

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 11 AUGUST 2006

**06/0291/FL: PROPOSED CONSTRUCTION OF AN OVERLAND CONVEYOR
BETWEEN THE EXISTING GARLEFFAN OCCS AND THE APPROVED
LAIGH GLENMUIR OCCS WITH ASSOCIATED ACCESS AND RIVER
CROSSING, NEAR NEW CUMNOCK
BY ATH RESOURCES PLC**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought for the construction of a 3.3 km overland conveyor and an access road to facilitate maintenance of the conveyor. The conveyor will exit the Laigh Glenmuir site and follow a south easterly direction crossing the track to High Glenmuir, and open farm land before crossing both the road to Whiteholm and Dornal farms. The conveyor then continues across more open farm land before crossing both the Glenmuir Water and the Glenmuir Water Road then continuing in a southerly direction past Low Garleffan to the existing Garleffan opencast site.

1.2 The proposed overland conveyor will consist of two systems. The first system leaving the Laigh Glenmuir site will consist of a direct feed hopper feeding an open belt. The structure will be placed on wooden sleepers at approximately 1 metre spacings. Where the conveyor passes underneath roads a length of conveyor will be covered. The dimensions of the conveyor will be 1.3 metres high and 1 metre wide. Across the Glenmuir Water the conveyor will be fully enclosed in a gantry painted heritage olive green. This section will be 55 metres long, 2.8 metres wide and 2.7 metres high. The second system has dimensions of 1.4 metres wide and 1 metre high and runs from north of Garleffan Farm to the existing coal processing point at Garleffan OCCS. The structure will have coated covers for both top and sides, painted heritage green to minimise visual impact. The top covers will have a curved profile and the dimensions of the conveyor structure will be 1.3 metres high and 1.3 metres in width. The access route is required not only for the maintenance of the conveyor but to allow the movement of heavy plant and machinery between the Laigh Glenmuir and Garleffan sites

1.3 The proposed conveyor system will require 4 drive units with associated transfer chutes. Each drive unit will consist of power units, transmissions and lagged drive drums. Soil screening mounds will be constructed close to the conveyor drive motors to assist in reducing received noise levels. All equipment

will be guarded and safety pull wires will be incorporated on both sides of the conveyor. CCTV will also be provided to monitor the conveyor near the public road. The conveyor and the access route will be contained within a fenced corridor of a maximum width of 8 metres.

1.4 The construction of the conveyor and access road will take approximately 10 weeks. Both the conveyor and the access road are temporary developments and following completion of opencast operations at Laigh Glenmuir, the conveyor will be removed followed by a programme of restoration and rehabilitation. Transportation of coal by conveyor will occur between 0700 and 1900 hours Mondays to Fridays and between 0700 and 1200 hours on Saturdays. Apart from essential maintenance work, no operation of the conveyor will be carried out on Sundays or Bank and Public Holidays. However the applicant envisages that in order to fulfil production, the conveyor will only require to be loaded 60% of the available time.

1.5 The planning application is accompanied by transport, noise and air quality assessments. The applicant has indicated that the use of the proposed conveyor rather than the use of the consented haul road would result in the removal of some 18,500 lorry movements arising from the transportation of coal from Laigh Glenmuir. On the completion of coaling operations at Laigh Glenmuir, the conveyor will be removed and the land restored to the satisfaction of landowners and areas disturbed are to be returned to the current agricultural uses.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheet but that the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a Section 75 Agreement, under the Town and Country Planning (Scotland) Act 1997, with the developer in terms of the obligations described in section 8.4 of the report.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is considered to be 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 at Section 6 of the report, there are material considerations relevant to this application. However in this case it is considered that with the imposition of appropriate conditions and use of a Section 75 Agreement, concerns raised by objectors can be addressed and that

consequently the points of objection are not of sufficient weight to merit refusal of the application.

3.2 The proposal has not raised any significant concerns from statutory and non-statutory consultees subject to the imposition of appropriate conditions in any consent granted or by means of obligations within a Section 75 Agreement. It is accepted that there would be some landscape and visual impacts associated with the proposed conveyor, it is considered that these impacts will be minimised by mitigation works proposed and would be temporary and reversible.

3.3 In terms of the points of objection received, it should be noted that the proposal to extract coal from the Laigh Glenmuir site has been approved by the Council and that the principle of this development is not an issue in the determination of this application. The original Laigh Glenmuir proposals would have resulted in the construction of a substantial overland haul road with the construction of a Bailey bridge over the Glenmuir Water. In addition, transportation of coals from Laigh Glenmuir would have been taken by HGV lorries, resulting in over 18,500 vehicle movements covering over 80,000 miles (10 vehicle movements per hour). The proposed modification to the transportation scheme will result in a significantly more environmentally acceptable and sustainable development with the removal of these vehicle movements and impacts associated with noise, dust and vehicle emissions. The conveyor route will also have a reduced development footprint.

3.4 Taking all relevant matters into account, it is considered that the environmental benefits to be gained from the proposed conveyor system outweigh the temporary and mitigated impacts on the landscape resulting from the proposed development. The approval of this development should be the subject of a Section 75 Agreement to cover the following matters:

(i) a modification to the Laigh Glenmuir Section 75 Agreement to ensure that the restoration of the conveyor route and temporary access road is encompassed within the Laigh Glenmuir restoration bond.

(ii) the securing of road infrastructure improvements in agreement with the Roads and Transportation Division relating to the installation and subsequent removal of the proposed road crossing structures and the proper maintenance of the U729 Dalblair Road and U764 Dornal Road over which abnormal loads will be taken.

(iv) the remit of the Laigh Glenmuir / Garleffan Technical Working Group to be extended to encompass the site of and operation of the proposed conveyor, the access road and off site mitigation areas;

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.

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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 as the proposed development is of area significance and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site comprises a narrow tract of land running from the recently approved opencast coal site at Laigh Glenmuir near Logan to the existing approved opencast coal site at Garleffan, near New Cumnock running for a length of some 3.3 kilometres and covers a total area of 1.6 hectares. The site generally follows the route of an existing track and runs from the Laigh Glenmuir proposed opencast coal site in a southerly direction to connect with the existing Garleffan opencast coal site, crossing the Glenmuir Water on route.

2.2 The application site also is similar to the route of an overland haul road that was approved under the Garleffan II planning application on 05 October 2001. Under the proposed operations approved for the proposed Laigh Glenmuir opencast site, this previously approved overland haul road was to be constructed to allow for the transportation of coal by HGV lorries via the Garleffan site for onward dispatch through the Crowbandsgate rail terminal at New Cumnock.

2.3 **Proposed Development:** Full permission is sought for the construction of a 3.3 km overland conveyor and an access road to facilitate maintenance of the conveyor. The conveyor will exit the Laigh Glenmuir site and follow a south easterly direction crossing the track to High Glenmuir, and open farm land before crossing both the road to Whiteholm and Dornal farms. The conveyor then continues across more open farm land before crossing both the Glenmuir Water and the Glenmuir Water Road then continuing in a southerly direction past Low Garleffan to the existing Garleffan opencast site.

2.4 The proposed overland conveyor will consist of two systems. The first system leaving the Laigh Glenmuir site will consist of a direct feed hopper feeding an open belt. The structure will be placed on wooden sleepers at approximately 1 metre spacings. Where the conveyor passes underneath roads a length of conveyor will be covered. The dimensions of the conveyor will be 1.3 metres high and 1 metre wide. Across the Glenmuir Water the conveyor will be fully enclosed in a gantry painted heritage olive green. This section will be 55 metres long, 2.8 metres wide and 2.7 metres high. The second system has dimensions of 1.4 metres wide and 1 metre high and runs from north of Garleffan Farm to the existing coal processing point at Garleffan OCCS. The structure will have coated covers for both top and sides, painted heritage green to minimise visual impact. The top covers will have a curved profile and the dimensions of the conveyor structure will be 1.3 metres high and 1.3 metres in width. The access route is required not only for the maintenance of the conveyor but to allow the movement of heavy plant and machinery between the Laigh Glenmuir and Garleffan sites

2.5 The proposed conveyor system will require 4 drive units with associated transfer chutes. Each drive unit will consist of power units, transmissions and lagged drive drums. Soil screening mounds will be constructed close to the conveyor drive motors to assist in reducing received noise levels. All equipment will be guarded and safety pull wires will be incorporated on both sides of the conveyor. CCTV will also be provided to monitor the conveyor near the public road. The conveyor and the access route will be contained within a fenced corridor of a maximum width of 8 metres.

2.6 The construction of the conveyor and access road will take approximately 10 weeks. Both the conveyor and the access road are temporary developments and following completion of opencast operations at Laigh Glenmuir, the conveyor will be removed followed by a programme of restoration and rehabilitation. Transportation of coal by conveyor will occur between 0700 and 1900 hours Mondays to Fridays and between 0700 and 1200 hours on Saturdays. Apart from essential maintenance work, no operation of the conveyor will be carried out on Sundays or Bank and Public Holidays. However the applicant envisages that in order to fulfil production, the conveyor will only require to be loaded 60% of the available time.

2.7 The planning application is accompanied by transport, noise and air quality assessments. The applicant has indicated that the use of the proposed conveyor rather than the use of the consented haul road would result in the removal of some 18,500 lorry movements arising from the transportation of coal from Laigh Glenmuir. On the completion of coaling operations at Laigh Glenmuir, the conveyor will be removed and the land restored to the satisfaction of landowners and areas disturbed are to be returned to the current agricultural uses.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division states that the developer must agree to undertake all roadworks identified as required to ensure that the existing minor public roads (U729 Dalblair Road and U764 Dornal Road) over which construction vehicles and abnormal loads in connection with the site at Laigh Glenmuir OCCS and the construction (and maintenance) of the conveyor, are maintained at their expense in a safe and serviceable condition and are capable of accommodating vehicles associated with this proposal. Patching work and lay-bys identified as required under the original planning application for the site have still to be done but these works have been agreed with ATH. The two public road crossing structures for the conveyor route will require Approval in Principle from the Council and will require to be constructed to Council standards and removed on completion of the site and the road restored. The applicant has indicated in discussions that this work will be undertaken at their expense. Discussions are currently ongoing with the developer regarding the works required but as the developer is aware of the scale of the works envisaged, a commitment through a section 75 agreement to fund the necessary works should be sought with the developer. Similarly an agreement that covers any work (as required) on completion of the OCCS and removal of plant from the site must be entered into with the Council.

A Section 75 Agreement can be entered into between the Council and the developer to secure the necessary obligations in respect of road infrastructure improvements to meet the requirements of the Roads and Transportation Division.

3.2 Power Systems has no objections to the proposed development

Noted.

3.3 Cumnock Landward and Lugar and Logan Community Councils have not responded to the consultation letters.

Noted.

3.4 The Scottish Environment Protection Agency notes that the proposed route of the overland conveyor links 2 opencast coal mining sites at Laigh Glenmuir and Garleffan, which have Part B Authorisation granted by SEPA in terms of the Environmental Protection Act 1990. These authorisations are either currently, or will be, being converted to Part B PPC permits. Regardless of the specific regulatory regime, the purpose of the authorisations and/or permits is to control emissions to air, in this case coal dust emissions. A conveyor system together with its associated loading and unload points has the capacity to

generate dust emissions and hence, would come under the control of an authorisation or permit.

Noted.

SEPA further states that the construction of a conveyor system would constitute a change in operations and as such is a matter that must be discussed by the operator and SEPA. If, as a result of these discussions, the potential impacts of the proposed system were of sufficient significance, it could result in the current authorisations/permits having to be varied. In respect of PPC legislation, the conveyor may constitute a “technical connection” between all three sites, another issue that must be discussed by the operator and SEPA. It is therefore essential that the operator contacts SEPA directly about its proposal. The construction of the conveyor system will require an access route to be formed which will entail crossing of watercourses. The operator should provide method statements to SEPA and any other interested parties with regard to the construction of this access route looking at aspects such as controlling run-off, culvert construction and general pollution prevention measures. These method statements should be agreed by all parties prior to work commencing.

A note can be attached to any consent granted for the proposed development to advise the applicant to make early contact with SEPA regarding the proposed development. A condition can be attached to any consent granted for the proposed development to secure the submission of appropriate construction method statements as required by SEPA.

3.5 The Royal Society for the Protection of Birds does not object to the proposed development as RSPB does not feel it will have a significant adverse impact on bird populations of conservation importance. RSPB does request that the following issues be addressed through appropriate planning conditions:

- (i) In order to prevent disturbance to breeding birds, all vegetation clearance and soil stripping must be carried out outwith the bird breeding season.
- (ii) RSPB welcomes the commitment to restore the route of the conveyor at the end of its life and recommends that this process is included within the remit of the relevant Technical Working Group.

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

3.6 Scottish Natural Heritage states that the proposal is for a conveyor link to Garleffan OCCS with the proposed site at Laigh Glenmuir. SNH responded to the planning application for Laigh Glenmuir on 17 May 2005, this application included the haul road that required the construction of a Bailey bridge across the

Glenmuir Water. The proposed conveyor route roughly follows the same line as the proposed haul road, following an existing track for the majority of the route. The remainder of the route crosses semi-improved / improved agricultural pasture. Scottish Natural Heritage has no objection to the proposal.

Noted.

3.7 East Ayrshire Environmental Health Division states that the proposal to construct an overland conveyor system rather than a haul road as originally proposed should result in a lesser environmental impact in comparison with the latter, although this view is tempered subject to satisfactory operation and maintenance of the system. The conveyor system will only be operational during dayshift operations on weekdays and Saturday mornings and it is noted that soil screening mounds will be formed around the drive motor points close to the conveyor to ensure noise mitigation at these points. Subject to compliance within the limits specified within the Noise Assessment Report, the predicted noise levels are considered to be within acceptable parameters for the avoidance of nuisance. The applicant should also ensure that satisfactory dust suppression control measures are in place to ensure that no dust emission problems arise during drier weather conditions.

A condition can be attached to any consent granted for the proposed development to ensure that appropriate provision is made for dust suppression measures to be utilised when required in dry weather conditions.

3.8 The Nith District Salmon Fishery Board has had experience in the use of large scale conveyors for moving aggregate in the catchment of the River Nith in the past. It has experienced no problems with this method of transporting materials and indeed suggests that this is an environmentally better method of moving materials. There are certain criteria which should be met regarding the construction of the conveyor and its initial set up. Baseline data should be obtained to assess the environmental quality prior to the construction of the conveyor. Repeat follow up surveys can indicate if there has been any detrimental impact arising from the construction of the conveyor. The NDSFB have an agreed programme of monitoring with the applicant which is designed to cover the water courses which drain from all their sites into the Nith catchment. As such this conveyor and any impacts that it may create in the Nith catchment will be detected. With this programme of monitoring in place, the NDSFB has no objection to this planning application.

Noted.

4. REPRESENTATIONS

4.1 Three third party letters of representation have been received with respect to the proposed development with the main relevant points of objection summarised as follows:

4.2 The proposal is a highly inappropriate development for the area and will destroy the valley's high scenic value. In destroying the beauty of the local area it will end for decades, if not forever, the area's appeal for visitors and as a recreational facility for local people.

The proposed development relates to an opencast development at Laigh Glenmuir which was approved by the Development Services Committee on 11 January 2006. Furthermore permission has already been granted for an overland haul road as part of the planning consent for the existing Garleffan II opencast site. The present application seeks to amend the arrangements for transportation of coal by promoting a conveyor system to take coals from the Laigh Glenmuir site to the Garleffan site for onward dispatch to the Crowbandsgate railhead.

It is considered that the environmental impacts associated with the proposed conveyor would be significantly less than the approved overland haul route and associated heavy vehicle movements, especially those relating to visual and landscape impacts. The proposal is of a temporary nature and the structure will be removed and the site restored after completion of coaling operations at Laigh Glenmuir.

4.3 The works are outside of the Preferred Area for opencast coal developments, so certain councillors should not be ganging up to force them through as happened at the Laigh Glenmuir hearing.

The proposed development represents an alternative method of transportation of coal from the Laigh Glenmuir site. Although the route of the conveyor is outwith a Potential Opencast Coal Extraction Area, the provision of an overland conveyor route is consistent with the provisions of the approved East Ayrshire Opencast Coal Subject Plan 2003.

4.4 This development is a serious threat to the Glenmuir Water and the richness of the wildlife in the area. Bringing heavy industry into the area will destroy all that is of value in the location. An expert from the salmon fishery board gave evidence to this effect at the Laigh Glenmuir hearing.

The objector is referring back to the decision taken on the Laigh Glenmuir opencast site which as indicated previously has been

approved by the Council. With regard to the proposed development under consideration, no objections have been received from any consultees regarding potential impact on the Glenmuir Water or on the wildlife associated with it. A letter of support for the proposal has been received from Cumnock and District Angling Club.

4.5 There remains potentially hazardous risk for the Glenmuir Water corridor due to pollution, disturbance and re-instatement of work into the river banks. This is also relevant to the temporary ford crossing and the use of dumptruck tyres causing river bed erosion. There is talk of Sunday movements in this regard.

The applicant has carried out consultations with appropriate statutory and non-statutory organisations in order to discuss and agree appropriate construction methods and minimisation of impacts on the Glenmuir Water and the potential for pollution. The proposal to move heavy plant and machinery between Laigh Glenmuir and Garleffan may involve a ford crossing if a structural survey of the Glenmuir Bridge demonstrates that it is not capable of taking abnormal loads. The movement of such plant on a Sunday is to avoid disturbance to anglers as no fishing currently takes place on Sundays. The relevant consultees find the proposals acceptable and were instrumental in instructing the applicant on how acceptable fording could be achieved.

4.6 We appreciate that a haul road would be more environmentally destructive than a conveyor, mainly because of its width and semi-permanence. However it may well be the case that there is now no live planning consent for that haul road. Certainly such a haul road has now no justification, if its purpose was to transport coal from Garleffan to Gasswater and thence to the long delayed Cronberry railhead.

Planning consent for the formation of an overland haul route was granted as part of the Garleffan II opencast development. This consent is not due to expire until 05 October 2012 and contrary to the belief of the objector, a live consent still exists for this haul route. The use of such a haul route has more justification now given the decision of the Council to approve the Laigh Glenmuir development, this decision taking cognisance of the use of the previously permitted overland haul route.

4.7 The proposed conveyor is contrary to AJSP Policy E14 as it is related to coal extraction developments and would not be in a Preferred Area in that plan. It would similarly contravene EAC Opencast Coal subject plan as it is a coal related development outwith Potential Areas identified for coal developments.

The proposal relates not to the extraction of coal (for which approval has already been granted for the Laigh Glenmuir site in any case) but for the transportation of coal in an environmentally acceptable and sustainable manner which avoids any significant impacts on local communities and impacts on the transport network.

4.8 The development could lead to a proliferation of opencast coal developments and therefore contravene Policy MIN12.

The proposed conveyor, which is a temporary development, is to be removed from the land and the site restored following completion of coaling operations at the Laigh Glenmuir site. It is not considered that the installation of a conveyor would in itself result in the proliferation of opencast developments in the locality. It is any potential future opencast developments that would require to be assessed against Policy MIN12 rather than the proposed conveyor.

4.9 We are unaware of any restoration proposals, so it would appear to contravene Policies MIN13 and MIN17.

A commitment to restoration of the conveyor route is provided within the applicant's Supporting Statement The proposed conveyor route generally follows the route of an existing track. Restoration of the route is to be undertaken to the satisfaction of landowners and areas disturbed are to be returned to the current agricultural uses. The restoration of the route will further be overseen by the Garlaffan / Laigh Glenmuir Technical Working Group, as suggested by Scottish Natural Heritage.

4.10 As there was a previous limitation on the amount of coal which could leave Crowbandsgate terminal, we believe that approved capacity would be exceeded there, particularly if this railhead was to service any future opencast coal being moved from Glemuckloch.

No additional coal will leave Crowbandsgate as a result of the working of the Laigh Glenmuir opencast site, particularly since coaling at Garleffan has now ceased. The capacity of the Crowbandsgate terminal is currently limited by the amount of truck movements entering the terminal.

4.11 Policy MIN23 requires any opencast operations to avoid unacceptable disturbance and nuisance to local communities. The Glenmuir Valley is one of the few unspoilt valleys left in the area and is valued by local walkers, residents, tourists and wildlife for its peace and tranquillity. A conveyor will upset habitats, will be noisy, and cause visual intrusion per se; and by its power needs.

It is considered that the environmental impacts associated with the proposed conveyor would be significantly less than the approved overland haul route and associated heavy vehicle movements, especially those relating to visual and landscape impacts. The proposal is of a temporary nature and the structure will be removed and the site restored after completion of coaling operations at Laigh Glenmuir. The contention that the proposed conveyor will have an adverse impact on wildlife is not borne out by the responses from natural heritage consultees.

4.12 If the conveyor is to link to any new site at Laigh Glenmuir, then the developer is required to mitigate any disturbance to anyone living within 500 metres of it, in accordance with Policies MIN24 and MIN 25.

It should be noted that in terms of the information provided by the applicant in respect of potential environmental impacts, no significant effects are expected or are predicted as a result of the proposed development on any residential receptor. Furthermore the development seeks to promote a more sustainable and environmentally acceptable mode of coal transportation than that for which planning consent already exists.

4.13 We know of no risk assessment or contingency plan being produced, given a possible power failure, which would require coal to be stockpiled or transported down the valley.

The applicant has stated that conveyor systems are extremely reliable and simple systems to maintain and operate. In the event that a sustained period of downtime is experienced, then coal would be stockpiled at Laigh Glenmuir rather than utilising the road network for mineral transportation.

4.14 A conveyor crossing the valley cannot be called sensitively sited and thus would contravene Policies 13(i) and 13 (ii) and ENV14 of the East Ayrshire Local Plan.

The conveyor system is a temporary, low impact structure which will be significantly less intrusive than the permitted haul road. The colour, size, scale and finish of the proposal will provide mitigation in terms of any visual or landscape impacts which are not considered to be of any great significance in this case.

4.15 The river crossing details are not known, but the proposal may well not accord with Policy ENV17, if a flood risk assessment has not been undertaken, where a development could affect the river bank and add to the risk of erosion.

The applicant has provided details of the river crossing which have been the subject of consultation and agreement with appropriate statutory consultees. There is no indication that the proposed development will result in any additional risk to flooding or river bank erosion.

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 Local Plan 2003 (EALP).

Ayrshire Joint Structure Plan

5.2 Under Policy ADS1 the three Ayrshire Councils shall promote sympathetic industrial and business development throughout Ayrshire in order to foster the growth of the local economy, improve the economic well-being of existing and future residents and increase the prosperity of its business enterprises.

As the proposal involves providing an installation which will enable efficient handling of coal at local opencast sites it would accord with Policy ADS1.

5.3 Policy ADS 7 provides that the three Ayrshire Councils shall adhere to the principles of sustainability in considering significant development proposals.

In view of the temporary nature of the proposed works and the fact that they would particularly adhere to the principles of sustainable freight transport by avoiding the need for the construction of a haul road and the considerable lorry movements that would have been required along it, it is considered that the proposals would to a great degree fulfil the provisions of Policy ADS7.

5.4 Policy E9 provides that the Ayrshire Councils should, in respect of sites which are not of national or international importance, have regard to manage features of the natural heritage which are of importance for habitats and species, with a view to complementing the Natura 2000 network.

Part of the area which the conveyor would traverse comprises the Glenmuir Water: Lugar to Kyle Castle Provisional Wildlife Site. As this site lies close to the west of the Muirkirk and North Lowther Uplands SPA/ SSSI, it contains areas that are likely to complement

the nature conservation importance of the SPA. However, in this regard neither SNH nor RSPB object to the proposed development.

East Ayrshire Local Plan

5.5 Under Policy IND9 the Council will be supportive of proposals to develop sites with direct access to the existing rail network for rail freight based industrial use, subject to sites being fully justified in terms of locational need, economic benefit, environmental impact and transport and infrastructure implications. The redevelopment of railheads at existing coal disposal points will be particularly encouraged for such purposes.

The use of a conveyor (with direct access to New Cumnock station) could be justified in terms of locational need and economic benefit (by linking of OCC sites and increased efficiency of operation) and transport/ infrastructure (by direct link to rail, rather than use of roads with its potential adverse impact on local community and environment).

5.6 Policy IND10(v) provides that industrial development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to rail freight based industrial uses at existing coal disposal points.

It is considered that the proposed conveyor link into the New Cumnock railhead would accord with the provisions of Policy IND10 (v).

5.7 Policy ENV 14 provides that in assessing proposals relating to land within the rural area which has not been identified for specific development opportunity sites on the Local Plan maps, the Council shall ensure that these have minimum impact on the rural environment. There will be a general presumption against any development which would:

- (i) cause permanent and irreversible loss of prime quality agricultural land;

The proposal would not result in the loss of prime quality agricultural land.

- (ii) have a permanent adverse impact or cause irreparable damage to the built heritage resources requiring conservation or their settings including listed buildings, conservation areas, historic gardens and designed landscapes, scheduled ancient monuments, archaeological and industrial archaeological sites;

The proposal would not impact adversely on built heritage interests.

(iii) have a permanent adverse impact or cause irreparable damage to natural heritage resources requiring conservation and to existing species and habitats;

Consultation with both SNH and RSPB has indicated that subject to the imposition of appropriate conditions they do not object to the proposed development.

(iv) adversely affect the quality of water resources, water catchment areas, land drainage or flood protection interests or create water pollution problems or

SEPA has not raised any significant issues regarding potential impact on water resources.

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

The proposed development will not impact on any areas of peat considered to be of significant ecological value.

5.8 Under Policy ENV19 the Council will presume against any developments which have an adverse effect on watercourses by increasing levels of pollution or having a detrimental impact upon water quality, aquatic habitats for wildlife or recreational amenity and have an adverse effect on groundwater of major aquifers. Where necessary, the Council shall require applicants to submit supplementary drainage information to assist in the determination of planning applications.

As indicated in the consultation response from SEPA the developer will require to submit appropriate construction method statements for agreement with SEPA. This can be secured by conditions in any consent granted for the development.

East Ayrshire Opencast Coal Subject Plan

5.9 Policy MIN18 states, amongst other things, that the Council will 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 minerals.

Although for the main part the proposed conveyor will not be covered, it will transport coals extracted from the Laigh Glenmuir site to the Garleffan site where it will be processed and the transported by the recently approved covered conveyor linking the Garleffan site with Crowbandsgate railhead. The linking of these sites and the consequential removal of significant HGV movements associated

with these sites from public roads is consistent with the provisions of Policy MIN18.

5.10 It is considered that the proposed development generally accords with the provision of the Ayrshire Joint Structure Plan, the East Ayrshire Local Plan and the East Ayrshire Opencast Coal Subject Plan.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, planning history, the representations received and the Finalised Ayrshire Joint Structure Plan 2006 (New Version).

Consultation Responses

6.2 None of the consultation responses have raised any issues which would indicate that the application should be refused although a number of issues would require to be addressed either by conditions or obligations through a Section 75 Agreement.

Representations

6.3 The representations received objecting to the proposed development are either not borne out by the consultation process or relate to issues that can be addressed by the use of conditions or through obligations secured by means of a Section 75 Agreement. In this case one letter of support for the proposed development has also been received.

Planning History

6.4 Full planning permission for the winning and working of coal by opencast method and for the construction of an overland haul road at Garleffan II, near New Cumnock was approved on 05 October 2001. This consent is not due to expire until 05 October 2012 (Ref. No. 00/0526/FL)

6.5 Full planning permission for the winning and working of coal by opencast method at Laigh Glenmuir was approved by the Development Services Committee on 11 January 2006. A subsequent Direction to notify the Scottish Ministers about the application was received on 13 March 2006. In a letter received on 08 June 2006, the Scottish Ministers advised the Council that they did not intend to call in the application and the Council was therefore free to deal with the application as it saw fit.

6.6 Full planning permission for the construction of an overland conveyor between Glenmucklock OCCS and Grievehill and Garleffan OCCS linking these sites to the Crowbandsgate railhead at New Cumnock was approved by the Southern local Planning Committee on 26 May 2006.

Finalised Ayrshire Joint Structure Plan 2006

6.7 There are no policies specifically relating to the proposed development in the Finalised Ayrshire Joint Structure Plan.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications would arise from the concluding of a Section 75 Agreement to secure the obligations as described in section 8.4 below.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is considered to be 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 at Section 6 of the report, there are material considerations relevant to this application. However in this case it is considered that with the imposition of appropriate conditions and use of a Section 75 Agreement, concerns raised by objectors can be addressed and that consequently the points of objection are not of sufficient weight to merit refusal of the application.

8.2 The proposal has not raised any significant concerns from statutory and non-statutory consultees subject to the imposition of appropriate conditions in any consent granted or by means of obligations within a Section 75 Agreement. It is accepted that there would be some landscape and visual impacts associated with the proposed conveyor, it is considered that these impacts will be minimised by mitigation works proposed and would be temporary and reversible.

8.3 In terms of the points of objection received, it should be noted that the proposal to extract coal from the Laigh Glenmuir site has been approved by the Council and that the principle of this development is not an issue in the determination of this application. The original Laigh Glenmuir proposals would have resulted in the construction of a substantial overland haul road with the construction of a Bailey bridge over the Glenmuir Water. In addition, transportation of coals from Laigh Glenmuir would have been taken by HGV lorries, resulting in over 18,500 vehicle movements covering over 80,000 miles

(10 vehicle movements per hour). The proposed modification to the transportation scheme will result in a significantly more environmentally acceptable and sustainable development with the removal of these vehicle movements and impacts associated with noise, dust and vehicle emissions. The conveyor route will also have a reduced development footprint.

8.4 Taking all relevant matters into account, it is considered that the environmental benefits to be gained from the proposed conveyor system outweigh the temporary and mitigated impacts on the landscape resulting from the proposed development. The approval of this development should be the subject of a Section 75 Agreement to cover the following matters:

(i) a modification to the Laigh Glenmuir Section 75 Agreement to ensure that the restoration of the conveyor route and temporary access road is encompassed within the Laigh Glenmuir restoration bond.

(ii) the securing of road infrastructure improvements in agreement with the Roads and Transportation Division relating to the installation and subsequent removal of the proposed road crossing structures and the proper maintenance of the U729 Dalblair Road and U764 Dornal Road over which abnormal loads will be taken.

(iv) the remit of the Laigh Glenmuir / Garleffan Technical Working Group to be extended to encompass the site of and operation of the proposed conveyor, the access road and off site mitigation areas;

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions on the attached sheet but that the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a Section 75 Agreement, under the Town and Country Planning (Scotland) Act 1997, with the developer in terms of the obligations described in section 8.4 of the 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

03 August 2006
(HM/HM)

FV/DVM

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letters of representation.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

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

Implementation Officer: Dave Morris

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0291/FL

Location	Between existing Garleffan OCCS and approved Laigh Glenmuir OCCS near New Cumnock
Nature of Proposal:	Proposed Construction of Overland Conveyor with Associated Access and River Crossing.
Name and Address of Applicant:	ATH Resources plc Aardvark House Sidings Court DONCASTER DN4 5NU
Name and Address of Agent	N/A

DPO's Ref: (HM/MMM)

PPO's Ref: Hugh Melvin

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

1. The proposed conveyor system and access route hereby approved shall be removed from the site, its use discontinued, and all works for the restoration of the site shall be concluded by 31 August 2009. Should for any reason the use of the conveyor become redundant prior to this date, the conveyor shall otherwise be removed from the site and the land restored within three months of it becoming redundant.

REASON The development is temporary in nature.

2. All vegetation clearance and soil stripping operations associated with the construction of the conveyor and formation of the associated access route shall be carried out outwith the bird breeding season ((March to July inclusive).

REASON In order to prevent disturbance to breeding birds.

3. Except in case of emergency, the proposed conveyor operating times shall be from 0700 to 1900 hours Mondays to Fridays and 0700 to 1200 hours on Saturdays. With the exception of essential maintenance works, the proposed conveyor shall not operate on Sundays.

REASON In the interests of amenity.

4. The proposed conveyor system shall incorporate appropriate dust suppression measures to minimise the potential for dust nuisance, to the satisfaction of the Planning Authority. Details of such measures shall be submitted to and approved by the Planning Authority prior to the commencement of development on site.

REASON To minimise the potential for dust nuisance.

5. Prior to the commencement of development on site, the applicant shall submit to, and have approved by the Planning Authority construction method statements relating to the construction of the river crossing and access route covering aspects such as controlling run-off, culvert construction and general pollution prevention measures.

REASON To minimise the potential for pollution of watercourses.

6. The restoration proposals for the conveyor route shall be the subject of prior consultation and agreement with the Laigh Glenmuir / Garleffan Technical Working Group and the details shall thereafter be submitted to the Planning Authority for approval prior to the cessation of coaling operations at the Laigh Glenmuir site.

REASON To ensure proper restoration of the site.

NOTE TO APPLICANT:-

1. The applicant should make early contact with the Scottish Environment Protection Agency regarding the potential requirements for appropriate consents or authorisations under legislation administered by SEPA.

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