1 is not considered acceptable as there are obvious waste management issues to be addressed. The Council are supportive of the courses of action detailed in Option 2, especially as a number of the measures proposed are already established Council practice and enshrined in the Council's adopted Subject and Local plans. However, the amendments proposed in Option 3 are considered particularly worthy of support, as these would provide the Directive with a greater degree of clarity. On balance therefore it is recommended that this option be pursued.

4.2 A summary of the various options presented in the consultation paper, and suggested Council comments on the implications of adopting those options, is detailed in Annex 1 attached to this report. These comments formed the basis of the response already sent to the Scottish Executive.

5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications for the Council as a direct result of the consultation exercise.

6. LEGAL/AUTHORITY IMPLICATIONS

6.1 There are no legal/authority implications for the Council as a result of the consultation exercise.

7. PERSONNEL IMPLICATIONS

7.1 There are no personnel implications for the Council as a result of the consultation exercise.

8. RECOMMENDATIONS

8.1 It is recommended that the Committee agrees:

- (a) to approve the contents of this report and homologate the actions taken to date; and
- (b) to authorise the Director of Development Services to submit any further responses following consideration of the report.

Stephen Chorley
Director of Development Services

26 February 2004 (JL/SA)
FV-AN

LIST OF BACKGROUND PAPERS

1. Scottish Executive Consultation Paper: Proposed EU Directive on the Management of Waste from the Extractive Industries.

Anyone wishing to inspect the above background paper please contact John Lilley on (01563) 576754.

Implementation Officer: Alan Neish

Annex 1

SUMMARY OF THE COUNCIL'S MAIN OBSERVATIONS ON THE CONSULTATION PAPER

Option 1

Option 1 aims to seek to prevent the adoption of the proposal.

The Council would agree with the views expressed in the consultation paper that the minerals industry in the UK is already required to operate to a high standard under existing national legislation. However, seeking to prevent adoption of the proposal is not considered to be viable or defensible at the European level.

Option 2

Option 2 is to support the proposal as it is currently drafted, introducing certain new waste management provisions, eg. the preparation of waste management plans, the introduction of major-accident prevention policies and a requirement for financial guarantees.

The Council would have no objections to the proposal for operators to produce waste management plans being incorporated into the proposed Directive, as this measure would closely mirror the arrangements currently in place within the authority as regards opencast coal developments. Similarly, the Council would have no objection in principle to operators drawing up major-accident prevention policies. The Council would have no objections to the proposal for operators to provide financial guarantees being incorporated into the proposed Directive, as this measure would closely mirror the arrangements currently in place within the authority as regards opencast coal and other mineral developments.

Option 3

Option 3 is to support the management of waste from the extractive industries as described in Option 2 above, but to negotiate for amendments (such as the adoption of appropriate thresholds for inclusion of facilities within the category subject to the major accident prevention policy and clarifying various definitions to minimise risk of misinterpretation of the intended provisions) to improve the proposal.

The Council would agree with the views expressed in the consultation paper that the benefits to be gained through the adoption of Option 3 would be similar to the benefits of Option 2 but with a greater degree of certainty about the requirements of the Directive. This therefore is to be preferred.