

EAST AYRSHIRE COUNCIL**DEVELOPMENT SERVICES COMMITTEE****MINUTES OF SPECIAL MEETING HELD ON THURSDAY 1 AUGUST 1996 AT
1000 HRS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON
ROAD, KILMARNOCK**

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

ATTENDING: David Montgomery, Chief Executive; Stephen Chorley, Director of Development Services; Alan Neish, Head of Planning and Building Control; Robert McLeary, Head of Property; William Taylor, Head of Roads and Transportation; David Queripel, Senior Development Promotion Manager; Dave Morris, Development Promotion Manager; Jim Bottom, Principal Planning Officer; Bill Walkinshaw, Principal Administrative Officer; Joan Kendall, Principal Solicitor; Alex Hewetson, Administrative Officer and Lesley-Ann Wallace, Administrative Assistant.

APOLOGIES: Councillors Douglas Reid and Daniel Coffey.

CHAIR: Councillor George Turnbull, Chair.

Councillor Knapp joined the meeting at this point.

SURPLUS GROUND - QUEEN'S DRIVE, KILMARNOCK

1. There was submitted a report dated 17 July 1996 (circulated) by the Director of Development Services seeking approval for ground at Queen's Drive, Kilmarnock to be declared surplus to requirements.

It was agreed to declare the land identified in the report surplus to requirements.

A LAND USE PLAN FOR QUEEN'S DRIVE, KILMARNOCK

2. There was submitted a report dated 24 July 1996 (circulated) by the Director of Development Services proposing a non-statutory land use strategy for the future development of various sites at Queen's Drive, Kilmarnock following the Secretary of State's decision to grant outline planning permission for a foodstore and retail park, which would serve to give a policy background for subsequent decisions until a formal review of the Local Plan was completed.

Councillor Turnbull seconded by Councillor McIntyre, moved the non-statutory land use plan for the unallocated sites in Queen's Drive, Kilmarnock as outlined in paragraph 13.1 to 13.2 of the Director's report be agreed.

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

- (i) no alternative land use plan for the unallocated sites in Queen's Drive should be agreed without full public consultation and the adoption of a revised local plan.; a "Policy Framework" like this should not be used as a mechanism for avoiding public consultation, early consideration of outstanding applications (para 2.4, page 4 of the report) does not justify circumventing the consultative

process, particularly as a proposed Policy Framework compromises the Adopted Local Plan;

- (ii) the Committee instructs the Director of Development Services to conduct a consultative exercise with other appropriate Officers of the Council, Members and interested bodies to discuss options which maintain leisure and sporting pursuits in particular as an appropriate land use for Queen's Drive;
- (iii) to that end, the Director of Development Services should consider the establishment of a competition standard track and field stadium capable of meeting the requirements of national and indeed international athletic events. This is consistent with the established policy for land use for Queen's Drive, consistent with pathways 1 and 4 of East Ayrshire's Economic Development Strategy and offers the people and the town of Kilmarnock significant personal and economic opportunities unrivalled in the West of Scotland.

Councillor Fulton seconded by Councillor Knapp moved as a second amendment that the land to the north east of Queen's Drive be allocated for leisure purposes only.

On a division by a show of hands the second amendment received three votes, the first amendment received two votes and the motion received eight votes. The motion having received the support of a majority of the Members taking part in the vote was declared to be the decision of the meeting.

DRAFT NATIONAL PLANNING POLICY GUIDELINE (NPPG): TRANSPORT AND PLANNING

3. There was submitted a report dated 4 July 1996 (circulated) by the Director of Development Services describing the main provisions of the NPPG and setting out its likely implications for transport and planning in East Ayrshire.

It was agreed to remit to the Head of Planning and Building Control to respond favourably to the Scottish Office Development Department in the terms as detailed in Section 4 of the report.

PLANNING APPLICATION

4.1 APPLICATION NO CD/96/0078/OPP - R G McINTYRE'S TESTAMENTARY TRUSTEES

There was submitted a report dated 11 July 1996 (circulated) by the Director of Development Services on an application for outline planning permission for lowland crofting project including refurbishment of buildings and erection of eight new buildings and siting of temporary anemometer mast, Brocklar Farm, Sorn Estate, Sorn.

It was reported by the Head of Planning and Building Control that no objections or representations had been received.

Recommendation by Head of Planning and Building Control: (i) Approval subject to the following conditions: (1) that the approval of the Council with regard to the siting, design and external appearance of, and the means of access to, the proposed development (hereinafter referred to as 'the said approval') is obtained before the development is commenced, application for the said approval is made not later than the expiration of three years beginning with the date of this permission and the

proposed development is begun not later than whichever is the later of (a) the expiration of five years from the date of this permission; or (b) the expiration of two years from the date of the said approval; (2) that not more than ten smallholdings, each with a single dwellinghouse, be provided within the development site; (3) that the detailed plans for the proposed dwellinghouses shall be in accordance with a Comprehensive Design Brief to be agreed with the Planning Authority prior to the submission of any detailed application for the dwellinghouses; (4) that prior to the construction/refurbishment of dwellings on site, advance tree planting shall be implemented in accordance with a formal Management Plan, the details of which shall be submitted to the Planning Authority prior to the implementation of the development; (5) that the detailed plans for the proposed dwellinghouses shall include the following matters; (a) the location of access points from the public roads serving the development; (b) the provision of sitelines of 2 metres x 70 metres at each access point with no object greater than 1 metre in height within these areas; (c) the widening of the road at the access points to 5.5 metres; (d) the provision of two-off road parking spaces per dwellinghouse; (6) that each access driveway be surfaced in a bituminous material for a minimum distance of 5 metres from the edge of the public road to avoid overcarry of loose material onto the public roads; (7) that a 2 metre wide verge/pedestrian refuge be formed at the access points to individual dwellings; (8) that prior to the erection of the temporary anemometer mast, the developer shall provide details of the mast to be erected and also the proposed location for the formal approval of the Planning Authority; and (9) that the consent from the temporary anemometer mast is for a limited period of one year from the date of approval of the details of the mast; Condition (1) to comply with the provisions of the Town and Country Planning (Scotland) Act 1972; Condition (2) in the interests of the amenity of the rural area; Condition (3) to ensure that the development does not conflict with its setting and surroundings in the interests of visual amenity and the character and appearance of the rural area; Condition (4) in the interests of amenity; Conditions (5), (6) and (7) in the interests of public road safety; Condition (8) the approval is in outline only; and Condition (9) the proposed mast is of a temporary nature; and (ii) subject to the satisfactory signing of the Section 50 Agreement and the subsequent recording of the Agreement in the Register of Sasines;.

It was agreed:

- (i) to grant the application subject to the conditions and for the reasons detailed; and
- (ii) the decision notice only being issued following the satisfactory signing of the Section 50 Agreement and the subsequent recording of the Agreement in the Register of Sasines.

4.2 96/0076/FL - SCOTTISH COAL COMPANY LIMITED, PER PETER BARKER

4.2.1 Declaration of Interest

Councillor Sneller declared a non-direct pecuniary interest in this application and left the meeting.

4.2.2 Consideration of Item

There was submitted a report (circulated) by the Director of Development Services on a full planning application for the proposed extraction of coal by opencast method on land at Chalmerston Opencast Site, Dalmellington.

The Head of Planning and Building Control reported that one letter of objection and sixteen letters of representation had been received, details of which were contained within the report.

Recommendation by Head of Planning and Building Control: (i) Approval subject to the following conditions, viz:- (1) 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 two years of the commencement date of the operations or at such other time as may be agreed with the Planning Authority; (2) 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; (3) the applicant shall take appropriate measures to ensure that no surface water from the site shall be discharged onto the public road; (4) all surface water from topsoil and overburden tips shall be prevented from reaching the public road by cut-off ditches or drains outwith the road boundary. Such ditches shall not connect to existing roadside drainage; (5) 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; (6) 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; (7) that the developer shall make stockproof and maintain, until the restoration of the site is completed, all the existing perimeter hedges and fences and shall protect these from damage during operational work. 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; (8) that top soil and sub-soil must only be stripped when the soils are sufficiently dry so that when moved no damage 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 top soil is fully stripped in accordance with the phased programme of extraction as described in the Written Statement which forms part of the planning application; (9) that top soils be stripped to full available depths from all areas within the site except those areas designated in the approved plans as top soil dumps. Following top soil stripping operations from any areas of land, sub-soil shall be stripped as a separate operation to a depth, where possible, to achieve top soil and sub-soil not less than 0.9 metres at restoration; (10) that the developer shall give at least two working days notice to the Planning Authority before work commences on the stripping of top soil 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; (11) that 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 top soil, or otherwise used to cap overburden mounds; (12) prior to works commencing on site the applicant shall provide details and dimensions of the top soil and sub-soil storage bunds

pertaining to the site to the Planning Authority for approval; (13) that the sub soil storage mounds shall be so formed as to have minimal visual intrusion on the surrounding landscape; (14) 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; (15) that throughout the period of 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 land; (16) 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 top soil and sub-soil has not been stripped; (17) 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; (18) that all contained drainage and run-off from the site roadway, 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; (19) that the formation of overburden areas shall be carried out, as far as practicable, behind mounds in order 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; (20) that the operational conduct of the site shall be generally as indicated in the written statement which forms part of the application; (21) that a noise monitoring programme to be agreed with the Planning 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; (22) 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 12mm per second; (23) the site shall be progressively restored in accordance with a scheme to be approved by the Planning Authority and in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds. Such a scheme shall be submitted to the Planning Authority within six months of works commencing on site, and shall include provision for agriculture, forestry and nature conservation uses as well as enhancement of geological features within the Benbeoch Site of Special Scientific Interest; (24) that the restored site shall be progressively landscaped in accordance with a scheme to be approved by the Planning Authority prior to restoration commencing; that such a scheme shall include details of field patterns, forestry planting, shelter belt creation, hedgerows, nature habitat creation including additional wetland areas and, if appropriate broadleaf species in the design of shelter belts and the creation of imaginative walkways and nature trails; (25) that the landscaped area shall be subsequently managed in accordance with an aftercare scheme to be submitted to and approved by the Planning Authority prior to restoration commencing; (26) 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; (27) existing stone dykes, hedgerows and fences required to be removed as a consequence of excavation works shall be restored to the satisfaction of the Planning Authority as part of the

restoration of the site; (28) no development shall take place within Pennyvennie Area A until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which had been submitted by the developer, agreed by the West of Scotland Archaeological Service and approved by the Planning Authority; (29) other than with the written consent of the Planning Authority, no blasting shall be carried out except between the following times, namely:- 1000 hours and 1600 hours Mondays to Fridays and 1000 hours and 1300 hours, Saturdays and no such operations shall take place on Sundays; (30) excavation and backfilling of the agreed extraction areas shall be limited to the period from 0600 hours on Mondays to 1600 hours on Saturdays and that no excavating or backfilling of these areas shall take place on Sundays; (31) except as may be agreed, in writing, by the Planning Authority or in an emergency, coal shall only be transported by road from the site between 0730 hours and 1900 hours Mondays to Fridays, inclusive and 0800 and 1600 hours on Saturdays, and that no coal shall be transported on Sundays; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; 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) and (5) in the interests of road safety; Condition (6) in the interests of road safety and visual amenity; Conditions (7), (10), (17), (18), (19), (23) and (27) in the interests of public safety; Condition (8) in the interests of visual amenity; Condition (9) to ensure the structure of the soils are maintained; Condition (11) to ensure that the top soil and sub-soil to be stored will be suitable for use during restoration of the site; Conditions (12), (13), (14) and (26) in the interests of visual amenity; Conditions (15), (20) and (22) in the interests of residential amenity; Condition (16) in the interests of public safety and to prevent a detrimental affect upon adjacent operations; Condition (21) to ensure that the development is undertaken in accordance with the details approved; Condition (24) to enable the Planning Authority to retain control over the development; Condition (25) to improve the appearance of the site; Conditions (28), (30), (31) and (32) in the interests of amenity; Condition (29) to ensure archaeological remains are adequately investigated and recorded; and (ii) subject to the decision notice only being issued following the satisfactory signing of the Section 50 Agreement and the subsequent recording of the Agreement in the Register of Sasines, or alternatively, until a separate agreement has been reached with the applicants in respect of (a) a Restoration Bond at a rate of £25,000 per hectare of disturbed land with the sum of £5,000 per hectare being retained following earth moving and engineering aspects of restoration in the form of an Aftercare Bond; (b) a contribution to the Minerals Trust Fund at a rate of 25 pence per tonne of coal extracted from the site; (c) the maintenance of any water supply to properties affected by operations carried out within the site; (d) the undertaking of a structural survey known as Fox Park prior to work commencing on site, the annual monitoring of the structure during the working life of the site and should the stability of the structure be compromised during the working life of the site, the applicant shall take remedial action to repair and maintain its stability; and (e) a Mitigation scheme to be agreed and submitted to the Planning Authority, in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds prior to works commencing on site, for the protection of peregrine falcons and merlins in the vicinity of the site; and

It was agreed:

- (i) to grant the application subject to the conditions and for the reasons detailed; and
- (ii) the decision notice only being issued following the satisfactory signing of the Section 50 Agreement and the subsequent recording of the Agreement in the Register of Sasines or alternatively until a separate agreement has been reached with the applicant and further conditions as appropriate in respect of (a) a Restoration Bond set at a rate of £25,000 per hectare of disturbed land with a sum of £5,000 per hectare being retained following earthmoving and engineering aspects of restoration in the form of an Aftercare Bond; (b) a contribution to the Minerals Trust Fund at rate of 25 pence per tonne coal extracted from the site; (c) the maintenance of any water supply to properties affected by operations carried out within the site; (d) the undertaking of a structural survey of the structure known as Fox Park prior to work commencing on the site and the annual monitoring of the structure during the working life of the site and further that should the stability of the structure be compromised during the working life of the site, the applicant shall take remedial action to repair and maintain stability; and (e) a mitigation scheme to be agreed and submitted to the Planning Authority in consultation with Scottish Natural Heritage and the Royal Society for the Protection of Birds prior to works commencing on site, for the protection of the peregrine falcons and merlins in the vicinity of the site.

Councillor Sneller re-joined the meeting.

4.3 APPLICATION NO 96/0014/FL: SCOTTISH COAL COMPANY LIMITED

4.3.1 Declaration of Interest

Councillor Sneller declared a non-direct pecuniary interest in this application and left the meeting.

4.3.2 Consideration of Item

There was submitted a report dated 16 July 1996 (circulated) by the Director of Development Services on a full planning application for proposed reclamation of former drift mine and Ellwood workings by means of opencast coal extraction methods to provide continuity of operations and employment between Airdsgreen and Spireslack site at Viaduct/Ellwood, Near Muirkirk.

The Head of Planning and Building Control reported that no objections or representations had been received.

Recommendation by Head of Planning and Building Control: (i) Approval subject to the following conditions, viz:- (1) the development hereby permitted shall enure for the benefit of the applicant only, and shall be commenced within twelve months of the issued notice of decision and that the approved operations shall be completed within 18 months of the commencement date of the operations or at such other time as may be agreed with the Planning Authority; (2) 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; (3) that 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; (4) that the public road adjacent to the site shall be kept clear of mud or other deposited material at all times; (5) 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; (6) 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; (7) that the developer shall make stockproof and maintain, until the restoration of the site is completed, all the existing perimeter hedges and fences and shall protect these from damage during operational works. Where the site boundary does not coincide with an existing hedge or fence, then the developer shall provide and maintain 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; (8) that top soil and sub-soil 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 top soil is fully stripped in accordance with the phased programme of extraction as described in the Written Statement which forms part of the planning application; (9) that top soils be stripped to full available depths from all areas within the site except those areas designated in the approved plans as top soil dumps. Following top soil stripping operations from any areas of land, sub-soil shall be stripped as a separate operation to a depth, where possible, to achieve top soil and sub-soil not less than 0.9 metre at restoration; (10) that the developer shall give at least two working days notice to the Planning Authority before work commences on the stripping of top soil 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; (11) 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; (12) that throughout the period of working, agricultural restoration and after-care, the developer shall protect and maintain or divert and 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; (13) 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 top soil and sub-soil has not been stripped; (14) that 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; (15) that precautions shall be taken to prevent the discharge of oil from fuelling oil, storage plant maintenance and vehicle wash areas within the site; (16) 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; (17) that the operational conduct of the site shall be

generally as indicated in the written statement which forms part of the application; (18) that any blasting operations shall be carried out in such a manner that a 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 12mm per second; (19) 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; (20) that except for special measures required in an emergency or as otherwise agreed with the Planning Authority, the excavating and backfilling operations will be carried out between 0600 hours on Mondays continuing to 1600 hours on Saturdays; (21) that except in the case of emergency, despatch of coal from the site shall be confined to between 0700 hours and 1700 hours Mondays to Fridays inclusive; (22) that the site shall be progressively restored in accordance with a scheme to be approved by the Planning Authority; that the scheme shall include provision for the service area 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 man made heritage interpretation or other appropriate uses as approved by the Planning Authority; that the schemes shall also include the reinstatement of any access roads/rights of way at present in existence and the procedures for replacement of overburden, sub-soil and top soil shall generally accord with those indicated in the Written Statement and to the satisfaction of Planning Authority; (23) that no materials for filling shall be introduced to the site from sources external to it without the prior approval of the Planning Authority; (24) that the restored site shall be progressively landscaped in accordance with a scheme to be approved by the Planning Authority; that such a scheme shall include details of field patterns, forestry planting, shelter belt creation, hedgerows, nature habitat creation including additional wetland areas and, if appropriate broadleaf species in the design of shelter belts and the creation of imaginative walkways and nature trails; (25) that the landscaped area shall be subsequently managed in accordance with an aftercare scheme to be submitted and approved by the Planning Authority; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) the development is acceptably 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), (5), (16) and (26) in the interests of road safety; Condition (6) in the interests of road safety and visual amenity; Conditions (7), (10), (12), (14), (15), (16 and (19) in the interests of public safety; Condition (8) in the interests of visual amenity; Conditions (9) and (11) to ensure that the top soil and sub-soil will be suitable for the restoration of the site following storage; Condition (13) in the interests of public safety and to prevent a detrimental affect upon adjacent operations; Condition (18) to ensure that the development is undertaken in accordance with the details approved; Conditions (20), (21) and (22) to safeguard the amenity of the area; Conditions (23) and (24) to enable Planning Authority to retain control over development of the site; and Condition (25) to improve the appearance of the site; and (ii) subject to the decision notice only being issued following the satisfactory signing of the Section 50 Agreement or, alternatively, until a separate agreement has been reached with the applicants in respect of (a) a Restoration Bond set at a rate of £25,000 per hectare of disturbed land with the sum

of £5,000 per hectare being retained following earth moving and engineering aspects of restoration in the form of an Aftercare Bond; (b) the submission of a management plan for the planting scheme to be undertaken at the Airdsgreen site entrance; and (c) the contribution of the Minerals Trust Fund at the rate of 25 pence per tonne of coal extracted from the site.

It was agreed:

- (i) to grant the application subject to the conditions and for the reasons detailed; and
- (ii) the decision notice only being issued following the satisfactory signing of the Section 50 Agreement or alternatively until a separate agreement has been reached with the applicants in respect of (a) a Restoration Bond set a rate of £25,000 per hectare of disturbed land with the sum of £5,000 per hectare being retained following earth moving and engineering aspects of restoration in the form of an Aftercare Bond; (b) the submission of a management plan for the planting scheme to be undertaken at the Airdsgreen site entrance; and (c) the contribution to the Minerals Trust Fund at the rate of 25 pence per tonne of coal extracted from the site.

Councillor Sneller rejoined the meeting.

4.4 APPLICATION NO 96/0103/RM: ENTERPRISE AYRSHIRE

There was submitted a report dated 16 July 1996 (circulated) by the Director of Development Services on a reserved matters application for formation of serviced/industrial business park including the provision of roads, services and structural landscaping at Rowallan Business Park, Southcraigs, Kilmarnock.

It was reported by the Head of Planning and Building Control:

- (i) that no objections or representations had been received; and
- (ii) that Condition 2 as detailed in the report had been replaced by "details of the implementation of landscaping in relation to the progression of the development of the site shall be submitted to and approved by the Planning Authority within three months from the date of the consent".

Recommendation by Head of Planning and Building Control: 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 proposed development shall be carried out and maintained in accordance with the application form and plans submitted on 10 May 1996 as revised by the letter from Simon Hirst Associates received by the Planning Authority on 4 July 1996; and (3) Details of the implementation of landscaping in relation to the progression of the development of the site shall be submitted to and approved by the Planning Authority within three months from the date of the consent; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) to ensure that the development is carried out in accordance with the approved details; and Condition (3) to ensure that the proposal is carried out in accordance with the outline planning permission.

It was agreed to grant the application subject to the amended conditions and reasons detailed.

4.5 APPLICATION NO 96/0115/OL: COMSTOCK HOLDINGS

There was submitted a report dated 17 July 1996 (circulated) by the Director of Development Services on an application for outline planning permission for community facilities including licensed roadhouse, meeting rooms, restaurant and shops with associated car parking and landscaping at Southcraigs, Glasgow Road, Kilmarnock.

It was reported by the Head of Planning and Building Control:

- (i) that two objections and one representation from the applicant had been received, details of which were contained within the report; and
- (ii) that an additional condition has been inserted, viz:- "that notwithstanding the provisions of The Town and Country Planning (Use Classes)(Scotland) Order 1989 this consent shall relate to the following uses unless a further separate consent is obtained; namely restaurant, meeting rooms, shops in accordance with Condition 7 below and a licensed roadhouse (public house).

Recommendation by Head of Planning and Building Control: Approval (i) subject to an additional condition (4) as detailed below; and (ii) subject to the following conditions: (1) In the case of the reserved matters specified below, application for approval must be made not later than the expiration of three years beginning with the date of this permission; (2) That the development to which this permission relates must be begun not later than the expiration of five years from the date of this permission or within the expiration of two years from the final approval of all reserved matters, whichever is the later; (3) before any development commences on the site, the further approval of the Planning Authority shall be obtained in respect of the undermentioned matters hereby reserved; (a) the layout of the site; (b) the size, height, design and external appearance of the proposed building(s); (c) the means of drainage and sewage disposal; (d) details of the access arrangements; (e) the provision for open space; (f) the provision for car parking; (g) the boundary wall/fences to be erected; (h) the landscaping of the site; (i) finished site levels/floor levels; (4) that notwithstanding the provisions of The Town and Country Planning (Use Classes)(Scotland) Order 1989 this consent shall relate to the following uses unless a further separate consent is obtained; namely restaurant, meeting rooms, shops in accordance with Condition 7 below and a licensed roadhouse (public house); (5) that the indicative layout and elevation plans submitted along with the application are for information purposes only and shall not be treated as forming part of the issued consent; (6) details submitted under condition No 1 above shall include: (i) structural planting, consisting of not less than 3 rows of trees of predominately heavy standard specimens, along all the boundaries of the site; (ii) a mean of vehicular access taken directly from the adjacent industrial development site; (iii) pedestrian access links to the adjacent residential and industrial sites; (7) the structure planting required by Condition 3 above shall be planted within the next planting season following commencement of any development on site; (8) the shopping element of the application shall be of a scale and shall sell a range of products to provide for local convenience shopping only. In this respect the gross retail floorspace hereby approved shall not exceed 250m²; Conditions (1) and (2) being imposed to comply with Section 39 of the Town and Country Planning (Scotland) Act 1972; Conditions (3) and (5) approval is in outline only; Condition (4) to enable the Planning Authority to retain control of the development in the interests of residential amenity; Condition (6) in the interests of visual amenity and residential

amenity and in the interests of road safety; Condition (7) in the interests of visual and residential amenity; and Condition (8) in the interests of residential amenity.

Councillor Turnbull seconded by Councillor Sneller moved that the application be approved subject to the amended conditions and for the reasons detailed.

Councillor Brailsford seconded by Councillor McDill moved as an amendment that consideration of the application be continued until a site visit had been undertaken.

On a division by a show of hands the motion was carried by 11 votes to 2.

4.6 APPLICATION NO 96/0150/FL: GAP HOUSING ASSOCIATION

There was submitted a report dated 23 July 1996 (circulated) by the Director of Development Services on a full planning application for proposed erection of 46 dwellinghouses and access road, Shortlees Crescent, Kilmarnock.

It was reported by the Head of Planning and Building Control that no objections or representations had been received.

Recommendation by Head of Planning and Building Control: 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 proposed development shall be carried out in accordance with the application form received on 14 May 1996 and the amended plans received by the Planning Authority on 23 July 1996; (3) The developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles; (4) The developer shall satisfy himself as to the stability of the site; and (5) Notwithstanding the submitted plans of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) to ensure that development is carried out in accordance with the approved details; Conditions (3) and (4) in the interests of public safety; and Condition (5) in the interests of visual amenity.

It was agreed to grant the application subject to the conditions and for the reasons detailed.

4.7 APPLICATION NO 96/0102/FL: JIM SCOTT HOMES

There was submitted a report dated 15 July 1996 (circulated) by the Director of Development Services on an application for full planning permission for proposed four house residential development, ground at Kay Park, Strawberrybank, Kilmarnock.

It was reported by the Head of Planning and Building Control that one letter of objection and two objections by consultees had been received, details of which were contained within the report.

Recommendation by Head of Planning and Building control: Approval (i) subject to Notification to the Secretary of State under the Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 1995; and (ii) 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 proposed development shall be carried out in accordance with the application form received on

10 May 1996 and the amended plans received by the Planning Authority on 27 June 1996; (3) notwithstanding the submitted plans, the roof tiles are not hereby approved. Details/samples of roof tiles shall be submitted to and approved by the Planning Authority before any development commences on the site; (4) notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, (or any order or enactment replacing this) no extensions or garages (unless forming part of the approved layout plan) shall be erected on the site unless a further specific planning application is submitted and approved by the Planning Authority; (5) the existing hedge along the eastern boundary of the site shall be retained intact and maintained thereafter to the satisfaction of the Planning Authority; (6) the existing trees and landscaping at the north-eastern corner of the site (with the exception of the trees within the footprint of the house) shall be retained intact and maintained thereafter to the satisfaction of the Planning Authority; (7) notwithstanding the submitted plans the hedge to be planted along the boundaries of the site shall be implemented not later than the next appropriate planting season after the development has been carried out; (8) a landscaping scheme shall be submitted to and approved by the Planning Authority prior to commencement of any development, indicating the treatment to all parts of the site (other than roads and footpaths) outwith the curtilage of any of the dwellings and shall be implemented not later than the next appropriate planting season after the development has been carried out. The scheme shall include details of the provision to be made for the maintenance of soft and hard landscaped area, which shall be maintained thereafter in accordance with these details; and (9) notwithstanding the plans hereby approved, the gable walls of the dwellings shall extend the full height of the dwellings (ie the surpressed gables shall be deleted and a traditional gable arrangement formed); Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) to ensure that development is carried out in accordance with the approved details; Conditions (3), (4), (5),(6), (7) and (9) in the interests of visual amenity; and Condition (8) in the interests of visual and residential amenity.

It was agreed to grant the application subject to:

- (i) notification to the Secretary of State under the Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 1995; and
- (ii) the conditions and for the reasons detailed.

4.8 APPLICATION NO 96/0119/FL: MRS JEAN ALLAN

There was submitted a reported dated 16 July 1996 (circulated) by the Director of Development Services for full planning application for proposed change of use from Class 1 shop to Information, Advice and Support Centre for Carers 49, The Foregate, Kilmarnock.

It was reported by the Head of Planning and Building Control that 10 objections and one letter of support had been received, details of which were contained within the report.

Recommendation by Head of Planning and Building Control: Approval subject to (i) notification to the Secretary of State under the Town and Country Planning (Notification of Application) (Scotland) Amendment Direction 1995 the application is required to be referred to the Secretary of State prior to the grant of any planning permission; and (ii) 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 permission hereby granted shall not enure for the benefit of land but for the benefit of Com Care only, and on discontinuance of their occupation of the building the use hereby permitted shall cease and the building shall be restored to its original use; (3) formal application for planning permission in respect of detailed plans of any proposed new buildings or extensions or alterations (including building materials), shall be submitted to and approved by the Planning Authority before any such development commences; and (4) level access to the premises shall be provided prior to commencement of the use hereby approved; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) Permission is being granted in this case solely because of the extenuating circumstances of the applicants; Condition (3) the approval relates to a change of use only; and Condition (4) to enable ease of access to the premises by all members of the community.

It was agreed to grant the application subject to:

- (i) notification to the Secretary of State under the (Notification of Application) (Scotland) Amendment Direction 1995; and
- (ii) the conditions and for the reasons detailed.

4.9 APPLICATION NO CD/96/0066/OPP: T C FINDLAY (Item 2, Page 977)

There was submitted a report dated 15 July 1996 (circulated) by the Director of Development Services on an outline planning application which had been referred to this Committee in accordance with the Scheme of Delegation for Planning Application by the Cumnock Area Local Planning Committee of 13 June 1996. The Local Planning Committee had agreed to recommend approval of the application against officer recommendation and contrary to Council policy on the basis that while the development would occupy locally important agricultural land as identified in the Plan, the loss of this ground would have no effect on the local availability of usable agricultural land.

It was reported by the Head of Planning and Building Control that two letters of objection had been received, details of which were contained within the report.

It was agreed:-

- (i) to undertake a site visit; and
- (ii) to continue consideration of this application to the next meeting of the Committee.

4.10 APPLICATION NO CD/95/0206/MIN: SCOTTISH COAL LIMITED

4.10.1 Declaration of Interest

Councillor Sneller declared a non-direct pecuniary interest in this application and left the meeting.

4.10.2 Consideration of Item

There was submitted a report dated 9 July 1996 (circulated) by the Director of Development Services requesting Committee to consider a proposal by Scottish Coal Limited that the Section 50 Agreement associated with the above planning application be replaced with an alternative arrangement to allow the planning consent to be issued for extension to existing opencast coal site, Piperhill opencast

coal site, by Sinclairston and works within the extension area to commence during the month of August 1996.

It was reported by the Head of Planning and Building Control:

- (i) that the former Cumnock and Doon Valley District Council, on 25 September 1995, agreed to approve the planning application subject to conditions and subject to the applicant entering into a Section 50 Agreement to cover the following matters:- (1) incorporation of the recommendations of the Aspinwall Review of potential impacts to Belston Loch; (2) submission of a restoration bond for the sum of £325,000 (13 hectares at £25,000 per hectare); and (3) contribution to the Minerals Trust Fund at a rate of 25p per tonne of coal extracted (£32,500); and (3) incorporation of restoration proposals intimated by the Royal Society for the Protection of Birds;
- (ii) that Scottish Coal propose as an alternative to a Restoration Bond and contributions to the Minerals Trust Fund, the deposition with East Ayrshire Council a sum of £32,500 for retention by the Council for the purpose of restoration and on successful restoration of the Laurshill area, the money to be paid directly to the Minerals Trust Fund.

Recommendation by the Head of Planning and Building Control: that the request from Scottish Coal Ltd be agreed as a special case without setting a precedent; and that planning permission be issued without the requirement for a Section 50 legal Agreement subject to the deposition with East Ayrshire Council of the sum of £32,500 to cover site restoration, this sum being transferred to the Minerals Trust Fund once the site has been restored; and subject to the following conditions, viz:- (1) the development hereby permitted shall enure for the benefit of the applicant only and that the consent shall run concurrently with the existing planning consent for the Piperhill Opencast Site (ref CD/90/343/Q dated 28 March 1996); (2) the applicant shall give notice to the Planning Authority, in writing, of the commencement of operations on the Laurshill extension, one week prior to their commencement; (3) the proposed operations shall be in accordance with the Supporting Statement dated 15 September 1995 and that the operations hereby permitted shall be subject to the conditions attached to the planning consent Ref NO CD/90/3434/Q dated 28 March 1991, as deemed appropriate to the proposed Laurshill extension operations to the satisfaction of the Planning Authority; (4) within six months of operations commencing on the proposed Laurshill extension, the applicant shall submit a revised restoration plan for the entire Piperhill site including the extension area and including wetland features as proposed by the Royal Society for the Protection of Birds, to the Planning Authority for consultation and consideration; (5) the applicant shall consult with the Council's Environmental Health Department to discuss and agree any alterations required with respect to the existing noise monitoring programme established for the site, which shall be to the satisfaction of the Planning Authority.

It was agreed that the request from Scottish Coal Ltd be agreed as a special case without setting a precedent and that planning permission be issued without the requirement for a Section 50 legal agreement to grant the application subject to:

- (i) the deposition with East Ayrshire Council the sum of £32,500 to cover site restoration, this fund being transferred to the Minerals Trust Fund once the site has been restored; and

- (ii) the conditions and for the reasons detailed.

Councillor Sneller rejoined the meeting.

LOCAL PLANNING APPLICATIONS

5. The Director of Development Services advised the Committee that due to the summer recess the following local planning applications would, in this instance, be considered by the Development Services Committee.

Noted.

5.1 APPLICATION NO KL/W/FL/87/005C: MR JAMES SHANKS

There was submitted a report dated 12 July 1996 (circulated) by the Director of Development Services on an application for full planning permission for environmental reinstatement of cap on former Tip Site at Craighead Farm, Dunlop.

The Development Promotion Manager reported that two letters of objection, from one objector, had been received, details of which were contained in the report.

Recommendation by the Head of Planning and Building Control: 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 proposed development shall be carried out in accordance with the application form and plans submitted on 1 March 1996 as revised by the letter and location plan received by the Planning Authority on 28 June 1996 and 4 July 1996 respectively; (3) 4 Nos temporary passing places to be constructed between site access and junction with A735 (Dunlop to Lugton), in accordance with guidance from East Ayrshire Roads Division. The passing places to be for a limited period of 3 weeks, after which the applicant must reinstate the verge to its former condition; (4) the applicant shall give notice to the Roads Division of three weeks prior to commencements of operation; (5) all deliveries of capping materials to the site shall be completed within one month of the first delivery of such materials to the site; and (6) no deliveries to the site or operations to reinstate the cap shall take place outwith the hours of 7am to 7pm on any day; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) to ensure that the development is carried out in accordance with the approved details; Conditions (3) and (4) in the interests of road safety; and Conditions (5) and (6) in the interests of residential amenity.

It was agreed to grant the application subject to the amended conditions and for the reasons detailed.

5.2 APPLICATION NO 96/0202/FL: WIMPEY HOMES

There was submitted a report dated 10 July 1996 (circulated) by the Director of Development Services on a full planning application for substitution of house types at Southcraigs, Glasgow Road, Kilmarnock.

Reported one letter of representation has been received, details of which were contained within the report.

Recommendation of the Head of Planning and Building Control: Refusal for the following reasons, viz:- (1) the proposed development by virtue of the density and layout of the houses, would be contrary to Policy HU1 of the Finalised District Plan;

(2) the proposed development would detract from the residential and visual amenity of the site; and (3) the proposed development would set an undesirable precedent for similar amendments within the residential estate, to the detriment of the amenity and quality of the area.

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

5.3 APPLICATION NO KL/E/FL/95/262A: THE ROYAL INCORPORATION OF THE BUCHANAN BEQUEST

There was submitted a report dated 16 July 1996 (circulated) by the Director of Development Services on an application for full planning permission for proposed change of use from agricultural to residential, Kaimshill Farm, Kilmarnock.

The Development Promotion Manager confirmed that one letter of objection had been received, details of which were contained in the report.

Recommendation of the Head of Planning and Building Control: Approval subject to the following conditions:- (1) The development to which this permission relates must be begun within five years from the date of this permission; (2) the proposed development shall be carried out in accordance with the application form received on 6 December 1995 and the amended plans received by the Planning Authority 21 June 1996; (3) formal application for planning permission in respect of detailed plans of any proposed new buildings or extensions or alterations (including building materials), and any new accesses, shall be submitted to and approved by the Planning Authority before any such development commences; (4) a scheme for car parking shall be submitted to and approved by the Planning Authority before any such development commences on the site. The car park shall be defined in accordance with this scheme and implemented before the use hereby approved commences; (5) notwithstanding the submitted plans the junction of the new road with the existing public road shall have a horizontal radius of a minimum of 10 metres and the full length of the access road shall be 5.5 m wide with a footway on one side; (6) details of a scheme of streetlighting including along the access road shall be submitted to and approved by Planning Authority before the use commences on site; (7) notwithstanding the plan(s) hereby approved any septic tank provided to serve the development shall be sited in such a position as will enable it to be emptied by the tanker; and (8) this approval relates to the change of the farm buildings to residential purposes only and not to the construction of any new dwellings or glazed corridors; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) to ensure that development is carried out in accordance with the approved details; Condition (3) the approval relates to a change of use only; Condition (4) in the interests of residential amenity and road safety; Conditions (5) and (6) in the interests of road safety; Condition (7) in the interests of public safety; and Condition (8) to ensure that the development relates to the change of use of buildings to residential property, rather than their new construction.

Declaration of Interest

5.3.1 Councillor Knapp, under the terms of Paragraph 12b of the National Code of Conduct, declared an interest in the undernoted application and left the meeting.

5.3.2 Hearing

The Committee then heard the objector present who spoke in support of the objections in respect of the application followed by the agent of the applicant who spoke in support of the application.

Members asked questions of the objectors and applicant's representatives and the Hearing was concluded.

It was agreed to continue consideration of the application to the next meeting to allow a site visit to take place.

Councillor Knapp rejoined the meeting at this point.

5.4 APPLICATION NO 96/0169/FL: MR McGARRITY

There was submitted a report dated 16 June 1996 (circulated) by the Director of Development Services on a full planning application for proposed rear extension for additional living accommodation, 52 Bridgehousehill Road, Kilmarnock.

The Development Promotion Manager confirmed that one letter of representation had been received, details of which were contained in the report and that a site visit had been requested.

It was agreed to remit consideration of this application to the Kilmarnock South Local Planning Committee.

5.5 APPLICATION NO 96/0135/FL: MISS F FORREST

There was submitted a report dated 17 July 1996 (circulated) by the Director of Development Services on a full planning application for change of use and subdivision of house to form restaurant and living accommodation, 15 Avenue Square, Stewarton.

The Development Promotion Officer confirmed that three letters of objection and one petition had been received, details of which were contained in the report.

Recommendation of the Head of Planning and Building Control: 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) notwithstanding the submitted plans, the canopy is not hereby approved; (3) the business shall operate only between the hours of 6.00pm and 11.00pm; (4) a scheme showing the provision to be made for the disposal of refuse shall be submitted to and approved by the Planning Authority before any development commences on the site; and (5) the use hereby approved shall operate without detriment to adjoining properties by reason of noise, smell or general disturbance; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Condition (2) the canopy, by virtue of its design and materials, is inappropriate and would detract from the character and appearance of the Avenue Square Conservation Area; Condition (3) to prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interests of residential amenity; Condition (4) in the interest of residential and visual amenity; and Condition (5) to safeguard the amenity of the area.

It was agreed to grant the application subject to the conditions and for the reasons detailed.

The meeting terminated at 1140 hours.