

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 14 MARCH 2003

**01/0807/FL: PROPOSED VARIATION OF APPROVED SCHEME OF
WORKING (PLANNING CONSENT 96/0670/FL) AND EXTENSION OF
EXCAVATION AREA AT GRASSHILL,
SPIRESLACK OCCS, GLENBUCK, NEAR MUIRKIRK**

APPLICATION BY THE SCOTTISH COAL COMPANY LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for a variation to the existing Spireslack consent to allow the working of coal in 36 hectares within the Spireslack site and for a 24.5 hectare extension to the site itself, the application site being referred to as the Grasshill development.

1.2 It is proposed to extract approximately 572,000 tonnes of coal reserves within the Grasshill application site to a maximum depth of approximately 80 metres. Coaling operations will take approximately 18 months to complete with a further 4 months of restoration and final landscaping works giving a total site life of 22 months.

1.3 Excavation in the proposed extension area will commence at the north western part of the site and generally proceed in a south easterly direction. During the coaling operations, which are anticipated to last for approximately 18 months, several coal seams will be encountered and exploited.

1.4 Preliminary operations on site will involve fencing off the entire perimeter of the site, despite the remoteness of the area, in the interests of stock control and public safety. This will be followed by installation of cut-off ditches and formation of water treatment areas. The commercial plantation trees on the application site will then be felled and the topsoils will be stripped.

1.5 All topsoils, subsoils and peat stripped from the site will be stored in separate soil storage mounds, with topsoils being stored in mounds no greater than 5 metres in height, with subsoils stored to no greater than 10 metres in height. Some soils may be used in the progressive restoration areas elsewhere within the Spireslack site. The soil mounds will principally be located on the north western periphery of the Grasshill extension area.

1.6 Overburden excavated from the Grasshill extension area will principally be taken direct to coaled-out areas within the Spireslack site and used for

backfilling purposes. Thereafter overburden will be progressively backfilled as operations continue with surcharging where necessary on restored areas, appropriately sculptured and recontoured to blend in with the surrounding area.

1.7 The proposed working hours of the Grasshill extension site will be as per the existing Spireslack site i.e. from 0700 hours on Monday to 1600 hours on Saturday with continuous 24 hour working. There will be no working outwith these hours or on public holidays except for emergency work and essential maintenance.

1.8 Scottish Coal has obtained planning consent for a new railhead to serve the development of coal reserves in the Muirkirk Valley utilising the former railway line which runs to the north and parallel to the A70 road near Cronberry, some 5 miles to the west. However, the current Grasshill proposal provides for the transfer of coal by road and traffic levels will be akin to those currently generated by the existing Spireslack site.

1.9 The principal customers for the coals from Spireslack, all high volatile, are the domestic and power station coal markets. Some of the coals will be blended with other Ayrshire Coals to meet specific market requirements.

1.10 Restoration of the site will be progressive and will involve the removal of temporary and fixed plant, all hard standings, water treatment areas and infrastructure where no longer required and replacement of soils including the installation of landscape infrastructure details.

1.11 A detailed restoration scheme has not been submitted at this stage as it is likely that the composition of the restoration strategies will alter over the life of the development as expectations and values change, particularly more so with the introduction of the Coalfield Environmental Initiative. This initiative is a partnership between, the applicant, East Ayrshire Council, Scottish Natural Heritage, the Royal Society for the Protection of Birds and the Scottish Wildlife Trust and seeks to secure enhanced restoration of sites to deliver ecological and community benefits.

1.12 The existing Spireslack site provides approximately 75 full time jobs, the number of people employed being dependant on market conditions, speed of operation and the particular phase of the scheme being worked. In addition significant indirect employment will be created through the use of local haulage firms and other contractors. The proposed Grasshill extension will sustain these jobs for a further 22 month period.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision

notice be withheld until the Solicitor to the Council has satisfactorily concluded an amendment to the existing agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 as described in Section 8.6 above of the report.

3. CONCLUSIONS

3.1 As is indicated in section 5 of this report, the application is considered to be contrary to the provisions of the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

3.2 The Grasshill extension development is considered to be contrary to the Adopted Structure Plan for the following reason:

- The Powharnal development site lies outwith the Preferred Areas of Search identified on the Key Diagram of the Approved Ayrshire Joint Structure Plan;
- Although the proposal is considered to constitute a small scale, short-term development, the proposed operations at Grasshill will not result in the removal of any significant visible areas of dereliction.

3.3 A number of factors, however, may be weighed against this:

- The extension of the supply of land for winning and working of minerals at the Grasshill / Spireslack site has been assessed against the criteria of Policy 13 of the Adopted Structure Plan.
- The site has been assessed as an operational extension of an existing site. The Structure Plan leaves detailed policies including such matters as the consideration of extensions to be specified in Local Plans.
- Whilst the development is contrary to the Adopted Structure Plan it is consistent with the Adopted Local Plan.

3.4 As is indicated in Section 6 above, there are also 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. In terms of the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications), the proposals would not result in conflict with the East Ayrshire Opencast Coal subject Plan. In particular the following matters are considered relevant:

- As an extension to the Spireslack site, the Grasshill development will utilise existing site facilities;

- The proposal would result in the removal of areas of despoiled land associated with former drift mining;
- The Grasshill development will sustain some 75 direct jobs and together with indirect employment through service providers and suppliers, this will have a significant financial input to the economy of an area which suffers from high levels of unemployment;
- The approval of the proposed extension will not have any impact on the timescale for completion of the Spireslack development in terms of the current consented life of the site.

3.5 The proposed development has not attracted any objection from local communities with only one letter of objection having been received. Similarly, no significant issues or objections have been received from statutory or non-statutory consultees.

3.6 In respect of all relevant matters and material considerations to be taken into account, it is considered that there are environmental and community benefits which would outweigh any temporary adverse impacts and give justification for the stated minor departure from the Approved Ayrshire Joint Structure Plan. Consequently it is considered that the application should be approved. Should the Committee agree with this view and be disposed to grant planning permission, any consent should be withheld until the existing Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 is amended to ensure that the Grasshill development site is encompassed within the Agreement and in order to ensure appropriate mitigation as described in Section 3.11 of this report.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee because the decision would not represent a significant breach of Council policy.

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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APPLICATION BY THE SCOTTISH COAL COMPANY 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 it relates to an extension to an existing opencast site which represents a minor departure from the Development Plan, is subject to objection and is recommended for approval.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies approximately 4 kilometres east of Muirkirk on the north side of the A70 Muirkirk - Douglas Road and is centred around the former settlement of Glenbuck. The site relates to the existing operational Spireslack opencast coal site at this location and comprises an area within the Spireslack consented site extending to 36 hectares and an area lying on the north west boundary of the existing consented site extending to 24.5 hectares.

2.2 The application site at present lies entirely within a commercial forestry area, on the northern side of the ridgeline of Grasshill.

2.3 The principal access used for the Spireslack site is via the former Airdsgreen opencast coal site access point onto the A70 Muirkirk-Douglas Road. However the existing C38 Glenbuck Road from Glenbuck Loch is currently used as a secondary access for site workers and site service vehicles. The Grasshill extension area will also be served by these existing accesses and site infrastructure.

2.4 **Proposed Development:** Full planning permission is sought for a variation to the existing Spireslack consent to allow the working of coal in 36 hectares within the Spireslack site and for a 24.5 hectare extension to the site itself, the application site being referred to as the Grasshill development.

2.5 It is proposed to extract approximately 572,000 tonnes of coal reserves within the Grasshill application site to a maximum depth of approximately 80 metres. Coaling operations will take approximately 18 months to complete with a further 4 months of restoration and final landscaping works giving a total site life of 22 months.

2.6 Excavation in the proposed extension area will commence at the north western part of the site and generally proceed in a south easterly direction. During the coaling operations, which are anticipated to last for approximately 18 months, several coal seams will be encountered and exploited.

2.7 Preliminary operations on site will involve fencing off the entire perimeter of the site, despite the remoteness of the area, in the interests of stock control and public safety. This will be followed by installation of cut-off ditches and formation of water treatment areas. The commercial plantation trees on the application site will then be felled and the topsoils will be stripped.

2.8 All topsoils, subsoils and peat stripped from the site will be stored in separate soil storage mounds, with topsoils being stored in mounds no greater than 5 metres in height, with subsoils stored to no greater than 10 metres in height. Some soils may be used in the progressive restoration areas elsewhere within the Spireslack site. The soil mounds will principally be located on the north western periphery of the Grasshill extension area.

2.9 Overburden excavated from the Grasshill extension area will principally be taken direct to coaled-out areas within the Spireslack site and used for backfilling purposes. Thereafter overburden will be progressively backfilled as operations continue with surcharging where necessary on restored areas, appropriately sculptured and recontoured to blend in with the surrounding area.

2.10 The proposed working hours of the Grasshill extension site will be as per the existing Spireslack site i.e. from 0700 hours on Monday to 1600 hours on Saturday with continuous 24 hour working. There will be no working outwith these hours or on public holidays except for emergency work and essential maintenance.

2.11 Scottish Coal has obtained planning consent for a new railhead to serve the development of coal reserves in the Muirkirk Valley utilising the former railway line which runs to the north and parallel to the A70 road near Cronberry, some 5 miles to the west. However, the current Grasshill proposal provides for the transfer of coal by road and traffic levels will be akin to those currently generated by the existing Spireslack site.

2.12 The principal customers for the coals from Spireslack, all high volatile, are the domestic and power station coal markets. Some of the coals will be blended with other Ayrshire Coals to meet specific market requirements.

2.13 Restoration of the site will be progressive and will involve the removal of temporary and fixed plant, all hard standings, water treatment areas and infrastructure where no longer required and replacement of soils including the installation of landscape infrastructure details.

2.14 A detailed restoration scheme has not been submitted at this stage as it is likely that the composition of the restoration strategies will alter over the life of the development as expectations and values change, particularly more so with the introduction of the Coalfield Environmental Initiative. This initiative is a partnership between, the applicant, East Ayrshire Council, Scottish Natural Heritage, the Royal Society for the Protection of Birds and the Scottish Wildlife Trust and seeks to secure enhanced restoration of sites to deliver ecological and community benefits.

2.15 The existing Spireslack site provides approximately 75 full time jobs, the number of people employed being dependant on market conditions, speed of operation and the particular phase of the scheme being worked. In addition significant indirect employment will be created through the use of local haulage firms and other contractors. The proposed Grasshill extension will sustain these jobs for a further 22 month period.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has no objections in principle to the proposal provided that the rates of extraction and associated vehicle movements are commensurate with that of the existing operational site. The Division would also encourage the applicant to utilise the proposed new railhead at Cronberry for the dispatch of coal by rail to market, once this becomes operational.

Noted.

3.2 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 or minimise pollution. The following points are relevant:

- (i) The water treatment areas should be located to receive all contaminated water from the excavation, haul/access roads, overburden/soil tips, plant areas and the coal preparation site. All this drainage requires treatment before being discharged to a watercourse. Ground water from the dewatering of the site may need treatment to reduce iron concentration. An effective flow-balancing plan will be required to cope with expected storm conditions and ensure compliance with SEPA's discharge consent conditions.

- (ii) Clean water from around the site should be intercepted and diverted away from the working area. In order to prevent pollution from these ditches it is essential that they be properly designed taking account of the expected flows/ water velocity and constructed incorporating suitable ditch profiles. Freshly cut ditches on steep ground will require some protection to prevent erosion and pollution from mineral solids.
- (iii) Prior to diversion of burns, the applicant should ensure that a full assessment of the ecology of these watercourses has been carried out in order that the existing habitats can be restored as far as practicable. SEPA should be consulted prior to the works commencing.
- (iv) All foul drainage from offices, canteens etc., will require treatment prior to discharge to a watercourse and SEPA's consent will be required for the discharge of sewage effluent to a watercourse.
- (v) All oil storage tanks/drums should be stored within a properly bunded compound capable of holding 110% of the contents of the largest tank. Delivery and outlet points should also be contained within the bunded compound. All valves and fillers should be padlocked when not in use. Waste oil from plant maintenance should be collected and disposed of safely.
- (vi) Vehicle underbody/wheelwashes should operate on a closed cycle system and sited to prevent coal /mud contamination of the highway.
- (vii) The proposed operations in respect of the coal processes is a prescribed process designated for SEPA control and will require Authorisation under the Environmental Protection (Prescribed Processes and Substances Regulations) 1991.

The existing planning consent for the Spireslack site has conditions attached covering the issues raised by SEPA. Should consent be granted for the Grasshill extension, this would be subject to the same conditions as the existing Spireslack site.

3.3 Scottish Water, for its water and sewerage functions, indicates that it has no comments to make on the proposed development. If the developer is aware of, or discovers any public sewers or water mains affected by the development. Scottish Water must be notified immediately.

Noted.

3.4 East Ayrshire Council's Economic Development Division has no comments about the proposed development other than to note that the proposal will both safeguard existing jobs and will present the opportunity for the creation of further local employment.

Noted.

3.5 East Ayrshire Council Environmental Health Division states that it is not aware of any particular complaints or problems relating to the Spireslack site. Consequently the Division has no objections in principle to the application subject to the maintenance of existing conditions.

Noted.

3.6 The Coal Authority advises that in terms of shafts and adits, there are eight recorded mine entries. In view of the circumstances a prudent developer would seek appropriate technical advice before works are undertaken on site.

The applicant is aware of the mining history of the site.

3.7 The Scottish Executive Environment and Rural Affairs Department states that Grasshill is a small extension of some 25.4 hectares to the north-west boundary of the existing Spireslack opencast site. The land is owned by the applicant and its current use is forestry. In 1999 the Scottish Executive was consulted on the original application for Spireslack, we were satisfied that the main agricultural issues were covered by conditions the Council proposed to include within any planning consent granted. Since the applicant proposes to re-instate the land to forestry, SEERAD has no additional comments on the proposal.

Noted.

3.8 Scottish Power and British Telecom have no adverse comments to make on the proposed development.

Noted.

3.9 Muirkirk Community Council, the Scottish Wildlife Trust, South Lanarkshire Council, and the River Ayr Salmon Fisheries Board have not responded to the consultation letter.

Noted.

3.10 Scottish Natural Heritage states that there are natural heritage interests of some importance at this location, but the proposal is unlikely to threaten those interests. However, in order to ensure that adverse impacts are avoided, some further information on the use of the site by certain mammals will be required. SNH therefore has no objection to this development proposal, subject to the production of report on mammal use of the site.

The requested report has been submitted by the applicant and has been the subject of further consultation with SNH. SNH has noted

that no evidence of use of the site by badgers, red squirrels or other protected mammals was observed.

SNH states that the proposed development site lies within proximity to the boundary of the Muirkirk and North Lowther Uplands Site of Special Scientific Interest (SSSI) and potential Special Protection Area (pSPA). The site's proximity to a pSPA under the EC Directive 79/409/EEC on the conservation of wild birds (The Birds Directive) means that the provisions of Scottish Office Circular 6/1995 apply. This sets out the obligations of the EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna (The Habitats Directive) which applies a common protection regime to all European sites such that *"any plan or project likely to have a significant effect on a European site and which is not directly connected with or necessary to the management of that site must undergo an appropriate assessment as required by Article 6.3 of the Directive."*

Noted

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

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

SNH's advice to the Council is that the proposal is not directly connected with or necessary to site management for conservation. However, SNH considers that it is likely that no qualifying features will be affected significantly either directly or indirectly and an appropriate assessment is therefore not required. This view is offered notwithstanding some shortcomings in respect of the submitted Environmental Statement.

Noted.

SNH indicates that it would wish to see a revised detailed restoration plan produced for the whole site prior to the commencement of the proposed extension.

The applicant has stated that at this stage the land will broadly revert back to its original contours and land use, but that there will be opportunities to make modifications to the landform or exact use of the land use pattern at the appropriate time. It is suggested that the passage of time between now and the completion of the Grasshill extension may well reveal new ideas or different fashions in restoration that may significantly improve on the restoration concept.

In this regard, restoration of the Spireslack site is currently being considered under the Coalfield Environment Initiative, in partnership the applicant, the Council, SNH, RSPB and SWT, with a view to maximising the optimum restoration design for the area and to link in with restoration initiatives on other sites operated by the applicant.

A condition can nonetheless be attached to any consent granted for the proposed development to require the submission of a detailed restoration plan for the site.

3.11 The Royal Society for the Protection of Birds does not object to the application but believes that mitigation will be necessary to minimise its impact on one key bird species (short-eared owl). RSPB believes that other significant impacts are unlikely. RSPB requests that Scottish Coal undertakes bird surveys so that appropriate mitigation can be designed and incorporated into the application.

The proposed development of the Grasshill extension site is not due to be commenced until 2005/2006. It is considered that appropriate bird surveys can be conducted prior to the commencement of development to ensure that appropriate mitigation, if required can be incorporated into the proposed scheme. This can be secured through an amendment to the existing Section 75 Agreement for the Spireslack site.

RSPB requests that a detailed and up-dated restoration plan be provided covering the extended Spireslack/Grasshill site. This should identify links with surrounding areas, be appropriate to site conditions and contribute to the delivery of priority species and habitats.

Restoration of the Spireslack site is currently being considered under the Coalfield Environment Initiative, in partnership the applicant, the Council, SNH, RSPB and SWT, with a view to maximising the optimum restoration design for the area and to link

in with restoration initiatives on other sites operated by the applicant. A condition can nonetheless be attached to any consent granted for the proposed development to require the submission of a detailed restoration plan for the site.

RSPB seeks clarification of how the applicant intends to protect the ecological interest of Stottencleugh Burn during the mining and restoration period, and asks that information be provided on how the Grasshill extension will impact on the restoration timescale for Spireslack.

A condition can be attached to any consent granted for the proposed development to ensure that a detailed ecological study of the aquatic flora and fauna and any other ecological interests associated with the watercourse is undertaken.

The proposed Grasshill extension will be implemented and completed within the current consented timescale for the Spireslack site and it is considered that there will be no significant impact on the completion of full restoration of the Spireslack site.

3.12 The Ayrshire Joint Structure Plan and Transportation Committee states that the proposed development requires to be assessed within the context of Structure Plan policies E13 and E14. As the proposed extension scheme is outwith a preferred area and covering an area of approximately 24.5 hectares, Policy E14B is relevant. As the proposed development appears to fall within the threshold for small scale development, the key tests will be on whether or not the criteria for clearly demonstrated environmental benefit through the removal of dereliction, overall benefit to the community and local employment prospects, have been met. Should it be the Council's view that the proposal can be considered within this policy framework and that the criteria set out in E13 are addressed in full, then no objections are raised to the proposal.

Assessment against the policies of the Ayrshire Joint Structure Plan is given in Section 5 of this report.

3.13 The Forestry Commission advises on a number of issues relative to best practice in terms of operation and restoration of the site where replanting of trees is proposed. The restored site should have a topsoil and soil forming material which is free from compaction and is at least one metre in depth. This would allow the new woodland to quickly establish and grow on successfully. The quality of restoration is very important and this should be done with trees in mind from the start. The Forestry Commission would be obliged to withdraw any offers of grant aid for tree planting if it was not satisfied it could successfully support woodland.

The comments of the Forestry Commission have been forwarded to the applicant. The comments of the Forestry Commission can be taken on board as appropriate to the details of the restoration

scheme. Further consultation with the Forestry Commission can be undertaken at that time.

4. REPRESENTATIONS

4.1 One letter of representation has been received objecting to the proposed development. The points of objection are summarised as follows:

4.2 It is noted that the planning application form states that the new area is 24.5 hectares, however the new development area for opencasting is in fact larger by some 35 hectares.

The proposed Grasshill development consists of a variation of the method of working within the existing consented Spireslack site to allow the extraction of coals from an additional area of approximately 36 hectares. In addition permission is sought for an extension to the physical site boundary of the existing consented Spireslack site comprising an area of approximately 24.5 hectares.

4.3 The development is outwith Potential Coal Extraction Areas indicated in the East Ayrshire Opencast Subject Plan and it is not in a Preferred Area of Search in the Ayrshire Joint Structure Plan.

It is acknowledged that the application site does not fall within the areas described by the objector and the policy implications of this are discussed in sections 5 and 6 of this report.

4.4 The development is possibly near archaeological remains.

The site does not impinge on any known archaeological interests of national or regional significance.

4.5 The development is in an Environmentally Sensitive Area and in an area covered by existing/preferred forestry designation.

The site is presently occupied by a commercial forest. It is considered that the proposed Grasshill development will not adversely impact on the ESA designation and the Scottish Executive Environment and Rural Affairs Division has offered no objections to the proposal.

4.6 MEGA is aware that areas of up to 25 hectares could be considered under MIN2 of the Opencast Subject Plan. However, the applicant has provided no justification in terms of a clear demonstration of environmental benefit to be achieved through the removal of existing areas of dereliction.

The proposed development represents an extension to the existing Spireslack operational opencast coal site and therefore requires to be assessed against Policy MIN3. Nonetheless, the proposed development still requires to be assessed against the clear demonstration of environmental benefit to be achieved through the removal of existing areas of dereliction.

The Grasshill extension area is presently afforested as part of a wider commercial forestry area. In this regard, the proposed operations at Grasshill will not result in the removal of any significant visible areas of dereliction. The Grasshill extension area is affected by previous workings from the Viaduct and Grasshill mines. There are 8 mine entries recorded within the site with deep mining intrusions in some of the coal seams. The proposed opencasting of the Grasshill extension area will result in the removal of these remnants of former deep mining.

4.7 There is no overall benefit for communities in terms of local employment, as Spireslack already supposedly has 9 years left of a stated 10-year life.

The life of the Spireslack development has been foreshortened as a result of a number of factors including non-extraction of some reserves due to market condition and in some instances where anticipated reserves have not emerged. However, the operations within the proposed extension area will sustain the jobs of approximately 75 employees, contractors and service providers for a further 22 months.

4.8 MEGA notes that the boundary extension is just 500 metres from the boundary of the proposed Special Protection Area and the proposal is to remove trees in this buffer zone. Such an extensive area of altered habitat (Airdsgreen, Spireslack, Viaduct/Ellwood) will not be an environmental benefit and therefore is contrary to MIN3 and MIN27 as it has direct and indirect adverse effects on areas of nature conservation interest.

Scottish Natural Heritage states that there are natural heritage interests of some importance at this location, but the proposal is unlikely to threaten those interests. With respect to the pSPA, SNH considers that it is likely that no qualifying features will be affected significantly either directly or indirectly by the proposed development. These views are also echoed by RSPB who offer no objections to the proposed development.

4.9 MEGA submits that the application requires EIA under Schedule 2. Apart from the impact on people, it can affect flora and fauna ground vegetation and tree growth.

The Spireslack site was the subject of a comprehensive Environmental Impact Assessment, the findings of which were presented in the Environmental Statement that accompanied the Spireslack planning application. The extended area of the Grasshill development covers 24.5 hectares and has not previously been the subject of direct assessment. However, given the fact that few constraints have been identified within the extended area, the fact that the site is significantly remote from local communities and residential properties and the fact that the site is presently occupied by a commercial forest, it is considered that full impact assessment was not necessary in these circumstances. This view has been supported through the lack of any significant issues arising through the statutory consultation process.

The application is supported by additional environmental information consisting of a hydrological assessment and a report on the mammal use of the development site.

4.10 Is anyone in the Council skilled in evaluating the hydrological assessment. It seems to MEGA that there are several complications in the area e.g. undermining of the Stottencleugh Burn, notable minewater discharges downstream of Glenbuck. Will you consult the River Ayr Salmon Fisheries Board?

The supporting information on the hydrological assessment has been the subject of consultation with SEPA which has offered no objections to the proposed development. The River Ayr Salmon Fisheries Board has been consulted on the proposed development but has not responded to the consultation letter.

4.11 MEGA see no detailed proposals for beneficial afteruse of the site.

Restoration of the Spireslack site is currently being considered under the Coalfield Environment Initiative, in partnership the applicant, the Council, SNH, RSPB and SWT, with a view to maximising the optimum restoration design for the area and to link in with restoration initiative on other sites operated by the applicant. The Grasshill development will be included in the restoration design and afteruse proposal of the overall Spireslack site.

4.12 As Spireslack is one site, Viaduct/Ellwood another and Grasshill technically a third development this proposal may well be unacceptable in terms of cumulative development in terms of MIN12. It is in any case within 3kms of Burnfoot Moor and Tardoes sites.

The operations at Airdsgreen and Viaduct/Ellwood were encompassed within the Spireslack planning application and as

such this constitutes a single operational site. The Grasshill development is an extension to the Spireslack site and does not constitute a separate site.

At the time of implementation of the proposed Grasshill extension (2005/2006), existing opencast sites at Tardoes and Burnfoot Moor/Bankend will have been fully restored. Tardoes is nearing completion of restoration works and coaling operations at Burnfoot Moor/Bankend will be completed by the end of March 2003. In this regard, it is considered that there will be no cumulative impact of proposals in one area. The operations at Grasshill will also be undertaken within the timescale of the existing consent for Spireslack.

5. ASSESSMENT AGAINST THE 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 Muirkirk Local Plan (1985). The Adopted Local Plan was prepared within the context of then emerging Strathclyde Structure Plan.

Muirkirk Local Plan

5.2 Notwithstanding the age of the Adopted Local Plan, the proposed development site falls within the identified Rural Area. Policy 4 (Industry) states that new mineral working development will conform to the standards and guidance set out in the Council's approved Development Control Policies which will be used in the assessment of planning applications for new industrial development or mineral workings within the Local Plan Area. Furthermore in all cases where an application for opencast mineral working is applied for there will be a presumption in favour of protecting good quality, locally important agricultural land, Listed Wildlife Sites and Water Catchment Areas, the S.S.S.I at Blood Moss/Slot Burn and historical artefacts.

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

It is considered that the proposed development does not conflict with the policy provisions of the Adopted Muirkirk Local Plan.

Ayrshire Joint Structure Plan

5.3 The Approved Ayrshire Joint Structure Plan indicates in its Key Diagram that the Grasshill development site lies outwith a Preferred Area of Search and

therefore the proposed development falls to be assessed against Policy E14 which states:

E14A: Development opportunities for opencast coal working shall be directed to Preferred Areas of Search in East Ayrshire identified on the Key Diagram. Local Plans shall bring forward detailed policies and proposals for opencast working within these areas.

The proposed Grasshill development does not lie within the Preferred Areas of Search identified in the Key Diagram.

E14B: In North Ayrshire 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. Any proposals will be considered against the criteria in Policy E13.

The proposed Grasshill extension to the existing consented Spireslack site covers approximately 24.5 hectares and the variation to the existing consented Spireslack site covers a further 36 hectares. Operations in the extended site will take approximately 22 months to complete. In this regard it is considered that the proposal meets the criteria of being small scale and short term in nature. It should be noted that the proposed extension area will be worked within the approved timescale of the current consent for the Spireslack opencast site.

However, the Grasshill extension area is presently afforested as part of a wider commercial forestry area. In this regard, the proposed operations at Grasshill will not result in the removal of any significant visible areas of dereliction. The Grasshill extension area is affected by previous workings from the Viaduct and Grasshill mines. There are 8 mine entries recorded within the site with deep mining intrusions in some of the coal seams. The proposed opencasting of the Grasshill extension area will result in the removal of these remnants of former deep mining.

The proposal will however offer some overall benefit to communities principally through the continuation of existing jobs for a period of 22 months. Ecological benefits will also be provided through the introduction of more modern forestry principles in the restoration and after use of the site, particularly in the promotion of bird species such as black grouse and merlin.

Nonetheless, the proposed development is considered to represent a departure from Policy E14B, though this is not considered to be a significant departure in this instance.

5.4 Policy E13 states that proposals to extend the supply of land with planning consent for the winning and working of minerals shall be considered against the following criteria:

- (i) impact on the countryside, landscape character, visual amenity and the natural and built environment.

The Grasshill extension to Spireslack will be carried out as a phase of development such that impacts on landscape character and visual amenity will be minimised. The site of the Grasshill extension is very remote and given the topography of the surrounding area, it will be hidden from general public view. Furthermore, the proposed development will not impinge on any natural or built environment interests.

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

The Grasshill extension site is relatively remote and with the mitigation measures promoted in the existing operational site, it is considered that there would not be any significant adverse impacts through noise, dust or water pollution.

- (iii) any adverse effect on communities within Ayrshire.

The existing Spireslack site is isolated from most local communities and the Grasshill extension area would be further remote from any local community. It is considered that there will be no direct impact on communities resulting from the extended opencast operations. Clearly coals won from the site will require to be transported by road to existing railheads and that this traffic will pass through local communities, particularly Muirkirk. However, there would be no significant alterations to the existing transportation regime arising from the proposed development and no overall increase in daily vehicle movements to and from the site. The operations in the Grasshill extension area are to be undertaken at the end of the current consented scheme. It is therefore anticipated that the proposed new Cronberry railhead will be in place prior to commencement of operations at Grasshill, such that coals could be diverted through this railhead, thereby minimising any adverse traffic impacts on other local communities such as Cumnock, New Cumnock and Ochiltree.

- (iv) opportunity to maximise transport by rail or sea.

See response to (iii) above.

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

See responses to 5.3 above.

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

At the time of implementation of the proposed Grasshill extension, existing opencast sites at Tardoes and Burnfoot Moor/Bankend will have been fully restored. Tardoes is nearing completion of restoration works and coaling operations at Burnfoot Moor/Bankend will be completed by the end of March 2003. In this regard, it is considered that there will be no cumulative impact of proposals in one area. The operations at Grasshill will also be undertaken within the timescale of the existing consent for Spireslack.

It is considered that the Grasshill development is generally consistent with the provisions of Policy E13

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications) 2002, NPPG 16 – ‘Opencast Coal and Related Minerals’, appropriate Planning Advice Notes, consultation responses, the representations received and relevant planning history.

East Ayrshire Opencast Coal Subject Plan

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, following the public local inquiry process, that the East Ayrshire Council Opencast Coal Subject Plan (Finalised Version with Modifications) 2002, (EAOCSP), should be considered as a prime material consideration. The application now requires to be assessed against relevant pertinent policies promoted within this modified plan. *Note that in the following paragraphs some of the policies are summarised.*

- (i) Policy MIN 1: 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 Grasshill extension area does not lie within a Potential Coal Extraction Area and therefore requires to be assessed against Policies MIN2 or MIN3.

(ii) Policy MIN 2: There will be a presumption of refusal of applications for any new opencast coal developments outwith the Potential Coal Extraction Areas with the exception of small scale, short term extraction proposals which meet the following criteria:

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

The proposed development represents an extension to the existing Spireslack operational opencast coal site and therefore requires to be assessed against Policy MIN3.

(iii) Policy MIN 3: Subject to detailed consideration the Council will generally be supportive of any proposal to extend the existing operative opencast coal site within the Potential Coal Extraction Areas either laterally or through an increase in the depth of existing workings provided that the following criteria are met:

- (i) 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 represents an extension to the existing operations and will be carried out as a sequential phase of the approved Spireslack site and will follow on from the existing phased development.

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

The proposed development will be carried out utilising existing site facilities and infrastructure.

- (iii) 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 scale of operations, rate of extraction and number of vehicle movements generated by the extended site operations will be commensurate with current site operations.

(iv) that the proposed extension does not significantly prejudice plans for the restoration of the existing site.

The proposed extension will not impact significantly on the restoration of the existing operational site.

However the proposed extension area lies outwith a Potential Coal Extraction Area.

Outwith the Potential Coal Extraction Areas, the Council will assess any extension proposal on its own merits and against the above criteria, and will generally not be supportive of such development except where:-

(v) there is a clearly demonstrated environmental benefit to be achieved through the removal of existing areas of dereliction.

The Grasshill extension area is presently afforested as part of a wider commercial forestry area. In this regard, the proposed operations at Grasshill will not result in the removal of any significant visible areas of dereliction. The Grasshill extension area is affected by previous workings from the former Viaduct and Grasshill deep mines. There are 8 mine entries recorded within the site with deep mining intrusions in some of the coal seams. The proposed opencasting of the Grasshill extension area will result in the removal of these remnants of former deep mining.

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

The operations within the proposed extension area will sustain the jobs of approximately 75 employees, contractors and service providers for a further 22 months.

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

It is considered that the proposed development does not conflict with the other Subject Plan Policies as noted below.

Any extension to an existing opencast operation which would perpetuate any existing disturbance to a local community for a total extraction period in excess of 10 years will not be considered acceptable, unless it can be clearly demonstrated that there are significant local community and local environmental benefits to be secured by the development.

The existing Spireslack opencast site has a current consent for a 10-year period (2010). The proposed operations will be undertaken within this current consented timescale. The applicant has indicated that the Grasshill extension site is anticipated to commence working in 2005/2006 which would be completed by 2008 at latest.

(iv) Policy MIN 4: 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:

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

Given the remoteness of the site, the surrounding commercial forestry, and the topography of the site, it is considered that the impact on the landscape character and quality of the site will be minimal. Furthermore with the restoration proposals, there will be a net benefit in landscape character and visual amenity of the site. No statutory or non-statutory natural or built environment interests will be affected by the proposals.

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

It is considered that in line with the current conditions imposed in the existing consent for the Spireslack site, the proposed Grasshill extension can be operated in such a manner as to minimise any adverse impacts and can be undertaken to environmentally acceptable standards.

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

It is considered that in line with the existing controls imposed in the existing consent for the Spireslack site, the proposed Grasshill extension can be operated in such a manner as to minimise any adverse impacts on local communities and other residential properties, and can be operated to environmentally acceptable standards.

(iv) 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;

The proposed extension operations and subsequent restoration will result in the removal of remnants of former drift and deep mining including former shafts and adits. Similarly the proposal to

improve the ecological status of the area will also result in net ecological gains.

- (v) the opportunities to maximise transportation by rail;

Coals won from the Grasshill extension site will require to be transported by road to existing railheads and this traffic will pass through local communities, particularly Muirkirk. However, there would be no significant alterations to the existing transportation regime arising from the proposed development and no overall increase in daily vehicle movements to and from the site. The operations in the Grasshill extension area are to be undertaken at the end of the current consented scheme commencing around 2005/2006. It is therefore anticipated that the proposed new Cronberry railhead will be in place prior to commencement of operations at Grasshill, such that coals could be diverted through this railhead, thereby minimising any adverse traffic impacts on other local communities such as Cumnock, New Cumnock and Ochiltree.

- (vi) any cumulative impact of the proposal in association with other existing or proposed opencast developments in the area, including any significant prejudice to restoration plans for any existing site;

The proposed Grasshill extension will result in no significant prejudice to the existing restoration plans for the site. It is not considered that there would be significant cumulative impact resulting from the proposed extension. The extension scheme will be completed within a period of 22 months. At the time of implementation of the proposed Grasshill extension, existing opencast sites at Tardoes and Burnfoot Moor/Bankend will have been fully restored.

- (vii) any impact on inward investment opportunities in the area; and

Given the relative remoteness of the Grasshill extension, it is considered that it would have minimal impact on inward investment opportunities in the area.

- (viii) the period of extraction.

The proposed Grasshill extension will be undertaken within the current consented life of the Spireslack site which expires in 2010.

- (v) Policy MIN 12: The Council will seek to ensure that a proliferation of opencast coal sites within close proximity to any one community or within one particular area does not occur. In this context, any proposed new opencast

developments may be considered to contribute to an unacceptable cumulative impact on the amenity of an area where that development would:

- (i) constitute a third approved or operative site within 3 Kms of each other or within a 3 Km radius of any particular community as indicated on the Opencast Coal Subject Plan Proposals Map; or
- (ii) cause or exacerbate excessive adverse amenity and environmental disruption experienced by a community or group of dwellings from an existing operative site or from successive opencast operations over a total extraction period of 10 years; or
- (iii) generate volumes of heavy traffic which 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; or
- (iv) 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 the integrity of such areas.

The proposed Grasshill extension development is not a new site but an extension to the existing Spireslack site. Nonetheless it is considered that the proposed extension would not conflict with the provisions of policy MIN 12.

- (vi) Policy MIN 15: All developers are required to restore their operational sites progressively to the highest possible standards. Developers will be required to provide for the creation of new habitats appropriate to the particular after uses of the site concerned as an integral part of their detailed restoration and aftercare proposals.

The restoration of the extension area is to be designed to compliment that of the existing Spireslack site.

- (vii) Policy MIN 18: The Council will strongly encourage opencast coal operators to utilise existing rail facilities for the transportation of coal which is not specifically destined for local domestic Ayrshire markets.

Coals won from the proposed extension area will be processed through the existing coal preparation area at Spireslack with the majority of coal thereafter being dispatched by road to existing railhead facilities.

- (viii) Policy MIN 19: All haulage of extracted materials between the area of excavation and the point of dispatch from the opencast site should be via internal haul roads only.

All coals won from the proposed extension area will be taken to the coal preparation area via existing internal haul roads.

(ix) Policy MIN 20: 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.

The existing Spireslack site accesses directly onto the A70 road.

(x) Policy MIN 21: Expectation for potential opencast developers and their approved sub-contractors to enter into a Section 75 agreement with the Council:-

(i) to ensure the highest possible operational standards for the transportation of extracted minerals;

(ii) to ensure best operational practice regarding road safety and operational matters;

(iii) 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

(iv) to audit and record operational details of the transportation of coal on a regular basis; and

(v) 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 and their approved sub-contractors will be invited to subscribe.

The existing Spireslack opencast site is the subject of a Section 75 Agreement encompassing the above matters. The existing Agreement can be amended to encompass the proposed extension area to ensure the obligations are met by the operator.

(xi) Policy MIN 23: In order to ensure that opencast operations do not cause unacceptable disturbance and nuisance to residents of local communities, the Council is likely to consider opencast developments unacceptable where:

(i) a development has a boundary which encroaches within 500 metres of the community concerned.

The proposed extension area does not encroach within 500 metres of any local community.

(ii) the proposal involves a substantial area for extraction over an extraction period in excess of 10 years.

The proposed extension area extends to 24.5 hectares and operations within this area will be completed within 22 months. It is considered that the proposed development does not conflict with this policy provision.

(iii) the proposal is likely to be the subject of repeated extensions, perpetuating disturbance to local communities for a period substantially longer than 5 years.

The applicant has provided information indicating the existence of additional reserves of coal that may be pursued at a later date, depending on various factors. All of these reserves fall either directly within or immediately adjacent to the existing and proposed site boundaries. Any future proposals will require to be determined on their merits but it is likely that repeated extensions would not receive support if it is considered that they would perpetuate disturbance to local communities.

(xii) Policy MIN 25: 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, group of dwellings or individual dwellinghouses not in the ownership or under the control of the developer will only be entertained by the Council where the development can be fully justified by the developer in environmental terms and where all of the following criteria are met:

(i) the Council is satisfied that there are no objections which cannot be overcome through the expeditious use of conditions or planning agreements from residents, owners, tenants or occupiers of properties located within 500 metres of the proposed working face of the site;

(iii) the total period of extraction and restoration within a distance of 500 metres from any sensitive establishment or dwelling does not exceed a period of 12 months

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

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

The proposed Grasshill extension operations would not conflict with the provisions of Policy MIN25.

(xiii) 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 that may require to be subject of such an agreement.

(xiv) 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 is a significant contributor to the Mineral Trust Fund in respect of the existing Spireslack and other operational opencast sites within East Ayrshire.

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

The existing Spireslack opencast site is subject to a Section 75 Agreement encompassing the above matters. The existing Agreement would be amended to include the proposed extension area.

It is therefore considered that the proposed development is consistent with the relevant EAOCSF policies pertinent to this application.

National Planning Policy Guidelines

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

6.4 Many of the provisions of NPPG 16 are addressed within the EAOCSF with regard to the proximity to local communities, repeated extensions,

cumulative impact, natural and built heritage and the preference for rail transport. The proposal is thus considered to be consistent with NPPG 16.

Planning Advice Notes

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

Planning History

6.6 The more relevant planning history of the site is as follows:

- (i) 96/0670/FL: Proposed extraction of coal by opencast methods at Spireslack, Near Glenbuck. Approved 21 December 2000.
- (ii) 96/0014/FL: Proposed reclamation of former drift mine at Ellwood/Grasshill, Near Glenbuck. Approved 15 October 1996.

Consultation Responses

6.7 There are no consultation responses that would suggest that refusal of the application is appropriate.

Representations Received

6.8 It is considered that the representations received can either be addressed through the imposition of appropriate conditions in any planning consent granted for the proposed development or the points of objection are not valid.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council associated with the determination of this application. It is considered that the proposed development will necessitate an amendment to the existing Section 75 Agreement relating to the Spireslack site should the application be approved.

8. CONCLUSIONS

8.1 As is indicated in section 5 of this report, the application is considered to be contrary to the provisions of the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

8.2 The Grasshill extension development is considered to be contrary to the Adopted Structure Plan for the following reason:

- The Powharnal development site lies outwith the Preferred Areas of Search identified on the Key Diagram of the Approved Ayrshire Joint Structure Plan;
- Although the proposal is considered to constitute a small scale, short-term development, the proposed operations at Grasshill will not result in the removal of any significant visible areas of dereliction.

8.3 A number of factors, however, may be weighed against this:

- The extension of the supply of land for winning and working of minerals at the Grasshill / Spireslack site has been assessed against the criteria of Policy 13 of the Adopted Structure Plan.
- The site has been assessed as an operational extension of an existing site. The Structure Plan leaves detailed policies including such matters as the consideration of extensions to be specified in Local Plans.
- Whilst the development is contrary to the Adopted Structure Plan it is consistent with the Adopted Local Plan.

8.4 As is indicated in Section 6 above, there are also 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. In terms of the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications), the proposals would not result in conflict with the East Ayrshire Opencast Coal subject Plan. In particular the following matters are considered relevant:

- As an extension to the Spireslack site, the Grasshill development will utilise existing site facilities;
- The proposal would result in the removal of areas of despoiled land associated with former drift mining;
- The Grasshill development will sustain some 75 direct jobs and together with indirect employment through service providers and suppliers, this will have a significant financial input to the economy of an area which suffers from high levels of unemployment;
- The approval of the proposed extension will not have any impact on the timescale for completion of the Spireslack development in terms of the current consented life of the site.

8.5 The proposed development has not attracted any objection from local communities with only one letter of objection having been received. Similarly, no significant issues or objections have been received from statutory or non-statutory consultees.

8.6 In respect of all relevant matters and material considerations to be taken into account, it is considered that there are environmental and community benefits which would outweigh any temporary adverse impacts and give justification for the stated minor departure from the Approved Ayrshire Joint Structure Plan. Consequently it is considered that the application should be approved. Should the Committee agree with this view and be disposed to grant planning permission, any consent should be withheld until the existing Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 is amended to ensure that the Grasshill development site is encompassed within the Agreement and in order to ensure appropriate mitigation as described in Section 3.11 of this report.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded an amendment to the existing agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 as described in Section 8.6 above.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee because the decision would not represent a significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

05 March 2003
HM/HM/SMB
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans
2. Statutory Notices and Certificates
3. Consultation responses
4. Letter of representation
5. Adopted Muirkirk Local Plan 1984
6. East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications) 2002
7. Approved Ayrshire Joint Structure Plan 1999
8. Approved Strathclyde Structure Plan 1989
9. NPPG4 : Land for Mineral Working
10. PAN 50 : Controlling the Environmental Effects of Surface Mineral Workings
11. Previous application 96/0670/FL

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

Implementation Officer: Dave Morris

Location	Spireslack OCCS, Glenbuck, Near Muirkirk
Nature of Proposal:	Proposed variation of approved scheme of working (Planning Consent 96/0670/FL) and extension of excavation area at Grasshill
Name and Address of Applicant:	Scottish Coal Company Limited c/o Ayrshire Office Chalmerston Site DALMELLINGTON
Name and Address of Agent	N/A

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

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

1. The proposed Grasshill extension shall be completed within 24 months of the date of commencement of operations on the site and the applicant shall give the Planning Authority one month notice in writing of this commencement date.

REASON: To ensure that the proposed development is completed within an appropriate timescale in the interests of amenity.

2. Within six months of the date of the approval of the Grasshill extension development, the applicant shall submit to and have approved by the Planning Authority, a detailed restoration scheme for the site that shall be the subject of prior consultation with Scottish Natural Heritage, the Royal Society for the Protection of Birds and the Forestry Commission.

REASON: To ensure that the site is restored to the highest possible standards in the interest of habitat creation.

3. Prior to the commencement of works on the proposed Grasshill development site, the applicant shall undertake a detailed ecological study of the aquatic and other flora and fauna associated with watercourse that may be subject to diversion. The results of this study shall be submitted to the Planning Authority. Any mitigation required to minimise impact on ecological interests shall be agreed with the Planning Authority in consultation with the RSPB, SNH and SEPA, and shall be implemented as necessary by the applicant to the satisfaction of the Planning Authority.

REASON: To protect the ecological interests associated with existing watercourses.

4. The proposed development hereby approved shall otherwise be undertaken in accordance with the conditions pertaining to planning consent 96/0670/FL dated 21 December 2000.

REASON: To retain effective planning control over the proposed development in accordance with the current consent relating to the Spireslack opencast site.

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