

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 02 FEBRUARY 2001

**00/0526/FL : PROPOSED OPENCAST EXTRACTION OF COAL,
GARLEFFAN II EXTENSION, GARLEFFAN OPENCAST COAL SITE,
NEW CUMNOCK**

APPLICATION BY LAW MINING LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the extraction of 5 million tonnes of coal from the proposed development area. The mineral extraction area extends to approximately 93 hectares. The extension is being promoted as part of a comprehensive working of coal in this locality. Approval for the existing Garleffan site was granted on 09 September 1999. This site covers some 19 hectares from which approximately 1.2 million tonnes of coal is to be extracted.

1.2 A resolution to approve the adjacent Grievehill site was passed on 09 March 1999, subject to a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997. Under this scheme, a total of 500,000 tonnes of coal is to be extracted from the 48 hectare site. The combined Garleffan / Garleffan II / Grievehill development, essentially promoted under this present application, will result in some 6.7 million tonnes of coal being extracted from the combined site area of 183 hectares over a total extraction period of 10 years.

1.3 The proposed development also includes the construction of a new northern overland haul road to service the site. The haul route will cover a distance of approximately 4 kilometres and will be a 10 metre wide track with passing places and will be bituminously surfaced. The proposed haul road will run northwards from the existing Garleffan site to an access point on the A70 Cumnock – Muirkirk road near Cronberry. The purpose of the new haul road is to enable access to the proposed new railhead facility at Gasswater for the transportation of coal to markets by rail.

1.4 The proposed Garleffan II site is to be worked using a phased approach and progressively restored. Working of Garleffan II will occur following the completion of coaling at the Garleffan I site which comprises a series of 5 box cuts. The Garleffan II operations involve a further 8 box cuts (Cuts 6 – 13). The total duration of the site works at Garleffan II will be 6.25 years of extraction.

1.5 Coal haulage from Garleffan I is currently restricted by planning conditions, which limit coal transport to no more than 10,000 tonnes per week

transported from the site to the Crowbandsgate rail terminal. Operations at Garleffan II will commence prior to the completion of the north haul road, and production of coal will be maintained at the same rate (10,000 tonnes per week).

1.6 On completion of the north haul road connecting to the rail terminal at Gasswater, coal will be transported off-site at a maximum of 10,000 tonnes per week to both railheads. Coaling from Garleffan I and II will not increase past 10,000 tonnes per week until the north haul road is complete, in line with current restrictions.

1.7 The opencast mining operations would progress across the site in a phased series of operations with progressive restoration, re-vegetation and aftercare following each phase. Excavations will commence in Cut 6 at the north-western corner of the site and will progress southeast into Cut 7. Excavations then progress south-easterly into Cuts 8, 9, 10, 11, 12 and 13. Whilst it is proposed to excavate the majority of the site by mechanical methods provision is required to undertake limited blasting in 20% of the excavation.

1.8 Topsoil will be stripped and stored in 5m high bunds around the perimeter, and subsoil removed to designated subsoil storage areas (8m high). Soil mounds will be graded to be 1 in 1. 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.

1.9 The same overburden storage area for Garleffan I will be utilised for Garleffan II. As with operations at Garleffan I, overburden from Garleffan II will be gradually spread over the overburden storage area (18ha) for the first year of operation. The final height of the mound will eventually reach 25m. The maximum volume of overburden storage capacity is estimated at 2 to 2.5 million m³. The maximum volume and height reached after one year will remain for 5 years before progressive backfilling will gradually reduce its size. The overburden mound is to be graded and progressively hydro-seeded to reduce its visibility and to prevent dust generation.

1.10 A coal preparation and stocking yard is currently located at Rottenyard Farm, along the existing south access road leading to the rail terminal at Crowbandsgate. This includes a closed cycle wheel wash, weighbridge and other amenity facilities including a site hut and car park in addition to the coal preparation plant. A second coal preparation facility will be located between the excavation areas for Garleffan I and II. This will include a closed cycle coal washing plant, with screening station and crushing plant, as well as a closed-cycle wheel wash and weighbridge facility. An area will be provided where all vehicles will be sheeted prior to exiting the coal preparation areas. Vehicles will not be issued with weighbridge tickets until the required sheeting is carried out.

1.11 Hours of work will be 7am Monday to 4pm Saturday with maintenance only being conducted on a Sunday, in line with current planning conditions relating to the Garleffan I site. Only excavation and backfill operations will be carried out between 1800-0800. There will be no coal haulage traffic between

the excavation areas and the coal preparation area at Rottenyard Farm during the night-time excavation operating hours.

1.12 The site office will be situated at the existing coal preparation area at Rottenyard Farm. Artificial power lighting will be required to provide illumination at the excavation area during hours of darkness to facilitate 24 hour working. The lights will be directed downwards and towards the operation by the use of shields and low emission bulbs and would not be a source of nuisance outside the site.

1.13 Site access will initially be to the south directly onto the A76, on the access route originally constructed for Garleffan I. Once the proposed access route to the north is constructed and the proposed rail facility at Cronberry is in operation, access will be both to the north and south, although employees will still access the site via the A76.

1.14 The 4km haul road to the north is to be surfaced with tarmac. The road will be constructed as single lane with passing places, and the entire road corridor will be fenced with stock-proof fencing. Gates will be provided where necessary to allow for movement of stock. These will be double gates that will enable the haul route to be closed off and give priority to the movement of stock, the locations being agreed with the respective farmers. The proposed haul road will also necessitate the provision of a new bridge to cross the Glenmuir Water

1.15 Currently, the workforce complement at the Garleffan site is approximately 60 full-time employees. This will increase to 120 full-time employees at full production.

1.16 Movements off-site will be restricted to the hours of 0800-1600 Monday to Friday, with dispatch of coal by road to local domestic markets restricted to between 0800 and 1800 Mondays to Fridays. No dispatch of coal will take place on Saturdays or Sundays. The coal movements from operations at the development will increase once the rail terminal at Gasswater is completed. The following average coal movements for Garleffan II are 20,000 tonnes/week for the first 39 months and 13,000 tonnes/week for the remaining 36 months. A maximum production rate of 10,000 tonnes per week on each haul road is planned for the development. Coal haulage traffic will be routed such that no less than 90% will travel by rail, to either or both of the rail facilities with no more than 10% travelling by road.

1.17 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.

1.18 The restoration of the site has been designed to return the majority of the site to agricultural quality. However, the excavation areas currently contain a number of notable features such as mire, watercourses and drystane dykes. As

such, there is also a strong focus on providing a comparable series of habitats to those that currently exist for birds and other fauna in the area.

1.19 It is proposed that the Garleffan I and II excavation areas will be enhanced and diversified with the addition of an area of fen, riparian corridor, wetland and marsh areas, open water, mixed shelterbelts and the replacement of drystone dykes. Furthermore, measures to reduce stocking numbers and consequent grazing pressure in this area 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.

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 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 and other land owners requiring to be parties to the agreement 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 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.

3.2 In terms of planning policy, the proposals would result in a minor departure from MIN3 (c) and (g) as indicated in Section 6.2 above. It is considered that this departure from the finalised Opencast Coal Subject Plan (as modified) 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 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.

3.4 Apart from an objection raised by the Scottish Wildlife Trust, there are no significant consultee objections or concerns with respect to the proposed development. Although the Scottish Wildlife Trust has objected to the proposed development, it is significant that neither Scottish Natural Heritage nor the Royal Society for the Protection of Birds objects to the proposed development subject to appropriate restoration that would provide net environmental gains.

3.5 The proposed development has not attracted any significant level of objection from local communities or from residents living within the locality of the development.

3.6 On the commencement of the Garleffan II development, production from the site will double from 10,000 tonnes per week to 20, 000, necessitating employment of 120 people, 60 of which will be continued from the existing operation at Garleffan. This represents significant socio-economic benefit for an area which suffers from high levels of unemployment.

3.7 In the main the most significant issue of concern relating to opencast development is the transportation of coal by lorries through local communities. Under this proposed development, 90% of coal produced from the development site will be directed to the existing Crowbandsgate railhead and the proposed Gasswater railhead without any vehicle passing through any local community. The remaining 10% of coal destined for local markets will have direct access to the A70 and A76 roads.

3.8 It is considered that the development is environmentally acceptable, taking account of the use of planning conditions and appropriate agreements to offset or mitigate the short term adverse impacts identified. It is further considered that there are local and community benefits related to the proposal which sufficiently outweigh any material risk of disturbance or environmental damage or minor conflict with policy considerations.

3.9 In respect of all relevant matters and material considerations to be taken into account, it is considered that there over-riding environmental and community benefits which would outweigh any adverse impacts or minor contravention of 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 EAOCSP.

(ii) The undertaking of structural surveys of residential properties and of headstones within Muirkirk Cemetery, in consultation with the applicant, the Planning Authority and the Environmental Health Division.

(iii) The establishment of the site liaison committee for the Garleffan 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 extension of existing noise, dust and vibration monitoring programmes for the Garleffan II extension 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. The noise and dust monitoring schemes shall also include for appropriate monitoring to be undertaken adjacent to properties lying in close proximity to the proposed haul road.

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

(vii) The extension of the remit of the existing Technical Support Group to promote the introduction of additional land for mitigation and 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, the Nith Salmon Fishery Board and the Planning Authority. The remit shall be extended to address the points contained within paragraphs 3.14, 3.16 and 3.17 of this report.

(viii) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement that accompanied the planning application;

(ix) Provision and maintenance of visibility splay areas associated with the proposed northern haul road and associated road crossing points;

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

(xi) The obligation of the developer to secure a minimum of 90% of coal extracted from the site to be dispatched to markets via the existing railhead at Crowbandsgate and the proposed railhead at Gasswater.

(xii) 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;

(xiii) 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.

(xiv) The obligation of the developer not to undertake operations within the Garleffan II development site until a firm contract has been let to secure the construction of the proposed Gasswater railhead.

(xv) The provision of road infrastructure improvements in the vicinity of Welltrees Bridge.

Alan Neish
Head of Planning and Building Control

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation because the proposed development relates to the extension of an existing mineral extraction site which is considered to generally accord with policies in the Opencast Coal Subject Plan and is the subject of letters of representation.

2. APPLICATION DETAILS

2.1 **Site Description:** The proposed development site lies about 3.5km east of Cumnock and 3.5km north of New Cumnock. The site is south of, and adjacent to, the existing operational opencast site at Garleffan and west of the proposed opencast site at Grievehill. The application site extends to approximately 116 hectares and comprises land associated with the farm steadings at Avisyard, High Garleffan and High Polquheys.

2.2 Lying midway between Avisyard Hill and Grievehill the site is characterised as an area of high moorland and marginal agricultural land on the southern face of Crawford Hill where the land use is predominantly extensive rough grazing for sheep.

2.3 The topography is one of a gently rolling nature and the proposed site is located across a localised ridge between Avisyard Hill and Airds Hill. A further localised ridge extends between Cairnscadden Hill and a high point adjacent to the Watson Burn. These ridges provide a screen to this plateau moorland where the proposed application site lies.

2.4 The proposed development site is remote and distant from any surrounding development apart from the existing coal extraction area at Garleffan and there are few isolated residential properties in the vicinity of the site. The proposed development lies within the Central Southern Uplands Environmentally Sensitive Area and the site impinges on the C13 Muirkirk South Uplands Listed Wildlife Site and the WD24 Glenmuir Water Listed Wildlife Site.

2.5 Proposed Development: Full planning permission is sought for the extraction of 5 million tonnes of coal from the proposed development area. The mineral extraction area extends to approximately 93 hectares. The extension is being promoted as part of a comprehensive working of coal in this locality. Approval for the existing Garleffan site was granted on 09 September 1999. This site covers some 19 hectares from which approximately 1.2 million tonnes of coal is to be extracted.

2.6 A resolution to approve the adjacent Grievehill site was passed on 09 March 1999, subject to a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997. Under this scheme, a total of 500,000 tonnes of coal is to be extracted from the 48 hectare site. The combined Garleffan / Garleffan II / Grievehill development, essentially promoted under this present application, will result in some 6.7 million tonnes of coal being extracted from the combined site area of 183 hectares over a total extraction period of 10 years.

2.7 The proposed development also includes the construction of a new northern overland haul road to service the site. The haul route will cover a distance of approximately 4 kilometres and will be a 10 metre wide track with passing places and will be bituminously surfaced. The proposed haul road will run northwards from the existing Garleffan site to an access point on the A70 Cumnock – Muirkirk road near Cronberry. The purpose of the new haul road is to enable access to the proposed new railhead facility at Gasswater for the transportation of coal to markets by rail.

2.8 The proposed Garleffan II site is to be worked using a phased approach and progressively restored. Working of Garleffan II will occur following the completion of coaling at the Garleffan I site which comprises a series of 5 box cuts. The Garleffan II operations involve a further 8 box cuts (Cuts 6 – 13). The total duration of the site works at Garleffan II will be 6.25 years of extraction.

2.9 Coal haulage from Garleffan I is currently restricted by planning conditions, which limit coal transport to no more than 10,000 tonnes per week transported from the site to the Crowbandsgate rail terminal. Operations at Garleffan II will commence prior to the completion of the north haul road, and production of coal will be maintained at the same rate (10,000 tonnes per week).

2.10 On completion of the north haul road connecting to the rail terminal at Gasswater, coal will be transported off-site at a maximum of 10,000 tonnes per week to both railheads. Coaling from Garleffan I and II will not increase past 10,000 tonnes per week until the north haul road is complete, in line with current restrictions.

2.11 The opencast mining operations would progress across the site in a phased series of operations with progressive restoration, re-vegetation and aftercare following each phase. Excavations will commence in Cut 6 at the north-western corner of the site and will progress southeast into Cut 7.

Excavations then progress south-easterly into Cuts 8, 9, 10, 11, 12 and 13. Whilst it is proposed to excavate the majority of the site by mechanical methods provision is required to undertake limited blasting in 20% of the excavation.

2.12 Topsoil will be stripped and stored in 5m high bunds around the perimeter, and subsoil removed to designated subsoil storage areas (8m high). Soil mounds will be graded to be 1 in 1. 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.

2.13 The same overburden storage area for Garleffan I will be utilised for Garleffan II. As with operations at Garleffan I, overburden from Garleffan II will be gradually spread over the overburden storage area (18ha) for the first year of operation. The final height of the mound will eventually reach 25m. The maximum volume of overburden storage capacity is estimated at 2 to 2.5 million m³. The maximum volume and height reached after one year will remain for 5 years before progressive backfilling will gradually reduce its size. The overburden mound is to be graded and progressively hydro-seeded to reduce its visibility and to prevent dust generation.

2.14 A coal preparation and stocking yard is currently located at Rottenyard Farm, along the existing south access road leading to the rail terminal at Crowbandsgate. This includes a closed cycle wheel wash, weighbridge and other amenity facilities including a site hut and car park in addition to the coal preparation plant. A second coal preparation facility will be located between the excavation areas for Garleffan I and II. This will include a closed cycle coal washing plant, with screening station and crushing plant, as well as a closed-cycle wheel wash and weighbridge facility. An area will be provided where all vehicles will be sheeted prior to exiting the coal preparation areas. Vehicles will not be issued with weighbridge tickets until the required sheeting is carried out.

2.15 Hours of work will be 7am Monday to 4pm Saturday with maintenance only being conducted on a Sunday, in line with current planning conditions relating to the Garleffan I site. Only excavation and backfill operations will be carried out between 1800-0800. There will be no coal haulage traffic between the excavation areas and the coal preparation area at Rottenyard Farm during the night-time excavation operating hours.

2.16 The site office will be situated at the existing coal preparation area at Rottenyard Farm. Artificial power lighting will be required to provide illumination at the excavation area during hours of darkness to facilitate 24 hour working. The lights will be directed downwards and towards the operation by the use of shields and low emission bulbs and would not be a source of nuisance outside the site.

2.17 Site access will initially be to the south directly onto the A76, on the access route originally constructed for Garleffan I. Once the proposed access route to the north is constructed and the proposed rail facility at Cronberry is in

operation, access will be both to the north and south, although employees will still access the site via the A76.

2.18 The 4km haul road to the north is to be surfaced with tarmacadam. The road will be constructed as single lane with passing places, and the entire road corridor will be fenced with stock-proof fencing. Gates will be provided where necessary to allow for movement of stock. These will be double gates that will enable the haul route to be closed off and give priority to the movement of stock, the locations being agreed with the respective farmers. The proposed haul road will also necessitate the provision of a new bridge to cross the Glenmuir Water

2.19 Currently, the workforce complement at the Garleffan site is approximately 60 full-time employees. This will increase to 120 full-time employees at full production.

2.20 Movements off-site will be restricted to the hours of 0800-1600 Monday to Friday, with dispatch of coal by road to local domestic markets restricted to between 0800 and 1800 Mondays to Fridays. No dispatch of coal will take place on Saturdays or Sundays. The coal movements from operations at the development will increase once the rail terminal at Gasswater is completed. The following average coal movements for Garleffan II are 20,000 tonnes/week for the first 39 months and 13,000 tonnes/week for the remaining 36 months. A maximum production rate of 10,000 tonnes per week on each haul road is planned for the development. Coal haulage traffic will be routed such that no less than 90% will travel by rail, to either or both of the rail facilities with no more than 10% travelling by road.

2.21 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.

2.22 The restoration of the site has been designed to return the majority of the site to agricultural quality. However, the excavation areas currently contain a number of notable features such as mire, watercourses and drystone dykes. As such, there is also a strong focus on providing a comparable series of habitats to those that currently exist for birds and other fauna in the area.

2.23 It is proposed that the Garleffan I and II excavation areas will be enhanced and diversified with the addition of an area of fen, riparian corridor, wetland and marsh areas, open water, mixed shelterbelts and the replacement of drystone dykes. Furthermore, measures to reduce stocking numbers and consequent grazing pressure in this area 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.

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 including the amended proposals. The consultees' responses and comments on the issues raised are as follows: -

3.2 East Ayrshire Council Roads Division has indicated that it has concerns over the use of the A70 from the proposed new access point at Cronberry to the proposed railhead at Gasswater. Under the application at Gasswater by Scottish Coal, a Section 75 Agreement was included to provide commencement of road infrastructure improvements due to the sub-standard nature of the route in the vicinity of the Welltrees Bridge in the interests of road safety. Due to the proposal under this present application by the applicant to access the proposed railhead at Gasswater, the Road Division recommends that a similar agreement be entered into to provide the remainder of the road infrastructure improvements at this location.

The recommendation of the Roads Division to secure necessary road infrastructure improvements can be achieved through obligations imposed in a Section 75 Agreement under the Town and Country Planning (Scotland) Act, 1997.

The Roads Division also states that the proposed junction of the overland haul road with the A70 at Cronberry would require visibility splays of 4.5 metres by 215 metres at 1.05 metres in height with no object greater than 1 metre in height being allowed within these areas. This may require Section 75 Agreements with adjacent landowners. The A70 at this junction would require strengthening by overlaying with bituminous material, kerbing, drainage and ancillary work to the Design Manual for Roads and Bridges, Volume 6.

The requirements of the Roads Division in respect of providing and maintaining the necessary visibility splays can be achieved through a legal obligation imposed in a Section 75 Agreement under the Town and Country Planning (Scotland) Act, 1997. The owners of the land concerned would require to be a party to such an agreement. Conditions can be attached to any consent granted for the development to ensure that the junction is constructed to the requirements of the Roads Division.

The road crossings of the U729 and U721 will require visibility splays of 4.5 metres by 160 metres at 1.05 metres in height with no object greater than 1 metre in height being allowed within these areas. This may require Section 75 Agreements with adjacent landowners. Similarly, strengthening, kerbing and drainage work would be necessary and details should be submitted to the roads Division for approval.

The requirements of the Roads Division in respect of providing and maintaining the necessary visibility splays can be

achieved through a legal obligation imposed in a Section 75 Agreement under the Town and Country Planning (Scotland) Act, 1997. The owners of the land concerned would require to be a party to such an agreement. Conditions can be attached to any consent granted for the development to ensure that the junction is constructed to the requirements of the Roads Division.

The Roads Division further assumes that standard conditions relating to provision of an effective wheel wash prior to crossing the public road system, happing of vehicles, hours of transportation, mud on the road etc. will be incorporated as per the transportation protocol. Provision for recovery of road maintenance costs should be incorporated into any legal agreement and would require the above conditions to be applied in the interests of road safety and with the works being completed prior to the transportation of coal from the site via the new haul road.

Standard conditions referred to by the Roads Division can be attached to any consent granted for the proposed development. The Council, as Roads Authority, would be able to recover any extraordinary road maintenance costs attributable to this development through the Roads (Scotland) Act 1984, which can be reinforced through a Section 75 Agreement.

3.3 East Ayrshire Council's Economic Development Division has no adverse comments on the proposed development. From an economic point of view, the proposed development offers significant employment opportunities, not only in the continuation of the 60 existing jobs, but also in the establishment of a further 60 jobs when the facility is working at peak levels. New job opportunities in this area are particularly welcome at this time, particularly in light of other recent job losses. 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 set of particular skills to operate the vast machinery which is used in the opencast mining industry.

Noted.

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 is pleased that the applicant recognises that there are archaeological remains of significance within the development boundary, and the statement that provision will be made to deal with the issues raised by the presence of these sites should planning consent be granted. WOSAS is also aware that the applicant has modified the plans for the northern access roads so as to avoid possible damage to two significant archaeological sites. WOSAS is confident that no previously recorded

archaeological site within the development boundary as now proposed is of such significance or importance as to necessitate its preservation in situ.

Noted.

WOSAS states however that a number of sites have been identified as being close to, or within the development boundary, and it is clear from the submitted details that no intensive field evaluation of the whole area has taken place. Therefore the archaeological significance of these sites, and the possible presence of previously unrecorded sites cannot be accurately assessed from the information provided in the Environmental Statement. For these reasons, WOSAS recommends that the Council attaches suitably worded archaeological conditions to any consent it may grant to ensure that the archaeological issues raised are dealt with in an appropriate and verifiable manner. The most appropriate conditions are negative, suspensive ones such as given in Planning Advice Note 42 – Planning and Archaeology. WOSAS recommends the following draft conditions worded to reflect current circumstances and in light of its experience elsewhere.

‘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.’

The attachment of these conditions would allow the archaeological matters to be addressed in detail at a later stage, but well in advance of the development work commencing on site.

Conditions in accordance with the recommendations of WOSAS can be attached to any consent granted for the development to address archaeological issues with respect to the development site.

3.6 West of Scotland Water, for its water and sewerage functions, has no adverse comments to make on the proposed development.

Noted.

3.7 The Scottish Wildlife Trust objects to the proposed development and the northern haul route as the haul route would be detrimental to the Environmentally Sensitive Area, the Local Scenic Area, the Listed Wildlife site and the Glenmuir Valley landscape. The latter is one of the last unspoilt valleys of the Ayrshire and certainly East Ayrshire countryside.

The application site lies within the Central Southern Uplands Environmentally Sensitive Area and also a Local Scenic Area, both being landscape designations. These designations are acknowledged within the East Ayrshire Opencast Coal Subject Plan which identifies the existing Garleffan site and the greater part of the Garleffan II extension site as being within a potential area for opencast extraction. The Environmental Statement indicates that there will be temporary adverse impacts on these areas but these would be off-set by compensatory mitigation measures proposed including advance landscaping and habitat enhancement work within or around the area of opencast interest. Furthermore, the restoration of the site and subsequent aftercare will ensure a longer- term benefit to the landscape.

3.8 Historic Scotland has not responded to the consultation letter.

Noted.

3.9 The Scottish Executive Environment Group has no comments to make on the Environmental Statement.

Noted

3.10 The Ayrshire Joint Structure Plan and Transportation Committee states that the application requires to be assessed within the context of Structure Plan policies E13 and E14. This policy framework indicates that the site lies within a preferred area of search for opencast coal working and subject to the criteria within E13 being met, the principle of the development is acceptable. Having regard to the supporting information and the criteria within Policy E13 is with the haul road that is proposed northwards to the A70 and possible traffic volumes that may be generated, in the absence of a railhead, towards Killoch or Muirkirk. In this respect, the Council may wish to consider that operation of this route is conditional on the development of a rail terminal in the Gasswater/Powharnal area. Subject to careful consideration of this issue, AJSPTC do not raise any objection to this proposal.

The policy considerations relative to the approved Ayrshire Joint Structure Plan are set out and discussed in Section 5 of this report.

3.11 The Scottish Environment Protection Agency states that there will be no objections in principle to the proposed development provided that all necessary steps are taken to prevent or minimise pollution. In this regard the following points are relevant:

- (i) Water treatment areas should be located to receive all contaminated water from the excavation, haul roads, overburden tips, plant areas and the coal preparation site. All this site drainage requires treatment before

being discharged to a watercourse. Ground water from the dewatering of the site may need treatment to reduce iron concentration, as has already been the case with the nearby Gasswater site. An effective flow-balancing plan will be required to cope with expected storm conditions and ensure compliance with discharge consent conditions.

The applicant has been advised of the comments of SEPA and an appropriate condition can be attached to any consent granted to meet the requirements of SEPA.

- (ii) Clean water from around the site is to be intercepted and diverted away from the working area. In order to prevent pollution from these ditches it is essential that they be properly designed to take account of the expected flows/water velocity and constructed incorporating suitable ditch profiles to prevent erosion of the channel. Where possible existing natural drainage features should be utilised. Should it prove unavoidable to cut ditches on steep slopes then some form of protection to prevent erosion and pollution from mineral solids such as plunge pools and rock armouring will be required. The applicant should contact SEPA with detailed proposals prior to work commencing on site.

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

- (iii) The proposal involves a number of burn diversions and, prior to their diversion, the applicant should ensure that a full assessment of the ecology of these watercourses has been carried out in order that the existing habitats can be restored as far as practicable. SEPA should be consulted prior to the works commencing.

The requirement for a detailed ecological study of the aquatic flora and fauna associated with the watercourse to be carried out before any diversion is carried out can be secured through an obligation in a Section 75 Agreement for the site.

- (iv) All foul drainage from offices, canteens etc., will require treatment prior to discharge to a watercourse and SEPA's consent will be required for the discharge of sewage effluent to a watercourse. The applicant should ensure that any changes to the natural drainage/burn flows brought about by these works are taken account of and do not result in the loss of amenity to downstream users such as flooding or removal of a water supply for livestock.

The applicant has been advised of the comments of SEPA and a condition can be attached to any consent granted for the development to meet the requirements of SEPA.

- (v) All oil storage tanks/drums should be stored within a properly bunded compound capable of holding 110% of the contents of the largest tank.

Delivery and outlet points should also be contained within the bunded compound. All valves and fillers should be padlocked when not in use. Waste oil from plant maintenance should be collected and disposed of safely.

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

- (vi) It is noted that the site will utilise a closed cycle wheel wash facility that will meet SEPA's requirements.

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

- (vii) any discharges of trade effluent to watercourses from the site will require the formal consent of SEPA.

The applicant has been advised of the comments of SEPA.

- 3.12 The Forestry Commission has not responded to the consultation letter.

Noted.

- 3.13 East Ayrshire Council's Legal Division states that the extension to the Garleffan site will require an amendment to the Minute of Agreement entered into in respect of the original site in order that this is extended to cover the new site area.

Noted.

- 3.14 The Royal Society for the Protection of Birds states that the proposed development will not by itself adversely affect the integrity of the Muirkirk and North Lowther proposed Special Protection Area, but is concerned by the cumulative impacts of opencast mining on the pSPA. There will be a small but significant reduction in the numbers of breeding waders in the area during the operational life of the proposed development due to the loss of 116 hectares of habitat plus the impact of disturbance around the site and along the haul route.

Noted.

RSPB is also concerned that proposals for mitigation for Garleffan II seek to use land already assigned as the mitigation area for Garleffan I under its Section 75 Agreement and does not consider it acceptable to use the same land twice for mitigation purposes. It is recommended that mitigation for Garleffan II be achieved by bringing extra moorland into better management for wildlife through reduced grazing. The area of this additional land can be reduced if extra management measures are undertaken on the existing Section 75 Agreement land to increase the density of breeding waders it can support.

The recommendations of RSPB can be secured through a Section 75 Agreement should consent be granted for the proposed development. In addition, it is considered that the remit of the existing Technical Working Group for the Garleffan site can be extended to assist in addressing the issues raised by RSPB. This can also be achieved through obligations within a Section 75 Agreement.

RSPB considers that the mitigation and restoration plans fall far short of the level of detail required by East Ayrshire's Opencast Coal Subject Plan and the standards considered to be good practice. The plans fail to detail and schedule mitigation and restoration work, to indicate the methods of re-instating vegetation, to specify the grazing levels that are intended or to illustrate the monitoring, education and reporting activities that will be undertaken. RSPB would wish these deficiencies to be rectified at the earliest opportunity and recommends that this be done in line with the approaches recommended in the recently published Opencast Mining and Biodiversity Good Practice Guide. As noted above RSPB believes that these issues can be resolved through the use and enforcement of conditions or a Section 75 Agreement, and that compliance be independently audited by environmental consultants, at the cost of the applicant, to ensure that measures are effectively implemented.

Conditions can be attached to any consent granted for the proposed development to meet the issues raised by the RSPB. In addition, it is considered that the remit of the existing Technical Working Group for the Garleffan site can be extended to assist in addressing such issues. This can be achieved through obligations within a Section 75 Agreement.

3.15 New Cumnock Community Council and Cumnock Landward Community Council have not responded to the consultation letter.

Noted.

3.16 Scottish Natural Heritage does not object to the proposal subject to certain conditions. The Garleffan II excavation area lies within approximately 1.5 kilometres of the boundary of the Muirkirk and North Lowther Uplands possible site of Scientific Interest (pSSSI) and potential Special Protection Area (pSPA). The site's proximity to a pSPA under the EC Directive 79/409/EEC on the conservation of wild birds (The Birds Directive) means that the provisions of Scottish Office Circular 6/1995 apply. This sets out the obligations of the EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna (The Habitats Directive) which applies a common protection regime to all European sites such that:

“any plan or project likely to have a significant effect on a European site and which is not directly connected with or necessary to the management of that

site must undergo an appropriate assessment as required by Article 6.3 of the Directive.”

Noted

Under Regulation 48, East Ayrshire Council, as competent authority has a duty to determine whether the proposal is directly connected with or necessary to site management for conservation and if not, determine whether the proposal is likely to have a significant effect on the site individually or in combination with other plans or projects and if so, then make an appropriate assessment of the implications of the proposals for the site in view of that site’s conservation interests. The competent authority can agree to the proposal after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, the proposal can only be allowed to proceed if there are imperative reasons of over-riding public interest which can include those of a social or economic nature.

The Council as competent authority is of the view that the proposed development is not directly connected with or necessary to site management for conservation of the pSPA. Given that the pSPA extends to over 27,000 hectares and the proposed extension to the existing Garleffan site does not directly impinge on the pSPA or pSSSI, it is considered that it will not significantly adversely affect the integrity of the pSPA.

SNH’s advice to the Council is that the proposal is not directly connected with or necessary to site management for conservation. However, SNH considers that it is likely that no qualifying features will be affected significantly either directly or indirectly and an appropriate assessment is therefore not required.

Noted.

In conclusion SNH offers no objection to the proposed development subject to the following matters:

- (i) the development is carried out strictly in accordance with the terms and conditions of the submitted plans;
- (ii) any modifications or amendments are notified to SNH prior to the acceptance of variations;
- (iii) the applicant enters into a Section 75 Agreement prior to the granting of planning permission in respect of:

(a) the development and implementation of an agreed mitigation plan to address the following issues

- tree planting and landscaping along the proposed haul route as detailed within the Environmental Impact Statement
- provision of an alternative barn owl nest and roost site

- maintenance of 30 metres riparian corridors adjacent to all burn systems
- installation of an oversized culvert with otter ledges where the haul road crosses the Duncanziemere Burn, and design of the bridge crossing the Glenmuir Water so as to ensure the passage of otters and other mammals
- the provision of otter exit points in all water settlement lagoons
- the management of land adjacent to the opencast area as a substitute habitat for displaced species, including but also additional to, the area already subject to a Section 75 Agreement.

(b) the development and implementation of a programme of monitoring to cover the following matters

- regular monitoring of habitat enhancement/ recovery in the restoration and mitigation areas, for the full duration of the development and the aftercare period.
- Annual monitoring of the hen harrier roost at Avisyard Hill for the duration of the development

(c) the development of an agreed restoration and 5-year aftercare plan that should address the matters specified within the Environmental Impact Statement as follows

- re-stocking and fencing of existing shelterbelts with native species to improve the ecological value of these areas
- restoration of rough grassland to the same proportions as currently exists
- creation of riparian zones adjacent to watercourses through fencing and waterside tree and shrub planting
- creation of wetland, marshy areas and open water
- creation of, in particular, a fen to succeed to bog in the long term and replace the existing peatland that will be removed by the development. The existing topography must be reinstated to recreate the contained mire. The restoration plan should detail peat storage methods / location and the timescales involved in peat removal, storage and restoration.
- extension of the coniferous woodland shelterbelt to include an area of native woodland planting
- recreation of natural stream morphology in the Avisyard Burn
- reduction of grazing pressure through fencing and a management agreement with the landowner.

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 remit of the existing Technical Working Group for the Garleffan site can be extended to assist in addressing the issues raised by SNH. This can be achieved through obligations within a Section 75 Agreement.

3.17 The Nith District Fishery Board states that the proposed development at Garleffan is situated on the border for Ayr Salmon Fishery Board and the Nith District Salmon Fishery Board. Two tributaries of the River Nith are the Rotten Burn and the Muir Foot Burn and as identified in the Environmental Statement, they both consist of pebble and Gravel substrate. This is the ideal substrate for salmonids to thrive and reproduce in. Two major concerns of the Board would firstly be the contamination of either watercourse of suspended solids to smother gravels thus suffocating eggs or juvenile salmonids utilising this habitat. Secondly, the flow regime should not be altered so that it would be excessive and wash out potential spawning areas or that the flow be restricted rendering insufficient water to flow through the watercourse to sustain salmonid life.

Noted.

The NDFB suggests that the baseline information contained within the Environmental Statement may be enhanced with the addition of electro-fishing surveys on the watercourses prior to work commencing. These may also be used to monitor in the future against subsequent electro-fishing surveys. Such surveys have been used as an environmental monitoring aid in similar opencast sites in place at present.

It is considered that the existing Technical Working Group for the Garleffan site, set up to monitor restoration and mitigation, could assist in addressing the issues raised by the NDFB. The Board could also be invited to participate in this group. This can be achieved through obligations within a Section 75 Agreement.

3.18 The Health and Safety Executive has no objections to raise regarding the proposals. The site operator will be subject to the Health and Safety at Work etc. Act 1974 and to the requirements of the Quarries Regulations 1999.

Noted.

4. REPRESENTATIONS

4.1 A total of 3 letters of representation have been received objecting to the proposed development. One of these letters of objection has subsequently been withdrawn. The Scottish Wildlife Trust has also objected as indicated in section 3.7 above. The main points of objection are summarised as follows:

4.2 The proposed haul road runs through property owned by our client and objection is made on the basis that such a road would adversely affect the viability and future value of the farm.

This point of objection is based on legal considerations resolution of which will be a matter for the applicant and the objector and will be undertaken through formal legal processes. It is not therefore a valid ground for objection in planning terms.

4.3 Policy MIN 7 - MEGA objects on the grounds that it will constitute a third opencast site operating within a 3 kilometre radius creating an unacceptable cumulative impact on the environment and communities. It will also perpetuate existing disturbance for a further 7 years. This is in excess of the 5 year acceptable limit set by the Council.

The proposed Garleffan II development represents an extension to the existing operational Garleffan Opencast Coal, not a new opencast operation independent of existing operations. The Grievehill site, which lies approximately 200 metres to the east of the Garleffan II boundary, has been approved by the Council subject to a Section 75 Agreement. Under a further proposed Section 75 Agreement, the Garleffan and Grievehill sites are to be worked by one operator as a conjoined site. The southern boundary of the Gasswater site lies some 4.2 kilometres north of the existing Garleffan I boundary. The other nearest operational opencast coal site to the Garleffan development is the site at Hall of Auchincross which lies 5.3 kilometres to the west.

Under the modified policies of the East Ayrshire Opencast Coal Subject Plan, any new opencast development may be considered to contribute to an unacceptable cumulative impact on the amenity of an area where that development would cause or exacerbate excessive 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. The proposed extraction period for the Garleffan/Garleffan II/ Grievehill developments is 10 years with a further two years restoration. Furthermore the development site is sufficiently remote from communities that it is considered that there would not be excessive amenity or environmental disruption to such communities. It is considered that the proposed development would not therefore conflict with this policy provision.

4.4 Until the Powharnal railhead starts operating in 2001, 10,000 tonnes of coal will be dispatched via the rail terminal at Pathhead. There is no reference to the number of lorries leaving the site nor the travelling directions until the Powharnal rail link starts operating.

The proposed Garleffan II extension will commence once coaling has been completed in the existing Garleffan operation. All coal from the existing operation is directed along the internal haul route to the coal preparation and stocking yard at Rottenyard where it is loaded onto lorries. Under the current Section 75 Agreement for the site, 90% of the coal is to be taken directly to the Crowbandsgate railhead at Pathhead, New Cumnock. The remaining 10% destined for domestic markets are transported via

the A76 trunk road. The average output from the site is 10,000 tonnes of coal per week (400 laden vehicle movements).

In terms of the present proposals under consideration, once the Garleffan II extension becomes operational, output from the site will increase to 20,000 tonnes per week. Half of this output would continue to be directed to the Crowbandsgate railhead for dispatch to markets, i.e. 10,000 tonnes per week as at present. The remaining 10,000 tonnes (400 laden vehicle movements per week) would be directed along the proposed northern overland haul road and onwards to the proposed railhead at Gasswater via the A70. 10% of the total weekly output destined for domestic markets will be transported via the A70 and A76. The Environmental Statement contains information on output from the site, the number of vehicle movements associated with the development together with the destinations and routing. The applicant has indicated a willingness to enter into a Section 75 Agreement in order to regulate the transportation of coal as indicated above.

4.5 Why is the proposed haul road not designed to link in with the preparation / conveyor system at Gasswater and adjacent to the Powharnal railhead? If access is onto the A70 at Cronberry, lorries will have to travel along the A70 to the railhead. MEGA assumed that haul roads were constructed so that plant/unauthorised vehicles could transport coal without using public roads.

The Environmental Statement identifies the range of alternative routes considered for the proposed northern haul road. Through the environmental impact assessment process, the final route of the northern haul road was carefully designed to avoid ecologically sensitive areas of local value. It has also been designed to cross the Glenmuir Burn where there will be an opportunity for environmental improvement. The route will follow the lines of local field boundaries and along the line of existing forestry plantation and woodland shelterbelts in order to minimise adverse impact on the landscape.

The distance between the junction of the proposed haul road with the A70 road to the location of the proposed railhead at Gasswater is approximately 4.2 kilometres and coal transport vehicles will not pass through any communities on this section of the A70. National Planning Policy Guideline 16-Opencast Coal and Related Minerals indicates that appropriate mitigation measures for minimising traffic impacts might include dedicated off-road haul routes provided by mineral developers which avoid communities and hence minimise disturbance.

4.7 Policy MIN 27 is breached in that the recreational quality of the Glenmuir Valley will be affected. Access to the old Sanquhar – Muirkirk Road which is used by cyclists and walkers will be affected by lorries, plant, machinery, dust,

noise and general disturbance using the haul road. Duncanziemere, an important historic building, and Kyle Castle are both situated within the Glenmuir Valley and should be protected.

The proposed development is assessed against the modified policies of the East Ayrshire opencast Coal Subject Plan in Section 6 of this report. However as indicated under paragraph 6.x, it is considered that with the mitigation measures promoted within the Environmental Statement, the proposed development would not have a permanent or significant detrimental impact on the landscape and scenic quality of the Glenmuir Valley.

Access to the old Sanquhar – Muirkirk road which lies to the east of the development will not be impeded by the proposed development. Only a single crossing point on the Glenmuir Road is proposed and it is considered that with the mitigation measures proposed, there will be no significant impact arising from dust, noise and general disturbance to cyclists or walkers. The proposed development does not encroach on either the farm steading at Duncanziemere or the remains of Kyle Castle.

4.8 Policy MIN 28 – This proposal will be visible from the Glenmuir Valley where the Council states that it will not be supportive of proposals that will be detrimental to the visual landscape and recreational quality of the Glenmuir Valley. The scenic Glenmuir Valley will also be blighted by the proposed haul road. MEGA objects strongly to this haul route running the length of the valley.

The proposed development is assessed against the modified policies of the East Ayrshire opencast Coal Subject Plan in Section 6 of this report. However as indicated under paragraph 6.x, it is considered that with the mitigation measures promoted within the Environmental Statement, the proposed development would not have a permanent or significant detrimental impact on the landscape and scenic quality of the Glenmuir Valley.

4.9 If Garleffan II is not to start until Garleffan I is finished, then there will be no new jobs created. The 60 jobs will be continued from the first site.

On the commencement of the Garleffan II development, production from the site will double from 10,000 tonnes per week to 20, 000, necessitating employment of 120 people, 60 of which will be continued from the existing operation at Garleffan.

4.10 There are dangers in opencasting on a valley side and there has already been a landslide at this site.

The landslip that occurred on the existing Garleffan operation is considered and addressed in the Environmental Statement. The incident was also the subject of a geotechnical report submitted to

the Health and Safety Executive. Recommendations contained within the report to limit re-occurrence have already been implemented on site. The proposed Garleffan II operations have been designed in terms of the guidelines of the Code of Practice: The Stability of Excavated Slopes at Opencast Coal Sites.

4.11 Given that the area is an active peat bog, sphagnum growth over 25%, it should be allowed to recover instead of a further development being allowed.

No area of active peat bog exists within the Garleffan II development site. There is an area of modified mire, but Scottish Natural Heritage has not objected to its temporary removal and has suggested that this be replaced under the restoration scheme by a fen area.

4.12 Dust from the site will affect the Glenmuir Valley.

The Garleffan II site will result in operations moving further southwards of the existing operations away from the Glenmuir Valley. With mitigation measures proposed to minimise fugitive dust nuisance, it is considered that there will be no significant adverse impact on the Glenmuir Valley through dust.

4.13 MEGA reserves the right to object to the Environmental Impact Statement at a later date.

No further representations have been made by MEGA in respect of the Environmental Statement either within or outwith the statutory consultation period.

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, the Adopted New Cumnock Local Plan (1993) and the Adopted Cumnock and Auchinleck Local Plan (1992). The Adopted Local Plans was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plans, the proposed development site falls partly within a Priority Opencast Coal Area and a Preferred Opencast Coal Area. The greater part of the Garleffan II extension area fall within the Cumnock and Auchinleck Local Plan Area. The proposal would therefore fall to be considered principally against Policies 34, 36-39, 47

relating to opencast development. Corresponding policies contained within the Adopted New Cumnock Local Plan are noted in brackets.

- (i) Policy 34 (MIN4): Applications for opencast development will be determined having regard to certain stated criteria.

The proposed development does not conflict with the provisions of this policy.

- (ii) Policy 36 (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.

Although the proposed development will impinge on a small part of the C13 Muirkirk South Uplands Listed Wildlife Site and the proposed haul road will pass through the WD24 Glenmuir Water Listed Wildlife Site, it is not considered that it will have a significant impact on the integrity of these sites. Although the Scottish Wildlife Trust has objected to the proposed development, neither Scottish Natural Heritage nor the Royal Society for the Protection of Birds has objected to the proposed development subject to conditions and obligations to secure habitat enhancement. No statutory sites of natural heritage or built heritage importance are affected by the proposed development.

- (iii) Policy 37 (MIN2): Presumption in favour of opencast coal operations in coal priority areas.

The proposed development site falls within an identified coal priority area.

- (iv) Policy 38 (MIN6): The Council will require private operators to lodge a restoration bond.

The applicant presently has an existing bond for the Garleffan site, which will be amended to include the extension area, should consent be granted for the development.

- (v) Policy 39 (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.

- (v) Policy 45 (MIN13): The Council will pay particular regard to the proximity of residential properties in the processing of planning applications for opencast operations.

The Garleffan II development area lies in a relatively remote area and the nearest occupied dwellings are High Polqhueys farm some 750 metres south of the site and Avisyard some 800 metres to the west. The applicant owns High Polqhueys farm and the owner of Avisyard will be party to an agreement with the applicant. Although the proposed haul road will lie in proximity to a number of isolated farms and houses, it is considered that there will be minimal impact on such properties through traffic noise.

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 Garleffan II 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.

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

The Garleffan II 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 Garleffan II 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 existing railhead at Crowbandsgate and the formation of the proposed haul road to access the proposed railhead at Gasswater, local communities will not be adversely affected by road transportation of coal from the site.

- (iv) 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.

Through the restoration of the Garleffan / Garleffan II / Grievehill development a more comprehensive and effective approach to landscape enhancement and habitat creation can be achieved. The pattern of the existing agricultural landscape will be replaced and enhanced with additional features and greater habitat diversity. A minor area of dereliction will be removed where the haul road crosses the Glenmuir Water.

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

While the Garleffan II development will extend the coaling life of the existing conjoined Garleffan / Grievehill development from 5 years to 10 years, the operations will be undertaken in a phased manner thereby reducing cumulative impacts on the landscape and visual amenity. The proposals will allow the effective working of a significant coal resource with minimal impact on communities and the environment.

It is considered that the proposed Garleffan II development accords with the policy provisions of the Adopted Ayrshire Joint structure Plan.

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 (May 2000), 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 (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 (approximately 60%) of the Garleffan II development site lies within two distinct, separate Potential Coal Extraction Areas and subject to compliance with all other appropriate subject plan policies, extraction within this area is in accordance with the EAOCSP. The remaining part of the site lies outwith the Potential Coal Extraction Areas. However, this part of the Garleffan II development site is not affected by any of the filter criteria that were applied in the definition of the Potential Coal Extraction Area. 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. Nonetheless, the proposals for this part of the development site would require then to be assessed against Policies MIN2 and MIN3.

(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.

The Garleffan II development is not a new opencast development but an extension to the existing Garleffan / Grievehill operational opencast site and therefore falls to be considered against Policy MIN3.

(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;

The proposed development will be carried out as a sequential phase of development following on from the existing consented Cuts 1 to 5 in the original Garleffan site.

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

The proposed development will result in the use of existing site facilities at Garleffan in respect of the overburden and soil storage areas. Water treatment facilities will also be used while new provision is to be made for a new haul road to access the A70 and additional coal preparation area. In respect of the new haul road, this will allow access to the proposed railhead at Gasswater.

(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.

Due to the area involved the scale of operations is significantly greater than that of the original Garleffan development. Output from the Garleffan II site will be in the region of 20,000 tonnes of coal per week, as opposed to the 10,000 tonnes per week extraction rate for the original Garleffan site. However, given the relative remoteness of the site, there will be no significant impact on communities as a result of this increased scale of operation and site output.

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

No significant area of dereliction will be removed as a result of the proposed development although a small area of dereliction, at the crossing point of the haul road over the Glenmuir Burn, will be rehabilitated as part of the proposals.

(e) there is an overall benefit for communities affected, including local employment; and

The proposed Garleffan II development will extend the coaling life of the existing site by a period of five years and will result in the sustaining of the existing 60 jobs on the site and provide an additional 60 jobs when output is increased. The development will

also help sustain a considerable number of indirect jobs through service provision, haulage and construction works.

(f) there are no conflicts with any other Subject Plan Policies.

Assessment against other EAOCSP policies is as stated below.

(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 existing Garleffan / Grievehill conjoined development has a coaling life of five years with a further restoration period of 1 year. The proposed Garleffan II extension will increase the coaling life of the site to ten years with a further two-year restoration period. However, given the remoteness of the site, it is considered that there will not be any perpetuation of disturbance to any local community as a result of the development. It is also considered that there will be significant local community and local environmental benefits accruing from the development as detailed within this report.

(iv) Policy MIN4 : Any proposed opencast coal developments for new, small scale, short term workings 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 the following criteria: -

(a) the impact on agricultural land quality, the landscape character and visual amenity of the area, and the natural and built environment;

With respect to statutory and non-statutory consultations, only one objection has been received from the Scottish Wildlife Trust on the basis that the development would have an adverse impact on an Environmentally Sensitive Area, a local scenic area and listed wildlife sites. It is accepted that there will be adverse impacts with respect to landscape character and visual amenity. However, these will be short term in nature and it is considered that through the positive restoration and aftercare proposals for the site, there will be overall significant improvement to the landscape character and visual amenity of the area, extending beyond the application site itself through the management of the mitigation area. The site impinges on two listed wildlife sites but it is considered that the proposals will not adversely affect the integrity of these sites. There are no built heritage issues associated with the proposed development.

(b) the impact on the area of noise, dust and the contamination of ground and surface water and air quality;

With the mitigation measures proposed within the Environmental Statement, the imposition of appropriate planning conditions and the establishment of appropriate environmental monitoring systems, it is considered that the proposed development can operate within environmentally acceptable standards relating to noise, dust, vibration, air quality and water quality.

(c) the impact of the development on local communities, groups of houses and individual dwellings;

The Garleffan II development area lies in a relatively remote area and the nearest occupied dwellings are High Polqhueys farm some 750 metres south of the site and Avisyard some 800 metres to the west. The applicant owns High Polqhueys farm and the owner of Avisyard will be party to an agreement with the applicant. Although the proposed haul road will lie in proximity to a number of isolated farms and houses, it is considered that there will be minimal impact on such properties through traffic noise.

(d) the extent of any directly related community benefit to be derived from the development such as the enhancement and creation of landscapes and habitats, and the removal of dereliction;

It is considered that through positive restoration and aftercare proposals for the site, there can be overall significant improvement to the landscape character and visual amenity of the area, extending beyond the application site itself. Scottish Natural Heritage and the Royal Society for the Protection of Birds considers that restoration and aftercare of the site can be carried out in such a manner as to promote the enhancement and creation of a landscape which will encourage habitat creation and biodiversity.

(e) the opportunities to maximise transportation by rail;

A dedicated railhead at Crowbandsgate services the existing Garleffan site and approximately 90% of the current output from the site is dispatched through this facility to markets. This would continue under the present proposals with the additional output being taken via the new haul road to the proposed new railhead at Gasswater. The maximisation of coal transportation by rail can be secured through obligations within a Section 75 Agreement, an arrangement that is presently in force for the existing site.

(f) any cumulative impact of the proposal in association with other existing or proposed opencast developments in the area;

The cumulative effects of development are discussed fully under Policy MIN12 below.

(g) any impact on other inward investment opportunities in the area;

It is considered that the proposed development will not have any significant impact on inward investment opportunities in the New Cumnock area or in other local communities.

(h) the period of extraction.

The existing Garleffan / Grievehill conjoined development has a coaling life of five years with a further restoration period of 1 year. The proposed Garleffan II extension will increase the coaling life of the site to ten years with a further two-year restoration period. However, given the remoteness of the site, it is considered that there will not be any perpetuation of disturbance to any local community as a result of the development. It is also considered that there will be significant local community and local environmental benefits accruing from the development as detailed within this report.

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

The submitted application for the Garleffan II extension 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.

The applicant has indicated that further test drilling work has been and is being undertaken in the area to the north of the Garleffan / Grievehill site to prove the existence of coal resources in the locality. As with part of the proposed development area, this prospecting is being undertaken in areas where coal resources

have not been previously identified from geological information. The applicant has informally indicated that if additional coal reserves are proven, further application may be made to exploit these reserves.

(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 sustaining of the existing 60 jobs for a further five year period and the provision of an additional 60 jobs associated with the Garleffan II extension will provide significant socio-economic benefits, both directly and indirectly, to the local area. 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 Statement accompanies the planning application for the Garleffan II extension.

(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.

The applicant has indicated that any other economic minerals encountered within the site will be recovered.

(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.

There is no active peat bog present within the Garleffan II development site. All peat removed during operations will be stored for future use in the restoration of the site.

(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 Garleffan II development represents an extension to the existing operational Garleffan Opencast Coal, not a new opencast operation independent of existing operations. The Grievehill site, which lies approximately 200 metres to the east of the Garleffan II boundary, has been approved by the Council subject to a Section 75 Agreement. Under a further proposed Section 75 Agreement, the Garleffan and Grievehill sites are to be worked by one operator as a conjoined site. The southern boundary of the Gasswater site lies some 4.2 kilometres north of the existing Garleffan I boundary. The other nearest operational opencast coal site to the Garleffan development is the site at Hall of Auchincross that lies 5.3 kilometres to the west.

(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;

The existing Garleffan / Grievehill conjoined development has a coaling life of five years with a further restoration period of 1 year. The proposed Garleffan II extension will increase the coaling life of the site to ten years with a further two-year restoration period. However, given the remoteness of the site, it is considered that there will not be any perpetuation of excessive adverse amenity and environmental disruption experienced by any local community as a result of the development

(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.

With the use of the existing railhead at Crowbandsgate and the formation of the proposed haul road to access the proposed railhead at Gasswater, local communities will not be adversely affected by road transportation of coal from the site.

(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 particularly 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. It is considered that the remit of the existing Technical Working Group for the Garleffan site can be extended to assist in addressing the more detailed issues of restoration and aftercare raised by SNH and the RSPB. This can be achieved through obligations within a Section 75 Agreement.

(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.

No known rights of way are affected by the proposed development.

(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 existing 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.

A dedicated railhead at Crowbandsgate services the existing Garleffan site and approximately 90% of the current output from the site is dispatched through this facility to markets. This would continue under the present proposals with the additional output being taken via the new haul road to the proposed new railhead at Gasswater. The maximisation of coal transportation by rail can be secured through obligations within a Section 75 Agreement, an arrangement that is presently in force for the existing site. It is further considered that no operations should be undertaken in the Garleffan II development area until such time as a firm contract has been agreed for the construction of the proposed Gasswater railhead.

(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.

(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 Garleffan II development area lies in a relatively remote area and the nearest occupied dwellings are High Polqhueys farm some 750 metres south of the site and Avisyard some 800 metres to the west. The applicant owns High Polqhueys farm and the owner of Avisyard will be party to an agreement with the applicant. In this respect it is not considered that the proposals directly impact on any local community. The extraction period of the Garleffan / Garleffan II / Grievehill development would not extend beyond 10 years.

(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;

(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;

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

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

(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 Garleffan II development would not result in operations encroaching with 500 metres of any residential properties.

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

The site impinges on two listed wildlife sites but it is considered that the proposals will not adversely affect the integrity of these sites.

(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.

The Environmental Statement for the Garleffan II extension incorporates a comprehensive section on visual and landscape impacts. The Environmental Impact Assessment process has recognised that mitigation is required to avoid or reduce visual and landscape impacts. However it is considered that such impacts are considered to be temporary in nature, and through positive restoration of the site improvements to the landscape character can be achieved.

(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...the Glenmuir Valley.

The Garleffan II development area will not impinge directly on the area of high visual amenity associated with the Glenmuir Valley. It is also located further south of the existing operational site at Garleffan and the approved site at Grievehill. It is recognised that the proposed haul route will traverse through this high visual amenity corridor but the route has been specifically chosen to minimise both visual and landscape impacts while avoiding potential conflict with sites of nature conservation interest.

(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. An existing Section 75 Agreement is in force for the existing Garleffan site.

(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 and is a current contributor through the existing Garleffan site.

(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 Garleffan II extension 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.

The proposed Garleffan I/Garleffan II / Grievehill development site extends to 183 hectares and would be worked as a single phased development. It is not considered that the proposed development represents a third operational or approved site in an area within 5 kilometres of the development site. The application will not therefore require to be notified to the Scottish Ministers in terms of the Order.

6.7 Planning History: 98/0539/FL: Full planning consent was granted for the extraction of coal by opencast method at Garleffan on 09 September 1999. This was subject to a Section 75 Agreement which has been concluded with the applicant.

6.8 A resolution to approve opencast operations at the Grievehill site under application 98/0452/FL was made by the Council on 09 March 1999. This approval is subject to a Section 75 Agreement that has not yet been concluded for the site.

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 8.9 of this report.

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 planning policy, the proposals would result in a minor departure from MIN3 (c) and (g) as indicate in Section 6.2 above. It is considered that this departure from the finalised Opencast Coal Subject Plan (as modified) 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 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.

8.4 Apart from an objection raised by the Scottish Wildlife Trust, there are no significant consultee objections or concerns with respect to the proposed development. Although the Scottish Wildlife Trust has objected to the proposed development, it is significant that neither Scottish Natural Heritage nor the Royal Society for the Protection of Birds objects to the proposed development subject to appropriate restoration that would provide net environmental gains.

8.5 The proposed development has not attracted any significant level of objection from local communities or from residents living within the locality of the development.

8.6 On the commencement of the Garleffan II development, production from the site will double from 10,000 tonnes per week to 20, 000, necessitating employment of 120 people, 60 of which will be continued from the existing operation at Garleffan. This represents significant socio-economic benefit for an area which suffers from high levels of unemployment.

8.7 In the main the most significant issue of concern relating to opencast development is the transportation of coal by lorries through local communities. Under this proposed development, 90% of coal produced from the development site will be directed to the existing Crowbandsgate railhead and the proposed Gasswater railhead without any vehicle passing through any local community. The remaining 10% of coal destined for local markets will have direct access to the A70 and A76 roads.

8.8 It is considered that the development is environmentally acceptable, taking account of the use of planning conditions and appropriate agreements to offset or mitigate the short term adverse impacts identified. It is further considered that there are local and community benefits related to the proposal which sufficiently outweigh any material risk of disturbance or environmental damage or minor conflict with policy considerations.

8.9 In respect of all relevant matters and material considerations to be taken into account, it is considered that there over-riding environmental and community benefits which would outweigh any adverse impacts or minor contravention of 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 and of headstones within Muirkirk Cemetery, in consultation with the applicant, the Planning Authority and the Environmental Health Division.

- (iv) The establishment of the site liaison committee for the Garleffan 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 extension of existing noise, dust and vibration monitoring programmes for the Garleffan II extension 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. The noise and dust monitoring schemes shall also include for appropriate monitoring to be undertaken adjacent to properties lying in close proximity to the proposed haul road.

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

- (vii) The extension of the remit of the existing Technical Support Group to promote the introduction of additional land for mitigation and 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, the Nith Salmon Fishery Board and the Planning Authority. The remit shall be extended to address the points contained within paragraphs 3.14, 3.16 and 3.17 of this report.

(viii) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement that accompanied the planning application;

(ix) Provision and maintenance of visibility splay areas associated with the proposed northern haul road and associated road crossing points;

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

(xi) The obligation of the developer to secure a minimum of 90% of coal extracted from the site to be dispatched to markets via the existing railhead at Crowbandsgate and the proposed railhead at Gasswater.

(xii) 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;

(xiii) 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.

(xiv) The obligation of the developer not to undertake operations within the Garleffan II development site until a firm contract has been let to secure the construction of the proposed Gasswater railhead.

(xv) The provision of road infrastructure improvements in the vicinity of Welltrees Bridge.

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 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 and other land owners requiring to be parties to the agreement in respect of the matters described in Section 8.9 of this report.

Alan Neish
Head of Planning and Building Control

24 January 2001
HM/HM
FV/DVM

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 and modified)
7. Adopted Ayrshire Joint Structure Plan
8. Adopted New Cumnock Local Plan
9. Adopted Cumnock and Auchinleck Local Plan
10. NPPG16: Opencast Coal and Related Minerals
11. PAN50 : Controlling Environmental Effects of Surface Mineral Workings (Annexes A, B, C and D)
12. Previous applications 98/0536/FL and 98/0452/FL.

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: 00/0526/FL

Location	Garleffan II, Garleffan Opencast Coal Site, New Cumnock
Nature of Proposal:	Proposed Opencast Extraction of Coal
Name and Address of Applicant:	LAW Mining Limited Cadzow House Cadzow Industrial Estate HAMILTON ML3 7QU
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 11 years of the commencement date of the existing operations at Garleffan, 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 Garleffan II 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 Garleffan II site, the applicant shall submit details of the proposed layout of the proposed additional 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 Garleffan II 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 Glenmuir road to the vehicle wheel wash facility located within the proposed additional coal preparation area. The proposed new haul road will be bituminously surfaced with provision of appropriate passing place, to the satisfaction of the Planning Authority.

REASON: In the interests of road safety and to prevent any overcarry of loose material onto the public road.

6. 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.

7. 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.

8. The access road and public road 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.

9. 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.

10. The proposed access road shall be screened from the A76 Trunk Road in accordance with the approved plans prior to the commencement of coaling operations on site.

REASON: In the interests of road safety and to ensure that there will be no distraction or dazzle to drivers on the trunk road.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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 8 metres in height and overburden dumps shall not exceed 25 metres in height.

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

18. 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.

REASON: In the interests of visual amenity.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 reinstatement of the site.

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

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

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

30. 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

31. 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.

32. 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.

33. 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.

34. Except in the case of emergency, the hours of working on site will be confined between 0700 and 1600 hours Monday to Saturday (24-hour working). 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.

35. Except in cases of emergency, the dispatch of coal from the site to the proposed rail freight facility shall be confined between 0800 hours and 1600 hours Mondays to Fridays with dispatch of coal by road to local domestic markets being confined to between 0800 hours and 1800 hours Mondays to Fridays. There shall be no dispatch of coal on Saturdays or Sundays.

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

36. 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.

37. 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.

38. 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.

39. 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.

REASON: In the interests of amenity and public safety.

40. 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.

41. 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.

42. 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.

43. 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 for the site. This scheme shall be finalised and submitted to the Planning Authority for approval within 6 months of the commencement of coaling operations on 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. 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.

44. 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.

45. The restored site shall be progressively landscaped generally in accordance with the afteruse scheme submitted with the planning application. This scheme shall be finalised and submitted to the Planning Authority for approval within 6 months of the commencement of coaling operations on site 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.

46. 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.

47. 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.

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

REASON: To assess the operational status of the site.

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AGENDA