

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 22 JANUARY 2010

**09/0526/PP: APPLICATION TO VARY PLANNING PERMISSION
97/0596/FL TO AMEND EXTRACTION LIMIT AT
SKARES ROAD OCCS, SKARES**

APPLICATION BY AARDVARK TMC LIMITED

Report by Head of Planning and Economic Development

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought to vary planning permission 97/0596/FL to amend the extraction limits within the site to allow the working of an estimated 67,000 tonnes of additional coal which will be worked over a period of 12 months. Restoration of the proposed extension area would be undertaken concurrently with the working of the Area 'D' extension previously approved as described above. The coal from the extended workings will continue to utilise the existing Skares Surface Mine coal processing area and site infrastructure as the existing operations.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated in Section 5 of this report, the application is considered to be generally in accordance with the Development Plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. However, these material considerations are also generally supportive of the proposed development.

3.2 The proposals represent the extraction of additional coals within the existing consented site at Skares Road, which in environmental terms is considered to present no significant additional adverse impacts and this is essentially borne out by the consultation process. There should be no

additional impact as the extraction of the resource can be undertaken with minimum impact on the visual amenity of the area.

3.3 It is considered that the proposal to extract an additional 67,000 tonnes of coal over a 12 month period will have no significant adverse effects on any local community. The proposal will not result in any breach of the required buffer distances promoted through the policies of the East Ayrshire Opencast Coal Subject Plan and it is considered that the extended operations can be undertaken within acceptable environmental standards.

3.4 The principle of opencast development in this area has already been established through the existing consent for the Skares Road site. It is considered that the proposals under the current application will have no significant additional impact on existing residential properties in the locality through noise, dust or vibration as this site is located in a remote location and the proposal is in general accordance with the existing permitted site operations.

3.5 The application will assist with continuing employment for 30 people directly in addition to the coal haulage and other sub-contractors.

3.6 The proposed development is consistent with policy and that there are no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved.

CONTRARY DECISION NOTE

Should the Committee decide to refuse the application contrary to the recommendation of the Head of Planning and Economic Development and for reasons other than the principle of the development, then there will be no requirement to refer the application to the full Council for consideration.

Alan Neish
Head of Planning and Economic Development

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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APPLICATION BY AARDVARK TMC LIMITED

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application for planning permission which is to be considered by the Local Planning Committee under the scheme of delegation because it is classed as a major development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 but does not represent a significant departure from the development plan.

2. APPLICATION DETAILS

2.1 **Site Description:** Skares Road Surface Mine is located on the outskirts of the village of Skares on the south side of the B7046 (Skares Road) approximately 4km south-east of Ochiltree and 5km south-west of Cumnock. The principal road access to Skares Surface Mine is off Skares Road, approximately 1.6 km west of Skares village.

2.2 The current application site relates to a total area of approximately 11 hectares which is located wholly within the existing operational Skares Road site boundary. The terms of the original planning permission (reference number CD/95/0254/MIN) have been varied on a number of occasions, such as the extension of operating hours and the extension of extraction areas. The most recent extension to the extraction area (known as Area 'D' extension - reference number 08/0752/FL) was approved by the Council on 7 August 2009.

2.3 Extractive operations commenced on site in 1998 and Condition (1) of planning permission CD/95/0254/MIN envisaged operations over a 12 year period. The site remains operational and over recent years has produced approximately 450,000 tonnes of coal per year, although this has reduced in recent years as reserves have been exhausted.

2.4 **Proposed Development:** Full permission is sought to vary planning permission 97/0596/FL to amend the extraction limits within the site to allow the working of an estimated 67,000 tonnes of additional coal which will be worked over a period of 12 months. Restoration of the proposed extension

area would be undertaken concurrently with the working of the Area 'D' extension previously approved as described above. The coal from the extended workings will continue to utilise the existing Skares Surface Mine coal processing area and site infrastructure as the existing operations.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development subject to the following conditions being attached to any planning consent:-

- The applicant will require to agree maintenance contributions, towards repair works to be carried out on the A70 and U728 public road haulage route between the site and Killoch, with the Roads Authority under Section 96 of the Roads (Scotland) Act 1984 and in line with the original Section 75 Agreement for the site due to damage caused by coal haulage traffic over previous years.
- The B7046 part of the haulage route is currently in good condition due to jointly funded maintenance and ATH have contributed in the past to patching repair work on the U728 Glenconner Road (2002 to 2009). The level of contribution expected from ATH would equate to 70% of the cost of any patching repair work identified (with East Ayrshire Council Roads Department contributing the remaining 30%). The amount of patching repair work required would be determined by an inspection survey to be carried out on the route with any work identified completed if possible during the Glasgow Fair holiday period (to suit the site shutdown in 2010). ATH's contribution is expected to be in the order of £0.04 to £0.06 pence per tonne.

The existing Section 75 Agreement for the Skares Road site makes provision for the recovery of extraordinary roads maintenance costs resulting from the haulage of coals on public roads. A condition can be attached to any consent granted for the carrying out of a joint inspection of transport routes to ascertain the level and costs of works required to bring these routes up to an acceptable condition.

3.2 The Scottish Environment Protection Agency objects to this planning application on the grounds of a lack of information, however, SEPA will be able to remove this objection if the issues detailed below are adequately addressed:-

- No hydro-geological assessment specific to this proposed extension area has been presented. SEPA therefore cannot confirm whether standard backfilling will be suitable or additional mitigation measures will be required in order to protect groundwater.

- We would therefore request that the risks associated with backfilling are assessed for this specific area prior to excavation works commencing in order that any necessary mitigation measures can be put in place.
- Quarrying activities have the potential to adversely impact groundwater. The planning application should outline what the proposed activities are for the site of excavation and what the potential impacts to the groundwater regime will be from these. Quarrying/mining activities have the potential to impact groundwater through such impacts as groundwater drawdown from dewatering/abstraction and groundwater rebound post dewatering/abstraction, backfilling operations and the use of potential contaminants on site. Any activity carried out on site that includes the use of potential contaminants such as the use of fuel/oil, or backfilling operations should be carried out in such a manner that pollution of the water environment does not occur.
- Mitigation measures should be proposed for any identified risks to ensure that pollution of the water environment does not occur from on site activities.
- If abstraction/dewatering is proposed details should be provided of how the dewatering will be managed and the amount of groundwater proposed to be abstracted for dewatering purposes and the timescale. Abstractions/dewatering are all activities covered by the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR) (as amended).

Conditions can be attached to any consent granted for the proposed development to meet the requirements of SEPA to ensure that appropriate further information is provided prior to works commencing on site, including agreement to any further mitigation measures as may be considered necessary. It is considered that this would address the conditioned objection by SEPA.

3.3 Scottish Natural Heritage originally objected to the proposal as submitted until the applicant demonstrated that the development will not be detrimental to the value of the natural heritage features involved, namely the local otter population and badgers at favourable conservation status (FCS) as required by the Habitats Regulations. After separate licence negotiations by SNH with the applicant, SNH has withdrawn its objection to the proposal.

Other matters raised by SNH during the consultation process which remain pertinent include:-

- Extension of the Protected Mammals Management Plan (PMMP) as approved by the planning authority as part of the conditions of the recently consented Skares Road Extension proposals

(planning application ref 08/0752/FL) to cover the additional impacts on protected mammals as a result of activities in the extraction site.

- Appropriate mitigation measures in the PMMP are undertaken as far as possible prior to ground clearance for extension of extraction.
- No tree felling, vegetation clearance, soil stripping should take place during the bird breeding season (March to July inclusive) unless with the approval of the planning authority.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of Scottish Natural Heritage.

3.4 Scottish Power Energy Networks, The Royal Society for the Protection of Birds and The West of Scotland Archaeology Service have no objections or comments to make on the proposed works/development.

3.5 Scotland Gas Networks, Cumnock Landward (Netherthird & District) Community Council, The Ayrshire Rivers Trust and Scottish Water have not responded to the consultation letter.

4. REPRESENTATIONS

4.1 There were no third party representations received in relation to this application.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (2007) and the Adopted East Ayrshire Opencast Coal Subject Plan (2003).

Ayrshire Joint Structure Plan

5.2 There are no specific policies with regard to opencast coal mining in the Ayrshire Joint Structure Plan (2007) although the plan states that the preferred areas for opencast coal extraction identified in the previous Structure Plan remain relevant.

The area of land in question lies within a Preferred Area of Search in that document.

East Ayrshire Opencast Coal Subject Plan

5.3 Policy MIN3 is pertinent to the application, the policy stating that, subject to detailed consideration, the Council will generally be supportive of any proposal to extend an existing operative opencast site within the Potential Coal Extraction Areas provided that all of the following criteria are met:

- (i) *that the proposed extraction operations are carried out as a sequential phase of development and not independently or in isolation from the extraction programme of the original approved site.*

Extraction will be carried out as a sequential phase of development of the overall Skares Road site.

- (ii) *that the extended operations utilise fully the facilities and site infrastructure serving the original opencast site.*

The development will utilise existing site facilities and infrastructure.

- (iii) *that the scale of operations, rate of extraction and number of vehicle movements generated by the extended site are commensurate with those as existing on the original site; and*

The scale of operations, rate of extraction and number of vehicle movements generated by the variation and extension are commensurate with those of the original Skares Road site.

- (iv) *that the proposed extension does not significantly prejudice plans for the restoration of the existing site.*

The proposed variation to amend the extraction limit will not significantly prejudice plans for the restoration of the existing Skares Road site. Restoration is ongoing and progressive, in line with the consents granted for the proposed development.

5.4 Policy MIN6: The applicant is required to provide information which indicates their understanding of the location of coal reserves in land surrounding the application site and information about their interest in any likely future extensions to current applications and sites in which they have an interest.

The applicant has provided information based on current knowledge of the geology of the area. In this regard, the applicant has recently submitted a planning application in respect of an area known as Netherton lying to the east of the existing operational Skares Road site.

5.5 Policy MIN 12: The Council will seek to ensure that a proliferation of opencast coal sites within close proximity to any one community or within one

particular area does not occur. In this context, any proposed new opencast developments may be considered to contribute to an unacceptable cumulative impact on the amenity of an area where that development would:

(i) *constitute a third approved or operative site within 3 Kms of each other or within a 3 Km radius of any particular community as indicated on the Opencast Coal Subject Plan Proposals Map; or*

(ii) *cause or exacerbate excessive adverse amenity and environmental disruption experienced by a community or group of dwellings from an existing operative site or from successive opencast operations over a total extraction period of 10 years; or*

(iii) *generate volumes of heavy traffic which taken together with the volumes of coal haulage vehicles already using the routes concerned, would cause unacceptable detriment to the amenity of any community or group of dwellings located along proposed haulage routes; or*

(iv) *result in an unacceptable accumulation of adverse impacts on international or nationally designated sites of nature conservation interest over time and place within a particular locality, or an accumulation of individual impacts which collectively have a significant adverse effect on the integrity of such areas.*

The proposed development is not a new site and is a variation to the approved scheme of working within the existing consented boundaries of the existing Skares Road site. It is considered that the proposal would not conflict with the provisions of policy MIN 12 with respect to the stated criteria.

5.6 Policy MIN 15: All developers are required to restore their operational sites progressively to the highest possible standards. Developers will be required to provide for the creation of new habitats appropriate to the particular after uses of the site concerned as an integral part of their detailed restoration and aftercare proposals.

The proposed extended area for extraction will be covered by the existing restoration proposals for the Skares Road site that will seek to deliver positive benefits in terms of habitat creation.

5.7 Policy MIN 18: The Council will strongly encourage opencast coal operators to utilise existing rail facilities for the transportation of coal which is not specifically destined for local domestic Ayrshire markets. The Council will also encourage the provision of a network of off-road haulage routes and covered conveyors linking opencast sites with any existing or proposed railhead for the transportation of extracted materials

Coal from the proposed extension will be transported along the existing agreed transport route via the B7046 and A70 to Killoch DP. The proposal is consistent with Policy MIN 18.

5.8 Policy MIN 19: All haulage of extracted materials between the area of excavation and the point of dispatch from the opencast site should be via internal haul roads only.

All coals won from the proposed extension area will be taken to the coal preparation area via internal haul roads.

5.9 Policy MIN 21: Expectation for potential opencast developers and their approved sub-contractors to enter into a Section 75 agreement with the Council:-

(i) to ensure the highest possible operational standards for the transportation of extracted minerals;

(ii) to ensure best operational practice regarding road safety and operational matters;

(iii) to agree, regulate and monitor the routes taken by coal haulage vehicles, the arrival of coal haulage vehicles, the dispatch of coal from the site and the numbers of haulage vehicles using the agreed haulage routes

(iv) to audit and record operational details of the transportation of coal on a regular basis; and

(v) to provide the Council with monitoring information regarding transportation and haulage of materials, breaches of protocol etc.

The Council is currently formulating with the co-operation of the opencast operators, a 'Transportation of Coal by Road Protocol' addressing the above issues to which existing and potential opencast operators and their approved sub-contractors will be invited to subscribe.

The existing Section 75 Agreement for the Skares Road site contains an obligation in respect of this matter.

5.10 Policy MIN 23: In order to ensure that opencast operations do not cause unacceptable disturbance and nuisance to residents of local communities, the Council is likely to consider opencast developments unacceptable where:

(i) a development has a boundary which encroaches within 500 metres of the community concerned.

The proposed variation to amend the extraction limit does not encroach within 500 metres of any settlement.

(ii) the proposal involves a substantial area for extraction over an extraction period in excess of 10 years.

Operations at Skares Road have been carried out over a period in excess of 12 years with operations having first commenced in 1997. However it is considered that the current proposal, with a coal extraction period of 12 months, will not result in any perpetuation of disturbance to a local community given the location of the site and its relative remoteness from local communities and the fact that the period of operations fall within the consented life of the current Skares Road site.

(iii) the proposal is likely to be the subject of repeated extensions, perpetuating disturbance to local communities for a period substantially longer than 5 years.

It is considered that the current proposal will not, in itself, result in perpetuation of disturbance to local communities.

5.11 Policy MIN 25: Any proposal to undertake any extraction operations or to locate operational areas relating to the storage, processing or dispatch of coal within 500 metres of any sensitive establishment, group of dwellings or individual dwellinghouses not in the ownership or under the control of the developer will only be entertained by the Council where the development can be fully justified by the developer in environmental terms and where all of the following criteria are met:

(i) the Council is satisfied that there are no objections which cannot be overcome through the expeditious use of conditions or planning agreements from residents, owners, tenants or occupiers of properties located within 500 metres of the proposed working face of the site;

There are no residential properties outwith the control of the applicant that lie within 500 metres of the working faces of the proposed extension site. The closest dwellings to the proposed extension area are at Whitesmuir, located approximately 1300 metres to the north-west of the proposed extraction area. Skares is the closest community to the extension area, being located approximately 1400 metres to the north.

(ii) the extraction or operational area does not encroach within 100 metres of any group of dwellings, individual dwellinghouse(s) or sensitive establishment concerned.

There are no residential properties outwith the control of the applicant that lies within 100 metres of the extraction or operational areas of the site.

5.12 Policy MIN33: The Council will, if mindful to grant planning permission for an opencast coal development and if considered appropriate, request an applicant to enter into an agreement with the Council under Section 75 of the Town and Country Planning (Scotland) Act 1997 in order to regulate, by

agreement, such matters as cannot adequately be regulated by the imposition of planning conditions.

The existing Skares Road opencast site is the subject of a current Section 75 Agreement.

5.13 Policies MIN34 and MIN35: Mineral Trust Fund contributions encouraged in respect of opencast operations to be used for community improvements. Submission of appropriate information on coal extracted from site.

The applicant is currently a contributor to the Mineral Trust Fund in respect of the existing Skares Road opencast site and would contribute in respect of this application.

5.14 Policies MIN36 and MIN37: Requirement for operators to lodge restoration bonds and requirement to fund aftercare schemes.

The existing Skares Road opencast site is subject to a Section 75 Agreement encompassing the above matters.

It is therefore considered that the proposed development is consistent with the relevant EAOCSP policies pertinent to this application.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

Consultation Responses

6.1 There are no consultation responses that would indicate that the application should be refused.

Scottish Planning Policy

6.2 Guidance on opencast coal extraction has been given in Scottish Planning Policy 16: Opencast Coal. Consistent with putting concern for the environment at the heart of policy, the Government seeks to apply a sustainable approach in determining where opencast coaling may take place.

6.3 Many of the provisions of SPP16 are already addressed within the adopted East Ayrshire Opencast Coal Subject Plan with regard to the proximity to local communities, repeated extensions, cumulative impact, natural and built heritage and the preference for rail transport. Nonetheless SPP16 indicates that Planning Authorities should use their development plans to identify areas where opencast coal extraction may be acceptable. There should be a presumption against development outwith these areas.

The proposed extension area of 11 hectares lies wholly within the existing operational Skares Road site. In terms of the EAOCSP,

existing operational sites were not included as potential coal extraction area, as they were already consented and operational. It is considered that the working of additional reserves within the existing sites is acceptable in these circumstances where it would present no significant additional adverse environmental impacts.

6.4 SPP16 also indicates that in applying the principles of sustainable development and environmental justice to opencast coal extraction, there should be a presumption against development unless the proposal would meet one of two tests:

(i) is the proposal environmentally acceptable or can be made so by planning conditions and agreements?

The consultation and policy assessment process indicates that the variation of the existing permitted excavation limits meets the first test.

(ii) does the proposal provide local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission?

It is considered that Test 2 is also met as the proposed variation to amend the extraction limit will provide local economic benefit through continued direct employment for ATH employees within the surface mining operations and provide further employment for hauliers directly employed or contracted in the haulage of coal from the site. Many of those employed are drawn from East Ayrshire and ATH will continue to utilise local sub-contractors, trades and small businesses in connection with the onward haulage, handling and disposal of the coal produced.

It is therefore considered that both tests are satisfied in assessing this proposal.

Planning Advice Notes

6.5 The proposed operations have also been designed to comply with the advice contained within Planning Advice Note 50: Controlling the Environmental Effects of Surface Mineral Workings, Annexes A, B, C and D.

Noted.

Planning History

6.6 The more relevant planning history of the Skares Road site and other relevant information is as follows:

(i) CD/95/0254/MIN: Winning and working of coal by opencast methods at Skares Road approved on 13 March 1997

- (ii) 97/0596/FL: Revised application for winning and working of coal by opencast methods at Skares Road approved on 15 May 1998.
- (iii) 00/0010/FL: Modification of Consent 97/0596/FL to allow a nightshift operation at Skares Road opencast site approved on 08 June 2000.
- (iv) 00/0685/FL: Proposed extension to existing landfill site in Area 'B' of Skares Road opencast site approved on 22 June 2001 subject to a Section 75 Agreement.
- (v) 01/0459/FL: Proposed modification of conditions 31 and 43 of consent 97/0596/FL to permit coal extraction beneath tips approved on 02 November 2001.
- (vi) 02/0691/FL: Proposed opencast coal mining with restoration to nature conservation uses at Hindsward approved on 07 April 2003.
- (vii) 04/0210/FL: Extension of coaling within existing site approved on 25 June 2004.
- (viii) 05/0446/FL: Proposed southern extension to Skares Road opencast approved on 03 October 2005.
- (ix) 08/0752/FL: Proposed Area 'D' extension to Skares Road opencast approved on 07 August 2009.

The Conservation (Natural Habitats, &c.) Regulations 1994

6.7 As indicated in the consultation response from SNH, concerns were raised regarding potential impacts on otters. Since the original consultation response SNH has undertaken discussions with the applicant in relation to licence applications for the disturbance of otters and their habitat. In this regard SNH has as a result of these discussions withdrawn its former objection to the proposal. The applicant has demonstrated that the development will not be detrimental to the value of the natural heritage features involved, namely the local otter population and badgers at favourable conservation status (FCS) as required by the Habitats Regulations.

Scottish Government interim guidance to planning authorities states that no planning decision may be made until the planning authority can assure itself that a licence may be forthcoming.

The interim guidance issued to planning authorities indicates that SNH is the main body to advise on whether the granting of a licence would be “detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range” and so be capable of meeting Test 3. SNH, in withdrawing its objection, suggests that the proposed development would not be detrimental to the

maintenance of the population of the species concerned at a Favourable Conservation Status in their natural range.

In this regard it is considered that for the reasons and justifications set out above it is a reasonable expectation that a licence would be granted and that in arriving at this conclusion the Council, as Planning Authority, has fulfilled the general requirement established under Regulation 3(4) to have regard to the provisions of the Habitats Directive, and in particular to the provisions of Articles 12 and 13 of the Directive and Regulations 39 and 43 of the 1994 Regulations.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in the determination of this application. As the application site lies wholly within the existing consented Skares Road site, approval of this application would not require any amendment to the existing Section 75 Agreement currently in force for the site. The proposed variation to amend the extraction limit would be bound by the same obligations contained within the existing Agreement.

8. CONCLUSIONS

8.1 As is indicated in Section 5 of this report, the application is considered to be generally in accordance with the Development Plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. However, these material considerations are also generally supportive of the proposed development.

8.2 The proposals represent the extraction of additional coals within the existing consented site at Skares Road, which in environmental terms is considered to present no significant additional adverse impacts and this is essentially borne out by the consultation process. There should be no additional impact as the extraction of the resource can be undertaken with minimum impact on the visual amenity of the area.

8.3 It is considered that the proposal to extract an additional 67,000 tonnes of coal over a 12 month period will have no significant adverse effects on any local community. The proposal will not result in any breach of the required buffer distances promoted through the policies of the East Ayrshire Opencast Coal Subject Plan and it is considered that the extended operations can be undertaken within acceptable environmental standards.

8.4 The principle of opencast development in this area has already been established through the existing consent for the Skares Road site. It is

considered that the proposals under the current application will have no significant additional impact on existing residential properties in the locality through noise, dust or vibration as this site is located in a remote location and the proposal is in general accordance with the existing permitted site operations.

8.5 The application will assist with continuing employment for 30 people directly in addition to the coal haulage and other sub-contractors.

8.6 The proposed development is consistent with policy and that there are no significant environmental or community concerns regarding the proposal. Consequently it is considered that the application should be approved.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee decide to refuse the application contrary to the recommendation of the Head of Planning and Economic Development and for reasons other than the principle of the development, then there will be no requirement to refer the application to the full Council for consideration.

Alan Neish
Head of Planning and Economic Development

12 January 2010
CG/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Adopted East Ayrshire Opencast Subject Plan (2003)
5. Approved Ayrshire Joint Structure Plan (1999)
6. Finalised Ayrshire Joint Structure Plan (2006)
7. Previous applications CD/95/0254/MIN, 97/0596/FL, 00/0010/FL, 00/0685/FL, 01/0459/FL, 02/0691/FL, 04/0210/FL, 05/0446/FL and 08/0752/FL.
8. SPP16: Opencast Coal
9. PAN50 and Annexes.

Any person wishing to inspect the background papers listed above should contact Mr Colin Graham on 01563 555482.

Implementation Officer: Dave Morris

Application No: 09/0526/PP

Location: Skares Road Surface Mine
Darntaggart Farm
Skares Road
SKARES
KA18 2RG

Nature of Proposal: Extension of extraction area within the current permitted site boundary

Name and Address of Applicant: Aardvark TMC Ltd
Aardvark House
Sidings Court
DONCASTER
DN4 5NU

Name and Address of Agent:

DPO's Ref: [Colin Graham]
PPO's Ref: [Hugh Melvin]

The above application for planning permission should be granted subject to the following conditions:

1. The proposed variation to the approved scheme of working of the proposed extension to the existing operational site shall be worked in complete accordance with the plans and supporting information received by the Council on 21 July 2009.

REASON – To ensure that the development is undertaken in accordance with the submitted plans and supporting information.

2. The proposed development hereby approved shall otherwise be undertaken in accordance with planning consent 97/0596/FL dated 15 May 1998.

REASON – To ensure continuity and consistency in operations carried out on site in terms of the consents granted at the Skares Road site.

3. Prior to commencement of works on site, there shall be a joint inspection survey carried out by the Roads Authority and the Applicant to establish baseline conditions in respect of extraordinary maintenance costs associated with the transportation of coal on public roads.

REASON – In the interests of road safety.

4. Prior to any works commencing on site, the applicant shall submit the following information in relation to hydrology and hydrogeology matters for the approval of the Planning Authority in consultation with the Scottish Environment Protection Agency:

(i) details of proposed mitigation measures to address the risks to the water environment and the likely impacts associated with acid mine drainage, contamination from backfilling, alterations to the groundwater recharge regime and impacts on groundwater quality;

(ii) details of any proposed dewatering and abstraction activities at this site, including the amount and quality of water to be abstracted, and an assessment of the likely impacts of these activities on sensitive receptors in the area and detailed proposals for mitigation;

(iii) suitable drawings showing that the top soil, boulder clay and overburden storage mounds and peat storage areas (if any) will be located away from sensitive receptors (e.g. watercourses) and that suitable measures will be adopted in order to prevent risks to the water environment; and

(iv) proposals for pollution prevention in respect of both surface and ground waters, taking also into consideration the advice in SEPA's Pollution Prevention Guide Notes as required.

REASON – In the interests of environmental protection and pollution prevention.

5. Any activities carried out on site involving the use of potential contaminants such as the use of fuel/oil, or back-filling operations, shall be carried out in such a manner that pollution of the water environment does not occur.

REASON – To prevent pollution of watercourses.

6. No tree felling, vegetation clearance, soil stripping should take place during the bird breeding season (March to July inclusive) unless with the prior written approval of the Planning Authority in consultation with the Skares Road Technical Support Group.

REASON – In the interests of nature conservation.

7. Prior to the commencement of works on site, the applicant shall submit to, and have approved by the Planning Authority, in consultation with SNH, an amended Protected Mammals Management Plan (PMMP) as

approved by the Planning Authority as part of the conditions of the recently consented Skares Road Extension proposals (Ref. No 08/0752/FL dated 07 August 2009) to:

- (i) address any additional impacts on protected mammals as a result of activities in the extraction site; and
- (ii) ensure that appropriate mitigation measures are undertaken as far as possible prior to ground clearance in the proposed extended excavation area.

REASON – In the interests of nature conservation.