

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 28 AUGUST 2001

00/0793/FL : PROPOSED PRODUCTION OF OPENCAST COAL AND ASSOCIATED WORKS FOR GREENBURN PROJECT INCLUDING CONSTRUCTION AND OPERATION OF A NEW RAIL LINK, AT GREENBURN, NEW CUMNOCK

APPLICATION BY KIER CONSTRUCTION LIMITED (MINING DIVISION)

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the extraction of 3.5 million tonnes of coal by opencast method from the application site. Full permission is also sought for the construction and operation of a new dedicated railhead and rail link to serve the proposed opencast site. The proposed opencast site would be worked over a total period of 10 years with a coaling period of 7 years. Average output from the site would be 10,000 tonnes of coal per week.

1.2 The applicant would wish to commence site establishment, preliminary and enabling works and construction of the railhead and coal preparation area in late summer or early autumn this year in order that soil stripping operations and excavation can commence in Spring 2002. Coal production from the site would commence during Summer 2002.

1.3 Operations would commence with site establishment and infrastructure works. All existing site fencing, walls and gates will be checked and repaired or replaced as necessary. Additional fencing will be erected as required. It is intended at this early stage to carry out planting of trees in order to provide some early screening of the proposed development, which would subsequently provide some more mature woodland during the aftercare period. As a priority, four water treatment areas, consisting of settlement lagoons and their associated ditching will be constructed and commissioned to ensure that site water discharges are in line with licensing requirements.

1.4 The main access point to the site will be taken from the U19 Dalricket Road at a point close to the entrance to the former Coalburn Colliery. This access will be used for plant, machinery, vehicles, personnel, supplies, fuel, visitors and heavy vehicles. Construction of the site access point and the site access road will be commenced as initial tasks. Construction of the proposed new rail link and coal loading and handling facilities will also be undertaken at an early stage.

1.5 The proposed method of working the Greenburn site will result in two excavation areas separated by the U19 Dalricket Road, the larger Area A lying to the west of this road (lands of Greenburn and Fardenreoch) and the smaller Area B lying to the east of the road (lands of Auchincross). Phased working will consist of 7 yearly working areas of extraction that will commence in the southwest part of the site on the lands of Greenburn and working in a generally westerly direction towards the U19 road (Years 1,2 and 3). Excavation operations will then cross over the U19 road to the lands of Auchincross, which will be worked in a south to north direction (Year 4). Operations will then cross back over the U19 road with excavation continuing in a general westerly direction over the lands of Fardenreoch (Years 5,6 and 7). Excavations will be taken to a maximum depth of 40 metres and limited blasting operations will require to be undertaken as part of the mining operations.

1.6 Operations in Area A will result in the removal of the Greenburn and Fardenreoch farmsteads and the two exiting residential properties at Old Coalburn. The operations will also result in the closure and removal of a section of the U20 Dalgig road to be replaced by a new relocated section lying in the southwest part of the development site. The closure of the section of road will not take place until the new section has been completed.

1.7 Topsoil will be stripped and stored in 5m high bunds to be located to assist in visual screening and acting as baffle mounds particularly along the southern boundary of the development site and along both sides of the Dalricket road. Subsoil and soil forming materials removed will be sent to designated subsoil storage areas (15m high). Only the minimum area necessary to allow ongoing operations is to be stripped at any one time. Topsoil and subsoil storage bunds are to be grass seeded upon completion.

1.8 The overburden mound will be located on the northwestern part of the Greenburn site with a maximum height of 30 metres. In order to mitigate visual impact, the overburden mound will be hydro-seeded. The overburden mound will be constructed in two phases over a two-year period.

1.9 Coal won from the site will be taken to the proposed coal preparation area located immediately south of the Auchincross farmstead. Due to the variability of the quality of different coal seams encountered within the site, the coal will have to be prepared and blended to achieve market specification. Coal processing plant will consist of a reception hopper, coal-crushing equipment, screening equipment and associated conveyor structures. Provision will also be made for stockpile areas. The proposed railhead with its coal loading and handling facilities will also be located to the south of the preparation area. The rail link will be taken from the existing Knockshinnoch siding and will extend into the development site. A new rail bridge over the River Nith will require to be constructed.

1.10 Wheel wash and weighbridge facilities will be provided. An area will be provided where all vehicles will be sheeted prior to exiting the coal preparation areas. Internal haul roads will be constructed to direct coals to the preparation

and rail loading area. This will necessitate the formation of three road-crossing points over the life of the site. These crossings will be controlled by traffic lights with priority to traffic on the public roads.

1.11 The site office and workshops establishment area will be on the northeast part of the development site. Artificial power lighting will be required to provide illumination at the site establishment area, the coal preparation and loading areas and the excavation area during hours of darkness to facilitate 24 hour working.

1.12 Hours of work for site operations will be 6:45am Monday to 4pm Saturday with maintenance only continuing until 6pm on a Saturday and between 7am and 4pm on a Sunday. Only excavation and backfill operations will be carried out during night time working. The coal processing and rail loading facility will operate from 7 am until 7pm Mondays to Fridays and from 7:30 am and 1pm on Saturdays. No operations other than essential pumping or safety purposes will take place outside these hours or on Bank Holidays or public holidays.

1.13 With the operation of 24 hour working, the number of direct full-time jobs supported by the proposed development is 94. The applicant is currently the appointed contractor for the opencast operations at the Gasswater site. Coaling operations at this site will be nearing completion during 2002/2003 and it is likely that there would be a transfer of personnel from this site to the proposed Greenburn site.

1.14 Production of coal would average at 10,000 tonnes per week of which at least 90% would be dispatched to markets by rail. This would result in 2 or 3 laden trains per day operating through the proposed railhead. The remaining 10% of coals would be destined for local markets (1000 tonnes per week) which would be dispatched from the site by lorry. This would result in approximately 10 laden vehicles per day leaving the site. Coal vehicles would travel northwards from the site via the U19 Dalricket Road to the C36 Benston Road to access the A76 trunk Road at Skerrington Roundabout.

1.15 During the course of the excavations, any watercourses passing through the excavation area will be diverted to the edge of the excavation area. The restoration plans include the reinstatement of watercourses to their natural morphology.

1.16 The restoration of the site has been designed to return the majority of the site to agricultural quality with the view that it would be sold off as a single farm unit based on the steading at Auchincross. However, the excavation areas currently contain a number of notable features such as riparian corridors, watercourses and drystone dykes. As such, there is also a strong focus on providing an enhanced series of habitats to those that currently exist for birds and other fauna in the area.

1.17 It is proposed that the restored Greenburn site will be enhanced and diversified with the addition of riparian corridors, wetland and marsh areas, mixed shelterbelts and the replacement of hedgerows and drystone dykes. Furthermore, agricultural management measures will also further improve the overall quality of the proposed habitats. In order to fulfil the restoration objectives, it is important that the proposed habitats are managed in an appropriate manner. A five-year aftercare programme is to be implemented to ensure this, which the applicant would incorporate in appropriate legal agreements.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheets and that the issue of the decision notice be withheld until:

(i) the application has been formally notified to and has been cleared by the Scottish Ministers in terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment (No.2) Direction 1998 ; and

(ii) 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 applicant, in respect of the matters described in Section 8.9 of this report.

3. SUMMARY OF ANALYSIS

3.1 As is indicated at paragraph 5.2 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 of the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations, where relevant to policy, should be greater than that given to the policies of the Adopted Local Plans due to the age of these plans. However, these material considerations are also generally supportive of the proposed development.

3.2 In terms of the East Ayrshire opencast Coal Subject Plan (Finalised Version with Modifications, the proposals would result in a minor departure from MIN1. The small part of the site (1.7 hectares) that lies outwith the Potential Coal Extraction Areas is not affected by any of the filter criteria that were applied in the definition of the Potential Coal Extraction Areas. There are no significant constraints associated with this area and the only reason it has not been included as part of a Potential Coal Extraction Area is due to no coal resource

having previously been identified within this area. It is considered that this departure from MIN1 is minor in nature and justification for departure can be made in respect of mitigating factors and the over-riding environmental and community benefits accruing from the development.

3.3 The proposals would also result in a significant departure from MIN12(ii) as indicated in Section 6.2 of the report. The development of the Greenburn site would, in conjunction with the existing operations at House of Water and Hall of Auchincross, result in adverse cumulative impact on the visual amenity and landscape character of the area. Although mitigation measures are proposed to minimise the visual impact of the development, operations will be readily seen from the B741 road and when taken in conjunction with the current visual disruption from House of Water and Hall of Auchincross, this impact will be considerable. Such a significant departure from MIN12(ii) should only be made taking into consideration the benefits and disbenefits resulting from the development.

3.4 The proposed development accords with the Adopted Ayrshire Joint Structure Plan since the proposed development site lies within a Preferred Area of Search where it is recognised that such sites have few environmental constraints, are isolated from most local communities and are close to existing railheads. The submitted Environmental Statement indicates that the site can operate to environmentally acceptable standards subject to the implementation of appropriate mitigation and the application of appropriate planning conditions.

3.5 There are no significant consultee objections or concerns with respect to the proposed development.

3.6 The proposed development has not attracted any significant level of objection from local communities and no objections from residents living within the locality of the development. The most significant issue of concern relating to opencast development is the transportation of coal by lorries through local communities. Under this proposed development, a dedicated railhead would be provided to serve the Greenburn site.

3.7 The Greenburn project will provide significant employment opportunities whether this be through new jobs created or by the transfer of operatives from the Gasswater site. A total of 94 jobs direct jobs will be provided and together with indirect employment through service providers and suppliers, this will have a significant financial input to the economy of an area which suffers from high levels of unemployment.

3.8 The Greenburn development will also result in the removal of dereliction and removal of former mine workings, shafts and adits. The restoration will provide for enhancement of habitats, including formal management of the Glaisnock Moss Listed Wildlife and the Knockshinnoch Lagoons Local Nature reserve.

3.9 In respect of all relevant matters and material considerations to be taken into account, it is considered that there are over-riding environmental and community benefits which would outweigh any adverse impacts and give justification for the stated departures from the Opencast Coal Subject Plan. Consequently it is considered that the application should be approved. Should the Committee agree with this view and be disposed to grant planning permission, any consent should be withheld until the appropriate Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997, covering the following matters, has been duly concluded:

Section 75 Agreement

(i) A Restoration and Aftercare Bond provided and monitored in accordance with the provisions of Policy MIN 36 of the EAOCSF.

(ii) The undertaking of structural surveys of residential properties lying in close proximity to the site, in consultation with the applicant, the Planning Authority and the Environmental Health Division.

(iii) The establishment of the site liaison committee for the Greenburn site, the composition of which shall be the subject of discussion between the applicant and the Planning Authority.

(iv) The maintenance of any private water supply or drainage services to private residential properties, which may be affected by the opencast operations, throughout the life of the site, or the provision of alternative supplies or services where appropriate;

(v) The establishment of noise, dust and vibration monitoring programmes for the Greenburn site following consultation with the Planning Authority and the Environmental Health Division, such monitoring schemes to be in place prior to the commencement of operations associated with this development.

(vi) A contribution to the Minerals Trust Fund at the rate of 27.5 pence per tonne of coal extracted from the Greenburn development site;

(vii) The establishment of a Technical Support Group to oversee the progressive restoration of the site to ensure appropriate opportunities for habitat creation and enhancement. The Technical Support Group shall include representatives from SNH, RSPB, SEPA, the Nith District Salmon Fishery Board and the Planning Authority.

(viii) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement that accompanied the planning application. The applicant shall provide a Mitigation Plan for the site that shall be the subject of an annual audit with a monitoring report provided to the Planning Authority assessing the effectiveness of mitigation measures.

(ix) The obligation of the applicant to prepare a Conservation management Plan for the site for the approval of the Planning Authority. This plan shall incorporate the recommendations outlined by Scottish Natural Heritage in section 3.15 of this report.

(x) The securing through legal agreement of the future management and preservation of the areas of enhanced habit.

(xi) The subscription of the applicant to the Council's Transportation Protocol;

(xii) The obligation of the developer to secure a minimum of 90% of coal extracted from the site to be dispatched to markets via the proposed Afton railhead.

(xiii) The definition of agreed dispatch routes for minerals destined for domestic markets taken off site, to be no greater than 10% of total output from the site, with an in-built mechanism for flexibility to take account of market conditions;

(xiv) The undertaking by the applicant to pay to the Council, in the event of the Council incurring any extraordinary expense with the maintenance of the A70 road, so much of the expenses of maintaining this road attributable to damage caused by heavy vehicles operated by the applicant, all in terms of the Roads (Scotland) Act, 1984.

(xv) The provision of road infrastructure improvements as indicated in section 3.2 of this report.

Stephen Chorley
Director of Development Services

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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APPLICATION BY KIER CONSTRUCTION LIMITED (MINING DIVISION)

Report by Director of Development Services

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 Development Services Committee under the scheme of delegation because the proposed development relates to a new mineral extraction site which is considered to generally accord with policies in the Opencast Coal Subject Plan, is the subject of letters of representation and requires to be notified to the Scottish Ministers if approved.

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 consists of a main development area and a section of land extending to the east relating to the line of a former mineral railway.

2.2 The land is bounded to the north by existing grassland including the Glaisnock Moss listed Wildlife Site, to the south by the upper reaches of the River Nith, to the west by the existing operational opencast site coal site at House of Water, and to the east by the existing operational opencast site at Hall of Auchincross. Two occupied residential properties at Old Coalburn lie within the development site, as do the farmsteads of Auchincross, Fardenreoch and Greenburn. Outwith the application site the locality is sparsely populated with other exiting farmsteads and isolated residential properties.

2.3 The A76 Trunk Road and the main Glasgow-Dumfries railway run through New Cumnock at some distance to the east of the proposed development site. The B741 New Cumnock-Dalmellington Road lies some 2.5 kilometres to the south. The application site itself straddles the unclassified U19 Dalgig Road and the unclassified U20 Dalricket Road, which give connections to the C36 Benston/Boig Road and the B741. The existing Knockshinnoch rail siding, serving the Knockshinnoch Coal Disposal Point, lies 3 kilometres to the east of the application site.

2.4 In terms of land use, the site is predominantly agricultural based on grassland and stock production. The site is also characterised by small areas of quarrying and the surface remains of the former Coalburn Colliery and its bing lie in the northeast part of the proposed development area. Several other old adits and mine shafts lie within the proposed site.

2.5 **Proposed Development:** Full planning permission is sought for the extraction of 3.5 million tonnes of coal by opencast method from the application site. Full permission is also sought for the construction and operation of a new dedicated railhead and rail link to serve the proposed opencast site. The proposed opencast site would be worked over a total period of 10 years with a coaling period of 7 years. Average output from the site would be 10,000 tonnes of coal per week.

2.6 The applicant would wish to commence site establishment, preliminary and enabling works and construction of the railhead and coal preparation area in late summer or early autumn this year in order that soil stripping operations and excavation can commence in Spring 2002. Coal production from the site would commence during Summer 2002.

2.7 Operations would commence with site establishment and infrastructure works. All existing site fencing, walls and gates will be checked and repaired or replaced as necessary. Additional fencing will be erected as required. It is intended at this early stage to carry out planting of trees in order to provide some early screening of the proposed development, which would subsequently provide some more mature woodland during the aftercare period. As a priority, four water treatment areas, consisting of settlement lagoons and their associated ditching will be constructed and commissioned to ensure that site water discharges are in line with licensing requirements.

2.8 The main access point to the site will be taken from the U19 Dalricket Road at a point close to the entrance to the former Coalburn Colliery. This access will be used for plant, machinery, vehicles, personnel, supplies, fuel, visitors and heavy vehicles. Construction of the site access point and the site access road will be commenced as initial tasks. Construction of the proposed new rail link and coal loading and handling facilities will also be undertaken at an early stage.

2.9 The proposed method of working the Greenburn site will result in two excavation areas separated by the U19 Dalricket Road, the larger Area A lying to the west of this road (lands of Greenburn and Fardenreoch) and the smaller Area B lying to the east of the road (lands of Auchincross). Phased working will consist of 7 yearly working areas of extraction that will commence in the southwest part of the site on the lands of Greenburn and working in a generally westerly direction towards the U19 road (Years 1,2 and 3). Excavation operations will then cross over the U19 road to the lands of Auchincross, which will be worked in a south to north direction (Year 4). Operations will then cross back over the U19 road with excavation continuing in a general westerly direction

over the lands of Fardenreoch (Years 5,6 and 7). Excavations will be taken to a maximum depth of 40 metres and limited blasting operations will require to be undertaken as part of the mining operations.

2.10 Operations in Area A will result in the removal of the Greenburn and Fardenreoch farmsteads and the two exiting residential properties at Old Coalburn. The operations will also result in the closure and removal of a section of the U20 Dalgig road to be replaced by a new relocated section lying in the southwest part of the development site. The closure of the section of road will not take place until the new section has been completed.

2.11 Topsoil will be stripped and stored in 5m high bunds to be located to assist in visual screening and acting as baffle mounds particularly along the southern boundary of the development site and along both sides of the Dalricket road. Subsoil and soil forming materials removed will be sent to designated subsoil storage areas (15m high). Only the minimum area necessary to allow ongoing operations is to be stripped at any one time. Topsoil and subsoil storage bunds are to be grass seeded upon completion.

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2.13 Coal won from the site will be taken to the proposed coal preparation area located immediately south of the Auchincross farmstead. Due to the variability of the quality of different coal seams encountered within the site, the coal will have to be prepared and blended to achieve market specification. Coal processing plant will consist of a reception hopper, coal-crushing equipment, screening equipment and associated conveyor structures. Provision will also be made for stockpile areas. The proposed railhead with its coal loading and handling facilities will also be located to the south of the preparation area. The rail link will be taken from the existing Knockshinnoch siding and will extend into the development site. A new rail bridge over the River Nith will require to be constructed.

2.14 Wheel wash and weighbridge facilities will be provided. An area will be provided where all vehicles will be sheeted prior to exiting the coal preparation areas. Internal haul roads will be constructed to direct coals to the preparation and rail loading area. This will necessitate the formation of three road-crossing points over the life of the site. These crossings will be controlled by traffic lights with priority to traffic on the public roads.

2.15 The site office and workshops establishment area will be on the northeast part of the development site. Artificial power lighting will be required to provide illumination at the site establishment area, the coal preparation and loading areas and the excavation area during hours of darkness to facilitate 24 hour working.

2.16 Hours of work for site operations will be 6:45am Monday to 4pm Saturday with maintenance only continuing until 6 pm on a Saturday and between 7am and 4pm on a Sunday. Only excavation and backfill operations will be carried out during nighttime working. The coal processing and rail loading facility will operate from 7 am until 7pm Mondays to Fridays and from 7:30 am and 1 pm on Saturdays. No operations other than essential pumping or safety purposes will take place outside these hours or on Bank Holidays or public holidays.

2.17 With the operation of 24 hour working, the number of direct full-time jobs supported by the proposed development is 94. The applicant is currently the appointed contractor for the opencast operations at the Gasswater site. Coaling operations at this site will be nearing completion during 2002/2003 and it is likely that there would be a transfer of personnel from this site to the proposed Greenburn site.

2.18 Production of coal would average at 10,000 tonnes per week of which at least 90% would be dispatched to markets by rail. This would result in 2 or 3 laden trains per day operating through the proposed railhead. The remaining 10% of coals would be destined for local markets (1000 tonnes per week) which would be dispatched from the site by lorry. This would result in approximately 10 laden vehicles per day leaving the site. Coal vehicles would travel northwards from the site via the U19 Dalricket Road to the C36 Benston Road to access the A76 trunk Road at Skerrington Roundabout.

2.19 During the course of the excavations, any watercourses passing through the excavation area will be diverted to the edge of the excavation area. The restoration plans include the reinstatement of watercourses to their natural morphology.

2.20 The restoration of the site has been designed to return the majority of the site to agricultural quality with the view that it would be sold off as a single farm unit based on the steading at Auchincross. However, the excavation areas currently contain a number of notable features such as riparian corridors, watercourses and drystone dykes. As such, there is also a strong focus on providing an enhanced series of habitats to those that currently exist for birds and other fauna in the area.

2.21 It is proposed that the restored Greenburn site will be enhanced and diversified with the addition of riparian corridors, wetland and marsh areas, mixed shelterbelts and the replacement of hedgerows and drystone dykes. Furthermore, agricultural management measures will also further improve the overall quality of the proposed habitats. In order to fulfil the restoration objectives, it is important that the proposed habitats are managed in an appropriate manner. A five-year aftercare programme is to be implemented to ensure this, which the applicant would incorporate in appropriate legal agreements.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Statutory and non-statutory consultations have been carried out in respect of both the planning application and the Environmental Statement. The consultees' responses and comments on the issues raised are as follows: -

3.2 East Ayrshire Council Roads Division notes that the transport impact assessment is based on the assumption that the majority of coal will be transported from the site by rail, with only 10% of production being hauled via the road network (equivalent to a maximum of 10 haulage vehicle movements per day). The following comments should be taken into account in determining the planning application and in the formulation of planning conditions and in any Section 75 Agreement:

- (i) the proposed railhead should be brought into use before the extraction of coal from the site commences;
- (ii) the diversion of the U719 public road to be designed and implemented in accordance with the Design Manual for Roads and bridges and East Ayrshire Council's Development Guide with the details to be agreed and work undertaken prior to coaling;
- (iii) the crossing point on the U720 to be strengthened with the details to be agreed with the Roads Division;
- (iv) traffic control (vehicle actuated) with advance warning signs to be provided at the U720 crossing;
- (v) an automatic gated barrier with advance warning signs and strengthening of the carriageway to be provided at the proposed level crossing on the C36;
- (vi) the vehicular access road off the C36 to be relocated to a position where visibility splays of 4.5 metres by 160 metres are achievable (alternatively additional warning signing may be acceptable subject to further consultation);
- (vii) visibility splays of 4.5 metres by 160 metres to be provided at access A off the U719 with strengthening, kerbing, widening and drainage work required prior to site establishment;
- (viii) no coal traffic shall turn right on to the U720 over the Dalricket Bridge;

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

The Roads Division further states that the C36 road is currently in a poor condition and if the route were to be utilised for any haulage of coal (i.e. domestic markets), the developer would be required to carry out considerable strengthening and repair work to this route between the site access and the A76 at Skerrington. This would require a full inspection of the route to be undertaken and an agreement by the developer to fund the necessary works, which could include kerbing, widening corners, deep patching and overlaying sections of the route. At Roadside on the C36, traffic calming will be required (signs, gateways, carriageway markings etc,) coupled with the possible provision of footways and street lighting, these to be provided by the applicant.

The required infrastructure improvements of the Roads Division, where appropriate and necessary, can be secured through obligations within a Section 75 Agreement should planning consent be granted for the proposed development.

The Division further states that coal haulage for domestic markets must be via the U719 and the C36 to Skerrington roundabout. No coal traffic will be allowed to travel on the C36 to New Cumnock without further strengthening work on this route and further agreement with the Council. The routing of coal traffic must be the subject of a formal agreement with the developer and the developer must subscribe to the Council's Coal Transportation protocol.

The routing of coal haulage vehicles can be secured through an obligation within a Section 75 Agreement should consent be granted for the proposed development.

3.3 East Ayrshire Council's Economic Development Division states that from an economic development point of view, the development offers significant employment opportunities as the application indicates the establishment of 94 directly employed jobs when the facility is at peak levels. It is noted that the developer has made a commitment to the recruitment of local people. In addition there will be a positive impact on the local economy as the operator purchases goods and services required for the operation of the project. New job opportunities are particularly welcome at this time in light of recent job losses in the area. It is also worthy of note that there is work being undertaken on the development of a programme to provide training to people which will provide them with a particular set of skills to operate the vast machinery that is used in the opencast mining industry.

The developer proposes to operate a two-shift system for the site that will result in a staff and operative complement of 94 employees. With an overall project period of 10 years and a coaling period of 7 years, this represents significant socio-economic benefits accruing from the medium term job opportunities provided by the proposed development. Service and goods provision for the site will also result in indirect employment opportunities as well as maintaining the viability of local service and goods providers. This is of particular importance in an area subject to high levels of unemployment and where the developer is committed to maximising the use of the local labour force and providing on site training of personnel.

3.4 The Coal Authority, British Gas Transco and Scottish Power have no adverse comments to make on the proposed development.

Noted.

3.5 West of Scotland Archaeology Service advises that it had previously been consulted by the applicant during the preparation of the Environmental Statement and is satisfied that its views and advice have been fully taken into account. There are archaeological sites within the area proposed for coaling (three sites) and within the overburden tipping and soil storage areas (two sites). The Environmental Statement proposes that all of these sites should be subject to appropriate recording prior to their destruction and it is recommended that, should the Council intend to grant planning permission for this development, archaeological conditions be attached to secure the proposed archaeological mitigation. The appropriate archaeological condition in this case is that contained in paragraph 34 of PAN 42 amended as follows to make it more effective and up-to-date:

The developer shall undertake recording of archaeological resources within the development site to the satisfaction of the Planning Authority. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, this scheme to be submitted for approval by the planning Authority following consultation and agreement with the West of Scotland Archaeology Service.

A condition in the terms stated above can be attached to any consent granted for the proposed development to meet the requirements of WOSAS.

3.6 West of Scotland Water, for its water and sewerage functions, indicates that there is water apparatus located within the development site that may be affected by the proposed development. The developer should contact WOSW to discuss appropriate measures to be taken to safeguard this apparatus.

West of Scotland Water has contacted the developer directly regarding the location of its apparatus within the proposed development site.

3.7 The Scottish Wildlife Trust has not responded to the consultation letter.

Noted.

3.8 Historic Scotland states that for its statutory built heritage interests, it has no comments to offer on the Environmental Statement. HS is content that the development described will not affect any archaeological/historic sites or features that are protected at the national level. HS notes that a number of sites of regional/local significance will be affected and that a mitigation strategy, to address adverse impacts is proposed and recommends that further guidance from West of Scotland Archaeology Service on this aspect of the Environmental Statement and planning application

The views of WOSAS have been sought as indicated in section 3.6 above.

3.9 The Scottish Executive Environment Group, in relation to responsibilities for water supply, water protection, sewerage, air quality and countryside and natural heritage, has no comments to offer on the Environmental Statement other than to say that it is important that sufficient water treatment capabilities are provided to cope with all surface run off from the operations and seepage from abandoned mines that might occur.

Noted. The water treatment facilities to be provided within the site shall require to meet the standards and requirements of the Scottish Environment Protection Agency.

3.10 The Ayrshire Joint Structure Plan and Transportation Committee indicates that the application requires to be assessed within the context of Policy E13 and Policy E14 of the Ayrshire Joint Structure Plan. Policy framework indicates that the site lies within a Preferred Area of Search for opencast coal working and subject to the relevant criteria within policy E13 being addressed, AJSPTC raises no strategic objections to the proposed development.

Full assessment of the proposed development against the policy provisions of the Ayrshire joint Structure plan is made in Section 5 of this report.

3.11 The Scottish Environment Protection Agency makes the following points:

(i) The settlement lagoons and ditches must be constructed before any substantial stripping of the soils is undertaken to prevent pollution of the watercourse by silt. The applicant has applied to this agency's consent for the discharges from the settlement lagoons. SEPA notes that it is the intention to retain these areas as marshy land and open water on closure of the site. SEPA is in favour of this providing all interested bodies are consulted on the design.

A condition can be attached to any consent granted for the proposed development to meet the requirements of SEPA. With respect to the creation of wetland and water features on restoration, consultation would be undertaken through the establishment of a Technical Support Group for the site that would include representation for those parties with an interest in site restoration, including SEPA.

(ii) With respect to the road diversion, there should be no direct surface water run-off from the road to the watercourses. Surface water should be directed to soakaways or other infiltration system or overland flow through vegetation. SEPA should be consulted on the proposal.

(iii) With respect to the rail link, work on the construction of the line and bridge should be undertaken in such a manner as to minimise disturbance to the River Nith. SEPA should be consulted prior to work commencing.

(iv) Drainage from the soils and overburden areas should be to the lagoons to prevent excessive silt from entering watercourses. Once grass is established on the soils, the drainage may be allowed to by-pass the lagoons. The siting and stability of these tips is extremely important to ensure there is no likelihood of slippage which would result in soil entering the watercourses.

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

(v) The applicant will require to apply for an authorisation under the Environmental Protection Act 1990 for the coal preparation process.

The applicant is aware of the requisite authorisations for the coal preparation process.

(vi) SEPA notes from the Environmental Impact Assessment that there may be an impact on the flow from the Nith into the void in the southeast corner and that further assessment is required. SEPA should be contacted regarding this matter and informed of the work that will be undertaken to avoid this happening.

A condition can be attached to any consent granted for the proposed development to meet the requirements of SEPA.

(vii) As SEPA will have control over some dust issues with regard to the coal preparation as well as water issues on the site it may make sense for SEPA to have a representative on any liaison committee if these are to be discussed.

Should consent be granted for the proposed development, a site liaison committee can be established through a Section 75 Agreement. Representation by SEPA on this liaison committee can be secured through this Agreement.

(viii) The applicant should ensure all necessary steps are taken to avoid any pollution of watercourses during pipeline diversion operations. SEPA should be informed of the proposals.

(ix) Consultations with relevant bodies should be undertaken on the diversions and re-instatement of watercourses.

(x) There should be procedures in place relating to working on vehicles outwith the workshop area to prevent any spillage of oils or fluids entering watercourses.

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

3.12 East Ayrshire Council's Environmental Health Division has not responded to the consultation letter.

Noted.

3.13 The Royal Society for the Protection of Birds states that it has no objection to the proposed development subject to the following conditions:

- (i) The development is carried out strictly in accordance with the terms of the application and submitted plans.
- (ii) The applicant enters into a Section 75 Agreement to secure appropriate mitigation, restoration and aftercare, for the benefit of wildlife, in accordance with the proposals made in the EIA.

Should consent be granted for the proposed development, appropriate conditions and measures through a Section 75 Agreement can be imposed on the development to address the issues raised by RSPB.

RSPB does indicate concern over the loss of one remaining area of deep peat. RSPB indicates that it is willing to participate in the steering group proposed by the EIA and would also be willing to contribute to formulating the wildlife-related interests in the Section 75 Agreement.

The loss of the area of deep peat is intended to be mitigated through measures proposed in the EIA for off-site enhancement of the Glaisnock Moss Listed Wildlife site which is currently in a degraded state and part of which is under the control of the applicant.

It is anticipated that RSPB, amongst other interested parties, would be involved in any Technical Support Group established for the site in terms of monitoring mitigation, restoration and aftercare of the development site.

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

Noted.

3.15 Scottish Natural Heritage states that the proposed development does not in itself raise serious concerns with regard to the natural heritage and does not object thereto. Nonetheless the close proximity of the proposed opencast site to other concurrent and proposed opencast sites raises issues of cumulative impact both on wildlife and landscape.

The proposed Greenburn site lies between the existing operational opencast sites at House of Water and Hall of Auchincross (Rigghead Extension). It is recognised that issues relating to cumulative impact are material considerations in the determination of the proposed development.

SNH states that the Environmental Impact Statement correctly identifies the key ecological impacts and the applicant has had the necessary assessments carried out to a high standard. Specific comments on elements of the assessment are as follows:

(i) two areas of modified bog occur within the development site, of which only the northern one will be directly affected by excavation. This latter area of peatland is adjacent to the Glaisnock Moss Listed Wildlife Site, of local significance for its blanket bog habitat and associated wildlife. Owing to its degraded state, loss of the northern modified bog may be of relatively limited significance if it is mitigated through prompt restoration and through off-site enhancement of habitat condition on that portion of the listed wildlife site under the control of the applicant. The peat soils map indicates that an area of deeper peat exists at the north of the modified bog and the EIS suggests that the main body of Glaisnock Moss is severed from peat within the application site by an interceptor drain. However if a significant linkage exists SNH would recommend retention of the deep peat area as far as possible. In any case it is noted that the phasing of excavation is such that any peatland would be excavated last and immediate restoration will minimise the period of peat storage.

The applicant proposes to undertake the off-site measures indicated by SNH to improve habitat condition in the Glaisnock Moss Listed Wildlife Site. This can be secured through a Section 75 Agreement should consent be granted for the proposed development. The establishment of a Technical Support Group for the site, in line with other opencast coal sites, would assist in addressing issues regarding excavation of peatland areas, with input from SNH. It is considered that such an approach would minimise the likelihood of adverse impact on the hydrology of the Glaisnock Moss Listed Wildlife Site.

The EIS notes evidence of otter activity within and surrounding the proposed development site. However no shelters were observed and the effects of the development on the species are not considered likely to be significant. All road and rail crossings should, as part of the mitigation package, be constructed with bridges/culverts so as to allow free passage of otters etc.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of SNH. In addition, it is considered that the establishment of a Technical Support Group for the Greenburn site could assist in addressing

the issues raised by SNH. This can be achieved through obligations within a Section 75 Agreement.

The EIS indicates that badgers use the development site both for feeding and shelter. On the basis of evidence within the EIS, SNH accepts that the impact on the local badger population is not likely to be significant from the operational phase of the development. Current phasing and restoration proposal indicate the re-instatement of suitable foraging habitat much as already exists. Notwithstanding this, two outlier setts were observed adjacent to Fardenreoch farmstead and these will necessarily be damaged or destroyed in the course of site operations. In view of the likelihood of their occasional occupation it will be necessary for their destruction to be supervised by a suitably qualified badger expert. This work can only be carried out under licence from SNH.

The applicant is aware of the requirements in this regard.

The only observations of bats were of pipistrelles flying amongst mature trees east of Fardenreoch Farm. As the EIS correctly states all bats and their roosts are protected. Given the importance of the trees as a feeding resource, it would be preferable to retain the mature trees where possible. If this is not possible it will be necessary for further detailed survey work to be carried out particularly prior to felling to ascertain whether bats are roosting in the trees. If a bat roost exists, it will be necessary to apply to the Scottish Executive for a licence to exclude the bats and fell the trees. Permission may be granted for reasons of overriding public interest.

Conditions can be attached to any consent granted for the proposed development to ensure further detailed survey work is carried out prior to the felling of the mature trees at Fardenreoch. In addition, it is considered that the establishment of a Technical Support Group for the Greenburn site could assist in addressing the issues raised by SNH. This can be achieved through obligations within a Section 75 Agreement.

The EIS notes the presence of 35 species of birds with up to 25 of these breeding. A number of wading birds are likely to be affected. Although this is not likely to constitute a significant impact, it does underscore the importance of the modified bog habitat. As the EIS recommends, birds must be discouraged from nesting on areas to be disturbed during the breeding season, either by advance soil stripping or by scarring. The existence of swallows nesting in the farm buildings means that demolition of such buildings should be undertaken only outwith the breeding season for these birds. The EIS also records barn owls nesting in farm buildings at Fardenreoch. It is imperative that the buildings are re-surveyed prior to demolition and this demolition should be carried out outwith the breeding season. The destruction of a known barn owl nest, even when unoccupied, can only be carried out under licence from SNH.

Conditions can be attached to any consent granted for the proposed development to ensure further survey work is carried out

prior to the demolition of Fardenreoch. In addition, it is considered that the establishment of Technical Support Group for the Greenburn site could assist in addressing the issues raised by SNH. This can be achieved through obligations within a Section 75 Agreement.

In view of the importance of the River Nith's tributaries as spawning and rearing habitat for salmon and trout, full implementation of the mitigation /restoration package of the electro-fishing, re-instatement and restocking are of considerable importance.

The mitigation measures promoted within the EIS should ensure that impact on the River Nith tributaries is minimised. Re-instatement and restocking of fish form part of the mitigation strategy.

There may be a degree of disturbance to breeding birds from the operation of the restored railway, although construction will be timed to minimise adverse impacts. Conclusion of the agreement with the Scottish Wildlife Trust should provide for management and other benefits sufficient to offset any adverse impacts.

Noted.

The EIS correctly identifies the key issues of landscape and visual impacts using the appropriate methodologies. The inclusion of photomontages is particularly helpful. In general terms the greatest concern as regards landscape and visual impacts relates to the cumulative effects likely to be brought about in conjunction with neighbouring opencast coal sites. Considering Greenburn in isolation, the overburden and other storage dumps are likely to have the most intrusive effect on visual amenity, and their design and seeding will be crucial in minimising this impact.

The EIS promotes mitigation measures to ensure that the visual impact of overburden and soil storage mounds is minimised. This will include careful sculpting of soil mounds and seeding in grass, locating the mounds to minimise and control views into the operational part of the site.

The proliferation of opencast sites in this area is such that cumulative impacts are an important consideration. It is likely that the cumulative effect of concurrent developments in this area will be the temporary loss of much improved and semi-improved grassland. This represents a net loss of available habitat for farmland and wading birds as well as loss of badger feeding habitat. The main badger set identified within the EIS is located within an area due to be mined as part of the House of Water opencast site. The loss of what is presumed to be core foraging habitat within the House of Water site might therefore render the land at Greenburn of greater importance than it would appear in isolation.

Careful phasing and early progressive restoration will be necessary to minimise impacts.

The potential cumulative impacts of concurrent and adjoining sites is recognised within the EIS. However it is proposed that the site will be worked in a series of comparatively small sections, with a site area of approximately 30 hectares being worked at any one time. Combined with the progressive restoration strategy, this would assist in minimising potential cumulative impacts on ecology.

In terms of landscape character and visual amenity, cumulative impact is likely to be most important. As the EIS states the effects of various operative opencast coal sites will be disruption on the landscape character of the basin as a whole.

The EIS does acknowledge the adverse cumulative impact of the Greenburn proposal in conjunction with the existing operational sites at House of Water and Hall of Auchincross. However, operations at the House of Water site are progressing in a westward direction with the landscape being progressively restored. At current levels of production, the House of Water site will cease coaling during 2003/4. Hall of Auchincross will be in restoration before the proposed Greenburn site is fully operational. The combined remoteness of House of Water and the relatively short working life of Hall of Auchincross will significantly limit cumulative visual and landscape impacts.

In terms of restoration, the applicant has produced a reasonably thorough and detailed plan of restoration and aftercare. Besides re-instatement of excavated and otherwise worked habitats a key element of the restoration plan is the enhancement and long-term conservation management of non-worked land. All proposed restoration measures should be included as part of a Section 75 planning agreement. In terms of landscape and visual amenity, the proposals appear to accord well with the surrounding elements with a good mix of hedgerow and drystone dykes. In addition new riparian woodland will add to the visual diversity while complimenting landform, as will wetland habitat improvements along the River Nith corridor. The draft restoration plan for the Rigghead extension to Hall of Auchincross OCCS includes an area of riparian woodland along the boundary where it abuts the Greenburn site running north up from Auchincross Farm. In order to create a meaningful and sensible looking feature, it will be necessary for respective operators to agree to create the riparian woodland as a single planting on both sides of the burn. The benefits of the restoration and off-site mitigation measures will be realised only through on-going maintenance and appropriate agricultural management which should be included as part of the Section 75 Agreement. As part of the on-going restoration and mitigation programme SNH would ask that the applicant undertakes regular monitoring of restored and enhanced habitats and the use of these by key species affected. Regular monitoring report should be provided to the Council to demonstrate the effectiveness of measures undertaken.

It is considered that the establishment of a Technical Support Group for the Greenburn site could assist in addressing the issues raised by SNH. This can be achieved through obligations within a Section 75 Agreement.

3.16 The Nith District Salmon Fishery Board indicates that it has been involved with the applicant from an early stage on this project. The Nith District Salmon Fishery Board has agreed a compensation package with regard to the loss of habitat of fish during the life of the opencast site. The NDSFB is the statutory body with responsibility for the welfare of migratory salmonid fish within the catchment and would welcome the opportunity to advise on any liaison committees with regard to the management of this opencast site. The NDSFB recognises the potential for such development to create problems for the fishery. With careful attention to detail it is hoped that no catastrophes will occur with regard to this development. The NDSFB looks forward to working with Kier Mining on this project and would wish for full consultation on any matters related to the fishery.

It is considered that representation from the NDSFB would be included in the establishment of a Technical Support Group for the Greenburn site.

3.17 The Health and Safety Executive has no objections to raise regarding the proposals.

Noted.

3.18 The Scottish Executive Rural Affairs Department states that as the application site lies on non-prime quality ground and is not in an Environmentally Sensitive Area, it has no objections to make on this reversible development.

Noted.

3.19 The Forestry Commission states that there would be scope for further woodland cover in the further restored site linking in with the existing forest to the northwest and also along the riparian zones of the burns.

Expansion of woodland to the north would impinge and impact on the integrity of the Glaisnock Moss Listed Wildlife Site.

4. REPRESENTATIONS

4.1 A total of 3 letters of representation have been received objecting to the proposed development. One of the letters of objection has subsequently been withdrawn. The main points of objection are summarised as follows:

4.2 The B741 Action Group objects to yet another opencast site in the new Cumnock area. We already suffer from pollution, dust and noise and the movement of heavy vehicles that has intensified over the years. In our area we have House of Water, Hall of Auchincross, Knockshinnoch DP, Grievehill, Garleffan and we must include Lanemark which has planning approval.

Given the relative remoteness of the proposed Greenburn site from the community of New Cumnock and with mitigation measures promoted within the Environmental Impact Statement, it is unlikely that there would be adverse impacts associated with pollution, noise and dust arising from the development. The site at Lanemark does not have the benefit of planning consent.

With respect to coal transportation, the applicant proposes to construct a dedicated railhead within the application site in order that a minimum of 90% of coal is transported by rail. Approximately 10% of coal extracted would be transported by HGV lorries, equating to 10 laden vehicle movements per day. None of this coal would be routed along the B741 through New Cumnock.

4.3 The adverse effect on wildlife does not seem to be taken into consideration and the River Nith once again will be affected. We would ask that an independent expert along with the Salmon Fishery Board can satisfy the Council that there would be no risk to the volume or quality of the river Nith.

Full consultation has been carried out with Scottish Natural Heritage, the Royal Society for the Protection of Birds and the Nith District Salmon Fishery Board. While some concerns have been raised and recommendations made by these bodies, no formal objection to the development has been made in respect of natural heritage issues. These bodies would be represented in the establishment of a Technical Support Group for the Greenburn site.

4.4 The B741 Group suggests that a true independent count is taken on the amount of coal extracted and the actual amount of coal being transported by rail and road from the already operating sites. It reads well that 90% of coal will move by rail as suggested by the applicant but is it possible that the applicant can satisfy Policy MIN 15?

In order to secure the movement of 90% of coal by rail, such an obligation will require to be included in a Section 75 Agreement. This will also require the applicant to compile detailed records of the movement of coal from the site for monitoring purpose. The applicant is committed to the construction and operation of a dedicated railhead for the Greenburn site. Assessment against policies contained within the East Ayrshire Opencast Coal Subject Plan is made in section 6 of this report.

4.5 The B741 Action Group asks the Council when considering this planning application that they not only think of the money and small amount of local employment this brings to the area, but of the residents. The main consideration should be towards the impact on the residents directly affected by the detrimental impacts of yet another opencast coal site.

The impact of this development on residents and communities is a material consideration in the determination of this planning application as is the potential socio-economic benefits accruing from the proposed development.

4.6 The proposed development will constitute a proliferation of sites in House of Water, Hall of Auchincross and Rigghead being adjacent sites. In addition, Lanemark to the south has planning approval.

The proposed Greenburn site will constitute a third operational site in this locality should planning permission be granted. Rigghead is an extension to the existing operational site at Hall of Auchincross. No planning consent has been issued in respect of the site at Lanemark and the application is considered to have been withdrawn. Any future proposals for this site would require to be the subject of a fresh planning application.

4.7 MEGA notes that the applicant dismisses the cumulative impact of Grievehill and Garleffan, but has omitted the fact that their site boundaries extend west to include the coal preparation area. We believe that railheads should also be included in the assessment of cumulative impact given their propensity to produce noise, dust and vehicle activity during anti-social hours. The application therefore contravenes MIN7.

It is considered that given the remoteness of the Garleffan and Grievehill opencast coal extraction areas, there would be no significant cumulative impacts to consider in respect of the proposed Greenburn site. Similarly given the distances between existing railheads in relation to the proposed development site, it is considered that there would be no significant cumulative impacts to consider in respect of the Greenburn site.

4.8 This application unacceptably proposes closing a public road (Dalgig) and very severely affecting another (Dalricket) as the latter will be channelled between opencast sites on either side with potentially unstable soil bunding on its borders.

The Dalgig Road will not be closed off until the proposed re-alignment of the road is in place. Formal closure procedures under the Town and Country Planning (Scotland) Act 1997 will require to be undertaken in respect of this part of the proposed development. The re-located section of this road will require to be constructed to

current roads standards and will provide for an improved section of road and associated junction.

4.9 Buildings will disappear, streams will be culverted, badger's setts will be destroyed, a right of way obliterated and wildlife disturbed. The development therefore contravenes MIN7 as it would have an unacceptable environmental impact.

There are no statutory natural or built heritage interests within the proposed Greenburn site. As indicated in the consultation response from SNH, disturbance to wildlife interests or habitats will require to be undertaken under licence, where necessary and appropriate. Neither SNH nor RSPB have formally objected to the proposed development.

4.10 Given the proposed stream diversion, the effect of dewatering existing mine workings, the location of the site at nearly 300 metres AOD, the existence of boulder clay, high rainfall and high storm risk, all on a site within the River Nith catchment, MEGA asks the Council to satisfy itself through advice from an independent expert, that this development would neither pose risks to the volume nor to the quality of the River Nith. We ask that the River Nith Salmon Fisheries Board is consulted formally about this important matter.

The Environmental Impact Statement that accompanies the planning application includes an assessment of the impacts on the hydrology and hydrogeology of the site and its environs and promotes mitigation to minimise any adverse impacts resulting from the proposed development. This assessment has been the subject of formal consultation with both the Scottish Environment Protection Agency and the Nith District Salmon Fishery Board, with neither consultee raising objections to the proposed development.

4.11 Kier Mining tries to justify need on the basis of their need because they say they will finish at Gasswater in two years. We draw your attention to table 3 of the subject plan where the life of Gasswater is stated to be 7.5 years. We therefore suspect that Kier's contract terminates in 2002, not the extraction period. MEGA accepts that there is a need for coal although note that East Ayrshire Council has nothing to say in terms of Agenda 21 etc. The proposal therefore contravenes MIN2

The proposed development requires to determined taking into account the provisions of the development plan and other material considerations such as National Planning Guidelines, Planning Advice Notes etc. and assessment against policy provisions and other material considerations is made in sections 5 and 6 of this report. The point made with respect to the Gasswater site is not material to the consideration of this application.

4.12 It would appear on paper that the application would satisfy MIN15 as they intend to transport 90% of coal by rail. We ask the Council to establish the proportions of coal extracted from Chalmerston/Pennyvenie, from Broomhill and Garleffan OCCS which have gone by rail this year. This may indicate whether such a proportion is achievable for these three sites let alone a third. The Council cannot simply accept the applicant's intentions in regard of this important matter.

The applicant has been granted outline planning permission for the construction of a dedicated railhead to serve the proposed Greenburn site and the details of the railhead form part of the current application. The applicant is aware that transportation of significant volumes of coal by road from the site would constitute an unacceptable adverse impact on road infrastructure and on communities. The commitment by the applicant to transport 90% of coal extracted from the site to market by rail can be further secured and monitored through obligations in a Section 75 Agreement.

4.13 Kier Mining has not assessed the cumulative impact of additional HGV traffic on the already over-loaded road network in Ayrshire as they state that 10% of 10,000 tonnes per week going by road would be negligible. The worst- case scenario must be assessed in this respect. At approximately 200 HGV movements per day, that should require a Traffic Impact Assessment.

Movement of coal by HGV lorries would equate to 10 laden vehicles per day leaving the site. These vehicles would travel north along the C36 road to join the A76 Trunk Road at Skerrington Farm. It is considered that this does not represent a significant level of additional traffic accessing a main A class road. The proposal by the applicant for the construction and operation of a dedicated railhead for coal transportation negates the need for any formal traffic impact assessment.

4.14 It would appear that any coal leaving the site by road would head north to join the A76 but there is mention of some traffic adding to the already unacceptable situation on the B741. The routing of HGVs to and from the site should be established and made public before any decision is taken on this development.

The Roads and Transportation Division has indicated in its consultation response a requirement for the applicant to use specific routes for the transportation of coal by road. Through obligations in a Section 75 Agreement for the site, if approved, no coal transportation vehicles associated with the Greenburn site will be routed along the B741.

4.15 We have not seen any mention in the applicants' submissions on their potential interests in the area surrounding the application site. As there is coal to the northwest and northeast of the application site it would assist all involved to know whether there are any mining exploration licences approved in the area.

The applicant has provided full details of the contiguous coal reserves surrounding the application site and the applicant's interests in respect of these, as indicated in section 3.8 of the Environmental Impact Statement. While there are known reserves to the north of the Greenburn site on land in the control of the applicant, the Glaisnock Moss Listed Wildlife site lies in this area which will be used for off-site mitigation purposes.

4.16 There is consideration of the impact of the proposal on nearby farms/houses but this does not extend to the area required by the Scottish Executive in terms of potential dust/ health hazard.

The EIS contains an assessment of dust impacts on sensitive receptors within 1000 metres of the proposed Greenburn site, in line with current advice through the Scottish Executive. This assessment also takes into consideration the potential for cumulative impacts through the operation of other opencast sites within the locality. Subject to full implementation of the mitigation measures promoted in the EIS, it is considered that there will be no significant residual dust impacts arising from the proposed development.

4.17 There is no consideration of the cumulative environmental impact of the development on nearby communities such as New Cumnock and its outlying residential areas which are particularly affected by dust from Knockshinnoch and by traffic from nearby opencast sites.

Given the remote location of the Greenburn site from the community of New Cumnock and its outlying residential areas, all lying outwith 1000 metres from the application site, it is considered that the proposed development will not have any cumulative dust impacts on these communities.

4.18 Braehead and Riggfoot are within 500 metre of the application site therefore the proposal contravenes MIN 22. We see no environmental benefit for them from land engineering operations, preparation, loading and transporting of coal.

Assessment against policy and other material considerations is made in sections 5 and 6 of this report.

4.19 The Environmental Statement is deficient and inaccurate in many respects. MEGA repeats its request for such an ES to be referred to the Institute of Environmental Assessment where appropriately qualified experts can assess its worth and indicate its inadequacies. MEGA has asked again and again for application of wind/ rainfall from the area and figures from Prestwick. We are concerned that the hydrological study is described as desk -top. It is the specific local circumstances pertaining to the application site that are crucial.

Reviews undertaken by the IEA are based on an audit of the methodology undertaken in the impact assessment of the proposed development, not the content or accuracy of the information provided. It is not considered necessary or appropriate for such a reference to the IEA to be made. It is further considered that the assessment has been undertaken in light of matters identified at the scoping stage of the project which involved wide-ranging consultation as indicated within the submitted EIS. It is further considered that the assessment has been carried out using prescribed methodologies.

4.20 MEGA notes that Kier quote those employed at Gasswater to demonstrate that they have employed a good proportion of local people – local being those living within a 20 mile radius which covers an area extending from Ayr to Lanark, Hamilton, East Kilbride and Irvine. They do however indicate numbers alleged to be living locally. Did they before they were employed at Gasswater.

This is not a valid ground of objection to the proposed development or material to the consideration of the application.

4.21 MEGA objects to the location of a 30 metres high overburden mound close to the northwest site boundary, just some 30 metres from the stream. Given the landslip at Garleffan, which extended some 850 metres outwith the site, this overburden should be relocated to avoid any similar occurrence.

The overburden mound will require to be designed and constructed in accordance with appropriate health and safety requirements. The detailed planning application provides an assessment of the safety considerations in respect of the overburden mound.

4.22 It is stated that there will be no blasting of the coal, but then it is stated that there will be limited blasting of the overburden. This is misleading even though the applicant may be technically correct in stating no blasting of coal.

Noted.

4.23 We object to an opencast site being operated on both sides of a public road and having to cross it. Whether or not there are traffic lights is immaterial, it is a detrimental intrusion both to the environment and to the passage of people on a public road. MEGA is similarly concerned about the proposed closure and re-location of the public road to Dalgig. It would appear that public roads are just a nuisance to the applicant who doubtless would, if they could, obliterate all signs of human impact on the landscape to opencast over the entire area.

The introduction of traffic lights will ensure safe, controlled passage of vehicles on the public road. The proposed development is temporary in nature although the Dalgig Road will be closed and re-

located as part of the development proposals. The closure of the existing route will not take place until the re-located route is in place.

4.24 We note that the railhead is now proposed from the application site, not from Afton as previously approved. Cynical we may be but we recall your insistence that the previous outline application would not require EA because the line did not extend beyond the brickworks.

The outline application for the proposed railhead was considered and assessed on its own merits. The railhead proposals under the current application have been considered in relation to the overall Greenburn project which considers that the best environmental option is to locate the railhead within the application site. The impacts associated with the proposed location of the railhead within the application site are fully considered within the submitted EIS.

4.25 We see no detail, elevations etc of the proposed new railhead on the plans submitted. As these are likely to be conspicuous in the landscape details are required so that their acceptability can be judged and the amount of landscaping which may be required to ameliorate their impact.

The applicant has provided details of the layout of the proposed railhead together with information on the plant and machinery that would be utilised within the rail loading and coal preparation area. The EIS also assesses the potential impacts associated with the proposed railhead including providing mitigation measures to minimise its visual impact through the provision of screen bunding.

4.26 We note that the immediate and cumulative impact on the loss of habitat is said would be offset by improvements to Glaisnock Moss and MEGA disagrees when there is badgers, a breeding barn owl, curlew, meadow pipit and 6 species of bat listed in the EA. In fact 35 bird species are listed for the application site. We question whether improvements to the moss will compensate when the 4 opencast sites in the immediate vicinity cover approximately 1000 hectares.

Both RSPB and SNH have been formally consulted on the proposed development as indicated in section 3 of this report. While certain concerns have been raised and further mitigation measures and safeguards are requested, neither body has formally objected to the proposed development.

4.27 MEGA objects to the hours proposed for loading being 7am – 7pm on weekdays and a 7:30 am start on Saturdays. These are unacceptable and will cause noise and disturbance to people within quite a wide radius because of the ease with which sound travels over damp ground.

Given the remoteness of the site, the frequency of 2/3 trains per day and the fact that the area is sparsely populated, it is considered that the proposed rail loading operational hours are acceptable.

4.28 We note that there would be no site working on public holidays. These should be specified as local East Ayrshire holidays, so that respite would be for local residents when there is a local holiday.

A condition can be attached to any consent granted for the proposed development to address the issue of East Ayrshire public holidays.

4.29 Where there are otters, there should be no culverting of streams.

Appropriate measures, as described in the consultation response from SNH, will be implemented to ensure free passage of otters where culverting is proposed.

4.30 This site may be in a preferred area, but that does not mean there should be a presumption to approve given its impact on the environment, its cumulative impact and on the likely failure to transport 90% of coal by rail. The assumption that roads will not be subject to a significant increase in HGV traffic is a risk and the Council should require an assessment if this risk was to be realised.

With the site lying within a potential coal extraction area, policy indicates that the Council will be supportive of opencast development in these areas subject to the proposals being in compliance with other policy considerations that are addressed in sections 5 and 6 of this report. The proposed development involves the provision of a dedicated railhead as the applicant had been advised at an early stage that significant movement of coal off-site by road would present unacceptable impacts both on communities and on existing road infrastructure.

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 Adopted Ayrshire Joint Structure Plan (1999) and the Adopted New Cumnock Local Plan (1993). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposed development site falls within a Preferred Opencast Coal Area. The proposal

would therefore fall to be considered principally against the relevant mineral policies relating to opencast development as follows:

- (i) Policy MIN2 : Presumption in favour of opencast coal operations in preferred opencast coal mining areas.

The proposed development is consistent with the provisions of this policy.

- (ii) Policy MIN3: A presumption in favour of protecting locally important agricultural land, listed wildlife sites, sites of special scientific interest, heritage resources and water catchment areas.

No statutory or non-statutory sites of natural heritage or built heritage importance are affected by the proposed development. The proposed development does not conflict with the provisions of this policy.

- (iii) Policy MIN6: The Council will require private operators to lodge a restoration bond.

The applicant is willing to provide appropriate bonding for the restoration of the site.

- (v) Policy MIN7: Restoration of sites to agriculture, forestry, recreational or other use will require to be of the highest standard.

The development site is to be restored in accordance with a scheme that will be agreed in consultation with SNH and the RSPB to secure enhancement of the site for flora and fauna.

- (iv) Policy MIN13: The Council will pay particular regard to the proximity of residential properties in the processing of planning applications for opencast operations.

The locality in which the proposed Greenburn site is located is sparsely populated with isolated farms and residential properties. The EIA process has resulted in a scheme designed to minimise any adverse impact the development may have on local residents and other affected parties. A number of the farms in the immediate vicinity of the application site have a financial interest in the proposed development. The applicant also has, or will have controlling interests in other farmsteads and residential properties within the application site.

5.3 The Ayrshire Joint Structure Plan indicates in its Key Diagram that the Garleffan II 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 development at Greenburn would be in accordance with the provisions of Policy E14.

5.4 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.

The proposed development has been the subject of a comprehensive Environmental Impact Assessment. The Environmental Statement presents a series of mitigation measures which would minimise any temporary, adverse impacts on the countryside, landscape character, visual amenity and the natural and built environment. It is recognised that there would be significant impact on the landscape character and visual amenity of the area, however the phasing of development together with the progressive restoration of the Greenburn site and other opencast sites in the locality, this would be temporary and reversible.

(ii) the impact caused by noise, dust and the contamination of ground and surface water.

The Greenburn site is relatively remote and with the mitigation measures promoted within the Environmental Statement, it is considered that there would not be any significant adverse impacts through noise, dust or water pollution.

(iii) any adverse effect on communities within Ayrshire.

The Greenburn site, being within a Preferred Area of Search, is acknowledged as being isolated from most local communities and it is considered that there will be no direct impact on communities resulting from the opencast operations. With the use of the proposed railhead, local communities should not be adversely affected by road transportation of coal from the site.

(i) opportunity to maximise transport by rail or sea.

Comments as above.

- (v) extent of directly related community benefit derived such as enhancement and creation of landscapes and habitats, and removal of dereliction.

The proposed development will result in the removal of former mine workings and in particular the removal of the Coalburn bing and a number of old mining shafts. With the provision of off-site mitigation, the habitat value of the Glaisnock Moss Listed Wildlife Site will be enhanced together with management opportunities for the Knockshinnoch Local Nature Reserve. Riparian corridors will be enhanced through tree planting with recreation of wetland marsh and marshy grassland habitats.

- (ii) cumulative impact of proposals in one area and the extraction period.

The cumulative impacts of the proposed development have been considered in the Environmental Impact Statement that accompanies the planning application. It is considered that there will be no long-term significant adverse impacts associated with the proposed development. The proposed Greenburn site will operate for a period of 10 years with a coaling period of 7 years, during which time operations on House of Water and Hall of Auchincross will have ceased and the sites restored. The method of working of the proposed Greenburn site, through the Environmental Impact Assessment process, takes account of the timing and operational aspect of these other sites to mitigate those aspects of the development that would cumulatively have an adverse impact on the environment and communities.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the modified East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications)(April 2001), the objections detailed in Section 4 above, NPPG 16 – ‘Opencast Coal and Related Minerals’ and relevant planning history.

6.2 The Adopted Local Plans covering the development site are considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the modified East Ayrshire Council Opencast Coal Subject Plan (Finalised Version with Modifications),(EAOCSP), approved by the Council on 18 May 2000, should be considered as a prime material consideration. The application now requires to be fully assessed against the principles promoted within this modified plan. Note that in the following paragraphs some of the Policies are summarised.

(i) Policy MIN1: All future opencast coal developments will be directed towards and limited to the Potential Coal Extraction Areas as identified in the Subject Plan and the Council will be supportive of such developments in these areas, subject to the development proposals being in compliance with all other appropriate subject plan policies.

The greater part of the Greenburn development site lies within a Potential Coal Extraction Area and subject to compliance with all other appropriate subject plan policies, extraction within this area is in accordance with the EAOCSP. A small part of the site (1.7 hectares or less than 1% of the development site) on the northeastern boundary lies outwith the Potential Coal Extraction Areas. However, this part of the Greenburn development site is not affected by any of the filter criteria that were applied in the definition of the Potential Coal Extraction Areas. There are no significant constraints associated with this area and the only reason it has not been included as part of a Potential Coal Extraction Area is due to no coal resource having previously been identified within this area.

(ii) Policy MIN2: The Council will not generally be supportive of any new opencast coal developments outwith the Potential Coal Extraction Areas with the exception of small scale, short term extraction proposals which meet the following criteria:

- (a) there is clearly demonstrated environmental benefit to be achieved through the removal of existing areas of dereliction.
- (b) there is an overall benefit for communities affected including local employment; and
- (c) there are no conflicts with any other Subject Plan Policies.

Although a small part of the proposed Greenburn site lies outwith the Potential Opencast Coal Extraction Areas, this amounts to only 1.7 hectares. Although this small area in itself would not meet the above criteria, a small reserve of coal would otherwise be sterilised if not worked as part of the overall site. The overall development of the site will however meet the stated criteria. It is not therefore considered that the proposed development conflicts with the provisions of Policy MIN2.

(iii) Policy MIN3: Outwith the Potential Coal Extraction Areas, the Council will assess any extension to an existing opencast site on its own merits and against the following criteria:

- (a) 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;

- (b) that the extended operations utilise fully the facilities and site infrastructure serving the original opencast site; and
- (c) 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.

The Council will only be supportive of such developments where, additionally:-

- (d) there is a clearly demonstrated environmental benefit to be achieved through the removal of existing areas of dereliction
- (e) there is an overall benefit for communities affected, including local employment; and
- (f) there are no conflicts with any other Subject Plan Policies.
- (g) Any extension to an existing opencast operation which would perpetuate any existing disturbance to a local community for a period substantially in excess of 5 years will not be considered acceptable, unless it can be clearly demonstrated that there are significant local community and local environmental benefits to be secured by the development.

The proposed development is a new opencast development and not an extension to an existing site.

- (iv) Policy MIN4 : Any proposed opencast coal developments for new, small scale, short term working as detailed in Policy MIN2 above and for extensions to existing workings as detailed in Policy MIN3 which relate to areas located outwith the Potential Coal Extraction Areas will be assessed against stated criteria.

The proposed Greenburn site is a new opencast site and it is considered that the provisions of Policy MIN4 are not relevant in this instance.

- (v) Policy MIN5: Outline planning applications will not be accepted by the Council.

The submitted application for the Greenburn site is a detailed application.

- (vi) Policy MIN6 : The Council will require all opencast coal operators, when submitting their extraction proposals to the Council for consideration, to support their planning application:-

- (a) with information which addresses all the issues highlighted elsewhere in the Subject Plan; and
- (b) with information which indicates their understanding of the location of coal reserves in surrounding land; and

(c) with information about their interest in any likely future extensions to current applications and future adjacent sites in which they have an interest.

Relevant information in respect of the above issues has been submitted as part of the planning application and accompanying Environmental Impact Statement.

(vii) Policy MIN 7: All applicants for opencast coal developments will be required to demonstrate conclusively to the Council that their proposals will not pose a potential risk to the amenity of communities or to the local environment. In order to protect communities and the local environment from the unacceptable consequences of opencast working, the Council will assess all new applications for opencast developments against the following criteria:-

(a) whether the proposal is environmentally acceptable or can be made so by the use of appropriate planning conditions and/or agreements designed to mitigate any adverse impacts, and if not:-

(b) whether the proposal provides any local or community benefits related to the proposal which sufficiently outweigh any material risk of disturbance or environmental damage.

With the mitigation measures proposed within the Environmental Statement, the imposition of appropriate planning and the establishment of appropriate environmental monitoring systems, it is considered that the proposed development can operate within environmentally acceptable standards. Notwithstanding this, it is considered that the provision of the 94 jobs for a ten-year period associated with the proposed Greenburn development will provide significant socio-economic benefits, both directly and indirectly, to the local area. In addition, the applicant will undertake off-site mitigation that will result in the enhancement of the Glaisnock Moss Listed Wildlife Site and the Knockshinnoch Lagoons Local Nature Reserve. The proposal will also result in the removal of former mine workings and the former Coalburn Colliery bing. It is considered that such benefits sufficiently outweigh any minor adverse temporary impacts associated with the development.

(viii) Policy MIN8: The submission of Environmental Impact Assessments for sites of less than 25ha in area will be required where the development meets the requirements for an Assessment to be made under the provisions of the 1999 Regulations and its accompanying Circular 15/1999.

A comprehensive Environmental Impact Statement accompanies the planning application for the Greenburn site.

(ix) Policy MIN10: Where the Council has granted consent for an opencast coal development, all other economic minerals should be removed at the same time as the extraction of the coal.

No other economic minerals have been identified within the development site.

(x) Policy MIN11: The Council will seek, wherever possible, to conserve all areas of active peat bog within the boundaries of an opencast coal development site. All peat that requires to be removed in order to access the coal reserves on site will require to be retained on site for future use in restoration of the area.

Two areas of wet modified peat bog lie within the development site. The peat bog on the southern boundary of the site will remain undisturbed but the peat bog area on the northern boundary will be removed during excavation operations. The peat however will be carefully stored and an area of peat wetland will be re-instated in the original vicinity of the bog.

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

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

The proposed Greenburn development would not constitute a third operational site within a 3 kilometre radius of New Cumnock or any other community but would be a third site within a 3 kilometre radius of itself (House of Water and Hall of Auchincross). Given the relative remoteness of the three sites from communities, it is not considered that there will be an unacceptable cumulative impact on general amenity.

(b) cause or exacerbate excessive adverse amenity and environmental disruption experienced by a community or group of dwellings from successive opencast operations over an extended extraction period in excess of 10 years;

It is not considered that the proposed Greenburn development operating alongside the existing operational opencast site would cause or exacerbate excessive adverse amenity and environmental disruption experienced by a community or group of dwellings from successive opencast operations over an extended period of 10

years, given the remoteness of the site and the fact that the locality is sparsely populated.

The exception to this would be in relation to the impact on the visual amenity and landscape character of the area. The EIS recognises and acknowledges that the visual impact of the Greenburn development would be significant . This would also be the case when considered in relation to the existing operations at House of Water and Hall of Auchincross. Although mitigation measures are proposed to minimise the visual impact of the development, operations will be readily seen from the B741 road and when taken in conjunction with the current visual disruption from House of Water and Hall of Auchincross, this impact will be considerable. In mitigation, the operational life of Hall of Auchincross is relatively short and operations at House of Water are moving westwards away from the Greenburn application site with progressive site restoration. At current rates of extraction, coaling operations at House of Water will be completed by 2003/2004. The applicant proposes, through the method of operation, to mitigate the visual disruption by sub-dividing the site into smaller, yearly working areas to minimise the total area of land disturbed in any year during the life of the site. This strategy would also be supported through progressive restoration. Nonetheless, it is considered that the cumulative visual impact would be considerable.

This is a temporary impact and a reversible one through site restoration but in this respect the development would be considered as being contrary to policy.

(c) generate volumes of heavy goods traffic which, when 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.

The Greenburn site is to be served by a dedicated railhead resulting in only 10% of coal output from the site dispatched to local markets by lorry. It would result in 10 laden vehicles being routed north along the C36 toward the A76 Trunk Road at Skerrington Farm. There are a number of residential properties and farmhouses located along this route but given the number of vehicle movements involve and in the absence of high levels of other HGV movements along this route, it is considered that there would be no significant adverse impact on the amenity of these properties. As indicated in the consultation response from the Roads Division, infrastructure improvements would require to be made to this route.

(d) 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 such areas.

The proposed development will not impinge upon any international or nationally designated sites of nature conservation interest. Neither SNH nor RSPB has objected to the proposed development.

(xii) Policy MIN13: Planning applications to contain details of operational procedures including restoration proposals and aftercare.

Details of the method of working, restoration and aftercare proposals are contained within the Environmental Statement and the planning application.

(xiii) Policy MIN15: All developers are required to progressively restore their operational sites to the highest possible standards. The use of restored land for specific agricultural, forestry, recreational and nature conservation purposes will be acceptable to the Council and applicants are encouraged to create wildlife habitats and wetland areas, if appropriate, within their restoration proposals.

Progressive restoration during the course of operations is to be undertaken on site. Provision can be made within a Section 75 Agreement to ensure positive restoration of the site in the interests of habitat creation and enhancement as indicated by both the RSPB and SNH.

(xiv) Policy MIN16: Requirement to re-instate rights of way and provide improved access to restored sites for local communities.

A claimed right of way runs through the development site and this is to be temporarily stopped off with an alternative route being provided during the course of the proposed development. This right of way will be re-instated as part of the proposed site restoration. The restoration strategy for the development site will provide for improved public access to the restored site.

(xv) Policy MIN17: Developers required to submit detailed restoration and aftercare plans with their submitted applications.

Details of restoration and aftercare have been submitted as part of the planning application and associated Environmental Statement. The implementation of the site restoration and aftercare proposals will be monitored through the establishment of a Technical Support Group with input from representatives of SNH and RSPB. This can be secured through any Section 75 Agreement for the site.

(xvi) Policy MIN18: Operators will be strongly encouraged to transport coal by rail which is not specifically destined for local domestic Ayrshire markets. Where particular market destinations can be serviced by rail, opencast operators will be expected to make a firm commitment to transporting coal using the rail facilities available, taking coal from the extraction site to the nearest rail disposal point for onward delivery along haulage routes which, where possible, avoid passing through the area's settlements.

The proposed development provides for the construction and operation of a dedicated railhead for the site. The applicant proposes that 90% of the coal extracted from the site will be dispatched to markets via rail. The remaining 10% of coal destined for local markets will be routed to minimise impact on communities before accessing the A class road network.

(xvii) Policy MIN20: 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.

Provision for recovery of extraordinary road maintenance costs attributable to the proposed development will be made in any Section 75 Agreement for the site that will also define routes to be used. Roads infrastructure improvements where considered appropriate and necessary will also be secured through a Section 75 Agreement

(xviii) Policy MIN21: Expectation for potential opencast developers and their approved sub-contractors to enter into a Section 75 agreement with the Council:-

- (a) to ensure the highest possible operational standards for the transportation of extracted minerals;
- (b) to ensure best operational practice regarding road safety and operational matters;
- (c) 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
- (d) to audit and record operational details of the transportation of coal on a regular basis; and

(e) 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 will be invited to subscribe.

The applicant has indicated a willingness to subscribe to the protocol which will be included as part of any Section 75 Agreement.

(xix) Policy MIN22: Consideration of impact of proposed opencast development on local communities to be given by developers.

The Environmental Statement considers the potential impacts that the proposed development will have on residential properties in proximity to the site as well as the impact on nearby communities. The proposals submitted by the applicant together with mitigation measures prescribed seek to minimise such impacts.

(xx) Policy MIN23: Requirement for developers to carry out structural surveys of nearby residential properties if considered necessary.

The applicant has indicated a willingness to undertake such surveys if necessary and this can be incorporated within a Section 75 Agreement.

(xxi) Policy MIN 24: In order to ensure that opencast coal operations do not cause unacceptable disturbance and nuisance to residents of local communities, the Council may consider opencast developments unacceptable where:-

(a) a development has a working face or operational areas relating to the storage, processing or dispatch of coal which encroach within 500 metres of the community concerned, or

(b) storage mounds, landscaping bunds or settlement lagoons are located within 100 metres of the community concerned, or

(c) the proposal involves a substantial area for extraction over an extended extraction period in excess of ten years, or

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

The proposed Greenburn development is located in an area which is remote from any local community.

(xxii) Policy MIN26: 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, local community, group of dwellings or individual dwellinghouses not in the ownership 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 proposal would, through restoration of the site, result in the removal of substantial areas of derelict or despoiled land, stabilise previously undermined land to allow for future permanent development, remove hazards such as mine gases and polluted mine drainage, or, if not, would provide other local or community benefits;

The development of the Greenburn site would meet this criterion.

(ii) 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;

No objections have been received from residents, owners, occupiers of properties lying within 500 metres of the proposed working face of the site.

(iii) the total period of extraction and restoration within the 500 metre buffer zone does not exceed a period of 12 months

The method of working of the proposed Greenburn site is such that the site has been sub-divided into a total of 7, yearly working areas that will ensure that the total period of extraction and restoration within the 500 metres buffer zone does not exceed 12 months.

(iv) the proposed extraction does not involve any blasting operations within the 500 metre buffer zone; and

It is anticipated that only limited blasting will be required throughout the overall site. A condition can be attached to any consent granted for the development to ensure that no blasting operations take place within the 500 metre buffer zone of any residential property not within the control of the applicant.

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

The extraction or operational areas of the proposed Greenburn site do not encroach within 100 metres of any community, group of dwellings, individual dwellinghouses or sensitive establishments.

(xxiii) Policy MIN27: Protection of areas of nature conservation interest from adverse effects of opencasting.

Subject to the cautionary measures indicated in the consultation response from SNH, there would be no conflict with policy.

(xxiv) Policy MIN28: Protection of built heritage resources and the natural environment from adverse opencast proposals.

The proposals would not conflict with policy. There are no built heritage issues associated with the proposed development.

(xxv) Policies MIN29 and MIN31: Protection of landscape value and quality of areas from opencast developments.

It is considered that through the detailed restoration of the proposed Greenburn site, due regard has been made in reflecting the distinctive local landscape characteristics of the area. The restoration scheme will provide for re-instatement, and enhancement where appropriate, of the features which contribute to the intrinsic landscape value of the area.

(xxvi) Policy MIN30: Protection of existing rural tourism, leisure and recreational resources and facilities. The Council will not be supportive of proposals which would impinge on or adversely affect the physical setting, operational viability or recreational quality of specific sites and resources considered to be of importance to the local economy or local residents especially within stated areas.

The Greenburn development area will not impinge directly on any stated area of high visual amenity.

(xxv) Policy MIN33: The Council will, if mindful to grant planning permission for an opencast coal development and if considered appropriate, request an application 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 applicant has indicated a willingness to enter into a Section 75 Agreement in respect of the matters contained within Policy MIN33.

(xxvi) 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 has indicated a willingness to contribute to the Minerals Trust.

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

The applicant is willing to provide necessary restoration and aftercare bonds with respect to the proposed development.

(xxviii) Policy MIN38: Establishment of liaison committees.

The applicant has indicated a willingness to establish a Liaison Committee if considered appropriate.

6.3 Recent guidance on opencast coal extraction has been given in National Planning Policy Guideline 16: Opencast Coal and Related Minerals. Consistent with putting concern for the environment at the heart of policy, the Government seeks to apply a sustainable approach in determining where opencast coaling may take place.

The Greenburn development proposals have been assessed against the benefits and disbenefits to communities and the environment and it is considered that the proposal is environmentally acceptable, taking into account the use of planning conditions and agreements which would offset or mitigate adverse impacts.

6.4 Many of the provisions of NPPG 16 are addressed within the finalised East Ayrshire Opencast Coal Subject Plan with regard to the proximity to local communities, repeated extensions, cumulative impact, natural and built heritage and the preference for rail transport.

These issues have been addressed fully in Section 6.2 of the report. The applicant has submitted proposals that have been designed to comply fully with the guiding principles of NPPG16.

6.5 The proposed operations have also been designed to comply with the advice contained with Planning Advice Note 50: Controlling the Environmental Effects of Surface Mineral Workings, Annexes A, B, C and D.

Noted.

6.6 In terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment (No.2) Direction 1998, certain categories of opencast

development require to be formally notified to the Scottish Ministers should the Planning Authority be minded to approve opencast proposals.

As the proposed Greenburn site area is greater than 100 hectares and two or more workings already exist within a time period of more than two years in an area within 5 kilometres of the proposed site, the application will require to be notified to the Scottish Ministers in terms of the above Direction should the Committee be minded to approve the application.

6.7 Planning History : An outline planning application for the construction and operation of a coal handling and rail loading facility at the former Afton Brickworks site was approved by the Southern Local Planning Committee on 17 March 2000 subject to the concluding of a Section 75 Agreement (Ref. No. 99/0693/OL).

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Should the Council agree to approve the application, this would necessitate the Council entering into a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 with the applicant and adjoining landowners to secure obligations on the developer as detailed below in section 8.x of this report. Furthermore, legal implications would arise through the promotion of the closure of the Dalgig Road and the claimed right of way under the Town and Country Planning (Scotland) Act, 1997.

8. CONCLUSIONS

8.1 As is indicated at paragraph 5.2 above, 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. It is considered that the weight that should be attached to these material considerations, where relevant to policy, should be greater than that given to the policies of the Adopted Local Plans due to the age of these plans. However, these material considerations are also generally supportive of the proposed development.

8.2 In terms of the East Ayrshire opencast Coal Subject Plan(Finalised Version with Modifications, the proposals would result in a minor departure from MIN1. The small part of the site (1.7 hectares) that lies outwith the Potential Coal Extraction Areas is not affected by any of the filter criteria that were applied in the definition of the Potential Coal Extraction Areas. There are no significant constraints associated with this area and the only reason it has not been included as part of a Potential Coal Extraction Area is due to no coal resource

having previously been identified within this area. It is considered that this departure from MIN1 is minor in nature and justification for departure can be made in respect of mitigating factors and the over-riding environmental and community benefits accruing from the development.

8.3 The proposals would also result in a significant departure from MIN12(ii) as indicated in Section 6.2 above. The development of the Greenburn site would, in conjunction with the existing operations at House of Water and Hall of Auchincross, result in adverse cumulative impact on the visual amenity and landscape character of the area. Although mitigation measures are proposed to minimise the visual impact of the development, operations will be readily seen from the B741 road and when taken in conjunction with the current visual disruption from House of Water and Hall of Auchincross, this impact will be considerable. Such a significant departure from MIN12(ii) should only be made taking into consideration the benefits and disbenefits resulting from the development.

8.4 The proposed development accords with the Adopted Ayrshire Joint Structure Plan since the proposed development site lies within a Preferred Area of Search where it is recognised that such sites have few environmental constraints, are isolated from most local communities and are close to existing railheads. The submitted Environmental Statement indicates that the site can operate to environmentally acceptable standards subject to the implementation of appropriate mitigation and the application of appropriate planning conditions.

8.5 There are no significant consultee objections or concerns with respect to the proposed development.

8.6 The proposed development has not attracted any significant level of objection from local communities and no objections from residents living within the locality of the development. The most significant issue of concern relating to opencast development is the transportation of coal by lorries through local communities. Under this proposed development, a dedicated railhead would be provided to serve the Greenburn site.

8.7 The Greenburn project will provide significant employment opportunities whether this be through new jobs created or by the transfer of operatives from the Gasswater site. A total of 94 jobs direct jobs will be provided and together with indirect employment through service providers and suppliers, this will have a significant financial input to the economy of an area which suffers from high levels of unemployment.

8.8 The Greenburn development will also result in the removal of dereliction and removal of former mine workings, shafts and adits. The restoration will provide for enhancement of habitats, including formal management of the Glaisnock Moss Listed Wildlife and the Knockshinnoch Lagoons Local Nature reserve.

8.9 In respect of all relevant matters and material considerations to be taken into account, it is considered that there are over-riding environmental and community benefits which would outweigh any adverse impacts and give justification for the stated departures from the Opencast Coal Subject Plan. Consequently it is considered that the application should be approved. Should the Committee agree with this view and be disposed to grant planning permission, any consent should be withheld until the appropriate Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997, covering the following matters, has been duly concluded:

Section 75 Agreement

- (ii) A Restoration and Aftercare Bond provided and monitored in accordance with the provisions of Policy MIN 36 of the EAOCSF.

- (ii) The undertaking of structural surveys of residential properties lying in close proximity to the site, in consultation with the applicant, the Planning Authority and the Environmental Health Division.

- (iv) The establishment of the site liaison committee for the Greenburn site, the composition of which shall be the subject of discussion between the applicant and the Planning Authority.

- (iv) The maintenance of any private water supply or drainage services to private residential properties, which may be affected by the opencast operations, throughout the life of the site, or the provision of alternative supplies or services where appropriate;

- (vi) The establishment of noise, dust and vibration monitoring programmes for the Greenburn site following consultation with the Planning Authority and the Environmental Health Division, such monitoring schemes to be in place prior to the commencement of operations associated with this development.

- (vi) A contribution to the Minerals Trust Fund at the rate of 27.5 pence per tonne of coal extracted from the Greenburn development site;

- (vii) The establishment of a Technical Support Group to oversee the progressive restoration of the site to ensure appropriate opportunities for habitat creation and enhancement. The Technical Support Group shall include representatives from SNH, RSPB, SEPA, the Nith District Salmon Fishery Board and the Planning Authority.

- (viii) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement that accompanied the planning application. The applicant shall provide a Mitigation Plan for the site that shall be the subject of an annual audit with a monitoring report provided to the Planning Authority assessing the effectiveness of mitigation measures.

(ix) The obligation of the applicant to prepare a Conservation management Plan for the site for the approval of the Planning Authority. This plan shall incorporate the recommendations outlined by Scottish Natural Heritage in section 3.15 of this report.

(x) The securing through legal agreement of the future management and preservation of the areas of enhanced habit.

(xi) The subscription of the applicant to the Council's Transportation Protocol;

(xii) The obligation of the developer to secure a minimum of 90% of coal extracted from the site to be dispatched to markets via the proposed Afton railhead.

(xiii) The definition of agreed dispatch routes for minerals destined for domestic markets taken off site, to be no greater than 10% of total output from the site, with an in-built mechanism for flexibility to take account of market conditions;

(xiv) The undertaking by the applicant to pay to the Council, in the event of the Council incurring any extraordinary expense with the maintenance of the A70 road, so much of the expenses of maintaining this road attributable to damage caused by heavy vehicles operated by the applicant, all in terms of the Roads (Scotland) Act, 1984.

(xv) The provision of road infrastructure improvements as indicated in section 3.2 of this report.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions on the attached sheets and that the issue of the decision notice be withheld until:

(i) the application has been formally notified to and has been cleared by the Scottish Ministers in terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment (No.2) Direction 1998 ; and

(ii) 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 applicant, in respect of the matters described in Section 8.9 of this report.

Stephen Chorley
Director of Development Services

16 August 2001
HM/HM
FV/AN

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Environmental Statement.
4. Representation Letters.
5. Consultation Responses.
6. East Ayrshire Opencast Subject Plan (Finalised Version with Modifications)
7. Adopted Ayrshire Joint Structure Plan
8. Adopted New Cumnock Local Plan
9. NPPG16: Opencast Coal and Related Minerals
10. PAN50 : Controlling Environmental Effects of Surface Mineral Workings (Annexes A, B, C and D)
12. Previous application 99/0693/OL

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

Implementation Officer: Dave Morris

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 00/0763/FL

Location	Greenburn, New Cumnock
Nature of Proposal:	Proposed production of opencast coal and associated works for Greenburn project including construction and operation of a new rail link,
Name and Address of Applicant:	Kier Construction Limited (Mining Division) Tempsford Hall SANDY Beds. SG19 2BD
Name and Address of Agent	

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

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

1. The development hereby permitted shall enure for the benefit of the applicant only, and the approved operations shall be completed within 10 years of the commencement date of the operations at Greenburn, or within such other time as may be agreed with the Planning Authority.

REASON: To ensure that the development, which is temporary in nature, is commenced and completed within an acceptable timescale. The development is acceptable only because of the individual circumstances pertaining to the applicant and on a temporary basis.

2. The applicant shall give notice to the Planning Authority, in writing, of the commencement of operations on the Greenburn site, one month prior to their commencement.

REASON: To ensure that appropriate monitoring systems are in place prior to the commencement of operations on site.

3. Prior to the commencement of operations on the Greenburn site, the applicant shall submit details of the proposed layout of the proposed coal preparation area including the details of any structures to be located within this area. Details of the means of illumination of this area shall also be submitted and this illumination shall be installed in a manner which minimises any potential nuisance. Operations shall not commence until the Planning Authority has approved the submitted details.

REASON: In the interests of amenity.

4. The developer shall undertake recording of archaeological resources within the development site to the satisfaction of the Planning Authority. No development shall take place within the development site until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, this scheme to be submitted for approval by the Planning Authority following consultation and agreement with the West of Scotland Archaeology Service.

REASON: To ensure that appropriate archaeological work is undertaken before the development commences.

5. The site access roads shall, prior to the commencement of operations on the Greenburn site, be constructed to the standards required in the Roads Development Guide 1995, for industrial use; the access road shall be bituminously surfaced from the edge of the respective public roads to the vehicle wheel wash facility located within the proposed development site.

6. The proposed diversion of the U719 public road shall be designed and implemented in accordance with the Design Manual for Roads and Bridges and East Ayrshire Council's Development Guide prior to coaling commencing on site, with the details to be submitted to, and approved by the Roads Authority,

REASON: In the interests of road safety.

7. The proposed road crossing point on the U720 public road shall be strengthened prior to coaling commencing on site, with the details to be submitted to, and approved by the Roads Authority. A vehicle activated traffic control system with advance warning signs shall be provided to serve this crossing point.

REASON: In the interests of road safety.

8. Visibility splay areas of 4.5 metres by 160 metres shall be provided at Access A off the U719 public road with strengthening, kerbing widening and drainage being implemented prior to site establishment.

REASON: In the interests of road safety.

9. No drainage connection shall be made to the public road drainage system without the prior approval of the Roads Authority. No surface water shall be allowed to discharge from the development site on to the adjacent public roads.

REASON: In the interests of public road safety.

10. Appropriate measures, to prevent mud, dirt, dust, slurry, coal or stones being carried onto the highway, shall be taken and such steps shall include the provision and use of hard standing areas and a full wheel and body vehicle wash facility for the cleaning of all lorries, dump trucks, other heavy vehicles and plant leaving the site, all in accordance with the mitigation measures promoted within the Environmental Statement which accompanied the planning application.

REASON: In the interests of road safety.

11. The access roads and public roads adjacent to the site shall be kept clear of mud or other deposited materials at all times by means of mechanical brushing.

REASON: In the interests of road safety.

12. Prior to any road vehicle loaded with coal or other minerals leaving the site, the load shall be suitably covered/happed to ensure there is no escape of materials. A hard standing area shall be provided within the coal preparation area to facilitate the happing of haulage vehicles. Vehicles returning to the site shall also be happed to minimise traffic noise associated with empty vehicles.

REASON: In the interests of road safety and minimising noise impact.

13. Prior to excavation works commencing on site statutory undertakers' apparatus shall be protected and diverted as required, to the satisfaction of the respective statutory undertakers and at the expense of the developer.

REASON: In the interests of public safety.

14. The developer shall make stock-proof and maintain, until the restoration of the site is completed, all the existing perimeter hedges and fences and shall protect these from damage during operational works. Where the site boundary does not coincide with an existing hedge or fence, then the developer shall provide and maintain stock-proof fencing with gates or cattle grids at every opening. Where the developer has the right to do so, undisturbed hedgerows, within or bounding the site, shall be maintained, the hedgerows to be cut and trimmed at the proper season throughout the period of working and restoration of the site. Where dry stone dykes are to be removed, the stone shall be stored and later re-used in the restoration of these dykes.

REASON: In the interests of visual amenity.

15. Topsoil and sub-soil shall only be stripped when the soils are sufficiently dry so that when moved no damage will be done to the structure of the soils. Apart from the works required to enclose the site, no operations shall be carried out until the topsoil is fully stripped and stored in the designated areas within the site, in accordance with the phased programme of extraction as described in the Project Description which forms part of the planning application.

REASON: To ensure that the topsoil and sub-soil will be suitable for the restoration of the site following storage.

16. Topsoil shall be stripped to full available depth from all areas within the site except those areas designated in the approved plans as topsoil dumps. Following topsoil stripping operations from any areas of land, sub-soil shall be stripped as a separate operation to a depth, where possible, to achieve topsoil and sub-soil not less than 0.9 metre at restoration.

REASON: In the interests of achieving maximum restoration potential.

17. The developer shall give at least two working days notice to the Planning Authority before work commences on the stripping of topsoil and/or sub-soil. The Planning Authority reserves the right to suspend operations during adverse conditions.

REASON: To prevent damage to soils and to ensure that the topsoil and sub-soil to be stored will be suitable for use during restoration of the site.

18. Bind-free soil forming material found during the course of the operations shall be reserved where practicable and stored for later use in the final restoration of the land. This material shall be used to replace shortages of sub-soil or topsoil, or otherwise used to cap overburden mounds.

REASON: To ensure that sufficient soils are available during restoration of the site.

19. Topsoil, sub-soil and overburden shall be carefully stored in separate dumps and prevented from mixing. Topsoil dumps shall not exceed 5 metres in height. Topsoil dumps and sub soil dumps shall be evenly graded and tops shaped to prevent water ponding. Sub-soil dumps shall not exceed 15 metres in height and overburden dumps shall not exceed 30 metres in height.

REASON: To prevent damage occurring to soils and in the interests of visual amenity.

20. In the first available seeding season following their formation, all mounds of topsoil, sub-soil and soil making materials shall be seeded in grass and shall be so maintained until the soils are required for use in the restoration of the site except as may be otherwise agreed with the Planning Authority. The overburden

mound shall be hydro-seeded in accordance with the Project Description to the satisfaction of the Planning Authority.

REASON: In the interests of visual amenity.

21. All weeds on the site, particularly those on the topsoil and sub-soil storage mounds, shall be treated with weed killer or cut to prevent spreading within the site or onto adjoining agricultural land.

REASON: To prevent weed contamination of soils in the interests of proper site restoration.

22. The location of baffle embankments shall generally be as indicated on the approved plans. Their specific location shall be chosen to assist in the visual screening of the site and their form should be such as to present a natural looking feature.

REASON: In the interests of visual amenity.

23. The sub-soil and overburden storage mounds shall be so formed as to have minimal visual intrusion on the surrounding landscape.

REASON: In the interests of visual amenity.

24. Where the soils are to be used in the restoration of land to forestry, then the stripping and storage of soils shall be to the general requirements and specifications of the Forestry Commission.

REASON: In the interests of site restoration.

25. All water treatment areas and settlement lagoons shall be enclosed by a one metre high stock-proof fence and shall be implemented prior to any significant soil stripping.

REASON: In the interests of public safety.

26. Throughout the period of site working, agricultural restoration and after-care, the developer shall protect and maintain or divert any ditch, stream, watercourse or culvert passing through the site so as not to impair the flow nor render less effective drainage onto and from adjacent lands. If there are any watercourses that contain fish the culverts shall be constructed to allow the passage of fish through them. Any culverts installed shall be removed following re-instatement of the site.

REASON: To prevent a detrimental effect upon adjacent agricultural and other operations.

27. Appropriate provision shall be made at all times to ensure that under drainage is maintained for land outwith the working areas. Standing water must

not be allowed to gather in any area where the topsoil and sub-soil has not been stripped.

REASON : To prevent damage to adjacent land and soils.

28. Alternative arrangements shall be made for any interruption of adjacent drainage systems, new interceptor leaders shall be laid, or ditches cut, where required, to ring the site and bleed in existing lateral drains from adjoining undisturbed land.

REASON: To prevent damage to adjacent land and soils.

29. All contaminated drainage and run-off from the site roadways, intercepting ditches, overburden and other tips, coal handling and stocking areas, the working areas of the excavations and pump mine water shall receive adequate and appropriate treatment prior to being discharged to any watercourse, such treatment being to the satisfaction of the Planning Authority.

REASON : To prevent contamination of watercourses.

30. Prior to any coaling operations being undertaken, the applicant shall consult with the Scottish Environment Protection Agency with respect to the measures to be taken to address any potential migration of water from the River Nith into the void area. Such measures shall be undertaken to the satisfaction of SEPA and the Planning Authority.

REASON: To safeguard the watercourse and in the interests of public safety.

31. Appropriate precautions shall be taken to prevent the discharge of oil from fuelling, oil storage, plant maintenance and vehicle wash areas within the site.

REASON: To prevent contamination of watercourses.

32. All fuel, oil or other chemical storage tanks on the site shall be sited on impervious bases and surrounded by tank bund walls. The bunded areas shall be capable of containing 110% of the tank's volume and shall enclose all fill and draw pipes. If the storage tanks are to be sited at a single compound, the bund wall shall be capable of containing 110% of the volume of the largest storage tank. All fill and draw points shall be padlocked when not in use. Waste oil from plant maintenance should be collected and disposed of safely. Any maintenance of vehicles required to be undertaken outwith the proposed workshops area shall be undertaken in a manner as to prevent any spillage of oils or fluids entering watercourses.

REASON: In the interests of public safety and to prevent any pollution of watercourses.

33. All foul drainage from sanitary facilities, canteens, etc. shall be treated prior to discharge to a soakaway system. In the event that percolation tests indicate that the ground is not suitable for discharge to soakaway system then additional treatment will be undertaken prior to any discharge of sewage effluent to any watercourse.

REASON: To prevent any pollution of watercourses

34. The formation of overburden areas shall be carried out, as far as practicable, behind mounds in order to reduce noise nuisance to a minimum and, whenever possible, during the hours of darkness, warning lights shall be used instead of beepers as a warning device on plant and maintenance vehicles, or other appropriate warning devices the details of which shall be submitted to and approved by the Planning Authority.

REASON: In the interests of minimising noise impact.

35. The operational conduct of the site shall be generally as indicated in the Project Description that forms part of the application.

REASON: To ensure that the development is undertaken in accordance with the details approved.

36. A dust-monitoring programme shall be agreed with the Planning Authority in consultation with the Environmental Health Authority and undertaken using appropriate equipment and recording devices. The results and records shall be made available to the Planning Authority on a monthly basis during the operational life of the site.

REASON: To ensure that appropriate environmental standards are maintained throughout the life of the site.

37. Except in the case of emergency, the hours of working on site will be between 0700 hours on a Monday through 1600 hours on a Saturday (24-hour working). In respect of coal preparation and rail loading, these operations shall be confined between 0700 hours and 1900 hours Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays. With the exception of essential site maintenance and the maintenance of plant and machinery, no work shall take place on Sundays or on recognised Public Holidays in East Ayrshire.

REASON: In the interests of the amenity of the area.

38. Except in cases of emergency, the dispatch of coal from the site via the proposed railhead facility shall be confined between 0700 hours and 1900 hours Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays. The dispatch of coal by road to local domestic markets shall be confined to between 0800 hours and 1800 hours Mondays to Fridays. There shall be no dispatch of coal on Sundays.

REASON: In the interests of the amenity of the area.

39. No haulage of coal from the extraction area to the coal preparation areas shall take place between 1800 and 0800 hours during the 24-hour working period.

REASON: In the interests of the amenity of the area.

40. The conduct of the site and method of operations shall comply with British Standards 5228 and Part 3 of the 1984 Code of Practice for Noise Control Application to Surface Coal Extraction by Opencast methods. Except during the formation a removal of baffle mounds and the stripping and replacement of soils, the noise limit during daytime (0700 to 1900 hours) shall not exceed 45dB Laeq, 1h and 40dB Laeq, 1h during night time (1900 to 0700 hours) at noise sensitive properties. During the formation and removal of baffle mounds and the stripping and replacement of soils, the noise limit shall not exceed 70dB Laeq, 1h at noise sensitive properties with such works only taking place during daylight hours.

REASON: In the interests of residential amenity.

41. An appropriate noise-monitoring programme shall be undertaken during the operational life of the site, the details of which shall be agreed by the Planning Authority prior to the commencement of development using appropriate equipment and recording devices, the results of which shall be made available to the Planning Authority on a monthly basis.

REASON: To ensure that appropriate environmental standards are maintained throughout the life of the site.

42. Except in cases of emergency or as otherwise may be agreed with the Planning Authority, blasting operations shall be carried out between 1000 to 1600 hours Mondays to Fridays and between 1000 to 1200 hours on Saturdays. No blasting operations shall take place on Sundays, on recognised East Ayrshire Public Holidays, during the hours of darkness or during periods of adverse visibility. No blasting operations shall be undertaken within 500 metres of any occupied residential properties outwith the control of the applicant.

REASON: In the interests of amenity and public safety.

43. An appropriate blast-monitoring scheme shall be undertaken during the operational life of the site, the details of which shall be agreed with the Planning Authority in consultation with the Environmental Health Authority, using the appropriate equipment and recording devices, the results of which shall be made available to the Planning Authority on a monthly basis.

REASON: To ensure that appropriate environmental standards are maintained throughout the life of the site.

44. All opencast machinery not in use shall be parked, as far as practicable, in an inconspicuous position and shall not be astride soil or overburden mounds.

REASON: In the interests of visual amenity.

45. Any rubbish and scrap materials generated on the site shall, as far as is practicable, be kept in a screened position until disposed of in an approved manner to the satisfaction of the Planning Authority.

REASON: In the interests of visual amenity.

46. The site shall be progressively restored generally in accordance with the scheme submitted with the planning application as may be amended in consultation with the Technical Support Group to be established for the site. The details shall include provision for the coal preparation area to be restored to a suitable condition, the restoration of the remaining area of the site for agricultural or forestry or nature conservancy or natural and man-made heritage interpretation or other appropriate uses as approved by the Planning Authority. The scheme shall also include the reinstatement of any access roads/rights of way at present in existence in accordance with the Restoration Strategy. The procedures for replacement of overburden, sub-soil and topsoil shall generally accord with those indicated in the Project Description and to the satisfaction of the Planning Authority.

REASON: To ensure appropriate restoration of the site.

47. No materials for filling shall be introduced to the site from sources external to it without the formal approval of the Planning Authority.

REASON: To enable the Planning Authority to retain control over development of the site.

48. The restored site shall be progressively landscaped generally in accordance with the Restoration Strategy submitted with the planning application and shall include details of field patterns, forestry planting, shelter belt creation, hedgerows, nature habitat creation including additional wetland areas and, if appropriate, broadleaf species in the design of shelterbelts and the creation of imaginative walkways and nature trails.

REASON : To secure appropriate restoration features and habitat enhancement.

49. The restored site shall be subsequently managed in accordance with an aftercare scheme submitted to and approved by the Planning Authority within 6 months of coaling operations commencing on site. The aftercare scheme shall be the subject of prior consultation with Scottish Natural Heritage, the Royal Society for the Protection of Birds and the Planning Authority.

REASON: In the interests in visual amenity.

50. There shall be an annual formal review to consider all the operations which have taken place on the site during the previous year, and to consider the programme for the ensuing year. The parties involved in the review shall include the applicant, the Mineral Operator, the owners of the land and the Planning Authority.

REASON: To enable the Planning Authority to update the operation of the site in the light of any difficulties encountered and to monitor progress of site operations.

51. Two weeks prior to the annual formal review an updated plan will be forwarded to the Planning Authority indicating the year's work on the site and showing the anticipated work programme for the ensuing year.

REASON: To assess the operational status of the site.

52. Prior to the felling of any trees at Fardenreoch farm steading, the applicant shall undertake further detailed survey work in respect of potential bat interest in this area. The results of this further survey work shall be submitted to the Planning Authority. Should the survey work indicate the roosting of bats, no trees shall be felled until appropriate authorisations have been granted to exclude the bats.

REASON: In the interests of protecting fauna.

53 Prior to the demolition of Fardenreoch farm steading, the buildings shall be re-surveyed to ascertain the presence of nesting birds. The results of the survey shall be submitted to the Planning Authority, Scottish Natural Heritage and the Royal Society for the Protection of Birds in order that appropriate guidance can be given. No demolition work shall take place during the bird breeding season.

REASON: In the interests of protecting fauna.

54 No coal shall be dispatched from the Greenburn site until the proposed dedicated railhead is constructed and is operational.

REASON: The proposed railhead is integral to the mitigation of impacts associated with the transportation of coal.

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PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**

AGENDA