



2014-15 Planning Performance Framework Report

**Planning and Economic Development Service
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PLANNING PERFORMANCE FRAMEWORK

ANNUAL REPORT 2013-2014



Part 1: National Headline Indicators (NHIs)

Key outcomes	2013-2014	2012-2013
Development Planning: <ul style="list-style-type: none"> age of local/strategic development plan(s) (full years) <i>Requirement: less than 5 year</i> development plan scheme: on track? (Y/N) 	<p>3</p> <p>N</p>	<p>2</p> <p>Y</p>
Effective Land Supply and Delivery of Outputs		
<ul style="list-style-type: none"> effective housing land: years supply effective housing land supply housing approvals effective employment land supply employment land take-up 	<p>2.8 years</p> <p>1996 units</p> <p>366 units</p> <p>306.2 ha</p> <p>0 ha</p>	<p>2.8 years</p> <p>1996 units</p> <p>366 units</p> <p>306.2 ha</p> <p>0.52 ha</p>
Development Management Project Planning <ul style="list-style-type: none"> percentage of applications subject to pre-application advice number of major applications subject to processing agreement or other project plan percentage planned timescales met Decision-making <ul style="list-style-type: none"> application approval rate delegation rate 	<p>9.9%</p> <p>0%</p> <p>N/A</p> <p>87.9%</p> <p>86.1%</p>	<p>1% Note 1</p> <p>0%</p> <p>0%</p> <p>90.1%</p> <p>90.5%</p>
Decision-making timescales Average number of weeks to decision: <ul style="list-style-type: none"> major developments local developments (non-householder) householder developments 	<p>(Weeks)</p> <p>44.9</p> <p>15.8</p> <p>7.9</p>	<p>(Weeks)</p> <p>78.1</p> <p>13.9</p> <p>8.7</p>
Enforcement <ul style="list-style-type: none"> time since enforcement charter published / reviewed (months) <i>Requirement: review every 2 years</i> number of breaches identified / resolved 	<p>Published September 2013</p> <p>194/190</p>	<p>May 2011</p> <p>157/201</p>

Note 1:- 2012/13 Pre-application consultation were not recorded electronically

Background to Operational Activity during 2013/14

In addition to the delivery of all the regular planning functions required of the Authority, including processing a large volume of onshore wind farms developments, the past financial year has been a challenging one for the Council following the collapse of open cast coal operations by Scottish Coal Company Ltd (SCCL) incorporating Scottish Resources Group (SRG) on 19th April, 2013 and Aardvark TMC incorporating ATH Resources on the 15th May 2013. This has had a major influence on the work of a number of Council services but in particular Planning and Economic Development and Legal Services. It has been a significant factor in the presentation of this year's Planning Performance Framework.

In response to the open cast situation on 24 May 2013 Cabinet agreed to a wide range of actions including the implementation of a [Recovery Plan](#). A separate team known as "the Coal Team" led by the Depute Chief Executive was set up out-with the Planning Service and was charged with responding to the implications of the liquidations. The Operations Manager (Development Management and Building Standards) and Energy Team Leader (Development Management) were transferred out of the Planning Service on a temporary basis to work exclusively on the Recovery Plan and all matters related to current and future open cast coal applications. Other staff from Legal and Democratic Services, Corporate Support and Building Standards were transferred to the team which was also strengthened, in March 2014, with the recruitment of an additional Senior Planning Officer. The Coal Team engaged the services of Independent Mining Engineers for compliance monitoring of open cast coal sites. They also provided assistance with the detailed restoration plans for each complex, and verified the final restoration and after costs to support the bond claims on the financial guarantees for each site.

In parallel to the work of the Coal Team, the Council at its meeting of 27 June 2013 approved the appointment of the [Independent Review](#) Team led by Jim McKinnon, former Chief Planner to undertake a review of all processes and procedures around the management, determination, implementation, monitoring and review of the planning processes in relation to opencast coal operations and the governance arrangements.

On the 19th September 2013, Council considered a report on Open Cast Coal Mining in East Ayrshire – [Steps to Recovery](#). The Council agreed to a number of recommendations covering a diverse range of matters and set out master planning solutions for a hierarchy of sites engaging as necessary with relevant parties including Hargreaves Surface Mining Ltd (as agent for the hive co's), the bond holders, land owners and other interested parties. As part of its internal revisions to planning processes associated with environmental projects, the Council agreed to a more rigorous approach to enforcement matters through Compliance Monitoring which would be paid for by operators (where this was legally available) and applied what had been learned from open cast coal to all environmental projects including quarries, landfill, electrical infrastructure and onshore wind farms.

On the 28th January 2014 an update on progress with Open Cast Coal Mining – [Steps to Recovery](#) was considered by the Council. The report outlined good progress on most of the actions in the agreed Recovery Plan and provided an update on a separate report on assessment of planning applications and compliance monitoring which had been considered by the Planning Committee on the 29th November 2013. At the same Council meeting ([28th January 2014](#)) a report set out the Council's response to the Independent review. These reports details actions that underpins this Planning Performance Framework (PPF) service improvement plan noted within Appendix 1.

While the work of the Coal Team progressed during the reporting period there was a significant amount of work carried out within Development Management in relation to general developments (including determination of the new Ayrshire College complex). An unprecedented workload was generated by the Renewable Energy Industry as 10 major wind farm developments (both Planning and Section 36 applications) were lodged and had to be progressed through the system.

The collapse of the two largest coal producers in Scotland along with the associated restoration challenges also prompted a review of the Council's Development Plan Scheme. Rather than updating and combining the current East Ayrshire Local Plan and Open Cast Coal Subject Plan as originally intended it was agreed in August 2013 that a separate Minerals Plan should be prepared. The aim is to ensure that the final Minerals Local Development Plan reflects fully the environmental issues currently experienced. The Development Planning section has continued updating all other topics through the East Ayrshire Local Development Plan - and the Proposed Plan (with the exception of minerals) is scheduled for publication in January 2015. Meanwhile the Regeneration Team have continued to deliver a range of projects through Conservation Area Regeneration Scheme (Cumnock and Galston) and the Townscape Heritage Initiative for Kilmarnock.

PART 1 NATIONAL HEADLINE INDICATORS

Development Planning

Development Plan Scheme

The Development Plan Scheme (DPS) was comprehensively reviewed in the summer of 2013 in response to the two main open cast coal developers within East Ayrshire going into administration and abandoning numerous sites. The consequences in terms of the local economy and environment became all too evident over a very short space of time and demanded, given the primary role of the local plan in managing the environment, that the development plan scheme be re-examined. This re-examination impacts on the Minerals and Open Cast Coal aspects of the Development Plan Scheme and therefore delays the overall completion of the project.

It was agreed in August 2013 by the Council's Cabinet that due to the significant issues arising from the collapse of the two coal operators and in particular the consequences on the environment that an entirely new Local Development Plan should be prepared for Minerals and Open Cast Coal operations and that work for the Proposed Local Development Plan for East Ayrshire, which had commenced in accord with the previously published Development Plan Scheme (DPS), be adjusted accordingly.

Publication of the Proposed East Ayrshire Development Plan was scheduled for March 2014 but the revised programme agreed in August 2013 indicated that it would be published in June 2014, with the Minerals MIR scheduled for publication in February 2015. However, the impact of the changing environment particularly in non-operational open cast coal sites meant that additional resources were necessary to deliver the Minerals MIR and that a state of the environment report be commissioned to support the development work of the Minerals MIR.

A review of staff resources has been undertaken to ensure, given the above circumstances, that additional resources will be deployed to progress in accord with the revised timetables for both the East Ayrshire LDP and Minerals LDP. Further, a procurement process (which includes SNH as a partner) has been agreed for the commissioning of environmental consultants to review the legacy from opencast coal sites and prepare a comprehensive "state of the environment". This report will assist both the Council and Scottish Government in conjunction with Scottish Natural Heritage to set out a commitment for action to address the outstanding restoration issues on the Muirkirk and North Lowther Uplands Special Protection Area (SPA) following the liquidation of the two largest coal-companies in Scotland who operated the Powharnal/ Dalfad and Grievehill complexes which sits both within and along the designated area.

An updated Development Plan Scheme will be considered by Cabinet on the 8th October 2014. The revised timetable is noted below and subject to

approval will be project managed through monthly progress meetings to ensure that the timetable is delivered to reduce future risks.

East Ayrshire Local Development Plan and Strategic Environmental Assessment Timetable		
Year/Month	LDP Process	SEA Process
2014		
	Preparation of Proposed Plan and Action Programme	Environmental Appraisal of Proposed Plan and undertake Appropriate Assessment
October		
November		
December		
2015		
January	Consideration of Proposed Plan at full Council; Publication of Proposed Plan and Action programme;	Publication of Environmental Report and Consultation on Appropriate Assessment with SNH (if required);
February	Public consultation on Proposed Plan and Action Programme	Public consultation on Environmental Report
March		
April	Consider Representations Received on Proposed Plan, Prepare Responses and Report of Conformity with Participation Statement	Consideration of the Comments/Responses to the Environmental Report and Comments from SNH on the Appropriate Assessment, if required
May		
June		
July		
August		
September	Submit Proposed Plan and all documentation to Scottish Ministers and Publicise Examination	Submit Proposed Plan and all documentation to Scottish Ministers and Publicise Examination
October	Examination of Proposed Plan	
November		
December		
2016		
January		
February		
March		
April	Reporter's Examination Report Published and Submitted to East Ayrshire Council	
May	Consideration of Examination Report and incorporate recommendations (with	Environmentally Appraise Modifications

	Statement of Explanation for any recommendations disregarded)	
June	Publication of any Modifications and the Proposed Plan as Modified by East Ayrshire Council, Advertise Notice of Intention to Adopt, and Submit Proposed Plan (as Modified) to the Scottish Ministers	Publish and send revised Environmental Report (and Appropriate Assessment, if required) to Scottish Ministers
July		
August	Adoption of Plan	Publish Post Adoption SEA Statement and submit to SEA Gateway
September		
October	Publish Action Programme	

In summary, it is anticipated that the Proposed Plan covering all issues with the exception of opencast coal and mineral extraction will be published in January 2015 and submitted to Scottish Ministers in September 2015 with a view to having the Proposed Plan adopted by the Council in August 2016. The LDP will represent the Council's settled view on all planning policy matters with the exception of coal and minerals extraction which will be the subject of a future separate Minerals LDP.

A detailed Project Plan for the preparation of the Minerals MIR (MMIR) forms Appendix 2 of this paper. As is stated within the project plan, consultants are currently being commissioned to undertake a State of the Environment Report for East Ayrshire which will form an important part of the evidence base for the MMIR. In recognition of the significant additional workload that the preparation of a separate Minerals Local Development Plan will involve particularly in light of recent events in the coal industry, two additional planning officers are being recruited to support the existing Development Planning Team.

Effective Housing and Employment Land

The figures for effective housing and employment land remains the same for 2013/14 as no update has been produced. Revised figures will be produced to support publication of the Proposed East Ayrshire Local Development Plan which is progressing towards completion.

Explanation for the lack of a 5 year effective land supply remains the same as last year i.e. that in programming the housing land supply, account has been taken of the current performance of the housing market and the difficulties caused by the lack of developer and purchaser finance and other marketability issues. As the housing market recovers, a reassessment of the

housing land supply can be undertaken and more units can be made effective where appropriate in consultation with the house building industry and infrastructure providers. It is considered that there is sufficient suitable land, free from physical, ownership and infrastructure constraints within the East Ayrshire Housing Land Audit and the East Ayrshire Local Plan 2010 to enable such an exercise to be undertaken successfully. It should also be noted that the housing demand figures are based upon the highly aspirational Ayrshire Joint Structure Plan 2007. Demand figures for the new East Ayrshire LDP will be based upon the Council's Housing Needs and Demand Assessment approved in 2012 and its Local Housing Strategy.

Development Management

Decision Making

There has been a decrease in the approval rate from 90.1% to 87.9%. This follows a trend from 2011/12 (94%) which was recognised in the feedback to the 2013 submission. As previously reported this is a reflection of our proactive approach towards tackling legacy applications. In May 2013 there were 90 outstanding applications. This has since been reduced to 57 legacy non determined applications which have been in the system since before 2013. The determination of the legacy applications has generated a number of refusals due to the reluctance by applicants to address outstanding matters relating to the Development Plan and other material considerations.

However, the majority of legacy applications are linked to enforcement issues and therefore restricted the Authority's ability to quickly determine the applications. The drop in approval rates is also influenced by the number of companies pursuing single turbine applications (often contrary to pre application advice). 11 such applications were subsequently refused at the Local Review Board. Two refusals of major wind farms at appeals with hearings, also fell within the 2013/14 period.

There was also a drop in the percentage of applications that were delegated (from 90.5% to 86.1%). This is entirely due to the implications with the Open Cast Coal sector, which resulted in the elected members withdrawing delegation on the following application types in February 2014:

- All applications under Section 36 and 37 of the Electricity Act;
- Any minor applications for opencast coal development;
- Any applications for variation or discharge of existing conditions relative to the restoration or aftercare of sites; and
- Any future proposed restoration schemes submitted for approval in fulfilment of a planning application.

In these circumstances it was decided that it would be inappropriate as part of the Scheme of Delegation Review to seek officer delegation for minor applications wherein the Council had an interest. This resulted in a significant number of applications being considered by Planning Committee which would

have otherwise been delegated. An internal review was then carried out which culminated in the Council considering a further review of the Scheme of Delegation at its meeting on the 26 June 2014.

The Council agreed to the recommendation to remove local development applications where the Council has an interest from the agendas of future Planning Committees. This change will reduce the number of applications being referred to the Planning Committee and shall assist efforts to drive up efficiency and increase overall Planning Performance for 2014/15.

Decision Making Timescales

Timescales for determination of major applications and householders applications continue to show an improvement with additional staff resources deployed in the mineral/coal; onshore wind and general development teams. Planning Enforcement staff whilst continuing with their enforcement role support the Development Management process through the assessment of a range of local development planning applications. Performance in relation to local developments (non householder) has been slightly affected by the number of developments which have had a Council interest and which, until 26 June 2014, required to go to the Planning Committee. As noted above the changes that have been made to delegation will provide a more responsive service to local developments and enable an increased number of cases to be dealt with within their statutory timeframe.

The Planning Committee meets on a monthly basis to determine applications which cannot be delegated under the Scheme of Delegation. To assist with the determination of the high volume and wide range of applications to be considered by the Planning Committee, the Chair of the Committee agreed to increase the frequency of committee meetings during 2013/14 to allow sittings on 15 occasions. The Planning Committee will continue to meet on a regular basis to enable the determination of the numerous onshore wind developments requiring to be considered by the Planning Committee. To that end, Planning Committee meetings are being held on a fortnightly basis and this flexibility is assisting to meet our objectives.

The on-going work to tackle legacy applications has considerably affected performance in 2013/14. Many older cases have now been determined, but a number having significantly long periods where the Planning Authority await information to clear the applications. With the revised performance measures to start and stop applications where legal agreements are in place, it is clear that the historic legacy applications will adversely affect overall performance and spike the figures disproportionately.

Enforcement activity remains at a similar level to previous years (223 cases). The number of breaches resolved without the need to resort to formal action in accordance with the Planning Enforcement Charter, remains high (190). Nine Enforcement Notices have been served within the period. However, it is noted that the resources required for the continuous negotiation of enforcement cases to facilitate a resolution could be more appropriately

deployed by the use of a Planning Enforcement Notice at an earlier juncture. A review of the Enforcement Strategy will feature in the 2014/15 work review.

PLANNING PERFORMANCE FRAMEWORK

Part 2: Defining and measuring a high-quality planning service

Open for business

East Ayrshire has developed an integrated service response from Planning, Economic Development and Building Standards to meet our customers' business needs in a number of areas noted below.

Following a review of business needs it was apparent that there was an absence of industrial units available to support larger businesses that were expanding within the council area or to assist with inward investment.

The Council therefore provided a purpose built 20,000 sq ft Industrial Unit at Moorfield Park and which is now under offer. This is a practical example of planning and economic development working together. The origins of the scheme can be traced to the Local Plan which supported the development of a new business park in parallel with an adjacent housing development. The latest unit was constructed on the second phase of the business park which provides 9ha of fully serviced industrial land and was funded in part by a successful ERDF application.

In respect of the provision of key infrastructure resources to support our businesses the Council has contributed £1.2m towards the roll out of superfast Broadband under the 2015 Step Change project. This partnership with BT and the Scottish Government will enable 98.5% of premises within East Ayrshire to access superfast broadband.

As well as meeting the challenges around the demise of Scottish Coal and ATH Resources, the Planning Department remains open for business. Since being formally recorded in the final quarter of 2013/14 pre application advice has covered 48.6% of all planning applications and 53% of all applications have been submitted and dealt with electronically. We continue to take a joint approach to meetings with local and major developers. Colleagues from Ayrshire Roads Alliance for Roads and Flooding design matters, Environmental Health for Contaminated land and noise matters (including SEPA and SNH where applicable) are invited to one meeting to ensure that the applicant is aware of the key issues prior to the submission of the planning application.

When a planning application is registered the applicant/agent is notified of a single point of contact with all correspondence providing contact details. When the application is assessed by the Planning Officer any areas of potential conflict with the Development Plan or the design of development are raised at an early juncture with the applicant/agent to allow response to the enquiry prior to finalising the assessment.

The challenges surrounding the demise of SCCL and ATH Resources has required that the Council take a leadership role not only in the drive to help those who have lost their job but also in the sustained efforts to restore the existing open cast coal sites. The Council has worked as a partner with the National Ministerial Taskforce and also through its Local Response Team to co-ordinate actions to secure jobs in the sector, restore worked sites and achieve the best possible outcome for our communities. The Local Response Team consisted of a multi-agency partnership approach led by the Chief Executive and comprised representatives from Planning, SEPA, SNH, Economic Development, Scottish Enterprise, DWP, SDS and the Scottish Government. The outcome of this focussed approach has helped 3 open cast coal complexes which were subject to the liquidation event to continue working and allowed re-employment of the workforce.

While many pre-consultation meetings have taken place during 2013/14 with agents in relation to open cast coal and onshore wind farm developments it has proved difficult to get support from the applicants to utilise processing agreements. However, this matter continues to be raised with applicants and their agents at preliminary meetings to discuss application timescales and consultation requirements.

Continued improvements in back office systems have concentrated on speeding up the issuing of decisions and the professional planning team continue to work to a weekly performance monitoring framework. Overall performance on planning applications continues to improve, particularly in householder and major applications. Tackling legacy applications still distorts the performance figures but as decisions are taken the number of legacy applications (considered to be pre 2013 cases) have been reduced to 57.

In order to assist in the implementation of local plan policies, a suite of supplementary guidance has been produced including a landscape capacity study for windfarm development and more general guidance on onshore wind development. Supplementary Guidance on Developer Contributions provides certainty to the development industry as to the exact level of contributions that will be required as part of their residential developments. An administrative officer monitors the collection of funds.

Similarly, detailed guidance has been prepared for the collection of funds under the Renewable Energy Fund (REF) local plan policy. A dedicated REF officer ensures that developers are up to date with payments and processes REF grant applications received from communities.

In producing the new East Ayrshire LDP, existing supplementary guidance is being reviewed and updated and new guidance is being produced where required, for example an Affordable Housing SG is being prepared to support the new affordable housing LDP policy.

High quality development on the ground

The Conservation Area Regeneration Scheme (CARS) and Kilmarnock Townscape Heritage Initiative (THI) is a heritage led regeneration project which has seen over £19m of investment on the repair and refurbishment of 17 properties within the John Finnie Street and Bank Street, Kilmarnock Conservation Area. Of the 17 properties improved under both schemes, 7 priority buildings have been repaired and new uses have been found for 4 vacant properties/sites. Architectural features on all properties have been restored. The initiative included the development a new building behind the previously derelict but now restored facade of 6-18 John Finnie Street (the former Opera House). As part of these projects, 10 non-traditional street frontages have been improved. Streetscape works have also been included using a £1.2m Scottish Government's Town Centre Regeneration Fund contribution.

The CARS/THI project has been a key element of the Council's Town Centre strategy that has successfully helped to regenerate Kilmarnock. The strategy was approved in December 2005 to provide a framework for the regeneration of Kilmarnock town centre. It was subsequently incorporated into the East Ayrshire Local Plan 2010.

For East Ayrshire Council the CARS/THI schemes were seen as essential components of the Council's asset management strategy. Anticipating the recommendations of the national Review of Town Centres the strategy focused attention on using existing and establishing new office accommodation in vacant town centre buildings within the CARS/THI boundary. Indeed the Town Centre Review was launched from one of Kilmarnock's famous landmarks; the Opera House which was one of the key priority schemes.

A Conservation Area Management Plan (CAMP) was also prepared early in the life of the project. It set out proposals and guidance to steer future development whilst conserving the character of the conservation area. The CAMP was adopted as supplementary planning guidance by the Council and Kilmarnock THI Partnership in November 2007.

Importantly, the learnings from this first scheme in East Ayrshire have been passed on to other towns and CARS schemes have been successfully applied in Cumnock and Galston with the latest bid being prepared for Dalmellington and Waterside. With such extensive schemes for restoring our rich heritage, the opportunity to enhance opportunities for training in traditional building skills is also being developed in partnership with Ayrshire College to compliment the important work being carried out by the Princes Foundation at Dumfries House, Cumnock. The Regeneration Team also provide support to the Project Boards set up to deliver the regeneration projects.

During the 2013/14 period the following heritage projects were undertaken:-

- 98-106 John Finnie Street, Kilmarnock:- full refurbishment of three commercial premises and eight residential flats;
- 14 Strand Street Kilmarnock:- External improvements and conservation of

<p>the building fabric;</p> <ul style="list-style-type: none"> • 10 Grange Place, Kilmarnock:- External improvements and conservation of the building fabric at the former Kilmarnock Standard printers • 96-108 Portland Kilmarnock:- External improvements and conservation of the building fabric including the conversion of two units • Royal Hotel Cumnock;- External improvements and conservation of the building fabric; • 61 Glaisnock Street, Cumnock:- Conservation and refurbishment of shop unit; • Blackbull Close, Cumnock;- Public realm works.



98-106 John Finnie Street, Kilmarnock:- full refurbishment of three commercial premises and eight residential flats;



Royal Hotel Cumnock;- External improvements and conservation of the building fabric

One of the other successful projects linked to the Heritage Led Regeneration initiatives in Kilmarnock is the Kilmarnock Town Trail. Its author Graham Boyd from the Kilmarnock and District History Group won the Civic Champions Award in March 2014 from Derek Mackay, Minister for Local Government and Planning as part of the Scottish Civic Trust's "My Place Awards 2014". The judges said "Graham has successfully brought back to life the history and heritage of Kilmarnock in an accessible and fascinating new resource. Not only does the Town Trail tell the story of Kilmarnock for young people but it promotes civic pride and respect for place and people."

A tourist trail scheme has also been implemented in New Cumnock detailing local areas of interest in relation to historic features and notable Burns connections.

In addition to the cases noted above relating to the conservation of town centre buildings, the snap shot below outlines developments which have been completed following detailed consultation with the service and which demonstrate high quality development on the ground:-

- Willowbank School, Grassyards Road, Kilmarnock:- Erection of new school for children with additional support needs. ;
- The former Blackwood Bros Ltd site at Western Road, Kilmarnock:- Erection of 81 dwellinghouses;
- Skernieland Road, Fenwick:- Proposed residential development comprising of 65 detached within the conservation village using the "designing streets" policy.

- Dumfries House, Cumnock:- Alteration and conversion of existing outbuildings to form new multi-purpose events venue, cafe/tearoom and associated ancillary accommodation within a Listed Building.

In respect of the open cast coal sites work continues with SEPA, SNH and the Council's independent Mining Engineers to consider alternative restoration proposals on a site by site basis, the aim being to establish appropriate alternative restoration schemes which meet the objectives of the statutory agencies and which deliver a scheme acceptable to all stakeholders.



Willowbank School, Grassyards Road, Kilmarnock:- Erection of new school for children with additional support needs.

Certainty

In relation to Development Management pre-application advice, 9.9% of applications have been covered and are recorded on the electronic database to ensure consistency. It is expected that this figure will increase significantly as a formal recording of pre application advice was instigated in the last quarter of 2013/14. The advice available on the Council website in relation to submitting a planning application has been strengthened. Despite this, it is disappointing that our figures show that 70% of applications are invalid at the point of submission.

The principal causes of invalid applications are around the quality of the information submitted and lack of attention to the supporting guidance, particularly with non-householder submissions including single turbines, advertisements and tree preservation orders. The main reason for the applications being invalid are summarised as inappropriate fee provided, quality of drawings, ownership certificates and site boundary. Of further concern is that despite advice on these matters by letter, many applications that are re-submitted are still invalid. This is an issue for all Planning Authorities and HOPS are considering standardised national guidance for areas such as Householder applications to help reduce the number of applications which are invalid on first receipt.

Once the application has been validated and being processed one of the key factors for the applicant is the time taken to have the application determined. When a valid application is received an acknowledgement letter is issued to the applicant to confirm that the Council will determine the application within the 2 month period or jointly agree an extension to the period. In previous years a larger number of cases have been extended beyond the 2 month period to allow applicants to submit outstanding information. However, in line with Government Policy to reduce delays

in the planning system and as part of the Council's commitment to support sustainable economic development, the focus is on determining all new applications within the statutory period. This Policy requires planning staff to determine applications based on the information as submitted. Consequently, there are a number of speculative applications and unsupported design proposals which following assessment have been withdrawn prior to the application being determined or alternatively the application is refused. This process is supported by a monitoring regime that targets applications which are close to their statutory timescale limit, allowing a decision to be taken with certainty prior to the statutory deadline. Where an application is extended beyond the statutory period where suitable mitigation is available this is agreed with the Team Leader.

Behind the formal submission of the Development Plan Scheme sits a detailed action plan which identifies key activities and this is also managed under the Service Plan (Appendix 4). As mentioned in the narrative on National Indicators any changes to the Development Plan Scheme have been formally agreed by the Cabinet.

In relation to applications that were significantly contrary to the Development Plan and required considered by the Full Council there were only two;

1. Erection of a new Ayrshire College on the former Industrial Site at Diaego, Kilmarnock
2. Erection of a residential development on a site which was safeguarded for commercial/business use at Western Road, Kilmarnock

A project plan for the preparation of both the East Ayrshire LDP and the Minerals LDP is in place at all times. However, as previously noted, a review of the Development Plan Scheme timetables has taken place to take into account the impact of the liquidation of the two largest coal producers within Scotland's largest coal field.

In preparing the East Ayrshire LDP, regular elected members' seminars have been held to seek member's views on the content of each stage of the LDP preparation process. Early engagement with the development industry including Homes for Scotland, with all key agencies and with Scottish Government planning officials was also undertaken in preparing the East Ayrshire LPD MIR and Proposed Plan. As can be seen from the project plan for the MMIR, full engagement with all relevant stakeholders including elected members, the development industry, communities, key agencies, interest groups and the Scottish Government will be undertaken as part of the initial information gathering exercise.

Communications, engagement and customer service

The Planning Service within East Ayrshire Council operates from the refurbished former Johnnie Walker Whisky Bond and Grade B Listed Building within the Kilmarnock Town Centre. The staffing resource is located within one office, alongside colleagues in Building Standards and Ayrshire Roads Alliance, and close to the Environmental Health Service in the adjacent campus building. This greatly

assists the Council to deliver a comprehensive one stop shop for developers. Staff will however, meet applicants, developers etc in one of the Council's network of local offices where the meeting is requested close to the development.

It is our aim to deliver a one stop shop for development and facilitate the development through the Planning system to encourage economic development within the area. Pre application meetings are generally compulsory for all major developments and are encouraged for local developments, to discuss the key issues of the application prior to any formal submission. This is particularly relevant where the development is contrary to the Local Plan.

The Planning Service is committed to providing high quality services for all of the people we serve. We provide a wide range of services which we will deliver and develop to meet the needs of our community. Our Commitment sets out the standards of customer service our customers can expect from East Ayrshire Council. The Customer First Service Commitment is available at our public reception and on the Council website.

<http://www.east-ayrshire.gov.uk/CouncilAndGovernment/About-the-Council/Our-departments/FinanceAndCorporateSupport/DemocraticServices/CustomerFirst.aspx>

The information available to the public on the Council's website is frequently reviewed and is continually updated. Recent enhancements include additional guidance on wind farms and a map of the area which shows the status of various wind applications. The Coal Map has been updated and the recent legislation on high hedges is an example of our rapid response to emerging issues.

As previously intimated in our 2012/13 section, customer questionnaires are issued with every decision to every correspondent. These have now been analysed and the results are particularly encouraging. Of particular note was that 82% of respondents rated the overall impression of the service as excellent or very good. The Council's new 2 stage complaints system is now firmly embedded within the Planning Service. In 2013/14, 5 complaints were received and 2 were deemed to be justified. In relation to the 2 complaints that were upheld one related to the accuracy of a report of handling at a Local Review Board. The other related to an error in the online planning system (OPIS) not displaying a representation at the right time. These matters were considered and service improvements identified to prevent the issues arising again.

In 2013/14 the Council also introduced a system of instigating improvement actions linked to complaints. The complaint regarding OPIS has resulted in additional training of staff in publication of representations.

The Customer Complaints and Improvement Actions are both considered at Departmental and Planning Service Management Teams and the service improvements are linked through the ISO Quality Management System.

Efficient and effective decision-making

Despite the challenges of the open cast coal situation and the significant onshore wind farm workload, the remainder of the Development Management staff have focused on the effective determination of the general workload applications during very difficult times.

During 2013/14 a major effort was made to tackle the legacy cases. As of May 2013 there were 97 stalled cases and the first task was to filter out cases where there had been no reply to a request for information. Agents were given 14 days to respond or the application would be treated as “withdrawn” or would be refused as appropriate. This filtered out the bulk of applications although some did choose to respond with the appropriate information and requested a formal determination. The latter route did adversely affect the performance figures. At the time of writing there are 57 cases predating 2013, many of which are tied to legal agreements, linked to “unauthorised” developments or where the applicant response rate is poor.

The Council has agreed a schedule of Special Planning Committee meetings to tackle each wind farm application as a single item at Committee. This strategy is supported by commissioning landscape consultants to assess the landscape and visual impacts and noise consultants to consider the noise impacts of the proposals. The strategy of determining wind farm proposals on an individual basis allows the decision on any particular application to be modelled into the next assessment of cumulative impact.

As previously noted within the report, the Scheme of Delegation was amended on the 26 June 2014 and will reduce the number of Council interest applications being considered by Planning Committee. In relation to local Review Bodies, these are coordinated by the Council's Democratic Services who manage the business of the LRB and ensure that the performance standards are met and adhered to. Training is delivered to Councillors annually on the Planning System; Planning Committee processes and the Councillors Code of Conduct.

Effective management structures

The Planning and Economic Development Service is split into three strategic sections consisting of Operations (Development Management, Building Standards with Administration and Technical Support), Development Planning (Local Plans) and Regeneration and Economic Development incorporating Employability. The Service is managed by the Head of Planning and Economic Development with a manager servicing each of the three functions. The structure provides a joint service approach with the Head of Planning having a span of control to provide a one stop shop for development. As previously noted staffing levels have been increased by 3.5 planning officers within Development Management and an additional 2 staff are scheduled for appointment in Development Planning.

The service covers an area of 1,268km² and has a population of approximately 120,000, stretching some 70km from north to south with a concentration of urban areas within a rural landscape. Located within the northern part of the district is

Kilmarnock with a population of some 43,588. Cumnock is the second largest town in the area with a population of some 9,358 and is an important settlement in strategic terms as regards both its size and location. There are nine other main centres of population in the area and the Council has Service Hubs supporting communities within Stewarton, Galston, Dalmellington and as noted above Cumnock.

The economy of East Ayrshire has been based historically on textiles, heavy engineering, food and drink and coal industries. The decline in these traditional industries has been significant. Notwithstanding, there has been a change of economic development priorities leading to business opportunities for the small to medium business sector. The area is now focused on food and drink industries, retailing, engineering and leisure and tourism. Additionally, there has over the past 10 years been a significant amount of development throughout the district supported by the public sector. There has also been significant amounts of buildings in private ownership regenerated within Kilmarnock and Cumnock town centres through the Conservation Area Regeneration Scheme (CARS) and Townscape Heritage Initiatives.

As detailed above the Council has mobilised significant resources to form the Coal Team to deal with the effects relating to the liquidation of Scottish Coal Company Limited and Aardvark TCM Ltd following an announcement on the 19th April, 2013. During 2013 the work of the coal team and operational activity of the coal sector ensured that East Ayrshire remained the largest coal producing authority in Scotland.

Led by the Depute Chief Executive and involving senior officers in Planning and Legal Services with appropriate administrative support the Coal Team has dealt with a multitude of complex tasks which were reported to Full Council on the [26th June 2014](#).

To account for the secondment of the Operations Manager and the Energy Team Leader into the Coal Team, the Head of Planning and Economic Development subsumed the role of the Operations Manager, while a temporary post was created as Planning Team Leader for Onshore Wind farms to manage the determination of those applications. The changes to the operational structure in Development Management resulted in three team comprising coal and minerals, onshore wind and general developments.

Financial management and local governance

Financial monitoring and sound governance is at the heart of the management of the Planning Service. The financial budget is monitored by the Head of Service who works closely with a senior accountant on the income and expenditure trends for the operational activity in Planning and Building Standards. Income is monitored on both a weekly and monthly basis and from these figures, comparison with previous financial years are made to establish trends with regard to fee income. Additionally, all major development Planning Application determinations are monitored and included within the budget forecasts relating to building warrants. This assists to establish timescales for warrant applications, income peaks and

resource deployment to assess the applications.

The annual budget is set over thirteen, four week periods and income and expenditure is also considered by the Service Manager and Head of Service at the monthly management team meetings. There is also a monthly review of the all departmental financial issues by the Executive Director and Heads of Service which precedes a report to Cabinet on revenue and expenditure.

Although there has been an increase in planning income from £402,349 to £517,848 this is still well short of the costs of running the whole Planning Service (£854,519). These costs do not include the cost of additional staff that have recently been recruited to tackle the significant workload around open cast coal and wind farms. These costs also do not reflect the additional expert advice and legal costs (which total £165,000) that have been employed to deal with the open cast coal situation and have had to be funded out-with the Planning budget.

Culture of continuous improvement

Complaints and Improvement Actions are discussed on a weekly basis at the Departmental Management Team and Planning and Economic Development Management Team. The other main strategic document which is significant in maintaining a culture of continuous improvement is the Planning and Economic Development Service Plan, which also has an associated EFQM Action plan and the East Ayrshire General Employment Review (EAGER), all of which are updated on an annual basis.

The Council's Occupational Development Strategy requires each member of staff to undertake an annual competency based review of their performance and development for the preceding year and also to plan for the forthcoming year. The East Ayrshire General Employee Review (EAGER) allows staff members to reflect on their competencies and meet with their line manager to establish areas of strength and any area where the staff member would benefit from additional training and development to deliver results within the workplace. The process also delivers a Personal Development Plan (PDP) for each member of staff. To assist, the Council has defined mandatory areas for training and these are currently being mapped across to the existing staff training data base to identify any gaps. Additionally, continuous professional development requirements are identified both through the EAGER process where legislative or policy changes have taken place. In house occupational development learning is now available on an e-learning basis or through individual training courses where appropriate.

An increase in staff numbers coupled with an effective system of training and development will result in an overall improvement in performance. During 2013/14 succession planning was introduced to cater for senior staff acting up into the next level of management. To support these members of staff during 2014/15, Occupational Development will be running a Management Development Course through one of the University Business Schools which will be accredited to post graduate level.

As part of the continuous development of the Development Management function, planning processes and procedures are being reviewed systematically to finalise an overall review. Once this review is complete the Service will seek ISO 9001 Accreditation. BM TRADA will undertake the audit of the Quality Management System (QMS) during April 2015 to verify compliance with ISO 9001: 2008 Accreditation Standard. The Council's Internal Audit are also scheduled to review the Service during January 2015 to undertake a risk based assessment of the work implemented as a follow up to the Independent Review of Regulation of Opencast Coal procedures. This review will cover all Planning procedures; not solely that of open cast coal.

Benchmarking and Partnership Work

East Ayrshire Council has committed to the Development Management Benchmarking - Group 2. The benchmarking group, supported by the Improvement Service, is still in its infancy. However, the information circulated on the common work areas has assisted in the review of processes and procedures and during 2014/15 further benchmarking will assist in raising awareness and in the delivery of solutions to commonly experienced problems.

Additionally, benchmarking was carried out during 2013/14 to review the operating procedures relating to compliance monitoring of mineral and opencast coal developments. The benchmarking was carried out with Fife, South Lanarkshire and West Lothian Councils given the presence of this sector within their respective areas. This work resulted in revised operating procedures for all environmental projects including open cast coal; quarries; landfill; the electrical interconnectors, onshore wind and onshore oil and gas exploration which can be reviewed through the Council report dated 19 September 2013 relating to opencast mining in East Ayrshire – steps to recovery.

Part 3: Supporting evidence

Part 2 of this report was compiled, drawing on evidence from the following sources:-

OPENCAST MINING IN EAST AYRSHIRE – UPDATE

(report dated 23 May 2013)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/cabinet/24%20may%202013/Open%20Cast%20Mining%20in%20East%20Ayrshire%20-%20Update.pdf>

EAST AYRSHIRE LOCAL DEVELOPMENT PLAN MAIN ISSUES REPORT: RESPONSES RECEIVED TO PUBLIC CONSULTATION EXERCISE, DEVELOPMENT PLAN SCHEME AND A NEW FORESTRY AND WOODLAND STRATEGY FOR AYRSHIRE AND ARRAN

(Report dated 28 August 2013)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/cabinet/28%20august%202013/Item%206%20-%20EA%20Local%20Development%20Plan%20MIR%20Responses%20Received%20to%20Public%20Consultation%20Exercise%20Development%20Plan%20Scheme%20and%20a%20New%20Forestry%20and%20Woodland%20Strategy.pdf>

OPENCAST MINING IN EAST AYRSHIRE - STEPS TO RECOVERY

(Report dated 13 September 2013)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/council/19%20september%202013/Open%20Cast%20Mining%20Report.pdf>

INDEPENDENT REVIEW OF THE REGULATION OF OPENCAST COAL OPERATIONS IN EAST AYRSHIRE

(Reports dated 28 January 2014)

[http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/council/28%20january%202014/Item%201%20-%20Independent%20Review%20-%20%20-%20Coal%20Report%20-January%202014%20\(4\).pdf](http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/council/28%20january%202014/Item%201%20-%20Independent%20Review%20-%20%20-%20Coal%20Report%20-January%202014%20(4).pdf)

INDEPENDENT REVIEW OF THE REGULATION OF OPENCAST COAL OPERATIONS IN EAST AYRSHIRE - THE COUNCIL'S RESPONSE

(Reports dated 28 January 2014)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/council/28%20january%202014/Item%205%20-%20Independent%20Review%20CE%20Response%20-%2022%20January%202014.pdf>

OPENCAST COAL MINING IN EAST AYRSHIRE - STEPS TO RECOVERY: PROGRESS REPORT

(Reports dated 28 January 2014)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/council/28%20january%202014/Item%206%20-%20Progress%20Update%20on%20Recommendations%20from%20Council%20-%20Final.pdf>

OPENCAST COAL MINING IN EAST AYRSHIRE: THE PAST, THE PRESENT AND THE FUTURE

(Reports dated 26 June 2014)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/council/26%20june%202014/Opencast%20Coal%20Mining%20in%20East%20Ayrshire%20-%2026%20June%202014.pdf>

PROPOSED REVISIONS TO THE SCHEME OF DELEGATION: PLANNING AND ASSOCIATION APPLICATIONS

(Reports dated 26 June 2014)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/council/26%20june%202014/Proposed%20Revisions%20to%20the%20Scheme%20of%20Delegation%20-%20Planning%20Applications.pdf>

UPDATE ON OPERATIONAL OPENCAST COAL SITES IN EAST AYRSHIRE

(Reports dated 12 December 2013)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/planning%20committee/12%20december%202013/Operational%20Coal%20Sites%20in%20East%20Ayrshire.pdf>

OPENCAST MINING IN EAST AYRSHIRE - COMPLIANCE MONITORING UPDATE

(Reports dated 4 April 2014)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/planning%20committee/4%20april%202014/Opencast%20Mining%20in%20East%20Ayrshire%20-%20Compliance%20Monitoring.pdf>

OPENCAST MINING IN EAST AYRSHIRE - COMPLIANCE MONITORING UPDATE REPORT

(Reports dated 27 June 2014)

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/planning%20committee/27%20june%202014/Opencast%20Coal%20Mining%20in%20East%20Ayrshire%20-%20Compliance%20Monitoring.pdf>

INTERNAL AUDIT PLAN 2013/14

<http://docs.east-ayrshire.gov.uk/crpadmmin/2012%20agendas/governance%20and%20scrutiny/25%20april%202013/governance%20and%20scrutiny%20committee%20-%2025%20april%202013.pdf>

NEW ACCOUNTS POLICY AND BULLETIN ON PERFORMANCE BONDS (APB 8A) – Appendix 3

TOWN CENTRE REGENERATION

<http://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/RegenerationAndTownCentreManagement/Towncentreregeneration.aspx>

DEVELOPMENT PLAN AND SUPPLEMENTARY GUIDANCE

<http://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Development-plans/DevelopmentPlans.aspx>

CONSERVATION

<http://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Conservation/Conservation.aspx>

PLANNING GUIDANCE

<http://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Planning-applications/Planning-guidance/Guidanceonplanningapplications.aspx>

PLANNING SERVICE AND PERFORMANCE

<http://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Planning-applications/Statistics/Planningseviceandperformance.aspx>

APPLICATION GUIDANCE

<http://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Planning-applications/Apply-for-planning/PlanningApplicationForms.aspx>

OPEN FOR BUSINESS:- ONLINE PLANNING SYSTEM

<http://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Planning-applications/ePlanning.aspx>

E-PLANNING WEBSITE

<http://eplanning.east-ayrshire.gov.uk/online/>

Part 4: Service Improvements 2014-15

In the coming year we will:

- Complete the implementation of the Chief Executives Action Plan for Development Management and Development Planning and Regeneration as noted within Appendix 1 to deliver the following service improvements;
- Review of all Legal Agreements under Section 69 of Local Government Act and Section 75 of the Town and Country (Scotland) Act (which were not covered by the review of Opencast Coal sites);
- Training for Councillors on the Planning Committee responsibilities; onshore wind; onshore oil and gas extraction (including fracking);
- Development of infrastructure to install CAPS Uniform Enterprise Performance Management Module;
- Continue the actions to review and determine the legacy planning cases which remain outstanding prior to 2013;
- Development of the Customer First Service Commitment into a dedicated Planning Customer Charter for Development Management and Development Planning;
- Reduce the number of invalid applications received through positive interaction with our customers on the minimum levels of guidance to submit to validate an application;
- Develop a Development Management Focus Group with local agents;
- Implement the review of all staff competences through the Council's EAGER
- Develop the management system and procedures for ISO Accreditation;
- The clearance of all legacy planning enforcement cases;
- Review of Enforcement strategy;
- The increased performance of the Development Management section;
- The completion of the review of the Development Management planning processes to finalise prior to the Council's Internal Audit and external assessment by BM TRADA on behalf of the ISO 9001 accreditation.;
- The continued development activities and deliverability of restored historic buildings through the Regeneration schemes in Kilmarnock and Cumnock;

Delivery of our service improvement actions in 2013-14:

Committed improvements and actions	Complete?
<ul style="list-style-type: none"> <i>Implementation of improvements in the review of open cast in relation to performance compliance and monitoring, restoration bonds, Section 75 Agreements, project management and other findings/recommendations</i> <p>A full Implementation Plan covering these aspects is dealt with by a report entitled “Open Cast Coal past, present and future” submitted to Full Council on the 26th June 2014</p>	Yes
<ul style="list-style-type: none"> <i>Apply the above as appropriate to other mineral applications and applications for wind farms</i> <p>The Council has agreed that the improvement actions identified above should be applied to other mineral applications and applications for wind farms. This has now been consolidated into a New Accounts Policy and Bulletin on Performance Bonds (APB 8A) – Appendix 3.</p> <p>It is a presumption that all onshore wind, waste management, mineral and coal extraction schemes will have planning conditions attached requiring appropriate decommissioning, restoration or aftercare bonds to be put in place or alternative financial guarantees offering at least the same level of financial protection as a bond.</p> <p>A fundamental principle of this concept is that the value of the financial guarantee must be sufficient to cover the outstanding works required to rectify the breach.</p> <p>The same monitoring and compliance frameworks by an appropriate independent specialist in relation to open cast coal is also being applied to onshore wind, waste management and other minerals applications. Equally, an independent evaluation of the costs of restoration schemes, decommissioning and aftercare is being applied to these forms of development.</p> <p>Contract frameworks for these specialisms are in place on the basis that they are funded by the developer where applicable through the Legal Agreement.</p>	Yes

<ul style="list-style-type: none"> • <i>Consider the implications of the Review of Opencast within the Main Issues Report in the Local Development Plan</i> <p>The Cabinet considered this issue on the 28th August 2013 and agreed to produce a separate Minerals Local Development Plan. The reasoning around the decision was that given the uncertainties around the Coal Industry it would be inappropriate to delay the current Local Development Plan. In terms of member engagement a Seminar was held in June 2014 to gauge initial views on the direction of travel on various issues that the Local Development Plan should take. In taking this decision it was considered that the current Open Cast Coal Subject Plan is generally fit for purpose but the new Minerals Plan will require to tackle issues of restoration and after care.</p>	Yes
<ul style="list-style-type: none"> • <i>Review Enforcement Charter in relation to findings of open cast review</i> <p>The Enforcement Charter was reviewed in September 2013 to include the Council's revised Complaints Procedure. In response to the Mackinnon Review's recommendation 10 the Council agreed on 28th January, 2014 to a further review of The Charter. The Charter has been further revised to include reference to specific development types such as open cast coal minerals and on shore wind. The revisions will support the Scottish Government's proposals detailed in the current consultation on the regulation of open cast coal mining</p>	Yes
<ul style="list-style-type: none"> • <i>Review Staffing arrangements in relation to the above</i> <p>The Council considered the adequacy of staff resources on the 28th January 2014, and on the basis of an initial review of staff resources, an additional 3½ FTE staff have been recruited within Development Management. Two of these staff are working on the opencast mining and on shore wind sectors with one planner joining the general team.</p> <p>Independent Mining Engineers and other specialists have been and will continue to be appointed to monitor compliance in respect of planning conditions and Section 75 Agreements for all opencast mine, quarry, on shore wind, electrical infrastructure and landfill developments. This work will be supported by the enforcement staff as required.</p> <p>A further review of staff is within Development Planning has been completed and 2 further Planning Officers to meet the</p>	Yes

requirement to have a separate Minerals LDP have been agreed.

• ***Review Scheme of Delegation in relation to Council Interest Applications***

Yes

A review of the scheme of delegation has been completed by officers in relation to Council interest applications. This followed from amendments to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations on 30th June 2013 which allowed local authorities, inter alia, to remove the requirement for Council Interest applications to be considered by a Planning Committee. The initial referral to the Planning Committee did not take this matter forward as the Council decision during February 2014 was to have more applications delegated up to the Planning Committee particularly where it referred to restoration activities.

However a review of the Scheme of Delegation was carried out during June 2014. Further analysis had highlighted that during the period between August 2013 and June 2014, 84 applications were referred to the Planning Committee for determination of which a total of 43 were applications had been submitted by the Council or were applications where the Council had a financial or ownership interest. None of the applications were "Major" Applications (e.g. Housing greater than 50 units or site area greater than 2 hectares, Business and General Industry, Storage and Distribution greater than 2 hectares, or Other Development greater than 2 hectares). Only one case within the 43 cases had more than 10 objections which is one of the main "triggers" for the determination route by the Planning Committee under the Scheme of Delegation.

Implementation of the latest revisions to the Scheme of Delegation will reduce the number of applications referred to the Planning Committee and therefore enable these type of applications to be dealt with more efficiently.

• ***Complete the protocols for the application of ISO 9001 within Development Management***

No

It has not been possible to fully complete this piece of work at this time, although the standard management modules are already in place as we currently have ISO 9001 for Building Standards and the Employability Service. As the coal team members have now been transferred to their substantive posts the development work on the service improvements through the ISO process will be reinitiated during 2014/15.

<ul style="list-style-type: none"> • <i>Carry out a Review of the Administration of Local Review Boards to reduce the administrative burden</i> <p>A review of the administrative procedures associated with LRB's has been carried out and our corporate Administrative Team have direct access to the Uniform Planning Register thereby avoiding duplication and allowing efficiencies in speed of processing.</p>	Yes
<ul style="list-style-type: none"> • <i>Review the arrangements for monitoring major applications and Section 75 Agreements</i> <p>The outcomes of the review into Open Cast Coal are being applied to other major applications as identified above. The Coal Team have also deployed a RAG system to apply a risk analysis to Open Cast Coal applications involving Section 75 agreements. While this task has been completed the same methodology has been applied in a review of other major applications to identify any concerns in relation to non compliance.</p>	Yes
<ul style="list-style-type: none"> • <i>Implement the issuing of planning decisions electronically</i> <p>This has been successfully deployed on all applications and since January 2014 we have also stopped sending out paper copies of plans unless requested. To date there have been no requests for paper copies and no complaints have been received. This has reduced what was previously a significant administrative task. In 2013/14 53% of our applications were submitted electronically.</p>	Yes

PLANNING PERFORMANCE FRAMEWORK

Part 5: Official Statistics

A: Decision-making timescales

Category	Total number of decisions 2013-2014	Average timescale (weeks)	
		2013-2014	2012-2013
Major developments	4	44.9	78.1
Local developments (non-householder)			
• Local: less than 2 months	57.7 (%)	7.1	7.2
• Local: more than 2 months	42.3 (%)	36.6	20.8
Householder developments			
• Local: less than 2 months	86.9 (%)	6.8	8.7
• Local: more than 2 months	13.1 (%)	15.0	14.8
Housing developments			
Major	2	70.6	142.5
Local housing developments	99	25.1	13
• Local: less than 2 months	49.5 (%)	7.5	7.7 weeks
• Local: more than 2 months	50.5 (%)	42.3	18.2 weeks
Business and industry			
Major	1	16.7	11.9
Local business and industry	48	23.7	
• Local: less than 2 months	60.4 (%)	7.3	6.7
• Local: more than 2 months	39.6 (%)	48.7	16.9
EIA developments	2	16.1	65/4 weeks
Other consents*	113		
Planning/legal agreements**	6	152.2	8
Local reviews	21	14.6	21

* Consents and certificates: Listed buildings and Conservation area consents, Control of Advertisement consents, Hazardous Substances consents, Established Use Certificates, certificates of lawfulness of existing use or development, notification on overhead electricity lines, notifications and directions under GPDO Parts 6 & 7 relating to agricultural and forestry development and applications for prior approval by Coal Authority or licensed operator under classes 60 & 62 of the GPDO.

** Legal obligations associated with a planning permission; concluded under section 75 of the Town and Country Planning (Scotland) Act 1997 or section 69 of the Local Government (Scotland) Act 1973

B: Decision-making: local reviews and appeals

Type	Total number of decisions	Original decision upheld			
		2013-2014 No.	%	2012-2013 No.	%
Local reviews	21	14	66.7	13	61.9
Appeals to Scottish Ministers	10	6	60	8	66.7

C: Enforcement activity

	2013-2014	2012-2013
Cases taken up	223	191
Breaches identified	194	157
Cases resolved	190	201
Notices served***	9	2
Reports to Procurator Fiscal	0	0
Prosecutions	0	0

*** Enforcement notices; breach of condition notices; planning contravention notices; stop notices; temporary stop notices; fixed penalty notices, and Section 33 notices.

D: Context

The performance of the Development Management section has remained reasonably constant throughout the year despite the immense pressures probably not experienced by the majority of Planning Authorities in the Scotland. The large number of wind farm and single turbine developments in the area continued unabated, while the unforeseen challenges and pressures which have arisen from the demise of the open cast coal industry, including the subsequent investigations, the calling of 24 restoration bonds and emergency actions having a major strain on the service however this is a significant impact which the staff in Planning Authority has absorbed while continuing to deliver a quality service to the general public.

Part 6: Workforce and Financial Information

The information requested in this section is an integral part of providing the context for the information in parts 1-5. Staffing information should be a snapshot of the position on 31 March. Financial information should relate to the full financial year.

	Tier 1	Tier 2	Tier 3	Tier 4
Head of Planning Service			1	

Note: Tier 1= Chief Executive, Tier 2= Directors, Tier 3= Heads of Service, Tier 4= Managers

		DM	DP	Enforce- ment	Other
Managers	No. Posts	1	1	0	
	Vacant	0			
Main grade posts	No. Posts	10½	3		5 (CARS/ THI Project Officers)
	Vacant	0			
Technician	No. Posts	2		4	
	Vacant	0			
Office Support/Clerical	No. Posts	6			
	Vacant	0			
TOTAL		19½	4	4	5

Note: Managers are those staff responsible for the operational management of a team/division. They are not necessarily line managers.

Staff Age Profile	Number
Under 30	1
30-39	4
40-49	17½
50 and over	10

Committee & Site Visits*	Number per year
Full council meetings	8
Planning committees	15
Area committees (where relevant)	N/A
Committee site visits	9
LRB**	11
LRB site visits	19

Notes:

*References to committees also include National Park Authority Boards. Number of site visits is those cases where visits were carried out by committees/boards.

**this relates to the number of meetings of the LRB. The number of applications going to LRB are reported elsewhere.

	Total Budget	Costs		Income***
		Direct*	Indirect**	
Development management	-120,360	336,524	75,526	-517,848
Development planning	359,510	285,175	34,158	0
Enforcement	0	112,397	10,739	0
Other	0	0	0	0
TOTAL	239,150	734,096	120,423	-517,848

Notes:

* Direct staff costs covers gross pay (including overtime, national insurance and superannuation contribution). The appropriate proportion of the direct cost of any staff member within the planning authority spending 30% or more of their time on planning should be included in costs, irrespective of what department they are allocated to (for example, legal advice, administration, typing). Exclude staff spending less than 30% of their time on planning.

***Indirect costs include all other costs attributable to the planning service. Examples (not exhaustive) include accommodation, IT, stationery, office equipment, telephone charges, printing, advertising, travel & subsistence, apportionment of support service costs.*

**** Include fees from planning applications and deemed applications, and recharges for advertising costs etc. Exclude income from property and planning searches.*

Appendix 1

Council's response to the Independent review with the detailed actions which support the 2014/15

Appendix 2

Open Cast Coal and Minerals Project Plan for the preparation of the East Ayrshire Main Issues Report (MMIR)

Appendix 3

New Accounts Policy and Bulletin on Performance Bonds (APB 8A)

Appendix 4

Planning and Economic Development Service Plan



REGULATION OF OPENCAST COAL MINING IN EAST AYRSHIRE

IMPLEMENTATION PLAN

June 2014

TASK		RESPONSIBLE	TIMESCALE	STATUS
1. OPERATIONAL AND PROCEDURAL				
1.a	Masterplanning and Related Planning Applications			
(i)	Continue to consider applications for operational activity, development opportunities and restoration and present reports to the Planning Committee as required.	Team Leader	Immediate	In progress
(ii)	Discontinue Personal Permissions to operators and rigorously monitor conditions attached to permissions (Recommendation 6).	Team Leader	Immediate	Good progress
(iii)	Develop a reporting schedule setting out expected dates when reports relating to current relevant planning applications, as well as for any future applications that are anticipated (Recommendation 9).	Team Leader	Immediate	Completed
1.b	Compliance Monitoring			
(i)	Ensure the availability of two knowledge sets to the Council, firstly to ensure authoritative advice is provided on methods of working and restoration, and secondly to assess the financial viability of proposals (Recommendation 4).	Operations Manager	Immediate	Completed
(ii)	Further strengthen the Council's new compliance monitoring arrangements to ensure Mining Progress Plans and Environmental Audits are subject to consultation with key stakeholders with associated procedures to be updated to reflect this practice (Recommendation 11).	Operations Manager	Immediate	Completed
(iii)	Extend compliance monitoring arrangements to non-operational sites (Recommendation 6/response).	Operations Manager	Immediate	Good progress
(iv)	Conclude the review of the Council's operational arrangements in respect of the procedures relating to the monitoring of noise from operational sites.	Operations Manager	Immediate	Completed
1.c.	Section 75 Legal Agreements and Financial Guarantees			
(i)	Develop a policy and procedure whereby any current or future development proposals that require financial guarantees are considered corporately, led by the Depute Executive, taking into account assessments by: <ul style="list-style-type: none"> • Independent mining engineers • Finance Services 	Depute Executive Chief	Immediate	Completed

<ul style="list-style-type: none"> • Legal Services • Planning and Economic Development Services, and • External advice, as required. (Recommendation 7) 			
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	(ii) Continue to call up Restoration Bonds, all with a view to supporting and implementing the restoration of sites, reporting to Cabinet and Planning Committee, as required.	Head of Legal Services	Immediate	Good Progress
1.d	Systems Improvements			
	(i) Develop a rigorous approach to filing, maximising the use of the new e-planning system and incorporating the facility to alert officers when planning conditions should be discharged or Mining Progress Plans and associated documentation should be submitted (Recommendation 9).	Operations Manager	September 2014	Completed
	(ii) Complete the installation and roll-out, including training for staff, of the Compliance Monitoring module within the uniform Planning back-office system to accommodate the recording, tracking and reporting of all planning conditions and legal agreements (Recommendation 9/response).	Operations Manager	September 2014	Good progress
	(iii) Complete the development of a robust reporting system in line with the implementation of the Compliance Monitoring module to deliver proactive monitoring (Recommendation 9/response).	Operations Manager	September 2014	In progress
	(iv) Review existing complaint handling procedures and Uniform back office IT system within the planning service as necessary to deliver a more robust reporting mechanism for consideration by management on a weekly basis (Recommendation 13/response).	Operations Manager	September 2014	In progress
	(v) Consideration, on a weekly basis, of outstanding planning conditions and legal agreements, with appropriate action being taken thereafter (Recommendation 9/response).	Team Leaders	Immediate	Completed
1e.	Website Content			
	(i) Make arrangements to publish on the Council's website all compliance monitoring reports, subject to completion of required assessment and subsequent action necessary to be taken by the Council in respect of any breach of planning.	Operations Manger	Immediate	Completed
	(ii) Update the Council's website to provide a central location for hosting all reports in relation to compliance monitoring, Technical Working Groups and Community Liaison Groups to simplify access for the public.	Operations Manger	August 2014	Good progress
2. STAKEHOLDER ENGAGEMENT				
2.a	Continue engagement with all stakeholders, including potential developers, in accordance with	Depute Chief	Immediate	Good

Steps to Recovery approved by Council on 19 September 2013, to develop restoration solutions for all sites/complexes.	Executive/Operations Manager		progress
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3. POLICY AND GOVERNANCE				
3.a	Review of the Minerals and Opencast Coal Subject Plan: As agreed by Cabinet (28 August 2013) in considering the Local Development Plan Main Issues Report, undertake a review of the Minerals and Opencast Coal Subject Plan, engaging with key stakeholders as appropriate, resulting in the preparation of Minerals MIR and accompanying Environmental Report (Recommendation 1).	Development Planning and Regeneration Manger	October 2017	In progress
3.b	Consolidation of Technical Working Groups (TWGs) and Community Liaison Committees (CLCs)			
	(i) Consider combining TWGs and CLCs with the Council taking over lead responsibility for meetings (Recommendation 12). This matter is addressed in the report to Council of 27 June of which this Appendix forms part.	Operations Manger	Immediate	Completed
	(ii) Develop guidance on effective Operating Arrangements for meetings of TWGs and CLCs meetings (Recommendation 12/response).	Team Leader	August 2014	Good progress
3.c	Review of Planning and Enforcement Charters: Review and revise the Council's Enforcement Charter to include specific reference to the regulation of opencast coal mining operations along with other mineral and on-shore wind developments (Recommendation 10).	Operations Manager	August 2014	Good progress
3.d	Planning Guidance and Advice: Develop guidance to assist communities and other stakeholders to better understand the process for consultation, determination and monitoring of planning applications relating to surface mining, including the purpose and significance of related Environmental Statements (Recommendation 2).	Team Leader	August 2014	Good progress
3.e	Reporting framework to Elected Members			
	(i) Develop a Quarterly reporting schedule to the Planning Committee on compliance monitoring activity with the Planning Committee undertaking site visits to all opencast coal mines that are the subject of planning applications that come before the Committee (Recommendation 14).	Team Leader	Immediate	Completed
	(ii) Review and update internal procedures to define roles and responsibilities in respect of the preparation and sign-off of planning reports where there are potential financial, legal and risk implications (Recommendation 7)	Team Leader	June 2014	Completed
	(iii) Review and amend the format of Planning Committee reports for the extension to	Team Leader	June 2014	Completed

	minerals and opencast coal sites to reflect the restoration implications of the proposed development against the original consented site and detail clear conditions managing the extent of restoration of the new works against the original development (Recommendation 4/response).			
3.f	Review of Risk Registers: Continue to ensure that Corporate, Departmental, Service and Community Planning Partnership Board Risk Registers are regularly reviewed and updated to reflect current and potential risk exposure related to opencast coal, wind energy and infrastructure developments (Recommendation 5).	CMT/Head of Finance	Immediate	In progress
3.g	Emerging National Policy: Continue to contribute to the development of emerging national policy in respect of the opencast coal mining, restoration and regulation.	Head of Planning and Economic Development	Immediate	In progress
3.h	UK Government Engagement: Seek support from UK Government in relation to funding for restoration of legacy sites.	Chief Executive/Depute Chief Executive	Immediate	In progress
3.i	Corporate Governance: On completion of the integration of the Coal Team into mainstream services, Senior Management will remain actively engaged in opencast coal and related matters through existing corporate governance arrangements, thereby providing strategic direction (Recommendation 5/response)	Corporate Management Team/Head of Planning and Economic Development	October 2014	Good progress
4. RESOURCES, SKILLS AND CAPACITY				
4.a	Review of staff resources			
(i)	Consider the adequacy of staff resources – numbers and knowledge – for dealing with opencast coal developments, including monitoring compliance with planning conditions and Section 75 Legal Agreements (Recommendation 3).	Depute Chief Executive/Operations Manager	Immediate	Completed
(ii)	Undertake a detailed staffing review to assess the current total and anticipated future workload of the Planning Service covering all types of planning development applications, taking account of the requirements for specialist sectors such as opencast mining, other mineral developments (quarries) and on-shore wind developments, electrical infrastructure, fracking and landfill developments. This	Acting Executive Director of Neighbourhood Services/Head of Planning and Economic Development/Operations	August 2014	Good progress

	review should also take account of the role, skills and capacity of Enforcement Officers to help support compliance monitoring activities and the assessment of planning applications where appropriate (Recommendation 3/response).	Manager		
(iii)	As part of this further review, consider the recruitment of permanent staff, as appropriate, to fulfil future work demands and to reflect the requirement for specialist sectors identified above (Recommendation 3/response).	Acting Executive Director of Neighbourhood Services/Head of Planning and Economic Development/Operations Manager	August 2014	Good progress
4.b Employee Resources and Development				
(i)	Review staff training and development requirements in accordance with the Council's established EAGER arrangements, including consideration of specific training for planning staff (including Enforcement Officers) involved in the minerals and opencast coal applications in relation to mining and quarry techniques to raise awareness of industry related matters (Recommendation 3/response).	Team Leaders	Immediate	In progress
(ii)	All Planning Enforcement Officers are engaged in Compliance Monitoring arrangements, supported by an ICT system to record, monitor and manage activity including Planning obligations and legal agreements (Recommendations 3 and 9 responses).	Operations Manager	Immediate	In progress
(iii)	Undertake a full review of training requirements within the Planning Service in particularly in relation to minerals and opencast coal applications; the Council's Complaints Handling Procedure and its Customer First Commitment (Recommendations 3, 4 and 13/responses).	Heads of Planning and Economic Development and of Democratic Services	Immediate	In progress
4.c Elected Member Development				
(i)	Provide further training for members of the Planning Committee on matters relating to opencast coal to supplement the training already provided as part of the induction and ongoing personal development programme for Elected Members, including consideration of provision for those who chair or may be called upon to chair such meetings (Recommendation 8/response).	Head of Democratic Services	Immediate	In progress
(ii)	Make arrangements for members of the Planning Committee to visit opencast coal sites. (Recommendation 14).	Team Leader	February 2014	Completed
(iii)	Extend this opportunity to all Elected Members thereafter (Recommendation	Team Leader	April 2014	Completed

	14/response).			
(iv)	Make arrangements for a Members' Seminar on the Council's Complaints Handling Procedure (Recommendation 13).	Head of Democratic Services/Policy and Planning Team Leader	March 2014	Completed
(v)	Make arrangements for a Members' Seminar on Financial Guarantees. (Cabinet: 21 May 2014)	Depute Chief Executive	October 2014	In progress

5. ECONOMIC DEVELOPMENT

5.a	Economic Impact Assessment: Implement outcomes of the ECOS Report as approved by Cabinet on 5 February 2014.	Economic Development Manager	Immediate	In progress
5.b	Supporting Transformational Change: Seek support from Scottish Government, for strengthening our Business Base, Attracting Investment; and Promoting East Ayrshire	Economic Development Manager	Immediate	In progress
5.c	Supporting Employment: Continue to work with partner agencies to promote employment opportunities and to support the supply chain.	Economic Development Manager	Immediate	Good progress

Project Plan for the Preparation of the East Ayrshire Main Issues Report (MMIR) – DRAFT

Background

Following the collapse of Scottish Coal and ATH Resources Cabinet agreed in August 2013 to the preparation of a Minerals LDP acknowledging, (i) that the EA LDP would be extensively delayed if the original intention of reviewing the EALP (adopted in 2010) and OCCSP (adopted in 2003) and preparing one combined plan was continued with, (ii) that the Council needed to take stock of the current situation with regard to open cast coal developments to be able to start productive work on the Minerals Main Issues Report, and (iii) similarly that it needed to undertake further work into emerging technologies such as ‘fracking’ and coal bed gasification. It also acknowledged that the findings of an independent review into the planning processes needed to be completed so that it could be fully taken on board.

In moving the Council’s knowledge base forward Council has received very detailed reports on each opencast coal site in September 2013 and an update in January 2014 and various planning applications promoted by Hargreaves (who have agreed to take on some of the assets of the former open cast coal firms) have been considered and determined by the Planning Committee. A significant amount of work has been completed on restoration bonds, compliance monitoring and planning processes. The Mackinnon report was also released by the Council in ‘red acted’ form in January 2014. In February 2014 the Council released an economic impact assessment of open cast closures in East Ayrshire.

In summary the Council now has a very detailed picture of the *current* situation with regard to Open Cast Coal and has appointed a range of consultants to assist in monitoring the implementation of planning applications and abandoned open cast sites so that it remains up to date.

Preparation however of the Minerals Main Issues Report will provide an opportunity to consider the *future* development of the industry in East Ayrshire both in terms of what the future strategic approach to mineral extraction should be and how it should be controlled and managed from a planning perspective. In particular, it will allow consideration to be given in full to all of the issues surrounding restoration of active coaling sites and sites where coaling activity ceased abruptly as Scottish Coal and ATH Resources went into administration.

This note addresses the first three stages in the preparation of the Minerals Main Issues Report (MMIR) and concentrates on the steps that need to be taken to (1) prepare the information base for the draft MMIR, (2) option identification and testing and (3) drafting the MMIR and public consultation. An outline programme for these 3 stages is also included following a short section on the resources currently available to complete the tasks. A detailed project plan based on Prince 2 principles will also be prepared.

There are 3 further steps after the MMIR is drafted and public consultation is completed namely, (4) drafting the Proposed Plan and accompanying Action Plan and, following a period for representations to be lodged, submission to Ministers, (5) examination in public of all representations and (6) consideration of modifications following examination, adoption and publication of an updated action plan.

Further project plan notes will be prepared for these steps in due course.

Stage 1 Information Gathering

- Monitoring Report

As indicated above a significant amount of information has been gathered by the Council's 'Coal Team' in the last year. The information gathered will be the foundation for the Monitoring Report that will be issued with the MMIR.

The monitoring report will require to assess the success or otherwise of the policies and strategies of previous plans. This will set the context for, and assist in identifying, what the 'main issues' should be.

Information will be required to be gathered for hard rock, peat and aggregates to update current records.

An assessment will be required as to the likelihood of new techniques being used to extract coal or coal bed gases. Information has been gathered on these techniques however as the Planning and Economic Development Service does not have any direct experience of handling planning applications involving the extraction of minerals and gases by these techniques to date, it is recommended that contact should be made with Councils that do have experience, academia and other agencies to build the information base.

- Assessments

In addition to the Monitoring Report a significant amount of information will be required to be gathered to support the preparation of 3 key assessments. These assessments will be released when the MMIR is published. They are (1) Strategic Environmental Assessment (SEA), (2) Equalities Impact Assessment (EQIA) and (3) Habitats Regulation Assessment (HRA).

- Strategic Environmental Assessment (SEA)

SEA follows a systematic and thorough process which allows environmental considerations to be integrated into the MMIR. SEA assesses and evaluates the likely significant impacts that the MMIR will have on the environment in its widest sense. It will for example assess impacts on landscape and geology, biodiversity, flora and fauna, population, human health, soil, water, air, climate, material assets (i.e. open space, footpaths etc.) and cultural heritage. A significant amount of information required for the SEA will be contained in the files of the coal team however it is anticipated that given the breadth of the assessment required there may well be information gaps. The DP&R section has the skills and experience to complete the SEA but may require assistance in assembling all of the information required to undertake the assessment. The SEA will be a large and very significant document which will require dedicated support over a 3-4 month period initially. Further work will be required on the SEA as the plan proceeds through all its preparatory stages.

- Equalities Impact Assessment

EQIA is an approach which can be utilised to assess the possible equality impacts of existing or new initiatives that are advocated in the MMIR and identifying what steps need to be undertaken to minimise or remove the impacts. EQIA can be completed by the DP&R section but the section will require assistance from the Council's Corporate Officer for Equality and Diversity. It is likely that a small team of officers to assess the MMIR will be required and that it be set up in the initial stages of its preparation so that any issues can be appropriately dealt with and any actions recommended can be built into the MMIR. The EQIA will require further work as with the SEA but it is estimated that this will not be a significant resource drain.

- Habitats Regulation Assessment

Article 6 (3) of the Habitats Directive requires that any plan or programme (initially the MMIR but also the Minerals LDP) should consider and take account of any impact that it may have on Special Protection Areas (SPA) or Special Areas of Conservation (SAC). In general the Habitats Directive applies the precautionary principle to SPA's and SAC's to ensure that only those plans or programmes which will not have an adverse impact on the integrity of the site(s) are permitted. Such an approach helps to ensure that the 'qualifying interests' or the reasons why the SPA or SAC was designated are maintained and deterioration of the habitats or significant disturbance to species within the site is avoided. Only in exceptional circumstances where there is an overriding public interest and following compensatory or mitigating measures will an adverse impact be accepted.

Although the Muirkirk and North Lowther Uplands SPA and Airds Moss SAC were excluded from potential coal extraction areas in the OCCSP (2003) one open cast site that has been abandoned lies partly within and directly affects the Muirkirk and North Lowther Uplands SPA. Many open cast sites lie in close proximity to the SPA and SAC and in addition to assessing the above it will be critical to gauge what effect their current condition is having or may have on the integrity of their designation. Such an exercise is beyond the skills and experience of officers in EAC and will require consultancy support. Unfortunately the database for the Muirkirk and North Lowther Uplands SPA and Airds Moss SAC held by SNH is out of date.

Given the comments on the information requirements of the SEA and SPA/SAC provided above it is recommended that the consultants referred to are employed to develop a **"state of the environment" database** for both the SEA and HRA using a specification prepared by EAC officers in consultation with SNH/SEPA. As a first step the consultants will be asked to assemble the information available from the Coal Team, SNH, SEPA, Historic Scotland and any other agency, review the data to see if it is fit for purpose and then supplement it as required through survey or other appropriate means.

Whilst as detailed above the bulk of the SEA appraisal can be completed in house using the database it is recommended that the consultants be retained so that officers can receive specialist advice when required. However in relation to the HRA it is considered that this would need to be completed in full by consultants. It is further recommended that they be retained so that the HRA can be amended as the plan is developed and concluded. It is probable that the consultants will also be required to attend any examination of the Minerals Plan.

Initial Engagement

Given the current situation in relation to open cast coal engagement with members of the public, communities and other stakeholders in relation to developing the MMIR will require to be handled with sensitivity and with discretion.

- Call for Views

It is recommended that the Council place advertisements in the local newspapers requesting any views should be submitted to it on the matters that should be taken into account by the Council in preparing the MMIR. The aim should be to enable those that wish to do so to express their views on the *future* development of sites and the minerals industry. It should be seen not as an opportunity to look back but to look *forward*. However it must be acknowledged that views on the future development of sites will inevitably be made in the context of what has happened in the past.

- EA LDP MIR Respondents

All contributors to the EA LDP minerals section should be contacted individually to explain the Council's approach and to allow for further comment. It is recommended that all comments previously received be retained but only if it specifically requested will they be incorporated into the development of the MMIR.

- Stakeholder Meetings

It is recommended that meetings with key agencies, operators, Scottish Government, other authorities, the Coal Authority, Coalpro as well as special interest groups such as the RSPB are arranged. As detailed above the emphasis must be on identifying the issues that need to be addressed in the MMIR. The meetings with the key agencies will be critical not only to identify issues but how each of the assessments should be developed in support of the MMIR but also the "Proposed" Minerals Plan.

- Community Councils

Meetings should be arranged with all Community Councils in East Ayrshire. In order to reduce the number of meetings it is recommended that representatives from identified groupings of Community Councils within specific areas are invited to attend with a recommendation that they discuss beforehand any issues that they wish to raise. It is suggested that public meetings are not held as it is likely that they would drift into discussion on how and why the current situation arose. Such matters have already been investigated.

- Elected Members

It is recommended that a member/officer working group is set up to obtain the comments and views of elected members. Members have already been kept informed about the work that has been undertaken towards recovery in relation to open cast coal. They have received reports on compliance monitoring arrangements and have considered a number of planning applications for open cast coal and sand and gravel extraction. Members have also considered a response to the Scottish Government consultation on open cast coal restoration. Given the issues concerned it is considered imperative that members are kept fully informed of progress with regard to the MIR and provide their support when it is published.

Stage 2 - Option Identification and Testing

Issues for all mineral matters will emerge from the data, assessments and initial engagement exercises.

However one eye must be kept on the fact that the MMIR must be seen as the first stage in outlining the Councils preferred policy approach to dealing with all of the mineral issues identified. It is not just an issue identifying exercise but must be seen as a precursor to the final policy approach to be adopted by the Council.

It would be wrong to identify issues at this stage of the process but they are likely to include

- The future scale of the open cast coal industry
- The nature of the spatial strategy – whether a search area approach should be adopted for open cast coal or other minerals

- How the search area(s) should be identified if that is the preferred approach
- Operational requirements for site working
- Restoration requirements for new working
- Arrangements and procedures for compliance monitoring
- Restoration options for existing abandoned open cast coal sites.

The above is by no means a comprehensive list but it does illustrate the complexity of the issues and the scale and nature of the task ahead.

Stage 3 - Drafting the MMIR and Public Consultation

The MMIR will be the vehicle through which stakeholders can influence the final content of the Proposed Minerals Plan. It should be “engaging” and informed by a sound evidence base; it must be assessed to meet the requirements of equalities, strategic environmental and habitat assessment legislation.

In preparing the MMIR it should be borne in mind that the Minerals Plan will be required to set out “...realistic long term visions...” for the development of all minerals in East Ayrshire taking account of the evidence base, the National Planning Framework, s44 of the Climate Change (Scotland) Act 2009 (i.e. it must take account of climate change targets), equalities legislation and, under regulation 10 of the Development Planning Regulations 2008, a wide range of strategic documents (e.g. local transport strategy, flood risk management plan, national waste management plan) as well as the resources available for implementation.

The Development Planning Circular (paragraph 67) indicates that MIRs should “...concentrate on the key changes that have occurred since the previous plan and on the authority’s big ideas for future development. However it still needs to be site specific and should set out the authority’s proposals for development, in particular where these developments should and should not occur. The MIR should identify the planning authority’s preferred options but it also needs to consider reasonable alternatives, where these are available...The principles of setting out the preferred option and any reasonable alternatives also apply to public policy matters, where a policy is a main issue. MIRs should not just ask wholly open questions about a policy area as this will give no indication as to the planning authority’s likely position on a policy matter in the Proposed Plan. Instead MIRs should indicate the planning authority’s preferred policy approach (...) and reasonable alternatives to this where they are thought to exist.”

Preparing however the MMIR given the requirements detailed above will be challenging.

Once approved by the Council the MMIR must be put out to formal consultation. Rather than ‘engagement’ the guidance suggests there should be greater emphasis on ‘consultation’ on its content and proposals.

Consultation is an important stage as responses will provide the Council with valuable intelligence as to whether the approach adopted generally meets with approval and what, if any, are the areas of concern. These areas of concern can be tackled at the Proposed Plan stage.

Resources

The current planning policy team comprises 3 officers – one principal planning officer and 2 planning officers. One of the two planning officers is on maternity leave and will not return to work until the beginning of September 2014.

Beyond normal day to day responsibilities (see ‘Staff Resources in Development Planning and Regeneration’ note dated March 2014) the team is fully occupied in finalising the EA LDP (the LDP addresses all other topics other than minerals) for submission to Cabinet/Council in September 2014.

As indicated above a revised Development Plan Scheme was submitted to and approved by Cabinet in August 2013. It was prepared in the knowledge that the open cast coal companies had gone into administration and that significant changes to the content of the LDP and its programme was required. It was agreed that a separate Minerals LDP be prepared and in terms of the programme for the ‘new’ EA LDP it took on board the delay to progressing the LDP as previously formulated because the open cast companies had gone into administration. There was also implicit acknowledgment that it was not tenable for work on the MMIR and Minerals LDP to only be commenced once the LDP had been adopted (i.e. spring 2016).

The scheme as approved indicated that the EA LDP would be submitted to Cabinet/Council for approval in June 2014. However as one of the planning officers has been on maternity leave since the first week of November 2013 and the post could not be filled on a temporary basis, the programme has slipped. A revised submission date for approval of the Proposed Plan has now been agreed for September 2014.

It is essential that there is no further delay to the LDP as the current EA Local Plan was adopted on the 26 October 2010 and has a nominal 5 year lifespan. If there is no further slippage and assuming the examination and its outcome goes to plan, adoption of the EA LDP is now scheduled for August 2016. Whilst this is not ideal it is the best outcome given the current resources available. This date will be inserted into the new Development Plan Scheme scheduled for August 2014.

However given the level of resources there is **no capability** of progressing with the programme of work outlined above to deliver the MMIR other than appointment of consultants and the preparation therefore of an environmental database.

Additional resources to tackle the MMIR work programme was requested in February 2014 but to date no decision has been taken. It is still considered that at least two additional planning policy officers are needed – one on a permanent basis (given that it will not be possible to synchronise the two plans) and one on a temporary basis for at least 2 years (or until adoption of the EA LDP) – but it is even more urgent now. If the programme for the MMIR as detailed in August 2013 is to be reasonably adhered to, resources will need to be made available very quickly. As appointment of new officers will take some time consideration should therefore be given to agency appointments or a revised timetable for the MMIR agreed.

One of the existing planning officers has extensive experience of preparing SEA. It is proposed that the officer is charged with preparing the SEA to support the MMIR but his current work for the LDP will need to be re-distributed for a temporary period. This 'redistribution' however cannot be actioned until the other planning officer returns from maternity leave at the beginning of September 2014 if progress with the LDP is not to be seriously disrupted.

Stages 1-3 Draft Programme

The key stages in the programme will be (1) information gathering, (2) initial engagement, (3) option identification and testing, (4) drafting the MMIR, (5) assessments and adjusting the draft MMIR to take account of the assessments, (6) approval of the MMIR, and (7) consultation.

An excel sheet with a timeline to the end of January 2015 as per the approved Development Plan Scheme is attached. It details the key stages that will need to be completed. The stages are necessarily general in description to keep the document manageable and it should be noted that some of the programme can be taken forward in parallel rather than sequentially.

However it is not possible at the present time to complete the programme without some indication as to when additional resources will be made available. If resources are agreed quickly and with the appointment of consultants similarly goes ahead in the immediate future there is some prospect of being reasonably able to meet the timetable although it will be very challenging to do so particularly as there is a lot of engagement required with communities and key agencies/stakeholders.