

## **EAST AYRSHIRE COUNCIL**

### **PLANNING COMMITTEE – 27 JUNE 2014**

#### **OPEN CAST COAL MINING IN EAST AYRSHIRE – COMPLIANCE MONITORING UPDATE**

##### **Report by the Depute Chief Executive**

#### **1. PURPOSE OF REPORT**

2. The purpose of this report is to provide an update in respect of Compliance Monitoring activity relating to open cast coal mining operations in East Ayrshire for the period between April 2014 and June 2014 and to outline the proposals to extend the monitoring information from coal to the other major developments subject to Compliance Monitoring such as quarries; landfill; onshore wind farms and the electrical interconnector.

#### **3. BACKGROUND**

4. The Independent Review of the Regulation of Open Cast Coal Operations in East Ayrshire which was considered at the meeting of East Ayrshire Council on 28 January 2014 included a recommendation that quarterly reports should be submitted to Councillors recording progress on sites/complexes.
5. At the Planning Committee meeting of 4 April 2014, the Committee considered the annual operational activity at the four active sites across the East Ayrshire Coalfield. This report sets out the progress made on each open cast coal site; compliance monitoring arrangements; the proposed arrangements for alternative restoration schemes at sites subject to successful bond calls and also provides an update on the compliance monitoring scheduled activity at the other developments such as the quarries; landfill; onshore wind farms and the electrical interconnector. It is therefore proposed to provide a comprehensive report on a quarterly basis with an annual update in March each year, which outlines the development activity in each of these types of projects to ensure consistency of approach and to update the Planning Committee on site by site progress.

#### **6. PROGRESS UPDATE**

##### **7. Independent Consultants Contracts Awarded**

8. To support the Planning Authority in the assessment of major developments (open cast coal; quarries; landfill, onshore wind farms and the electrical interconnector) both at the planning application stage and to verify planning conditions and legal obligations as part of the compliance monitoring regime, the table below summaries the conclusion of the procurement appointment process to appoint independent consultants to support the Planning Authority where specialist advice is required. The contracts have been awarded for a five

year term. These appointments now support the discharge of the Council's strengthened Compliance Monitoring Framework. As previously reported to Council, the costs associated with the independent assessments shall be passed on to the applicant where legally possible and also where a development variation is proposed, otherwise the costs will be borne by the Council.

<b>Table 1 Independent Consultants Framework</b>		
<b>Development Type</b>	<b>Stage 1 Planning Assessment</b>	<b>Stage 2 Compliance Monitoring</b>
<b>Open Cast Coal Mining</b>	<p><b>Dalgleish Associates Ltd</b> (Mineral Assessments) All Open Cast Coal Developments</p> <p><b>ACCON Ltd</b> (Noise Assessments)</p>	<p><b>Dalgleish Associates Ltd</b> (Mineral and Environmental Surveys) All Open Cast Coal Developments</p> <p><b>ACCON Ltd</b> (Noise Surveys)</p>
<b>Quarries</b>	<p><b>Dalgleish Associates Ltd</b> (Mineral Assessments) Tincornhill Loudounhill Clawfin Farm Future Quarries</p> <p><b>Ironside Farrar</b> (Mineral assessments) North Drumboy; Townhead of Greenock</p> <p><b>ACCON Ltd</b> (Noise Assessment)</p>	<p><b>Dalgleish Associates Ltd</b> (Mineral and Environmental Surveys) Tincornhill Loudounhill Clawfin Farm Future Quarries</p> <p><b>Ironside Farrar</b> (Mineral Surveys) North Drumboy; Townhead of Greenock</p> <p><b>ACCON Ltd</b> (Noise Assessment)</p>
<b>Landfill</b>	<p><b>Dalgleish Associates Ltd</b> Garlaff Craignaught Dalricket Mill (Mineral and Environmental Assessment)</p>	<p><b>Dalgleish Associates Ltd</b> Garlaff Craignaught Dalricket Mill (Mineral and Environmental Surveys)</p>
<b>Onshore Wind</b>	<p><b>Ironside Farrar</b> (Landscape Assessment) (Financial Guarantee Assessment)</p> <p><b>Doug Sharpe Acoustic Whitelee Wind Farm Sneddon law</b> (Noise Assessment)</p> <p><b>ACCON Ltd</b> All other developments (Noise Assessment)</p>	<p><b>Ironside Farrar</b> (Mineral and Environmental Surveys)</p> <p><b>Doug Sharpe Acoustic Whitelee Wind Farm Sneddon law</b> (Noise Assessment)</p> <p><b>ACCON Ltd</b> All other developments (Noise Assessment) (Noise Assessment)</p>
<b>Electrical Infrastructure</b>	<p><b>Ironside Farrar</b> (Environmental Assessment)</p>	<p><b>Ironside Farrar</b> (Environmental Surveys)</p>

9. **Technical Working Groups and Community Liaison Committee meetings**

10. Table 2 below provides a summary of the compliance monitoring visits undertaken at operational open cast mining complexes since April 2014, along with information on number of Technical Working Groups and Community Liaison Committee meetings that have been held over the reporting period. Each Technical Working Group was attended by a representative from the Planning Authority accompanied by the Compliance Assessor. Work continues on operational sites as noted within Appendix 1 and all matters addressed by each Technical Working Group are progressing without issue. Similarly, the Community Liaison Groups have all met and matters raised are being progressed in a structured manner. Each Community Liaison Group meeting was attended by a representative from the Planning Authority to co-ordinate matters raised with the operator.

**Table 2**

<b>Complex</b>	<b>April 2014 to June 2014</b>		
	<b>Community Liaison Committees</b>	<b>Technical Working Groups</b>	<b>Compliance Monitoring Visits</b>
Duncanziemere (Hargreaves)	8 May 2014	7 May 2014	8 April 2014 6 May 2014 10 June 2014
Garlaffen (Hargreaves)	8 May 2014	NA	NA
Netherton (Hargreaves)	19 June 2014	Scheduled for August 2014	8 April 2014 6 May 2014 10 June 2014
House of Water (Hargreaves)	12 May 2014	Scheduled for October 2014	17 April 2014 15 May 2014 24 June 2014
Greenburn (Kier)	Scheduled for 23 September 2014	15 April 2014	17 April 2014 16 May 2014 24 June 2014
<b>Total</b>			

11. **Site Progress**

12. Appendix 1 provides detailed information on the status of each operational open cast coal mine, which draws on information established during the compliance monitoring inspections undertaken between the periods from April to June 2014 and also includes information provided by the operators which has been validated accordingly.

13. Currently, the Compliance Monitoring visits at Netherton, Duncanziemere and House of Water (Burnston Remainder) continue to demonstrate that all overburden materials are being placed below consented ground levels with phased restoration of the voids ongoing while coal extraction continues to be carried out. Areas of Duncanziemere are being profiled to finalised restoration levels. The southern void at Netherton has been backfilled to proposed restoration levels and the large voids within House of Water are being backfilled as part of the progressive restoration concept. The three sites are in general accordance with the current Planning Permissions. Within each of the sites the restoration liabilities have been reduced since the commencement of coaling by Hargreaves following the SCCL/ATH Resources liquidation.
14. This Compliance Monitoring process has also been carried out at the Greenburn Complex and the operational activity within each site is in general accordance with the current Planning Permissions. The sites within the complex contain two restoration bonds and a parent company guarantee which are subject to a review by the independent compliance assessor to verify that the financial guarantees cover the active restoration liabilities and where applicable identify any variation to the financial guarantee where permitted under the legal agreement..
15. Once the Compliance Monitoring reports have been fully assessed by the Planning Authority, the report shall be uploaded on the Council Web Site. These reports shall be accompanied by all minutes from the respective Technical Working Groups and Community Liaison Committee meetings from each site, subject to habitat confidentiality and commercial sensitive issues.
16. **Planning Application Status on Active Sites**
17. **Greenburn Complex**  
An application for the recovery of coal and associated fire clay at Carsgailoch Hill Extension was considered by the Planning Committee on 15 June 2012 and granted subject to the satisfactory conclusion of the Section 75 Legal Agreement. Discussions have been ongoing with the applicant to finalise the legal agreement and the Planning Authority currently awaits detailed proposals regarding the financial guarantees proposed for the development prior to the approval being issued. The former landfill site at Dalricket Mill which was approved by the Planning Committee on the 13 June 2014 is enclosed by Braehead mine, and subject to a commercial agreement with East Ayrshire Council as land owner of the landfill site, an application will be made to undertake final restoration on the site with material sourced from the adjacent overburden within the Braehead site. The amounts of material required to provide the capping layer will not have an adverse impact on the final restoration scheme for the Braehead site.
18. **Duncanziemere Complex**  
On 4 April 2014 the Planning Committee approved the application to vary Condition 4 of Planning Consent 09/0511/PP to revise the approved restoration plan for Duncanziemere Surface Coal Mine. As noted above the works are progressing on the agreed plan while the Section 75 legal agreement has been

finalised and which is now in the process of being signed off by all parties. Hargreaves Surface Mining Ltd (Hargreaves) have advised that the application to extend the eastern section of the site will be submitted to the Planning Authority imminently which will be fully assessed prior to the future consideration of the application by the Planning Committee.

**19. Netherton Complex**

The planning application to provide an alternative restoration proposal for the site has been delayed from being submitted by the applicant due to the continuing negotiations between the Council and the Bond company to finalise the bond payment. Once this process has been concluded, a report will be presented to Cabinet for consideration of the bond offer. Following the settlement of the finalised bond valuation and payment to the Council, Hargreaves on behalf of the OCCW (Netherton) will finalise the revised design.

**20. House of Water Complex**

Following approval by the Planning Committee of the modification to Clause 15 of the Section 75 Agreement and the re-phasing of the previously consented excavations, the site work commenced on the 1<sup>st</sup> May 2014. While site progress is detailed within Appendix 1, Hargreaves have confirmed that the final restoration scheme in relation to the overall House of Water complex is being finalised from an engineering perspective which has delayed the submission of the planning application until Autumn 2014.

**21. Annual Environmental Audits**

22. As reported to the Planning Committee on 4 April 2014, the Annual Environmental Audit (AEA) for the four operational coal mines at Greenburn; Netherton; Duncanziemere; and House of Water are required to detail the operator's compliance with the environmental planning conditions. AEA's have been submitted for the Greenburn and Netherton complex which have been reviewed by the Compliance Assessor and the Planning Officer following consultation with both the Technical Working Group and Community Liaison Groups. These reports have been assessed by the Planning Officer in conjunction with the Compliance Assessor and are deemed to be an accurate representation of the environmental issues within the respective sites.

23. The schedule for the submission of an AEA for each operational open cast coal site is noted as follows:-

Duncanziemere Complex: -	June 2014
House of Water Complex: -	October 2014
Greenburn Complex: -	November 2014
Netherton Complex: -	April 2015

## **24. Planning Committee Site Visits**

25. Following the Planning Committee site visits to the four operational surface mines which were carried out during February 2014, all councillors were further invited to attend a series of site visits to provide an opportunity to view the site progress. The site visits dates are noted below:-

Netherton Complex: -	1 April 2014
Duncanziemere Complex: -	2 April 2014
Greenburn Complex: -	9 April 2014
House of Water Complex: -	9 April 2014

26. During these visits, Planning Committee members in attendance were able to view the current coaling and restoration operations in each working void and working area, discuss with representatives from the surface mine the next operational stages and generally familiarise themselves with the infrastructure supporting the site. Given the Planning Committee's remit to consider other mineral development such as quarries, members were also invited to view both an operational quarry and one which was in final stages of restoration. On 13 May 2014 members attended Tincornhill Quarry to view the operational aspects of the project and consider the variations between rock quarries and open cast coal surface mining. This was followed to by a site visit to the Mousewater sand quarry within South Lanarkshire to consider the restoration options available to developers.
27. Planning Committee members as part of their consideration of the Tappet Hill and North Drumboay planning applications carried out a site visit on the 14 May and 20 May 2014 respectively prior to the determination of the applications. All members were offered the opportunity to undertake a further site visit on 5 June 2014 to the Glenmuckloch Open Cast Mine within Dumfries and Galloway where Hargreaves, as contractor to the Glenmuckloch Restoration Ltd are undertaking restoration works to re-profile the land to support agriculture and forestry on the A76 frontage to the development prior to the further extraction of coal to the south eastern section of the complex.
28. As part of the agreed enhanced Compliance Monitoring Framework the Planning Committee and as part of the consideration of this quarterly update report attended the Netherton open cast coal mine on 26 June 2014 to view the progress of the coaling and progressive restoration within the northern void and the restoration progress of the southern void. Prior to consideration of the next quarterly Compliance Monitoring Report covering the period from July to September 2014 the Planning Committee will have the opportunity to view the operational activity and restoration progress at the Greenburn complex.
- ## **29. Former Opencast Coal Sites Update.**
30. Appendix 2 of the Council Report on Opencast Mining In East Ayrshire - Steps To Recovery, dated 19 September 2014 highlighted six complexes which were owned/operated by the former SCCL/ATH Resources were subject to ongoing negotiations with KPMG as liquidator to identify a site by site solution. The

current position is detailed below:-

- **Chalmerston Complex:-** Owned by Forestry Commission and Hargreaves who are developing a coal and restore scheme for the site which will be subject to a Planning Application;
- **Dunstonhill Complex:-** The restoration bond has been settled and works will be progressing to secure an alternative restoration scheme;
- **Piperhill Complex:-** The site is owned by Hargreaves with the site restored to formation level and grassed. Further proposals awaited to detail the final landscape finish;
- **Garlaffen and Grievehill Complex;** The site is owned by OCCW (Duncanziemere) and Dumfries Estate. Two areas of land comprising the working voids have been disclaimed under the Insolvency Act. The restoration bond for Garlaffen is in the final negotiation stage with the bond provider and once settled, works to secure an alternative restoration scheme can be progressed. The Bond at Grievehill is in the process of being claimed;
- **Powharnal and Dalfad Complex;** The restoration bond for Powharnal has been settled and work will be progressing to secure an alternative restoration scheme. Court action has been taken in respect of the Dalfad bond and a decision is currently awaited on the legal action.
- **Ponesk and Spireslack Complex:-** The restoration bond for Ponesk has been settled. Further claims against the remaining Spireslack and Viaduct and Elwood bonds are being progressed. Once final bond settlement is concluded works to secure an alternative restoration scheme.

In order to progress the alternative restoration proposals on sites where the original operator is no longer trading, the Planning Authority will consider the design of alternative restoration schemes through a positive enforcement process where the bond settlement can deliver a site solution. Consultation with relevant communities and stakeholders will be undertaken as part of the process to redesign the restoration scheme.

### **31. Compliance Monitoring for other major developments**

32. As noted above, extensive compliance monitoring arrangements are in place for the operational activity within the four surface mine complexes. Similar arrangements are now in place for the Interconnector project and are being rolled out within the existing major developments for the Whitelee onshore wind farm; Tincornhill and Loudounhill quarries and Garlaff; Dalricket Mill and Craignaught landfill sites thereby ensuring that the same compliance Monitoring Framework is extended across all current major developments. It is therefore proposed to extend the current open cast coal compliance monitoring report to

include these development types in a single monitoring report called ***“Compliance Monitoring Update of all Major Developments in East Ayrshire”*** with major developments defined in this context as open cast coal; quarries; landfill; onshore wind farms and the electrical interconnector.

**33. Map Based Visual Registers**

34. Work has been carried out to maintain and update both the Open Cast Coal Visual Register and the Onshore Wind Visual Register on a monthly basis (or where a development status is updated). These maps are on public display within the Planning section of the Council’s web page and Appendix 2 has been developed as a comprehensive land use map to illustrate the overall location of all major developments within the Council area. It is proposed that this map is updated in the same frequency as noted above and will be included within the quarterly report as a reference to current development activity.

**35. RECOMMENDATIONS**

36. It is recommended that the Planning Committee:
1. notes the consultants which have been appointed to support the Planning Authority undertake the assessment and compliance monitoring arrangements in line with the scheme proposals;
  2. notes the progress made in respect of compliance monitoring of open cast mining sites;
  3. notes the Compliance Monitoring arrangements currently in place at each of the operational sites;
  4. notes the number of Technical Working Groups, Community Liaison Committees and Compliance Monitoring Inspections held during the period April to June 2014,
  5. notes that further progress report will be submitted to the Planning Committee meetings during October detailing the July to September 2014 period;
  6. agrees that the Planning Committee undertakes a site visit during September 2014 at one of the active sites prior to next quarterly Compliance monitoring report;
  7. considers and agrees to extend the Open Cast Coal Compliance Monitoring reports to be extended to other developments including open cast; quarries; landfill; onshore wind farms and the electrical interconnector.
  8. notes that the land use map detailed within Appendix 2 will be updated on the Council’s Planning web pages; and
  9. otherwise notes the contents of the Report.

Elizabeth Morton  
**Depute Chief Executive**

**20 June 2014**

## **LIST OF 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

Any person wishing further information should contact  
Elizabeth Morton, Depute Chief Executive (Telephone 01563 576076)

**IMPLEMENTATION OFFICER: Elizabeth Morton, Depute Chief Executive**

### Appendix 1:- Update on Operational Opencast Coal Sites

Applicant/Operator:- Kier Mining								
Site:- Greenburn Complex								
Application Ref No.	Site	Date Approved	Site Commenced	Site Duration (Years)	Expiry Period	Approved Estimated Coal Reserves (tonnes)	Estimated Coal Reserves Remaining (tonnes)	Site Status
12/0066/PP	Wellhill Farm	7 February 2013	March 2013	5	March 2018	750,000	360,000	Coaling is continuing within the eastern void and is progressing northwards in accordance with the approved scheme. Screening bunds have been installed around the northern perimeter of the workings. All overburden mounds are in place and all overburden material currently being excavated is being placed below ground level within the void. The road diversion to the U719 has been constructed and is now operational. Restoration work is being carried out at the southern section of the site. Mining operations are being carried out in general accordance with the current Planning Permission. The six monthly review of the financial bond quantum for the site restoration is being carried out during August 2014.
10/0491/PP 13/0841/PP	Braehead Farm	22 February 2011	June 2012	5	June 2017	1,500,000	992,000	Coaling is continuing eastwards within the central and eastern area of the site creating the maximum void area with progression restoration of the void undertaken as coaling proceeds. The road closure is in full operation. The main overburden mound in the west of the site is in place and all overburden material currently being

								excavated is being placed below ground level within the void. Mining Operations are being carried out in general accordance with the current Planning permission. The site is currently subject to a review of the financial quantum of the Parent Company Guarantee for the site restoration which will be concluded during august 2014 and the outcome of this review shall be reported to the Planning Committee.
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	Greenburn (including current coaling application at Dalgig Farm)	19 August 2008 (Dalgig Farm)	June 2009 (Dalgig Farm)	Original site 10 Years	Under discussion with Operator	1,500,000 (Dalgig Farm)	39,000 (Dalgig Farm)	Coal and Fireclay have been recovered from the several sites covered by the 9 key Planning approvals within the Greenburn complex with progressive final restoration undertaken within the central and eastern part of the complex. Final coaling is being carried out at Dalgig Farm and is due to be completed during summer 2014. All other parts of the Greenburn site are finished coaling. Infrastructure remains within this part of the main complex to provide access from the Dalgig Farm coaling area to the railway distribution point at Auchincross. Coal is currently being recovered from the base seams at the western void of Dalgig Farm. Hargreaves Surface Mining Ltd who were working under licence to Kier Mining to remove the boundary coal between Dalgig Farm and Burnston Fields Extension have now completed the coal extraction. All Overburden Mounds are in place and all overburden material currently being excavated is being placed below ground level within the void. Mining operations are being carried out in general accordance with the current Planning permission.

**Applicant:- OCCW (Duncanziemere) –  
Operator:- Hargreaves Surface Mining Ltd**

**Site:- Duncanziemere and Laigh Glenmuir Complex**

<b>Application Ref No.</b>	<b>Site</b>	<b>Date Approved</b>	<b>Site Commenced</b>	<b>Site Duration (Years)</b>	<b>Expiry Period</b>	<b>Approved Estimated Coal Reserves (tonnes)</b>	<b>Estimated Coal Reserves Remaining (tonnes)</b>	<b>Site Status</b>
05/0232/FL 06/0291/PP 09/0511/PP 09/0770/PP	Duncanziemere and Laigh Glenmuir	30 March 2011	October 2010	5.5	March 2016	800,000	172,000	Coaling is being carried out at the Duncanziemere site with coaling finished within Laigh Glenmuir. Infrastructure remains within the Laigh Glenmuir as part of the complex to provide access from the Duncanziemere coaling area prior to the distribution of the coal to Crowbandsgate Rail head via the overland conveyor belt. All overburden mounds are in place and currently all overburden material being excavated is being placed below ground level within the void. Work as part of the final restoration scheme is being carried out on site to re-profile the land. Mining operations are being carried out in general accordance with the current Planning permission.

**Applicant:- OCCW (Netherton) –  
Operator:- Hargreaves Surface Mining Ltd**

**Site:- Netherton Complex**

<b>Application Ref No.</b>	<b>Site</b>	<b>Date Approved</b>	<b>Site Commenced</b>	<b>Site Duration (Years)</b>	<b>Expiry Period</b>	<b>Approved Estimated Coal Reserves (tonnes)</b>	<b>Estimated Coal Reserves Remaining (tonnes)</b>	<b>Site Status</b>
09/0891/PP 11/0535/PP	Netherton	19 October 2010	October 2011	10	October 2021	4,100,000	431,000	Coaling is being carried out at the northern void of the Netherton site with coaling finished within the southern void and phased restoration having now filled this void. Distribution of the coal to Crowbandsgate Rail head is via HGV transportation on the agreed routes along the A70 and A76. All overburden material currently being excavated is being placed below ground level within the northern voids. Mining operations are being carried out in general accordance with the current Planning permission

**Operator:- OCCW (House of Water)**  
**Operator:- Hargreaves Surface Mining Ltd**  
**Site:- House of Water Complex**

Application Ref No.	Site	Date Approved	Site Commenced	Site Duration (Years)	Expiry Period	Approved Estimated Coal Reserves (tonnes)	Estimated Coal Reserves Remaining (tonnes)	Site Status
CD/94/0072/MIN 94/0400/FL 96/0635/FL 03/0506/FL 04/0397/FL 09/0286/FL 09/0364/FL 09/0371/PP	Burnston Field Extension	29 March 2010	August 2009	6	December 2015 (Amended by S42 variation)	560,000	0	The remaining 25,000 tonnes of coal within the Burnston Fields Extension were extracted and transferred via HGV transportation on the agreed route to the Killoch Rail head. With the exception of the Burnston Remainder site all coal has been extracted from the complex. All overburden material which has been excavated has been placed below ground level. Hargreaves Surface Mining Ltd are working under licence to Kier Mining and have now completed the coal extraction to remove the boundary coal between Dalgig Farm and Burnston Fields Extension. Mining operations are now covered by the Burnston remainder permission below and are being carried out in general accordance with the current Planning Permission.
12/0022/PP	Burnston Remainder	13 February 2013	1 May 2014	6	1 May 2020	1,800,000	1,800,000	The Burnston Remainder site is designed to deliver the phased restoration within the northern part of the House of Water complex and commenced on the 1 May 2014. The initial works include the provision of soil stripping and formation of soil bunds with rock extraction being deposited

								with the A5 void within Craigman South which will be followed by overburden from the Burnston Remainder site now directly infilling the voids at Burnston Fields Extension followed by Tappet Hill. Coal extraction will commence during the summer. Mining operations are being carried out in general accordance with the current Planning permission.
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Appendix 2 East Ayrshire Council Land Use Map:- June 2014.

