

**NOTE of PRE-DETERMINATION HEARING** held in Penicuik Town Hall, 33 High Street, Penicuik on Thursday, 7 November 2013 at 10.00 am.

**Present:-** Councillors Thompson (Chair), Baxter, Boyes, Bryant, Constable, Coventry, Imrie, Johnstone, Muirhead, Rosie and Wallace.

**Apologies for Absence:-** Councillors Beattie, Bennett, de Vink, Milligan, Montgomery, Pottinger and Russell.

## **1 Welcome by Chair**

The Chair, Councillor Owen Thompson, welcomed everyone to the pre-determination hearing. He emphasised that this was not a public meeting but rather an opportunity for Members of the Council's Planning Committee to hear presentations on behalf of both the applicant, Hargreaves Surface Mining Limited and those who had made representations, including Stop Cauldhall Opencast.

He explained that following the presentations, there would be an opportunity for elected Members to ask questions of those undertaking the presentations. He explained that Hargreaves and Stop Cauldhall Opencast had been allocated slightly longer in which to make their respective presentations. He also explained that Hargreaves had chosen to provide an introductory presentation followed by a concluding statement after all other speakers had been heard. With the exception of Hargreaves and Stop Cauldhall Opencast, all other speakers had been allocated five minutes each.

He encouraged all speakers to concentrate their presentations on the application for the extraction of coal by surface mining method at Cauldhall Moor, Penicuik and to remain within the time allotted to them.

Following the pre-determination hearing, a report on the application would be submitted to a meeting of the Planning Committee to be held on Tuesday, 19 November 2013 for consideration.

## **2 Application for Planning Permission (13/00105/DPP) for Extraction of Coal and Fireclay by Surface Mining Methods and Restoration of Site at Cauldhall Moor, Penicuik.**

### **(a) Report by Head of Planning and Development**

With reference to paragraph 6 of the Minutes of the Planning Committee of 8 October 2013, there was submitted report, dated 1 October 2013 by the Head of Planning and Development, concerning proposals for the procedural arrangements for the Pre-Determination Hearing and Site Visit in respect of Planning Application (13/00105/DPP) for Extraction of Coal and Fireclay by Surface Mining Methods and Restoration of Site at Cauldhall Moor, Penicuik. It summarised the proposal and served as background information for the Committee with regard to the pre-determination hearing. There was no assessment of the proposal within the briefing note.

The report advised that on 7 February 2013 Scottish Coal Limited had submitted an application for an opencast coal extraction operation, to extract 10 million tonnes of coal, at Cauldhall Moor, Penicuik. This application was accompanied by an Environmental Statement. On 9 August 2013, KPMG, acting as Liquidators for the Scottish Coal Company Limited, had written advising that Hargreaves Surface Mining Limited had acquired the interests of Scottish Coal at Cauldhall Moor and was now the applicant for this development.

The application had been subject to the statutory notification and consultation process and a significant number of representations had been received from interested parties, together with consultation responses from third party agencies regarding the application. Following the conclusion of the consultation period it was intended to report the planning application to the Planning Committee on 19 November 2013. However, before the application was determined by the Committee, the Council had agreed to hold a pre-determination hearing to allow those with an interest in the application an opportunity to make oral representation to the Committee.

**(b) Presentation by Hargreaves Surface Mining Limited**

Steve MacQuarrie, Planning Director opened the presentation by providing elected Members with background on Hargreaves and the Scottish coal industry.

He highlighted, in particular, that Hargreaves operated a different business model to Scottish Coal and that they had been active in Scotland for many years at Longannet Power Station. Their involvement in surface mining in Scotland had however only begun in earnest following the collapse of Scottish Coal earlier this year. Since then, Hargreaves had worked hard to safeguard jobs and create a platform for future investment in the Scottish mining industry. They had recently raised £40m of new funds from shareholders to ensure that its expansion into surface mining in Scotland is being done from a strong financial platform.

Hargreaves were committed to the responsible restoration of surface mines. The sudden collapse of Scottish Coal has left a restoration legacy that should never be allowed happen again, but equally it should not be allowed to tarnish a whole industry as there were many good examples of positive surface mine restoration, including numerous in Midlothian.

Coal continued to play a key role in the UK's energy mix - 40% of the electricity supply on average. There was currently a shortage of indigenous coal - only 17m tonnes of 62m tonnes total burn in 2012. If approved Cauldhall would provide a strategic supply of power station coal for the next 10 years.

Theo Philip, Planning Manager then proceeded to give elected Members an overview of the proposed Cauldhall Surface Mine, during which he highlighted the following points:

- the application proposed an opencast mining operation which would see the extraction of some 10 million tonnes of power station coal and 100,000 tonnes of fireclay over an estimated period of ten years and that the total period of working on site including site preparation and final restoration was in the region of twelve and a half years;
- it was forecast that if the application was successful it would lead to 230 full time jobs, and also a youth apprenticeship programme in partnership with Edinburgh College;
- there would be benefits to the community through the establishment of a Community Benefit Fund; local employment agreement; and support for the National Mining Museum;
- the working scheme would adopt a rolling phased approach with only a small part of the overall site being mined at any given time. A similarly approach would be adopted to restoration which would be carried out once each working phase was completed;
- a detailed restoration plan had been prepared and works on site would only commence once this had been agreed in full with the Council. In addition, a commitment had been given to completing restoration of the adjoining Shewington site previously operated by Scottish Coal;
- although in 24 hour operation from 7am Mondays to 1pm Saturday, operations at night would be restricted to mainly preparatory works for the following day, in order to minimise any disruption;
- no objections had been received from any statutory consultees - Scottish National Heritage, Transport Scotland, Historic Scotland or NHS Lothian – other than Howgate Community Council; and
- that whilst concerns were understandable a comprehensive Environmental Impact Assessment (EIA) had been undertaken and every effort would be made to ensure that any disruption was kept to a minimum.

Having then heard from Graeme Blackett, BiGGAR Economics on the socio-economic impacts of the proposed development, Steve MacQuarrie concluded the presentation by the applicants by emphasising that: there was a market and a need for the deposit of coal identified at Cauldhall: that mining was a temporary land use and the restoration of the site would be secured; and that the proposal complied with local and national planning policy and would bring significant socio-economic benefits to Midlothian.

**(c) Presentations by other Interested Parties**

**(i) Dr Jon Steele**

Dr Steele advised that he was opposed to the proposed development for the reasons that would be highlighted by the Stop Cauldhall Opencast Campaign in their presentation which followed. His principle concern however was the issue of restoration. Although the applicants had given a commitment to restore the site there was currently no cast iron guaranteed way to ensure that this would happen. The adjoining Shewington site which had been only partially restored prior to the collapse of Scottish Coal graphically highlighted the issues involved. Cauldhall Moor and the surrounding area was an area of great natural beauty that was enjoyed by many people.

**(ii) Stop Cauldhall Opencast**

Jane Tallents and Malcolm Spaven on behalf of the Stop Cauldhall Opencast Campaign provided a presentation to elected Members on their objections to the application during which they highlighted the following points:

- Cauldhall Moor was not included in the current Midlothian Local Plan as an area of search and therefore in policy terms there should be a presumption against approval of the current application;
- if, as appeared likely from the Major Issues Report, it was included in the new Local Development Plan, then once the LDP had been through the due process and adopted, the proposed development of the site should be revisit assuming that it had been successfully included as an area of search;
- the coal industry was in crisis as demonstrated by the collapse of Scottish Coal earlier in the year and there were concerns regarding whether there was in fact a market for the coal it was proposed to extract from the Cauldhall site;
- the contention was that the number of local jobs that would be created was a “red herring” as most, if not all of those employed at Cauldhall, if it was approved, would simply come from other areas of Scotland affected by the collapse of Scottish Coal and in fact the proposals could impact negatively on local employment and therefore cause harm rather than benefit to the local economy;
- the issue of restoration of the site had already been touched on but areas in Ayrshire and Fife had been very badly affected by this. Also the applicants had no track record in this regard having only recently moved into this particular field of operation. They also appeared to be actively seeking to reduce restoration plans for the former Scottish Coal site they had acquired;

- the Scottish Government had recently acknowledged that there was poor regulation of opencast and was about to consult on changes, it would therefore be prudent to wait until the consultation was complete before considering the current proposals; and
- there were also issues of natural justice in relation to the Wylie family at Ancrielaw Farm who would be made homeless as a result of the proposals and also Mrs Stewart's ponies: her fields would be immediately next to the mine workings

Mr Spaven concluded the presentation by summarising that the detrimental impacts of the proposals would be similar to those which had led Members to unanimously reject the Airfield Farm application in October 2010 and he requesting that the Council similarly reject the current planning application for Cauldhall.

### **(iii) Howgate Community Council**

Adrian Fitzgerald on behalf of Howgate Community Council, expressed support for the views put forward by the Stop Cauldhall Opencast Campaign, which covered many of the concerns that had been raised with the Community Council.

In terms of the policy position, the application was wholly premature as Cauldhall was not an identified area of search in the current Midlothian Local Plan and as the new Local Development Plan was some considerable way from adoption it was difficult to see how any weight could be given to it. Also given the fact that the coal industry appeared to be in long term decline there were genuine concerns regarding the financial viability of the site and associated with that the ability of the applicants to guarantee that restoration would take place; it was considered imperative that with regards restoration the mistakes of elsewhere were not repeated.

Mr Fitzgerald concluded by urging Members to refuse the application.

### **(iv) Mrs Deborah Stewart**

Mrs Stewart explained that she owned land immediately adjoining the proposed development site on which she breeds ponies, and that she was gravely concerned about the potentially negative impact that the proposed development might have. Although she had initially been approached by Scottish Coal some time ago there had been no subsequent contact and she was worried how she could continue her business if the development was to proceed as she relied heavily on the unclassified Moor Road for access and support from the local farmer.

**(iv) Mr and Mrs Wylie**

Mr Wylie advised that his family lived at Ancrielaw Farm which would, if the proposals went ahead, be demolished leaving his family homeless and him facing the prospect of being made redundant.

**(v) Daya Feldwick**

Daya Feldwick spoke of the potential negative environmental impact that would be caused by such a development if approved, making particular reference to issues of noise and vibration, and also the potential damage to infrastructure caused by traffic movements to and from the site. She made reference to climate change targets and suggested that greater focus was needed on renewable energy sources. She talked of the potential impacts on local communities and that the promise of local employment often failed to materialise leaving communities feeling powerless. She emphasised that this was not just a local issue, hence the interest from further afield.

**(vi) Dr Gari Donn**

Dr Gari Donn expressed her support for the views of earlier speakers regarding the potentially negative impact of the proposed development. She was particularly critical of the EIA which in her view was inadequate as it failed to take account of the impact of the emissions from vehicles operating within the site. She also contended that the coal from the site would not be able to be used at Longannet or indeed any of the Power Stations in the UK due to its high methane/sulphur content.

**(vii) Grant Ritchie**

Grant Ritchie advised that he was a farmer in the Gorebridge area and that Onyx Coal had operated an opencast site on his land with few problems. He confirmed that in fact there had been considerable benefit to the local community and that following restoration he had benefited from the restored land being of a high quality agriculturally.

**(vii) John Sime**

John Sime indicated that he lived next to the Shewington site and prior to it becoming operational he had shared a lot of the concerns that had been expressed today, however the reality had been very different and a vast number of his fears had been unfounded.

**(d) Concluding Comments from Hargreaves Surface Mining Limited**

Thereafter, in line with the opening remarks of the Chair, Steve MacQuarrie, Planning Director, Hargreaves was given a further five minutes to sum up, during which he highlighted the following:

- that there was still a key role for coal in the UK's energy mix and without the development of sites like Cauldhall the current shortage of indigenous coal would lead to more imports;
- that Hargreaves were committed to the restoration of the site and that development would not proceed until such time as there was a legally binding agreement in place to the satisfaction of the Council, as Planning Authority to ensure that it happened;
- they were prepared to enter into dialogue with both the Wylie family and Mrs Stewart; and
- that there would be benefits to the community both through the community fund that would be put in place and also employment opportunities.

Mr MacQuarrie concluded by thanking the Council for giving them the opportunity to present the case on behalf of Hargreaves.

### **3 Question and Answer Session**

The Chair, Councillor Thompson, thanked everyone for their presentations and thereafter invited any questions from the elected Members.

In response to a question from Councillor Baxter regarding the suggestion that Hargreaves appeared to be actively seeking to reduce restoration plans for the former Scottish Coal sites they had recently acquired, Mr MacQuarrie explained that the collapse of Scottish Coal had left a series of very complex issues and that as a company Hargreaves were attempting to work with Councils to try and address some of the restoration issues. However they had to be realistic in what could and could not be achieved. In terms of Cauldhall appropriate safeguards would be put in place to ensure that restoration would take place before development started.

Mr MacQuarrie then went on to briefly explain, in response to a question from Councillor Constable, the Community Fund.

In reply to a further question from Councillor Baxter regarding employment opportunities for local people, particularly the apprenticeships, Mr Philip commented on the importance of a local workforce and also bringing new blood into the industry.

### **4 Closing Remarks from the Chair**

The Chair, Councillor Thompson, again thanked everyone for their participation in the pre-determination hearing and reiterated that all points raised would be considered by the Planning Committee when it met on 19 November 2013 to consider the application.

The meeting terminated at 11.32 am.