

## **EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 22 JUNE 2001**

**00/0685/FL : PROPOSED EXTENSION TO LANDFILL SITE TO RECLAIM  
OPENCAST VOID WITHIN AREA B OF SKARES ROAD OPENCAST SITE  
BY LANDFILL WITH CONTROLLED WASTES INCLUDING EXTRACTION  
OF COAL RESERVES, GARLAFF LANDFILL SITE, SKARES,  
NEAR CUMNOCK.**

**APPLICATION BY BARR LIMITED**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the extension of the existing landfill site by utilising the void space of Area B of the current operational opencast site at Skares Road. The operations within Area B will result in a void space of approximately 4.1 million cubic metres. As an ancillary development it is also proposed to extract approximately 75,000 tonnes from a small area (5.4 hectares) within the existing landfill void area at Garlaff as an extension to the current opencast operations in Area B.

1.2 This small extension to Area B will take approximately 5 to 6 weeks to work and will prevent the sterilisation of this coal reserve by the proposed landfill extension. This additional winning and working of coal will also result in a small increase in the landfill void. The winning and working of coals from this area will be undertaken by the current operator of the Skares Road site and will be hauled to the existing coal processing area at Skares Road. Coals will thereafter be dispatched via lorry using the Skares Road site access.

1.3 The design of the landfill operation will result in the development of a series of 11 landfill cells, each of approximately 2 hectares in area. The landfill operations will comprise a general working direction such that the landfill void will be filled from north to south along the western half of the void. The eastern half of the void will then be filled from south to north. This direction of working has been established through the Environmental Impact Assessment process to minimise the visual impact of the operations from Skares village. This progressive landfill on a cell by cell basis should enable efficient control of odours and landfill gas, litter, pests and vermin.

1.4 The landfill void area will be approximately 12 to 18 metres in depth and will occupy a surface area of 29.9 hectares. Engineering of the void will result in a containment that will serve as a physical barrier to control off site migration of gas and leachate. Each cell has been designed to provide 12 to 15 months

tipping capacity in order to facilitate an annual programme of capping and restoration operations during Summer months.

1.5 The development will also result in Area C referred to above being used for the storage of soils, overburden and boulder clays, removed as part of the opencasting operations, that will be used for the daily coverage of deposited waste and also in capping and restoration operations. The existing site infrastructure will remain in place to service the proposed development. The existing Civic Amenity site, under the control of East Ayrshire Council, but managed by the applicant will remain in situ.

1.6 The applicant has indicated that waste management methods, practices and operations at the proposed Garlaff extension are likely to be similar to those currently undertaken at the existing landfill site. The anticipated waste types to be disposed of would be degradable household waste, commercial and industrial waste, and specific types of clinical waste. The volumes for disposal at the site are stated to be 700 tonnes per day or 250,000 tonnes per annum. The waste streams currently being directed to the existing landfill site relate to local authority contracts for disposal of household refuse from East Ayrshire and South Ayrshire.

1.7 Tipping of waste material will be restricted to one cellular phase and the waste will be built up in layers of 0.3 metre to ensure adequate and even compaction, up to a maximum of 2.5 metres. All tipped material would be covered on a daily basis. At the end of each working day, the compacted layer would be levelled and the surface and flanks covered with stored overburden or other imported inert waste. Waste that is particularly odorous and clinical waste will be tipped at the bottom of the tipping face and covered over immediately to minimise odours. A portable litter fence, 2 metres in height, would be provided to surround the operational tipping area to reduce wind-blown litter during adverse weather conditions.

1.8 In terms of leachate management, a comprehensive leachate control system would be installed. Leachate collected within each cell would drain by gravity to pumping well for subsequent treatment or recycling within the landfill. Landfill gas generated from the landfill requires to be managed to prevent it migrating outwith the site boundary. It is proposed that landfill gas collection wells would be installed after capping has taken place within each cell to minimise the volume of gas venting to air. These wells would be on a regular grid and would be connected via horizontal piping. The landfill gas would then be used for the generation of electricity by linking with an energy generating system for the Garlaff site which is currently the subject of a separate application.

1.9 Restoration of the site would result in a strategy to develop and enhance the conservation resource of the site and surrounding area, to restore the landscape to a character appropriate to its setting, and to mitigate the negative impacts of site working and thereafter achieve successful rehabilitation of the site. Due to the fact that leachate and gas monitoring would continue some years after waste disposal has ceased , there are small areas within the

development site that could not be completely restored at the end of landfill operations. Woodland planting would also take place on the existing landfill site on the northern and western boundaries. The restored areas would also be subject to aftercare management with the main afteruse being agricultural.

1.10 Given the volume of waste to be directed to the proposed extended site on an annual basis, the anticipated life of the site would be 16 years. However the applicant recognises that the actual volumes are likely to reduce as a result of the emergence of waste recycling and re-use technologies, extending the life to approximately 20 years. The proposed hours of operation by the applicant are those currently consented for the site i.e. 0730 to 1800 hours Monday to Friday and 0800 to 1200 hours on Saturdays and Sundays.

1.11 The level of traffic generated by the daily importation of approximately 700 tonnes of waste equates to an average of 79 laden HGVs entering and leaving the site. As the proposed development will result in a continuation of operations at the current levels, there will be no significant increase in the volume of traffic generated. Vehicle carrying refuse will in the main access the site via the A70 and the eastern section of the B7046 road, with approximately 4 laden vehicles per day accessing the site via the western section of the B7046 travelling through Skares village. The site currently employs 6 people and this level of employment would be maintained by the proposed development.

1.12 The planning application is accompanied by an Environmental Impact Statement which seeks to identify environmental and other impacts associated by the proposed development. The EIS promotes a range of mitigation measures to minimise potential adverse impacts and the assessment process itself has shaped the design of the proposed landfill operations to ensure minimal impact on local communities and residential properties.

## **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 in respect of the matters described in Section 8.6 of this report.**

## **3. SUMMARY OF ANALYSIS**

3.1 As indicated in section 5 in the report, the proposed development is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act

1997, the application should be approved unless material considerations indicate otherwise. As indicated in section 6 in the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations, where relevant to policy, should be greater than that given to the policies of the Adopted Local Plans due to the age of these plans. However, these material considerations are also generally supportive of the proposed development.

3.2 It is considered that the proposed development is consistent with the policy provisions of the EALP and in particular the waste management policies contained therein. The proposed continuation of the present levels of waste disposal from the current waste streams meets the proximity principle promoted by policy. However, it is recognised that in order to ensure continued compliance with this policy, it will be necessary to impose control over the geographical sources of waste.

3.3 The applicant has indicated that operations will continue at the present level and accordingly the assessment of impacts has been carried out on that basis. Any significant increase in the volume of waste to be directed to the site on an annual basis could result in additional impacts. Consequently it is considered that the importation of waste should be restricted by condition to the current level.

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, the objection is not based on any impact on flora or fauna, and 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. The main concerns relate to the emission of odours, landfill gas and litter. It is considered that through the implementation of the mitigation measures promoted in the EIS and with the additional operational controls that will be imposed and monitored by SEPA, the proposed development can be undertaken in an environmentally acceptable manner.

3.6 In respect of all relevant matters and material considerations to be taken 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:

### 3.7 ***Section 75 Agreement***

- (i) The provision of a Restoration and Aftercare Bond provided and monitored to reflect the provisions of Policy MIN 36 of the EAOCSP. This bonding shall be the subject of consultation and agreement with SEPA to ensure appropriate levels of bonding to secure complete restoration of the site to the satisfaction of the Planning Authority and SEPA.
- (ii) The establishment of the site liaison committee for the Garlaff site, the composition of which shall be the subject of discussion between the applicant and the Planning Authority.
- (iii) The establishment of noise and dust monitoring programmes for the Garlaff Landfill 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.
- (iv) A contribution to the Minerals Trust Fund at the rate of 27.5 pence per tonne of coal extracted from the Garlaff extension site.
- (v) The establishment of Technical Support Group to oversee the progressive restoration of the site to ensure appropriate opportunities for habitat creation and enhancement. The Technical Support Group shall include representatives from SNH, RSPB, SEPA and the Planning Authority.
- (vi) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement that accompanied the planning application. The mitigation measures shall be incorporated in Mitigation Plan that shall be submitted to and approved by the planning authority prior to the commencement of operations on site
- (vii) The subscription of the applicant to the Council's Transportation Protocol.
- (viii) The definition of agreed transportation routes for waste-carrying vehicles destined for the Garlaff site.
- (ix) The provision of improved road infrastructure at the junction of the B7046 road with the A70 road.
- (x) 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 B7046 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. A joint inspection of the B7046 shall be carried out with the applicant and the Roads Authority.
- (xi) The undertaking by the applicant that the source of waste residue disposed on site, in general terms, be restricted to waste arising from within Ayrshire.

(xii) In light of the future implementation of a strategy for waste management in Ayrshire that could lead to a reduction of municipal waste to landfill, the obligation of the applicant to review the operations with the Planning Authority to enable appropriate safeguards to be negotiated which will ensure the complete restoration of the site within 20 years.

(xiii) The restriction of total annual waste deposited on site to 275,000 tonnes.

(xiv) The undertaking of structural surveys of residential properties where considered appropriate in consultation with the applicant, the Planning Authority and the Environmental Health Division.

**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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NEAR CUMNOCK.**

**APPLICATION BY BARR LIMITED**

### **Report by the 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 landfill site and involves ancillary mineral extraction which development is considered to generally accord with policies in the East Ayrshire Local Plan and the Opencast Coal Subject Plan, is of area significance and is the subject of letters of representation.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site lies approximately 4 kilometres southwest of Cumnock, approximately 1 kilometre east of Skares village and lies on the south side of the B7046 Cumnock – Skares road. The site extends to some 89.5 hectares and comprises the existing operational landfill site at Garlaff and Areas B and C of the existing operational opencast site at Skares Road.

2.2 The land slopes from a high point of 260 metres Above Ordnance Datum at the southern end of the application site to 222 metres AOD on the north western boundary with the topography of the site exhibiting as gently undulating. The application site is bounded to the south by commercial coniferous woodland, by the Milzeoch opencast coal site to the east which is presently undergoing restoration, and by mixed woodland and agricultural land to the west. The site is bounded to the north by the B7046 road and agricultural land in pastoral use.

2.3 The application site can be characterised by four distinct areas:

- (i) The northern part of the proposed development site accommodates the existing site infrastructure of the current landfill operation and comprises the site entrance, site offices and weighbridge, waste

transfer station, wheel wash facility and Civic Amenity site (7.3 hectares).

- (ii) Area B of the Skares Road opencast site which is currently being worked (34.6 hectares).
- (iii) Area C of the Skares Road opencast site from which coals have been extracted and backfilling operations are nearing completion (42.2 hectares).
- (iv) A small area of the existing landfill void of the current Garlaff site (5.4 hectares).

2.4 The immediate surroundings of the site are predominantly rural in nature, with Skares village being the nearest community to the application site. The area is otherwise sparsely populated with isolated farmsteads and other residential properties.

2.5 **Proposed Development:** Full planning permission is sought for the extension of the existing landfill site by utilising the void space of Area B of the current operational opencast site at Skares Road. The operations within Area B will result in a void space of approximately 4.1 million cubic metres. As an ancillary development it is also proposed to extract approximately 75,000 tonnes from a small area (5.4 hectares) within the existing landfill void area at Garlaff as an extension to the current opencast operations in Area B.

2.6 This small extension to Area B will take approximately 5 to 6 weeks to work and will prevent the sterilisation of this coal reserve by the proposed landfill extension. This additional winning and working of coal will also result in a small increase in the landfill void. The winning and working of coals from this area will be undertaken by the current operator of the Skares Road site and will be hauled to the existing coal processing area at Skares Road. Coals will thereafter be dispatched via lorry using the Skares Road site access.

2.7 The design of the landfill operation will result in the development of a series of 11 landfill cells, each of approximately 2 hectares in area. The landfill operations will comprise a general working direction such that the landfill void will be filled from north to south along the western half of the void. The eastern half of the void will then be filled from south to north. This direction of working has been established through the Environmental Impact Assessment process to minimise the visual impact of the operations from Skares village. This progressive landfill on a cell by cell basis should enable efficient control of odours and landfill gas, litter, pests and vermin.

2.8 The landfill void area will be approximately 12 to 18 metres in depth and will occupy a surface area of 29.9 hectares. Engineering of the void will result in a containment that will serve as a physical barrier to control off site migration of gas and leachate. Each cell has been designed to provide 12 to 15 months

tipping capacity in order to facilitate an annual programme of capping and restoration operations during Summer months.

2.9 The development will also result in Area C referred to above being used for the storage of soils, overburden and boulder clays, removed as part of the opencasting operations, that will be used for the daily coverage of deposited waste and also in capping and restoration operations. The existing site infrastructure will remain in place to service the proposed development. The existing Civic Amenity site, under the control of East Ayrshire Council, but managed by the applicant will remain in situ.

2.10 The applicant has indicated that waste management methods, practices and operations at the proposed Garlaff extension are likely to be similar to those currently undertaken at the existing landfill site. The anticipated waste types to be disposed of would be degradable household waste, commercial and industrial waste, and specific types of clinical waste. The volumes for disposal at the site are stated to be 700 tonnes per day or 250,000 tonnes per annum. The waste streams currently being directed to the existing landfill site relate to local authority contracts for disposal of household refuse from East Ayrshire and South Ayrshire.

2.11 Tipping of waste material will be restricted to one cellular phase and the waste will be built up in layers of 0.3 metre to ensure adequate and even compaction, up to a maximum of 2.5 metres. All tipped material would be covered on a daily basis. At the end of each working day, the compacted layer would be levelled and the surface and flanks covered with stored overburden or other imported inert waste. Waste that is particularly odorous and clinical waste will be tipped at the bottom of the tipping face and covered over immediately to minimise odours. A portable litter fence, 2 metres in height, would be provided to surround the operational tipping area to reduce wind-blown litter during adverse weather conditions.

2.12 In terms of leachate management, a comprehensive leachate control system would be installed. Leachate collected within each cell would drain by gravity to pumping well for subsequent treatment or recycling within the landfill. Landfill gas generated from the landfill requires to be managed to prevent it migrating outwith the site boundary. It is proposed that landfill gas collection wells would be installed after capping has taken place within each cell to minimise the volume of gas venting to air. These wells would be on a regular grid and would be connected via horizontal piping. The landfill gas would then be used for the generation of electricity by linking with an energy generating system for the Garlaff site which is currently the subject of a separate application.

2.13 Restoration of the site would result in a strategy to develop and enhance the conservation resource of the site and surrounding area, to restore the landscape to a character appropriate to its setting, and to mitigate the negative impacts of site working and thereafter achieve successful rehabilitation of the site. Due to the fact that leachate and gas monitoring would continue some years after waste disposal has ceased , there are small areas within the

development site that could not be completely restored at the end of landfill operations. Woodland planting would also take place on the existing landfill site on the northern and western boundaries. The restored areas would also be subject to aftercare management with the main afteruse being agricultural.

2.14 Given the volume of waste to be directed to the proposed extended site on an annual basis, the anticipated life of the site would be 16 years. However the applicant recognises that the actual volumes are likely to reduce as a result of the emergence of waste recycling and re-use technologies, extending the life to approximately 20 years. The proposed hours of operation by the applicant are those currently consented for the site i.e. 0730 to 1800 hours Monday to Friday and 0800 to 1200 hours on Saturdays and Sundays.

2.15 The level of traffic generated by the daily importation of approximately 700 tonnes of waste equates to an average of 79 laden HGVs entering and leaving the site. As the proposed development will result in a continuation of operations at the current levels, there will be no significant increase in the volume of traffic generated. Vehicle carrying refuse will in the main access the site via the A70 and the eastern section of the B7046 road, with approximately 4 laden vehicles per day accessing the site via the western section of the B7046 travelling through Skares village. The site currently employs 6 people and this level of employment would be maintained by the proposed development.

2.16 The planning application is accompanied by an Environmental Impact Statement which seeks to identify environmental and other impacts associated by the proposed development. The EIS promotes a range of mitigation measures to minimise potential adverse impacts and the assessment process itself has shaped the design of the proposed landfill operations to ensure minimal impact on local communities and residential properties.

### 3. CONSULTATIONS

3.1 East Ayrshire Council's Economic Development Division has no comments to make on the proposed development.

***Noted.***

3.2 British Gas Transco, Scottish Power, and West of Scotland Water have no adverse comments to make on the proposed development.

***Noted.***

3.3 The Coal Authority states that the site is within the likely zone of influence on the surface from workings in four seams of coal at shallow to 150 metres depth, the last date of working being 1957. Reserves of coal exist in the locality that could be worked at some time in the future subject to feasibility, licences and planning consents. The site is located within the geographical boundary of the

Skares Road opencast coal site. In view of the mining circumstances of the site a prudent developer would seek appropriate technical advice before works are undertaken on site.

***A note could be attached to any consent granted for the proposed development advising the applicant to make early contact with The Coal Authority.***

3.4 The Scottish Wildlife Trust objects to the proposed application for landfill expansion, opencast coal extraction and the landfill operation as the application does not stipulate in what way or how development of recycling and/or recovery of waste at the point of source will be carried out. The Trust considers that the point of source, i.e. at each household, separation of domestic waste would greatly reduce the requirement for landfill sites and that to continue along the current mode of landfill for the great majority of household and other waste negates the statements of recycling, reduction and sustainability written into the Ayrshire Joint Structure Plan.

***The objection from SWT pertains to issues that are outwith the control of the applicant and would be issues that require to be addressed in the formulation of an Area Waste Strategy. At this time, there has been no agreement on such a strategy that would include East Ayrshire.***

3.5 Historic Scotland has no comments to make on the proposed development.

***Noted.***

3.6 West of Scotland Archaeology Service indicates that there is one recorded site of minor industrial archaeological interest at the southwest corner of the site which is a former colliery. This area is marked as outside the existing site layout but is inside the application area. It is marked as undisturbed grassland/ woodland on the restoration master plan. It appears then that the site will be preserved in situ which accords with Government advice contained in NPPG5 and PAN42 about the treatment of archaeological sites.

***Noted.***

3.7 The Scottish Environment Protection Agency states that it has no objections in principle to the proposed development provided that all necessary steps are taken to prevent/ minimise pollution. With respect to the proposed opencast operation, the following points are relevant:

- (i) Water treatment areas should be located to receive all contaminated water from the excavation, haul roads, overburden / soil tips, plant areas and the coal preparation site. All this site drainage requires treatment before being discharged to a watercourse. Groundwater from the dewatering of the site may need treatment to reduce the iron

concentration. Flow balancing to cope with expected storm conditions must be addressed at an early stage and included in the site working plan. These discharges will require the formal consent of SEPA.

- (ii) Clean water from around the site is to be intercepted and diverted away from the working area. Freshly cut ditches on steep ground will require careful profiling and possibly some protection or the inclusion of plunge pools to prevent erosion and pollution from mineral solids. Temporary settlement facilities may also be required on these ditches to prevent pollution from mineral solids. Any burn diversions should be carried out in such a manner as to prevent any degradation of the habitat in the area. This will require that a detailed ecological study of the aquatic flora and fauna and any other wildlife/ plants within the watercourse is undertaken before the diversion is carried out.
- (iii) All foul drainage from offices, canteens etc. will require treatment prior to the discharge to a watercourse. SEPA's consent is required for the discharge of sewage effluent to a watercourse.
- (iv) 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.
- (v) Vehicle underbody/ wheel washes should operate on a closed cycle system and sited to prevent coal/ mud contamination of the highway.
- (vi) The Part B conditions applicable to opencast sites are contained within the Secretary of State's guidance note PG 3/5(95) – Coal, Coke and Coal Product and Petroleum Coke Processes. These conditions will apply to loading, unloading, grading, blending, screening and size reduction of coal. These processes require a Certificate of Authorisation as a Part B process. The handling of overburden is excluded from the prescribed process. To minimise releases to atmosphere coal stockpiles maintained on the site should be profiled to prevent whipping action of the wind. Stockpiles should where possible be sited at sheltered areas of the site, environmental bunds may be used where natural shelter does not exist. In addition, stockpiles and coal haul roads must be dampened as necessary to prevent particulate emissions. Operation of the process can be agreed in detail at the time of application and will relate to the prevention or minimisation of the release to atmosphere of particulate material using the BATNEEC criteria. Although monitoring equipment should not be required immediately the applicant should be aware that monitoring may be required following poor performance or public complaint.
- (vii) Any discharges of trade effluent to watercourses from the site will require the formal prior consent of SEPA and will be advertised for public consultation under the terms of the Control of Pollution Act 1974 (as

amended). The existing Part B Authorisation may require to be reviewed to take account of the extension to the coal processes under the terms of the Environmental Protection Act 1990, or may be included as part of a permit issued under the Pollution Prevention and Control (Scotland) Regulations 2000 for the whole development. The applicant should be aware that if the Scottish Ministers deem it necessary to call in any of the above applications following public consultation there may be a delay in obtaining the necessary consents/ authorisations.

***The extraction of the coals within the existing Garlaff site will be undertaken as an extension to the existing operations within Area B of the Skares Road site, utilising the existing treatment facilities, existing haul roads and coal preparation area associated with this site. Nonetheless, conditions could be attached to any consent granted for the proposed development to meet the requirements of SEPA.***

SEPA also indicates that the Council should be aware in respect of Part B authorised processes, that although SEPA's authorisation conditions will minimise the release of dust to atmosphere from the prescribed processes, some release from the site is inevitable and should be taken into account when considering local air quality.

***Noted.***

With respect to the landfill operations, SEPA makes the following points:

- (i) Regulation 15 of the Waste Management Licensing Regulations 1994, as amended, requires prior investigation of sites and discharges involving List I and II substances. It requires consideration as to whether discharges are direct or indirect and the sensitivity of receiving groundwaters. This investigation should commence as early as possible in order to produce sufficient information at the time of issue of the waste management licence. Evidence of the stability of the base of the landfill prior to the installation of the liner will be required.

***A note could be attached to any consent granted for the proposed development requiring the applicant to make early contact with SEPA.***

- (ii) Due to the nature of the exposed site, SEPA would strongly recommend that a structure be required, which in extreme weather conditions, would facilitate enclosed tipping and therefore reduce the high visual impact of windblown litter.

***The applicant has indicated that in the event of extremely high winds, contingency plans for the disposal of contracted waste would involve the storage of waste within the existing waste transfer station at Garlaff and restricted tipping on site.***

- (iii) During the operation of the current site, odours from fugitive gas emissions have been problematic and have given rise to a substantial number of complaints. It is important therefore that gas wells are installed progressively in cells and they are connected to an active abstraction system as soon as possible to prevent this situation from recurring. Passive venting will not be acceptable.

***In order to minimise emission of odorous gases, the applicant proposes to utilise an active gas collection system with the gas being burned in a landfill gas engine/ turbine, which destroys odours at high temperature. The landfill gas collection wells would be installed after capping has taken place, on a cell-by-cell basis to minimise the volume of gas venting to air.***

- (iv) A lining system will be required to contain leachate arising from the landfill operation. The lining system should be designed to comply with the requirements of the EC Directive 1999/31/EC on The Landfill of Waste. This will require a geological barrier as well as a leachate collection and containment liner.

***The applicant proposes to install a liner system in accordance with Annex 1 of the above-mentioned EC Directive, with the control of leachate levels within the site by the installation of a basal drainage system and wells leading to a sump chamber.***

- (v) The operation of the existing landfill site is regulated by SEPA by means of a waste management licence and the new landfill site will require a permit under the Pollution Prevention and Control (Scotland) Regulations 2000. SEPA has not commented in detail on the day-to-day operations at this stage. As part of the regulatory control of the landfill operation SEPA will require the provision of a financial bond, which would cover restoration and aftercare, should the operators cease trading or otherwise be unable to fulfil the obligations arising from the licence/ permit.

***Noted.***

3.8 East Ayrshire Council's Environmental Health and Waste Management Division states that the application represents a significant extension in landfill capacity over the existing site and the proposed input of up to 700 tonnes per day (250,000 tonnes per annum) of solid wastes will make the facility one of the major league operations in the West of Scotland over the next 15 – 20 years. Whilst it is believed that East Ayrshire may not be as critically short of landfill capacity as the Environmental Statement suggests, it is conceded that such sites have to be planned well in advance and in that context the applicant's existing landfill at Garlaff is filling at a steady rate and certainly has a limited lifespan. From the applicant's point of view, extension of the existing facility would permit the continued use of an established infrastructure.

***At present, the existing Garlaff site is the only operational licenced landfill site in East Ayrshire. The planning consent for the Craignought site near Dunlop expired on 07 June 2001, although an application to extend the timescale of the landfill operations at this site has been submitted for consideration. Planning consent has been granted for the Darnconner landfill site near Auchinleck, however there is currently no waste management licence in place. With capacity at the existing Garlaff site expected to be fully taken up by 2002/2003, it is considered that there could be a significant shortfall of landfill space.***

The Environmental Statement indicates that the input and general level of the current site activities is similar to the scale for the proposed extension. The presumption is that the proposed site extension will not generate any significant intensification of activities but will considerably extend them along a timescale of up to 20 years.

***Noted.***

Use of the waste disposal site will be an activity that will be regulated and monitored by SEPA on an ongoing basis. Many of the general environmental concerns of this project will in fact fall within the ambit of SEPA for ensuring that satisfactory and specific control measures are formulated, put in place and subsequently implemented. These will include leachate treatment and controls, litter controls, dust, hours of operation, site practices etc.

***It is acknowledged that through the Waste Management Licence and Pollution Prevention and Control permit, SEPA will exercise controls over the development. However, it is considered that should consent be granted for the proposed development, appropriate planning controls may also require to be imposed on the development through the imposition of conditions and use of legal agreements.***

The Division also states that landfills are a known source of odours due to the natural biodegradation of mixed wastes under a variety of weather conditions. The adoption of good site control techniques will assist considerably in the control of odours arising, although this should ideally be coupled with an active gas extraction system (as is proposed in this case) to ensure maximum benefit. Indeed the scale of the activity envisaged on the site that the applicant proposes to utilise the gas produced for the production of electricity. This will provide the twin benefits of removing a potential problem from the site allied to the production of a useful resource. Any landfill gas control measures should include routine gas monitoring in and around the site which it is believed will be subject to SEPA control.

***At present, landfill gas is collected and burned off using a gas flare stack. This is a fairly recent introduction to the existing site as a***

***measure to minimise odorous emissions. The present application seeks to further mitigate this problem by collecting landfill gas using active gas collection system with the gas being burned in a landfill gas engine/ turbine, which destroys odours at high temperature. The landfill gas collection wells would be installed after capping has taken place, on a cell-by-cell basis to minimise the volume of gas venting to air. A separate planning application (Ref. No. 01/0077/FL) for the siting of a generator compound and the installation of two landfill gas generator sets at the existing Garlaff site has been submitted to the Council for consideration.***

The Division is not aware of any noise problems arising within the site since the landfill became operational. As the basic site operations will remain substantially unchanged there is no reason to suspect any significant deterioration in this respect. The predicted noise levels summary indicates that the potentially loudest levels will be at Garlaff Farmhouse which is within the control of the applicant.

***The proposed development, both in respect of the opencasting and landfill operations will involve noise-making activities. However, it is considered that the operations can be undertaken in a manner that will, with the imposition of appropriate planning conditions in any consent granted and implementation of monitoring, ensure that acceptable environmental standards are met.***

The Division states that there is nothing in the Environmental Statement to which it would take exception and accordingly it has no objection in principle to the application. Approval of the application will mean that the use of the site for a landfill operation will be perpetuated for up to the next 20 years and any local impact currently being experienced will continue for that period of time.

***Noted.***

One point that might warrant some clarification is the proposed hours of operation of the facility. The Division believes that at present the site does not operate on a Sunday. It is noted that the documentation refers to weekend opening hours as Saturday and Sunday from 0800 to 1200 hours. In the past it would have been anticipated that a landfill site would not normally have operated on a Sunday, other than in special circumstances and with the consent of the local authority and SEPA. While traffic considerations would not fall within the ambit of this service, the Division would be somewhat concerned to ensure that this point is thoroughly aired, as it could be a matter of contention to residents along the access road. It is believed that in this instance the matter is complicated by the fact that although the site does not currently operate on a Sunday, the waste disposal licence from SEPA may actually permit the applicant to do so. Unless the original planning consent imposes a restriction on Sunday opening it would be difficult to present a rational restriction on Sunday operations at this stage.

***Under the existing planning consent for the Garlaff site (Ref. No. CD/95/0273/DPP, the approved working hours allow operational activities between 0800 to 1200 hours on a Sunday. However, the applicant has chosen not to operate the site on Sundays and to a greater degree, the residents in the locality and on vehicle routes have become accustomed to this practice. In terms of improving environmental standards, it is considered that the maintenance of this practice of no Sunday working is desirable and would mirror similar controls imposed on opencasting operations. The exception to this would be the operation of the Civic Amenity site which would require to be operational 7 days per week.***

3.9 East Ayrshire Council's Roads and Transportation Division note that the traffic assessment for the above proposals confirm the following:

- (i) operations within the extended landfill site will not commence until the existing permission for Garlaff ends in 2002;
- (ii) domestic waste will be imported at the same rate as the current operation;
- (iii) future HGV movements will be at existing levels; and
- (iv) 95% of HGV's currently use the B7046 road to the east of the site to gain access, the remaining 5% use the section of the B7046 to the west of the site to access local communities in the area.

***Noted.***

Nevertheless any changes in market conditions are likely to have an impact on future traffic activity. It is also unlikely that the developer will be able to control the routing of all vehicles entering and leaving the site. It is therefore recommended that a number of issues are addressed by either a Section 75 Agreement or suitable planning conditions, as appropriate, to protect the interests of road users and the neighbouring community. The issues to be addressed are as follows:

- (a) commercial vehicles operated by the developer or other organisations contracted to the developer shall use the A70/B7046 eastern route to and from the site.

***The routing of vehicles can be addressed through obligations incorporated within a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997. The applicant has expressed a willingness to enter into such an agreement.***

- (b) infrastructure improvements shall be implemented in Skares to discourage speeding and the movement of extraneous traffic to and from the site, the work to be completed at the developer's expense before bringing the extended landfill site into use.

***The average number of daily HGV movements through Skares associated with the existing operations at Garlaff is 8. Vehicular activity associated with the proposed extension is to be commensurate with the current operations. In this respect, given the low level of vehicular movements through Skares village, it is considered that the imposition of an obligation on the applicant to provide traffic calming measures would be overly onerous.***

- (c) The developer shall undertake a joint inspection of the B7046 road with the Roads Division to identify infrastructure improvements that are required to cater for the anticipated volume of traffic during the term of the planning consent. Any improvements to the road network that are deemed necessary shall be implemented at the developer's expense prior to bringing the extended landfill site into use.

***The requirements of the Roads Division can be addressed through obligations under a Section 75 Agreement.***

- (d) the internal access roads are to be upgraded as necessary prior to the occupation of the site and maintained in good condition for the duration of the landfill operations.

***A condition could be attached to any consent granted for the proposed development to meet the requirements of the Roads Division.***

- (e) wheel and vehicle wash facilities are to be established and maintained for the duration of the landfill operations.

***The existing site at Garlaff has an operational wheel wash facility, although it is considered that this should be upgraded to allow for underbody washing. A condition could be attached to any consent granted for the proposed development to ensure that existing facilities are upgraded to meet present day operational standards.***

- (f) road sweeping equipment is to be established on the site for immediate removal of any debris carried onto the public road.

***A condition could be attached to any consent granted for the proposed development to meet the requirements of the Roads Division.***

3.10 The Scottish Executive Environment Group has no comments to offer on the Environmental Statement.

***Noted.***

3.11 The Ayrshire Joint Structure Plan and Transportation Team states that in the absence of further guidance from an area waste strategy covering the

Ayrshire area, policies E17 to E19 within the Structure Plan provide the strategic context for the assessment of this development.

***Full assessment of the development against the policies of the approved Ayrshire Joint Structure Plan is made in section 5 of this report.***

Within this context the AJSPTT raises no objection in principle of the development but would however wish the following matters to be addressed, where appropriate, implemented by the use of a Section 75 Agreement or by the lodgement of a bond:

- (i) the source of waste residue disposed on site, in general terms, be restricted to waste arising from within Ayrshire (Ref. Structure Plan Policy E18).
- (ii) appropriate mitigation measures, that address the environmental impact of the proposal and address the criteria A, B, C, E and F of Policy E19, are implemented in full.
- (iii) in light of the future implementation of a strategy for waste management in Ayrshire, Dumfries and Galloway that could lead to a reduction of municipal waste to landfill, safeguards are negotiated which will ensure the complete restoration of the site within 20 years.

***It is considered that the issues raised by the AJSPTT can be addressed appropriately through a Section 75 Agreement.***

3.12 Scottish Natural Heritage indicates that it does not object to the development as proposed but offers the following comments:

- (i) The Environmental Impact Statement (EIS) identifies the key issues and generally assesses them using the appropriate methodologies. However given the prolongation of site workings over and above that anticipated for the opencast development, it would have been useful to have had an evaluation of the cumulative impact on landscape and visual amenity in the context of other large-scale developments (principally opencast) in the vicinity. SNH notes the suggestion that visual impacts could be mitigated by advance tree planting along the Skares Road and by enhancement along the Polcalk Burn and suggests that this be included as part of an agreed mitigation plan.

***The implementation of advance tree planting could be secured through a Section 75 Agreement should consent be granted for the proposed development. It is considered that a Technical Support Group should be established for the site, comprising of representative from SNH, RSPB and SEPA which would oversee the implementation of mitigation measures promoted in the Environmental Statement.***

(ii) The ecological assessment is based on data collected for the EIS for the Skares Road opencast site, which data is interpreted in the context of the current proposal. In view of the fact that no additional loss of habitat is being incurred, this approach is reasonable, although it would have been helpful to have included summary plans illustrating the data being interpreted. Impacts of increased vermin on local fauna are acknowledged as a key potential impact. An agreed mitigation programme should include a detailed pest control strategy to incorporate the elements described including progressive restoration, daily cover and use of a bird of prey as a scarer.

***Implementation of the mitigation measures promoted in the EIS can be secured through a Section 75 Agreement should consent be granted for the proposed development.***

(iii) Although no additional habitat is proposed in terms of area, the prolongation of the working lifetime of the site necessarily means a delay in restoration to habitat suitable for wildlife. Advance restoration of some of the existing Garlaff site as well as the non-operational parts of Area C may serve to offset this impact to a modest extent. SNH notes the possibility that exposed cliffs produced as part of the opencast void might present attractive nesting opportunities to certain bird species, notably peregrine, and in line with the suggestion in the EIS, an agreed mitigation plan should also include appropriate monitoring of such areas prior to landfill operations that might affect them. The possibility of future otter use of the Polcalk and Rose Burns is noted. If these are likely to be affected by the proposed development, works should not proceed until an acknowledged specialist has carried out a survey of otter use.

***The issues raised by SNH can be addressed through the establishment of a proposed Technical Support Group for the site.***

(iv) The original wider Skares Road development included as part of the restoration proposals, a heritage trail that would run around the southern periphery of the current application site. This is not included on the restoration master plan and should be included in the final restoration scheme.

***The provision of the heritage trail can be addressed through the establishment of a proposed Technical Support Group for the site which would assist in developing the restoration strategy and master plan for the site including final afteruse proposals.***

(v) The EIS includes a restoration master plan, illustrating the broad habitat and landscape features to be created during restoration. It is noted that the EIS proposes that detailed design proposals be submitted prior to each phase of the progressive restoration. SNH considers it appropriate for the applicant to draw up a complete, detailed restoration scheme prior to the commencement of the landfill operations. Such a restoration scheme should illustrate the phased stages of reclamation/restoration. The restoration scheme should include details of species used in woodland planting and other features such as wetland areas and hedgerows. As far as possible, detailed restoration proposals should be set

in the context of surrounding land use, in particular the restoration proposals for the neighbouring opencast sites.

(vi) The restoration scheme should include proposals for the aftercare and afteruse. These will include maintenance of hedge and tree planting over the necessary period, and establishment of agricultural management over the site as appropriate to maintain suitable habitat for wildlife. Afteruse should see the continuance of appropriate agricultural management.

***It is considered appropriate for the details of the restoration of the site, including aftercare and afteruse, to be submitted for approval prior to the commencement of landfill operations in the extension area. The details would be the subject of further consultation with the participants in the proposed Technical Support Group.***

In conclusion, SNH does not object to the proposal being carried out strictly in accordance with the submitted plans, subject to the advance production and implementation of a scheme to cover detailed mitigation, restoration, aftercare and afteruse, to the agreement of the planning authority. SNH would be happy to comment further on the development of such a scheme.

***Noted.***

3.13 The Royal Society for the Protection of Birds has no objection to the proposed development but makes the following comments:

(i) whilst reference is made to restoration, aftercare and afteruse of the landfill site and some detail has been included in a restoration master plan, this is broad and does not provide detailed habitat proposals. RSPB therefore encourages clear and detailed restoration plans be provided at this stage. These should fully integrate with the surrounding area.

***It is considered appropriate for the details of the restoration of the site, including aftercare and afteruse, to be submitted for approval prior to the commencement of landfill operations in the extension area. The details would be the subject of further consultation with the participants in the proposed Technical Support Group including RSPB.***

(ii) within the restoration plan, RSPB would direct the applicant to the draft Local Biodiversity Action Plan and opportunities to contribute to a number of the habitat and species action plans identified, notably native woodland and natural grasslands. In addition, black grouse are recorded in the surrounding area and part of the mitigation for the contiguous opencast site has been to manage areas for this declining species. RSPB recommends consideration of additional habitat opportunities such as small, cropped areas that would directly benefit this species.

***The suggestions made by RSPB could be addressed by input to the proposed Technical Support Group and incorporation in the detailed restoration, aftercare and afteruse plan for the site.***

(iii) RSPB would welcome further consideration of the detailed working plan for the landfill site at a later stage. In particular, RSPB would like to see full details of the control methods anticipated for gulls and other pest species. Whilst progressive restoration is commendable and will shorten the length of time between habitat loss and recreation, continued disturbance through ongoing site operations and the attracted predators is likely to inhibit the immediate use of these areas by ground nesting birds.

***A condition could be attached to any consent granted for the proposed development to ensure that the details of pest control measures are the subject of consultation with both SNH and RSPB.***

(iv) RSPB welcomes the periodical surveying of the opencast site for nesting birds in advance of landfilling.

***Noted.***

3.14 Ochiltree and Cumnock Landward Community Councils, the Health and Safety Executive, British Telecom and the Forestry Authority have not responded to the consultation letters.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 A total of four letters of objection to the proposed development have been received, including the objection from the Scottish Wildlife Trust as detailed in section 3.4 above. The points of objection are summarised below.

4.2 Over the past years we have suffered visual intrusion and a high level of stench on a regular basis, always in the knowledge that the site didn't have much longer to go. Now we are expected to suffer the same for many more years to come and I feel that this is contrary to our human rights as it is clearly stated that we are entitled to a standard of living and quality of life and also a respect of private life.

***The problems regarding odorous emissions from the existing landfill site have been confirmed by SEPA. However, the applicant has sought to address this problem by the introduction of gas flare stacks to burn off landfill gas. The present application seeks to further mitigate this problem by collecting landfill gas using active gas collection system with the gas being burned in a landfill gas engine/ turbine, which destroys odours at high temperature. The landfill gas collection wells would be installed after capping has***

**taken place, on a cell-by-cell basis to minimise the volume of gas venting to air.**

**It is also accepted that there will be a potential negative visual impact resulting from the proposed development and over a longer period of time, as acknowledged in the Environmental Impact Statement. Mitigation measures are proposed to minimise this impact which would result in the direction of working and restoration being designed to reduce impact on visual receptors.**

**With respect to the issue of Human Rights, the Council has a duty to consider planning applications in relation to the policies of its development plan and other material planning considerations. The existence of objections does not in itself provide a reason for refusal of planning applications, although material planning issues raised by objectors must be considered in relation to the policies of the development plan. It is open to an individual or group if they believe that their human rights have been infringed by a planning decision, to seek a Judicial Review of that decision and thereby exercise their right to a fair hearing under Article 6 of the Convention of Human Rights. Additionally of course objectors have an opportunity to present their case before the Local Planning Committee when it determines the planning application.**

4.3 The Planning Department has a conflict of interest as East Ayrshire Council obviously wants and needs this landfill site and therefore you should not be allowed to make this decision.

**There is no conflict in the Planning Division considering this application for the reasons as follows. In terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 1997, certain categories of development require to be formally notified to the Scottish Ministers should the Planning Authority be minded to approve such proposals. In this respect, the Council has a contractual arrangement with the applicant for the disposal of waste. Furthermore, the Council has a Civic Amenity Site within the development site that is managed by the applicant on behalf of the Council. It could therefore be construed that the Council has a financial interest in the development. In this regard, the application would require to be notified to the Scottish Ministers where the proposed development does not accord with the adopted or approved local plan for the area or where the development has been the subject of a substantial body of objections. As indicated in Section 5 of this report, the proposed development is not considered to be contrary to the provisions of the adopted Cumnock and Auchinleck Local Plan. Furthermore, only three letters of objection have been received from third parties and one letter of objection has been received from the Scottish Wildlife Trust. This is not considered to**

**be a substantial body of objections. Consequently, it is considered that the application need not be referred to the Scottish Ministers in terms of the Direction.**

4.4 I am sure this extension will be given the green light and suggest that the following points be given serious consideration:

- (i) high level of stench on a regular basis;

**See response to 4.2 above.**

- (ii) waste allowed to blow around the countryside;

**The Environmental Impact Statement promotes mitigation measures to minimise wind blown litter leaving the site including the use of litter fences and contingency measures during extreme weather conditions.**

- (iii) a proper wheel wash, not the drive through mud bath being used at the moment;

**It is considered that the existing wheel wash facility requires to be upgraded and a condition could be attached to any consent granted for the proposed development to secure this requirement.**

- (iv) more control over what is being buried;

**The waste directed to the Garlaff landfill site will be controlled through the Waste Management Licence and the Integrated Pollution Prevention and Control permit issued by SEPA.**

- (v) waste falling off trucks travelling to the site

**Mitigation measures are proposed to ensure that there is minimal escape of material from vehicles entering and leaving the site. Site management will be such that access to the site is to be restricted to vehicles that are sheeted and secured. A condition could be attached to any consent granted for the proposed development to meet this requirement.**

- (vi) more rigorous control in the future as there appears to have been very little in the past;

- (vi) more action to control seagulls and rats;

**It is considered that the operations which are the subject of the present application will be subject to greater controls imposed both through the planning process and through the appropriate Waste**

**management Licence and IPPC permit issued by SEPA including measures for the control of vermin.**

(viii) outside contractors warned of poor driving i.e. speeding and cutting corners.

**The applicant has, in relation to the coal extraction proposals and the landfill operation, indicated a willingness to subscribe to the Council's transportation protocol which could be included as part of any Section 75 Agreement. This protocol would seek to promote, amongst other things, good driving practice.**

4.5 We are not happy that you shall be considering plans for the development of the landfill at Garlaff. When we built our house we knew nothing of these plans. I am sure we would never have built a house here.

**Planning permission for the erection of the objector's house was granted in 1989 prior to both the current application and the original application for the Garlaff landfill site which was lodged in 1990.**

4.6 The Council has the cheek to class us as Band E in our council tax. We pay over a £1000 for the privilege of staying here and putting up with the pong. The smell of gas from the refuse would turn your stomach.

**See response to paragraph 4.2.**

4.7 We certainly cannot enjoy the country life. Why do these sites need to be put near built up areas?

**The Garlaff site is considered to be located in a relatively remote area that is sparsely populated.**

4.8 I shall be getting in touch with my MP about paying the amount we pay for council tax as we should be paid to live here. I also feel our property has dropped in price dramatically and would have difficulty in selling our house.

**The points made by the objector are not material considerations in the determination of this application.**

4.9 MEGA is very concerned about this application appearing at this time when there is no provision in the East Ayrshire Finalised Local Plan for new or extended landfill sites. MEGA has made strong representations/ objections to this plan in respect of waste disposal policies. To treble or quadruple the Garlaff site when no provision has been made in either the previous local plans or the finalised EALP is therefore unacceptable until after the local plan has been through public inquiry. It is contrary to our Human Rights to deny objectors the opportunity for full debate on the question of using opencast voids for landfill.

***Since the submission of the letter of objection, the Council has approved the East Ayrshire Local Plan, Finalised Version with Modifications (EALP). Full assessment of the proposed development is made against the policy provisions of the EALP in section 6 of this report. With respect to the issue of Human Rights, the Council has a duty to consider planning applications in relation to the policies of its development plan and other material planning considerations. In this regard the EALP is a material consideration in the determination of this application. Notwithstanding the fact that the EALP will be the subject of a future Public Local Inquiry, the Town and Country Planning (Scotland) Act 1997 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. It is open to an individual or group if they believe that their human rights have been infringed by a planning decision, to seek a Judicial Review of that decision and thereby exercise their right to a fair hearing under Article 6 of the Convention of Human Rights. Additionally of course objectors have an opportunity to present their case before the Local Planning Committee when it determines the planning application.***

4.10 The proposal is contrary to the development plan.

***The development plan for the area in which the application site is located comprises the Adopted Cumnock and Auchinleck Local Plan (1992) and the Approved Ayrshire Joint Structure Plan (1999). A full assessment of the proposed development against the development plan is made in section 5 of this report.***

4.11 The proposed development is contrary to rural policies in the finalised EALP. It is contrary to Policy SD4 that only finds development outside settlements acceptable if they are sensitive, with a site-specific locational need. Landfill cannot be described as a sensitive development, nor does landfill require this particular site.

***Full assessment of the proposed development against the provisions of the EALP is made in section 6 of this report. The development requires to be assessed against the more relevant policies that in this case are policies CS4, 5 and 6 which specifically relate to waste disposal. It is considered that the proposed development is consistent with these waste disposal policies as indicated in section 6.***

4.12 The proximity principle applied to the disposal of waste does not justify further extensive use of the application site. The site justification used by the applicant in that it will facilitate the reclamation of Area B of the Skares site is incorrect, as this area has already had its restoration plan approved. The current application will therefore delay, not facilitate the restoration of Area B (and C).

***It is considered that the Garlaff site is well located to serve the waste disposal requirements of East Ayrshire and supports the proximity principle for disposing of waste close to its source. It is accepted that the proposed development cannot be justified on the basis that it will facilitate the restoration of Area B of the Skares road opencast coal site. It is further acknowledged that the restoration of Area B and Area C of this site will be significantly delayed, albeit that progressive restoration will take place during the operational life of the landfill site.***

4.13 The development is also contrary to Policy ENV13 as waste disposal sites cannot be in keeping, nor evidently have minimal impact on this rural area.

***Policy ENV13 seeks to ensure that, through the development control process, authorised developments will be carried out in such a manner as to minimise impact on the rural area. It is considered that through the imposition of appropriate conditions and specific obligations in a Section 75 Agreement, the development could be undertaken in a manner that would minimise impact on the rural area. The provisions of Policy ENV13 also require to be balanced against the provisions of Policies CS4, CS5 and CS6 as indicated in section 6 of this report.***

4.14 Policy ENV14 requires the Council in assessing proposals relating to land within the rural area which has not been identified as a specific opportunity site, to ensure that a development such as now proposed will have minimum impact on the rural environment and to presume against development which would adversely affect the quality of water resources, water catchment areas, land drainage or flood protection interests or create water pollution problems. Before considering any extension of the landfill site at Garlaff, the Council is therefore duty bound to review the current operations, including standards of restoration, incidents of pollution, current air quality standards and environmental nuisance such as smell, litter, dust and noise. Policy ENV19 also refers to some of these important planning considerations.

***Notwithstanding the provisions of Policy ENV14, the proposed development requires to be assessed specifically against the provisions of the waste disposal policies of the EALP which the objector has failed to acknowledge. A full assessment of the proposed development against the criteria of Policy CS5 is made in section 6 of this report. The fact that the existing landfill site forms an integral part of the current application will allow for the potential for greater controls to be imposed on the overall site and for additional mitigation measures to be introduced in line with current environmental practice.***

4.15 Policy ENV15 of the previous Cumnock and Doon Finalised Plan presumed against the deposition of waste generated from outwith the District in any authorised landfill site. The justification for this was that there were enough

licenced waste disposal sites within the District to meet anticipated demand until 2000. Garlaff was not designated on the Rural Areas Map in 1995 for landfill just as it is not designated on the EALP Rural Areas Map. We assume that there is no designation on the previous adopted Catrine and Sorn Plan.

***The policies of the finalised Cumnock and Doon Valley Local Plan are material considerations in the determination of this application. However having been superseded by the EALP it is considered that minimal weight should be attached to them. The proposed development site falls within the area covered by the adopted Cumnock and Auchinleck Local Plan, not the adopted Catrine and Sorn Local Plan.***

4.16 If the Council wishes to improve the chance of investment in the southern part of its area then accepting South Ayrshire's waste together with delaying restoration of another opencast site for a generation will not improve the area's prospects, nor halt its increasing rate of depopulation.

***The comments of the objector are noted.***

4.17 This application will have an impact on surrounding residents. The Scottish Executive has asked for very careful assessment of dust generating operations within 1000 metres of sensitive receptors, yet the applicant states that you are only at risk if within 200 metres. As the applicant accepts that there are high potential dust emissions, MEGA questions their conclusions that receptors will be vulnerable on only one day per month, particularly when they have used inaccurate wind roses for this area being those for Prestwick Airport. We ask that the Council employs a quite independent dust expert to assess the clear dust problem at Garlaff.

***An assessment of the potential impact associated with dust is given in the Environmental Impact Statement that accompanies the planning application. The EIS indicates that the potential for severe dust impact is greatest within 100 – 200 metres of dust generating activities. The risk of dust impacting on sensitive receptors depends on a number of factors and whether these occur at the same time, not on the basis of distance alone. While it is accepted that some of the operations such as the extraction of coal and the stripping, storage and restoration of soils have the potential for dust generation, it is considered that the landfilling operations will not result in significant dust impact as the waste will predominantly comprise biodegradable household and commercial waste, which is generally resistant to dust emissions due to particle size and the inherent moisture content. No problems associated with dust nuisance from the existing landfill operation have been indicated through SEPA, the consultation process or through the representations received. Furthermore, the mitigation measures proposed in the EIS to control impacts associated with dust should ensure that such potential impact is minimised. It is not considered***

***necessary in this case to seek the opinion of an independent expert.***

4.18 Although the site is remote, it is vital that it is properly monitored by the Council. Although the Council has a great interest in the site, this must not preclude it from ensuring it is properly operated in order to reduce its current detrimental affect on the surrounding amenity.

***Should consent be granted for the proposed development, it is proposed to introduce periodic reviews of site operations to monitor compliance with planning conditions and any obligations imposed on the applicant through a Section 75 Agreement. Furthermore, SEPA will have a responsibility to ensure compliance with any Waste Management Licence and IPPC permit granted for the landfill operations.***

4.19 There is a problem of smell. The previous gas problem at Garlaff appears to have been remedied by gas flaring. Surely the anticipated gas generation can be roughly quantified and consideration be given at this stage as to how it will be used in a suitable manner.

***At present, landfill gas is collected and burned off using a gas flare stack. This is a fairly recent introduction to the existing site as a measure to minimise odorous emissions. The present application seeks to further mitigate this problem by collecting landfill gas using active gas collection system with the gas being burned in a landfill gas engine/ turbine, which destroys odours at high temperature. The landfill gas collection wells would be installed after capping has taken place, on a cell-by-cell basis to minimise the volume of gas venting to air. A separate planning application (Ref. No. 01/0077/FL) for the siting of a generator compound and the installation of two landfill gas generator sets at the existing Garlaff site has been submitted to the Council for consideration.***

4.20 There is clearly a potential risk and problem on the extended site because of the presence of old mine workings. These may cause ground slumping, emission of old mine gases, and emission of polluted minewater.

***The extension of the Garlaff site will be into the void created by opencast operations in Area B of the Skares Road opencast site. It is considered that such operations, at depth, will have removed potential problems associated with former mine workings in this area.***

4.21 MEGA is concerned about landfill into a liner until the integrity of the current landfill operations have been investigated in relation to pollution incidents. The area proposed for landfill is huge. How is it possible to construct a liner over different levels to contain pollutants and contaminants.

***Regular monitoring of water quality of the Polcalk Burn is undertaken as part of the discharge consent from SEPA, and SEPA has also undertaken both chemical and biological investigative monitoring of both the Rose Burn and Polcalk Burn, the results of which are contained within the appendices of the EIS. No indication has been made by SEPA in the consultation response of any problems associated with water contamination or pollution. The landfill operations will be undertaken in a series of cells with the liner being introduced on a cell-by-cell basis. The details of the liner will require to be the subject of further approval by SEPA.***

4.22 MEGA objects to the proposal to renege on current consents to have the Skares opencast site restored immediately after opencasting has been completed. It would appear that part of the Skares site which has already been opencasted and then backfilled will also have some of its current restoration negated.

***It is accepted that the proposed development will result in significant delay of the restoration of Areas B and C of the Skares Road opencast site.***

4.23 As there is no Traffic Impact Assessment, there is no assessment of cumulative traffic impact on surrounding roads. It is stated that there will be no traffic increase, but there has already been a traffic increase over the last few years when HGVs from South Ayrshire started arriving at Garlaff. Since Garlaff was originally approved, Skares and Milzeoch have added to traffic volumes. So this is a time to assess the acceptability of 200-300 HGVs per day in the locality.

***The impacts associated with traffic are addressed in the EIS that accompanies the planning application and is based on information requested at the scoping stage of the EIA process. The submitted application indicates that domestic waste will be imported at the same rate as the current operation and future HGV movements will be at existing levels. With the cessation of coaling activities at the Milzeoch opencast site, there has been a significant reduction in HGV movement on the eastern section of the B7046 road. The proposed extension will result in approximately 8 vehicle movements along the western section of the B7046 road which is heavily trafficked by vehicles associated with the Skares Road site. However, this would be a continuation of the existing level of movements and it is not considered that there will be any significant additional cumulative traffic impacts arising from the proposed development.***

4.24 The application does not make it clear how the coal is to be extracted, estimated to be 75,000 tonnes over 5/6 weeks. This would equate to 115 HGVs per day exiting the site at the Garlaff entrance where people go to dump rubbish. Apart from the clear traffic increase, there would also be an unacceptable and potentially dangerous traffic conflict at the entrance to Garlaff.

***The proposed extraction of coal from the application site will be carried out as a small extension to the current operations in Area B of the Skares Road site with coal being taken via the existing haul roads to the coal storage and preparation area at Skares Road. Coal would thereafter be dispatched via the Skares Road site entrance to market. No coals will be taken through the existing entrance at Garlaff.***

4.25 If the Council approves a further 77 hectares of land to be part of the Garlaff waste disposal site, then there will be little incentive for local councils to achieve even the modest target of 10% of waste to be recycled. It is in East Ayrshire's interest, both environmentally and economically to discourage a massive increase in potential landfill at this time.

***The issues associated with recycling of waste will require to be addressed in the formulation of an Area Waste Strategy in which SEPA take the lead role. At this time, such a strategy has not been put in place for the relevant Waste Strategy Area, and SEPA have not objected to this proposal. However, it is considered that an obligation could be incorporated in any Section 75 Agreement for the development requiring the applicant to consider, if appropriate or necessary, measures to respect the principles of the Area Waste Strategy relative to waste recycling, once agreed by the relevant local authorities.***

4.26 MEGA submits that there are deficiencies in the EIA and therefore ask for a check on its content to be carried out by the Institute of Environmental Assessment.

***Reviews undertaken by the IEA are based on an audit of the methodology undertaken in the impact assessment of the proposed development, not the content or accuracy of the information provided. It is not considered necessary or appropriate for such a reference to the IEA to be made.***

4.27 The Polcalk and Rose Burns have been assessed as ecologically valuable yet the Polcalk Burn will be intercepted and diverted.

***The Polcalk Burn has been intercepted and diverted as part of the approved operations within Area B of the Skares Road site.***

4.28 How will the use of birds of prey to control seagulls be compatible with the preservation of such endangered species? It is requested that RSPB, SNH and SWT are consulted about such an extensive landfill site. With regard to flora and fauna, only otters are mentioned and then dismissed. The presence of salmon was dismissed because of the breadth of streams. This is hardly a proper survey. MEGA cannot agree that a full ecological assessment has been undertaken.

***It should be noted that the proposed development will take place on what is currently disturbed land and it is considered that there will be no additional impacts on flora and fauna with landfill operations being undertaken in an opencast void area. RSPB, SNH and SWT have all been consulted on the application and no objections have been raised in principle by either SNH or RSPB. Indeed, SNH endorses the use of birds of prey as a deterrent to gulls. SWT has objected to the proposed development but not on grounds of impact on flora and fauna.***

4.29 Another omission is with regard to archaeology, whether ancient or industrial.

***West of Scotland Archaeology Service has been consulted on the application and also the EIS and has offered no adverse comments on either the proposed development or in terms of the content of the EIS.***

## **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 Approved Ayrshire Joint Structure Plan (1999) 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 lies within the Rural Area and also within a Priority Opencast Coal Area (opencast coal mining in accord with Strathclyde Structure Plan policy). The proposal would therefore fall to be considered principally against Policies 34, 36-39, 47 of the adopted local plan relating to opencast development and for the following reasons it is considered that there is no conflict with the policy provisions of the Adopted Cumnock and Auchinleck Local Plan.

- (i) Policy 34: 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: 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 Scottish Wildlife Trust has objected to the proposed development, no statutory or non-statutory sites of natural heritage or built heritage importance are affected by 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. The land is currently the subject of opencast coal extraction and is therefore at this stage not locally important agricultural land.***

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

***The proposed development site falls within an identified coal priority area (opencast coal mining in accord with Structure Plan policy).***

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

***The proposed extraction of coal will in effect be an extension to current opencast coal extraction operations in Area B of the Skares Road opencast coal site. Restoration of this site is covered by a restoration bond as part of the existing Section 75 Agreement. The small extension to Area B will be covered by the existing bond arrangements until such time as the site is covered by an appropriate alternative restoration bond.***

- (v) Policy 39: 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 SEPA, SNH and the RSPB to secure enhancement of the site for flora and fauna.***

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

***The nearest occupied property to the proposed development is Garlaff farmhouse which lies 50 metres east of the development site. This property is, however, under the control of the applicant. Skares village lies some 850 metres to the west with the Knockdunder some 710 metres southwest. In this regard it is not considered that the small extension to current opencast operations in Area B will have any additional impact on residential properties.***

***It is considered therefore that the proposed ancillary opencast operations proposed under this landfill development do not conflict with the policy provisions of the adopted Cumnock and Auchinleck Local Plan.***

5.3 With regard to the proposed extension to the landfill site, there are no specific policies relating to landfill operations in the adopted local plan. The site lies within the Rural Area and the following policies are of relevance:

- (i) Policy 32: In Rural Areas priority for industrial development will be given to agriculture and forestry related industries. Suitable craft industries will be encouraged where appropriate.

***Although the proposed development is not specifically related to agriculture or forestry, the development relates to a site which is currently part of an operational opencast coal site and seeks to extend an existing landfill operation. Policy 32 does not preclude any other form of development in the rural area and therefore it is considered that the proposed development does not conflict with this policy.***

- (ii) Policy 78: Presumption against development in or having an adverse effect on sites of nature conservation etc.

***No statutory or non-statutory sites of natural heritage or built heritage importance are affected by the proposed development.***

- (iii) Policy 79: The Council will ensure that any development in the countryside and especially in the Local Scenic Area will be in keeping with and reflect the nature of the rural area in which it is located.

***The application site is already subject to landfill and opencast operations.***

***It is considered that the proposed landfill operations do not conflict with the policy provisions of the adopted Cumnock and Auchinleck Local Plan.***

5.4 The Approved Ayrshire Joint Structure Plan (1999) indicates in its Key Diagram that the small area within the development site where coal is to be extracted lies outwith a Preferred Area of Search. This part of the development proposal requires to be assessed against Policy E14(B) which states: -

*In North and South Ayrshire, and the remaining parts of East Ayrshire outwith the Preferred Areas of Search, opencast coal working shall not conform to the structure plan except where there is a clearly demonstrated environmental benefit achieved through the removal of existing areas of dereliction, and there is an overall benefit for communities affected, including local employment. In*

*these circumstances, proposals for small-scale, short-term extraction shall be supported.*

***The proposed extraction of coal for a period of 5 to 6 weeks in an area of only 5.4 hectares is a minor element of the proposal which is essentially for landfill. It constitutes a small scale proposal within the context of the Structure Plan and there is a benefit in terms of local employment and in tackling dereliction; (i.e. a former aggregate quarry). The unique nature of the minor opencast element of the overall proposal cannot readily be assessed against the other aspects of this policy, i.e. overall benefit for an affected community and environmental benefit. Therefore it is considered that this part of the development proposal does represent a significant departure from structure plan policy. In addition NPPG 16 – Opencast Coal and Related Minerals indicates that deposits of coal capable of being extracted by opencasting should not be sterilised unnecessarily. Policies and decisions should therefore take into account the benefit of removal of coal by opencasting within a reasonable timescale and in an environmentally friendly way prior to permanent development, thus avoiding sterilisation of coal reserves.***

5.5 With regard to waste management, Policy E17 states:

*The three Ayrshire Councils shall require to make provision for sites of sufficient capacity for the safe management and disposal of the residues of domestic and industrial waste within Ayrshire, as close as possible to the point at which waste is generated.*

***The proposed development of an extension to the existing landfill site at Garlaff, with a capacity of 4.1 million cubic metres, would provide sufficient landfill space at current rates of fill for up to 16 years. Current landfill operations with planning permission and Waste Management licences in East Ayrshire only have a predicted remaining void space for approximately two years. It is considered that the Garlaff site is well located to serve the waste disposal requirements of East Ayrshire and supports the proximity principle for disposing of waste close to its source.***

5.6 Policy E19 states:

*Proposals to handle, treat or dispose of waste and the handling of liquid and solid by products of water and sewage treatment shall require to be justified against the following criteria:*

- (a) the need to avoid, air, surface and groundwater pollution;*
- (b) the effects of traffic movement and the road network;*
- (c) the safeguarding of the landscape character, residential amenity;*

- (d) *the avoidance of areas of flood risk and potential sea-rise change;*
- (e) *damage to the natural and built environment; and*
- (f) *intrusion into areas of high visibility particularly in road and rail corridors.*

***A comprehensive environmental impact statement accompanies the planning application and it is considered that the proposed development can be undertaken in an environmentally acceptable manner without significant conflict with the criteria set out in Policy E19.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The other principal material considerations relevant to the determination of this application are the East Ayrshire Local Plan (Finalised Version with Modifications), the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications) (April 2001), the objections detailed in Section 4 above, National Planning Policy Guidelines (NPPG10 – Planning and Waste Management and NPPG 16 – Opencast Coal and Related Minerals) and relevant planning history.

6.2 The Adopted Local Plan covering the development site is 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 East Ayrshire Local Plan (Finalised Version with Modifications) (EALP) and the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications) (EAOCSP) shall be considered as prime material considerations. The landfill element of the proposed development requires to be assessed against Community and Service Infrastructure policies and Environment policies contained within the EALP as follows:

- (i) Policy CS4: the Council will ensure the provision of adequate waste disposal and management facilities in as close proximity as possible to the points at which the waste is generated. The Council will support the development of sufficient new landfill sites at appropriate locations, giving due consideration to any existing consented sites, to satisfy all the landfill requirements of East Ayrshire (and the needs of any other neighbouring or adjacent Authority areas as may be agreed by the Council) subject to other policy provisions.

***The proposed development, relating to the extension of an existing landfill operation, is considered to meet the provisions of Policy CS4 in that the site will provide further landfill capacity to meet East Ayrshire requirements for a period of approximately 16 years. The proposed development will utilise existing infrastructure and will provide continuity of operation of the existing civic amenity site at Garlaff. Furthermore it is further considered that the proposed development conforms to the proximity principle.***

(ii) Policy CS5: The Council will, in order to meet any clearly demonstrated need, consider the utilisation of appropriately located opencast coal or other mineral extraction sites to meet future landfill requirements. Such developments will be assessed against the following criteria:

- the proximity principle;

***It is considered that the proposed development meets the proximity principle as indicated above.***

- the need for the development;
- the availability of an existing void capable of accommodating the anticipated volumes of infill material to be disposed of;

***Current landfill operations with planning permission and Waste Management Licences in East Ayrshire only have a predicted remaining void space for approximately two years. The proposed development of an extension to the existing landfill site at Garlaff, with a capacity of 4.1 million cubic metres, would provide sufficient landfill space at current rates of fill for up to 16 years. The extension would utilise the void space of Area B associated with the Skares Road opencast coal site located immediately south of the existing Garlaff landfill site. It is considered that the Garlaff site is well located to serve the waste disposal requirements of East Ayrshire and supports the proximity principle for disposing of waste close to its source.***

- the expected operative life of the landfill site;

***The existing landfill site at Garlaff has been operational for a period of 5 years and the proposed extension to the landfill site will result in a significant addition to the operational life of the site at 16 to 20 years. However, given that the site is relatively remote with few residential properties lying within close proximity to the site it is not considered that this timescale of operations would be unduly problematic.***

- the capability of the existing road network to accommodate the volumes of traffic generated by the development;

***The applicant has indicated that the proposed extension to the Garlaff landfill site will result in the continuation of the current levels of operation with heavy goods vehicle movements averaging at 158 vehicle movements per weekday (79 in/79 out). The Roads Division has not indicated any adverse comments relating to the capacity of the existing road network to accommodate this volume of traffic, although some infrastructure improvements will require to***

***be implemented and the securing of designated traffic routes through a Section 75 Agreement is also recommended.***

- the accessibility of the site to all areas to be served by the development;

***The location of the proposed development site will afford adequate accessibility to those areas served by the landfill site.***

- the impact of the development on the amenity of nearby residents of properties located along the transport routes to the site;

***The Environmental Impact Statement indicates that 95% of HGVs accessing the site currently use the eastern section of the B7046 Cumnock - Skares road. This access route has few residential properties (4) located directly adjacent to the road. The proposals represent a continuation of the current volume of traffic associated with the landfill operation. With the cessation of coaling at the Milzeoch opencast coal site in March 2001, there has been a significant reduction in HGV traffic on this section of road. Consequently it is considered that there will be no additional impact on such properties arising from the proposed development.***

***With respect to the western section of the B7046 road through Skares, only 5% of HGV traffic associated with the landfill site utilise this route (4 vehicles or 8 movements per weekday) and it is not considered that this volume of traffic through Skares village will have any adverse impact on the amenity of residential properties, given that no opencast HGV traffic is currently allowed to travel through the village. Further west along this route, this low volume of traffic is additional to the substantial HGV movements from the Skares Road opencast site. However, there are again few residential properties located directly adjacent to the road.***

- the impact of the development on the natural and built heritage, including historic gardens and designed landscapes, visual amenity and landscape character of the area;

***The proposed development, which will utilise the void space from a current opencast operation, will not result in any adverse impact on natural and built heritage resources, designed landscapes or historic gardens. The use of the opencast void space and the topography of the site, together with progressive restoration of landfill cells, will minimise visual impacts associated with the proposed development. Given that the proposed extension area is currently part of an operational opencast site, there will be no additional impact on the landscape character of the area.***

- operational details, restoration proposals and afteruse of the development site;

***The planning application contains details of the proposed operation including restoration and aftercare of the site including afteruse. Given the nature of landfill development, specific control over these elements will also be introduced through the Waste Management Licence with compliance being monitored by SEPA.***

- measures to prevent and control contamination of surrounding land by wind-blown material, production of landfill gas, pollution of groundwater and watercourses by leachate from infill, vermin and bird nuisance and noise nuisance.

***The Environmental Impact Statement reports on the assessment process undertaken to identify issues relating to potential contamination of surrounding land. In this regard the Statement promotes mitigation measure to prevent and control potential contamination resulting from wind-blown material, landfill gas, pollution from leachate, vermin/bird nuisance and noise and dust nuisance. It is considered that with the implementation of the mitigation measures promoted within the Environmental Impact Statement, together with control imposed through the Waste Management Licence, the proposed development can be undertaken in an environmentally acceptable manner.***

(iii) Policy CS6: The Council will require all applicants for landfill waste disposal sites:

- to submit detailed planning applications;

***The submitted application is a detailed application.***

- to demonstrate the need for the development;

***The planning application and accompanying Environmental Impact Statement provides an assessment of need for the proposed development.***

- to lodge appropriate restoration and aftercare bonds to a value agreed by the Planning Authority;

***The applicant will require to lodge appropriate restoration and aftercare bonds with SEPA in terms of the granting of a waste management licence for the site. In this case it is therefore not considered appropriate for duplicate bonding with the Planning Authority.***

- To submit formal Environmental Impact Assessments in association with the application;

***The applicant has submitted a formal Environmental Impact Statement.***

- To establish Liaison Committees with local representatives to act as a forum through which relevant operational and associated issues can be discussed and addressed.

***The applicant has indicated a willingness to establish such a liaison committee if necessary which could be secured through an obligation in a Section 75 Agreement for the site.***

- To meet the requirements of the Council's Waste Management Scheme and Waste Disposal Strategy.

***The proposed development would not be inconsistent with the Council's Waste Disposal Strategy.***

- to upgrade, maintain and repair at their own expense, road damage shown to have been caused by vehicle servicing their developments.

***The applicant has indicated a willingness to enter into a Section 75 Agreement in order to ensure that any extraordinary road maintenance costs associated with damage attributable to vehicles servicing the Garlaff site are recoverable from the applicant.***

- to strictly observe a minimum 500 metres separation distance between the void of any landfill site and nearby settlements.

***The proposed landfill void lies in excess of 500 metres from any community or any residential properties not in the control of the applicant.***

- To service any existing or proposed landfill site, if considered feasible and appropriate to the site concerned, by rail.

***There are no proposals to service the proposed landfill extension site by rail, as the location is remote from the existing rail network.***

(iv) Policy ENV13: Within the rural area the Council will ensure through the development process that:

- Any authorised development is in keeping with, has minimal visual impact and reflects the nature of the rural area in which it is located.

- Any authorised development is sensitively sited landscaped and screened so as to blend into, respect and compliment the landscape characteristics of the particular area in which it is to be located.
- The landscape setting of a particular area affected by a proposed development is safeguarded from adverse or irreversible change by the use of appropriate conditions etc.

***Should the Committee be minded to approve the proposed development, it is considered that through the imposition of appropriate conditions and specific obligations in a Section 75 Agreement, the development could be undertaken in a manner that would minimise impact on the rural area. The provisions of Policy ENV13 also require to be balanced against the provisions of Policies CS4, CS5 and CS6 as indicated above.***

***It is therefore considered that the proposed development does not conflict with the policy provisions of the EALP.***

6.3 With respect to the proposal for the extraction of coal from the proposed development site, assessment against the EAOCSP is made as follows:

(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 proposed extraction area lies outwith the Potential Coal Extraction Areas. However, this 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. 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:

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

***The development is not considered to be a new opencast development as the proposed extraction of the coal from the Garlaff development site will be undertaken as an extension to the existing extraction operations being undertaken within Area B of the Skares Road opencast development. The proposal 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:

- 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 operations for Area B of the Skares Road opencast development.***

- 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 Skares Road.***

- that the scale of operations, rate of extraction and number of vehicle movements generated by the extended site are commensurate with those as existing on the original site.

***The proposal relates to the extraction of an additional 75,000 tonnes of coal from 5.4 hectares of land within the existing Garlaff landfill site over a period of 5 to 6 weeks with no significant impact on the current scale, rate of extraction and vehicle movements from the site.***

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

- there is a clearly demonstrated environmental benefit to be achieved through the removal of existing areas of dereliction

***The area affected by the minor element of coal extraction has been subject to previous workings and is within the current landfill site and is therefore considered derelict.***

- there is an overall benefit for communities affected, including local employment; and

***There is some employment associated with the opencast extraction.***

- there are no conflicts with any other Subject Plan Policies.

***Assessment against other EAOCSP policies is as stated below, wherein it can be observed that there is no conflict with any other Subject Plan policies.***

- 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.

***It is considered that there will not be any perpetuation of disturbance to any local community as a result of the proposed extraction of additional reserves of coal in the locality that will take place over a short period of 5 to 6 weeks.***

***In conclusion it is considered that there is no conflict with the provisions of MIN3.***

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

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

***The proposed development, which will utilise the void space from a current opencast operation, will not result in any adverse impact on natural and built heritage resources, designed landscapes or historic gardens. The use of the opencast void space and the topography of the site, together with progressive restoration of landfill cells, will minimise visual impacts associated with the proposed development. Given that the proposed extension area is currently part of an operational opencast site, there will be no additional impact on the landscape character of the area. Although the Scottish Wildlife Trust has objected to the proposed development, no statutory or non-statutory sites of natural heritage or built heritage importance are affected by 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. The land is currently the subject of opencast***

***coal extraction and is therefore at this stage not locally important agricultural land. There are no built heritage issues associated with the proposed development.***

- 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, in so far as it relates to the extraction of coal, can operate within environmentally acceptable standards relating to noise, dust, vibration, air quality and water quality.***

- the impact of the development on local communities, groups of houses and individual dwellings;

***The Garlaff development site lies in a relatively remote area and the nearest occupied dwellings not within the control of the applicant lie in excess of 500 metres from the landfill void. It is considered that there will be minimal impact on such properties.***

- 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 improvement to the landscape character and visual amenity of the area. Scottish Natural Heritage and the Royal Society for the Protection of Birds consider that restoration and aftercare of the site can be carried out in such a manner as to promote habitat creation and biodiversity.***

- the opportunities to maximise transportation by rail;

***The coals extracted as part of this application will be taken to the coal preparation and stocking area within the Skares Road opencast site for onward dispatch to markets via the Killoch railhead.***

- 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.***

- 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 area or in other local communities.***

- the period of extraction.

***There will be no significant addition to the existing consented period of extraction for the Skares Road opencast site.***

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

***The submitted application for the Garlaff 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:-

- with information which addresses all the issues highlighted elsewhere in the Subject Plan; and
- with information which indicates their understanding of the location of coal reserves in surrounding land; and
- with information about their interest in any likely future extensions to current applications and future adjacent sites in which they have an interest.

***The proposal for coal extraction is ancillary to the main development proposal for landfill development.***

(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:-

- 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:-
- 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.***

(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 Garlaff extension.***

(ix) Policy MIN9: The protection of economically important coal deposits capable of being extracted by opencasting from sterilisation by permanent development; the encouragement of working of the resource in tandem with or as a pre-requisite to the development of the land.

***The extraction of this small reserve of coal in tandem with the landfill development would be consistent with the provisions of Policy MIN9. Although the landfill operation is not a permanent form of development, the nature of the operations would prevent the extraction of this reserve at a future date. The proposals under consideration would prevent the sterilisation of this reserve.***

(x) 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 clays encountered within the site will be recovered and used in the proposed landfill development***

(xi) 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.

***The proposed development does not affect any active peat bog or peat resource.***

(xii) 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:

- 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

- 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;
- generate volumes of heavy goods traffic which, when taken together with the volumes of coal haulage vehicles already using the routes concerned, would cause unacceptable detriment to the amenity of any community, or group of dwellings located along proposed haulage routes.

***The proposed development represents a very small extension to the existing operational Skares Road Opencast Coal Site, not a new opencast operation independent of existing operations. It would not constitute a third operative site, cause or exacerbate excessive adverse amenity and environmental disruption nor impact adversely on communities or residential properties through volume of traffic generated by the development.***

- result in an unacceptable accumulation of adverse impacts on international or nationally designated sites of nature conservation interest over time and place within a particular locality, or an accumulation of individual impacts which collectively have a significant adverse effect on such areas.

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

(xiii) 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 establishment of a Technical Working Group for the Garlaff site would assist in addressing the more detailed issues of restoration and aftercare raised by SNH and the RSPB. This could be achieved through obligations within a Section 75 Agreement.***

(xiv) 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 the landfill 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.***

(xv) 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.***

(xvi) 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 could be monitored through the establishment of Technical Support Group with input from representatives of SEPA, SNH and RSPB. This could be secured through a Section 75 Agreement for the site.***

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

***The coals extracted as part of this application will be taken to the coal preparation and stocking area within the Skares Road opencast site for onward dispatch to markets via the Killoch railhead.***

(xviii) 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 is already made in the existing Section 75 Agreement for the Skares Road opencast site.***

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

- to ensure the highest possible operational standards for the transportation of extracted minerals;
- to ensure best operational practice regarding road safety and operational matters;
- 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
- to audit and record operational details of the transportation of coal on a regular basis; and
- 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, in relation to the coal extraction proposals and the landfill operation, indicated a willingness to subscribe to the protocol which could be included as part of any Section 75 Agreement.***

(xx) 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.***

(xxi) 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 could be incorporated within a Section 75 Agreement.***

(xxii) 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 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
- storage mounds, landscaping bunds or settlement lagoons are located within 100 metres of the community concerned, or
- the proposal involves a substantial area for extraction over an extended extraction period in excess of ten years, or
- the proposal is likely to be subject to repeated extensions, perpetuating disturbance to local communities for a period substantially longer than five years.

***It is considered that the proposed development does not conflict with the provisions of Policy MIN24.***

(xxiii) 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:

- the proposal would, through restoration of the site, result in the removal of substantial areas of derelict or despoiled land, stabilise previously undermined land to allow for future permanent development, remove hazards such as mine gases and polluted mine drainage, or, if not, would provide other local or community benefits;
- the 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;
- the total period of extraction and restoration within the 500 metre buffer zone does not exceed a period of 12 months
- the proposed extraction does not involve any blasting operations within the 500 metre buffer zone; and

- 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 Garlaff development would not conflict with the provisions of Policy MIN26.***

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

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

(xxvi) Policies MIN29 and MIN30 : Protection of landscape and protection of tourism and recreational resources

***It is considered that the proposed development would not conflict with the above policies.***

(xxvii) Policy MIN31: Protection of landscape value and quality of areas from opencast developments.

***The Environmental Statement for the Garlaff extension incorporates a 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.***

(xxviii) Policy MIN32 : Protection of water resources.

***It is not considered that the proposed development would conflict with this policy.***

(xxix) Policy MIN33: The Council will, if mindful to grant planning permission for an opencast coal development and if considered appropriate, request an applicant 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.***

(xxx) 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 with respect to coal extracted from the Garlaff site.***

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

***The applicant will be required to lodge restoration and aftercare bonds with SEPA as part of the application for a Waste Management Licence for the landfill operation.***

(xxxix) Policy MIN38: Establishment of liaison committees.

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

6.4 NPPG10: Planning and Waste management provides guidance to both planning authorities and operators in that it sets out Government planning policies for development involving the management of waste and explains how the planning system should operate in relation to other pollution controls.

***Advice in NPPG 10 has been used by the applicant in considering the environmental impacts and mitigation measures for the design of the proposed development.***

6.5 NPPG16: Opencast Coal and Related Minerals indicates the considerations which planning authorities should take into account in determining planning applications for the extraction of coal and related minerals.

***The principal considerations indicated in NPPG 16 have been taken into account in the preparation of the East Ayrshire opencast Coal Subject Plan and a full assessment of the proposed development against the policy provisions of this plan is made in section 6.3 above.***

6.6 In terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 1997, certain categories of development require to be formally notified to the Scottish Ministers should the Planning Authority be minded to approve such proposals. In this respect, the Council has a contractual arrangement with the applicant for the disposal of waste. Furthermore, the Council has a Civic Amenity Site within the development site that is managed by the applicant on behalf of the Council. It could therefore be construed that the Council has a financial interest in the development. In this regard, the application would require to be notified to the Scottish Ministers where the proposed development does not accord with the adopted or approved local plan for the area or where the development has been the subject of a substantial body of objections.

***As indicated in Section 5 above, the proposed development is not considered to be contrary to the provisions of the adopted Cumnock and Auchinleck Local Plan. Furthermore, only three letters of objection have been received from third parties and one letter of objection has been received from the Scottish Wildlife Trust. This is not considered to be a substantial body of objections. Consequently, it is considered that the application need not be referred to the Scottish Ministers in terms of the Direction.***

6.7 **Planning History:** Planning permission for the reclamation of Garlaff Quarry by landfill was granted on 26 June 1991 (Ref.No. CD/90/362/Q). An amendment to this application with respect to the operation of a waste transfer station was approved on 12 February 1996 (Ref. No. CD/95/0273/DPP). Opencast operations within Areas B and C of the Skares Road opencast site were approved on 15 May 1998 under application 97/0596/FL. A current application for the installation of gas generator sets (Ref. No. 01/0077/FL) at the existing Garlaff site is awaiting determination.

## **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 8.7 of this report.

## **8. CONCLUSIONS**

8.1 As indicated in section 5 above, the proposed development is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As 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 It is considered that the proposed development is consistent with the policy provisions of the EALP and in particular the waste management policies contained therein. The proposed continuation of the present levels of waste disposal from the current waste streams meets the proximity principle promoted

by policy. However, it is recognised that in order to ensure continued compliance with this policy, it will be necessary to impose control over the geographical sources of waste.

8.3 The applicant has indicated that operations will continue at the present level and accordingly the assessment of impacts has been carried out on that basis. Any significant increase in the volume of waste to be directed to the site on an annual basis could result in additional impacts. Consequently it is considered that the importation of waste should be restricted by condition to the current level.

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, the objection is not based on any impact on flora or fauna, and 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. The main concerns relate to the emission of odours, landfill gas and litter. It is considered that through the implementation of the mitigation measures promoted in the EIS and with the additional operational controls that will be imposed and monitored by SEPA, the proposed development can be undertaken in an environmentally acceptable manner.

8.6 In respect of all relevant matters and material considerations to be taken 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:

#### 8.7 **Section 75 Agreement**

(i) The provision of a Restoration and Aftercare Bond provided and monitored to reflect the provisions of Policy MIN 36 of the EAOCSP. This bonding shall be the subject of consultation and agreement with SEPA to ensure appropriate levels of bonding to secure complete restoration of the site to the satisfaction of the Planning Authority and SEPA.

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

(iii) The establishment of noise and dust monitoring programmes for the Garlaff Landfill 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.

(iv) A contribution to the Minerals Trust Fund at the rate of 27.5 pence per tonne of coal extracted from the Garlaff extension site.

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

(vi) The implementation in full of the mitigation and restoration recommendations contained with the Environmental Statement that accompanied the planning application. The mitigation measures shall be incorporated in Mitigation Plan that shall be submitted to and approved by the planning authority prior to the commencement of operations on site

(vii) The subscription of the applicant to the Council's Transportation Protocol.

(viii) The definition of agreed transportation routes for waste-carrying vehicles destined for the Garlaff site.

(ix) The provision of improved road infrastructure at the junction of the B7046 road with the A70 road.

(x) 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 B7046 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. A joint inspection of the B7046 shall be carried out with the applicant and the Roads Authority.

(xi) The undertaking by the applicant that the source of waste residue disposed on site, in general terms, be restricted to waste arising from within Ayrshire.

(xii) In light of the future implementation of a strategy for waste management in Ayrshire that could lead to a reduction of municipal waste to landfill, the obligation of the applicant to review the operations with the Planning Authority to enable appropriate safeguards to be negotiated which will ensure the complete restoration of the site within 20 years.

(xiii) The restriction of total annual waste deposited on site to 275,000 tonnes.

(xiv) The undertaking of structural surveys of residential properties where considered appropriate 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 8.6 of this report.**

Alan Neish  
Head of Planning and Building Control  
13 June 2001

HM/HM  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans
2. Statutory notices and certificates
3. Consultation responses
4. Letters of representation
5. East Ayrshire Local Plan (Finalised Version with Modifications)
6. Adopted Cumnock and Auchinleck Local Plan
7. Approved Ayrshire Joint Structure Plan
8. NPPG 10: Planning and Waste Management
9. NPPG16: Opencast Coal and Related Minerals
10. Previous planning applications

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: 00/0685/FL

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Location	Garlaff Landfill Site, Skares, Near Cumnock
Nature of Proposal:	Proposed Opencast Extraction of Coal
Name and Address of Applicant:	Barr Limited Heathfield AYR KA8 9SL
Name and Address of Agent	Wardell Armstrong Collingwood Buildings Collingwood Street NEWCASTLE upon TYNE NE1 1JF

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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 landfill operations shall be completed within 20 years of the commencement date of the operations at Garlaff Landfill Extension, or within such other time as may be formally agreed in writing 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 Garlaff Landfill Extension 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. 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.

4. 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 wheel 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.

5. 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.

6. All road vehicle transporting waste to the site 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. Where appropriate, vehicles leaving 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.

7. Prior to any 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.

8. 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.

9. 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.

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

10. 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.

11. Topsoil and sub-soil 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.

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

12. 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.

13. 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.

14. The location of soil storage mounds 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.

15. 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.

16. 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.

17. 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.

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

REASON: To prevent damage to adjacent land and soils.

19. 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.

20. All contaminated drainage and run-off from the site roadways, intercepting ditches, boulder clay storage and other soil storage tips, 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.

21. 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.

22. 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.

23. 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

24. 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.

25. Appropriate litter fences shall be provided and maintained around the operational tipping areas of the landfill. Litter picking shall be undertaken on a regular basis and shall extend to include the perimeter fencing, access roads, temporary or portable litter fencing and all ditches within the site. Where shown to be necessary, the operator shall provide a suitable structure/shelter for the tipping of waste during extreme weather conditions.

REASON: To prevent the escape of wind blown litter from the site in the interests of amenity.

26. 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.

27. Except in the case of emergency and except in the operation of the Civic Amenity site, the hours of working on site will be confined between 0730 and 1800 hours Monday to Friday, and between 0800 and 1200 hours on Saturdays. With the exception of essential site maintenance and the maintenance of plant and machinery, no work shall take place on Sundays or on recognised Public Holidays in East Ayrshire.

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

28. 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 cell formation and the stripping and replacement of soils, the noise limit during daytime (0700 to 1900 hours) shall not exceed 45dB Laeq, 1h at noise sensitive properties. During cell formation 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.

29. 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.

30. Except in cases of emergency or as otherwise may be agreed with the Planning Authority, blasting operations associated with the extraction of coal 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.

31. Prior to the commencement of landfill operations on the Garlaff extension site, the applicant shall submit to and have approved by the Planning Authority, details of the final landfill gas extraction system to be introduced on the site.

REASON: To retain effective planning control over the introduction of landfill gas management schemes into the site.

32. On completion of the landfill operations, except in so far as may be required for leachate and gas monitoring, the site shall be cleared of all buildings, plant and machinery in accordance with the approved restoration plan.

REASON: In the interests of amenity

33. The site shall be progressively restored generally in accordance with the 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 landfill operations on the extension site. The details shall include provision for the site establishment and civic amenity site areas 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.

34. The restored site shall be progressively landscaped generally in accordance with a formal afteruse scheme. 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. The restored site shall be subsequently managed in accordance with the approved aftercare scheme.

REASON: In the interests in visual amenity.

35. There shall be an annual formal review to consider all the operations that 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.

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

REASON: To assess the operational status of the site.

Notes to Applicant:

- (1) The applicant should make early contact with the Coal Authority, 200 Litchfield Lane, Berry Hill, MANSFIELD with respect to the mineral stability of the site, prior to the commencement of works.
- (2) The applicant should make early contact with the Scottish Environment Protection Agency, 2 Alloway Place, AYR with respect to regulatory requirements in respect of the proposed development

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**AGENDA**