

EAST AYRSHIRE COUNCIL

**DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING
COMMITTEE**

**MINUTES OF SPECIAL MEETING HELD ON WEDNESDAY 14 AUGUST 2002 AT
1000 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON
ROAD, KILMARNOCK**

PRESENT: Councillors Eric Ross, Daniel Coffey, Lilian MacLean, Drew McIntyre, Harry Wilson, Iain Linton, John Knapp, Jim Raymond, Finlay MacLean, George Smith, Jimmy Kelly, Tommy Farrell, Provost Jimmy Boyd and Councillors Elaine Stewart and Jimmy Carmichael.

ATTENDING: Stephen Chorley, Director of Development Services; Alan Neish, Head of Planning and Building Control; David Mitchell, Head of Administrative and Legal Services; Karen McLeod, Solicitor, Legal Services; and Robert Beaton, Administrative Officer.

APOLOGIES: Councillors Stephanie Young, Douglas Reid, Robert McDill, Eric Jackson and Julie Faulds.

CHAIR: Councillor Eric Ross, Chair.

HEARING PROCEDURE

1. The Administrative Officer established that the Hearing Procedure was understood by all participants.

CONSIDERATION OF APPLICATION

2. **APPLICATION NO 99/0761/FL: PROPOSED EXTRACTION OF COAL BY OPENCAST METHODS UTILISING EXISTING SITE INFRASTRUCTURE AT GASSWATER OPENCAST COAL SITE, RESTORATION OF PREVIOUSLY DESPOILED LAND AND ENHANCEMENT OF LANDSCAPE AND NATURE CONSERVATION INTERESTS AT POWHARNAL, NEAR MUIRKIRK BY THE SCOTTISH COAL COMPANY LIMITED**

There was submitted a report dated 7 August 2002 (circulated) by the Director of Development Services for application no 99/0761/FL for the proposed extraction of coal by opencast methods utilising existing site infrastructure at Gasswater Opencast Coal Site, restoration of previously despoiled land and enhancement of landscape and nature conservation interests at Powharnal, near Muirkirk.

Councillor Wilson, seconded by Councillor D Coffey, moved that the meeting be adjourned until sufficient information was made available to Members by the Director of Development Services on the Reporter's recommendations on the East Ayrshire Opencast Subject Plan.

Councillor Ross, seconded by Councillor Smith, moved as an amendment that the Committee proceed to consider the application.

On a division by a show of hands, the amendment was carried by 10 votes to 5.

2.1 Consideration of Item

The Head of Planning and Building Control reported that 22 letters of objection had been received, details of which were contained within the report; summarised the planning considerations in respect of the application and gave the recommendation of the Head of Planning and Building Control: Approval, (i) subject to the conditions, and for the reasons, detailed in the report; and (ii) that the issuing of the Planning Decision Notice be withheld until (a) the application had been formally notified to and had been cleared by the Scottish Ministers in terms of the Town and Country Planning (Notification of Application) (Scotland) Direction 1997 (As Amended); (b) the Solicitor to the Council had formally concluded a satisfactory agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant and Scottish National Heritage, in respect of the matters described in Section 8 of the report; (c) Scottish National Heritage and the Royal Society for the Protection of Birds had formally withdrawn their objections; (iii) to note that the Director of Development Services would formally consult the Royal Society for the Protection of Birds on the Conservation Management Aspects of the Section 75 Agreement before it is concluded; and (iv) that in the event there is a failure to secure the requisite Section 75 Agreement with the relevant parties, the application be referred back to the Development Services Committee for further consideration.

2.2 Planning Hearing

The Committee heard Mrs G Roberts, Mrs E Kelso, Mrs M Gordon, Mr S Zisman, Mr E Crawford and Mr B Broadley in respect of their objections. The Committee then heard Mr N Crabb, Mr D Purchase and Mr J Stewart, for the applicant, in support of the application. Members asked questions of the objectors and the applicant. The objectors and the applicant responded to the issues raised, all in accordance with the Hearing Procedure.

The Chair closed the Hearing.

2.3 Adjournment

It was agreed to adjourn the meeting at 1210 hours for approximately 5 minutes.

2.4 Reconvention

The meeting reconvened at 1215 hours with the same Members and Officials present and in attendance with the exceptions that Provost Boyd and Councillors Wilson and Raymond were not present.

2.5 Determination of Application

Councillor Ross, seconded by Councillor Smith, moved that the application be approved (i) subject to the conditions, and for the reasons, detailed in the report; and (ii) that the issuing of the Planning Decision Notice be withheld until (a) the application had been formally notified to and had been cleared by the Scottish Ministers in terms of the Town and Country Planning (Notification of Application) (Scotland) Direction 1997 (As Amended); (b) the Solicitor to the Council had formally concluded a satisfactory agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant and Scottish National Heritage, in respect of the matters described in Section 8 of the report; (c) Scottish National Heritage and the Royal Society for the Protection of Birds had formally withdrawn their objections; (iii) to note that the Director of Development Services would formally consult the Royal Society for the Protection of Birds on the Conservation

Management Aspects of the Section 75 Agreement before it is concluded; and (iv) that in the event there is a failure to secure the requisite Section 75 Agreement with the relevant parties, the application be referred back to the Development Services Committee for further consideration.

Councillor D Coffey, seconded by Councillor Linton, moved as an amendment that the application be refused on the basis that the application was contrary to the various policies which were contained in the Approved Structure Plan and East Ayrshire's Opencast Subject Plan, Finalised Version with Modifications and on the basis that the material considerations did not outweigh the presumption in favour of the development.

On a division by a show of hands, the motion was carried by 8 to 4 votes.

The meeting terminated at 1240 hours.