

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 06 SEPTEMBER 2002

02/0420/FL: PROPOSED RECLAMATION OF FORMER OPENCAST SITE AND DRIFT MINE SITE INCLUDING RESTORATION FOR WOODLAND PLANTING WITH CONSERVATION FEATURES AT FORMER AUCHLIN MINE, BY SKARES.

APPLICATION BY PORTCULLIS DEVELOPMENTS LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the restoration of this abandoned, despoiled site through localised re-grading and cultivation of the site. This will involve earth-moving operations to restore the former opencast part of the Auchlin Mine site. The applicant proposes to establish a suitable soil medium capable of afforestation by the introduction of clean water sludges, gypsum, sewage filter cake and wood sludges to act as a growth medium and to maintain soil organic content as a source of essential plant nutrients. The sludge cake will be incorporated into the existing soils within the application site to a depth of 1.5 metres to produce a substitute growth medium to provide a suitable landform to sustain a range of habitats.

1.2 In order to achieve the required substitute soiling within the site, it is proposed to import some 125 tonnes of material into the site on a daily basis, equating to some 45,500 tonnes per annum. The reclamation of the site is anticipated to be completed within a period of two years. The intended hours of operations are between 0700 and 1800 hours Monday to Friday, and between 0700 and 1630 hours on Saturdays and Sundays.

1.3 The importation of this material will result in 6 or 7 laden heavy goods vehicles entering the site on a daily basis (i.e. up to 14 daily movements) travelling a preferred route along the B7046 and Uc28 roads from the A70 Cumnock-Ayr road. Although this is the preferred route, the applicant has indicated that in order to address any concerns regarding routing of vehicles, other routes could also be considered if deemed appropriate by the Roads Division.

1.4 The applicant has indicated that the main source of materials is from the new waste-water treatment plant at Meadowhead in North Ayrshire. Sewage sludge brought into the site will be incorporated into the existing soils as it arrives on site, thereby negating the need to store it locally within the site. This has the benefit of minimising odorous emissions. In order to deal with any residual odours that may occur from the handling of the sewage sludge cake on site, the applicant intends to use atomiser sprays.

1.5 The existing concrete pad within the site will be used as a hard standing for site offices, canteen and toilet facilities. A wheel washing area will also be provided within the site as well as fuel storage tanks and other storage facilities.

1.6 The restoration strategy for this site is to provide enhancement of natural heritage resources through the creation of diverse habitats including wetland, water, woodland and grassland. The existing water body within the site is to be retained but will be partially infilled with inert material to form an area of wetland and to facilitate the introduction of an island feature to create diverse wildlife habitat. In order to encourage aquatic life within the currently stagnant pond, it is proposed to partly divert the Closs Burn into the pond. The partially restored spoil heap is to be planted with trees.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that 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. CONCLUSIONS

3.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. There are no specific policies within the EALP which are relevant to the determination of this application, but restoration of this site would be consistent with the provisions of the East Ayrshire Opencast Coal Subject Plan, (Finalised Version with Modifications).

3.2 The general principle of the proposed development is considered to be acceptable and in some respects is welcomed because of the potential for habitat enhancement of a despoiled mineral site. No significant concerns have been raised through the consultation process that cannot be addressed through either the imposition of appropriate planning conditions or through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997. The site is also relatively remote and is located within a sparsely populated area.

3.3 The current consent relating to Auchlin Mine for the extraction of coal by partial opencast methods and drift mining expires on 28 February 2003. Within this consent there is an obligation on the developer to undertake

restoration works on the site on expiry of the consent. However, the site has essentially been abandoned for some years now. The current applicant has now acquired the Auchlin Mine site and the obligation to restore this derelict and despoiled area would rest with the current applicant as landowner.

3.4 However, as indicated in Section 6.4 of the report, the proposed development would result in additional HGV movements along the proposed access route to the site from the A70 road. The proposed development would result in up to 7 laden HGV's entering the site on a daily basis. In terms of additional movement, this would represent a 6% increase in HGV movements along the proposed access route.

3.5 In comparison with the previous application refused by the Council and dismissed on appeal, this represents a 50% reduction in daily traffic movements. In this regard it is now considered that, cumulatively, approval of the proposed development, in conjunction with other approved operations in the locality of the site, would not result in any significant additional adverse impacts on the amenity and enjoyment of existing residential properties lying adjacent to the B7046 and Uc28 roads.

3.6 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:

- (i) The undertaking by the applicant to pay to the Council, in the event of the Council incurring any extraordinary expense with the maintenance of the A70 road, so much of the expenses of maintaining this road attributable to damage caused by heavy vehicles operated by the applicant, all in terms of the Roads (Scotland) Act, 1984.
- (ii) The provision of required visibility sightline splay areas at the junction of the Auchlin Mine access road with the B7046 road.
- (iii) The definition of the access route from the site to the 'A' class road network to be used by HGV lorries accessing the site.
- (iv) The provision of monitoring information to include details of the amount and types of material imported into the site, and the numbers of HGV movements associated with the development, such information to be submitted to the Planning Authority on a monthly basis during the operational life of the site.

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application 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 as such

a decision would not represent a significant departure from the East Ayrshire Local Plan (Finalised Version with Modifications).

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 PORTCULLIS DEVELOPMENTS LIMITED

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the Scheme of Delegation as the development is of area significance and is the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located approximately 1 mile west of Skares village and is located in open countryside some 500 metres south off the B7046 Skares Road. The site is bounded on all sides by agricultural land. Further to the east lies the existing operational opencast site at Skares Road and to the west lies the Piperhill opencast site currently undergoing restoration.

2.2 The application site relates to the former Auchlin Drift Mine site extending to approximately 50 acres. The site has been abandoned with all structures associated with the former mine having been removed. A large concrete pad occupies the north-east corner of the application site. The site is however characterised by industrial dereliction in a semi-naturalised state. A partially restored spoil heap dominates the southern part of the site while a significant body of water occupies the central part of the site. This pool lies on the former drift mine access. A small watercourse, the Closs Burn, runs through the northern part of the site.

2.3 The site itself is relatively remote with the nearest occupied properties lying to the east (Auchlin Farm – 300 metres), and to the north (Auchencloigh Lodge – 600 metres). The topography of the surrounding area is such that the application site is not readily seen from the B7046 road.

2.4 **Proposed Development:** Full planning permission is sought for the restoration of this abandoned, despoiled site through localised re-grading and cultivation of the site. This will involve earth-moving operations to restore the former opencast part of the Auchlin Mine site. The applicant proposes to

establish a suitable soil medium capable of afforestation by the introduction of clean water sludges, gypsum, sewage filter cake and wood sludges to act as a growth medium and to maintain soil organic content as a source of essential plant nutrients. The sludge cake will be incorporated into the existing soils within the application site to a depth of 1.5 metres to produce a substitute growth medium to provide a suitable landform to sustain a range of habitats.

2.5 In order to achieve the required substitute soiling within the site, it is proposed to import some 125 tonnes of material into the site on a daily basis, equating to some 45,500 tonnes per annum. The reclamation of the site is anticipated to be completed within a period of two years. The intended hours of operations are between 0700 and 1800 hours Monday to Friday, and between 0700 and 1630 hours on Saturdays and Sundays.

2.6 The importation of this material will result in 6 or 7 laden heavy goods vehicles entering the site on a daily basis (i.e. up to 14 daily movements) travelling a preferred route along the B7046 and Uc28 roads from the A70 Cumnock-Ayr road. Although this is the preferred route, the applicant has indicated that in order to address any concerns regarding routing of vehicles, other routes could also be considered if deemed appropriate by the Roads Division.

2.7 The applicant has indicated that the main source of materials is from the new waste-water treatment plant at Meadowhead in North Ayrshire. Sewage sludge brought into the site will be incorporated into the existing soils as it arrives on site, thereby negating the need to store it locally within the site. This has the benefit of minimising odorous emissions. In order to deal with any residual odours that may occur from the handling of the sewage sludge cake on site, the applicant intends to use atomiser sprays.

2.8 The existing concrete pad within the site will be used as a hard standing for site offices, canteen and toilet facilities. A wheel washing area will also be provided within the site as well as fuel storage tanks and other storage facilities.

2.9 The restoration strategy for this site is to provide enhancement of natural heritage resources through the creation of diverse habitats including wetland, water, woodland and grassland. The existing water body within the site is to be retained but will be partially infilled with inert material to form an area of wetland and to facilitate the introduction of an island feature to create diverse wildlife habitat. In order to encourage aquatic life within the currently stagnant pond, it is proposed to partly divert the Closs Burn into the pond. The partially restored spoil heap is to be planted with trees.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Ochiltree Community Council objects to the proposed development for the following reasons:

- (i) Increased traffic on both the A70 and the Burnton to Auchlin Road causing an increase in sound and noise pollution.

The proposed development would result in between 12 and 14 vehicle movements on a daily basis using the A70 road and the B7046 / U728 roads to access the Auchlin Mine site. It is not considered that this relatively small increase in traffic movements resulting from the proposed development would have any significant increase in noise pollution from traffic movements associated with the proposed development.

- (ii) Refusal of previous application by East Ayrshire Council and the development department of the Scottish Executive. In the view of the Community Council, any changes in the proposals are not significant enough to justify planning permission.

The current planning application differs from that previously refused by the Council, and the subsequent appeal dismissed by the Scottish Ministers, in that the applicant has reduced the number of daily vehicle movements associated with the development by approximately 50%. The sole reason for refusal of the previous application related to cumulative traffic impact on residential properties along the access route (B7046/U728 roads). Consequently this current application requires to be considered on its merits in light of the amended proposal.

3.2 Scottish Water and Scottish Power have no adverse comments to make on the proposed development.

Noted.

3.3 The Coal Authority indicates that the site is within the zone of influence on the surface from workings in one seam of coal at shallow to 60 metres depth, the last date of working being 1982. Within or within 20 metres of the site, there are 4 mine entries. In view of the mining circumstances a prudent developer would seek appropriate technical advice before works are undertaken on site.

A note can be attached to any planning consent granted for the proposed development advising the applicant to seek appropriate technical advice regarding the mineral stability of the site.

3.4 The Royal Society for the Protection of Birds has not responded to the consultation letter.

Noted.

3.5 Scottish Natural Heritage states that the proposed development will provide some benefit to natural heritage interests which would outweigh any adverse impacts on those interests and therefore supports the proposal. The

scheme appears likely to remove or ameliorate dereliction and create new features of benefit to the bio-diversity and visual; amenity of the site. The real benefits of the scheme will depend on the nature of the planting proposed as well as the ongoing management of the site. SNH notes that Scottish Woodlands will consult separately over these matters. In addition the stated aim of enhancing the amenity value of the site will depend in large part upon the measures taken to encourage public access once the site has been completely restored.

Noted.

3.6 The Scottish Environment Protection Agency indicates that there will be no objections in principle to the development providing the activities undertaken do not give rise to offensive odours or surface water contamination. It is likely that a Waste Management Licence for the treatment of waste will be required under the Environmental Protection Act 1990 to control such emissions. It is SEPA's experience in the case of sewage sludge, that unless the material is sufficiently deodorised prior to transportation, it is likely to give rise to a substantial number of complaints.

Conditions can be attached to any consent granted for the proposed development to require the applicant to ensure that only suitably deodorised material is imported into the Auchlin site.

3.7 East Ayrshire Council's Environmental Health and Waste Management Division indicates that it has no objections to the proposed development subject to no nuisance or pollution being created during the remediation works. The site is visually not very attractive and would benefit from the reclamation and landscaping works. Initially there were some reservations over the use of such a quantity of sewage filter cake material on site, and the ability of the soil forming ground improver to remain stable on site. However the practical use of the medium has been confirmed by colleagues who were initially sceptical but now concede the potential of the system.

Noted.

The Division further states that given the projected timescale of two years, it is important that the work is managed satisfactorily to ensure that no smell nuisance is created. The nature of the medium is such that under the appropriate circumstances odour can be generated. Whilst the surrounding area is sparsely populated, good working practices should be adhered to in order to ensure that minimal cause for complaint is given to any residents in the general locality.

As indicated in the consultation response from SEPA, it is likely that a waste management licence for the treatment of waste will be required and in this regard, the applicant will require to undertake operations in such a manner as to ensure appropriate management practices to minimise and control odour nuisance. Under this licence, SEPA would have the ability to suspend or

stop operations on site should odour cause a statutory nuisance in terms of the Environmental Protection Act 1990.

The Division adds that the other possible cause for concern is the risk of pollution to any burn or watercourse in the vicinity, and in particular to the Closs Burn which runs through the site. Any pollution incident would obviously fall within the remit of SEPA and it is presumed that the precautionary measures indicated in paragraph 12 of the applicant's supporting statement are designed to take cognisance of any SEPA concerns.

Noted.

3.8 East Ayrshire Council's Roads and Transportation Division has no objections to the proposed development subject to conditions. The applicant will require to remove or arrange the removal of a small gorse bush to the west of the access road onto the B7046 road to ensure acceptable visibility is achieved at the access to the public road. This may be on land outwith the applicant's control and would therefore require a Section 75 Agreement with the landowner.

The requirements of the Roads Division can be secured through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997.

The Roads Division further advises that the applicant will require to contribute funds towards the repair and maintenance of the B7046 and U728 with a proportional sum based on their usage and ATH's Skares Road OCCS usage with a contribution from East Ayrshire Council. These figures would require to be calculated and agreed with the applicant and incorporated into a Section 75 Agreement prior to the development commencing on site.

The requirements of the Roads Division can be secured through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997. The applicant has indicated agreement in principle to making such contributions.

4. REPRESENTATIONS

4.1 Six letters of representation have been received objecting to the proposed development, including the objection from Ochiltree Community Council as indicated in paragraph 3.1 above. The points of objection are summarised as follows:

4.2 There would be an increase in HGV vehicles using the A70 Cumnock – Ayr Road on a daily basis which for much of its length there is ample evidence of wear and tear on it such as large potholes and subsidence.

The proposed development would result in between 12 and 14 vehicle movements on a daily basis using the A70 road and the

B7046 / U728 roads to access the Auchlin Mine site. It is not considered that this relatively small increase in traffic movements resulting from the proposed development would have any significant adverse impact on the condition of the A70 road itself. The Roads Division has not indicated any concerns regarding the traffic movements associated with the proposed development or the condition of the A70 road.

4.3 We have had previous experience of serious smells coming from the restoration work carried out at Whitehill Bing and when any complaint was made it was totally ignored by the applicant.

Restoration work at Whitehill was undertaken by the present applicant. It is the intention of the applicant to transfer operations to the Auchlin site following completion of the ground contouring operations at Whitehill. The sewage sludge cake to be imported into the site will not be stored but will be incorporated into the subsoil as it arrives on site. The applicant advises that this has the proven effect of reducing odour emissions to a minimum. In addition the sewage sludge is to be dosed with potassium permanganate at the wastewater treatment plant in order to minimise odorous emissions.

The applicant also proposes to utilise atomiser sprays applied by means of rotary blowers to deal with any residual odours that may occur. Consequently, it is considered that with these measures and the relative remoteness of the application site, there will be minimal impact through odour nuisance. As indicated in the consultation response from SEPA, it is likely that a waste management licence for the treatment of waste will be required and in this regard, the applicant will require to undertake operations in such a manner as to ensure appropriate management practices to minimise and control odour nuisance. Under this licence, SEPA would have the ability to suspend or stop operations on site should odour cause a statutory nuisance in terms of the Environmental Protection Act 1990.

4.4 It bewilders us how, after the previous application to East Ayrshire Council (May 2001), turned down October 2002, and the appeal to the Scottish Executive (December 2001) and its turning down on April 2002, that this company can apply again. On studying the new application there is no fundamental change and the same basis for turning down the application still exists. It is hoped you stand by your last decision and turn down the application.

The current planning application differs from that previously refused by the Council, and the subsequent appeal dismissed by the Scottish Ministers, in that the applicant has reduced the number of daily vehicle movements associated with the development by approximately 50%. The sole reason for refusal of

the previous application related to cumulative traffic impact on residential properties along the access route (B7046/U728 roads). Consequently this current application requires to be considered on its merits in light of the amended proposal.

4.5 On visiting the site, I noticed no need for restoration. The pit is surrounded by a fence and has some rubble and tar chips dumped on it. There is no need to disturb the site further as the sheep are quite happy with things as they are.

Notwithstanding the observations of the objector, the Auchlin Mine site is derelict and despoiled. There is an obligation under the current planning consent for the mine to have the site restored following expiry of this consent at the end of February 2003. The applicant has now taken ownership of this site and with it, the obligation to restore the site (see paragraph 6.4). While the site has through time acquired a semi-natural appearance, the character and appearance of the site is such that it is of low amenity and conservation value. The large stagnant body of water, the significant concrete pad that was formerly occupied by the mine buildings and the sparsely vegetated and partially restored spoil heap reflect the industrial dereliction of the site. The site would benefit significantly from the restoration proposals promoted by this development. The introduction of sewage, paper and wood sludge cake as a growth medium would assist in promoting conditions that would encourage a range of habitats.

4.6 Objection is made on the grounds of disturbance to wildlife in and around the site, i.e. black grouse, ringed plover and oyster catcher which are already there and at peace with the site.

Scottish Natural Heritage has indicated in its consultation response that the proposed development will provide some benefit to natural heritage interests which would outweigh any adverse impacts on those interests and therefore supports the proposal. The scheme appears likely to remove or ameliorate dereliction and create new features of benefit to the bio-diversity and visual amenity of the site.

4.7 Objection is made on the grounds of river pollution leaving the area contaminated with bacteria from sewage sludge which will eventually reach Ayr beach which is already contaminated.

The grounds of objection have not been substantiated by the Scottish Environment Protection Agency which, subject to appropriate controls and consents, does not object in principle to the proposed development.

4.8 Objection is made to the extra lorries arriving and leaving the site on a road that is already well and truly wrecked, potholed and rutted and badly maintained.

The Roads Division has indicated that the applicant will require to contribute funds towards the repair and maintenance of the B7046 and U728 with a proportional sum based on their usage and ATH's Skares Road OCCS usage with a contribution from East Ayrshire Council. The requirements of the Roads Division can be secured through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997. The applicant has indicated agreement in principle to making such contributions. The Roads Division has also advised that the volume of traffic proposed as a result of the development can be accommodated on the roads affected.

4.9 MEGA submits that the application description is incorrect and misleading. This development should be re-advertised as contrary to the development plan and also as a bad neighbour development with a corrected title.

The application has been advertised in terms of Article 12 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 i.e. as a bad neighbour development. The application is accompanied by a full supporting statement describing the operations proposed to be carried out on site. In this regard it is not considered that the development description is either incorrect or misleading.

The proposed development is not considered to be contrary to the policy provisions of the Adopted Mauchline/Drongan/Ochiltree Local Plan as indicated in Section 5 of this report. Consequently the application did not require separate statutory advertising under the Development Contrary to Development Plans procedures.

4.10 According to the Finalised East Ayrshire Local Plan any development in the Rural Diversification Area is only acceptable outside settlement boundaries if it provides for sensitive industrial, business, recreational or tourist development with a site specific locational need.

As indicated in Section 6.2 of this report, there are no specific policies within the EALP relevant to the determination of this application. It is recognised, however that the proposed development represents an opportunity to restore an abandoned former drift mining/ opencast site which would be consistent with the provisions of Policy MIN15 of the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications).

4.11 The land is not classified as derelict in the national survey, nor has the Council identified it as being in need of urgent treatment. The most foreign material on the site is the large concrete area, yet there are no proposals to remove this after it has been used as an operating base.

Notwithstanding the comments of the objector, the site is presently derelict and the proposed development would result in the restoration of the site to a condition that would substantially enhance the natural heritage importance of the area as indicated by Scottish Natural Heritage. The submitted concept restoration plan indicates that the area of concrete hard standing will be removed as part of the reclamation of the site.

4.12 Restoration is not required where natural vegetation has taken place. In any case, lush nitrogen rich vegetation is not appropriate where soil levels are unusually thin. Sewage sludge does not require to be added to material on this specific site.

While the site has through time acquired a semi-natural appearance, the character and appearance of the site is such that it is of low amenity and conservation value. The large stagnant body of water, the significant concrete pad that was formerly occupied by the mine buildings and the sparsely vegetated and partially restored spoil heap reflect the industrial dereliction of the site. The site would benefit significantly from the restoration proposals promoted by this development. The introduction of sewage, paper and wood sludge cake as a growth medium would assist in promoting conditions that would encourage a range of habitats.

4.13 MEGA objects strongly to this proposal. It will introduce yet more HGVs into an already congested area.

The proposed development will result in up to a further 14 vehicle movements per day on the B7046 road and represents a reduction in vehicle movements by 50% on the proposal under the previous application for the site. This section of road is also used by HGVs transporting coal from the Skares Road Opencast Site to both Killoch Coal Disposal Point and also domestic markets. The current production rate of this opencast site results in an average of 224 HGV movements per day, Monday to Friday, with a maximum of 240 movements allowed. However, it is considered that this reduced number of additional HGV movements generated by the proposed development would not now result in significant adverse cumulative traffic impact on residential properties located on the B7046 road.

4.14 The development will extend the no-go area in East Ayrshire for investment, tourists and judging by local depopulation, residents.

The proposed development is of a temporary nature and would result in the restoration of a derelict site. The site in its present condition does not enhance the potential investment or tourism prospect of the area in which it is located.

4.15 This material could be dried and burned at Longannet as tests have proved. There would then be two benefits for East Ayrshire – less coal extraction and less environmental despoilation.

The application submitted requires to be determined on its own merits.

4.16 MEGA objects to such long working hours i.e. 7 am to 6 pm weekdays is unacceptable, the early start being contrary to EAC policy/practice. Weekend work is particularly unacceptable.

Given the relative remoteness of the application site, it is considered that the hours of operation are acceptable, except in relation to the movement of vehicles. At present, the movement of HGVs carrying coal is restricted to 8 am to 6 pm Mondays to Fridays with no vehicle movements on Saturdays or Sundays. It is considered that if consent was granted for the proposed development, similar haulage restrictions should be applied to this development.

4.17 If the application is approved no other waste material other than sewage sludge should be permitted without a further application. You have not assessed the potential impact of any wood waste etc.

The proposals include the importation of gypsum, paper and wood sludge cake. The application has been the subject of consultation with SEPA and no adverse comments have been received in respect of these materials.

4.18 The reasons for refusal, based on cumulative impacts on residential properties should be used again for this proposal.

See response to 4.12 above.

4.19 The proposed development falls to be considered under Schedule 2 of the Environmental Impact Assessment (Scotland) Regulations 1999.

The application was screened in accordance with the provisions of the EIA Regulations 1999 and it was considered that a formal Environmental Impact Statement was not necessary in this case.

4.20 MEGA is concerned about the nature of the material which it is proposed to deposit, its effect on the land, watercourses and the risk to farmland in the area. There appears to be some unknowns in respect about

what is to be imported. This is not acceptable and we doubt whether the Council could control what is imported unless there is documentation, although this is even rumoured to be falsified by some waste contractors.

SEPA has no objections in principle to the proposed development. As indicated in the consultation response from SEPA, it is likely that a waste management licence for the treatment of waste will be required. In this regard, the applicant will require to maintain records of materials imported into the site.

4.21 MEGA states that this sort of development does nothing for the environment and we cannot see how lush vegetation will add to bio-diversity and see no need for the site to be restored. The supporting statement is silent about any existing merits the site may have.

Scottish Natural Heritage has been fully consulted on the proposed development and has indicated in its consultation response that the proposed development will provide some benefit to natural heritage interests which would outweigh any adverse impacts on those interests and therefore supports the proposal. The scheme appears likely to remove or ameliorate dereliction and create new features of benefit to the bio-diversity and visual amenity of the site.

5. DEVELOPMENT PLAN STATUS

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 and the Adopted Mauchline/Drongan/Ochiltree Local Plan, (1993). The Adopted Plan was prepared within the context of the emerging Strathclyde Structure Plan.

5.2 Policy ENV20 is applicable in this instance and states:

The Council recognises the benefits to the community associated with nature conservation and will seek to realise opportunities for habitat creation, retention, interpretation and sympathetic management throughout the district and especially in conjunction with the restoration of opencast coal sites and other developments considered appropriate.

The proposed development represents an opportunity for the restoration of an abandoned drift mine / opencast site and will result in site improvements through re-contouring of the abandoned working area, provision of tree planting and substantial enhancement areas of habitat for the benefit of natural heritage interests. It is considered that the proposed development is consistent with the provisions of Policy ENV20.

5.3 Similarly, Policy MIN7 states:

The progressive restoration of opencast sites will be required to reduce the impact of operations and to return the land to a productive or beneficial afteruse at the earliest opportunity. Restoration of opencast sites will require to be of the highest standard and where appropriate will provide facilities to the local population. In addition to agricultural use, restoration of land for forestry or wildlife/nature conservation/environmental educational use will be favourably considered where appropriate.

It is considered that the proposed development would be consistent with the provisions of Policy MIN7.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan, (Finalised Version with Modifications) (2001), the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications) (2001), the consultation responses, the representations received and relevant planning history of the area in which the development site is located.

East Ayrshire Local Plan

6.2 The Adopted Local Plan 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), should be considered as a prime material consideration. However, there are no specific policies within the EALP which are relevant to the determination of this application.

East Ayrshire Opencast Coal Subject Plan

6.3 The proposed development can be assessed against Policy MIN15 of the East Ayrshire Opencast Coal Subject Plan (Finalised Version with Modifications) 2001 which states:

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.

The proposed development represents an opportunity for the restoration of an abandoned drift mine / opencast site and will result in site improvements through re-contouring of the abandoned working area, provision of tree planting and substantial enhancement areas of habitat for the benefit of natural

heritage interests. It is considered that the proposed development is consistent with the provisions of Policy MIN15.

Planning History

6.4 The more recent planning history of the site is as follows:

- (i) CD/87/286: Extension to Mineral Workings at Auchlin Mine – Approved on 29 February 1988 subject to a limited consent to expire on 28 February 2003. Application by Fairclough Parkinson Mining Limited.

The applicant has now taken ownership of this site and the outstanding restoration obligation, following expiry of the planning consent, would fall with the current applicant.

- (ii) CD/91/9/Q: Proposed Landfill Operation and restoration of Auchlin Mine – Application granted subject to a Section 50 Agreement but subsequently withdrawn on 21 August 1995 due to failure to conclude this agreement. Application by Fairclough Parkinson Mining Limited.
- (iii) 01/0346/FL: Restoration of Moribund Site etc. at former Auchlin Mine – Application refused on 05 October 2002 for the following reason:

The proposed development would result in an increase in heavy goods vehicle movements along the B7046 and Uc28 roads, which taken in conjunction with significant heavy goods vehicle movements on this route associated with the operation of the existing opencast site at Skares Road, would cause an unacceptable adverse cumulative impacts on the amenity and enjoyment of existing residential properties lying immediately adjacent to the proposed transportation route accessing the development site.

- (iv) A subsequent appeal on application 01/0346/FL was dismissed by the Scottish Ministers on 11 April 2002. The conclusion of the appointed Reporter was that a 13% increase in HGV movements along the access route was significant and the cumulative impact on residential properties was a material consideration that could not be overlooked.
- (v) Although not directly related to this site, the Council has granted planning consent for the extraction of coal by opencast methods at Skares Road. More recently the Council approved an application for the introduction of a limited nightshift operation on 08 June 2000 (Ref. No. 00/0010/FL) for a period of three years.

The effect of this limited nightshift operation was to increase the coal production on a daily basis from the Skares Road site. Coals are transported from this site via the B7046 and Uc28 roads to Killoch Coal Disposal Point and to local domestic markets. This transport route is the same route proposed under the present application for Auchlin. Current production levels from the Skares

Road site results on average in some 224 vehicle movements per day on this route between the hours of 0800 to 1800 Mondays to Fridays (maximum movements restricted to 240).

The proposed amended development at Auchlin would result in up to an additional 14 heavy goods vehicle movements on this route. Notwithstanding other vehicle usage of this route on a daily basis, this represents a 6% increase in HGV movements along this route. Although lying within a relatively sparsely populated area, there are three residential properties that lie directly on this route. Given the amended proposals, the additional HGV movements have now been significantly reduced from the original proposals. It is considered that the additional HGV movements now generated by the proposed development would not result in any significant adverse cumulative impact on the residential amenity and enjoyment of these residential properties to an unacceptable degree.

Consultations

6.5 With the exception of the response from Ochiltree Community Council, no adverse consultation replies have been received which would indicate that the application should be refused.

Noted.

Representations

6.6 The representations are fully considered in section 4 of the report. It is considered that concerns regarding odorous emissions, traffic impact and residential amenity could be addressed by the imposition of conditions on any planning consent or by means of a Section 75 Agreement. Objections due to impact on natural heritage interests have not been substantiated by Scottish Natural Heritage. The Roads Division has not echoed concerns regarding road infrastructure or capacity. Additional controls will be imposed by SEPA in terms of its responsibilities under the Environmental Protection Act, 1990.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Should the Committee be minded to approve the application, legal implications would arise through the need for a Section 75 Agreement to be concluded with the applicant in respect of matters identified in Section 8.6 of this report.

8. CONCLUSIONS

8.1 As is indicated in Section 5 above, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. There are no specific policies within the EALP which are relevant to the determination of this application, but restoration of this site would be consistent with the provisions of the East Ayrshire Opencast Coal Subject Plan, (Finalised Version with Modifications).

8.2 The general principle of the proposed development is considered to be acceptable and in some respects is welcomed because of the potential for habitat enhancement of a despoiled mineral site. No significant concerns have been raised through the consultation process that cannot be addressed through either the imposition of appropriate planning conditions or through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997. The site is also relatively remote and is located within a sparsely populated area.

8.3 The current consent relating to Auchlin Mine for the extraction of coal by partial opencast methods and drift mining expires on 28 February 2003. Within this consent there is an obligation on the developer to undertake restoration works on the site on expiry of the consent. However, the site has essentially been abandoned for some years now. The current applicant has now acquired the Auchlin Mine site and the obligation to restore this derelict and despoiled area would rest with the current applicant as landowner.

8.4 However, as indicated in Section 6.4 above, the proposed development would result in additional HGV movements along the proposed access route to the site from the A70 road. The proposed development would result in up to 7 laden HGV's entering the site on a daily basis. In terms of additional movement, this would represent a 6% increase in HGV movements along the proposed access route.

8.5 In comparison with the previous application refused by the Council and dismissed on appeal, this represents a 50% reduction in daily traffic movements. In this regard it is now considered that, cumulatively, approval of the proposed development, in conjunction with other approved operations in the locality of the site, would not result in any significant additional adverse impacts on the amenity and enjoyment of existing residential properties lying adjacent to the B7046 and Uc28 roads.

8.6 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:

- (v) The undertaking by the applicant to pay to the Council, in the event of the Council incurring any extraordinary expense with the maintenance of the A70 road, so much of the expenses of maintaining this road attributable to damage caused by heavy vehicles operated by the applicant, all in terms of the Roads (Scotland) Act, 1984.
- (vi) The provision of required visibility sightline splay areas at the junction of the Auchlin Mine access road with the B7046 road.
- (vii) The definition of the access route from the site to the 'A' class road network to be used by HGV lorries accessing the site.
- (viii) The provision of monitoring information to include details of the amount and types of material imported into the site, and the numbers of HGV movements associated with the development, such information to be submitted to the Planning Authority on a monthly basis during the operational life of the site.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that 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

27 August 2002
HM/HM
FV/DVM

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application 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 as such a decision would not represent a significant departure from the East Ayrshire Local Plan (Finalised Version with Modifications).

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letters of representation.
5. Adopted Mauchline/Drongan/Ochiltree Local Plan (1993)
6. Approved Ayrshire Joint Structure Plan (1999).
7. East Ayrshire Local Plan, Finalised Version with Modifications (2001).
8. East Ayrshire Opencast Coal Subject Plan, Finalised Version with Modifications (2001).
9. Previous applications CD/87/286, CD/91/9/Q and 01/0346/FL
10. Appeal Decision 01/0346/FL
11. Approved Strathclyde Structure Plan.

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

Implementation Officer: Dave Morris

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4. 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.

5. 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 vehicle wash facility for the cleaning of all lorries, dump trucks, other heavy vehicles and plant leaving the site.

REASON: In the interests of road safety.

6. The access roads and public roads adjacent to the site shall be kept clear of mud or other deposited materials at all times.

REASON: In the interests of road safety.

7. All contaminated drainage and run-off from the site roadways, intercepting ditches, and other operational areas 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.

8. 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.

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

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

10. 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

11. 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 operations.

12. The hours of working on site shall be between 0700 hours and 1800 hours Monday to Friday and between 0800 hours and 1400 hours on Saturdays. With the exception of 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.

13. The importation of materials by road into the site shall be confined between 0800 hours and 1800 hours Mondays to Fridays. There shall be no importation of material on Saturdays or Sundays.

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

14. The maximum number of laden HGV lorries entering the site shall not exceed 7 on a daily basis.

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

15. Operations on site shall be such that the noise limit during daytime (0700 to 1900 hours) shall not exceed 45dB Laeq, 1h at noise sensitive properties.

REASON: In the interests of residential amenity.

16. The importation of sewage sludge shall be confined to such material that has been suitably treated to minimise the potential for odorous emissions, prior to its importation into the site.

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

17. The applicant shall take all necessary measures to minimise odorous emissions from the site operations, and to ensure that that all imported materials shall not be stored on site, but treated and incorporated within the site following deposition.

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

18. Prior to the commencement of development, the applicant shall submit for the approval of the Planning Authority, a landscaping/restoration scheme containing full details of the numbers, species, age and location of trees to be planted within the woodland area. The landscaping/restoration scheme shall also specify the grass mix and proposed wildflower seeding and specify in engineering terms the manner of diverting the Closs Burn into the proposed pond. Furthermore, the scheme shall specify the phasing and timeframe relative to its implementation. There shall be no commencement of works on site until such time as the landscaping/restoration scheme has been agreed by the Planning Authority and the scheme shall thereafter be implemented as agreed.

REASON – To ensure that the restoration of the site proceeds to the satisfaction of the Planning Authority.

19. The applicant shall submit a progress plan and statement to the Planning Authority outlining the progress of restoration works on the site, on a six-monthly basis during the operational life of the site.

REASON: In the interests of site monitoring.

NOTES TO APPLICANT

- (1) The applicant is advised to make early contact with the Scottish Environment Protection Agency with respect to the requirement for a Waste Management Licence under the Environmental Protection Act 1990.

- (2) The applicant is advised to make early contact with the Coal Authority regarding the mineral stability of the site.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**

AGENDA