

ASSESSMENT REPORT

Directorate for the Built Environment

Notified Planning Application: Assessment Report



Case reference	NA/SLS/059
Application details	Extraction of coal and fireclay by opencast methods
Site address	Land at Mainshill near Newmains Farm, Douglas
Applicant	Scottish Coal Company Limited
Planning authority	South Lanarkshire Council
Reason(s) for notification	Paragraph 1. Environmental Impact Assessment & Paragraph 8. Development Contrary to Development Plans
Objectors	636 pro-form objections and 22 individual letters of objection
Date notified to Ministers	18 February 2009
Date of recommendation	15 April 2009
Decision / recommendation	Clear

Description of Proposal and Site:

- Proposal by Scottish Coal Company Limited to extract 1.7 million tonnes of coal and 160,000 tonnes of fireclay (if present) by opencast methods with restoration to agriculture and woodland at land at Mainshill Wood adjoining A70 and B7078 (near Newmains Farm).
- The application site extends to 136 hectares. The area of extraction extends to 63 hectares.
- The proposed programme (operational life span of the project) will take place over 5 years. The first phase, the preparation phase, will take place over a 6 month period. The next phase is the extraction phase, which will take place over a 3.5 year period. The extraction phase will be followed by the final restoration phase which will take place over a period of 12 months.
- The application site is situated within the Douglas Valley and is within the designated Douglas Water Area of Great Landscape Value (AGLV). The site is also situated within the designated Rural Investment area.
- In terms of its proximity to nearby settlements, the hamlet of Uddington and the village of Rigside are located 0.88 km (880m) and 2 km (2000m) to the east, respectively. The village of Douglas is situated 1 km (1000m) to the west of the site. A number of residential dwellings (18 residential units, an office and agricultural storage buildings) are located within 500m of the application site boundary. The details of these are set out in section 3 of this report.

EIA Development:

- EIA is required under Section 19, Schedule 1 of the EIA (Scotland) Regulations 1999 in that the surface/extraction area of the site exceeds 25 hectares. The applicant has submitted an Environmental Statement (ES) in support of the application. The ES provides a detailed assessment of the likely impacts of the development, together with proposed mitigation measures.

Consultations and Representations:

- The Council has received 658 objections from third party representatives, including 22 individual letters of objection and 636 standard pro-forma objections. The Council has acknowledged these objections in its report to committee. A further 44 pro-forma style letters of support have been received together with 8 individual letters of support.
- Subject to conditions and a S75 Agreement, no objections have been received from statutory consultees.

Assessment:

Development Plan

1. The Development Plan comprises The Glasgow & Clyde Valley Structure Plan 2006, The South Lanarkshire Minerals Local Plan 2002, The Lower Clydesdale Local Plan 2004 and The Finalised South Lanarkshire Local Plan (as modified). SPP16 (Opencast Coal), SPP2 (Economic Development), PAN 50 (Controlling the Environmental Effects of Surface Mineral Workings) and PAN 64 (Reclamation of Surface Mineral Workings) also form material considerations in respect to the assessment of this application.

Reasons for Notification

2. The application has been notified to Ministers under Paragraph 1 'Environmental Impact Assessment' and Paragraph 8 'Contrary to Development Plans', of the Notification Direction Schedule. The Council considers that the proposal is contrary to Policy MP11 Buffer Zones of the South Lanarkshire Minerals Local Plan 2002, which states that mineral development will not be permitted within 500m of "occupied dwellings" (with blasting) or within 250m of dwellings (without blasting).

Policy Analysis

3. SPP16 states that as a general rule, site boundaries within 500 metres from the edge of a "community" are likely to be unacceptable. SPP16 offers a definition of what constitutes a community; it states that "*communities can consist of small clusters of houses*". Generally, however, it advises that Planning Authorities are best placed to decide this.
4. There are a number of individual and grouped properties which are situated within 500 metres of the site boundary. These include:
 - Newmains Home Farm is situated 150m west of the application site boundary. The overall farm complex contains 11 residential properties, the Douglas and Angus Estate office and various livestock and storage buildings; all of these are located within 150m of the site boundary.

- South Lodge is situated 450m west of the site boundary and contains 2 residential properties.
 - Coalgill is situated 225m east of the site boundary beyond the M74 and contains a group of 4 residential properties.
 - Castlemains is situated 360m east of the site boundary beyond the M74.
5. The Council discounts all of the above properties from its definition of 'community' and identifies the nearest community as being that of Douglas; a small village situated 1km to the west of the site with a population of c1676. Planning Authorities are still required to consider the *"impacts on individual dwellinghouses or sensitive establishments outwith defined communities; or that such impacts are acceptable to individual occupiers"* in accordance with SPP16 (paragraphs 12 and 36). Irrespective of whether individual or grouped properties are considered to constitute a community or not, there is still a requirement therefore to consider the potential impacts of open cast coal development on properties situated within 500m of a proposed opencast coal site boundary. Similarly there is a requirement within Policy MP11 'Buffer Zones' of the South Lanarkshire Minerals Local Plan 2002, to consider the impacts of mineral development on occupied dwellings that are within 500m (with blasting) or 250m (without blasting) of the site boundary. This will include consideration of impacts on those properties that are situated within Newmains Home Farm, South Lodge, Coalgill and Castlemains.
6. SPP16 states that in applying the principles of sustainable development and environmental justice to opencast coal extraction, there should normally be a presumption against development unless the proposal meets one of the following tests:

Test 1 - is the proposal environmentally acceptable, or can it be made so by planning conditions and/or agreements?

- In this test, the Council is required to weigh up the various benefits and disbenefits associated with the development. These are set out in paragraph 34 of SPP16 and include matters such as: proximity to communities; extended periods of working; haulage traffic; cumulative environmental impacts; noise (including blasting); airborne dust; local landscape; ecology; archaeology; impact on local economic investment and loss of local opportunities for recreation/access to the countryside.
- While the Council defines the nearest community to be that of Douglas, which is situated 1km from the application site boundary, it also gives equal consideration in its report to the proximity of and impact on individual and grouped properties that fall within 500m of the application site boundary, including Newmains Home Farm, South Lodge, Coalgill and Castlemains.
- In terms of paragraph 34 of SPP16 and of the potential impacts on the nearest community, individual and/or grouped properties, the Council draws attention to the Environmental Statement (ES) and concludes that the proposal will not have any significant adverse impact on amenity and that effective conditions, monitoring and an HGV routing agreement will seek to ensure that any potential impacts on these properties are minimised (the Council reports that no haulage traffic will pass directly through any communities or settlements). In terms of disturbance to communities through extended periods of working, the Council states that consent is being sought for a period of 5 years only. Regarding the matter of cumulative impacts, the Council notes that there are other working sites within 5km of the application site, in particular Broken Cross, Glentaggart and Poneil OCCS but states that both will be worked and closed during operations at Mainhill. SNH and Historic Scotland has confirmed that

subject to conditions, the proposal will not have an adverse impact on natural and built heritage, although it has been acknowledged that during the coaling stage, the proposal will have a temporary visual impact on landscape particularly given its location with an AGLV. Both SNH and the Council are satisfied however, that the restoration proposals suitably mitigate any long term impacts to the AGLV. A noise assessment has been undertaken and submitted as part of the ES; the Council considers that the proposed noise abatement/mitigation measures will ensure predicted noise levels are within the limits recommended in PAN 50. Similarly, mitigation measures will ensure ongoing dust suppression during operations. The ES concludes that further survey work is required during spring through to autumn to determine further, the presence of bats, otters, badgers and water voles. The Council has attached a condition to this effect.

- The Council has considered the content of the ES and is satisfied that it fully addresses the potential impacts on nearby communities and on individual and grouped properties and that sufficient mitigation measures have been put in place to lessen the potential impacts. In relation to Test 1, the Council is of the view that the proposed impacts are acceptable and that through the use of planning conditions and a legal agreement, the proposal can overall be made environmentally acceptable.

Test 2 - does the proposal provide local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission?

- In this test, the Council should demonstrate that the proposal will improve local amenity and/or that future development opportunities have been brought about through the clearance of a substantial area of derelict or despoiled land, the stabilisation of a previously undermined site and/or through generation of genuine local employment. The Council considers that application of Test 2 is not required since the proposal meets Test 1. The Council has, nevertheless, outlined the various community benefits that the proposal will generate. These are:
- The Council states that proposal is a new mining site and is highlighted as a known coal deposit in the Minerals Local Plan 2002. The Council reports that the proposal will generate 93 direct jobs and will create other indirect employment. The Council also states that the proposed restoration plans include improvement to the habitat network and an increase in public access to the site. The applicant will contribute 25 pence per tonne of coal and 5 pence per tonne of fireclay to the South Lanarkshire Rural Communities Trust, which will target funds towards the community of Douglas Valley.

Conclusion

12. The Council has fully considered the environmental impacts of this proposal which are set out in the Environmental Statement and has provided a fair assessment of the proposal and sound justification for its decision to depart from the adopted South Lanarkshire Council Minerals Local Plan 2002. The various statutory consultees are equally satisfied that the proposed mitigation measures are acceptable. There is no justification in this instance therefore, that would warrant Minister intervention and for this reason the application should be cleared back to South Lanarkshire Council for determination.

Decision/Recommendation:

- Clear back to South Lanarkshire Council for determination.