

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 25 JUNE 2004

**04/0263/FL: PROPOSED VARIATION TO CONDITION 39 OF CONSENT
00/0793/FL TO ALLOW EXTENDED HAULAGE HOURS BETWEEN THE
EXCAVATION AREA AND THE COAL PROCESSING AREA
AT GREENBURN OPENCAST COAL SITE, NEW CUMNOCK**

APPLICATION BY KIER CONSTRUCTION LTD.

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Permission is sought for a variation to Condition 39 of the approved consent (Ref. No. 00/0793/FL) to allow for an extension to the haulage hours for coal transported from the excavation area to the coal processing and dispatch area within the Greenburn site.

Condition 39 states:

No haulage of coal from the extraction area to the coal preparation areas shall take place between 1800 and 0800 hours during the 24 hour working period

REASON: In the interests of the amenity of the area.

1.2 Under the original planning consent, it was anticipated that coals won from the Greenburn site would be hauled by truck from the excavation area on the western side of the U720 public road to the coal processing area located adjacent to the proposed railhead on the eastern side of this road. This necessitated coal haulage vehicles crossing the U720 road at a designated crossing point located approximately 200 metres north of Dalricket Bridge. The crossing point itself was to be controlled by automatic traffic signals. Based on the anticipated output from the site, there would be between 12 and 14 road crossings per hour between 0800 and 1800 hours.

1.3 The imposition of this condition was essentially to ensure that the movement of coal on public roads from the Greenburn Opencast site was consistent with standard conditions applied to mineral sites regarding haulage of material. This was considered to be appropriate in the interests of amenity and in this case, partly road safety given the proposed road crossing.

1.4 However planning permission was granted on 10 October 2003 for the construction of a vehicle underpass beneath the U720 road for the site vehicles as the applicant considered that this would provide a safer option for coal transportation whilst causing less disruption to both local road users and the coal haulage operations (Ref. No 03/0746/FL).

1.5 The underpass, now constructed, is located approximately 30 metres to the north of the current location of the previously approved crossing point on the U720 road and comprises twin tunnels, to allow site traffic flow in separated directions.

1.6 The applicant, in light of the provision of the new underpass seeks the variation of the condition to allow internal coal haulage movements to hours consistent with the operational hours of the coal processing and rail dispatch facility. The operational hours of the coal processing and dispatch facility are 0700 – 1900 hours Monday to Friday and 0800 – 1300 hours on a Saturday. In essence the applicant seeks to extend internal haulage hours by one hour earlier in the morning and one hour later in the evening Monday to Friday.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the condition on the attached sheet

3. SUMMARY OF ANALYSIS

3.1 As is indicated in Section 5 of the 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 as it is considered that the objections raised are either not of sufficient weight to justify refusal of the application or are not relevant to the proposal.

3.2 The provision of the new vehicle underpass on the U720 public road has avoided the need to provide a traffic light controlled crossing point on the public road, thereby removing the potential conflict of site traffic with general traffic on the public road and therefore improving on overall road safety. It was for amenity and road safety reasons that the movement of coal between the site excavation area and the coal preparation and dispatch facility was restricted to the standard hours of movement of coal on public roads.

3.3 With the provision of the vehicle underpass, the haulage of coal from the excavation area to the coal preparation and dispatch facility will be entirely internal to the site. Given that the hours of operation for the coal preparation and dispatch facility are currently 0700 – 1900 hours Monday to Friday, 0800 – 1300 hours on a Saturday, the restriction of internal haulage movements under the existing condition 39 is now somewhat anomalous to site operations.

3.4 Given the existing 24 hour operation generally within the Greenburn site, and the current operation hours of the coal preparation and dispatch facility, it is recommended that the internal haulage hours be amended to align with those of the coal preparation and dispatch facility. It is considered that there should be no significant detrimental impact through noise nuisance as a result of mitigation measures already in place for the Greenburn site. Furthermore conditions to control noise arising from site operations are already in place under the original planning consent for the site.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the development plan.

Alan Neish
Head of Planning, Development and Building Standards

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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**04/0263/FL: PROPOSED VARIATION TO CONDITION 39 OF CONSENT
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APPLICATION BY KIER CONSTRUCTION LTD.

Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation because it represents a variation to the approved scheme of working for an existing opencast site which is in accordance with the Opencast Coal Subject Plan and is subject to objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies approximately 5 kilometres west of New Cumnock and approximately 6 kilometres south of Cumnock and comprises the farmlands of Greenburn, Fardenreoch and Auchincross, together with an area of derelict land at the site of the former Coalburn Colliery, covering a total area of 226.5 hectares. The application site relates to the approved Greenburn Opencast Coal Site, works for which have recently commenced.

2.2 Planning permission for the extraction of 3.5 million tonnes of coal by opencast method from the application site was granted on 21 August 2002 under planning application 00/0793/FL. Full permission was also granted at that time for the construction and operation of a new dedicated railhead and rail link to serve the proposed opencast site. The Greenburn opencast site is to be worked over a total period of 10 years with a coaling period of 7 years. Average output from the site will be around 10,000 tonnes of coal per week. Coaling has recently commenced on site.

2.3 **Proposed Development:** Permission is sought for a variation to Condition 39 of the approved consent (Ref. No. 00/0793/FL) to allow for an extension to the haulage hours for coal transported from the excavation area to the coal processing and dispatch area within the Greenburn site.

Condition 39 states:

No haulage of coal from the extraction area to the coal preparation areas shall take place between 1800 and 0800 hours during the 24 hour working period

REASON: In the interests of the amenity of the area.

2.4 Under the original planning consent, it was anticipated that coals won from the Greenburn site would be hauled by truck from the excavation area on the western side of the U720 public road to the coal processing area located adjacent to the proposed railhead on the eastern side of this road. This necessitated coal haulage vehicles crossing the U720 road at a designated crossing point located approximately 200 metres north of Dalricket Bridge. The crossing point itself was to be controlled by automatic traffic signals. Based on the anticipated output from the site, there would be between 12 and 14 road crossings per hour between 0800 and 1800 hours.

2.5 The imposition of this condition was essentially to ensure that the movement of coal on public roads from the Greenburn Opencast site was consistent with standard conditions applied to mineral sites regarding haulage of material. This was considered to be appropriate in the interests of amenity and in this case, partly road safety given the proposed road crossing.

2.6 However planning permission was granted on 10 October 2003 for the construction of a vehicle underpass beneath the U720 road for the site vehicles as the applicant considered that this would provide a safer option for coal transportation whilst causing less disruption to both local road users and the coal haulage operations (Ref. No 03/0746/FL).

2.7 The underpass, now constructed, is located approximately 30 metres to the north of the current location of the previously approved crossing point on the U720 road and comprises twin tunnels, to allow site traffic flow in separated directions.

2.8 The applicant, in light of the provision of the new underpass seeks the variation of the condition to allow internal coal haulage movements to hours consistent with the operational hours of the coal processing and rail dispatch facility. The operational hours of the coal processing and dispatch facility are 0700 – 1900 hours Monday to Friday and 0800 – 1300 hours on a Saturday. In essence the applicant seeks to extend internal haulage hours by one hour earlier in the morning and one hour later in the evening Monday to Friday.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division indicates that it has no objections to the proposed development.

Noted.

3.2 East Ayrshire Council Environmental Health Division has not responded to the consultation.

Noted.

3.3 New Cumnock Community Council states that it does not support the amendment of Condition 39 to allow 24 hour haulage of coal from the extraction area to the preparation area due to noise before and after the underpass, which will still be heard from the nearest properties.

The proposed variation is not for 24 hour haulage as suggested by the Community Council. The proposal is for the extension of internal haulage hours to match the operational hours of the coal preparation and dispatch facility. It is considered that existing mitigation measures to minimise noise nuisance arising from the operation of the coal preparation and dispatch facility should ensure that there will be no significant adverse noise impact arising from the extended internal haulage hours.

4. REPRESENTATIONS

4.1 Apart from the representation received from New Cumnock Community Council, one third party letter of objection has been received. The points of objection are summarised as follows:

4.2 I believe that this condition must stay in place to protect local people from over exposure of opencast activity 24 hours per day. I am regularly disturbed by the noise of machinery, reversing beepers etc. and it gets beyond a joke when you are disturbed at 02:00 hrs, 04:00 etc. I am aware of the applicant's theory that the noise will be reduced due to the tunnel that has been constructed. What I want to know is how the noise will be reduced when transporting coal between the void, 1.2 km to the tunnel.

The Greenburn OCCS current consent hours for general site operations is already on a 24 hour basis. The proposed variation is not for 24 hour haulage from the excavation area to the coal preparation area. The proposal is for the extension of internal haulage hours to match the operational hours of the coal preparation and dispatch facility. It is considered that existing mitigation measures to minimise noise nuisance arising from the operation of the coal preparation and dispatch facility should ensure that there will be no significant adverse noise impact arising from the extended internal haulage hours.

Noise nuisance will also be mitigated by the fact that the previous road crossing proposal has now been replaced by the new under pass and this should further reduce noise associated with the acceleration and deceleration of haulage vehicles. It should be noted that the Rigghead opencast site lies between the objector's property and the coal preparation area of the Greenburn site.

Furthermore conditions to limit the of noise arising from site operations are already in place under the original planning consent for the site.

4.3 I know I am not the only person to be disturbed by noise during unsocial hours, so we need protection from a company that seems to have no interest in the local population.

No noise complaints or other representations have been received in respect of the proposed development.

4.4 On another issue, I approached Keir Mining before they got planning permission for the Greenburn site to express my concern that the small single track road where I live was not suitable for opencast traffic. I also mentioned my concerns that opencast workers are already a danger to anyone who dares cycle or walk local roads. I was reassured that the company had the power to instruct the workforce on which roads to use for site access and which not to use. Keir Mining has backtracked on this.

This matter is not relevant to the determination of this application. While there is agreement on routing of coal haulage vehicles, this does not apply to other vehicles. This matter has however been forwarded to the applicant for consideration.

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 Adopted Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Opencast Coal Subject Plan (2003).

East Ayrshire Opencast Coal Subject Plan

5.2 The proposal would fall to be considered principally against the relevant mineral policies relating to opencast development as follows:

(i) Policy MIN19: All haulage of extracted materials between the area of excavation and the point of dispatch from the opencast coal site should be via internal haul roads only. The Council will ensure that all site accesses onto the public road system are located so as to avoid any unnecessary transportation of extracted material through nearby communities, en-route to its market destinations.

The provision of a vehicle underpass has ensured that the transportation of coal extracted from the excavation site to the rail dispatch point will be wholly by internal haul routes.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations and relevant planning history.

Consultation Responses

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

Representations

6.3 It is considered that the objections raised are either not of sufficient weight to justify refusal of the application or are not relevant to the proposal.

Planning History

6.4 Planning permission for the extraction of 3.5 million tonnes of coal by opencast method from the application site was granted on 21 August 2002 under planning application 00/0793/FL. Full permission was also granted at that time for the construction and operation of a new dedicated railhead and rail link to serve the proposed opencast site.

6.5 Planning permission for a variation of conditions 7 and 35 of consent 00/0793/FL to allow the formation of a vehicle underpass within the application site was approved on 10 October 2003.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in the determination of this application.

8. CONCLUSIONS

8.1 As is indicated in Section 5 of the 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 as it is considered that the objections raised are either not of sufficient weight to justify refusal of the application or are not relevant to the proposal.

8.2 The provision of the new vehicle underpass on the U720 public road has avoided the need to provide a traffic light controlled crossing point on the public road, thereby removing the potential conflict of site traffic with general traffic on the public road and therefore improving on overall road safety. It was for amenity and road safety reasons that the movement of coal between the site excavation area and the coal preparation and dispatch facility was restricted to the standard hours of movement of coal on public roads.

8.3 With the provision of the vehicle underpass, the haulage of coal from the excavation area to the coal preparation and dispatch facility will be entirely internal to the site. Given that the hours of operation for the coal preparation and dispatch facility are currently 0700 – 1900 hours Monday to Friday, 0800 – 1300 hours on a Saturday, the restriction of internal haulage movements under the existing condition 39 is now somewhat anomalous to site operations.

8.4 Given the existing 24 hour operation generally within the Greenburn site, and the current operation hours of the coal preparation and dispatch facility, it is recommended that the internal haulage hours be amended to align with those of the coal preparation and dispatch facility. It is considered that there should be no significant detrimental impact through noise nuisance as a result of mitigation measures already in place for the Greenburn site. Furthermore conditions to control noise arising from site operations are already in place under the original planning consent for the site.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the condition on the attached sheet

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the development plan.

Alan Neish
Head of Planning, Development and Building Standards.

02 June 2004
HM/HM/SMB
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letter of representation
5. Adopted East Ayrshire Opencast Subject Plan (2003)
6. Approved Ayrshire Joint Structure Plan (1999)
7. Previous applications 00/0793/FL and 03/0726/FL

Any person wishing to inspect the background papers listed above should contact Mr Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 04/0263/FL

Location	Greenburn OCCS, New Cumnock
Nature of Proposal:	Proposed variation of Condition 39 of consent 00/0793/FL to allow extended haulage hours between the excavation area and the coal processing area
Name and Address of Applicant:	Kier Mining Tempsford Hall SANDY Beds. SG19 2BD
Name and Address of Agent	

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

The above **FULL** application should be granted subject to the following conditions:

1. Condition 39 of planning consent 00/0793/FL dated 21 August 2002 shall be amended to read as follows:

The haulage of coal from the extraction area to the coal preparation areas shall be confined to between 0700 and 1900 hours Mondays to Fridays and between 0800 and 1300 hours on Saturdays

REASON: In the interests of amenity.

REASON: To ensure that the terms of the original planning consent are consistent with the development hereby approved.

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