

# Opencast Coal Mining



## SUPPLEMENTARY ADVICE NOTE NO. 10

### Introduction

Clackmannanshire is currently experiencing significant pressure for the working of further opencast coal mining within the eastern area. The Council recognises the economic importance of the workings to the area, whilst at the same time recognising the social and environmental qualities which are particular to the area and which offer a high quality environment in which to live, work and visit.

This Supplementary Advice Note sets out the Council's updated policy on opencast coal mining, in addition to the Development Plan (Structure Plan and Local Plan) and National Planning Policy. The guidance within this note will be reflected into the new Structure Plan and Local Plan in 1999. In the meantime it provides advice to developers and operators which will be treated as a material consideration in the determination of any further opencast proposals.

### Background

The overall Clackmannanshire resource of shallow coal is relatively small. This not only reflects the extent to which the coals have already been worked from deep mines, but also, and potentially more important, the small size of the Council area and the dominance of The Ochil Hills.

Studies recognise that opencast coal resources essentially lie throughout lowland Clackmannanshire, with the exception of the western area around Tullibody and Menstrie. There is no opencast potential north of The Ochil Fault, which runs along the line of the Hillfoot settlements.

The coal seams that do exist are of varying thickness and qualities. Opencast mining is usually restricted to a maximum depth of 150 metres, but often sites operate at much shallower horizons. In terms of quality, the calorific value is too low for specialised markets, apart from small tonnage's of low grade housecoal. The market for the Clackmannanshire coal is essentially local, to feed into the Longannet Power Station. The working life of Longannet Power Station, to 2020, cannot be guaranteed and there is uncertainty over the proposed clean coal Power Station in Kincardine. The Council recognises that Clackmannanshire opencast coal is an important contributor to the competitiveness, and therefore generating life, of Longannet Power Station, which serves as a major employer in the area. The local opencast coal needs continued production from the Longannet deep mine, and vice versa, to supply the right balance of coal qualities and quantities to the power station.

The greater emphasis on sustainable development at both Central and Local Government levels has an important role to play in developing planning policy to address and guide opencast mining proposals. Overall the Council is seeking to work towards sustainable development and in doing so greater emphasis is placed on sustainability issues including the 'precautionary principle' and the 'proximity principle'.

The precautionary principle, (or the precautionary approach), is a specific principle of sustainable development. The principle states that "where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing ... measures to prevent environmental degradation" (derived for the Rio Declaration 1992). In effect, this means that where the scale or nature of the impacts of development are unclear, measures to prevent potential environmental problems should nevertheless be implemented.

The proximity principle forms an integral part of the concept of sustainable development, which aims to reduce transport distances for bulk commodities such as waste and minerals and would favour coal markets which would have a short haulage distance, wherever it can be worked in an environmentally acceptable way. As such, while there is a substantial coal market at Longannet Power Station, or other locations nearby, there is a strong planning case for permitting opencast coal mining in Clackmannanshire where modern environmental and other planning requirements can be met. It is the environmental and other planning requirements which this advice note particularly seeks to address in some detail.

To assist in the formulation of planning policy the Council, together with Scottish Natural Heritage, commissioned consultants to provide information and professional advice on developing a strategic framework, and to advise and analyse the likely trends for opencast coal demand in the period to 2016, and their likely impact/consequences for Clackmannanshire. This advice note draws from that study.

### Development Plan and National Policy Context

The Development Plan for Clackmannanshire consists of the approved Structure Plan: Central 2000, and the adopted Clackmannanshire Local Plan. The Development Plan is currently under review with a Consultative Draft Plan likely to be published during 1999.

The existing Structure Plan: Central 2000 indicates that the "eastern fringes" of Clackmannanshire is an area where opencast coal working could have positive benefits in the form of clearance of dereliction, improvement of poor quality land, landscape improvement and the creation of recreational facilities. Central 2000 also provides a policy framework (Policies ENPO.20, 21 and 22) in which to assess opencast mining proposals (see Appendix 1). However the Council recognise that having a very limited preferred area of the "eastern fringes", an area which has or is being worked and has already seen improvements to derelict and degraded land, is not essentially relevant today given that it was identified as preferred to improve the degraded and derelict areas which once existed. In addition, the consultation study identified that there were shallow coal reserves outwith the "eastern fringes" of Clackmannanshire.

The Clackmannanshire Local Plan, formally adopted in August 1994, sets more detailed policies and in particular addresses the impact on settlements by providing a policy on minimum distances (see Appendix 1).

In terms of National Planning Policy and good practice advice, this is set out in the following documents:

- \* 'This Common Inheritance' - The UK Governments Environment White Paper (1990).
- \* 'Sustainable Development: The UK Strategy' - The UK Governments national strategy for sustainable development (1994).
- \* National Planning Policy Guideline (NPPG) No. 4 'Land for Mineral Working' (1994) and Annex A: Opencast Coal and Related Minerals (Draft 1988).
- \* Planning Advice Note (PAN) No. 50 'Controlling the Environmental Effects of Surface Mineral Workings' (1998) - This has 3 annexes on "The Control of Noise at Surface Mineral

Workings' (1996), 'The Control of Dust at Surface Mineral Workings' (1998) and the Control of Traffic at Surface Mineral Workings (1998) NPPG (draft) on 'Transport and Planning' (1998).

The policy guidance in the Annex to NPPG 4 is that the Government does not envisage a prohibition on the working of opencast coal but seeks to apply a sustainable approach consistent with putting concern for the environment at the heart of policy. The intention of policy is to ensure that full weight is given to the effect and potential disturbance on local communities as well as other environmental considerations including nature conservation and landscape impact. Where a proposal would cause demonstrable harm, the guidance is clear that consent should not be granted except where the benefit of the development proposals to the community would outweigh the potential harm.

### **Sustainable Development**

The Government policies and advice flows from its commitment to sustainable development. NPPG 4 'Land for Mineral Working' recognises that coal is an important energy mineral in Scotland, and the economic importance is recognised in 'This Common Inheritance' which also acknowledges that the extraction process can often be disruptive and have significant environmental impact. 'Sustainable Development: The UK Strategy' recognises that for the economic well being of the country, it is essential that there is an adequate and steady supply of minerals to meet the needs of the community and that economic growth is not hindered, whilst recognising the environmental impact. That document sets out a sustainable framework for mineral extraction:

- \* "To conserve minerals as far as possible, while ensuring an adequate supply to meet the needs of society for minerals.
- \* To minimise production of waste and encourage efficient use of materials, including appropriate use of high quality materials and recycling of wastes.
- \* To encourage sensitive working practices during mineral extraction and to preserve or enhance the overall quality of the environment once extraction has ceased.
- \* To protect designated areas of critical landscape or nature quality from development, other than in exceptional circumstances where it has been demonstrated that development is in the public interest".

The Council in developing a strategic framework, as set out in this advice note, recognises that the need to work the coal resource must be reconciled with caring for the environment in order to attain sustainable development, particularly in relation to the natural and built heritage and existing communities. In addition, the Council will seek to ensure that mineral extraction is undertaken prior to any major engineering projects such as the new Clackmannanshire Bridge and development or redevelopment of land which is consistent with sustainable development principles, but only where this can be achieved in an environmentally acceptable way.

### **New Policy Guidance**

The new strategy which has been developed builds upon the principles of sustainable development, and the strategy of 'Working Towards Sustainable Development' which has been approved by both Clackmannanshire and Stirling Councils as the strategic basis for the new Clackmannanshire and Stirling Structure Plan.

The consultants study which was undertaken to assist in formulating the future policies concluded that the existing Structure Plan: Central 2000 strategy of identifying the "eastern fringes" of Clackmannanshire was now not considered to be relevant. NPPG 4 on Land for Mineral Working emphasises that development plans should "aim to safeguard the quality of the natural and built heritage while guiding developers and mineral operators to locations where mineral extraction or recycling is likely to be permitted, subject to current environmental

and amenity standards being met". The new strategy which has been developed takes this forward.

### **New Strategy**

The strategy is based on three categories: High Constraint, Medium Constraint and Low Constraint. In establishing these categories, unworkable areas were eliminated at the outset e.g. the principal settlements and Gartmorn Dam Country Park. Areas were then defined where coal resources may be close to the surface, distinguishing between areas where geological constraint makes working unfavourable and unlikely, and other areas where working is physically and technically possible. Working of the possible resource is therefore constrained primarily by environmental and other planning considerations.

The Council in developing the strategy recognise that opencast coal mining cannot simply be eliminated anywhere on the grounds of environmental and other planning considerations. The key to the strategy is to make clear where the constraints apply or do not apply and to indicate where, in general terms, the acknowledged importance of opencast mining is likely or unlikely to outweigh constraints, again allowing for the significance of harmful and beneficial effects.

The areas which come within each of the three categories are described in more detail below.

### **Summary of Strategy Areas**

#### **Unworkable Areas**

- \* Areas where significant shallow coal resources are unlikely to be present.
- \* Built up areas of principal settlements.
- \* Gartmorn Dam Country Park.
- \* Insurmountable Geological or technical difficulties.

#### **High Constraint Areas**

- \* Ramsar Sites and other European sites included in Annex 1 of the EC Habitats Directive.
- \* Sites of Special Scientific Interest.
- \* Outstanding Conservation Areas.
- \* Scheduled Monuments.
- \* Listed Buildings Category A.
- \* Woodland in the Inventory of Ancient Long-Established Semi-Natural Woodland.
- \* Areas within 500m of a settlement >20 dwellings.
- \* Sites on Inventory of Designed and Planned Landscapes.
- \* Sites within water catchment areas.
- \* Species mentioned in Schedules 1,5&8 of the Wildlife & Countryside Act 1981 as amended. Annex 2 or 4 of EC Habitats Directive and Annex 1 of the EC Wild Birds Directive.

#### **Medium Constraint Areas**

- \* Listed Wildlife Sites.
- \* Local Nature Reserves.
- \* Phase 2 Habitat Survey.
- \* Areas of Great Landscape Value.
- \* Areas of Moderate Visual Capacity.
- \* Country Parks (other)
- \* Green Belt
- \* Tree Preservation Orders
- \* Prime Agricultural Land.
- \* Conservation Areas.
- \* Other Archaeological Sites (SMR).

#### **Low Constraint Areas**

- \* The potential resource areas outwith High and Medium Constraint Areas.

The criteria which are highlighted above are essentially self explanatory.

The categories are described in more detail below with the policies which apply to each.

### **Environmental Assessment**

In relation to all categories the Council consider that the submission of an Environmental Assessment is critical to assessing an application for opencast coal mining, regardless of scale and specific location. If there are any doubts about the adequacy or completeness of an Environmental Assessment, the proposals will be unlikely to be acceptable. As such,

### **Policy A**

*Applicants will be encouraged to submit an environmental assessment, the scoping of which will require to be agreed with the Council in advance.*

*N.B. Legislation requires all sites over 25ha to be the subject of an Environmental Assessment.*

### **High Constraint Areas**

These areas may have potential restrictions of national or international significance, where special statutory regulations/directions or special national policy presumptions apply. They may also be areas where irreplaceable natural or built heritage features or characteristics are so important that the need to avoid significant, permanent or long term harmful effects will normally be expected to outweigh the benefits of winning the coal, in policy terms.

The protection of these areas is paramount and developments within them must accord with their protected status with only exceptional circumstances justifying opencast developments. These circumstances would be unique, such as where the proposal brought significant benefit such as the removal of hazards, treatment of contaminated land or land instability to improve the amenity of the locality and possibly provide for appropriate future development opportunities. Such circumstances would not overrule the necessity to ensure the proper protection of these areas habitat, scenery and community. The Council will also require to take into account the terms of legislation which protects these areas such as the Wildlife and Countryside Act 1981, European Directives, Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 etc.

The relationship of proposals to communities is a significant issue for the public and there is a need for communities to be protected from the disamenity of opencast workings in their near vicinity. To allow opencast working within 500m of a community would only be justified in exceptional circumstances such as the clearance of derelict land.

The Local Plan urban and village limits (shown on the Local Plan Proposals Maps) are considered to be appropriate for the definition of 'communities' and community boundaries except in the case of Forestmill, where a community boundary is specifically defined in Appendix 5. It should be noted that this settlement boundary is only for the purposes of proximity to opencast developments and the village envelope for development is detailed in the Local Plan.

The proposal need not lie within a high constraint area to adversely affect it. For example, noise disturbance or hydrological effects or habitat isolating effects of the development (i.e. ecological islands) could affect wildlife some distance from the proposal. Likewise, the setting of an important building or other feature may be affected.

Essentially within these high constraint areas the benefits of winning the coal would not outweigh the harm to the designated interest. As such,

### **Policy B**

Within or effecting High Constraint Areas there will be a strong presumption against the working of opencast coal unless there are exceptional circumstances where the applicant can clearly justify and demonstrate, to the satisfaction of the Council, that there are imperative reasons for over-riding public interest including social

and economic interests. The precautionary principle will apply and if any effects are uncertain planning permission will not be granted.

### **Medium Constraint Areas**

These areas have specified constraints. Any proposals must address and demonstrate that either the constraint can be overcome, or the benefits of the proposals outweigh the adverse effects on these and any other material considerations. Within these areas it very much depends on the circumstances and the details of individual proposals, and the significance of the harm and the benefit.

It is acknowledged that the issues of harm and benefit are difficult to be precise about but it is essentially how is the environment and community affected by the proposals in terms of disturbance e.g. noise, dust, traffic, loss of habitat etc and is this in any way counteracted by benefits such as removal of dereliction, stabilisation of land adversely affected by old mineral workings, environmental gains directly related to the development which may enhance local amenity and nature conservation.

Within these areas any proposal which can overcome a significant adverse effect on the constraint is likely to be granted planning permission, subject to other planning requirements being satisfied. However, it is for the applicant to clearly demonstrate and justify as part of a planning application how the potential harm could be overcome and/or why the benefits of the development outweigh the disadvantages. As such,

### **Policy C**

*Within or affecting Medium Constraint Areas there will be a strong presumption against the working of opencast coal, unless there are exceptional circumstances where the applicant can clearly justify and demonstrate, to the satisfaction of the Council, that the harm to the constraint can be avoided or where the significance of the benefits outweighs the significance of the harm, and where all other material considerations are satisfied. Where the significance of the harm to environment or communities is uncertain, the precautionary principle would prevail.*

### **Low Constraint Areas**

These are other areas of potential resource where the benefits of extracting the coal would normally outweigh constraints, subject to satisfactory proposals in relation to the nature, scale, timing, duration, phasing, design, layout, mitigation, operation, restoration and aftercare of the proposal. Essentially within these areas there are no severe restrictions or specific constraints and workings in these areas would be governed by normal, modern standards of control relating to mineral workings. Proposals which are made to remove the coal resource in advance of engineering or built development of the land should clearly indicate the timescales for development following the completion of opencast workings and there should be no significant time lag between these two aspects. As such,

### **Policy D**

*There will be a presumption in favour of the working of opencast coal particularly where the working will result in the reclamation of derelict land, facilitate engineering projects, or service/stabilise land prior to built development. The applicant must clearly justify and demonstrate that the proposals would not affect a high or medium constraint area and where other material considerations are satisfied.*

*The map contained in Appendix 4 illustrates the general location of restricted, constrained and controlled areas, pending the Development Plan review when the categorisation of some sites may change.*

### **Other Impacts/Issues**

In addition to the strategy which is outlined above, the purpose of the advice note is to provide further guidance on other issues or material considerations which require to be considered in assessing any proposal for opencast coal mining. This guidance is in addition to issues which are wide ranging and include environmental, social, community and economic issues. The following guidance highlights

the impacts which require to be fully assessed in addition to the policies within the Development Plan and National Planning Policy. Applicants will require, as part of any planning application for opencast mineral extraction, to fully address all of the issues in Table 2 and ascertain the likely impact/benefit the proposal will have in relation to each issue.

The following issues are wide ranging but may not be complete. Each planning application will be assessed on its individual merits, and other issues may have to be addressed which pertain to specific sites.

### Issues Impacts to be Discussed

Visual Intrusion	Duration of Operations
Nature Conservation	Market
Noise	Alternative Resources
Vibration/Blasting	Extent of Community Severance
Dust	Built Heritage
Hydrology and Flooding	Duration and Timing of Working
Transport & Other Infrastructure	Hours
Derelict/Unsightly Land	Recycling
Impact on Communities and Community Benefit	Cumulative Impact
Public Health & Safety	Monitoring
Proximity	Section 75 Agreements
Employment Opportunities	Restoration
Adjoining Coal Resources	

### Visual Intrusion

A full assessment must be submitted assessing the visual impact on the landscape. This will include a series of photographic plates from a range of viewpoints from within and outwith the site, in particular from adjacent settlements or dwellings, or other protected features e.g. listed buildings and local recreational areas. The assessment must also address the impact of the void, the height and mass of the soil, subsoil and overburden mounding, of plant, machinery, haul routes and the short/long term screening/bunding. In terms of the existing landscape, the extent of any short or long term loss of established landscape features and the impact on the intrinsic character of the landscape must also be addressed. The assessment should take account of the criteria outlined in Appendix 3 in relation to Landscape and Visual sensitivity.

The Council will seek to protect areas of countryside from unacceptable visual intrusion, particularly in areas which are deemed to possess intrinsic landscape value by virtue of woodlands, field patterns, open landscapes, mature hedgerows, shelter belts and other topographical features which are not readily renewable and whose loss would be unacceptable in landscape terms, particularly within the Area of Great Landscape Value and Green Belts.

The Council will refer to the Landscape Character Assessment (1997) which was undertaken by consultants to assist in assessing the impact of proposals in landscape terms.

All proposals must seek to, as an end result, enhance the landscape quality of the area.

### Nature Conservation

Regardless of whether proposals fall within or adjacent to areas designated for their nature conservation value, all proposals must be accompanied by a rigorous examination of the development to assess the impact on ecology, including the formulation of appropriate measures to mitigate impact and to provide added value. The assessment should identify whether the impacts are short or long terms and whether irreplaceable. Proposals must accord with policies ENPO. 14 and 15 of the approved Structure Plan.

An important nature conservation resource is woodland and those areas which are included on the Inventory of Ancient, Long-Established and Semi-Natural Woodland have a wide diversity of

flora and fauna which require to be protected from any adverse impact. Any submission requires to identify such woodland within and without the site along with detailed measures for their protection.

### Noise

The nature of opencast sites is such that heavy (and noisy) plant and machinery is required to initially expose coal seams and thereafter transport coal to stockpile areas within the site. Proposals require to address the impact of noise created by on-site movements of heavy earth-moving plant, soil stripping and replacement, transportation of soil, creation of overburden, blasting, processing operations, and off-site vehicular movements as an addition to existing road traffic.

### Vibration/Blasting

Where geological conditions dictate, blasting may be required to gain access to coal seams or to loosen the coal itself. Stringent controls on blasting, which causes vibrations to travel both through the ground and through the air, are required to prevent nuisance to people and damage to property. Disturbance to residents living alongside opencast haulage routes is also experienced through vibration caused by heavy goods vehicles servicing the opencast sites as an addition to existing traffic. Proposals must assess the impact of blasting and vibration in terms of the potential damage to structures/buildings and potential nuisance and detrimental effect on the quality of residential life.

### Dust

Stripping of vegetation and associated materials within an opencast site inevitably results in the production of dust during periods of dry weather. While it is possible to implement measures to reduce the effects of dust, the weather can also play an important role. The impact from dust arising from on and off-site vehicular movements, blasting, soil stripping, mound construction, excavation, processing operations and the implications of large areas stripped of vegetation must be fully addressed by the applicant.

### Hydrology and Flooding

The impact on hydrology, i.e. the direct and indirect, quantitative and qualitative impacts on ground and surface water and upon surface water flow requires to be fully addressed by the applicant. This includes the effect upon and hazard to watercourses during and after operations (qualitative and quantitative), the extent of any water draw-down and potential ferruginous discharges. It will also include the short and long term impact, particularly during initial development and final restoration on watercourses of high amenity value, within, and in the vicinity of the site, and upon neighbouring wetland habitats and associated wildlife interest. The analysis should also include reference to potable water in the locality of the site.

The issue of flooding also requires to be addressed. Proposals will require to accord with the Council's Supplementary Advice Note 9 on 'Planning and Flooding'. The applicant will require to assess the extent of temporary or permanent diversion of watercourses and the probability of flooding or erosion problems arising during run-off post restoration.

### Transport and Other Infrastructure

Residents of houses and communities are directly affected by increases in noise, vibration and dust caused by both loaded and empty lorries travelling to and from coal sites. The bulk of coal from existing and possible future sites in the eastern area is likely to travel along the A977 to Gartarry Roundabout and southwards to Longannet Power Station. The Draft NPPG on Transport and Planning emphasises that development proposals must take into account the effect on the demand for transport on air quality, on noise or intrusion and on traffic flows within settlements. The NPPG states in relation to mineral workings that "where alternatives exist both in terms of reserves and in terms of transport opportunities, new mineral workings ..... should be guided to locations which reduce journey frequency and length thereby contributing to a reduction in energy consumption and pollution".

Applicants will be required to fully appraise the transport routes which they will be using and to assess whether rail can be used for part of the journey. This will include the implications of the associated vehicular traffic in terms of the volume and size of vehicles, the routing, timing and organisation of movements, and the degree of disturbance (e.g. noise, dust, spillage, "bunching" of vehicles) as well as an assessment of any road safety issues raised by the proposals.

The Council will strongly encourage opencast coal operators to utilise rail facilities for the transportation of coal. The Council will also strongly encourage minerals to be excavated prior to major infrastructure developments being implemented, where this can be achieved in an environmentally acceptable manner, to contribute towards the early implementation of projects such as the new Clackmannanshire Bridge.

Applicants will require to fully appraise the extent of any cost to buildings/structures, roads and services, including the impact of increased traffic on minor roads, existing bridges and water/sewer pipelines. The implications for other infrastructure should also be addressed including the possible diversion or protection of existing services.

### **Derelict/Unightly Land**

Operators will be encouraged to work existing derelict and unsightly sites, however it is recognised there are few such sites within Clackmannanshire where shallow coal reserves exist. If any site contains derelict or unsightly land and buildings or waste material the proposal will require to incorporate their removal.

### **Impact on Communities and Community Benefit**

It is difficult to measure in quantitative terms the effects of opencast mining operations on communities in the vicinity of sites. However, this advice note seeks to ensure that the issues which arise from an opencast site are fully addressed by the applicant and assessed by the Council. As well as local residents, tourists and visitors to the area may also be affected by potentially unattractive and obtrusive workings, as well as flows as heavy goods vehicle associated with opencast activities.

The Council in considering opencast proposals will seek to ensure that communities are safeguarded from any adverse impacts and where there is any doubt about the affects of the proposals, the precautionary principle will prevail.

Potential inward investors are undoubtedly affected by the quality of the environment and the Council will take this issue into consideration in terms of the possible impact any proposals will have on the economic regeneration potential of Clackmannanshire (as well as existing businesses).

It is in the interest of all parties involved to ensure that emerging extraction schemes are properly planned and that local communities are kept fully aware of the developer's operational timetable, restoration proposals etc. and these aspects should be clearly outlined in any planning submission.

The Council is keen to ensure that mineral operations make a positive contribution to enhancing the environment of an area (built and natural), in order to compensate to some degree the environmental disturbance and loss of amenity to nearby residents invariably caused by opencast developments. The Council will encourage operators to consider enhancement proposals, to address disturbance caused, as part of their overall proposals. This would involve such matters as improved road infrastructure including junction improvements, advanced tree planting for screening, amenity and landscape enhancement proposals, improvement of water courses affected by mineral pollution in the site's locality and habitat creation to ensure the retention of local flora and fauna. The Council will consider these benefits in the light of Government guidance given in Circular 12/1996 which states that a "Planning Authority should not ..... treat an applicant's need for planning permission as an opportunity

to obtain a benefit, financial or environmental, which is unrelated in nature, scale or kind to the development proposed. Proposals will be considered against Policy GEN 5 of the adopted Clackmannanshire Local Plan.

### **Public Health and Safety**

Applicants should address whether there are potential implications for public health and safety of the impacts arising from the proposal e.g. stability of workings and potential unauthorised access.

### **Proximity**

The proximity to settlements and dwellings is addressed in the Adopted Local Plan (Policy ENV9), which presumes against proposals which lie within 500 metres of a settlement grouping of 20 or more houses or within 200 metres of a habitable dwelling. The proximity to other sensitive uses (e.g. schools) also requires to be addressed by the applicant. The Draft NPPG in relation to storage mounds and landscaping bunds states that proposals which are within 100m of a community are likely to be unacceptable.

### **Employment Opportunities**

An assessment of the balance of short and long term beneficial and detrimental economic impacts must form part of all planning applications. Employment will be generated by the development, restoration and road haulage. The applicant will require to set out the following:

- \* The likely proportion of direct employees resident in Clackmannanshire and the operators intentions regarding the use of staff from outwith Clackmannanshire;
- \* The extent to which the proposed development extends the life of an existing operation and/or provides a continued source of employment to an existing Clackmannanshire based workforce;
- \* The scale of indirect employment and multiplier to be generated by the proposed development in Clackmannanshire based firms/ industries supplying equipment and services to the operator/ contractors.

The Council will seek to maximise employment and training opportunities within Clackmannanshire.

The Council will require to assess the extent of any disincentive to short and/or long term investment in Clackmannanshire by virtue of visual and other impacts, and the potential discouragement to visitors/tourists to the area from the proposals and the cumulative impact of workings existing and proposed within the area.

### **Adjoining Coal Resources**

Applicants should address the likelihood of coal on adjoining land being the subject of exploitation in the future and whether the proposals could be extended in the future to work these resources along with a likely timetable for such an extension. This will enable the Council to gain an impression of the likely period of disruption which could occur in the locality. It does not follow that approval of the original submission will be followed by approval of any subsequent application on adjoining land.

### **Duration of Operations**

The duration of operations is addressed in the adopted Clackmannanshire Local Plan Policy ENV9 which states that operations should not normally exceed a 5 year period, which is also the stated period in the draft NPPG. The Council will require to give careful consideration to any proposals for operations which would exceed 5 years and any such proposals will have to be thoroughly justified by the applicant. This approach will also be taken with applications to alter or extend approved operations which would result in them exceeding the 5 year period.

### **Market**

The market requirement within Clackmannanshire and its surrounding area for the proposed output including that to serve commercial and domestic markets must be fully set out in the

submission of an application.

### **Alternative Resources**

The availability of alternative sources of output of comparable quantity, quality and type, and the comparative advantages of cost and proximity to the intended end-user must be fully assessed by the applicant. The Council in considering alternative resources will apply a 'sequential test' i.e. high/medium/low constraint areas and the proximity principle in terms of transportation to the market.

### **Extent of Community Severance**

Applicants will be required to detail the extent of any community severance e.g. disruption to local vehicular and pedestrian routes, including Public Rights of Way.

### **Built Heritage**

Any sites or features as outlined in the Table 1 will require to be identified and the impact assessed by the applicant, in addition to any other features which the Council identify on particular sites. Where the site, or part thereof, is of archaeological interest, the proposal should accord with Structure Plan Policy ENPO.15.

### **Duration and Timing of Working Hours**

The duration and timing of working hours, of maintenance operations and the length of operation/degree of temporary disturbance (e.g. early start of heavy machinery) all require to be fully specified by the applicant.

### **Recycling**

The recycling of resources will be encouraged by the Council and proposals will require to include details of proposed recycling.

### **Cumulative Impact**

The issue of cumulative impact requires to be addressed by assessing the impact on communities (both human and wildlife) arising from the incidence of past workings and/or other existing/proposed/approved mineral workings in the vicinity of the proposed operation and/or associated haul route. Other large scale developments in the locality which have a landscape or transport impact require to be included in the assessment, which would be required for applications to extend operations as well as those for new sites.

Such assessment should consider the extent of the following in particular:

- (a) Cumulative effects of operational workings on settlements, the natural and built heritage and visual amenity including cumulative effects that may affect tourism and other economic development;
- (b) Cumulative effects on landscape and visual amenity of restored sites in the early stages following restoration when the landscape is inevitably immature;
- (c) Cumulative effects on the road system of additional heavy goods traffic; and
- (d) Cumulative effects on water courses.
- (e) Existing and proposed mitigation measures in relation to the above issues.

The assessment must consider the scale, timescale and number of mineral workings and restored areas in the vicinity of the site (approx. 15 miles radius). It should be noted that prior to any applications being submitted, the applicant should discuss the scope of the assessment with the Council as each site will have its own characteristics which could require different levels of background information to be submitted.

The impact on nature conservation from, for example, the progressive loss or fragmentation of local habitats, and impacts on transient or migratory species needs to be fully considered. The effects of transport can be greatly exacerbated where there is a predominance of opencast sites in a certain area or where haulage routes merge. The visual intrusion of one or more sites within the Council area could give rise to significant visual intrusion. The applicants assessment must

take full account of this.

### **Monitoring**

Any consent for opencast working will have conditions relating to the control of the operations such as noise levels, hours of operation, tree protection etc. and these require to be clearly seen to be operating and complied with for the proper and well planned operation of the site. Thereafter, there is a need to ensure that operators have systems in place which ensure that the workings are being carried out within the terms of the approved plans and this is best carried out by an on-going audit of the operations. It is now an acknowledged practice that this work is carried out by an independent consultant, reporting to both the operator and the Council on an agreed timetable (likely to be quarterly) throughout the site's life. The operation of the audit would be included within the terms of a legal agreement between the operator and the Council with the consultant being paid by the operator, but subject to the approval of the Council.

Also, as part of the management of the site, the Council would encourage the operator to set up a Community Liaison Group to encourage structured, informed and reasonable liaison with clear lines of communication and information. Such a Group should mainly comprise of people directly affected with a minimum number of Council Members and Officers.

In addition to the above, the Council will require the operator to have a complaint recording system for the site with this being held on site with immediate accessibility to relevant Council Officers.

### **Section 75 Agreements and Other Appropriate Legal Agreements**

The Council will use Section 75 agreements or other appropriate legal agreements with operators to regulate and avoid any adverse effects the development may have on the surrounding areas. Such agreements may cover:

- \* The lodging of a restoration bond to ensure restoration of a site should work be abandoned;
- \* The routing of haulage vehicles and any necessary improvements and repairs to the public roads network;
- \* To control creation of new or replacement wildlife habitats, or the modification of proposals to maintain existing interests;
- \* Provision of associated off-site works e.g. footpath diversion; Monitoring arrangements.
- \* Council costs in promoting any Orders associated with the development.

Planning agreements will be used where the Council considers that the purpose is related to the use and development of land and to the development being proposed.

### **Restoration**

Additional advice is being prepared on the restoration of opencast coal sites, and it will be incorporated into the revised Local Plan in 1999. In the meantime applicants should liaise closely with the Council prior to submission of an application to discuss the best after use for the site and overall restoration proposals consistent with current Development Plan policies. The Council will require to be assured that the restoration and associated aftercare proposals will be effective in bringing forward an appropriate landscape/habitat for the site and locality which is seen to add value to the locality. Any restoration proposals which are considered to raise doubts about effectiveness in terms of landscape and habitat creation are not likely to be acceptable.

### **Conclusions**

The advice note will serve as an interim policy document until the Development Plan is reviewed for the area, in 1999. The note will be considered as a material consideration in assessing all planning applications.

## Further Advice

Applicants are strongly advised to seek pre application advice in order that the initial appraisal can be carried out. The background reference utilised in the production of this advice note are the following:

- \* Approved Structure Plan: Central 2000
- \* Clackmannanshire Local Plan, adopted August 1994
- \* NPPG 4 'Land for Mineral Workings' (1994) issued by the Scottish Office and Annex A (draft) Opencast Coal and Related Minerals (1998) PAN 50 'Controlling the Environmental Effects of Surface Mineral Workings' (1998) - this has 3 annexes on 'The Control of noise at Surface Mineral Workings' (1996) and 'The Control of Dust at Surface Mineral Workings' (1998) and the Control of Traffic at Surface Mineral Workings (1998).
- \* NPPG (draft) on 'Transport and Planning' (1998).

## Appendix 1 Existing Development Plan Policies

### Structure Plan: Central 2000

#### ENPO.20

The following general principles will be applied to mineral workings:

- (1) The conservation of mineral resources will be encouraged whilst ensuring an adequate supply to meet the needs of society;
- (2) Economically important mineral resources will be protected from sterilisation by permanent development. Working of minerals in advance of development will be encouraged. Local Plans should identify economically important mineral resources; and
- (3) The recycling of materials will be encouraged to help conserve mineral resources.

#### ENPO.21

1. Mineral working will generally be supported subject to satisfactory assessment against Recommendation REC.ENV8 and where:-
  - (a) The development has no significant adverse effect on local communities;
  - (b) The development has no significant adverse effect on water supply catchment areas; and
  - (c) The development is outwith and has no effect on the areas, sites and features referred to in (2), (3) and (4) below.
- (2) Mineral working within or affecting areas, sites and features to which Policies ENPO.10, ENPO.11 and ENPO.15 (heritage and nature conservation) apply, should accord with these Policies and 1(a) and 1(b) above.
- (3) Mineral working within or affecting areas, sites and features of national importance in terms of their landscape, heritage or nature conservation value, Areas of Great Landscape Value, Green Belt or prime agricultural land will be subject to rigorous examination to establish whether the development should exceptionally be permitted. Mineral working within or affecting these areas, sites or features will only be permitted where the overall integrity of the designated area remains fundamentally unaffected, the development is compatible with the objectives of the designation and accords with 1(a) and 1(b) above.
- (4) Mineral working within or affecting any area, site or feature designated or proposed for designation under EC Directives or international agreements in terms of their landscape, heritage or nature conservation value will only be permitted in the most exceptional circumstances where:
  - (a) It is demonstrated conclusively that the development would not adversely affect the habitat or species being safeguarded;
  - (b) There are no alternative sites;
  - (c) There is an overriding public interest in permitting the development; and
  - (d) The development accords with 1(a) and 1(b) above.

- (5) Where the scale of development is sufficiently large or the area affected particularly sensitive and the effect on the environment is likely to be significant, applicants for planning consents will be required to provide an Environmental Assessment.
- (6) Councils should use their powers to monitor and control the environmental effects of existing and planned mineral workings.

#### ENPO.22

- (1) Proposals for opencast coal working will generally be acceptable where:
  - (a) The site lies outwith, and does not affect, the areas identified in Policy ENPO.21(2), (3) and (4).
  - (b) The site is screened from local settlements and main transport routes;
  - (c) The operation would result in a clearance of significant areas of dereliction;
  - (d) It can be demonstrated that significant land use and landscape improvement; with the creation of new wildlife habitat where appropriate, would result from restoration of the site after coal working; and
  - (e) The workings would give rise to significant benefits to the local community.
- (2) Councils should identify in Local Plans opportunities for opencasting to the south of Falkirk, within the Slamannan Plateau, and in the eastern fringes of Clackmannanshire; and
- (3) As the preferred after-use for opencast sites there will be a presumption in favour of woodland planting with some public access and with the creation of wildlife habitats.

## Clackmannanshire Local Plan

#### ENV 9

Approval is unlikely to be granted for any form of surface mineral, sand and gravel, aggregate, oil and gas or tipping operation within 500m of a settlement of 20 or more houses or within 200m of a habitable dwelling. Surface workings will normally require to be completed and restored within a maximum period of 5 years. Financial bonds must be lodged with the Council to guarantee the availability of sufficient funds to restore land affected by surface workings. The positive benefits for the local environment and any community likely to be affected by a proposal, should be clearly demonstrated if permission is to be granted. An Environmental Assessment is likely to be required for any significant proposal, especially in areas given special protection for environmental reasons. Proposals for waste disposal sites must establish a clear need for the facility, relative to alternative sites and methods, besides satisfying the terms of the Council's Waste Disposal and Recycling Plans and the parameters set out in the EEC Landfill Directive. Deciduous woodland schemes will normally be the preferred after-use of restored sites. Nature Conservation will be the preferred after-use of the Tillicoultry Quarry (Note: Structure Plan Environment Policies 21, 22 and 24 and Recommendations 9 and 10 detail the factors which should be considered prior to submitting any proposal and will be used by the District Council in its determination).

#### ENV 10

The recycling of mineral and construction waste material for bulk fill, the provision of mudstone for brick-making or the recovery of any fuel content, is supported subject to suitable access arrangements. Likewise, the satisfactory removal of former railway embankments for fill and the strengthening of artificial levees adjacent to the rivers, is likely to be approved.

## Appendix 2

### The Government's 10 Point Plan for Opencast Coal

1. Prohibit opencast working, except where it is of benefit to the local community and local environment - for example by clearing up an area of dereliction or contaminated land.
2. Allow the rejection of planning applications for opencasting where they may prejudice efforts to attract other investment in the locality.
3. Restrict repeated applications for the development of broadly similar sites or extension of existing workings.
4. Treat applications for extensions of existing workings as entirely new applications.
5. Apply Environmental Assessment procedures to existing as well as future opencast workings.
6. Require future planning consents for opencast workings to set more strict and enforceable environmental standards.
7. Set strict and short time limits whether for starting preparatory work or starting or ending coal extraction.
8. Tighten the rules to secure prompt and full restoration of sites and ensure that funds to do this area available from the operators.
9. Subject proposed and existing opencast workings in areas covered by Interim Development Orders to normal planning and environmental controls.
10. Reduce the reliance on opencast coal as part of overall energy policy.

Modern Visual Capacity

Moderate high potential for screening operations in appropriate ways but moderate - high intervisibility. Low potential for screening but low intervisibility.

Low Visual Capacity

Low potential for screening in appropriate ways and moderate - high intervisibility.

## Appendix 3

### Landscape and Visual Sensitivity

Category	Sensitivity
High Landscape Capacity	High potential for restoration to sustain, restore or enhance landscape character.
Moderate Landscape Capacity	Some permanent loss of attributes but scope for restoration to sustain overall character or to change character in acceptable ways in long term e.g. by adding extensive broadleaved woodland and/or wetland habitats.
Low Landscape Capacity	Key characteristics would be permanently diminished and or important attributes would be permanently lost. Permanent loss of landscape character and distinctiveness.
High Visual Capacity	High potential for screening operations in appropriate ways but moderate - high intervisibility. Low potential for screening but low intervisibility.

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