

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - 9 MAY 2000

EAST AYRSHIRE OPENCAST COAL SUBJECT PLAN

**OBJECTIONS AND REPRESENTATIONS DOCUMENT AND SCHEDULE OF
PROPOSED MODIFICATIONS**

Report by Director of Development Services

1. PURPOSE OF REPORT

1.1 To inform the Committee of the formal objections and representations received in respect of the Finalised Version of the East Ayrshire Opencast Coal Subject Plan; to inform the Committee of the Department's suggested response to each of the objections and representations received; to present to Committee a Schedule of Modifications it is proposed should be made to the Subject Plan, including those modifications proposed to meet the objections received; and to seek approval of the Objections and Representations Document and the Schedule of Modifications in order to allow formal negotiation with objectors to be carried out.

2. BACKGROUND INFORMATION

2.1 The Finalised Version of the East Ayrshire Opencast Coal Subject Plan was approved by the Development Services Committee on 01 September 1998, the Committee authorising the Head of Planning and Building Control to undertake the necessary statutory procedures to progress the Subject Plan to adoption. Subsequent amendments to the Plan, required as a result of new Government guidance enshrined in NPPG 4: Land for Mineral Working: Annex A: Opencast Coal and Related Minerals and issued on 23 October 1998, were authorised by the Development Services Committee on 24 November 1998.

2.2 The Amended Subject Plan was duly placed on deposit and advertised in the local press for formal objections on 14 May 1999 with objections to the Plan requested by 30 July 1999. Some 36 responses were received, encompassing a total of 460 separate points of representation and objection.

3. THE OBJECTION AND REPRESENTATION DOCUMENT

3.1 The objections and representations received on the Subject Plan were wide ranging with 10 responses being received from statutory and non-statutory consultees, 12 responses received from Opencast Operators and 14 responses from various pressure groups, the general public and local Community Councils. The representations made related to all aspects of the Subject Plan and were diverse in nature. The consultees were generally very supportive of the Subject Plan and its

contents and no major objections were received from this particular sector. The opencast operators objected to the Plan on three main grounds: -

- (i) the plan was not in conformity with NPPG 16: Opencast Coal and Related Minerals (issued by the Scottish Executive after publication of the Subject Plan) and the Strathclyde Structure Plan (now superseded by the Ayrshire Joint Structure Plan);
- (ii) the effects on the industry imposed through the selection of limited Potential Coal Extraction Areas;
- (iii) there are too many controls over opencast developments.

On the other hand, the pressure groups, the general public and Community Councils responding to the plan objected on the grounds that: -

- (i) the Potential Coal Extraction Areas identified are too extensive;
- (ii) increased control over opencast operations is required; and
- (iii) a market justification is required for the coal to be extracted.

3.2 The points of objection made are addressed individually in the Objection and Representation Document, with detailed changes to the Subject Plan being suggested as a means of meeting those objections and representations where considered necessary or appropriate. A Members' Seminar, held on 22 March 2000, provided Members with the opportunity to become familiar with the range and types of objections received and the recommended approach being made by the Council in order to address the points raised.

3.3 The Objection and Representation Document runs to some 250 pages in length and as an alternative to providing each Member of the Committee with an individual copy of the document, two copies of the document have been placed in each Group Room for information purposes.

4. SCHEDULE OF SUGGESTED MODIFICATIONS

4.1 In order to progress the finalised plan to adoption, a Schedule of Modifications has been prepared which lists those detailed changes it is suggested the Council agrees to make to the Subject Plan. The Schedule of Modifications which is attached to the agenda as Appendix 1, includes:

- (i) proposed modifications suggested as a means of meeting objections received;
- (ii) proposed modifications that have been suggested as a result of meeting requirements of recent legislation and other statutory documents, eg NPPGs, the Ayrshire Joint Structure Plan;
- (iii) proposed modifications considered appropriate to be made to meet identified deficiencies in the plan or to aid comprehension of the document;

(iv) proposed modifications of a technical or minor nature.

4.2 The modifications as proposed represent an overall strengthening of the Subject Plan, reinforcing the following:-

- (i) the definition of potential coal extraction areas within which there is a presumption in favour of opencast development;
- (ii) the restriction of opencast development outwith the potential areas to small scale, short term developments with resulting environmental benefit;
- (iii) the creation of 500 metre buffer zones between local communities and working faces of opencast operations;
- (iv) the requirement for opencast operations to meet the twin tests of environmental and community benefit;
- (v) the requirement for adequate restoration measures to be put into place.

4.3 It is suggested that some 130 separate changes of a substantive nature be made to the Subject Plan as detailed in the Schedule, with a further 25 amendments being made of a technical or minor nature. The Schedule identifies the precise part of the Subject Plan for which modifications are proposed, the details of all changes suggested and a reason for each particular change. The Modified Subject Plan Policies have been reproduced in full and are attached to the agenda as Appendix II.

5. THE WAY FORWARD

5.1 Should the Council agree to the suggested responses and modifications detailed in the Objection and Representation Document and the Schedule of Modifications, it is proposed that the following steps be initiated in order to progress the Subject Plan to adoption: -

- inform objectors of the Council's response to their objections;
- ascertain from objectors whether the objections received will be withdrawn or whether a Public Local Inquiry will require to be arranged;
- advertise the proposed modifications to the plan and invite objections;
- place any objections to the proposed modifications to Committee for consideration;
- arrange Public local Inquiry to consider any unresolved objections;
- consider any recommendations made by the Reporter at the Public Local Inquiry;
- adopt the Plan.

6. FINANCIAL/ PERSONNEL LEGAL/AUTHORITY IMPLICATIONS

6.1 None.

7. RECOMMENDATIONS

7.1 It is recommended that the Committee agrees: -

- (i) to approve the Objection and Representation Document and the Schedule of Modifications;**
- (ii) to authorise the Head of Planning and Building Control to advertise the modifications detailed in the Schedule of Modification for objections, as required by statute;**
- (iii) to authorise the Head of Planning and Building Control to enter into negotiation/discussion with individual objectors with regard to objections already made or with regard to any future objections received in respect of the modifications advertised under recommendation (ii) above.**
- (iv) to adopt the modified policies as detailed in Appendix II to this report, as a basis for the determination of all future opencast coal related planning applications lodged with the Council for determination.**

**Stephen Chorley
Director of Development Services**

27 April 2000

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LIST OF BACKGROUND PAPERS

- 1. The East Ayrshire Opencast Coal Subject Plan – Finalised Version, as approved by the Development Services Committee on 01 September 1998 and amended on 24 November 1998.**
- 2. In-house paper on Local Plan Objection Procedures dated 26 April 2000.**

Implementation Officer: Alan Neish

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AGENDA