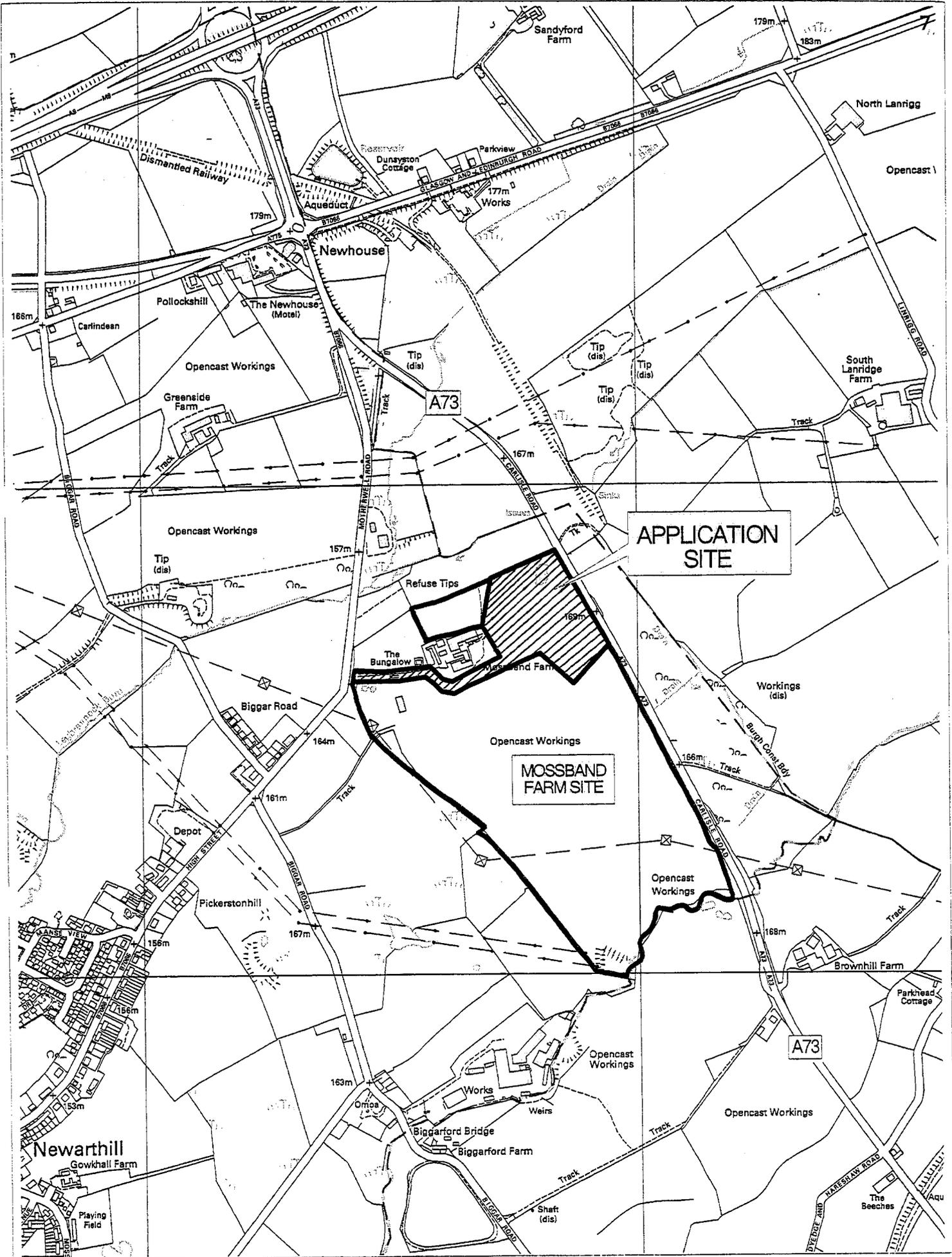


Application No.	S/00/00099/FUL
Date registered	1 st February 2000
APPLICANT -	IBSTOCK SCOTTISH BRICK LTD, OLD EDINBURGH ROAD, UDDINGSTON G71
Agent	
DEVELOPMENT	REMOVAL OF CLAY STOCKPILE
LOCATION	MOSSBAND FARM, NR NEWHOUSE
Ward No.	19
Grid Reference	2795835 660669
File Reference	S/PL/5/87/CLK/JW
Site History	<p>There is a significant history attached to the Mossband Farm opencast site including:</p> <p>Planning applications</p> <p>(a) M/2/90 – Planning permission granted for opencast coal extraction on 31/7/91 subject to Bond of Caution of £3000,000. Works started in September 1991 with a 6 year timescale.</p> <p>(b) M/2/90 – Planning permission granted on 5/7/95 for the extraction of 250,000 tonnes of rock and importation of soils</p> <p>(c) S/96/00562/MIN – Planning permission granted for extension of timescale of opencast operations until December 1999 and extraction of additional 5000,000 tonnes of rock subject to additional Bond of Caution for £130,000</p> <p>(d) S/00/00280/OUT – Proposed Housing and Sports/Recreation developments, this application is still under consideration</p> <p>General</p> <p>(a) The previous site operator (Cochrane Mining Lanarkshire Ltd) went into administration in September 1998 and the site was dormant for around 6 months.</p> <p>(b) The site was taken over by Lothian Mining Ltd in spring 1999</p> <p>(c) Lothian Mining have continued to operate beyond the December 1999 time limit for the site operations. They have given an undertaking to stop extraction works at the end of April and appropriate powers have been authorised by the Council to ensure that this is adhered to.</p>
Development Plan	<p>(a) Northern Area Local Plan – Green Belt</p> <p>(b) Southern Area Local Plan (Finalised Draft) – Green Belt</p>
Contrary to Development Plan	No
CONSULTATIONS	
Objection	
No Objection	Sepra West
Conditions	
No Reply	
REPRESENTATIONS	
Neighbours	No Response



Produced by
 Department of Planning and Environment
 Southern Division
 303 Brandon Street
 MOTHERWELL
 ML1 1FS
 Telephone 01698 302100 Fax: 01698 302101
 CS Licence LA 09041L

PLANNING APPLICATION NO: S/00/00099/FUL

REMOVAL OF CLAY STOCKPILE AT
 MOSSBAND FARM, NR NEWHOUSE.



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**Newspaper
Advertisement**

No Response

COMMENTS

This application relates to the removal of 500,000 tonnes of fireclay from an 11.0 acre (4.4 hectare) site at the Mossband Farm opencast site near Newhouse. The clay is stored above ground in a recently created stockpile using material gained from the adjoining opencast site. This would be removed over a ten year period and used for brick making at the Ibstock factory at Tannochside, giving the factory a consistency and guarantee of supplies. Whilst I do not have any objections to the principle of this development, I do have concerns regarding the proposed ten year timescale, which on top of the nine year lifespan of the opencast operations is considered to be an unacceptable burden on the amenity of the area and the enjoyment of nearby residential properties. Initially, five years would appear to be a more acceptable, with the prospect of a further five years if the applicant can demonstrate that the operation has been carried out with no serious harm to the environment.

The applicant has made strong representations against the imposition of a five year permission stating that this would not give them the confidence to carry out a proposed long term investment programme at the Tannochside factory.

Rather than refusing planning permission for reason of the excessive timescale, I would recommend that permission is granted subject to a condition restricting it to five years. If the Council are of a mind to grant planning permission, consent would not be issued until a Bond of Caution to an appropriate value had been delivered, guaranteeing the long term restoration of the site. Full details of the proposed development including discussion on the proposal timescale of the operation, can be found within the attached report.

RECOMMENDATION

Grant, subject to the following conditions:-

1. That the operations relating to the removal of the clay stockpile shall be commenced within 1 year of the date of this permission, and the applicant shall give the Planning Authority at least 7 days notice of their intention to commence works.

Reason: In order that the Planning Authority might make appropriate arrangements to monitor the operations and to take account of changing circumstances.

2. That all operations relating to the removal of clay from the site shall cease within 5 years from the date of commencement of the development, the date of which shall be notified to the Planning Authority, under the terms of condition no.1 above or failing that as determined by the Planning Authority.

Reason: To define the permission, to protect the amenity of the surrounding area and to safeguard the enjoyment of local residents and communities.

3. That operations on the site for which planning permission is hereby granted, shall take place only between the hours of 7.00am and 5.00pm Monday to Friday and there shall be no working at weekends and public holidays.

Reason: To safeguard the amenity of the surrounding residential properties.

4. That before any of the clay stockpile is removed from the site, the following details shall be submitted to and approved in writing by the Planning Authority, including any modifications as may be required.

- (a) Re-surfacing of access lane in a suitable hard material from Motherwell Road to the loading area
- (b) Scheme of repairs to the surface of the existing access at and adjoining the public road
- (c) Delineation at the existing access at a point 2.0 metres behind the existing edge of carriageway.
- (d) Details of specification and location of high pressure water wheel and underbody cleaning equipment to be sited as close as possible to the loading area, to comprise a high pressure water system.

Reason: To define the public road and to prevent mud or debris being carried onto the public road in the interests of road safety.

5. That before any clay material is removed from the application site, all of the works required by condition no (4) above shall be implemented in full.

Reason : In the interests of road safety.

6. That the proposed routing of lorry traffic from the site shall accord with those details contained within the planning application, and any material alterations to the proposed routing must be agreed in writing by the Planning Authority.

Reason: In the interests of road safety and amenity.

7. That before any clay is removed from the site, the operator shall submit for the approval of the Planning Authority, a plan to show the location and appearance of any buildings and plant to be used in connection with the development and thereafter any subsequent modification which may be necessary to the buildings and plants shall be submitted to the Planning Authority for its prior approval.

Reason: These details have not been submitted.

8. That before any clay is removed from the application site, a phasing plan (showing the progressive removal of the stockpile) shall be submitted to the Planning authority for its prior approval, including any changes which may be necessary, and for the avoidance of doubt this shall show external faces on the east and north faces of the stockpile as being the last areas to be removed.

Reason: These details have not been submitted and to protect the visual amenity of the surrounding area.

9. That within 6 months of the date of this permission, a detailed restoration plan shall be submitted to the Planning Authority, and for the avoidance of doubt this shall incorporate the following details:

- (a) Final contours to be in accordance with plan ref No C3/00 or any others agreed in advance

- (b) After use to be agriculture or forestry
- (c) That where after use is agriculture the scheme shall incorporate an area of trees as shown indicatively on approved plans.

Reason: These details have not been submitted and to protect the visual amenity of the surrounding area .

10. That within six months of the date of cessation of operations at the site, (as set out in condition no2 above) all works set out within the approved restoration plan (as set out in condition No.9 above) shall be completed in full.

Reason: To ensure the timeous implementation of the restoration scheme to protect and enhance the visual amenity of the area.

11. That, notwithstanding conditions (9) above, the following conditions shall be observed in the restoration of the site to the satisfaction of the Planning Authority:-

- (a) all available subsoils shall be re-spread evenly in separate layers of 300mm depth and each layer shall be rooted and cross-rooted, with all boulders and stones exceeding 150mm in one dimension being removed;
- (b) following the replacement of subsoil, all available topsoil shall be re-spread evenly to achieve the final level and configuration, and shall be rooted and cultivated as required with all stones exceeding 100mm in one dimension being removed;
- (c) all operations involving subsoil and topsoil replacement and cultivation shall only be carried out when the full volume of soil involved is in a suitably dry soil moisture condition to minimise soil damage and to maximise the effects of the rooting operations, and
- (d) that at least 48 hours notice shall be given to the Planning Authority of the intention to spread subsoil and topsoil to allow for inspection of the area by the said Authority.

Reason: In the interests of sound soils management.

12. That at least three months prior to the replacement of topsoil on any phase of the site, a five year aftercare scheme for areas defined in the restoration plan as "agricultural" shall be submitted to the Planning Authority for approval, and the scheme shall specify such steps as may be necessary to bring the land to a standard suitable for agricultural use and shall include cultivating, fertilising following soil sampling and analysis, watering, draining and otherwise treating the land.

Reason: In the interests of sound land management.

13. That the requirements of condition (12) above shall be carried out in accordance with the agreed timescale and shall be managed to the satisfaction of the Planning Authority in accordance with the agreed prescriptions during the relevant aftercare period.

Reason: In the interests of sound land management.

14. That if by reason of any circumstance not foreseen by the applicant it becomes necessary to abandon the clay operations, the applicant or operator shall submit within 2 months to the Planning Authority amended plans showing the restoration of the site (in its abandoned form) all of which shall be implemented in full within six months of such plans being approved.

Reason: To ensure the proper restoration of the site in the event that the site is abandoned..

15. That before any clay material is removed from the site, topsoil and sub soils to be used in the restoration of the site shall be taken from the adjoining opencast coal site and shall be placed on mounds along the top of the external faces on the north and east most elevations of the stockpile.

Reason: to ensure the provision of suitable soil material to ensure the long term restoration of the site.

16. That the external faces of the stockpile on the north and eastmost elevations, and the soils referred to in condition (15) above, shall be grass seeded to ensure a continuous and weed free cover for the duration of the planning permission.

Reason: To minimise the visual impact of the stockpile in the interests of the appearance and character of the area..

17. That for the avoidance of doubt, all works, including the upgrade of the access lane as required by condition no. 4 above, shall allow for the retention and protection of the hedging alongside the access lane.

Reason: To safeguard the amenity of the area.

18. That throughout the duration of the works best practical means shall be used at all times to ensure that all operation carried out on site are controlled in such a manner so as to prevent emmissions of dust beyond the site.

Reason: In order to ensure that dust emissions do not adversely affect the amenity of the surrounding area.

19. That dust mitigation equipment, including water spray equipment shall be available on site at all times. Such equipment shall be use to prevent dust emissions from the site and to water down areas likely to produce airborne dust, to the satisfaction of the Planning Authority.

Reason: In order to prevent any dust emissions from adversely affecting the amenity of the surrounding area.

20. That if any adverse increase in dust levels affects land or residents in the vicinity due to the site operations, the site operations responsible for the increase shall be suspended until such times as the agreed dust measures have been implemented.

Reason: In order to protect the amenity of the area.

21. That all vehicles leaving the site carrying coal or fireclay, shall be fully covered by haps or sheets, to the satisfaction of the Planning Authority.

Reason: To minimise dust emissions and to prevent material falling onto the public roads, to the detriment of both amenity and road safety.

22. That throughout the duration of works, the best practical means shall be used at all times to ensure that all operations carried out on site are controlled in such a manner so as to minimise noise emissions from the site.

Reason: To ensure that noise emissions do not adversely affect the amenity of the surrounding area.

23. That all vehicles and mobile plant on site shall be properly maintained and provided with suitable and effective silencers, where appropriate, or provided with full acoustic screening, to the satisfaction of the Planning Authority.

Reason: In order to ensure that noise emissions do not adversely affect the amenity of the surrounding area.

24. That all vehicles and plant on site shall be fitted with an audible warning system. The alarms operating on this system shall be adjusted to the lowest possible setting, to ensure a sufficiently loud warning to pedestrians behind mobile plant, without causing annoyance to local residents.

Reason: In the interests of public safety and to ensure that noise emissions do not adversely affect the amenity of the surrounding area.

25. That no operations which form part of this planning permission shall impinge on the operation of the public right of way alongside the eastern edge of the site.

Reason: To protect the right of way in the interest of the safety and amenity of its users.

NOTE TO COMMITTEE

That the permission hereby granted shall not be issued until the applicant has entered into a Bond of Caution in respect of the restoration of the site.

LIST OF BACKGROUND PAPERS

Planning application and accompanying plans
Revised plans dated
Letters from Istock Scottish Brick dated 12/04/00 and 27/04/00
Letter from Lothian Investments Ltd dated 12/04/00
Northern Area Local Plan
Southern Area Local Plan (finalised Draft)
Letter from SEPA (West) dated 11/04/00

APPLICATION NO. S/00/00099/FUL

REPORT

1. SITE AND PROPOSAL

- 1.1 This application relates to the removal of a clay stockpile, which has recently been created at the Mossband Farm opencast site, near Newhouse. The applicant, Ibstock Scottish Brick, would remove the clay over a period of 10 years and use it for brick making at its Tannochside factory.
- 1.2 The stockpile has been created from material extracted as part of the opencast operations at the Mossband Farm site, and is estimated to contain 500,000 tonnes of material. It is approximately 6.0 metres high and has been formed with soil dressed sides which are being grass seeded. The phased working programme for its removal is designed so that the externally viewed faces (ie from the A73) would be the last areas to be removed, thus helping to screen the loading area for most of its life.
- 1.3 Material would be removed by lorry with traffic being routed via Newhouse and the A8/M8 towards Tannochside. Truck movements would be limited to 7.00am to 5.00pm Monday to Friday, with an average of 3 trucks per hour leaving the site. Access would be via the existing access to the opencast site, which would be upgraded to allow for a tarmac/concrete road and a new high pressure wheelwash facility.
- 1.4 The site is bounded by the opencast operations (in restoration) to the south and west, an area of rough grazing to the north and the A73 and a public right of way to the east. It is a minimum of 250.0 metres from the nearest house to the north and 400.0 metres from a group of houses at Biggar Road to the south west.
- 1.5 Removal of the clay would restore the site back to its original ground levels, the final afteruse being either agriculture or forestry.

2.0 CONSULTATIONS AND REPRESENTATIONS

- 2.1 There was only one consultee (SEPA) and it has no objections to the proposals.
- 2.2 The proposal was advertised in the local newspaper, but did not require any of the nearby residents to be notified as part of the neighbour notification procedures. There have been no letters of objection to the proposals.

3.0 POLICY

- 3.1 The site is zoned as "Green Belt" in both the adopted Northern Area Local Plan of 1984 and the Southern Area Local Plan (Finalised Draft) of 1998.

4.0 SITE HISTORY

- 4.1 There is a significant site history associated with the opencast operations at the Mossband Farm site, and Members have been kept up to date, particularly in the last year or so, on the complex (and sometimes unfortunate) series of events at this site.

- 4.2 There have been opencast operations at the site since September 1991 with extraction due to stop in December 1999 with a 6 month restoration period. This has involved the extraction of coal, fireclay and rock.
- 4.3 In 1998, the then operating company (Cochrane Mining Lanarkshire Ltd) went into administration, and the site lay dormant for 6 months or so until a buyer was found. Lothian Mining took over the site in spring 1999 with coaling resuming in summer 1999.
- 4.4 At the beginning of this year, Lothian Mining continued to work the site, despite the permission expiring at the end of December 1999. At its meeting of February 9th 2000, the Planning and Environment Committee were advised of the situation and agreed that appropriate powers should be used to ensure that the unauthorised works do not continue beyond 28th April 2000.
- 4.5 Lothian Mining submitted a planning application in March 2000 (ref S/00/00208/OUT) which would, if granted, allow for the redevelopment of the Mossband site, (other than the clay stockpile) as a mixed sports/recreation development including a greyhound stadium, trotting track, football pitches and fishing ponds. Also proposed is a residential development extending to 19 hectares (47 acres), although this would be sited within fields between the Mossband site and Newarthill.

5.0 CONTEXT

- 5.1 There are two other proposals relating to the removal of fireclay from opencast sites in the immediate area.
- 5.2 Firstly is the planning permission granted recently at the "Morningside" opencast site to remove a clay stockpile. This is relevant as planning permission was refused in 1999 for an extraction period of ten years (ref M/2/94) as it was felt that the proposal would generate an unacceptable level of traffic activity and disturbance over a significant period of time. However, a revised application submitted late last year (ref S/99/01644/MIN) for a five year period was approved (subject to a bond of caution and a Section 75 agreement) in March 2000.
- 5.3 Secondly, a planning application is currently under consideration (ref S/99/01661/AMD) which would allow clay to be extracted concurrently with coal at the soon to be commenced Watsonhead site, also near Morningside.

6.0 PLANNING ASSESSMENT

- 6.1 I believe that the key questions to be addressed in the consideration of this application are as follows:
- (a) Firstly, is the principle of the proposed development acceptable, and if so,
 - (b) Can the clay stockpile be removed without undue harm to the character and appearance of the area, without prejudice to the enjoyment of nearby residential properties and without detracting from highway safety and convenience, and if so,
 - (c) Is ten years a suitable timescale to carry out the development?
- 6.2 Permission already existed for the extraction of the clay from the opencast site, and consideration of this application should concern itself solely with the retention of the stockpile in its current position and its removal over a period of ten years.

- 6.3 The material has already been extracted from the ground and is clearly of use to the applicant for brickworking. Arguably the proposal will meet some of the aims of sustainable development, and in that respect is preferable to the material being placed back into the opencast void. The site is zoned as greenbelt in adopted and draft local plans, but subject to the detailed assessment of the proposal below, the proposal is considered to be in accordance with local plan policy in that there is a locational requirement for this particular site ie it was extracted at the adjoining site. In principle therefore I am satisfied that the proposed development is acceptable.
- 6.4 In terms of the impact of the stockpile on the appearance and character of the area, it can be seen quite clearly from the A73 and to a much lesser extent from Motherwell Road. The grass seeding, however, will ensure that it integrates itself into its surroundings in a satisfactory manner. I am also satisfied that the working programme (whereby extraction will initially be restricted to within the stockpile) will not result in any undue harm to the visual amenity of the area. The main period of disruption will be the later phases when the external faces will be removed. In the longer term, the restoration scheme will allow for the site to be returned to original ground levels with an afteruse of agriculture (incorporating tree planting) or forestry and this is acceptable.
- 6.5 Noise and disturbance associated with the operation will be restricted to the machinery loading the clay onto lorries, and the lorries going to and from the site. Due to the nature of these operations, the distance to the nearest houses and the routing of traffic towards the A8/M8, I am of the opinion that the operation will not result in noise or disturbance which would detract from the enjoyment of nearby residential properties to an unacceptable level.
- 6.6 In terms of highway safety and convenience, the existing access to the site is suited to the proposed traffic levels, although some minor improvements are desirable.
- 6.7 A particular problem experienced over the lifetime of the opencast operations has been mud and debris being brought onto the public road. This creates a potential hazard for other road users, as well as being unattractive and the cause of dust nuisance. I have made it clear to the applicant that any permission would have to be conditional on the upgrade of the access road and the provision of a high pressure water spray system to clean the wheels and underbody of all lorries leaving the site. This would have to be of a much higher specification than that currently in place at the opencast site.
- 6.8 As noted above, my main concern is in the proposed ten year timescale for the operations. The local environment and nearby residents have already had to endure the burden of major opencast coal operation over a period of 9 years, with the prospect of several months of site restoration still ahead. It is reasonable to say that the opencast operations have been the cause of a great deal of disturbance and concern for many local people, and it remains (for the meantime) the cause of significant visual blight on the surrounding area. Clearly, the extent of these impacts would far outweigh those expected to arise from the proposed development, but nevertheless it will still be the cause of some disturbance to the local environment, at a time when local residents were expecting disruptive operations in the area to come to a stop. My concern is that the ten year timescale of the proposal, on top of the nine year opencast operation may be an unfair burden on local residents and the environment.
- 6.9 Arguably five years would be a more acceptable and reasonable timescale to endure. If at the end of five years, the applicant wishes to continue removing any remaining clay, they would be entitled to re-apply for permission. The Council would then have a clearer idea of the extent of the impact of the proposal and could either chose to grant permission (with revised conditions and a level of bond) or perhaps chose to refuse permission if the environmental impacts have been greater than anticipated. A decision to impose a five year restriction would also be consistant with the Council's recent decision at the "Morningside" opencast-site,

although recognising that circumstances in that instance were not exactly the same as the proposal under examination.

6.10 The applicant has reacted strongly to a suggestion of a five year restriction, and has submitted a letter in support of granting permission for the full ten years. The main points raised in the letter are as follows:

- (a) Clay is clearly the lifeline of brick factories and the control of long term supplies is imperative
- (b) The planning application and proposed operations are under the full control of Istock
- (c) The proposed operation relates to a long term investment at Tannochside (involving substantial sums of money) and this requires the guarantee of a ten year supply of clay
- (d) A five year permission would result in either the imposition of undue financial constraints on the company, or the worst possible scenario of plant closure
- (e) Comparison with the Morningside site is unfair, for various reasons including
 - It has no dedicated user and is being touted in the marketplace, whereas the proposed site and material would be under the strict control of Istock
 - It will result in a low deep void and is close to a primary school, unlike the proposed development which is on above ground facility with no void after completion

7. CONCLUSIONS

- 7.1 As noted above, I have no objections to the principle of removing the clay stockpile from this site. My key concern lies in what may be seen as the excessive timescale of ten years particularly given the lengthy and unfortunate history of opencast operations at Mossband Farm.
- 7.2 In assessing this application, I believe that the main points to be weighed up are the extent of environmental impact set against a ten year timescale against the benefits to the economic viability of a significant local employer.
- 7.3 Clearly, I would not wish to see harm done to the viability of the Tannochside factory, but in this instance, given the particular circumstances of the site, the proposal and site history, I feel I must give more weight to the local residents and environment. By recommending approval for a five year period, Istock will still be availed of the clay supplies, but the Council will have the opportunity of reviewing the situation in a reasonable timescale.
- 7.4 Finally, I would remind the Council that if planning permission is approved, consent would not be issued until a Bond of Caution to an appropriate value had been delivered by the applicant.