

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 17 MARCH 2000

99/0693/OL : CONSTRUCTION AND OPERATION OF A COAL HANDLING AND RAIL LOADING FACILITY AT FORMER AFTON BRICKWORKS, NEW CUMNOCK

APPLICATION BY KIER CONSTRUCTION LTD (MINING DIVISION)

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Local Planning Committee under the Scheme of Delegation as it is a larger application which accords with the Development Plan and is of area significance and because the application is subject to objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies approximately 2 miles west of New Cumnock, off the west side of the C36 Boig Road. The site comprises the former Afton Brickworks and the track bed of the former mineral rail line leading east from the Afton Brickworks site to its junction with the existing Knockshinnoch railway siding.

2.2 The total site area extends to 8.68 hectares of which 4.49 hectares relates to the former brickworks site. This part of the site contains a number of existing buildings that have been used for storage purposes since the closure of the brickworks. A number of other structures, including the former site office, are in a derelict condition. The area itself exhibits typical remnants of industrial dereliction.

2.3 The disused mineral railway track, covering some 4.2 hectares in area, has in the main become naturalised. The approximate length of the track bed leading from the brickworks site to the junction with Knockshinnoch railway siding is 1.9 kilometres.

2.4 The application site lies partly within the New Cumnock Wetlands and the Riggside/Lanemark Wetlands Listed Wildlife Sites. The Hall of Auchincross Opencast Coal Site lies some 200 metres to the north of the former brickworks site and the western boundary of the application site lies adjacent to the River Nith.

2.5 **Proposed Development:** Outline permission is sought for the construction and operation of a coal handling and rail loading facility at the former brickworks site including the re-instatement of the former mineral rail line leading to the Knockshinnoch railway siding.

2.6 Although the application is in outline only, the applicant has indicated that the coal handling and loading facilities will be designed to meet with and fully comply with present day requirements for construction safety and operation. The proposed rail link will comprise a single-track line leading to the terminus at Afton Brickworks with a head shunt, cripple siding and a run round track. A new level crossing will be constructed where the re-instated line crosses the C36 Boig Road immediately north of Connelwood House. The rail line is to be securely fenced on both sides with 1.5 metres high, stock-proof wire mesh fencing.

2.7 Coal will be prepared and stocked on site. This will involve crushing and sizing of coals. Coals will be loaded onto trains using mechanical loading shovels operating off a raised platform. In order to maintain maximum flexibility of operation and availability of the rail resource the applicant proposes that the facility would operate from 6.00am on Mondays through to 6.00pm on Saturdays each week. Maintenance would be restricted to between 8:00am and 4:00pm on Sundays.

2.8 The applicant has indicated that it has interests near this application site and hopes to develop these as a major opencast mine at a site known as Greenburn. An environmental scoping report for the Greenburn site has been completed and this had identified that the impact associated with coal traffic is a major factor of concern in East Ayrshire. The Greenburn proposals will be designed, according to the applicant, to minimise the use of road borne coal haulage over public roads. This is to be achieved by the utilisation of a private haul road from the Greenburn site to a proposed rail loading facility at Afton Brickworks i.e. the site that is the subject of the present application under consideration.

2.9 The application under consideration has been submitted by the applicant to establish in principle the concept of a coal preparation and rail handling facility at the former brickworks site. Output from the site is anticipated to generate 2-3 trains per day.

3. CONSULTATIONS AND ISSUED RAISED

3.1 British Gas Transco and Scottish Power have no adverse comments to make on the proposed development.

Noted.

3.2 Scottish Natural Heritage raises no objection to the proposed development subject to the following matters:-

(i) the development is carried out strictly in accordance with the terms of the application and submitted plans;

The application is in outline only. SNH will be fully consulted on the detailed application, should consent be granted in outline.

(ii) any modifications, amendments or revisions are notified to SNH prior to the acceptance of variations;

(iii) conditions in respect of the following matters are attached to any planning consent:

a) avoidance of bird breeding season for construction works. The proposed route passes through a Scottish Wildlife Trust reserve which features a very significant assemblage of breeding birds. While it is likely that breeding birds will habituate to the normal operation of the railhead, the construction of works involve the relaying of track etc will cause an unacceptable level of disturbance. SNH therefore recommends that construction works are limited to avoid the most sensitive period of the breeding season, i.e. the months of March, April and May inclusive.

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

3.3 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development subject to the following conditions:-

(i) the proposed level crossing must be designed to meet all statutory requirements and details should be submitted to the Roads Authority for approval including details of all advance signage, road rail crossing facilities prior to commencing works on site.

(ii) the existing site access road at Fordmouth should be upgraded and utilised only by staff working at the railhead.

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

If larger vehicles are being considered to use this access, then the access will require to be relocated 70 metres to the south of the existing access to provide visibilities of 2.5 metres by 60 metres.

The applicant proposes to transport coals to the site via a private haul road and does not propose to use the existing site access for general HGV coal lorry movements.

3.4 West of Scotland Water has indicated that it has apparatus located within the development site that may be affected by the proposed development. The applicant is therefore advised to contact West of Scotland Water to discuss measures for the safeguarding of apparatus.

The applicant has been advised of the comments of West of Scotland Water.

3.5 ScotRail has no comments to make on the proposed development.

Noted.

3.6 The Scottish Wildlife Trust objects to the proposed development. However, mitigation discussions may negate the objection.

The Scottish Wildlife Trust has not indicated either the grounds of objection to the proposed development or the mitigation measures that would be necessary to negate the objection. A letter requesting clarification of these matters has been sent to SWT but no response has been received in this regard. It is considered that, as no grounds of objection have been intimated, the objection by SWT is not valid.

3.7 The Coal Authority has no adverse comments to make on the proposed development.

Noted.

3.8 East Ayrshire Council's Environmental Health Division states that in general, the principal of moving coal from opencasts by rail is to be welcomed as a means of reducing the local impact of heavy lorries on roads which are not always entirely suitable for such a use. It is apparent that this proposed development is an integral part of an overall project involving a proposed opencast site at Greenburn, further to the west of the proposed railhead. It is presumed that the viability of the railhead project will depend on the fate of the opencast development application.

Noted.

With the reinstatement of the rail link, properties at North Boig, Connelwood House, Fordmouth and cottages at Woodend and Fernbank are likely to be affected to some degree. It would be possible to mitigate this impact to a degree if some measure of discretion would be offered by the operator regarding times of use of the line (e.g. ensuring that rail transit takes place during dayshift hours).

The applicant has indicated that in order to maintain maximum flexibility of operation and availability of the rail resource, the facility would be operational from 6:00am on a Monday through to 6:00pm on a Saturday, ie 24-hour operation. Although the

immediate locality surrounding the application site is sparsely populated, it is considered that 24-hour working at the proposed facility could be detrimental to the amenity of those residential properties in closest proximity to the railhead facility and the rail line. In this regard, it is considered necessary to restrict the hours of operation of the facility to reduce impact on these properties.

The Environmental Health Division suggests that any consideration of proposals for night-time working within the railhead facility itself should be conditioned on the achievement of noise limits as specified in PAN50, Annex A. The night-time nominal limit is normally 42 dB(A), measured over an hourly period at any noise sensitive dwelling, although in otherwise quieter rural areas it is suggested that this limit may be subject to modification.

If night-time operation of the facility is considered appropriate, then the application of noise limits specified in PAN50, Annex A may be considered appropriate and such limits can be incorporated as a condition attached to any consent granted for the proposed development.

If outline approval is granted, then presumably the applicant will carry out an assessment of existing background noise levels and likely levels to arise during operations for submission with the full application. PAN50, Annex A specifies both day and night-time criteria and also suggests that limits be restricted to 10 decibels above background in quieter rural areas. It is hoped that the operator could realistically achieve these standards.

The applicant is currently preparing an Environmental Impact Assessment on the proposed Greenburn site. As part of a formal scoping exercise for this assessment, the applicant has been directed to consider impacts associated with the operation of the proposed railhead and coal handling facility, including noise impacts. The submission of this information will assist in the consideration of the detailed proposals for the railhead should outline planning permission be granted.

It would also be useful to know if the operators can offer any committal with regard to possible arrival/departure times for trains as this particular aspect of the operation could result in complaint arising.

Given the proximity of residential properties to the route of the re-instated rail line, particularly Connelwood House, it may be considered necessary to restrict the hours of operation of the facility, and thereby the movement of trains, to reduce impact on these properties.

While specific legislative controls on light pollution are still a matter of debate, it is becoming more of a contentious issue in some quarters. Confirmation of the applicant's declared intention of controlling the impact of such pollution

though effective management coupled to careful use of site lighting is expected.

A condition can be attached to any consent granted in outline to ensure that details of the proposed illumination of the site are submitted at the detailed application stage for appropriate consultation and consideration.

It is presumed that the applicant will provide more detailed information in respect of dust control and suppression /minimisation measures at the full application stage.

A condition can be attached to any consent granted in outline to ensure that details of dust control measures to be introduced on site are submitted at the detailed application stage for appropriate consultation and consideration and may be incorporated within a Section 75 Legal Agreement.

Details regarding specific monitoring proposals for noise and dust and subsequent submission of data to the Council should also be formulated.

Comments as above.

Structural surveys of sensitive properties are normally undertaken in instances where opencasts intend to carry out any blasting activities. It may be appropriate to request similar surveys of those properties which are in closest proximity to the rail link.

It is anticipated that the rail line will be constructed to appropriate standards laid down by Railtrack. It is considered that the design and construction of the rail line will minimise any impact on residential properties through vibration and furthermore, most nearby residential properties lie sufficiently distant from the line that vibration should not be an issue. The exception to this may be Connelwood House which lies immediately adjacent to the proposed level crossing on the C36 road. In this case, the undertaking of a structural survey may be appropriate. This could be achieved through the provisions of a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997.

3.9 British Telecom has no adverse comments to make on the proposed development.

Noted

3.10 East Ayrshire Council's Economic Development Division has no adverse comments to make on the proposed development. The proposed development would provide long-term employment and short-term construction jobs during the construction period. The proposals to transfer coal transport from road to rail and the minimisation of heavy lorry traffic in the

local villages will find favour as it will lead to increased quality of life in these communities.

Noted.

3.11 The Scottish Environment Protection Agency states that emissions to air (e.g. dust) will be covered by the forthcoming IPPC Regulations and as such will be controlled by SEPA. The developer should consider the possible efforts of the legislative changes on the process.

The applicant has been advised of the comments of SEPA.

All discharge from the site should be diverted to appropriately sized lagoons and SEPA's consent will be required for any discharges of water from the site. The applicant should ensure that the operation of this site does not cause any significant change to the water levels in the surrounding ponds and that the site is not at risk of flooding.

A condition can be attached to any outline consent granted for the development to ensure that details of water management in the site are submitted for consultation and consideration at the detailed application stage.

3.12 The Ayrshire Joint Structure Plan Team indicates that the proposal is consistent with the objectives of the Structure Plan and raises no objections to the proposal.

Noted.

3.13 New Cumnock Community Council has no objections to the proposed development.

Noted.

3.14 Railtrack has not responded to the consultation letter.

Noted.

4. REPRESENTATIONS

A total of 4 letters of objection have been received with respect to the proposed development. The Scottish Wildlife Trust has also objected as indicated in Section 3.7 of this report.

4.1 If planning permission is granted, this will have an adverse effect on my residential property including stability. My boundary wall is only a matter of feet from the access road and my drainage could be affected by the constant heavy traffic which will use this load.

The applicant has stated that the access road will chiefly be used for access by staff working at the railhead facility. Lorries laden with coal, potentially from the Greenburn site, will utilise a private haul road to gain access to the rail head facility. In this respect, the Roads Division has indicated that the existing access road to the proposed railhead should only be used for light traffic due to the lack of visibility sightlines at the existing junction of the access road with the C36 road. It is considered that the proposed usage of the access road by the applicant would not lead to problems of stability or effects on the drainage of the objector's property.

4.2 I am concerned that if permission is granted, this will have an adverse effect on the marketability of my house and I am doubtful if anyone would contemplate a purchase in view of the disturbance and noise which would be suffered.

The effect of the proposed development on the marketability or value of the objector's property is not a valid ground for objection in land use planning terms.

4.3 With the road running so close to my boundary, it will create a danger to those living in the house and any visitors including young children. The road will become a busy thoroughfare with heavy lorries passing by on a regular basis which would give little or no privacy to my property.

Comments as per 4.1 above. While it is accepted that the access road lies immediately adjacent to the objector's property, issues of safety could be overcome by the use of appropriate traffic management/calming measures in proximity to properties lying on the route of the access road. A condition can be attached to any consent granted for the development to ensure that such measures are incorporated at the detailed application stage.

4.4 We are alarmed at the prospect of an increased volume of traffic in the way of heavy lorries, construction equipment and site workers' cars using the access road.

Comments as per 4.1 above. With respect of construction traffic, the applicant has indicated that temporary access to the railhead site will be taken from the C36 road at the location of the proposed level crossing. Therefore, the existing access road will generally be utilised only by staff employed at the railhead itself. Although the applicant has not provided information on the number of jobs created at the railhead facility, it is not envisaged that employment levels will lead to an unacceptable increase in traffic on the access road.

4.5 The present traffic use is very light and it is felt that it would present a hazard, particularly to pedestrians, if the volume of traffic was to be increased. The road is single track with at best narrow verges and no footpath or lighting.

Comments as per 4.3 above.

4.6 I am concerned that the proposed use will impinge on my title deed rights to use the road and the concomitant obligation to share in the cost of its maintenance and we therefore object strenuously to the increased wear and tear on the road and would not be prepared to contribute to its upgrading.

The legal right of use of the road and the obligations on maintenance of the road are not valid planning grounds for objections to the proposed development.

4.7 The value, security and enjoyment of my property will be dramatically reduced by an increased volume of traffic using the road at what, with shift working, potentially amounts to all hours of the day and night.

The effect of the proposed development on the value of the objector's property is not a valid ground of objection in land use planning terms. It is considered that the proposed development would not have a significant impact on the security of the objector's property. It is however accepted that the enjoyment of the objector's property could be significantly affected without reasonable control over the hours of operation of the facility.

4.8 MEGA members are on record as welcoming moves to put opencast coal onto the rail freight network rather than onto public roads. However as opencast coal extraction is already so great that neither the rail freight company, nor bodies with the responsibility for overseeing development, including East Ayrshire Council can deal thoroughly with problems arising from the many existing sites, we object to this particular planning application.

The points of objection made by the objector are not considered to be valid in respect of land in planning terms and in the main do not relate specifically to the development under consideration.

4.9 There is no justification for a fourth railhead west of the A76 when Knockshinnoch is approximately 1 kilometre away and there are no plans to close this railhead.

It is for the individual applicant to determine the need for a further railhead in the locality in the light of market conditions and for the Planning Authority to determine the acceptability of individual development proposals in accordance with the principles of the land use planning system having regard to development plan policies and other material considerations. It should be noted that the existing railheads in the locality are privately owned and operated by direct competitors of the applicant.

4.10 There is no justification for this railhead on its own. If it required to serve a new opencast coal site at Greenburn, then both applications should be considered together, as approval of one could then imply approval of the other. So if one is the justification of the other, then they are integral and should be considered jointly.

The applicant has declared an interest in seeking to develop an opencast coal site at Greenburn which lies to the west of the proposed railhead site. As part of the scoping process for the preparation of an Environmental Impact Statement on the Greenburn proposals, the applicant has identified that traffic impact associated with the transportation of coal was a major factor of concern in East Ayrshire. In order to address this concern in the future submission of an application for the Greenburn site, the applicant wishes to firstly establish in principle the concept of a railhead at the former Afton Brickworks site. Although it is accepted that there is a link between the proposed railhead and the overall aspirations of the applicant in respect of the Greenburn site, approval of the present application for the railhead in outline would not imply an automatic approval of the Greenburn proposal. This development proposal would require to be considered on its own merits.

4.11 Greenburn incorporates land near the River Nith which was approved in 1997 as an extension to the House of Water Opencast Coal Site. Coal from House of Water OCCS was to be taken off public roads (to an extent) by the approval in April 1999 of a planning application to construct a haul road from House of Water, via Craigman Quarry over to Greenhill. From there it would join a new haul road from Chalmerston/Pennyvenie and end at Piperhill. Coal would then be moved over public roads to Killoch. If this road is construction it would remove any need for the re-opening of the line near Afton Brickworks.

The points raised by the objector are not relevant or material to the consideration of the present application under consideration which requires to be judged on its own merits.

4.12 In view of the clear need for overall strategic assessment of routes and methods of coal haulage in Ayrshire, MEGA calls upon East Ayrshire Council and the Ayrshire Joint Structure Plan and Transport Strategy Teams to place all coal related applications 'on hold' until there is a thorough review of coal haulage, whether by road or rail.

The Planning Authority is required to determine the present application within statutory timescale having due regard to the provisions of relevant development plans and other material considerations. The Planning Authority's approach to coal transportation is clearly being developed in the East Ayrshire Opencast Coal Subject Plan, which is at a finalised stage.

Similarly, the Ayrshire Joint Structure Plan has now been approved by the Scottish Ministers and the Ayrshire Joint Structure Plan Team raise no objections to the proposal in strategic terms.

4.13 If there are insufficient freight trains being made available by EWS to haul coal by rail from Knockshinnoch, Chalmerston, Broomhill and Killoch, then MEGA questions whether this fifth, sixth or even a seventh railhead is viable.

The point of objection made by the objector is not a valid ground of objection in land use planning terms.

4.14 MEGA objects to the current outline application as it is in outline, and it is not accompanied by an Environmental Impact Assessment. This application clearly requires environmental assessment under Schedule 2 (A20,A22) because the re-opened line from Dalricket to its junction with the Knockshinnoch line is well over 2 kilometres and in the area involved for this and the railhead and preparation/loading yard is over 1 hectare.

The planning system allows applicants to establish principles of development by the submission of outline planning applications. The present application under consideration comprises two elements of development. It seeks to establish the construction and operation of coal handling and rail loading facility on an area of approximately 4.5 hectares. In addition the re-instatement of the former mineral rail line represents a track length of 1.9 kilometres covering an area of 4.2 hectares. Under Schedule 2 of the Environmental Impact Assessment (Scotland) Regulation, both these elements of the development are listed and meet the applicable thresholds for EIA development. However, the development site does not lie within a 'sensitive area' as defined in Regulation 2(1) of the aforementioned regulations. Under Circular 15/1999 indicative criteria and thresholds are provided for the identification of Schedule 2 development requiring EIA. With respect to the re-instatement of the rail line, the Circular indicates that EIA is more likely to be required where the new development is over 2 kilometres in length. Given the scale, frequency of rail traffic and relative isolation of the proposal, and the fact that the line is 1.9 kilometres in length, the submission of an EIA is not considered necessary in this instance. Similarly, with regard to the coal handling and loading facility, the indicative criteria indicate that developments of more than 5 hectares are likely to require EIA. Due to the size, nature and location of the proposed railhead facility, it is considered that the development is unlikely to have any significant effects on the environment and consequently, a formal Environmental Impact Assessment is not considered necessary in this case.

4.15 The level of activity proposed and operating hours add to the cumulative effect of pollution and nuisance in this area already affected by opencast sites at House of Water and Hall of Auchincross/Rigghead.

The applicant will seek to design and operate the proposed facility in such a manner as to minimise the impact of the development on the environment thereby reducing the likelihood of cumulative interaction with adjacent developments.

4.16 MEGA objects to the determination of this strategic matter of coal transport being delegated to a local committee. We do not see such applications described as being within the approved local sphere of remit and ask that it be considered at Development Services Committee as coal traffic has implications for the Kilmarnock, Ayr and Barassie areas.

The proposal to re-instate a local rail link to access a national passenger and freight rail system is not considered to be an issue of strategic importance. It is considered that under the Scheme of Delegation, the appropriate forum for the determination of this proposal is the Local Planning Committee.

4.17 The applicant proposed that this new railhead should operate day and night from 6 am on Monday to 6 pm on a Saturday with 8 hours maintenance on Sundays. The effect of this continuous activity will have an unacceptable cumulative bad neighbour impact on the Burnside, Bank Glen, Connel Park and the Leggate areas of New Cumnock where some houses will only be 600 metres distant. Permitting 24 hour working would make a mockery of restricting working and dispatch hours at House of Water and Hall of Auchincross OCCS. It is certain that 24 hour working would set a precedent for continuous operation elsewhere on opencast and railhead sites.

It is considered that the residential areas referred to by the objector lie sufficiently distance from the proposed development site that there would be no significant detrimental impacts resulting from the operation of the coal handling and rail loading facility. It is recognised that there are a number of other residential properties which lie in close proximity to the development site and the proposed hours of operation of the facility could have a detrimental impact on the amenity of such properties. It is considered that it will be appropriate to restrict the hours of operation of the facility in order to minimise adverse impacts associated with the proposed hours of operation.

4.18 If the proposed development was to be the only railhead to service House of Water and Hall of Auchincross, then it might be acceptable to MEGA in principal only as it would relieve traffic problems on the B741. However, this new railhead can only be justified if opencasting is to continue in this locality for the next 15 years.

Noted.

4.19 While SOAG (Scottish Opencast Action Group) agrees that transporting opencast coal by rail is preferable to transport by road, we have concerns about this proposal. SOAG acknowledges that the Council seeks to promote rail haulage wherever feasible but unfortunately the rail system currently lacks the capacity to accommodate existing levels of opencast coal.

Noted.

4.20 The Council recently approved a railhead proposal at Rottenyard near New Cumnock which we believe received a Government grant of over £2 million. What justification has the applicant given for developing another railhead just a few kilometres from Rottenyard. Knockshinnoch is also just a few kilometres away.

Comments as per 4.9 above.

5. DEVELOPMENT PLAN STATUS

5.1 The relevant policy document is the Finalised East Ayrshire Opencast Coal Subject Plan and the application site is affected by Policy MIN15.

Policy MIN15 indicates that the Council will strongly encourage opencast coal operators to utilise existing rail facilities for the transportation of coal which is not specifically destined for local domestic Ayrshire markets. In addition, Policy MIN15 states that the provision of a new railhead in connection with the development of new opencast sites will also be fully encouraged by the Council. It is therefore considered that the establishment of a railhead at Afton Brickworks would be consistent with the provisions of the finalised East Ayrshire Opencast Subject Plan.

5.2 In terms of the finalised East Ayrshire Local Plan, the proposed development site is affected by Policies SD4, SD6 and ENV10(iii).

Policy SD4 states that within the Rural Diversification Area, developments on land outwith the settlement boundaries will be acceptable to the Council where the development provides for sensitive industrial development with a site specific locational need and can be fully justified in terms of economic benefit to the community. Due to the opportunity for accessing the existing rail network and the provision of employment that the proposed development will bring to local communities, it is considered that the proposal is consistent with the provision of Policy SD4.

Policy SD6 states that the Council will positively encourage the re-use and redevelopment of brownfield land in the rural area. As the proposed development site is subject to industrial dereliction,

it is considered that the redevelopment and re-use of this area of land would be fully consistent with Policy SD6.

Policy ENV10(iii) promotes the protection and enhancement of nature conservation interest and states that development likely to adversely affect local nature reserves and listed wildlife sites will be resisted and all sites of recognised nature conservation value will be safeguarded wherever possible. Where development is approved for such sites, appropriate measures should be taken to conserve and manage, as far as possible, the sites biological interest. In this respect the proposed coal handling and rail loading area lies within the Riggside/Lanemark Wetlands Listed Wildlife Site and the route of the re-instated rail line partially passes through the New Cumnock Wetlands Listed Wildlife Site and also the Scottish Wildlife Trust Local Nature Reserve at Knockshinnoch Lagoons. It is considered however that there will be no significant adverse impacts on these areas of nature conservation interest as a result of the proposed development. This is borne out by the consultation process that has been undertaken. Scottish Natural Heritage raises no objection to the proposal subject to avoidance of construction works during the bird-breeding season. Although the Scottish Wildlife Trust has objected to the proposed development, no grounds of objection have been stated. SWT does, in its consultation response, recognise that mitigation measures could negate this objection. It should be noted that the existing Knockshinnoch rail siding passes directly through the SWT Local Nature Reserve and the New Cumnock Wetlands LWS without significant impact on the nature conservation interests in the area. The applicant is also committed to ensure that any potential impacts are mitigated by sympathetic design and high standards of operational management, matters that will be addressed in the detailed proposals for the development.

5.3 In terms of the approved Ayrshire Joint Structure Plan, Policy T1(H) is relevant to the proposed development.

Policy T1(H) states that the three Ayrshire Councils shall seek to maximise the use of non-road based freight transport. It is considered that the establishment of a railhead at Afton Brickworks would be consistent with the objectives of the Structure Plan.

6. OTHER PLANNING CONSIDERATIONS

6.1 National Planning Policy Guideline 17 relates to Transport and Planning and is relevant to the proposed development.

Paragraph 37 of NPPG17 indicates that the strategic importance to the economy of freight access to industry and commerce should be recognised and appropriate arrangements made. Planning Authorities should encourage the carriage of freight by rail rather than by road wherever it can provide a feasible alternative for all or part of the journey. The proposed development at Afton Brickworks would be consistent with NPPG17 objectives.

6.2 National Planning Policy Guideline 16 relates to Opencast Coal and Related Minerals and is relevant to the proposed development.

Paragraphs 48 and 49 indicate that the Government wishes to seek a better balance between lorry and rail transport with an increased tonnage of coal being moved by rail from as near as practicable to the extraction site. Accordingly, as part of the overall assessment of opencast development, proposals which provide for rail transport should be more favourably considered than those wholly dependent on road transport. Although the applicant's interests in an opencast development at Greenburn have not yet culminated in the submission of a formal planning application, the establishment of the principal of a railhead at Afton Brickworks is an important element of the project. It will provide a basis for dealing with traffic impact in the environmental impact assessment of the Greenburn proposals.

7. LEGAL AND FINANCIAL IMPLICATIONS

7.1 Legal implications for the Council relate to the concluding of a Section 75 Agreement with the applicant, under the Town and Country Planning (Scotland) Act, to secure obligations on the developer as indicated in Section 8 of this report.

7.2 There are no financial implications for the Council in the determination of this application.

8. CONCLUSIONS

8.1 It is considered that the proposed development is consistent with the policy provisions of the finalised East Ayrshire Opencast Coal Subject Plan, the East Ayrshire Local Plan Finalised Version and the approved Ayrshire Joint Structure Plan.

8.2 The proposed development is to take place on a brownfield industrial site that suffers from dereliction and the re-use of this site will result in removal of this industrial dereliction. The development of a coal handling and rail loading facility at this location will also provide employment opportunities

both short term in the construction phase of the development, and longer term in the operation of the facility.

8.3 Although the proposed development impinges on two listed wildlife sites and the Scottish Wildlife Trust Local Nature Reserve at Knockshinnoch Lagoons, it is considered that there will be no significant adverse impacts resulting from the proposed development. The comments of Scottish Natural Heritage can be addressed through the imposition of a condition on any consent granted for the development to ensure that no construction works are undertaken during the bird-breeding season. Although the Scottish Wildlife Trust has objected, no grounds for the objection have been stated.

8.4 Objections have also been raised with respect to the need or justification for a further railhead in the locality of New Cumnock. However, it is for the individual applicant to determine the need for a further railhead in the locality in the light of market conditions and for the Planning Authority to determine the acceptability of individual development proposals in accordance with the principles of the land use planning system having regard to development plan policies and other material considerations.

8.5 With regard to other points of objection regarding impact on amenity, it is accepted that operation of the facility on a 24-hour basis could be detrimental to residential properties in closest proximity to the railhead and the rail line. In this respect it is considered that the operational hours should be restricted to reduce the impact on these properties. With respect to dust and noise, it is considered that potential impact can be mitigated through the use of appropriate conditions and the implementation of appropriate dust and noise monitoring schemes.

8.6 The proposed railhead is linked to the applicant's interest in developing an opencast site at Greenburn which lies northwest of the Afton Brickworks site. The consideration of the railhead application is required at this stage in order for the applicant to establish the principle of a railhead at this location in order to address transportation issues associated with the Greenburn proposals. Any approval granted for the present railhead application does not imply automatically that the Greenburn proposals would subsequently be approved as any application for this site would require to be considered on its own merits. Furthermore, should any application for the Greenburn proposals be refused, then it is very unlikely that development of the railhead at Afton Brickworks would take place.

8.7 Taking all relevant matters and material considerations into account, 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) The setting up of noise and dust monitoring programmes for the site following consultation with the Planning Authority and the Environmental Health Division.
- (ii) The undertaking of structural surveys of residential properties in consultation with the applicant, the Planning Authority and the Environmental Health Division.

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, in respect of the matters described in Section 8.7 of this report.

Alan Neish
Head of Planning and Building Control

07 March 2000
HM/SB

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Representation Letters.
4. Consultation Responses.
5. East Ayrshire Local Plan (finalised)
6. East Ayrshire Opencast Subject Plan (finalised)
7. Ayrshire Joint Structure Plan (adopted)
8. NPPG16 : Opencast Coal and Related Minerals
9. NPPG 17 : Transport and planning
10. PAN50 : Controlling Environmental Effects of Surface Mineral Workings (Annex C)
11. The Environmental Impact Assessment (Scotland) Regulations 1999
12. PAN58 : Environmental Impact Assessment
13. Scottish Executive Circular 15/1999 : The Environmental Impact Assessment (Scotland) Regulations 1999

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

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1972

Application no: 99/0693/OL

Location	Afton Railhead, NEW CUMNOCK
Nature of Proposal:	Proposed construction and operation of a coal handling and rail loading facility.
Name and Address of Applicant:	Kier Construction Ltd (Mining Division) Tempsford Hall, SANDY, Bedfordshire SG19 2BD
Name and Address of Agent:	Mr Peter I Watkinson, Business Development Manager Kier Mining, Tempsford Hall, SANDY, Bedfordshire SG19 2BD

DPO's Ref: [PC/SMB]
PPO's Ref; []

The above **OUTLINE** application should be granted subject to the following conditions.

- (1) Before any development takes place on site, the further approval of the Planning Authority shall be obtained in respect of the undernoted matters hereby reserved
 - a) the layout of the site;
 - b) the size, height, design and external appearance of proposed buildings;
 - c) the means of drainage and sewerage disposal, including water treatment measures;
 - d) details of the accesses to the site;
 - e) the provision for car parking to serve the proposed development;
 - f) construction details of the proposed rail line including fencing;
 - g) details of the proposed level crossing on the C36 Boig Road
 - h) details of the proposed means of illumination of the site

REASON – The approval is in outline only.

- (2) Notwithstanding Condition 1(d) above, the existing access road to the development site and its junction with the C36 Road shall be upgraded to the satisfaction of the Planning Authority and Roads Authority. This access road shall be used solely for staff access and general servicing requirements for the proposed coal handling and rail loading facility.

REASON – In the interests of public road safety.

- (3) Notwithstanding Condition 1(d) above, the details of the access road off the C36 Road to be submitted shall incorporate traffic calming features adjacent to the residential properties at Fordmouth and Lochhill View.

REASON – In the interests of public road safety.

- (4) No construction works shall take place during the most sensitive period of the bird-breeding season, i.e. the months of March, April and May inclusive. The details of the proposed development shall include an indication of a programme of construction works for the implementation of the proposed development.

REASON – In the interests of reducing any potential adverse impact on the Listed Wildlife Sites and the Local Nature Reserve.

- (5) 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.

- (6) 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.

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

- (7) An appropriate noise monitoring programme shall be undertaken during the operational life of the site, using appropriate equipment and recording devices, the details of which shall be agreed with the Planning Authority and the results of which shall be submitted to the Planning Authority on a monthly basis during the operational life of the site. The noise monitoring programme shall be agreed by the Planning Authority and in place prior to the commencement of works on site.

REASON – To monitor noise levels and ensure that appropriate environmental standards are maintained throughout the site.

- (8) The noise limit during daytime (0700 to 1900 hours) shall not exceed 55 dBL_{aeq,1h} at noise sensitive properties.

REASON – In the interests of residential amenity.

- (9) 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. The dust monitoring programme shall be agreed and in place prior to the commencement of operations on site.

REASON – To monitor dust emissions and ensure that appropriate environmental standards are maintained throughout the life of the site.

- (10) Except in the case of emergency, the hours of working for the facility, will be confined between 0700 and 1900 hours Mondays to Fridays, and between 0730 and 1300 hours on a Saturday. With the exception of essential site maintenance and 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.

MAP

Due to Ordnance Survey Regulations and Copyright the map is available for viewing at the Council's Planning Office in Lugar. For information on viewing please contact (01563) 555320.

AGENDA