<table>
<thead>
<tr>
<th>Application No:</th>
<th>S/04/01837/FUL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Registered:</td>
<td>19th October 2004</td>
</tr>
<tr>
<td>Applicant:</td>
<td>B &amp; S Hill</td>
</tr>
<tr>
<td></td>
<td>Woodypoint</td>
</tr>
<tr>
<td></td>
<td>Bonkle</td>
</tr>
<tr>
<td></td>
<td>Newmains</td>
</tr>
<tr>
<td></td>
<td>ML2 9QF</td>
</tr>
<tr>
<td>Development:</td>
<td>Continued Use of Railway Siding and Alterations &amp; Upgrading of Access</td>
</tr>
<tr>
<td>Location:</td>
<td>Land At</td>
</tr>
<tr>
<td></td>
<td>Chapel Rail Siding</td>
</tr>
<tr>
<td></td>
<td>Wishaw</td>
</tr>
<tr>
<td></td>
<td>Lanarkshire</td>
</tr>
<tr>
<td>Ward:</td>
<td>16 Newmains</td>
</tr>
<tr>
<td></td>
<td>Councillor David McKendrick</td>
</tr>
<tr>
<td>Grid Reference:</td>
<td>282990 654632</td>
</tr>
<tr>
<td>Contrary to Development Plan:</td>
<td>No</td>
</tr>
</tbody>
</table>
Consultations:
Leisure Services (Comments)
Scottish Environment Protection Agency (Comments)
Scottish Water (No Objections)
Scottish Power (Comments)
British Gas (No Objections)
Railtrack Scotland (No Response)

Representations:
70 Letters of Representations

Newspaper Advertisement: 27 October 2005

Recommendation: Grant Subject to the Following Conditions:-

1. That the development hereby permitted shall be started within five years of the date of this permission
   
   **Reason:** To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.

2. The applicant shall give the Planning Authority at least 7 days written notice of their intention to commence works.
   
   **Reason:** In order that the Planning Authority can make appropriate arrangements to monitor the operation.

3. That operations on the site, for which planning permission is hereby granted, shall take place only between the hours of 8am and 7pm on Mondays to Fridays and 8am and 1pm on Saturday, excluding public holidays, unless otherwise agreed in writing with the Planning Authority.
   
   **Reason:** In the interests of residential amenity.

4. That before the development hereby permitted starts, full details of the design and location of all fences and walls to be erected on the site shall be submitted to, and approved in writing by the Planning Authority and this shall include measures to prevent unauthorised access to the site.
   
   **Reason:** To enable the Planning Authority to consider these aspects in detail.

5. That before the development is hereby brought into use the recommendations contained in the Dust Assessment Dated 17.05.05 by Vibrock Ltd shall be implemented, for the avoidance of doubt these relate to the following matters:
   
   a) The haulage road shall be finished in a tarmac or similar surface and maintained in a clean condition;
   
   b) Signs shall be erected indicating that vehicular speed on the haul road shall be restricted to 15mph;
   
   c) All vehicles using the site shall have exhausts facing away from the ground; and
   
   d) Water spraying equipment shall be retained on site to ensure that the haul road and coal stocking area are sprayed as required according weather conditions.

   **Reason:** In order to minimise noise and dust resulting from the development, in the interests of the surrounding residents.

6. That a dust monitoring and sampling programme shall be carried out regularly, as part of the site operations. The sampling shall be carried out in accordance with a method and at positions agreed in writing with the Planning Authority, prior to the site operations commencing.

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

7. That the results of the dust monitoring programme, carried out under the terms of condition (6) above, shall be made available on request to the Planning Authority.

Reason: In order to allow the Planning Authority the opportunity to retain effective control over operations, in the interest of the amenity of surrounding residents.

8. That if the Planning Authority deem there to be any adverse increase in dust levels affecting land or residents in the vicinity, due to the site operations, those site operations responsible for the increase shall be suspended, until such times as the agreed dust measures have been implemented to the satisfaction of the Planning Authority.

Reason: In order to protect the amenity of the surrounding residents.

9. That all vehicles entering the site carrying coal 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.

10. That before the development hereby permitted starts, full details of the location and design of the surface water drainage scheme to be installed within the application site shall be submitted to and for the approval of the Planning Authority, and for the avoidance of doubt the scheme requires to be approved by the Scottish Water and the Scottish Environment Protection Agency in terms of their principles of Sustainable Urban Drainage Systems.

Reason: To safeguard the amenity of the area, to prevent groundwater pollution and to ensure that the proposed drainage system complies with the latest SEPA guidance.

11. That notwithstanding the details shown on the approved plans no approval is hereby given for the proposed culvert at the Auchen Water and before any development commences a revised flood risk assessment report shall be submitted to and approved in writing by the Planning Authority and this report shall confirm that the proposed culvert, or a modified design of culvert, will not have any adverse impact upon the predicted flooding levels at, or the SUDS system indicated on the approved plans for, the adjacent housing development to the north east of the proposed stocking area.

Reason: In order to ensure that the proposals do not have an adverse impact upon the adjacent development.

12. That no development shall commence until a scheme of protection for otters has been agreed in writing and implemented to the satisfaction of the Planning Authority and this shall include fencing on both sides of the road at the proposed culvert.

Reason: In order to safeguard this protected species.

13. That the noise emissions at the nearest noise sensitive properties from the activities at the site shall not exceed 10dB above the background levels stated in the Vibrock Assessment of 18.02.05.

Reason: In order to safeguard the amenity of the surrounding residents.

14. That the working method and plant and equipment used at the site shall accord with those detailed in the Assessment of Environmental Noise dated 08.08.05 by Vibrock Ltd, unless otherwise agreed in writing by the Planning Authority.
Reason: In order that the Planning Authority can retain effective control and to limit the impact of the development on surrounding properties.

15. That the only vehicular access to the site shall be from the existing site access at Morningside roundabout on the A71.

Reason: In order to protect the amenity of surrounding residents.

16. That only coal shall be transported to and from this site and no more than a total of 60 lorry movements (i.e. 30 in and 30 out) shall take place in to and out of the site each working day and no more than 2 trains shall enter and leave the site each working weekday day and no more than 1 train shall enter and leave on any working Saturday. Detailed records of vehicular and train movements shall be retained by the site operators and shall be made available on request to the Planning Authority.

Reason: In order to protect the amenity of surrounding residents.

17. That before development commences on site a scheme of landscaping and planting for the site shall be submitted to and approved in writing by the Planning Authority, in particular this shall include measures to screen the activities on site from the adjacent housing.

Reason: To enable the Planning Authority to consider these aspects in detail.

18. That the scheme approved under the terms of condition (17) above shall be completed within the planting season following the commencement of this development and any trees or shrubs that die, are removed, damaged or become diseased within five years of the implementation of the scheme shall be replaced within the following year with others of a similar size and species.

Reason: In order to minimise the visual impact of the development.

19. That following the commencement of the development, if the site becomes abandoned or operations cease for more than 1 year then the haul road and stocking yard shall be removed and site shall be restored to a grassed surface to the satisfaction of the Planning Authority within the following planting season.

Reason: In the interests of the amenity of the area and of surrounding residents.

20. That no artificial lighting shall be installed at the site unless otherwise agreed in writing by the Planning Authority.

Reason: In order to protect the amenity of surrounding residents and to minimise the impact of the development upon its rural, green belt setting.

Background Papers:

Application form and plans received 14th September 2004
Memo from Local Plans Section received 1st November 2004
Memo from Transportation Manager received 25th January 2005
Memos from Geotechnical Team Leader received 5th and 9th November 2004 and 1st November 2005
Memos from Head of Protective Services received 16th November 2004, 23rd August and 6th October 2005
Memos from Leisure Services received 5th November 2004, 27th April and 14th September 2005
Letters from Scottish Environment Protection Agency received 10th January, 10th March, 5th September and 6th October 2005
Letter from Scottish Water received 10th November 2005
Letter from Scottish Power received 5th November 2004
Letter from British Gas received 29th October 2004
Letter from Scottish Power received 6th October 2005
Letter from Mr J Yaqub, 230 Morningside Road, Newmains, ML2 9QS received 18th September 2004.
Letter from Andrew Smith, Morningside Residents Association, 117 Morningside Road, Wishaw, ML2 9QN received 21st October 2004.
Letter from Gail Samson, Auchterview, Morningside Road, Morningside, Newmains, ML2 9QS received 1st November 2004.
Letter from Ann Costello, 22 School Road, Morningside, Wishaw, ML2 9QW received 3rd November 2004.
Letter from M Macfarlane, 209 Morningside Road, Newmains, Wishaw, ML2 9QN received 3rd November 2004.
Letter from Harry Costello, 22 School Road, Morningside, Wishaw, ML2 9QW received 3rd November 2004.
Letter from Alan Steel, 28 School Road, Morningside Village, Newmains, Wishaw, ML2 9QW received 4th November 2004.
Letter from Allan Mooney, 38 School Road, Morningside, Wishaw, ML2 9QW received 4th November 2004.
Letter from Deborah Mooney, 38 School Road, Morningside, Wishaw, ML2 9QW received 4th November 2004.
Letter from John Martin, 43 School Road, Morningside, Wishaw, ML2 9QW received 8th November 2004.
Letter from Angela Martin, 43 School Road, Morningside, Wishaw, ML2 9QW received 8th November 2004.
Letter from Mrs S J Agnew, 32 School Road, Morningside Village, Wishaw, ML2 9QW received 8th November 2004.
Letter from Helen Flannigan, Newmains Hammers Group, 6 Claire Street, Newmains, ML2 9DT received 8th November 2004.
Letter from David Wilson, Newmains And District Gala Day, 92 Abernethy Road, Newmains, Wishaw, ML2 9NB received 8th November 2004.
Letter from Patrick Mearns, West Crindledyke Advisory Services, 191 Tiree Crescent, Newmains, Wishaw, ML2 9JA received 8th November 2004.
Letter from Margaret Hughes, 2 Brown Street, Newmains received 8th November 2004.
Letter from Catherine Donnelly, Newmains Action Group, 2 Calder Avenue, Newmains received 8th November 2004.
Letter from Eileen Prater, 46 School Road, Morningside, Wishaw, ML2 9QW received 8th November 2004.
Letter from Scott Mcllvaney, 46 School Road, Morningside, Wishaw, ML2 9QW received 8th November 2004.
Letter from BANCEP Ltd, Bonkle Day Care Project, Church Halls, Church Road, Bonkle, ML2 9QG received 8th November 2004.
Letter from Mr Ron Banks, Willowbank, Mill Road, Morningside, Wishaw ML2 9QR received 9th November 2004.
Letter from Michael S Banks, Willowbank, Mill Road, Morningside, Wishaw ML2 9QR received 9th November 2004.
Letter from Elspeth Banks, Willowbank, Mill Road, Morningside, Wishaw ML2 9QR received 9th November 2004.
Letter from Mary And John O’Brien, 62 Park Drive, Newmains, Wishaw, ML2 9DG received 9th November 2004.
Letter from Owner/Occupier, 30 School Road, Morningside, Newmains, ML2 9QW received 9th November 2004.
Letter from Alyson Kain, 30 School Road, Morningside, Newmains, ML2 9QW received 9th November 2004.
Letter from Charles F. Young, 15 Holding, Cathburn Road, Morningside, Newmains, ML2 9QL received 9th November 2004.
Letter from Josephine Steel, 28 School Road, Morningside, Newmains, ML2 9QW received 15th November 2004.
Letter from Mr W S Macfarlane, 209 Morningside Road, Newmains, ML2 9QN received 15th November 2004.
Letter from Mr Paul Linden, 7 Mill Road, Morningside, Newmains, ML2 9QR received 17th November 2004.
Letter from Mrs L Linden, 7 Mill Road, Morningside, Newmains, ML2 9QR received 17th November 2004.
Letter from Mr John Smyth, 297 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from H M Smyth, 297 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from Janey Hislop, 299 Morningside Road, Newmains received 17th November 2004.
Letter from Mary Hislop, 299 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from John Hislop, 299 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from Robert Kelly, 301 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from Mary McPherson, 326 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from G McPherson, 326 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from I Davidson, 327 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from G Davidson, 327 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from Paul Martin, 333 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from Peter Dobson, 333 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from M Dobson, 333 Morningside Road, Morningside, Newmains received 17th November 2004.
Letter from Tom Young, Newmains And District Community Council, 7 Braedale Place, Newmains received 17th November 2004.
Letter from Mr Andrew Smith - Chairman Morningside Residents Association, 117 Morningside Road, Morningside, Wishaw, ML2 9QN received 18th November 2004.
Letter from Mr Andrew Smith, 117 Morningside Road, Morningside, Wishaw, ML2 9QN received 19th November 2004.
Letter from Mrs Margaret Lang, 40 School Road, Morningside, Newmains received 23rd November 2004.
Letter from Alan Steel, 28 School Road, Morningside Village, Newmains, Wishaw ML2 9QW received 2nd December 2004.
Letter from J Young, Newmains Community Advice Centre, 54 Abernethyn Road, Newmains, Wishaw, ML2 9NB received 2nd December 2004.
Letter from Alan Steel, 28 School Road, Morningside Village, Newmains, Wishaw, ML2 9QW received 20th December 2004.
Letter from Mr Mark Halligan, 20 School Road, Morningside Road, Morningside, Wishaw ML2 9QW received 22nd December 2004.
Letter from Mr Patrick Dougan, Chairman, Woodlands Residents Association, 64 Murray Crescent, Newmains, received 3rd February 2005.
Letter from Mrs Tracey Stone, 8 Cathburn Holdings, Morningside, Wishaw, ML2 9QL received 15th February 2005.
Letter from Paul Hughes, 17 Newton Drive, Newmains, Wishaw, ML2 9DB received 24th February 2005.
Letter from Alcath Tenants And Residents Association, Mary Sheehan, Secretary, Newmains Advice Centre, 54 Abernethyn Road, Newmains, Wishaw, ML2 9NA received 4th March 2005.
Letter from Robert Cooper, 10 Aitken Close, Newmains, ML2 9BJ received 21st March 2005.
Letter from Alan Steel, 28 School Road, Morningside Village, Newmains, Wishaw, ML2 9QW received 18th March 2005.

Letter from Mr And Mrs M McNeill, Glenellen Cottage, Chapel Road, Bogside, Wishaw ML2 9QT received 31st January 2005.

Any person wishing to inspect these documents should contact Mrs Lorna McCallum at 01698 302090.
1. Description of Site and Proposal

1.1 This application seeks full planning permission for a rail freight terminal at Chapel by Morningside, Newmains. The site lies to the north of the rail terminal that was installed and used in conjunction with the former Watsonhead opencast coal site at Morningside but would utilise the remaining track that served the previous site. Access to the site already exists from Morningside roundabout and this would be extended and fully surfaced. The development includes the formation of a large hardstanding as a stocking area adjacent to the track. The applicants originally indicated that they were seeking permission to utilise the site for the transportation of any freight. Following public concern raised over this issue they have confirmed that they now propose to restrict the materials to be transported to coal only. They have indicated that initially the site would serve the proposed Badallan Farm and Headless Cross opencast coal sites and that traffic from those would come via the A71 to Morningside. There is no indication of the source of materials if these sites do not proceed or when they are completed. They have indicated that the coal would be brought into the site using 28 tonne sized HGV’s, the coal would then be deposited onto the stocking area where it would be moved and then loaded onto incoming trains by a tractor type machine. It is anticipated that 30 HGV’s would visit the site per day giving a total of 60 vehicle movements and 2 trains per weekday and one on Saturdays would visit the site. The hours of operation requested are 7:00am to 7:00pm Mondays to Fridays and 7:00am to noon on Saturdays.

1.2 The bulk of the site is grassland with a small amount of scrub woodland. Residential properties lie to the east, south-east and south west of the site. The closest residential property is Glenellen Cottage which lies 10 metres from the site boundary at its southern corner. The recently constructed housing at School Road lies approximately 50 metres from the closest part of the site boundary. Individual houses within the southern part of Morningside village lie to the east of the site approximately 40 metres from the closest point. Herdshill Bed & Breakfast lies about 130 metres to the west of the site. To the west of the site is the McKindless bus garage and to the north west of the site, beyond the Auchter Water, lies the former Costains works and a mix of industrial and business uses at the edge of Newmains. To the north of the site lies the Auchter Water and areas of woodland. A large site with outline permission for 200 houses and that is currently subject of a detailed planning application for 273 houses lies to the east of the site, the closest part of that site to this one is 70 metres.

1.3 As part of the application the applicants have submitted a noise assessment and following concerns over noise levels have also submitted a further amended assessment, which will be discussed later in this report. It should be noted that this assessment is based on the layout and operations proposed, any future changes to these could have implications for the noise regime at the site.

1.4 The site lies within an area that has a long history of mineral extraction and industrial use as detailed on the front page of this report. The site is adjacent to the former rail terminal used as part of the Watsonhead opencast coal site and shares the same rail line. The previous rail terminal is now disused as the coal extraction at the Watsonhead site is complete and discussions are taking place over the restoration of that site.
2. **Development Plan**

2.1 Strategic Policy 9 - Assessment of Development Proposals in the Glasgow & Clyde Valley Structure Plan applies in this case. On the Central Industrial Area Part Development Plan the site is designated as Greenbelt and Land for Railway Purposes. On the Southern Area Local Plan Finalised Draft (Modified 2001 & 2004) the site is within an area covered by Policy ENV 6 Green Belt.

3. **Consultations and Representations**

3.1 Pollution Control Team Leader – Raised concerns at the predicted noise levels from certain activities proposed within the site and the hours of operation. A further noise assessment has since been submitted. There are now no objections subject conditions to secure the dust mitigation measure proposed and to mitigate noise. It should be noted that they recommend that the start of activities be restricted to no earlier than 8.00 am.

3.2 Geotechnical Team Leader: no objections subject to a condition requiring further assessment of the impact of the proposed culvert.

3.3 SEPA – Have indicated that they have some concerns about the proposals. They were particularly concerned about the width of the proposed culvert at the crossing of the Auchter Water and requested that more environmentally friendly alternatives to gabion baskets at the Auchter Water be considered and they indicated that insufficient information has been submitted in relation to flood risk. Revised plans have been submitted and SEPA now have no objections subject to conditions as indicated at paragraph 3.2 above.

3.4 Transportation Team Leader – No objections so long as the existing access is used as the main access to the site.

3.5 Community Services – Have raised some concerns at the use of a culvert rather than a bridge. They have asked that the part of the site that includes an area of wetland next to the Auchter Water be excluded. They also ask that an area of dismantled railway line be retained as it forms a good public access link to the former Wasonhead opencast coal site. They also recommend a 10 metres stand off from the Auchter Water at the north west of the site. They are concerned that the impact of the development has not been fully taken into account by the applicant. They recommend that ground modelling be utilised between the siding and the proposed new housing and around the stocking area to minimise visual and audible intrusions. Any planting should be similar to that to be used in the adjacent restoration proposals. The development cuts off an area of ecological diversity adjacent to the Auchter Water, this is poor practice and footpath and wildlife corridors should be created across the development to link these discrete areas.

3.6 Scottish Power and Transco have no objections but indicate that they have plant in the vicinity of the site. Scottish Water has no objections.

3.7 A total of 70 letters of representation (excluding duplicate copies) have been submitted in respect of this application, 60 of which are opposed to the development and 10 in support. The letters of objection include representations from 4 Newmains residents groups and the Morningside residents group. The letters of support include representations from the Newmains Action Group and 4 community groups. A request has been made for a site visit and hearing.

3.8 The points of objection can be summarised as follows:
a) The development is too close to housing, a nursing home and a primary school. It will adversely affect the amenity of surrounding residents and pupils due to pollution from noise, dust, fumes etc. It will lead to loss of the human right to enjoy one's property. It will also cause overshadowing. The proposed operational hours are unacceptable.

b) The submitted plans are inaccurate, as they do not show the recently constructed housing adjacent to the site.

c) The proposals will increase traffic in the area adversely affecting the safety of the public. In particular they note that Newmains is already congested and no increase in traffic through the village is acceptable. They also indicate that there are no off site road works planned to prevent traffic from the site going through Morningside and that there is no way of enforcing the indicative routes. The development will lead to damage and subsidence to existing roads in Newmains and Morningside. It will also lead to mud on the public road and increase accidents. It will worsen existing problems relating to drainage and infrastructure caused by past opencast coal developments. No guarantees can be given over vehicular routes to the site.

d) The development will have an adverse impact on the landscape and the natural environment including the local wildlife and animals at a nearby pet business. It will also lead to a loss of trees and a local opportunity for informal access and recreation. Wildlife displaced by the nearby opencast site will be again displaced before those sites have been restored. No proposals for inclusion of biodiversity/habitat surveys and mitigation are included.

e) The previous site is not yet restored. This development should not be allowed to continue to use the rail facility as it should have been removed and was granted to HJ Banks not the current applicant. There is no justification for the continued use of this facility especially as the village has significantly expanded since the previous consent was granted.

f) The development will not benefit the people of Morningside and will only benefit the applicants. There are little or no employment benefits.

g) There will be a risk of ground instability at surrounding houses as a result of the heavy vehicle movements.

h) The proposal is contrary to Council policies including ENV 6 Green Belt and Strategic Policy 9. NPPG 16 says that such developments should not take place adjacent to a community.

i) The proposals will result in continued disturbance from sequential and cumulative effects from other operations that adversely affect the village of Morningside.

j) There is lack of details over the exact nature of the development, as the impacts can, therefore, not be fully assessed the application should be refused. Full details and an Environmental Impact Assessment should be supplied.

k) The unlimited duration proposal means that the impact of the development is unknown particularly as the long-term source of the materials is not specified.

l) If the Badallan site is not certain to proceed permission should be refused. The site is also not the closest rail facility to Badallan. As Badallan is only a 3 years consent why is a permanent consent being sought here?

m) Conditions will fail to ensure adequate protection. The Council has failed in the past to monitor and enforce conditions in the area. The activities proposed will be difficult to monitor especially as the Council has a lack of resources.

n) There is a likelihood of the development being modified at a later date to include unacceptable developments such as a tower or to change the route of vehicles.

o) A similar proposal was refused by West Lothian Council; this should be similarly refused.

p) An alternative site exists at Mossend; this should be used instead.

q) The perception of the area will change and properties will be reduced in value. It will also discourage investment in the area.

r) Compensation should be paid to the local community.

s) It is argued that the development would lead too undue stress on local residents, that it would be morally wrong for the Council to grant permission due to the potential impact on
residents and that unless health guarantees can be provided that the Council must refuse
this application.

t) It is questioned if the applicants have contracts with other companies wishing to use the
rail facility and if the have the permission of the appropriate rail authority.

3.9 The points made in support of the application may be summarised as follows:

a) The development would eliminate coal lorries travelling through Newmains and surrounding
villages. This is particularly important given the congestion in the area and recent
developments and planning permissions granted.

b) If permission is not granted it would result in increased heavy goods traffic going through
Newmains.

c) Access to the site bypasses Morningside.

d) The development would result in minimal inconvenience to Newmains and would provide
possible employment for locals.

e) The Scottish Office provided funding for the refurbishment of the rail terminal.

4. Planning Assessment and Conclusions

4.1 In terms of the assessment of the Glasgow and Clyde Valley Joint Structure Plan the proposal is
not of strategic significant under the categories set in Schedule 9 therefore the application
requires to be assessed against the local plan policies.

4.2 On the Central Industrial Area Part Development Plan the site is designated as Greenbelt and
Land for Railway Purposes. Given that this plan is significantly out of date the proposal should
be assessed against the Southern Area Local Plan Finalised Draft (Modified 2001& 2004). On
the draft local plan the site is within an area covered by Policy ENV 6 Green Belt. Policies TR 2
(Environmental Impact of Transport),TR 3 (Rail Services and Infrastructure), TR13 (Assessing
the Transportation Implications of Development) and HSG 8 (Established Housing Areas) are all
of relevance to this application.

4.3 Policy ENV 6 indicates that the Council will safeguard the character and function of the Green
Belt and that there will be a presumption against development unless it is associated with
agriculture or another appropriate rural use. Although it is introducing a permanent non-
agricultural use to the green belt in this case the development proposed is not considered to
adversely affect the nature or principles of the Green Belt. It also involves the reuse of a semi
derelict site that was formerly used for mineral and industrial purposes including railway lines.
Conditions are proposed requiring screen landscaping at the site and requiring approval for any
additional plant at the site. It is therefore considered that the proposed development will not
adversely affect the character and function of the Green Belt.

4.4 Policy TR 2 indicates that the Council seeks to reduce the environmental impact of transport
including the promotion of more sustainable modes of transport. The proposal supports this
policy.

4.5 Policy TR 3 seeks improvements to the area’s railway infrastructure and services. The
application involves works to improve railway infrastructure for freight and is consistent with this
policy.

4.6 Policy TR 13 requires when considering applications for new development, to consider various
criteria including the impact of traffic generated on the environment and adjoining land uses and
the impact upon traffic circulation and road safety. As indicated above the Transportation Team
Leader is satisfied with the proposals so long as the existing access is used. Furthermore the
proposals will lead to a reduction in coal transported by road. The development is therefore considered to comply with this policy.

4.7 Policy HSG 8 does not apply to the site but is relevant in that it seeks to protect established housing areas. In this case, given that the traffic impacts on the road network are considered to be acceptable, the main considerations are noise and dust from traffic and activities within the site and the visual impact of the development upon the surrounding residential properties. The Pollution Control Team Leader is satisfied that subject to conditions to ensure the implementation of noise and dust mitigation measures, to set maximum noise levels and to restrict working hours, the development is acceptable. The adverse visual impact of the development can be reduced with appropriate landscaping. The applicants are the current owners of the adjacent land that is due to undergo restoration including woodland planting. This should eventually lessen the visual impact of the proposals. In addition it is recommended that suitable conditions be imposed to require additional planting and to ensure its long-term maintenance in order to protect the amenity of surrounding residences and to improve the landscape setting of the development. I also consider it to be necessary to impose conditions so that the permission is adequately restricted to ensure that any changes to the proposals can be assessed and approved by the Planning Authority in order to safeguard the impact of the development the residents. So long these protection measures are put in place I am satisfied that the development meets the requirements of this policy.

4.8 SPPP 17 "Planning for Transport" indicates that land use planning should reduce the need to travel and encourage greater use of sustainable transport modes. The aims of the guidance include reducing traffic congestion and pollution. Support is given for freight servicing by rail to reduce lorry miles on the road network. The guidance does, however, indicate that sites for freight transfer should be assessed with consideration for residential areas and other sensitive environments. It is considered that the reuse of the existing rail siding to form a permanent facility for coal transportation would be in keeping with the principal aims of SPP17. The application has been considered in terms of the potential impact upon the neighbouring residential properties and as indicated in paragraph 4.7 above the development is considered to be acceptable.

4.9 In terms of the consultation responses, as indicated in paragraphs 4.6 and 4.7 above, conditions can be imposed to cover the matters raised by the Transportation Team Leader, Community Services and Pollution Control. Revised plans have been submitted relating to the matters raised by SEPA. These have been considered by SEPA and the Geotechnical Team Leader and they now have no objections subject to conditions requiring further assessment of the impact of the proposed culvert.

4.10 In response to the points of objection raised above I would respond as follows:

a) The issues of noise, hours of operation, dust and loss of amenity are addressed at paragraphs 4.7 and 4.8 above. The Pollution Control Team Leader has raised no concerns over fumes being an issue in relation to the proposals. There will be no overshadowing from the development as no structures or buildings are proposed.

b) The submitted plans are satisfactory to identify the application site. The existing housing has been included in the noise assessment and taken into account in the consideration of this application.

c) It is not possible to say what the net impact will be in terms of traffic numbers on the local road network since the coal lorries visiting the site may well alternatively use these roads if permission is not granted for this development. The applicant seeks a permanent permission but understandably is only able to indicate the source of the coal for the initial period. The Transportation Team Leader is satisfied with the proposals. It is proposed to impose a condition limiting the number of heavy goods vehicles visiting the site but the routes of vehicles cannot be restricted.
The concerns raised by objectors and by Community Services in relation to ecological impact can be addressed by conditions. It should be noted that the only habitat survey requested by community services is for an otter survey. This has been done and the works to be undertaken on site will include the appropriate mitigation measures.

This application must be considered on its own merits and not in relation to the former HJ Banks rail terminal.

Lack of community or employment benefits are not material considerations.

The Geotechnical Team Leader has not identified potential ground instability from heavy vehicles as a concern.

As indicated above the application is not considered to be contrary to Strategic Policy 9 or local plan ENV 6. NPPG 16 relates to opencast coal and related developments. The current application is not a minerals development and does not require to be assessed under the terms of that policy guidance, the separation distances recommended relate to extraction sites. It should be noted that NPPG 16 and SPP16 "Opencast Coal" refer directly to SPP17 "Transport and Planning" and state that the Government wishes to see an increased tonnage of coal being moved by rail from as near as possible to extraction sites. SPP16 "Opencast Coal" indicates that movement by freight for all or part of the journey should be encouraged.

The issues of sequential and cumulative impact are difficult to quantify. Coal extraction at the Watsonhead opencast site at the village has ceased and the site is partially restored. The levels of disturbance from this site from noise, dust and blasting should now be significantly reduced. The current application requires to be considered on its own merits and given that, subject to conditions, the Pollution Control Section are satisfied with the predicted noise and dust emissions I do not consider there to be sufficient grounds to refuse the application on this basis.

The applicants have provided sufficient details to allow the application to be fully considered. Under the terms of the relevant planning regulations there is no requirement for an Environmental Impact Assessment to be submitted in respect of this application.

The applicant has requested a permanent permission for the use of the site as a rail freight terminal but has offered to have the materials transported to be limited to coal only. I am satisfied that conditions to address noise and dust should allow the impact of the development to be controlled. Should the applicant seek to alter the materials to be transported an amended application would be required. I do not consider that there are reasonable grounds to limit the permission to a temporary permission particularly given the level of investment involved.

The applicants have indicated that they hope to transport coal from the Badallan site but also intend to transport coal from other sites. It would not be reasonable to refuse this application because the permission has not yet been issued for Badallan. Members may recall that the Badallan application was approved subject to a Section 75 Agreement, negotiations are currently taking place on this matter.

As indicated above I am satisfied that conditions can render the impacts of the development acceptable. Previous enforcement cases are not relevant to the consideration of this application. It should, however, be noted that the concerns regarding past enforcement are largely related to the Watsonhead site and its associated rail terminal. The Council has been pursuing this matter with the developers and is currently considering what action is appropriate.

The route of vehicles to the site on public roads cannot be controlled by planning conditions. I propose to include a condition requiring approval for the installation of any additional plant at the site; for any changes to the tractor type vehicles that the noise assessment based upon; any changes to the layout or activities at the site and numbers of HGVs visiting the site. This should ensure that the impact of the development does not alter from that predicted.

The decision by West Lothian Council on a similar development is not relevant to this case.

The existence of the site at Mossend should not preclude permission being granted for the current application. This application must be considered on its merits.
q) Property values and potential loss of investment are not material planning considerations.

r) There is no legislative requirement for compensation to be paid to residents.

s) As the Pollution Control Section finds the application acceptable subject to conditions the concerns over health cannot be supported.

t) The contractual arrangements and the need for permission from other parties are not material planning considerations.

4.11 In response to the comments made in support of the application I would comment as follows:

a) The approval of this application would not eliminate coal lorries from travelling through Newmains and the surrounding villages. Should the operators of the Badallan site choose not to transport the coal via Breich to the M8 at junction 4 and use the application site the coal lorries would not require to travel beyond the site through Newmains. The application seeks permission to transport coal in general terms. If approved this could potentially increase the number of coal lorries travelling through Newmains. Since the source of the coal is not known the number and routes of vehicles cannot be confirmed. As mentioned at point (n) above, the routes cannot be controlled by planning conditions but a condition is recommended limiting the number of vehicles to that proposed.

b) If permission is not approved it does not necessarily mean an increase in the number of coal lorries travelling through Newmains. As indicated above the lorries from Badallan may go via West Lothian.

c) Access to the site from the A71 to the site avoids Morningside Village, however, I would reiterate that the use of public roads cannot be restricted.

d) No details have been provided of employment levels associated with the development other than it is indicated that one person would be employed full time at the site to move the coal and load the trains.

e) I can confirm that the Scottish Office did provide funding for the installation of the rail terminal developed for the Watsonhead opencast site. This application would see the retention and reuse of the track that was installed.

5. Conclusions

5.1 This application is in keeping with the policies contained in the draft local plan and with the guidance contained in SPP17. The matters raised by consultees can be addressed by conditions. Many of the concerns raised by objectors in relation to the nature and location of the development can also be addressed by the conditions recommended to control future activities at the site, to address noise, dust and visual impact. Although this application carries a significant weight of objections from local residents I find there to be insufficient grounds to warrant the refusal of permission in this instance.