

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 25 JUNE 2004

04/0210/FL: PROPOSED EXTENSION OF COALING AREA OF SKARES ROAD OCCS BY 1.56 HECTARE, LAND AT KNOCKDUNDER, SKARES, NEAR CUMNOCK.

APPLICATION BY ATH RESOURCES

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Permission is sought for an extension to Area F of the existing opencast site covering an area of 1.56 hectare. This would be mined as a continuation of existing excavations in Area F, continuing the workings in a generally easterly direction. The application area is underlain by some 50,000 tonnes of coal in the Lugar Main seam, the 30 Inch seam and the 3 Dirt seam. These seams are currently being extracted in Area F and site information has shown that these seams occur further west than previously anticipated.

1.2 As working of the proposed extension will be a continuation of Area F, additional storage of overburden will not be required or necessary. Overburden excavated within the proposed extension area will be placed in the void of Area F to complete restoration of this part of the site. This small excavation area will be incorporated into the overall site restoration scheme aimed at woodland and nature conservation uses.

1.3 The applicant has indicated that there will be no blasting on site.

1.4 The proposed extension represents a very small increase in the site excavation area and the applicant has stated that operations within the proposed extension will take approximately 1 month to complete. The current planning consents for the Skares Road site allow for operations until 2010. However with the introduction of a limited nightshift operation in Area F in May 2000, this has reduced the anticipated life of the site with coaling operations now expected to cease in 2005/2006 with completion of restoration of the site in 2007/2008. The working of the proposed extension will have no significant effect on the overall anticipated timescale for completion of the development. No blasting operations will be required within the extension area.

1.5 The proposed extension area lies approximately 1.2 km from the centre of Skares Village and 1.1 km from the nearest residential property at Whitesmuir. The proposed coaling operation will be over twice as far away from Skares as the current consented operations under the Hindsward extension.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

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

3.2 It is considered that the proposed development will not result in any additional significant impact on the village of Skares as the small extension area lies further away than the existing consented operations.

3.3 The approval of the proposed extension will not have any significant impact on the timescale for completion of the Skares Road development which is anticipated to be completed 2/3 years earlier than the life of the current consent. The coaling operations will take approximately one month to complete.

3.4 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are environmental and community benefits which would outweigh any temporary adverse impacts. Consequently it is considered that the application should be approved.

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 this would not result in 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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04/0210/FL: PROPOSED EXTENSION OF COALING AREA OF SKARES ROAD OCCS BY 1.56 HECTARE, LAND AT KNOCKDUNDER, SKARES, NEAR CUMNOCK.

APPLICATION BY ATH RESOURCES

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 an extension to 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 3 miles south west of Cumnock and 2.5 miles south of Ochiltree and lies on the south side of the B7046 Skares Road, immediately south of the small village of Skares. The site extends to approximately 1.56 hectare (3.9 acres) and consists of land associated with and including the former farm steading at Knockdunder.

2.2 The application site represents an extension to the permitted coaling area and lies wholly within the Skares Road Opencast Coal site for which planning permission was granted by East Ayrshire Council for the winning and working of coal on 13 March 1997 under application CD/95/0254/MIN. The Development Services Committee approved a revised application for the Skares Road site on 27 January 1998 under application 97/0596/FL. The decision notice was issued on 15 May 1998 following the completion of a Section 75 Agreement under the Town and Country Planning (Scotland) Act, 1997. Works commenced on site in 1998 and coaling operations are continuing at present. The Skares Road site comprises 4 separate coal extraction areas known as Areas B, C, E and F. The current operational Skares Road site extends to approximately 608 hectares. More recent planning history is indicated in Section 6 of this report.

2.3 **Proposed Development:** Permission is sought for an extension to Area F of the existing opencast site covering an area of 1.56 hectare. This would be mined as a continuation of existing excavations in Area F, continuing the workings in a generally easterly direction. The application area is underlain by some 50,000 tonnes of coal in the Lugar Main seam, the 30 Inch

seam and the 3 Dirt seam. These seams are currently being extracted in Area F and site information has shown that these seams occur further west than previously anticipated.

2.4 As working of the proposed extension will be a continuation of Area F, additional storage of overburden will not be required or necessary. Overburden excavated within the proposed extension area will be placed in the void of Area F to complete restoration of this part of the site. This small excavation area will be incorporated into the overall site restoration scheme aimed at woodland and nature conservation uses.

2.5 The applicant has indicated that there will be no blasting on site.

2.6 The proposed extension represents a very small increase in the site excavation area and the applicant has stated that operations within the proposed extension will take approximately 1 month to complete. The current planning consents for the Skares Road site allow for operations until 2010. However with the introduction of a limited nightshift operation in Area F in May 2000, this has reduced the anticipated life of the site with coaling operations now expected to cease in 2005/2006 with completion of restoration of the site in 2007/2008. The working of the proposed extension will have no significant effect on the overall anticipated timescale for completion of the development. No blasting operations will be required within the extension area.

2.7 The proposed extension area lies approximately 1.2 km from the centre of Skares Village and 1.1 km from the nearest residential property at Whitesmuir. The proposed coaling operation will be over twice as far away from Skares as the current consented operations under the Hindsward extension.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has no objections to the proposed development.

Noted.

3.2 Ochiltree Community Council has indicated that it has no objection to the proposed development provided that it complies with current planning legislation.

As indicated in section 5 below, it is considered that the proposed development is in accordance with the current development plans.

3.3 The Coal Authority has no adverse comments to make on the proposed development.

Noted.

3.4 The Scottish Environment Protection Agency has no objections to the proposed development provided the drainage arrangements are to SEPA's satisfaction. The drainage from the extension site is to be treated in existing effluent treatment systems consented under the terms of the Control of Pollution Act, 1974 (as Amended). Extracted coal will be processed in the existing Authorised coal processing area. SEPA regularly inspects the coal processing area and samples these discharges for compliance with consent conditions. The existing Part B Authorisation for the opencast mining of coal will require to be modified to include the area of the extension. SEPA has contacted the applicant regarding this.

Conditions covering the issues raised by SEPA are contained within the existing planning consent for the Skares Road site. In any consent granted for the proposed development, the existing conditions would be applied similarly to the proposed extension site.

4. REPRESENTATIONS

4.1 One letter of representation has been received objecting to the proposed development. The points of objection are summarised as follows:

4.2 We are particularly anxious at the possibility of more blasting taking place causing further damage to our properties and request that a blast monitor be sited in the middle of the village.

No blasting operations are proposed within the small extension area.

4.3 We would like to raise the issue of dust, noise, traffic speeding and working outwith agreed hours.

The issue of fugitive dust is appropriately and continually monitored by the applicant and appropriate management measures and systems are in place within the existing site to ensure that fugitive dust nuisance does not give rise to complaint.

With respect to noise, the site operations are subject to conditions relating to noise limits. Given that the site of the proposed extension is over twice as far away as the current consented operation, it is unlikely that there will be any significant noise impact arising from the development.

The points raised by the objector regarding traffic speeding are matters for the police to address. However, it should be noted that the applicant has attempted to impress upon its workforce the importance of driving slowly through the village of Skares and

has offered financial assistance to a proposal for traffic calming measures within the village. The matter has also been raised through the forum of the site liaison committee.

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 (1999) and the Adopted Opencast Coal Subject Plan (2003).

Ayrshire Joint Structure Plan

5.2 The Approved Ayrshire Joint Structure Plan indicates in its Key Diagram that the Skares Road development site lies within a Preferred Area of Search which represents an area which has few environmental constraints, is isolated from most local communities and is close to existing railheads. The proposed development requires to be assessed against Policy E14 which states: -

Development opportunities for opencast coal working shall be directed to Preferred Areas of Search in East Ayrshire identified on the Key Diagram. Local Plans shall bring forward detailed policies and proposals for opencast working within these areas.

The proposed extension site falls within a Preferred Area of Search.

5.3 Policy E13 states that proposals to extend the supply of land with planning consent for the winning and working of minerals shall be considered against the following criteria:

- (i) impact on the countryside, landscape character, visual amenity and the natural and built environment.
- (ii) the impact caused by noise, dust and the contamination of ground and surface water.
- (iii) any adverse effect on communities within Ayrshire.
- (iv) opportunity to maximise transport by rail or sea.
- (v) extent of directly related community benefit derived such as enhancement and creation of landscapes and habitats, and removal of dereliction.
- (vi) cumulative impact of proposals in one area and the extraction period.

The revised application for the Skares Road opencast site (Ref. No. 97/0596/FL) was assessed and determined against the stated criteria. The proposals promoted by the current application will be implemented under the existing planning controls within the

existing consent and Section 75 Agreement and subject to additional requirements referred to elsewhere in this report. It is considered that the proposed extension would not conflict with the stated criteria in terms of its operational conduct.

The current application is therefore considered to be in accordance with the Structure Plan.

East Ayrshire Opencast Coal Subject Plan

5.4 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 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.*

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.

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

The proposed extension will not significantly prejudice plans for the restoration of the existing site.

- (v) *There is a clearly demonstrated benefit to be gained through the removal of existing areas of dereliction.*

The proposal relates to an area of land currently affected by existing opencast operations.

- (vi) *There is an overall benefit for communities affected, including local employment.*

Extension of the extraction area will result in an extended extraction period, prolonging existing employment for the local workforce employed at the site.

(vii) *There are no conflicts with any other Subject Plan policies.*

There are no conflicts with any other Subject Plan policies.

5.5 Any extension to an existing opencast operation that would perpetuate any existing disturbance to a local community for a total extraction period in excess of 10 years will not generally be considered acceptable, unless it can be clearly demonstrated that there are significant local community and local environmental benefits to be secured by the development.

The extended site operations are expected to prolong the life of the site by approximately one month. This is not considered an unacceptable addition to the overall life of the site.

The application relates to a small scale extension to an existing extraction area within the consented opencast site and it is considered that the development will not have any significant adverse impact on nearby communities. The proposal is considered acceptable in planning policy terms.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are NPPG 16 – ‘Opencast Coal and Related Minerals’, appropriate Planning Advice Notes, consultation responses, the representations received and relevant planning history.

National Planning Policy Guidelines

6.2 Recent guidance on opencast coal extraction has been given in National Planning Policy Guideline 16: Opencast Coal and Related Minerals. 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. Many of the provisions of NPPG 16 are addressed within the EAOCSPP with regard to the proximity to local communities, repeated extensions, cumulative impact, natural and built heritage and the preference for rail transport. The proposal is thus considered to be consistent with NPPG 16.

Planning Advice Notes

6.3 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.

Planning History

6.4 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 on land at Hindsward approved on 07 April 2003.

Consultation Responses

6.5 There are no consultation responses that would suggest refusal of the application is appropriate.

Representations Received

6.6 It is considered that the representations received can either be appropriately addressed through the existing conditions pertaining to the Skares Road site or the points of objection are not of sufficient weight to justify refusal of the application.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council associated with the determination of this application. It is considered that the proposed development will not necessitate an amendment to the existing Section 75 Agreement relating to the Skares Road site should the application be approved.

8. CONCLUSIONS

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

8.2 It is considered that the proposed development will not result in any additional significant impact on the village of Skares as the small extension area lies further away than the existing consented operations.

8.3 The approval of the proposed extension will not have any significant impact on the timescale for completion of the Skares Road development which is anticipated to be completed 2/3 years earlier than the life of the current consent. The coaling operations will take approximately one month to complete.

8.4 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are environmental and community benefits which would outweigh any temporary adverse impacts. 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 condition listed 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 this would not result in a significant departure from the development plan.

Alan Neish
Head of Planning, Development and Building Standards

09 June 2004
HM/HM
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 Coal Subject Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Previous application CD/95/0254/MIN.
8. Previous application 97/0596/FL.
9. Previous application 00/0010/FL.
10. Previous application 01/0459/FL.
11. Previous application 02/0691/FL.
12. NPPG 16: Opencast Coal and Related Minerals.
13. PAN 50, Annexes A, B, C and D.

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: 04/0210/FL

Location	Land at Knockdunder Skares Near Cumnock
Nature of Proposal:	Proposed extension of coaling area of Skares Road OCCS by 1.56 hectare
Name and Address of Applicant:	ATH Resources Darntaggart Farm SKARES KA18 2RG
Name and Address of Agent	N/A

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

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

1. The proposed development hereby approved shall be undertaken in accordance with the conditions pertaining to planning consent 97/0596/FL dated 15 May 1998 as amended by planning consent 00/0010/FL dated 08 June 2000 and planning application 02/0691/FL dated 07 April 2003.

REASON: To retain effective planning control over the proposed development in accordance with current consents relating to the Skares Road opencast site.

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