

EAST AYRSHIRE COUNCIL**DEVELOPMENT SERVICES COMMITTEE****MINUTES OF SPECIAL MEETING HELD ON WEDNESDAY 25 FEBRUARY 1998
AT 1300 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS,
LONDON ROAD, KILMARNOCK**

PRESENT: Councillors Drew McIntyre, Eric Ross, Wilma Doyle, Ronald Brailsford, John Knapp, George Turnbull, Robert McDill, Jimmy Boyd, George Smith, Robert Taylor and Tommy Farrell.

ATTENDING: Stephen Chorley, Director of Development Services; Alan Neish, Head of Planning and Building Control; Bill Walkinshaw, Principal Administrative Officer; David Mitchell, Principal Solicitor; Karen McLeod, Solicitor; John Bryson, Area Engineer (Roads and Transportation); Colin McKee, Planning Officer; and Alex Hewetson, Administrative Officer.

APOLOGIES: Councillors Douglas Reid, Daniel Coffey and David Fulton.

CHAIR: Councillor Drew McIntyre, Chair.

DRAFT ESTIMATES 1998/99 - GENERAL SERVICES (Item 1, Page 3016)**1.1 FINANCIAL REPORT (Item 1, Page 3016)**

There was submitted and noted a report dated 20 February 1998 (circulated with the Agenda for the Special Policy and Resources Committee of 23 February 1998) by the Director of Finance which advised of the latest position, now that finalised figures had been obtained in terms of the 1998/99 budget, and which recommended that the Policy and Resources Committee determine the final allocations for each of the service Committees, and requesting that those Committee's finalise savings on growth packages to align service delivery plans with the final allocations for 1998/99 taking into account the views and comments made during the Council's public consultation exercise.

1.2 REMIT FROM SPECIAL POLICY AND RESOURCES COMMITTEE OF 23 FEBRUARY 1998 (Item 1, Page 3016)

There was submitted and noted remit (Minute extract circulated) from the Special Policy and Resources Committee of 23 February 1998 requesting that the Development Services Committee finalise savings on growth packages for the Department of Development Services to align service delivery plans with the final financial allocations for 1998/99 as determined by the Special Policy and Resources Committee at its meeting on 23 February 1998.

1.3 REVENUE BUDGET FOR 1998/99

There was submitted a report dated 24 February 1998 (circulated) by the Director of Development Services which detailed a package of measures to align service delivery plans with financial allocations for 1998/99 taking into account the views and comments made during the Council's public consultation exercise.

Councillor McIntyre, seconded by Councillor Ross, moved:-

- (i) to approve the revised savings in growth proposals detailed in the table in the report to align the Committee's budget to the final financial allocation approved by the Policy and Resources Committee of 23 February 1998;
- (ii) to recommend the adoption of the savings and growth proposals to the Policy and Resources Committee to be held on 4 March 1998; and
- (iii) to recommend that the Strathclyde Passenger Transport should be advised that the Council confirms their contribution to the Strathclyde Concessionary Fares Scheme for 1998/99 at the same level as 1997/98, subject to minor variation to reflect changes in the distribution of retired age population.

Councillor McDill, seconded by Councillor Brailsford, moved as an amendment:-

- (i) to recommend that the Strathclyde Passenger Transport should be advised that the Council confirms their contribution to the Strathclyde Concessionary Fares Scheme for 1998/99 at the same level as 1997/98, subject to minor variation to reflect changes in the distribution of retired age population;
- (ii) to continue consideration of the revised savings in growth proposals detailed in the table in the report to align the Committee's budget to the final allocation approved by the Policy and Resources Committee of 23 February 1998 to the Special Meeting of the Council to be held on 5 March 1998;
- (iii) to continue consideration of the adoption of the savings and growth proposals to the Special Meeting of the Council to be held on 5 March 1998; and
- (iv) otherwise to note the contents of the report.

On a division by a show of hands the motion was carried by nine votes to two.

PLANNING APPLICATION NO 97/0582/FL - SCOTTISH COAL COMPANY LIMITED

2.1 Declaration of Interest

Councillors Taylor and Farrell, as Trustees of the Minerals Trust, declared a non-pecuniary private interest in terms of Clause 12(b) of the National Code of Local Government Conduct in this application.

2.2 FORMAL PLANNING HEARING

The Chair welcomed all present to the Hearing which was being held to hear the objectors and applicant in respect of a planning application for full planning permission for extraction of coal by opencast and augering methods, removal of dereliction, and enhancement of landscape and nature conservation interest at Chalmerston North/Pennyvenie, Dalmellington.

There was submitted in respect of the application a report dated 17 February 1998 (circulated) by the Director of Development Services summarising all information in relation to the application.

There was also submitted Note of Procedure (circulated) to be followed at the Hearing.

The Administrative Officer explained the procedure to be followed at the Hearing.

The Head of Planning and Building Control reported:-

- (i) that 13 individual letters and 49 standard letters of objection, 44 individual letters and 154 standard letters of support, one letter of representation and a survey of local people within 4 miles of the site indicating that of 96 residents questioned, 87 were in favour of the proposal and 6 were against, had been received, details of which were contained within the report;
- (ii) the late receipt of responses from consultees; Scottish Wildlife Trust; and Dalmellington Community Council indicating objection and support respectively and one letter of objection, all on issues of which had been dealt with in the report by the Director of Development Services and in the presentation by the Head of Planning and Building Control; and
- (iii) an amendment to the reason for Planning Condition (38) to read; "In the interest of residential amenity".

The Head of Planning and Building Control summarised the planning considerations in respect of the application and recommended: (i) Approval subject to the following conditions, viz:- (1) The development to which this permission relates must be begun within five years from the date of this permission; (2) The development hereby permitted shall enure for the benefit of the applicant only, and shall be commenced within 12 months of the issued notice of decision and that the approved operations shall be completed within 11 years of the commencement date of the operations or at such other time as may be agreed with the Planning Authority; (3) That the applicant shall give notice to the Planning Authority, in writing, of the commencement of operations on site, one month prior to their commencement; (4) Notwithstanding the details of the development hereby approved, this permission does not permit the extraction of minerals within 200m of Almar View or Low Pennyvenie bungalows; (5) Prior to the commencement of works on the Pennyvenie portion of the site the exact alignment of the internal haul routes linking the existing Chalmerston Coal Stocking Area and the B741 shall be submitted to and approved by the Planning Authority; (6) Prior to any works taking place within 200m of Pennyvenie Farm, confirmation, either from the occupants Solicitor that they are fully aware of the potential effects of the proposed development and are prepared to remain as occupants at their own risk, or from Scottish Coal Co Limited's Solicitor that the property has been vacated for the duration of the adjacent works, shall be submitted to the Planning Authority; (7) The measures to prevent mud, dirt, dust, slurry, coal or stones being carried onto the highway shall be taken as agreed with the Planning Authority prior to the commencement of development and that such steps shall include the provision and use of hardstanding and wheel/vehicle washing facilities as necessary for the cleaning of all lorries, dump trucks, other heavy vehicles and plant leaving the site; (8) That the public road adjacent to the site shall be kept clear of mud or other deposited material at all times; (9) That prior to any road vehicle loaded with coal or other minerals leaving the site, the load shall be suitably covered with a tarpaulin to ensure there is no escape of materials; (10) That a site inspection shall be carried out by representatives of the developer and the Planning Authority to agree the condition of the public roads prior to commencement of the work; (11) That 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; (12) That the approval of the layout of the proposed site service areas and details of any proposed surface building shall be obtained from the Planning Authority before any buildings, plant or machinery are erected on site; (13) That the developer shall make stockproof and maintain, until the restoration of

the site is complete, all the existing perimeter hedges and fences and shall protect these from damage during operational works. Where the site boundary does not coincide with an existing hedge or fence, then the developer shall provide and maintain stockproof 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; (14) Prior to any mineral extraction works commencing adjacent to the B741 road, the proposed 6 metre high screen bunding alongside the B741 as indicated in Drawing No 01/W/0749A or as subsequently amended by the Planning Authority shall be formed. These mounds shall be carefully dressed, seeded, and kept weed free and shall be constructed from topsoil; (15) No development shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, this scheme to be submitted for approval by the Planning Authority following consultation and agreement with the West of Scotland Archaeology Service; (16) The applicant shall undertake recording of identified archaeological resources within the development site to the satisfaction of the Planning Authority; (17) That topsoil and subsoil must only be stripped when the soils are sufficiently dry so that when moved no damage will be done to the structure of the soils. Apart from the works required to endorse the site, no operations shall be carried out until the topsoil is fully stripped in accordance with the phased programme of extraction as described in the Written Statement which forms part of the planning application; (18) That topsoils be stripped to fully available depth from all area within the site except those areas designated in the approved plans as topsoil dumps. Following topsoil stripping operations from any area of land, subsoil shall be stripped as a separate operation to a depth, where possible to achieve topsoil and subsoil not less than 0.9 metre at restoration; (19) That the developer shall give at least two working days notice to 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 topsoil and subsoil; (20) The 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 subsoil or topsoil, or otherwise used to cap overburden mounds; (21) That topsoil, subsoil, overburden and peat shall be carefully stored in separate dumps and prevented from mixing. Topsoil dumps shall not exceed 5 metres in height. Topsoil dumps and subsoil dumps shall be evenly graded and tops shaped to prevent water ponding; (22) That in the first available seeding season following their formation, all mounds of top soil, subsoil 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; (23) Subsoil dumps shall not exceed 10 metres in height; (24) That all weeds on the site, particularly those on the topsoil and subsoil storage dumps, shall be treated with weed killer or cut to prevent spreading within the site or onto adjoining agricultural land; (25) That the location of baffle embankments be generally 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 adjacent to the B741 road; (26) That the subsoil and overburden storage mounds shall be so formed as to have minimal visual intrusion on the surrounding landscape; (27) That 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; (28) That all water treatment areas/settlement pond shall be enclosed by a one metre high stock proof fence; (29) That throughout the period of working 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; (30) That 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 subsoil has not been stripped; (31) That alternative arrangements 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; (32) That all contaminated drainage and run-off from the site roadways, intercepting 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 watercourses, such treatment being to the satisfaction of the Planning Authority; (33) That precautions shall be taken to prevent the discharge of oil from fueling, oil, storage plant maintenance and vehicle wash areas within the site; (34) That any fuel, oil or other chemical storage tanks on the site shall be sited on impervious bases and surrounded by oil tank bund walls and the bunded areas shall be capable of containing 110% of the tanks volume and shall enclose all fill and draw pipes; (35) That 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 watercourses; (36) That no surface water from the site shall be permitted to discharge onto the public road and all surface water from the topsoil 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; (37) That rubbish and scrap materials generated on the site, as far as practicable, shall be kept in a screened position until disposed of in an approved manner as may be agreed by the Planning Authority; (38) Prior to works commencing on site, the applicant shall submit to the Planning Authority details of the audible reversing alarms fitted to machinery which shall be to the complete satisfaction of the Planning Authority; (39) That the operational conduct of the site shall be generally as indicated in the written statement which forms part of the application; (40) That noise, dust and blasting monitoring programmes shall be undertaken, as agreed with the Environmental Health Division and the Planning Authority, using appropriate equipment and recording devices, the results and records to be made available to the Planning Authority on a monthly basis during the operations life of the site; (41) That any 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 6mm per second, (PPV). Furthermore, prior to any proposed blasting taking place within 500m of Almar View, Low Pennyvenie or Clawfin Farm Bungalows, details of such blasts (including the proposed location, minimum instantaneous charge (MIC), and predicted PPV at the relevant properties) shall be submitted to and approved by the Planning Authority; (42) That 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 - 1900 hours) shall not exceed 55dB LAeq, 1h and 42dB LAeq, 1h at night time (1900 - 0700 hours) at noise sensitive dwellings. During the formation and removal of baffle mounds and the stripping and replacement of soils in the vicinity of noise sensitive properties, the noise limit shall not exceed 70dB LAeq, 1h and that such operations shall only be undertaken during daylight hours and shall only be conducted within a time period not exceeding 8 weeks in any year; (43) That any explosives magazines shall be located, designed and bunded to the satisfaction of the Planning Authority; (44) That except in the case of emergency or as otherwise agreed with the Planning Authority blasting operations will be carried out only within two hourly periods between 0900 hours and 1700 hours in daylight Monday to Fridays. On Saturdays, blasting will be restricted to between 1000 hours and 1200 hours; (45) That except in the case of emergency and with the prior agreement of the Planning Authority, the hours of working for the site shall be confined between 0700 hours on Mondays and 1600 hours on Saturdays (24 hour continuous working). With the exception of maintenance work, no work shall take place on Sundays; (46) That except in the case of emergency and with prior agreement of the Planning Authority, despatch of coal from the site shall be confined to between 0800 hours and 1700 hours Mondays to Fridays inclusive. No lorries laden with coal shall depart from the site before 0800 hours or after 1700 hours; (47) That the stocking of coal shall be in accordance with a detailed scheme to be approved by the Planning Authority and that such a scheme shall indicate the location, dimension, screening proposals and treatment of stocking areas; (48) The opencast machinery not in use shall be parked, as far as practicable, in any inconspicuous position and shall not be astride soil or overburden mounds; (49) That the site shall be progressively restored in accordance with a scheme to be approved by the Planning Authority prior to work commencing, that the scheme shall include provision for the service areas to be restored to a suitable condition, the restoration of the remaining area of the site for agriculture or forestry or nature conservancy or natural and manmade heritage interpretation or other appropriate uses as approved by the Planning Authority; that the scheme shall also include the reinstatement of any access roads/rights of way at present in existence and the procedures for replacement of any access roads/rights of way at present in existence and the procedures for replacement of overburden, subsoil and topsoil shall generally accord with those indicated in the Written Statement and to the satisfaction of Planning Authority; (50) That no materials for filling shall be introduced to the site from sources external to it without the prior approval of the Planning Authority; (51) That the restored site shall be progressively landscaped in accordance with a phased scheme to be approved by the Planning Authority prior to restoration of each phase commencing on site; that such a scheme shall include details of field patterns forestry planting, shelter belt creation, dry stone dykes, hedgerows, nature habitat creation including additional wetland areas and, if appropriate, broadleaf species in the design of shelter belts and the creation of imaginative walkways and nature trails; (52) That the landscape area shall be subsequently managed in accordance with an aftercare scheme to be submitted and approved by the Planning Authority prior to work commencing in each phase; (53) That there shall be an annual formal review to consider all the operations which have taken place on the land during the previous year and to consider the programme for the ensuing year and that the parties shall include the applicant, the Mineral Operator, the owners of the land and the Planning Authority; (54) That two weeks

prior to the annual formal review an updated plan will be forwarded to the Local Authority indicating the year work on the site and showing the anticipated work programme for the ensuing year; (55) Following restoration of the site groundwater arising from the site, if contaminated, shall be treated prior to discharge to any controlled water to the satisfaction of the Planning Authority; (56) The developer shall ensure the following prior to coal haulage from the site via the B741:- (i) the formation of an access onto the B741 at the location shown on plan 01/W/0749A to East Ayrshire Council standards with visibility sightline splays of 9 metres by 160 metres with no object greater than 1 metre in height being allowed within these splay areas, the access shall be kerbed either side of the B741; (ii) the internal site access road from the B741 will be required to be surfaced for a minimum distance of 20 metres from the public road; and (57) The developer shall ensure that :- (i) any gates must be set back a minimum of 15 metres from the edge of the public road, and (ii) all vehicle parking must be incorporated within the site boundary; Condition (1) being imposed to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997; Condition (2) the development is acceptable only because of the individual circumstances pertaining to the applicant and on a temporary basis; Condition (3) to ensure that the development is undertaken in accordance with the submitted plans and conditions, in the interests of visual and residential amenity; Conditions (4), (38), (40) and (42) in the interests of residential amenity; Conditions (5), (14), (20), (23), (25), (26), (37), (47), (48) and (52) in the interests of visual amenity; Conditions (6) and (41) in the interests of public safety and residential amenity; Conditions (7), (8), (10), (36), (56) and (57) in the interests of road safety; Condition (9) in the interests of road safety and visual amenity; Conditions (11), (12), (18), (28), (30), (31), (32), (33), (34), (35) and (43) in the interest of public safety; Condition (13) in the interest of visual amenity and public safety; Conditions (15) and (16) in the interest of recording the archaeology of the site; Condition (17) to ensure that the topsoil and subsoil will be suitable for the restoration of the site following storage; Condition (19) to ensure that the topsoil and subsoil to be stored will be suitable for use during restoration of the site; Condition (21) to prevent damage occurring to soils; Conditions (22) and (24) to safeguard the appearance of the site; Condition (27) to ensure the appropriate restoration of the site; Condition (29) in the interest of public safety and to prevent a detrimental affect upon adjacent operations; Condition (39) to ensure that the development is undertaken in accordance with the details approved; Conditions (44), (45) and (46) to safeguard the amenity of the area; Conditions (49) and (50) to enable Planning Authority to retain control over development of site; Condition (51) to improve the appearance of the site; Conditions (53) and (54) to enable Planning Authority to update the operating of the site in the light of difficulties encountered; and Condition (55) to prevent pollution of watercourses; and (ii) the issue of the Decision Notice be withheld until the appropriate Section 75 Agreement, in the terms described in Paragraph 7 of the report, had been presented for registration with the Keeper of the Register of Sasines.

The Administrative Officer advised the order in which objectors would be heard in supplement to their written objections.

The Committee then heard Mr Bill Longdon, Ms Mary Gordon, Mr Alec Montgomery and Mrs Greta Roberts, representatives of Mining and Environment Group Ayrshire (MEGA), who spoke in support of their organisation's letter of objection, the Reverend Harry Anson and Mr Billy Baird who spoke in support of their objections and Mr Niall Crabb and Mr Robin Caldwell, representatives of the applicant in support

of the application. Members asked questions of the objectors and the representatives of the applicant. The objectors responded to issues raised by the representatives of the applicant when responding to Members' questions, all in accordance with the agreed Hearing procedure.

The Chair closed the Hearing.

2.3 DETERMINATION OF APPLICATION

The Head of Planning and Building Control reported on the planning issues which had been raised during the Hearing.

Councillor McIntyre, seconded by Councillor Ross, moved:-

- (i) to grant the application subject to the conditions and for the reasons, as amended, given; and
- (ii) that the issue of the Decision Notice be withheld until the appropriate Section 75 Agreement, in terms described in Paragraph 7 of the report had been presented for registration with the Keeper of the Register of Sasines.

Councillor McDill, seconded by Councillor Brailsford, moved as an amendment to refuse the application on the grounds of the continued and increased adverse environmental impact.

On a division by a show of hands the motion was carried by nine votes to two.

The meeting terminated at 1512 hours.