

EAST AYRSHIRE COUNCIL**SOUTHERN LOCAL PLANNING COMMITTEE****MINUTES OF MEETING HELD ON FRIDAY 19 NOVEMBER 1999 AT 1000 HOURS
IN DRONGAN COMMUNITY CENTRE, MILLMANNOCH AVENUE, DRONGAN**

PRESENT: Councillors Tommy Farrell, Eric Jackson, Julie Faulds, William Menzies, Eric Ross, Elaine Dinwoodie, Robert Taylor and Jimmy Carmichael.

ATTENDING: David Morris, Development Promotion Manager; Bill Walkinshaw, Principal Administrative Officer; Karen Macleod, Solicitor; Hugh Melvin, Technical Planning Officer; and Ian Gemmell, Administrative Officer.

APOLOGIES: Councillors Jimmy Kelly and George Smith and Provost Jimmy Boyd.

CHAIR: Councillor Tommy Farrell, Chair.

CONSIDERATION OF PLANNING APPLICATIONS**1.1 PROCEDURE**

The Principal Administrative Officer advised of the procedure for Hearings at Local Planning Committees.

1.2 APPLICATION NO 99/0575/OL: MR J DUNLOP

There was submitted an executive summary sheet and a report dated 2 November 1999 (circulated) by the Head of Planning and Building Control on an application for outline planning permission for the erection of a dwellinghouse adjacent to Bardarroch Cottage, Ochiltree.

It was reported and noted that Members had attended a site visit prior to the meeting.

The Development Promotion Manager reported that one objection had been received, details of which were given in the report, summarised the planning considerations in respect of the application and gave the recommendation of the Head of Planning and Building Control: Refusal, for the reason that the proposed development would constitute the erection of a new dwellinghouse in the countryside without a specific locational need and would therefore not be in accordance with Policies SD3 and RES13 of the Finalised East Ayrshire Local Plan.

The Committee then heard objector Mr Cameron Graham, who spoke in support of his objections, and the applicant's agent, Mr David Malcolmson, who spoke in support of the application. Members asked questions of the objector and the applicant's agent, and the applicant's agent and the objector responded to the issues raised, all in accordance with the agreed Hearing procedure.

It was agreed to refuse the application for the reason detailed.

1.2 APPLICATION NO 99/0355/FL: MILLER MINING**1.2.1 Declaration of Interest**

Councillor Menzies declared a non-pecuniary interest in this application.

1.2.2 Consideration of Application

There was submitted a report dated 11 November 1999 (circulated) by the Head of Planning and Building Control on an application for full planning consent for the extraction of coal by opencast methods at Rigghead Extension, and retention of Existing Hall of Auchincross Site to utilise existing facilities including site offices, water treatment areas, site access and coal preparation area at Hall of Auchincross Opencast Site, near New Cumnock.

The Technical Planning Officer intimated the following amendments to the Head of Planning and Building Control's report:- (i) in Paragraph 1.3 of the Executive Summary and in Paragraph 2.6 of the report, delete "65 hectares" and substitute therefor "45 hectares"; and in Condition (29) of the Form TP 24A, relative to the report delete "45 Db" and substitute therefor "55 Db";

The Technical Planning Officer reported that 4 letters of objection and 53 letters in support of the application had been received, details of which were given in the report, summarised the planning considerations in respect of the application and gave the recommendation of the Head of Planning and Building Control: (i) Approval, subject to the following conditions:- (1) The development hereby permitted shall enure for the benefit of the applicant only, and shall be commenced within 6 months of the date of issued notice of decision and the approved operations shall be completed within three years of the commencement date of the operations, or at such other times as may be agreed with the Planning Authority; (2) The applicant shall give notice to the Planning Authority, in writing, of the commencement of operations on site, one month prior to their commencement; (3) Unless the requirements under this Condition have been formally dispensed with by the Planning Authority, no development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has received the prior approval of the Planning Authority and which is fully compliant with the Terms of Reference which will be issued by the West of Scotland Archaeology Service on behalf of the Planning Authority; (4) Appropriate measures shall be taken to prevent mud, dirt, dust, slurry, coal or stones being carried onto the highway and such steps shall include the provision and use of hardstanding areas and a full wheel and body vehicle wash facility for the cleaning of all lorries, dump trucks, other heavy vehicles and plant leaving the site; (5) The access road and public road adjacent to the site shall be kept clear of mud or other deposited materials at all times by means of mechanical brushing as appropriate. No excavations shall take place within 25 metres of any public roads adjacent to the site; (6) Prior to any road vehicle loaded with coal or other minerals leaving the site, the load shall be suitably hopped to ensure there is no escape of materials. A hardstanding area shall be provided within the coal preparation area to facilitate the hopping of haulage vehicles. Vehicles returning to the site shall also be hopped to minimise traffic noise associated with empty vehicles; (7) Prior to excavation works commencing on site statutory undertakers' apparatus shall be protected and diverted as required, to the satisfaction of the respective statutory undertakers and at the expense of the developer; (8) The developer shall make stock-proof and maintain, until the restoration of the site is completed, all existing perimeter hedges and fences and shall protect these from damage during operational works. Where the site boundary does not coincide with an existing hedge or fence, then the developer shall provide and maintain stock-proof fencing with gates or cattle grids at every opening. Where the developer has the right to do

so, undisturbed hedgerows, within or bounding the site, shall be maintained, the hedgerows to be cut and trimmed at the proper season throughout the period of working and restoration of the site. Where dry stone dykes are to be removed, the stone shall be stored and later re-used in the restoration of these dykes; (9) Topsoil and sub-soil shall only be stripped when the soils are sufficiently dry so that when removed no damage will be done to the structure of the soils. Apart from the works required to enclose the site, no operations shall be carried out until the top soil is fully stripped and stored in the designated areas within the site, in accordance with the phased programme of extraction as described in the Project Description which forms part of the planning application; (10) Topsoils shall be stripped to full available depth from all areas within the site except those areas designated in the approved plans as topsoil dumps. Following topsoil stripping operations from any areas of land, sub-soil shall be stripped as a separate operation to a depth, where possible, to achieve topsoil and sub-soil not less than 0.9 metre at restoration; (11) The developer shall give at least two working days notice to the Planning Authority before work commences on the stripping of topsoil and sub-soil. The Planning Authority reserves the right to suspend operations during adverse conditions or to impose any conditions as it sees fit for the safe keeping of top soil and sub-soil; (12) Bind-free soil forming material found during the course of the operations shall be reserved where practicable and stored for later use in the final restoration of the land. This material shall be used to replace shortages of sub-soil or topsoil, or otherwise used to cap overburden mounds; (13) Topsoil, sub-soil and overburden shall be carefully stored in separate mounds with appropriate separation of storage mounds to prevent soils from mixing. Topsoil mounds and sub-soil mounds shall not exceed 10 metres in height. Topsoil and sub-soil mounds shall be evenly graded and tops shaped to prevent water ponding; (14) In the first available seeding season following their formation, all mounds of topsoil, sub-soil and soil making materials shall be seeded in grass and shall be so maintained until the soils are required for use in the restoration of the site except as may be otherwise agreed with the Planning Authority. The existing overburden mound shall be hydro-seeded in grass until commencement of restoration of the site; (15) All weeds on the site, particularly those on the topsoil and sub-soil storage mounds, shall be treated with weed killer or cut to prevent spreading within the site or onto adjoining agricultural land; (16) The location of baffle embankments shall generally be as indicated on the approved plans. Their specific location should be chosen to assist in the visual screening of the site and their form should be such as to present a natural looking feature, particularly for the screen bunding adjacent to the unclassified Uc19 and Uc20 public roads; (17) Where the soils are to be used in the restoration of land to forestry, then the stripping and storage of soils shall be to the general requirements and specifications of the Forestry Commission; (18) All water treatment areas/settlement lagoons shall be enclosed by a 1.8 metres high stock proof fence; (19) Throughout the period of site working, agricultural restoration and after-care, the developer shall protect and maintain or divert any ditch, stream, watercourse or culvert passing through the site so as not to impair the flow nor render less effective drainage onto and from adjacent lands; (20) Appropriate provision shall be made at all times to ensure that under drainage is maintained for land outwith the working areas. Standing water must not be allowed to gather in any area where the topsoil and sub-soil has not been stripped; (21) Alternative arrangements shall be made for any interruption of adjacent drainage systems. New interceptor leaders shall be laid, or ditches cut, where required, to ring the site and bleed in existing lateral drains from adjoining

undisturbed land; (22) All contaminated drainage and run-off from the site roadways, interception ditches, overburden and other tips, coal handling and stocking areas, the working areas of the excavations and pump mine water shall receive adequate and appropriate treatment prior to being discharged to any watercourse, such treatment being to the satisfaction of the Planning Authority; (23) Appropriate precautions shall be taken to prevent the discharge of oil from fueling, oil storage, plant maintenance and vehicle wash areas within the site; (24) 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; (25) 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 necessary in order to discharge sewage effluent to any watercourse; (26) No surface water from the site shall be permitted to discharge onto the adjacent public roads and all surface water from the topsoil, sub-soil and overburden mounds shall be prevented from reaching the road by cut-off ditches or other means outwith the highway boundary. These cut-off drains and ditches must not connect into the roadside drainage; (27) The formation of soil mounds shall be carried out in such a manner as to reduce noise nuisance to a minimum and, whenever possible, during the hours of darkness, warning lights shall be used instead of beepers as a warning device on plant and maintenance vehicles, or other appropriate warning devices the details of which shall be submitted to and approved by the Planning Authority; (28) The operational conduct of the site shall be in accordance with the Project Description/Written Statement which forms part of the approved details of the application; (29) The conduct of the site and method of operation shall comply with British Standards 5228 and Part 3 of the 1984 Code of Practice for Noise Control Application to Surface Coal Extraction by Opencast Methods. Except during the formation and removal of baffle mounds and the stripping and replacement of soils, the noise limit during daytime (0700 to 1900 hours) shall not exceed 45dB Laeq, 1h and 40dB Laeq, 1h during night-time (1900 to 0700 hours) at noise sensitive properties. During the formation and removal of baffle mounds and the stripping and replacement of soils, the noise limit shall not exceed 70dB Laeq, 1h at noise sensitive properties with such works only taking place during daylight hours; (30) An appropriate noise monitoring programme shall be undertaken during the operational life of the site, using appropriate equipment and recording devices, the details of which shall be agreed with the Planning Authority the results of which shall be submitted to the Planning Authority on a monthly basis during the operational life of the site. The noise monitoring programme shall be in place prior to the commencement of works on site; (31) 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 to be made available to the Planning Authority on a monthly basis during the operational life of the site. The dust monitoring programme shall be in place prior to the commencement of operations on site; (32) Except in the case of emergency, the hours of working on site, will be confined between 0700 hours and 1900 hours Monday to Friday, 0730 hours and 1300 hours on a Saturday. With the exception of essential site maintenance and the maintenance of plant and machinery, no work

shall take place on Sundays or recognised Public Holidays in East Ayrshire; (33) Except in cases of emergency, the dispatch of coal from the site shall be confined between 0800 hours and 1700 hours Mondays to Fridays. There shall be no dispatch of coal on Saturdays or Sundays; (34) Except in cases of emergency or as otherwise may be agreed with the Planning Authority, blasting operations shall be carried out between 1000 hours and 1500 hours Mondays to Fridays. No blasting operations shall take place on Saturdays or Sundays, or on recognised East Ayrshire Public Holidays, during the hours of darkness or during periods of adverse visibility. No blasting operations shall be carried out within 500 metres of the residential property at Caer-Niven; (35) Blasting operations shall be carried out in such a manner that no component of the peak particle velocity attributable to any blast, measured at any point immediately adjacent to any building outside the boundaries of the site, exceeds a vibration criterion of 6mm/second at a 95% confidence level; (36) An appropriate blast monitoring scheme shall be undertaken during the operational life of the site the details of which shall be agreed with the Planning Authority in consultation with the Environmental Health Authority, using appropriate equipment and recording devices, the results of which shall be submitted to the Planning Authority on a monthly basis. The blast monitoring scheme shall be in place prior to any blast operations being undertaken on site; (37) Blasting operations shall not be carried out in any part of the site lying within 500m of occupied residential property; (38) All opencast machinery not in use shall be parked, as far as practicable, in an inconspicuous position and shall not be astride soil or overburden mounds; (39) Any plant or machinery that becomes redundant from use during the operational life of the site shall be permanently removed from the site; (40) Any rubbish and scrap materials generated on the site shall, as far as is practicable, be kept in a screened position until disposed of in an approved manner to the satisfaction of the Planning Authority; (41) The site shall be progressively restored in accordance with the scheme submitted with the planning application. The procedures for replacement of overburden, sub-soil and topsoil shall accord with those indicated in the Project Description/Written Statement and to the satisfaction of the Planning Authority. Within one month of the commencement of operations on site, the applicant shall submit the details of the restoration scheme, including the timescale for restoration and aftercare, to the Planning Authority for approval; (42) No materials for filling shall be introduced to the site from sources external to it without the formal approval of the Planning Authority; (43) The restored site shall be progressively landscaped in accordance with the afteruse scheme submitted with the planning application; (44) The restored site shall be subsequently managed in accordance with an aftercare scheme; (45) There shall be an annual formal review to consider all the operations that have taken place on the site during the previous year, and to consider the programme for the ensuing year. The parties involved in the review shall include the applicant, the Mineral Operator, the owners of the land and the Planning Authority; and (46) Two weeks prior to the annual formal review an updated plan will be forwarded to the Planning Authority indicating the previous year's work on the site and showing the anticipated work programme for the ensuing year; Condition (1) to ensure that the development, which is temporary in nature, is commenced and completed within an acceptable timescale. The development is acceptable only because of the individual circumstances pertaining to the applicant and on a temporary basis; Condition (2) to ensure that appropriate monitoring systems are in place prior to the commencement of operations on site; Condition (3) to ensure that appropriate archaeological work is undertaken before the development

commences; Conditions (4), (5) and (26) in the interest of road safety; Condition (6) in the interests of road safety and minimising noise impact; Conditions (7) and (18) in the interest of public safety; Condition (8) in the interest of preserving the rural landscape; Condition (9) to ensure that the topsoil and sub-soil will be suitable for the restoration of the site following storage; Condition (10) in the interests of achieving maximum restoration potential; Condition (11) to prevent damage to soils and to ensure that the topsoil and sub-soil to be stored will be suitable for use during restoration of the site; Condition (12) to ensure that sufficient soils are available during restoration of the site; Condition (13) to prevent damage occurring to soils and in the interests of visual amenity; Conditions (14), (38), (39), and (40) in the interests of visual amenity; Condition (15) to prevent weed contamination of soils in the interests of proper site restoration; Condition (16) in the interest of visual and residential amenity; Condition (17) in the interests of site restoration; Condition (19) to prevent a detrimental effect upon adjacent agricultural and other operations; Conditions (20) and (21) to prevent damage to adjacent land and soils; Conditions (22) and (23) to prevent contamination of watercourses; Condition (24) in the interest of public safety and to prevent any pollution of watercourses; Condition (25) to ensure proper drainage of the site; Condition (27) in the interest of minimising noise impact; Condition (28) to ensure that the development is undertaken in accordance with the details approved; Condition (29) in the interests of residential amenity; Condition (30) to monitor noise levels and ensure that appropriate environmental standards are maintained throughout the life of the site; Condition (31) to monitor dust emissions and ensure that appropriate environmental standards are maintained throughout the life of the site; Conditions (32) and (33) in the interests of the amenity of the area; Condition (34) in the interest of amenity and public safety; Condition (35) in the interests of protecting residential and other buildings from any potential damage; Condition (36) to monitor blasting operations and ensure that appropriate environmental standards are maintained throughout the life of the site; Condition (37) in the interest of public safety and to secure compliance with Council Policy; Condition (41) to ensure appropriate restoration of the site; Condition (42) to enable Planning Authority to retain control over development of site; Condition (43) to secure appropriate restoration features and habitat enhancement; Condition (44) in the interests of securing appropriate afteruse of the site; Condition (45) to enable the Planning Authority to be updated regarding the operation of the site in the light of any difficulties encountered and to monitor progress of site operations; and Condition (46) to assess and monitor the operational status of the site; and (ii) that the issue of the Decision Notice be withheld until (a) the application has been formally notified to and has been cleared by the Scottish Executive in terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment (No 2) Direction 1999; and (b) 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 8.9 of the Head of Planning and Building Control's report.

The Committee then heard objectors Mrs M Gordon, and Mrs G Roberts, (representing MEGA), who spoke in support of their objections, and Mr D Bewer and Mr Cotterell, representing the applicants, who spoke in support of the application. Members asked questions of the objectors and the applicants' representatives, and the objectors and the applicants' representatives responded to the issues raised, all in accordance with the agreed Hearing procedure.

It was agreed:-

- (i) to approve the application subject to the conditions and for the reasons detailed; and
- (ii) that the issue of the Decision Notice be withheld until (a) the application has been formally notified to and has been cleared by the Scottish Executive in terms of the Town and Country Planning (Notification of Applications) (Scotland) Amendment (No 2) Direction 1999; and (b) 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 8.9 of the Head of Planning and Building Control's report.

Councillor Faulds intimated her dissent from this decision.

The meeting terminated at 1115 hours.