

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 12 AUGUST 2005

**05/0452/FL: PROPOSED EXTENSION OF EXCAVATION AREA AND SITE
LIMITS FOR OPENCAST COAL MINING AND RE-ALIGNMENT OF
UNCLASSIFIED ROAD
AT GREENBURN OPENCAST COAL SITE, NEW CUMNOCK**

APPLICATION BY KIER CONSTRUCTION LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Permission is sought for an extension of the existing site boundary of the Greenburn site to include a strip of land that currently separates the two main excavation areas within the consented site (Areas A and B). This strip of land is currently occupied by the unclassified U720 Dalricket Road. This inclusion of this area would allow for continuous working from Area A into Area B. A variation to Condition 35 of the approved consent (Ref. No. 00/0793/FL) relating to the approved operational conduct of the site is also sought to allow for this proposed extension to the excavation area within the Greenburn site. The application also promotes the re-alignment of the U720 Dalricket road on a route which places it further to the east along a revised eastern boundary to the limit of excavation in Area B.

1.2 It is the intention of the operator to maximise coal production from the Greenburn site and this proposal will allow the recovery of additional coal essentially from within confines of the existing site. This would yield up to a further 60,000 tonnes of high quality coal, distributed mainly via the new dedicated railhead and line to the power generation industry.

1.3 The operator has indicated that the proposal for this continuous working through the two excavation areas is not anticipated to have any significant impact on the overall life of the Greenburn site. The operations resulting from this proposal would not commence until Year 3 (2006/7). Due to planned production levels being higher than originally anticipated, the timescale for mining in Area B, including the road corridor extension, is anticipated to be 9 months, 3 months less than worked as a separate area under the existing consented scheme.

1.4 The proposed excavation in Area B has been redesigned to accommodate the proposed re-alignment and maximise coal recovery. This involves moving the southern limit of excavation in the south of Area B some 140 metres to the north, the eastern limit moving some 40 metres to the east and the western limit moving some 90 metres to the west. The modification of Area B results in a net increase in the permitted excavation area by only 0.4

hectare. The proposal also results in excavations in Area B moving westwards away from sensitive receptors in the locality.

1.5 The proposed permanent re-alignment of the U720 Dalricket Road would result in the formation of a new road corridor generally to the east of the revised limit of excavation for Area B. The new section of road will be constructed to East Ayrshire Roads Division adoption standards but will result in a widening of the road from 5.5 metres to 6 metres. The existing site access to Auchincross Farm would be maintained and the majority of road construction works would be carried out offline, causing no disruption to the active road network. The re-alignment proposal will require to be the subject of a formal road closure order promoted in terms of the Town and Country Planning (Scotland) Act 1997.

1.6 Environmental information has been provided by the applicant to suggest that the proposal will have no significant additional impacts relative to noise, dust, blasting, traffic and hydrology. The existing operations are subject to appropriate monitoring and management measures to minimise any adverse impacts arising to the development. All other aspects of the proposed development will be in accordance with the terms of the existing planning consent for the site and associated conditions and obligations within the Section 75 Agreement.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants in respect of the matter detailed in Paragraph 7.1 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. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. However, these material considerations are also generally supportive of the proposed development as it is considered that the objections raised are either not of sufficient weight to justify refusal of the application or are not relevant to the proposal.

3.2 The proposals represent an extension and modification of existing consented site at Greenburn and includes the re-alignment of the U720 Dalricket Road. It will involve the extraction of additional coals which in

environmental terms is considered to present no significant additional adverse impacts and this is essentially borne out by the consultation process. The net increase in excavation area is only 0.4 hectare although overall the proposals will result in an additional 60,000 tonnes of coal being extracted from the site.

3.3 It is considered that, given the relatively remote and sparsely populated area in which the Greenburn site is located, the proposal to extend the existing consented site will have no significant adverse effects on any local community. The proposal will not result in any breach of the required buffer distances promoted through the policies of the East Ayrshire Opencast Coal Subject Plan and it is considered that the extended operations proposed can be undertaken within acceptable environmental standards.

3.4 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the development plan.

Alan Neish
Head of Planning, Development and Building Standards

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

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 12 AUGUST 2005

05/0452/FL: PROPOSED EXTENSION OF EXCAVATION AREA AND SITE LIMITS FOR OPENCAST COAL MINING AND RE-ALIGNMENT OF UNCLASSIFIED ROAD AT GREENBURN OPENCAST COAL SITE, NEW CUMNOCK

APPLICATION BY KIER CONSTRUCTION LIMITED

Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation because it represents an extension and variation to the approved scheme of working for an existing opencast site which is in generally in accordance with the Opencast Coal Subject Plan and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies approximately 5 kilometres west of New Cumnock and approximately 6 kilometres south of Cumnock and comprises the farmlands of Greenburn, Fardenreoch and Auchincross, together with an area of derelict land at the site of the former Coalburn Colliery, covering a total area of 226.5 hectares. The application site relates to the approved Greenburn Opencast Coal Site, works for which commenced in August 2003.

2.2 Planning permission for the extraction of 3.5 million tonnes of coal by opencast method from the application site was granted on 06 August 2002 under planning application 00/0793/FL. Full permission was also granted at that time for the construction and operation of a new dedicated railhead and rail link to serve the proposed opencast site. The Greenburn opencast site is to be worked over a total period of 10 years with a coaling period of 7 years.

2.3 **Proposed Development:** Permission is sought for an extension of the existing site boundary of the Greenburn site to include a strip of land that currently separates the two main excavation areas within the consented site (Areas A and B). This strip of land is currently occupied by the unclassified U720 Dalricket Road. This inclusion of this area would allow for continuous working from Area A into Area B. A variation to Condition 35 of the approved consent (Ref. No. 00/0793/FL) relating to the approved operational conduct of the site is also sought to allow for this proposed extension to the excavation area within the Greenburn site. The application also promotes the re-

alignment of the U720 Dalricket road on a route which places it further to the east along a revised eastern boundary to the limit of excavation in Area B.

2.4 It is the intention of the operator to maximise coal production from the Greenburn site and this proposal will allow the recovery of additional coal essentially from within confines of the existing site. This would yield up to a further 60,000 tonnes of high quality coal, distributed mainly via the new dedicated railhead and line to the power generation industry.

2.5 The operator has indicated that the proposal for this continuous working through the two excavation areas is not anticipated to have any significant impact on the overall life of the Greenburn site. The operations resulting from this proposal would not commence until Year 3 (2006/7). Due to planned production levels being higher than originally anticipated, the timescale for mining in Area B, including the road corridor extension, is anticipated to be 9 months, 3 months less than worked as a separate area under the existing consented scheme.

2.6 The proposed excavation in Area B has been redesigned to accommodate the proposed re-alignment and maximise coal recovery. This involves moving the southern limit of excavation in the south of Area B some 140 metres to the north, the eastern limit moving some 40 metres to the east and the western limit moving some 90 metres to the west. The modification of Area B results in a net increase in the permitted excavation area by only 0.4 hectare. The proposal also results in excavations in Area B moving westwards away from sensitive receptors in the locality.

2.7 The proposed permanent re-alignment of the U720 Dalricket Road would result in the formation of a new road corridor generally to the east of the revised limit of excavation for Area B. The new section of road will be constructed to East Ayrshire Roads Division adoption standards but will result in a widening of the road from 5.5 metres to 6 metres. The existing site access to Auchincross Farm would be maintained and the majority of road construction works would be carried out offline, causing no disruption to the active road network. The re-alignment proposal will require to be the subject of a formal road closure order promoted in terms of the Town and Country Planning (Scotland) Act 1997.

2.8 Environmental information has been provided by the applicant to suggest that the proposal will have no significant additional impacts relative to noise, dust, blasting, traffic and hydrology. The existing operations are subject to appropriate monitoring and management measures to minimise any adverse impacts arising to the development. All other aspects of the proposed development will be in accordance with the terms of the existing planning consent for the site and associated conditions and obligations within the Section 75 Agreement.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division indicates that it has no objections to the proposed development subject to conditions. The new section of U720 public road must be completed prior to the removal of the existing road. Road Construction Consent will be required to be issued to the developer by East Ayrshire Council prior to commencement of road works on site. The redundant section of road will require to be stopped up by order under the provisions of the Town and Country Planning Act for permitted development should the application be approved.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division.

3.2 The Scottish Environment Protection Agency indicates that it has no objections to the proposal but the applicant should continue to consult with SEPA to ensure that there is no requirement for a review of the existing Authorisation for the site as a result of the revision of the site boundary. The applicant should ensure that the volume of water being treated through the lagoon system will not be greater than that consented and that the other parameters are also adhered to. If there is a requirement to increase the volume the applicant should consult with SEPA.

A note can be attached to any consent granted for the proposed development advising the applicant to make early contact with SEPA regarding these issues.

3.3 The Scottish Wildlife Trust has no objections to the proposed development.

Noted.

3.4 Scottish Natural Heritage has not responded to the consultation letter.

Noted.

3.5 Power Systems and Scottish Water have no objections to the proposed development

Noted.

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

Noted.

3.7 The Royal Society for the Protection of Birds has not responded to the consultation letter.

Noted.

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

Noted.

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

Noted.

3.10 The Nith District Salmon Fishery Board has no objections to the proposed development. The Board currently undertakes electro-fishing surveys of the River Nith in the vicinity of Greenburn OCCS and can conclude that the site, thus far, has had no adverse impacts on salmonid species of fish.

Noted.

3.11 East Ayrshire Council Environmental Health Division has no objections to the proposed development in principle, subject to compliance with existing conditions re dust, noise and vibration control measures. Auchincross Farm will clearly be the property most singularly affected by the proposed development, both by the site excavations and also by the construction work entailed in the building of the new road. Given the proximity of the farm to the existing opencast workings and railhead loading facility, it may be that some agreement has been made between the owner of the property regarding operations in the locality.

The site operator owns the property in question and is in current use as the site offices.

4. REPRESENTATIONS

4.1 None.

Noted.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

Ayrshire Joint Structure Plan

5.2 The Approved Ayrshire Joint Structure Plan indicates in its Key Diagram that the Greenburn 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 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 application for the Greenburn opencast site (Ref. No. 00/0793/FL) was 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 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 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.*

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

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

The development will utilise existing site facilities and infrastructure.

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

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

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

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

5.5 Policy MIN 12: The Council will seek to ensure that a proliferation of opencast coal sites within close proximity to any one community or within one particular area does not occur. In this context, any proposed new opencast developments may be considered to contribute to an unacceptable cumulative impact on the amenity of an area where that development would:

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

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

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

- (iv) *result in an unacceptable accumulation of adverse impacts on international or nationally designated sites of nature conservation interest over time and place within a particular locality, or an accumulation of individual*

impacts which collectively have a significant adverse effect on the integrity of such areas.

The proposed development is not a new site but an extension to the existing Greenburn site, in a corridor that currently divides the two main working areas of the Greenburn site. Nonetheless it is considered that the proposed extension would not conflict with the provisions of policy MIN 12 with respect to the stated criteria.

5.6 Policy MIN 15: All developers are required to restore their operational sites progressively to the highest possible standards. Developers will be required to provide for the creation of new habitats appropriate to the particular after uses of the site concerned as an integral part of their detailed restoration and aftercare proposals.

The restoration of the Greenburn site is designed to improve the wildlife conservation value of the land that would provide for greater benefits to the area both in bio-diversity terms and also in general amenity terms. Restoration to high standards will be overseen by the Technical Working Group which has been set up, and is operational, as part of the existing Section 75 Agreement for the Greenburn site.

5.7 Policy MIN 18: The Council will strongly encourage opencast coal operators to utilise existing rail facilities for the transportation of coal which is not specifically destined for local domestic Ayrshire markets.

A minimum of 90% of coals won from the proposed extension area require to be dispatched via the existing dedicated railhead facilities at the Greenburn site.

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

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

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

Contributions by the operator to the maintenance of public roads is secured through the existing Section 75 Agreement for the Greenburn site.

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

- (i) to ensure the highest possible operational standards for the transportation of extracted minerals;
- (ii) to ensure best operational practice regarding road safety and operational matters;
- (iii) to agree, regulate and monitor the routes taken by coal haulage vehicles, the arrival of coal haulage vehicles, the dispatch of coal from the site and the numbers of haulage vehicles using the agreed haulage routes
- (iv) to audit and record operational details of the transportation of coal on a regular basis; and
- (v) to provide the Council with monitoring information regarding transportation and haulage of materials, breaches of protocol etc.

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

The existing Section 75 Agreement for the Greenburn site contains an obligation in respect of this matter.

5.11 Policy MIN 23: In order to ensure that opencast operations do not cause unacceptable disturbance and nuisance to residents of local communities, the Council is likely to consider opencast developments unacceptable where:

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

The proposed 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.

The proposed extension to the existing site area extends to approximately 1.2 hectares and overall with the amendments to the limits of excavation on Area B, the net increase in excavation area within the site is 0.4 hectare. As a consequence of these amendments, the timescale for operations in Area B are anticipated to be completed in 9 months as opposed to 12 months in the original consented scheme.

It is considered that the development will not have any significant adverse impact on nearby communities and the proposal is therefore considered acceptable in planning policy terms.

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

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

5.12 Policy MIN 25: Any proposal to undertake any extraction operations or to locate operational areas relating to the storage, processing or dispatch of coal within 500 metres of any sensitive establishment, group of dwellings or individual dwellinghouses not in the ownership or under the control of the developer will only be entertained by the Council where the development can be fully justified by the developer in environmental terms and where all of the following criteria are met:

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

There are no residential properties, outwith the applicant's ownership or control that lie within 500 metres of the amended working face of the site.

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

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

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

The existing Greenburn opencast site is the subject of a current Section 75 Agreement.

5.14 Policies MIN34 and MIN35: Mineral Trust Fund contributions encouraged in respect of opencast operations to be used for community improvements. Submission of appropriate information on coal extracted from site.

The applicant is currently a contributor to the Mineral Trust Fund in respect of the existing Greenburn opencast site.

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

The existing Greenburn opencast site is subject to a Section 75 Agreement encompassing the above matters.

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

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses and relevant planning history.

Consultation Responses

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

Planning History

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

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

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

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

6.8 A further planning application (Ref. No. 05/0588/FL) for the recovery of minerals other than coal at the Greenburn site has been lodged for determination.

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 area of the road corridor within the terms of the existing Agreement. In addition, formal procedures will require to be undertaken to promote the stopping up of the exiting U720 Dalricket Road under the Town and Country Planning (Scotland) Act 1997.

8. CONCLUSIONS

8.1 As is indicated in Section 5 of the report, the application is considered to be generally in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. However, these material considerations are also generally supportive of the proposed development as it is considered that the objections raised are either not of sufficient weight to justify refusal of the application or are not relevant to the proposal.

8.2 The proposals represent an extension and modification of existing consented site at Greenburn and includes the re-alignment of the U720 Dalricket Road. It will involve the extraction of additional coals which in environmental terms is considered to present no significant additional adverse impacts and this is essentially borne out by the consultation process. The net increase in excavation area is only 0.4 hectare although overall the proposals will result in an additional 60,000 tonnes of coal being extracted from the site.

8.3 It is considered that, given the relatively remote and sparsely populated area in which the Greenburn site is located, the proposal to extend the existing consented site will have no significant adverse effects on any local community. The proposal will not result in any breach of the required buffer distances promoted through the policies of the East Ayrshire Opencast Coal Subject Plan and it is considered that the extended operations proposed can be undertaken within acceptable environmental standards.

8.4 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants in respect of the matter detailed in Paragraph 7.1 of this report.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the development plan.

Alan Neish
Head of Planning, Development and Building Standards.

01 August 2005
HM/HM

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. Previous applications 00/0793/FL, 03/0726/FL, 04/0263/FL and 04/0717/FL

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

Implementation Officer: Dave Morris

Location	Greenburn OCCS, New Cumnock
Nature of Proposal:	Proposed extension of excavation area for opencast mining.
Name and Address of Applicant:	Kier Construction Limited Tempsford Hall SANDY Beds. SG19 2BD
Name and Address of Agent	Mr Jonathon Hillier Per Kier Mining Tempsford Hall SANDY Beds. SG19 2BD

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

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

1. Condition 35 of planning consent 00/0793/FL dated 06 August 2002 shall be amended to read as follows:

"The operational conduct of the site shall be generally as indicated in the Project description that forms part of the application, as amended by the amended Project Description dated July 2004 and the revised site plan (Drw.No. 5030/H/L/CA004) dated 15 July 2004, as amended by the Project Description dated April 2005 and the revised site plan (Drw. No. 6215/B/PA/002).

REASON: In the interests of amenity."

REASON: To ensure that the terms of the original planning consent are consistent with the development hereby approved.

2. The proposed development hereby approved shall otherwise be undertaken in accordance with the conditions pertaining to planning consent 00/0793/FL dated 06 August 2001 as amended by planning consent 03/0726/FL dated 10 October 2003, as amended by planning consent 04/0263/FL dated 24 June 2004, and as amended by planning consent 04/0717/FL dated 28 October 2004.

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

3. The proposed new section of U720 public road shall be completed and in use prior to the stopping up and removal of the existing section of road.

REASON: In the interests of public road safety.

Note to Applicant

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

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
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