

## **EAST AYRSHIRE COUNCIL**

### **PLANNING COMMITTEE – 4 APRIL 2014**

#### **OPENCAST MINING IN EAST AYRSHIRE COMPLIANCE MONITORING UPDATE**

##### **Report by the Depute Chief Executive**

#### **1. PURPOSE OF REPORT**

2. The purpose of this report is to provide an update in respect of Compliance Monitoring activity relating to opencast coal mining operations in East Ayrshire for the period since April 2013 and, in particular, activity undertaken since the last update reports presented to the Planning Committees on 29 November 2013 and 12 December 2013.

#### **3. BACKGROUND**

4. It will be recalled that a comprehensive report which set out a proposed opencast coal mining Recovery Plan was approved unanimously by the Council at its meeting on 19 September 2013. That report, amongst other things, detailed a strengthened Compliance Monitoring Framework in respect of planning applications for surface mine developments as well as applications for quarries, landfill sites and windfarms (with fracking being added subsequently by Council on 28 January 2014) and agreed that progress updates in this regard be submitted to future meetings of the Planning Committee.
5. It will also be recalled that the report from the Independent Review of the Regulation of Opencast Coal Operations in East Ayrshire which was undertaken by Mr Jim Mackinnon CBE and presented to the meeting of East Ayrshire Council on 28 January 2014, included a recommendation that quarterly reports should be submitted to Councillors recording progress on sites/complexes.
6. A report setting out progress in respect of operational activity at the four active sites across the East Ayrshire Coalfield was considered by the Planning Committee at its meeting on 12 December 2013.

#### **7. PROGRESS UPDATE**

##### **8. Compliance Monitoring Contracts Awarded**

9. Independent Compliance Assessors have been appointed following a tender process to assist in the discharging of the Council's strengthened Compliance Monitoring Framework.
10. Ironside Farrar secured the contract for assessing 2 pending quarry applications as well as the contract for compliance monitoring of energy infrastructure and onshore wind projects. In addition, Dalgleish Associates

secured the contract for compliance monitoring of surface mining operations at the four active opencast sites at Netherton, Duncanziemere, House of Water, Greenburn and future sites; for the provision of specialist expertise in relation to the other opencast coal sites subject to bond calls; and compliance monitoring of the active quarry at Tincornhill, Sorn.

11. Table 1 below provides for completeness and in this instance, a year end position summary of the compliance monitoring visits undertaken at operational opencast mining complexes since April 2013, along with information on number of Technical Working Groups and Community Liaison Committee meetings that have been held over the reporting period.

Table 1

Complex	April 2013 to March 2014		
	Community Liaison Committees	Technical Working Groups	Compliance Monitoring Visits
Duncanziemere (Hargreaves)	4	3	5
Garlaffen (Hargreaves)	2	0 Coaling Completed	1
Netherton (Hargreaves)	3	2	5
House of Water (Hargreaves)	1	1	3
Greenburn (Kier)	3	2	4
<b>Total</b>	<b>13</b>	<b>8</b>	<b>18</b>

## 12. Site Progress

13. Appendix 1 provides detailed information on the status of each operational opencast coal mine, drawing on information established during the compliance monitoring inspections between April 2013 to March 2014 as well as information provided by the operators.
- 14.. It is intended that this detailed schedule of compliance monitoring activity will provide the basis for future reports to the Planning Committee with future changes to Mine Progress Plans or restoration works at specific sites identified through our compliance monitoring activity being highlighted. Currently, the Compliance Monitoring visits at Netherton, Duncanziemere and House of Water are demonstrating that all overburden materials are being placed below original ground levels with phased restoration of the voids ongoing and sites are in general accordance with the current Planning Permissions.
15. This process has also been carried out at the Greenburn Complex and the operational sites are in general accordance with the current Planning permissions. Further work, is however, required by the Planning Authority and

the Independent Compliance Assessor to review the full planning history of the Greenburn approvals and verify each condition; this is ongoing and is expected to be completed by the end of May 2014. The sites within the complex contain two restoration bonds and a parent company guarantee which are subject to review by the independent compliance assessor to verify that the financial guarantees cover the active restoration liabilities.

16. Once the Compliance Monitoring reports have been fully assessed by the Planning Authority, the report shall be uploaded on the Council Web Sites under the Compliance Monitoring section. These reports shall be accompanied by all minutes from the respective Technical Working Groups and Community Liaison Committee meetings from each site.

17 **Planning Application update on Active Sites**

18 **Greenburn Complex**

An application for the recovery of coal and associated fireclay at Carsgailoch Hill Extension was considered by the Planning Committee on 15 June 2012 and granted subject to the satisfactory conclusion of the Section 75 Legal Agreement. Discussions have been ongoing with the applicant to finalise the legal agreement and the Planning Authority currently awaits detailed proposals regarding the financial guarantees proposed for the development prior to the approval being issued.

19 **Duncanziemere Complex**

The agenda for this meeting of the Planning Committee also includes the Planning application to vary Condition 4 of Planning Consent 09/0511/PP to revise the approved restoration plan for Duncanziemere Surface Coal Mine appears as a separate item on the agenda for this meeting.

20 **Netherton Complex**

The planning application to provide an alternative restoration proposal for the site has been delayed from being submitted by the applicant due to the ongoing negotiations between the Council and the Bond company to finalise the bond payment. Once this process has been concluded, a report will be presented to Cabinet for consideration of the bond offer. Following the determination of the finalised bond valuation and payment to the Council, Hargreaves Surface Mining Ltd (Hargreaves) on behalf of the OCCW (Netherton) will finalise the revised design which will be presented to the local communities through the Pre Application Process (PAC) prior to the formal application submission. It is anticipated that this application shall be submitted within 3 months of the bond payment process being concluded.

21 **House of Water Complex**

The agenda for this meeting of the Planning Committee also includes a separate report on the Planning application for the Burnston Remainder site in relation to the modification to Clause 15 of the Section 75 Agreement (planning consent 12/0022/PP) and rephrasing of consented excavations to accommodate working and ecological constraints to include commencing concurrent extraction in Cut 1B and Cut 2, as opposed to commencing concurrently Cut 1A and Cut 1B as currently approved. The determination of

these Planning applications shall dictate the timeframe when the operator would be in a position to commence the proposed scheme.

- 22 In relation to the overall House of Water complex, Hargreaves have finalised the site investigation of the Burnston Remainder site and are quantifying the full coal reserves which will assist in the development of the alternative restoration scheme for the overall complex. Hargreaves have recently met with local residents and members of the community to discuss the restoration options and the outcomes will inform the revised design which will be presented to the local communities through the Pre Application Process (PAC) prior to the formal application submission. It is anticipated that this application shall be submitted by June 2014.

### **23. Annual Environmental Audits**

- 24 Policy MIN 40 of the Opencast Coal Subject Plan 2003 places a requirement within a Planning Approval and more specifically within the planning conditions and each Section 75 for the operator to provide an Environmental Audit (AEA) of the development every 12 months. The AEA is produced by the operator and will assess the degree of compliance within the development of all environmental conditions and obligations relating to the approved planning conditions and Section 75 legal agreements and identify any additional works over the forthcoming year necessary to achieve the environmental criteria. The AEA shall have regard to the ongoing mining operations, restoration works carried out and proposed work scheduled on site for the forthcoming year.
- 25 Recommendation 11 of the Independent Report of the Regulation of Opencast Coal Operations in East Ayrshire identified that the Annual Environmental Audits were not being submitted by the Scottish Coal Company Ltd or ATH Resources/Aardvark TMC and the AEA's submitted by Kier Mining, while comprehensive in their content were not acknowledged, reviewed or actioned by the Planning Authority. This matter has been reviewed and procedural changes implemented for all active operational sites along with their mining plans and AEA's being subject to full review by the Planning Authority and the Council's Independent Compliance Assessor.
- 26 The AEA process adopted for all operational opencast coal sites is as follows:-
- a) On receipt of the Annual Environmental Audit it is recorded in Uniform using AEA suffix, plotted, checked into IDOX and published within OPIS, the Planning Register;
  - b) An acknowledgement letter is issued to the applicant (operator);
  - c) Consultations will be sent to the following bodies including SNH, SEPA, RSPB, SWT, Roads, Environmental Health, Ayrshire Rivers Trust, Historic Scotland (if relevant), Dalgleish Associates as Independent Compliance Assessor, Community Council(s); and Members of the Community Liaison Group;

d) Following Consideration of the consultation responses the AEA will be assessed by the Planning Officer and a Report of Handling shall be prepared and signed off in the normal manner. The Report of Handling shall detail the resultant feedback and outline any observations for the operator to consider as part of the forthcoming mining and restoration operations;

e) The Planning Register shall be updated on the basis of the Decision taken by the Planning Authority and the updated status included within the weekly lists of cases considered and determined;

f) The outcome of the assessment of the AEA will be reported to the appropriate quarterly meeting of the Planning Committee when considering the Compliance monitoring on the relevant sites;

27 An AEA will be submitted for each operational opencast coal sites with the Schedule of AEA noted as follows:-

Greenburn Complex:-	November 2013
Duncanziemere Complex:-	April 2014
Netherton Complex:-	April 2014
House of Water Complex:-	October 2014

28 Currently, the Greenburn Complex AEA is being assessed and on conclusion of this process the outcome of the assessment will be notified to the operator.

## **29 Planning Committee Site Visits**

30 At the Planning Committee on 29 November 2014, Members agreed to undertake a site visit of each of the operational opencast coal sites. These visits were undertaken on the dates noted below:-

Greenburn Complex:-	12 February 2014
Netherton Complex:-	14 February 2014
House of Water Complex:-	21 February 2014
Duncanziemere Complex:-	26 February 2014

31 During these visits, Planning Committee members in attendance were able to view the current coaling and restoration operations in each working void and working area, discuss with representatives from the surface mine the next operational stages and generally familiarise themselves with the infrastructure supporting the site.

32 Furthermore, all other Councillors have been invited to attend the four active sites to view the site progress. These site visits are scheduled as follows:-

Netherton Complex:-	1 April 2014
Duncanziemere Complex:-	2 April 2014
Greenburn Complex:-	9 April 2014
House of Water Complex:-	9 April 2014

33 As part of the enhanced Compliance Monitoring Framework the Planning Committee shall be presented with a quarterly Opencast Coal Compliance Monitoring Report which will be scheduled for March; June; September and December each year. As part of the consideration of the Report the Planning Committee will have the opportunity to attend a site inspection at one of the opencast coal mines prior to the quarterly assessment of the Compliance Monitoring Report and this rota will enable members to view each of the sites at least once per year.

#### **34 RECOMMENDATIONS**

35 It is recommended that the Planning Committee:

1. Notes the progress made in respect of compliance monitoring of opencast mining sites;
2. Notes the Compliance Monitoring arrangements currently in place at each of the operational sites;
3. Notes the number of Technical Working Groups, Community Liaison Committees and Compliance Monitoring Inspections held during the period April 2013 to March 2014,
4. Agrees that further progress reports be submitted to future meetings of the Planning Committee scheduled as March; June; September and December of each year;
5. Agrees that the Planning Committee undertakes a site visit of one of the active sites prior to each Planning Committee in a rota schedule; and
6. Otherwise note the contents of the Report.

Elizabeth Morton  
**Depute Chief Executive**

**25 March 2014**

#### **LIST OF BACKGROUND PAPERS**

1. Opencast Mining in East Ayrshire – Steps to Recovery: Report submitted to the meeting of East Ayrshire Council on 19 September 2013.
2. Opencast Mining in East Ayrshire – Compliance Monitoring: Report submitted to the meeting of East Ayrshire Council Planning Committee on 29 November 2013.
3. Update on Operational Opencast Coal Sites in East Ayrshire: Report submitted to the meeting of East Ayrshire Council Planning Committee on 12 November 2013.
4. Independent Review of the Regulation of Opencast Coal Operations in East Ayrshire: Report submitted to the meeting of East Ayrshire Council on 28 January 2014.

Any person wishing further information should contact  
Elizabeth Morton, Depute Chief Executive (Telephone 01563 576076)

**IMPLEMENTATION OFFICER: Elizabeth Morton, Depute Chief Executive**



### Appendix 1:- Update on Operational Opencast Coal Sites

Applicant/Operator:- Kier Mining								
Site:- Greenburn Complex								
Application Ref No.	Site	Date Approved	Site Commenced	Site Duration (Years)	Expiry Period	Approved Estimated Coal Reserves (tonnes)	Estimated Coal Reserves Remaining (tonnes)	Site Status
12/0066/PP	Wellhill Farm	7 February 2013	March 2013	5	March 2018	750,000	667,000	Coaling has commenced within the eastern void and is progressing northwards in accordance with the approved scheme. Screening bunds have been installed around the northern perimeter of the workings. All overburden mounds are in place and all overburden material currently being excavated is being placed below ground level within the void. The road diversion to the U719 has been constructed and is now operational. Mining operations are being carried out in general accordance with the current Planning Permission. The site is currently subject to a review of the financial bond quantum for the site restoration and the outcome of this review shall be reported to the Planning Committee in early course.
10/0491/PP 13/0841/PP	Braehead Farm	22 February 2011	June 2012	5	June 2017	1,500,000	1,190,000	Coaling has commenced within the central and eastern area of the site creating a single void. Coaling is progressing eastwards in accordance with the approved scheme. The road closure is in full operation. The main overburden mound in the west of the site is in place and all overburden material currently being excavated is being placed below ground level within the void. Mining



								Operations are being carried out in general accordance with the current Planning permission. The site is currently subject to a review of the financial quantum of the Parent Company Guarantee for the site restoration and the outcome of this review shall be reported to the Planning Committee in early course.
00/0793/FL 03/0726/FL 04/0263/FL 04/0717/FL 05/0452/FL 05/0583/FL 07/0211/FL 07/0745/FL 07/0908/FL	Greenburn (including current coaling application at Dalgig Farm)	19 August 2008 (Dalgig Farm)	June 2009 (Dalgig Farm)	Original site 10 Years	Under discussion with Operator	1,500,000 (Dalgig Farm)	100,000 (Dalgig Farm)	Coal and Fireclay have been recovered from the several sites covered by the 9 key Planning approvals within the Greenburn complex with progressive final restoration undertaken within the central and eastern part of the complex. Coaling is being carried out at Dalgig Farm. All other parts of the Greenburn site are finished coaling. Infrastructure remains within this part of the main complex to provide access from the Dalgig Farm coaling area to the railway distribution point at Auchincross. Coal is currently being recovered from the base seams at the western void of Dalgig Farm. Hargreaves Surface Mining Ltd are working under licence to Kier Mining to remove the boundary coal between Dalgig Farm and Burnston Fields Extension. All Overburden Mounds are in place and all overburden material currently being excavated is being placed below ground level within the void. Mining operations are being carried out in general accordance with the current Planning permission.

**Applicant:- OCCW (Duncanziemere) –  
Operator:- Hargreaves Surface Mining Ltd**

**Site:- Duncanziemere and Laigh Glenmuir Complex**

<b>Application Ref No.</b>	<b>Site</b>	<b>Date Approved</b>	<b>Site Commenced</b>	<b>Site Duration (Years)</b>	<b>Expiry Period</b>	<b>Approved Estimated Coal Reserves (tonnes)</b>	<b>Estimated Coal Reserves Remaining (tonnes)</b>	<b>Site Status</b>
05/0232/FL 06/0291/PP 09/0511/PP 09/0770/PP	Duncanziemere and Laigh Glenmuir	30 March 2011	October 2010	5.5	March 2016	800,000	212,000	Coaling is being carried out at the Duncanziemere site with coaling finished within Laigh Glenmuir. Infrastructure remains within the Laigh Glenmuir part of the complex to provide access from the Duncanziemere coaling area prior to the distribution of the coal to Crowbandsgate Rail head via the overland conveyor belt. All overburden mounds are in place and currently all overburden material being excavated is being placed below ground level within the void. Mining operations are being carried out in general accordance with the current Planning permission.

**Applicant:- OCCW (Netherton) –  
Operator:- Hargreaves Surface Mining Ltd**

**Site:- Netherton Complex**

<b>Application Ref No.</b>	<b>Site</b>	<b>Date Approved</b>	<b>Site Commenced</b>	<b>Site Duration (Years)</b>	<b>Expiry Period</b>	<b>Approved Estimated Coal Reserves (tonnes)</b>	<b>Estimated Coal Reserves Remaining (tonnes)</b>	<b>Site Status</b>
09/0891/PP 11/0535/PP	Netherton	19 October 2010	October 2011	10	October 2021	4,100,000	508,000	Coaling is being carried out at the Northern void of the Netherton site with coaling finished within the southern void and phased restoration having now filled this void. Distribution of the coal to Crowbandsgate Rail head is via HGV transportation on the agreed routes along the A70 and A76. All overburden material currently being excavated is being placed below ground level within the southern and northern voids. Mining operations are being carried out in general accordance with the current Planning permission.

**Operator:- OCCW (House of Water)**  
**Operator:- Hargreaves Surface Mining Ltd**  
**Site:- House of Water Complex**

Application Ref No.	Site	Date Approved	Site Commenced	Site Duration (Years)	Expiry Period	Approved Estimated Coal Reserves (tonnes)	Estimated Coal Reserves Remaining (tonnes)	Site Status
CD/94/0072/MIN 94/0400/FL 96/0635/FL 03/0506/FL 04/0397/FL 09/0286/FL 09/0364/FL 09/0371/PP	Burnston Field Extension	29 March 2010	August 2009	6	December 2015 (Amended by S42 variation)	560,000	0	Over the last three months the remaining 25,000 tonnes of coal within the Burnston Fields Extension has been extracted and transferred via HGV transportation on the agreed route to the Killoch Rail head. With the exception of the Burnston Remainder site all coal has been extracted from the complex. All overburden material which has been excavated has been placed below ground level. Hargreaves Surface Mining Ltd are working under licence to Kier Mining to remove the boundary coal between Dalgig Farm and Burnston Fields Extension. Mining operations are being carried out in general accordance with the current Planning Permission.
12/0022/PP	Burnston Remainder	13 February 2013	Not Commenced	6	Not Commenced	2,600,000 (Coal extraction Subject to a Non Material Variation)	2,600,000	The Burnston Remainder site is designed to deliver the phased restoration within the northern part of the House of Water complex and in particular the overburden from the Burnston Remainder site will directly infill the voids at Craigman South, Burnston Fields Extension and Tappet Hill.

