

## **PROPOSED COMMS LINES for Environmental Impact Assessment Screening Direction for Alterations To Approved Plans For Energy To Waste Processing Building, former Shanks & McEwan site, Coatbridge, North Lanarkshire**

### **Lines to take**

- *The Scottish Government has issued a 'screening direction' that this is Schedule 1 development requiring an Environmental Impact Assessment (EIA).*
- *The EIA Regulations allow the Scottish Ministers to make a screening direction of their own volition, and this supersedes the terms of the Council's screening opinion and previous correspondence from the Scottish Government.*
- *As this relates to a planning appeal currently before the Scottish Government, Ministers/officials cannot comment on the specifics of the planning appeal as that could prejudice the outcome of the decision making process on the appeal. Any future correspondence regarding this proposal should be directed to DPEA .*

### **Background**

This screening direction relates to a current planning proposal for variations to an approved application for an Energy from Waste building at Carnbroe, near Coatbridge. There is a long planning history to the site. North Lanarkshire Council previously refused the initial planning application but it was subsequently granted by Ministers, under delegated power by a DPEA reporter, in 2011. The Council then appealed that decision to the Court of Session and were unsuccessful in their challenge.

This proposal is now before DPEA on appeal <http://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=118658> as the Council refused the application in April 2018. Ministers have recalled this appeal and will be taking the decision.

In terms of screening for whether EIA is required, North Lanarkshire Council issued a screening opinion on 9<sup>th</sup> February 2018 (ref: 18/00169/EIASCR) stating that EIA was not required – for the modifications to their approved permission. A third party, [REDACTED], then asked SG/Ministers in February 2018 to issue a screening direction to determine whether an EIA was required. Ministers declined that request, advising [REDACTED] on 2 May 2018, that Ministers were satisfied the issues raised did not call into question the validity of the view reached by the planning authority that an EIA was not required. An EIR request from that party followed and correspondence regarding the matter was released. It has since become clear, based on legal advice, that [REDACTED] for EIA purposes. This being clear the development is therefore Schedule 1 development requiring an EIA. The EIA Regulations (7(4)(a)) allow Ministers to make a screening direction of their own volition.

The screening opinion from the Council states that –

*While the entire development qualifies as a Schedule 1 development and an Environmental Impact Assessment (EIAs) is required in every case for a Schedule 1 development, the current proposal is for an amendment to the consented planning application. The original planning application included an EIA, therefore a new EIA is required (under section 24 of Schedule 1 of the 2017 EIA regs) if the change or extension itself meets any thresholds set out in the schedule, in this case an increase in the capacity exceeding 100 tonnes per day. As the current proposal is for an increase of 24,000 tonnes per annum this equates to 65 tonnes per day and as such falls below the threshold set out in schedule 1.*

The EIA Regulations are clear that the Scottish Ministers must not grant planning permission for EIA development unless an EIA has been undertaken. The Regulations are also clear that Schedule 1 development is EIA development.

The Council has screened out this application, but their conclusion was based on a misconception that the developer could submit an application only for the modifications to the original planning permission. Had the application been approved by the planning authority the result would have been permission being granted for the whole development, which is schedule 1 development without an EIA. Such a decision would be in breach of the European Directive.

Given this, there is a risk that any future decision of the Scottish Ministers to grant planning permission for EIA development without an EIA could be successfully challenged.

It is expected that the reporter will request the appellant to submit an EIA.

**From:** [REDACTED]

**Sent:** 26 September 2018 14:15

**To:** [REDACTED]

[REDACTED]

**Subject:** PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

**Importance:** High

For your attention. A copy of this Direction will be sent to [REDACTED] at DPEA.

[REDACTED] | Planning & Architecture | Scottish Government [REDACTED]

**Attachment below**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
PLANNING APPEAL: ALTERATIONS TO APPROVED PLANS FOR ENERGY FROM WASTE (EfW)  
PROCESSING BUILDING (PLANNING PERMISSION REF. 09/00675/FUL) ON LAND AT FORMER  
SHANKS & McEWAN SITE, 251 GLASGOW AND EDINBURGH ROAD, COATBRIDGE  
SCREENING DIRECTION**

The Scottish Ministers have revisited the terms of their letter of 2 May 2018 and have subsequently determined to issue the following screening direction in relation to the above proposed development.

**SCREENING DIRECTION**

The Scottish Ministers, in exercise of the powers conferred on them in terms of regulation 7(4)(a) of the Town and Country Planning (Environmental Impact Assessment (Scotland) Regulations 2017 (“the 2017 Regulations”), hereby direct that the above mentioned proposed development, being development of a description mentioned in Schedule 1 of the 2017 Regulations, is EIA development within the meaning of, and for the purposes of, the 2017 Regulations.

In terms of regulation 6(3) of the 2017 Regulations this direction supersedes the terms of the Council’s screening opinion and it supersedes our previous letter regarding screening of this proposal dated 2 May 2018.

**Statement of reasons**

The main reason for the Scottish Ministers’ conclusion that the above proposed development is EIA development is that the proposed development is development described in paragraph 10 of Schedule 1 to the 2017 Regulations and as such is Schedule 1 development within the meaning of the 2017 Regulations. As it is Schedule 1 development it is also EIA development within the meaning of, and for the purposes of, the 2017 Regulations.

Regulation 28 of the 2017 Regulations puts a duty on the planning authority to make a copy of this screening direction available for public inspection.

A copy of this Screening Direction and statement of reasons has been sent to the appellant - North Lanarkshire Bio Power Ltd, the planning authority – North Lanarkshire Council, and [REDACTED] – an interested party.

26 September 2018  
Scottish Government  
Directorate for Local Government and Communities  
Planning and Architecture Division: Planning Decisions  
Victoria Quay  
EDINBURGH  
EH6 6QQ  
PPA-320-2125

**From:** [REDACTED]  
**Sent:** 26 September 2018 14:20  
**To:** [REDACTED]  
[REDACTED]

**Cc:** [REDACTED]  
[REDACTED]  
**Subject:** FW: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG  
**Importance:** High

For your attention and for posting on your web page. I have stored a copy on your objective file.

**From:** [REDACTED]  
**Sent:** 26 September 2018 14:15  
**To:** [REDACTED]  
[REDACTED]  
[REDACTED]

**Subject:** PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG  
**Importance:** High

For your attention. A copy of this Direction will be sent to [REDACTED] at DPEA.

[REDACTED] | Planning & Architecture | Scottish Government | [REDACTED]

**ATTACHMENT BELOW**

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Regulation 28 of the 2017 Regulations puts a duty on the planning authority to make a copy of this screening direction available for public inspection.

A copy of this Screening Direction and statement of reasons has been sent to the appellant - North Lanarkshire Bio Power Ltd, the planning authority – North Lanarkshire Council, and [REDACTED] – an interested party.

26 September 2018  
Scottish Government  
Directorate for Local Government and Communities  
Planning and Architecture Division: Planning Decisions  
Victoria Quay  
EDINBURGH  
EH6 6QQ  
PPA-320-2125

**From:** [REDACTED]

**Sent:** 15 August 2018 17:34

**To:** [REDACTED]

**Subject:** FW: EIA Third Party Screening Direction Request - Energy from Waste Processing Building, Land at former Shanks & McEwan, Carnbroe, Coatbridge, North Lanarkshire

[REDACTED]

See below email from [REDACTED] which I mentioned on the phone. This is now a recalled appeal and will come to Ministers for a decision.

[REDACTED] and I each looked at this at the time. My understanding is that this wasn't determined under S42 but was a further application for planning permission for a changed development by the new developer.

NLC in their screening opinion considered it to be below the threshold for Schedule 1 dev and screened it as schedule 2 development, concluding that EIA was not required. In coming to this conclusion, (to summarise), they considered that an EIA was carried out for the development which already has planning permission, and that the changes proposed to the scheme were not in themselves deemed to be of a scale and complexity which would merit further EIA.

We were comfortable with this as the EIA Circular, sets out that development which comprises a change or extension requires EIA only if the change or extension is likely to have significant environmental effects (determined through the screening process).

I note our decision letter (declining to issue a screening direction) is on DPEA's website as part of the appeal docs. So reporters will consider this point.

Grateful if we could have a chat to see if we need to investigate further and take any action in light of [REDACTED] comments. My plan of action is to liaise with [REDACTED] then go back to [REDACTED]

Thanks

[REDACTED]

**From:** [REDACTED]

**Sent:** 07 August 2018 16:51

**To:** [REDACTED]

**Subject:** RE: EIA Third Party Screening Direction Request - Energy from Waste Processing Building, Land at former Shanks & McEwan, Carnbroe, Coatbridge, North Lanarkshire

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**From:** [REDACTED]

**Sent:** 19 April 2018 16:19

**To:** Minister for Local Government and Housing <[MinisterLGH@gov.scot](mailto:MinisterLGH@gov.scot)>

**Cc:** Cabinet Secretary for Communities, Social Security and Equalities <[CabSecCSSE@gov.scot](mailto:CabSecCSSE@gov.scot)>;  
Cabinet Secretary for the Environment, Climate Change and Land Reform <[CabSecECCLR@gov.scot](mailto:CabSecECCLR@gov.scot)>;  
DG Education, Communities & Justice <[DGECJ@gov.scot](mailto:DGECJ@gov.scot)>; DG Economy <[DGEconomy@gov.scot](mailto:DGEconomy@gov.scot)>;

[REDACTED]

[REDACTED] Solicitor to the  
Scottish Government and PS <[DLCCCVSSG@gov.scot](mailto:DLCCCVSSG@gov.scot)>; [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Communications CSSE <[CommunicationsCSSE@gov.scot](mailto:CommunicationsCSSE@gov.scot)>;  
Communications Rural Economy & Environment  
<[CommunicationsRuralEconomy&Environment@gov.scot](mailto:CommunicationsRuralEconomy&Environment@gov.scot)>; [REDACTED]

[REDACTED]

[REDACTED]

**Subject:** EIA Third Party Screening Direction Request - Energy from Waste Processing Building, Land at former Shanks & McEwan, Carnbroe, Coatbridge, North Lanarkshire

## **PS/Minister for Local Government and Housing**

### **ENVIRONMENTAL IMPACT ASSESSMENT (EIA) SCREENING DETERMINATION, ENERGY FROM WASTE (EFW) PROCESSING BUILDING, LAND AT FORMER SHANKS & MCEWAN, CARNBROE, COATBRIDGE, NORTH LANARKSHIRE, ML5 4UG**

#### **Purpose – to note for information/general awareness**

##### **Purpose**

1. For the Minister to note that we intend, unless otherwise advised, to decline a third party EIA Screening Direction request (whether an EIA is required or not) in relation to the above. This proposal was raised as a topic by Monica Lennon MSP at the Member's Business Debate on 14 March.

##### **Procedures**

2. Where a third party submits information to Ministers suggesting a proposed development requires EIA, even though neither the planning authority nor the applicant



takes that view, that information should be considered on a case by case basis, in light of the 2017 EIA Regulations. The correspondence from the third party has to indicate they have seriously considered the basis on which an EIA might be needed, and offers relevant grounds for the request. In each case the test to be applied is whether the issues raised give rise to a real risk that the planning authority's assessment was not, and does not remain, valid.

## **Background**

3. The proposed development is for variations to an approved application for an Energy from Waste (EfW) plant. The initial application was submitted in July 2009, recommended for approval by North Lanarkshire Council (NCL) planners in February 2010 but rejected by committee in April 2010. The applicant subsequently appealed to Scottish Ministers and appeal was allowed in May 2011. The Council then lodged an appeal to Scottish Ministers and the appeal was allowed in May 2011. The Council then lodged an appeal to the Court of Session which was refused in June 2013.

4. NLC on this occasion have concluded that an EIA is not required as the principle of an EfW plant has already been established at the site and has undergone EIA. In their assessment North Lanarkshire Council concluded that the proposed changes to the Energy from Waste plant are not considered to be significant enough that it requires another EIA to be carried out. Subsequently, a member of the public has written to Scottish Ministers saying that they disagree with this decision and request that Scottish Ministers issue a screening direction as to whether it requires an EIA or does not, even though neither the planning authority nor the applicant takes that view.

## **Conclusion**

5. Having considered all the information in light of the 2017 EIA regulations, (assessment report attached), we propose to decline to issue a direction in this case, explaining that; interpretation of the EIA regulations is a matter for the planning authority in the first instance, and that - in this particular case - Ministers are *'satisfied that the issues raised do not call into question the validity of the planning authority's assessment that EIA is not required'*. An Assessment report is attached which contains further information.

## **Sensitivities/Presentation**

6. EIA casework is not routinely put to the Minister. However, as this particular proposal was raised at the Member's Business Debate on 14 March it was thought appropriate to bring this case to the Ministers attention for information.

## **Recommendation**

7. We propose to decline to issue a direction in this case, explaining that Ministers are satisfied that the issues raised do not call into question the validity of the planning authority's assessment that EIA is not required.

Regards

██████

██████████ | Senior Planner | Planning & Architecture | Scottish Government | ██████████

General Planning Decisions enquiries should be directed to: [planning.decisions@gov.scot](mailto:planning.decisions@gov.scot)

## ATTACHMENT BELOW

Planning Assessment

EIA-NLS-077

### **THIRD PARTY EIA SCREENING REQUEST DETERMINATION**

**18/00180/AMD: Alterations to approved Plans for Energy from Waste (EfW) processing Building (planning permission ref. 09/00675/FUL) incorporating a reduction in the footprint of the building, changes to the design of the building, an increase in the height of the ventilation stack to 80m, an increase in the gross energy output to 27Mw, an increase in the throughput of waste fuel to 204,000 dry tonnes per annum (an increase of 24,000 tonnes) and associated access improvements to the junction with the A8. Land At Former Shanks & McEwan 251 Glasgow And Edinburgh Road Coatbridge North Lanarkshire ML5 4UG**

### **PROPOSED DEVELOPMENT**

1. The proposed development is for variations to an approved application (including plans) for an Energy from Waste (EfW) processing plant (09/00675/FUL). The initial application was submitted in July 2009, recommend for approval by North Lanarkshire Council planners in February 2010 but rejected by committee in April 2010. The applicant subsequently appealed to Scottish Ministers and the appeal was allowed in May 2011. The Council then lodged an appeal to the Court of Session which was refused in June 2013.
2. The proposed variations seek to increase the efficiency and capacity of the consented EfW plant through the introduction of a different gasifier technology that represents a 'Best Available Technology' approach and will increase the capacity of the power output from the plant from (22.6MW to 27MW). This as a result has consequential impacts on the annual tonnage of waste material to be treated for (180,000 to 204,000 tonnes p.a equivalent to 558 tonnes p.d). This has meant that whilst reducing the overall footprint of the building, there will be an increase in both the height of the building and the ventilation stack.

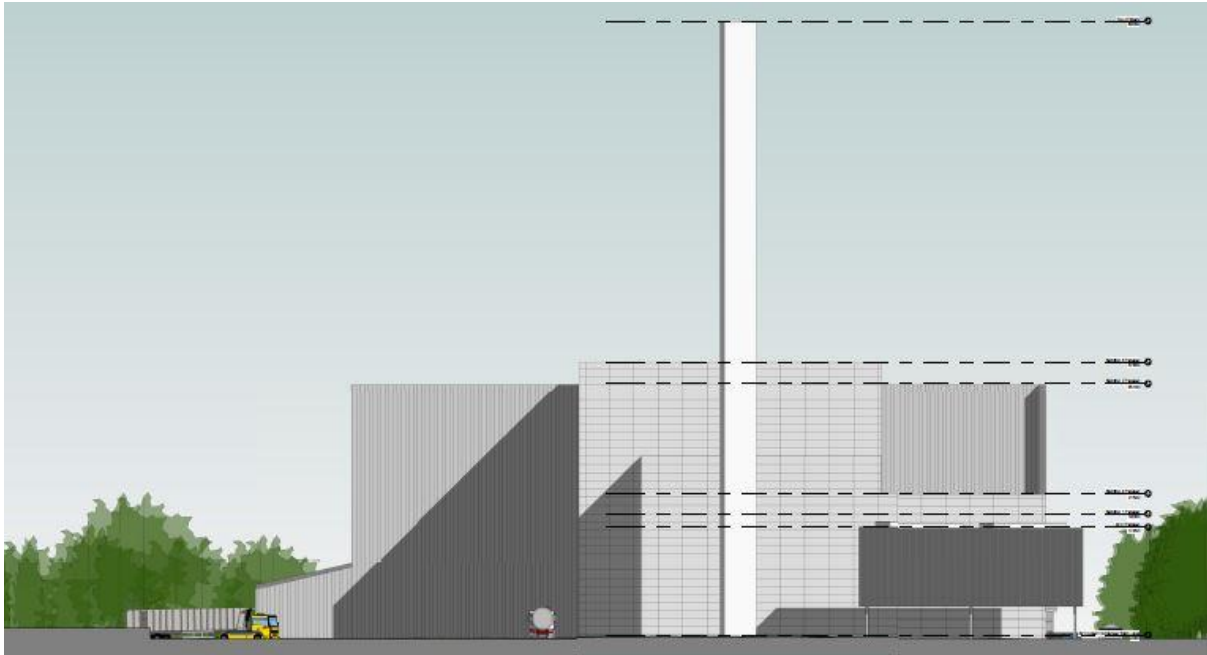


Figure 1 - Proposed Development Design supplied by Developer

## BACKGROUND

3. A third party is seeking a screening direction from Scottish Ministers as a result of North Lanarkshire Council in their screening opinion (18/00169/EIASCRC) on 9 February 2018 stating that an Environmental Impact Assessment (EIA) was **not** required. The third party raises a number of concerns. Namely; that the development qualifies for an EIA in its own right as it is neither a change or extension, it utilises different technology, is a different design, has revised access arrangements and a considerably higher ventilation stack. As a result, it should require an EIA.
4. In arriving at their decision, the Council have highlighted that planning permission had already been granted for an EfW plant at this site which underwent EIA. Therefore, the Council carried out a screening opinion to determine if the proposed changes being made to this scheme should result in a further EIA.
5. The Council determined in their screening opinion that as the original planning application included an EIA, a new EIA would be required if the change or extension itself meets any thresholds set out in the schedule. In this case, if there was an increase in the capacity exceeding 100 tonnes of non-hazardous waste per day. The proposed changes to the scheme will result in an increase of 65 tonnes per day. Therefore, it falls below the threshold set out in Schedule 1.
6. The Council then considered that the development falls within the following thresholds and criteria for disposal of waste under Schedule 2 of the EIA regulations, section 11(b):
  - a) The disposal is by incineration
  - b) The area of the development exceeds 0.5ha; or
  - c) The installation is to be sited within 100 metres of any controlled waters

7. The Planning Circular 1/2017 highlights that 'development which comprise a change or extension requires EIA only if the change or extension is likely to have significant environmental effects'. In arriving at their decision that an EIA was not required, North Lanarkshire Council considered the criteria set out in Schedule 3 of the EIA Regulations. Namely; the characteristics of the development, the location of the development and the characteristics of the potential impact.
8. Overall, North Lanarkshire Council concluded that after taking into account the nature and scale of the proposed changes to the consented development, the impact of these changes are not considered to be significant and therefore considered that a detailed study through EIA was not required.

## LOCATION OF SITE

9. The site is located adjacent to the A8 trunk road to the east of the built up area of Coatbridge and to the west of Carnbroe. Recently, a Planning Permission in Principle (PPiP) application (15/01792/PPP) has been approved for 400 dwellings, local retail provision, community and healthcare provision and associated roads and infrastructure to the east of site.



Figure 2 - Site Location (google maps)

## CONSULTEE RESPONSES

10. SNH have not objected to the application subject to the developer carrying out pre-constructions checks that could be undertaken through the standard planning application process.
11. SEPA in a previous response dated 6 November 2018 on the Council's portal objected to the proposed development on a number of grounds. However, a more recent response dated 5 March 2018 highlights that SEPA have now removed their objection to this application after receiving additional information from the applicant and are of the opinion that the proposed development is potentially consentable.

12. The Council's internal Environmental Health Officer has not objected to the application subject to a number of conditions that can be undertaken through the standard planning application process.
13. The Council's internal Greenspace Development team have stated they await the results of the Phase 1 and Protected Species Survey before commenting any further.
14. As of 12 April 2018 the Health and Safety Executive have not yet submitted their consultation response yet.

## **ASSESSMENT**

### **ENVIRONMENTAL IMPACTS**

15. The Planning Circular 1/2017 states that the relationship between a proposed development and its location is a crucial consideration and that for any given development proposal, the more environmentally sensitive the location, the more likely it is that the effects will be significant and will require an EIA.
16. The proposed development is not located within or adjacent to any of the following prescribed designations within the EIA Regulations as can be seen in the image below.
  - Sites of Specific Scientific Interest (SSSI)
  - Land Subject of Conservation Orders
  - International Conservation Sites
  - National Scenic Areas
  - World Heritage Sites
  - Schedule Ancient Monuments
  - National Parks

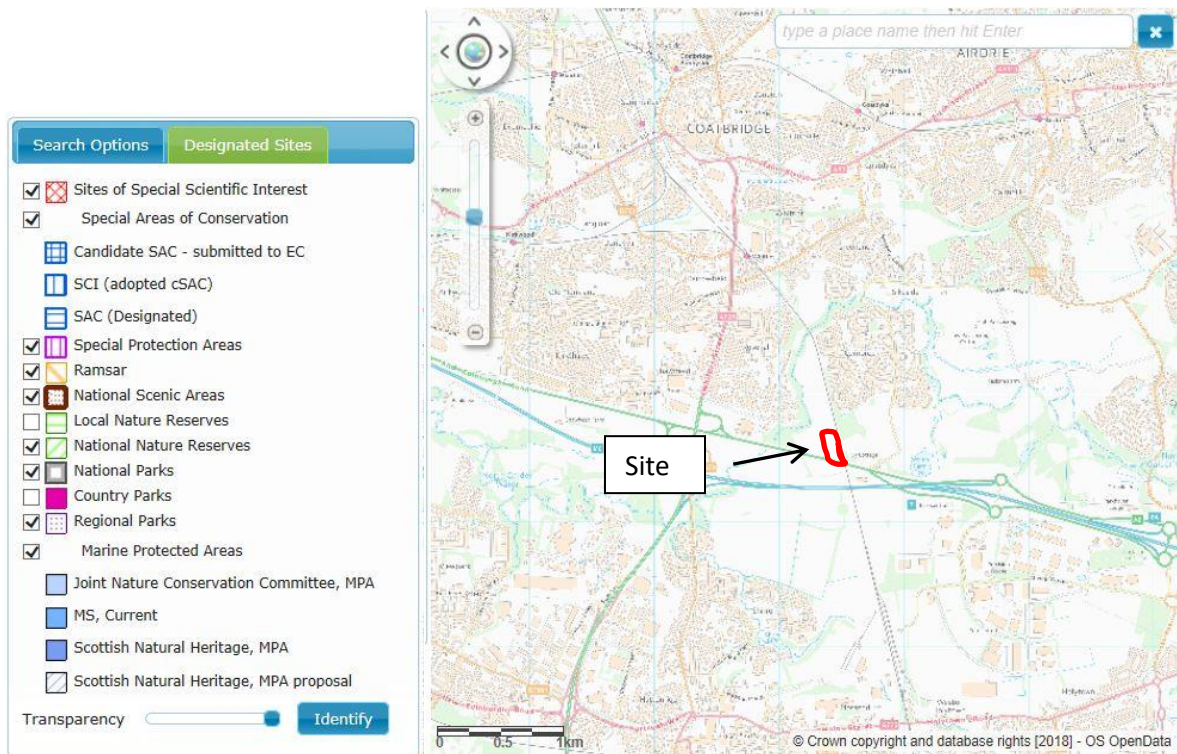


Figure 3 - Designated Areas Map (SNH)

17. SEPA had originally objected that the applicants Ecological/Habitats assessment used a screening distance of 10km rather than 15km. This resulted in SEPA highlighting that the Hamilton High Parks SSSI and Longriggend Moss SSSI had not been considered in the assessment. However, in a later response dated 4 December 2017, SEPA withdrew this objection after the screening distance had been increased to 15km to take into account the two SSSI's, as it identified they were unlikely to result in any significant effect on the SSSI's arising from the proposed facility.
18. There is a locally designated Site of Interest to Nature Conservation (SINC) to the east of the proposed development. SINC's are a non-statutory local nature conservation designation. The Council's screening opinion identifies that this SINC has been designated to protect the riparian vegetation along the river to help support and protect local flora and fauna and they conclude that the proposed works are unlikely to have a detrimental impact on the SINC, other than minor works to the existing embankments to the North Calder Water to the south of the SINC so they can provide an outfall pipe from the SUDs basin.
19. As highlighted earlier, SNH have not objected to this application and although there is the potential for nuisance impacts on the SINC, mitigation can be secured through the standard planning application process. The Council also identify in their screening opinion that the site is not located near an area where environmental quality standards have been exceeded.
20. The site is not within close proximity to any listed buildings or scheduled monuments.
21. As a result, it can be concluded that the proposed development is not located in a sensitive location as defined within the EIA Regulations.

## CO-LOCATION IMPACT

22. Although the co-location impact of the proposed development was not specifically mentioned by the third party in their screening direction request, it is relevant. There is significant opposition towards the proposed development due to its close proximity to existing and proposed settlements.
23. It is important to acknowledge that the principle of the development has already been established previously and its effects considered through the EIA process. The reporters acknowledged in their May 2011 assessment (PPA-320-2011) that there is no doubt that the proposed development would give rise to atmospheric emissions both from road traffic and from the process activities from the facility. However, they highlighted that the Environmental Statement showed no unacceptable impacts on residential areas in the vicinity, of what would be a small scale EfW plant.
24. The reporters concluded that in short, all of the substantive evidence before them - led them to conclude that the development of the proposed waste management facility, situated some 200m from the nearest residence would not be detrimental to human health. Including that of children and adults living near to the site.
25. A further issue considered in this assessment was that a large number of representations to the Council were concerned that the emissions from the EfW plant have not been taken into account during the decision to approve the mixed use application which includes 400 dwellings. However, the Council's screening opinion highlights the developer took account of the extant planning permission for the EfW plant at the site in terms of the layout of the houses. Additionally, SEPA's consultation response in the committee report for the mixed use application (15/01792/PPP) identified that the EfW development would have a negligible impact on the proposed mix use development.
26. Overall, the principle of an EfW plant has already been established at this site and was the subject of an EIA, the proposed modifications to the development are not of an extent that the Council consider it would require a further EIA to be carried out.

## **OTHER ISSUES RAISED**

27. The third party in their screening direction request also highlighted that although the number of vehicle movements required has reduced, they will utilise larger vehicles. Additionally, the third party also raises concern that no junction analysis information has been provided in respect to the impacts at new Shawhead junction and the Carnbroe slip.
28. Transport Scotland have not objected to this application. The impact of any differences that may arise as a result of amendments to the proposal could be determined through the standard planning application process.
29. The third party also raises various issues regarding the way North Lanarkshire Council has handled the development management process for this proposed development. This is a matter for the third party to raise with the Council.
30. The third party also highlights that the proposed development will have a considerably higher ventilation stack. Increasing from 27m to 80m. SNH did not comment on the height of the ventilation stack as it falls below the threshold of their Service Statement for Planning and Development advice. The Council in their screening opinion highlight that the only substantive chance which may impact on the proposed residential development is the increase in the ventilation stack but concluded it is not of landscape or visual significance that would require an EIA.

31. SEPA also commented on the ventilation stack height in an earlier consultation response dated 6 November 2017 on the previous application (17/01578/AMD) before it was withdrawn, highlighting that the increase in stack height will assist with the dispersion of emissions. As a result, reducing the impact on receptors. Therefore, in this respect, SEPA stated that the proposed stack height increase is considered to potentially provide benefit.

## RECOMMENDATION

32. The Council consider that the proposed development is **not** likely to have significant environmental effects that warrant an EIA. The proposed development is not within or close to any designated sites as defined with the EIA regulations. The principle of the proposed development has already been established previously and its effects considered through the EIA process. The outcome of the previous assessment identified that the development of an EfW plant showed no unacceptable impacts on residential areas in the vicinity and that it not be detrimental to human health. SEPA also have withdrawn any objections to the proposed development and will closely monitor the site as part of the licence agreement for the site.
33. As highlighted in Planning Circular 1/2017, a change or extension requires EIA only if the change or extension is likely to have significant environmental effects. The Council have concluded that the alterations to the approved plant when considered in the context of the EfW plant as a whole are not of a significant extent that an EIA is required. Rather, any environmental issues could be considered through supporting information, submitted through the standard planning application process.
34. In conclusion, the correspondence from the third party does not bring into question the validity of the North Lanarkshire Council's screening opinion. It is therefore recommended that Scottish Ministers decline to issue a screening direction in this case.



**From:** [REDACTED]  
**Sent:** 27 September 2018 08:40  
**To:** [REDACTED]

**Subject:** RE: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

[REDACTED] No don't use that wording please. Just hold off just now.

[REDACTED] – I suggest something along the following lines taken from your comms line background. I think we need to address that we haven't issued a screening direction – is that correct? We've just declined to third part request which isn't the same thing??

I also note that he's specifically asking for a reports - do we also need to consider if this is an EIR request? He's not really asking for an explanation, his wording is asking for existing information. We could just go back saying we're treating this as a request for information and set out the process for that?

Happy to discuss before we go back to them.

[REDACTED]  
Thanks for your email.

We have not previously issued a screening direction for this case. On 9 February 2018 North Lanarkshire Council issued a screening opinion stating that EIA was not required for modifications to the approved permission. A third party then asked Ministers to issue a screening direction to determine whether EIA was required. Ministers declined that request, advising that they were satisfied the issues raised did not call into question the validity of the view reached by the planning authority.

*Not sure how to lead into how we then reassessed – is it along the following lines:*

As you know the case has now been appealed and we have looked again at the EIA. The Council screened out this application, but we consider that the proposed modifications to the original development cannot be considered in isolation for EIA purposes. We therefore, consider the development to be Schedule 1. As you will be aware, the EIA Regulations allow Scottish Ministers to make a screening direction of their own volition, and this supersedes the terms of the Council's screening opinion.

You will appreciate that as this is a live appeal case, we cannot comment on the specifics of the appeal any further. Any future correspondence regarding this proposal should be directed to DPEA.

**From:** [REDACTED]  
**Sent:** 27 September 2018 06:47  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG  
**Importance:** High

Have I to use the following lines on this request?

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**From:** [REDACTED]  
**Sent:** 26 September 2018 16:16  
**To:** [REDACTED]  
**Subject:** PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

[REDACTED]

As you may know I am advising the appellants in this case. My clients and I were very surprised to receive the ministers' revised screening direction.

I would be grateful if you would forward to me as a matter of urgency all of the information that ministers considered in taking this decision including any report addressing the legality of reversing the screening direction previously in place without consulting my clients.

I have a call with my clients at 11 AM tomorrow morning and if you were able to forward the information to me prior to then it would be greatly appreciated.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sent from my iPhone

**From:** [REDACTED]  
**Sent:** 01 October 2018 13:50  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

Thanks I'll ask [REDACTED] to issue.

**From:** [REDACTED]  
**Sent:** 01 October 2018 13:49  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

Yes – I think [REDACTED] draft is fine as a response to [REDACTED].

[REDACTED]

**From:** [REDACTED]  
**Sent:** 01 October 2018 13:09  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

[REDACTED]

Are you happy for this to go? We are being chased for a response. [REDACTED] draft looks fine to me.

**From:** [REDACTED]  
**Sent:** 01 October 2018 10:10  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Happy to discuss

[REDACTED]

[REDACTED]

Thanks for your email. The EIA Regulations allow Scottish Ministers to make a screening direction of their own volition. The EIA Regulations are clear that the Scottish Ministers must not grant planning permission for EIA development unless an EIA has been undertaken. The Regulations are also clear that Schedule 1 development is EIA development.

As stated in the screening direction, the current application relates to proposed development which is EIA development. The application is for planning permission for development described in paragraph 10 of Schedule 1 to the 2017 Regulations and as such is Schedule 1 development within the meaning of the 2017 Regulations. As it is Schedule 1 development it is also EIA development within the meaning of, and for the purposes of, the 2017 Regulations.

In screening out this development, the council had not identified that the application which is under consideration is an application for planning permission for development described in paragraph 10 of Schedule 1 to the 2017 Regulations.

Ministers had sufficient information to reach a determination and as the proposed development is Schedule 1 development there is no requirement to seek further information before making a screening direction.

You will appreciate that as this is now a recalled appeal before Scottish Ministers, that we cannot comment on the specifics of the appeal any further. Any future correspondence regarding this proposal should be directed to DPEA.

**From:** [REDACTED]

**Sent:** 28 September 2018 13:45

**To:** [REDACTED]  
[REDACTED]

**Cc:** [REDACTED]  
[REDACTED]

**Subject:** RE: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

[REDACTED]

See email at bottom of this exchange from [REDACTED], on behalf of the appellant for the proposed Carnbroe Energy from Waste building concerning the positive Screening Direction which has now been made.

Grateful if you could take a look at the proposed response and for any suggested edits before it issues.

Many thanks

Thanks

[REDACTED]

**From:** [REDACTED]  
**Sent:** 28 September 2018 13:36  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

Thanks [REDACTED]

It looks clear to me, but agree this needs to be run past [REDACTED] before we respond. I'm also copying in [REDACTED] for awareness re approach from [REDACTED]

[REDACTED] – to note that [REDACTED] are representing the applicant in relation to the recalled appeal for proposed energy from waste on land at former Shanks & McEwan site, where it has been necessary to revise our earlier position on whether the development is EIA development and where a positive screening direction has now been issued.

[REDACTED]

[REDACTED] | Planning Performance | Planning & Architecture | Scottish Government | [REDACTED]

[REDACTED]

 | [gov.scot](http://gov.scot)     [eDevelopment.scot](http://eDevelopment.scot)

**From:** [REDACTED]  
**Sent:** 27 September 2018 17:01  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

Look at this version please.

From: [REDACTED]

Sent: 27 September 2018 16:48

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: PPA-320-2125 Land at former Shanks & McEwan site, 251 Glasgow and Edinburgh Road, Coatbridge, ML5 4UG

[REDACTED]

See email from [REDACTED], on behalf of the appellant for the proposed Carnbroe Energy from Waste building concerning the positive Screening Direction which was made yesterday. Proposed response below for your comments please which is in the spirit of being helpful rather than asking him to request the information through the EIRs and it being exempt as based on legal advice. As it's from a solicitor, should we clear any response first with [REDACTED]?

Thanks

[REDACTED]

[REDACTED]

Thanks for your email.

On 9 February 2018 North Lanarkshire Council issued a screening opinion stating that EIA was not required for this development. A third party then asked Ministers to issue a screening direction to determine whether EIA was required. On 2 May 2018 Ministers declined that request advising that they were satisfied the issues raised did not call into question the validity of the view reached by the planning authority.

The application is now a recalled appeal before Ministers. It has become clear that the proposed modifications to the original development (which had been subjected to EIA) cannot be considered in isolation for EIA purposes. This being clear the development is therefore Schedule 1 development requiring an EIA. The EIA Regulations (7(4)(a)) allow Ministers to make a screening direction of their own volition.

The screening opinion from the Council states that –

*While the entire development qualifies as a Schedule 1 development and an Environmental Impact Assessment (EIAs) is required in every case for a Schedule 1 development, the current proposal is for an amendment to the consented planning application. The original planning application included an EIA, therefore a new EIA is required (under section 24 of Schedule 1 of the 2017 EIA regs) if the change or extension itself meets any thresholds set out in the schedule, in this case an increase in the capacity exceeding 100 tonnes per day. As the current proposal is for an increase of 24,000 tonnes per annum this equates to 65 tonnes per day and as such falls below the threshold set out in schedule 1.*

The EIA Regulations are clear that the Scottish Ministers must not grant planning permission for EIA development unless an EIA has been undertaken. The Regulations are also clear that Schedule 1 development is EIA development.

