

# EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 20 APRIL 2000

## 99/0675/FL: PROPOSED MODIFICATION OF COAL DISPATCH HOURS TO 0800 - 1800 HOURS ON WEEKDAYS ONLY AS VARIATION OF CONDITION 37 OF CONSENT 97/0596/FL, SKARES ROAD OPENCAST COAL SITE, SKARES, NEAR CUMNOCK.

APPLICATION BY ATH RESOURCES

### EXECUTIVE SUMMARY SHEET

#### 1. DEVELOPMENT DESCRIPTION

1.1 Permission is now sought for amended coal dispatch hours to allow dispatch of coal from the Skares Road OCCS between 0800 to 1800 hours on weekdays only as a variation to Condition 37 of the issued planning consent 97/0596/FL dated 15 May 1998 as amended by the appeal decision P/PPA/190/18 dated 11 May 1999. The current approved condition states:

*'that for a period of six months from the date of this letter, except in cases of emergency, the dispatch of coal from the site shall be limited to between the hours of 0700 and 1700 on Mondays to Fridays, with no dispatch of coal on Saturdays and Sundays; thereafter the dispatch of coal from the site shall be limited to between the hours of 0800 and 1700 on Mondays to Fridays, with no dispatch of coal on Saturdays or Sundays, but subject to the discretion of the planning authority to vary such limitations on cause shown'.*

1.2 The variation sought to this condition is to extended dispatch hours of the site by the additional hour each day between 1700 and 1800 hours Monday to Friday. By implication, the applicant seeks to amend Condition 37 to read as follows:

*'that except in cases of emergency, the dispatch of coal from the site shall be confined between 0800 and 1800 hours Mondays to Fridays with no dispatch of coal on Saturdays or Sundays.'*

#### 2. RECOMMENDATION

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

#### 3. SUMMARY OF ANALYSIS

3.1 The original approved coal dispatch hours under application 97/0596/FL are standard dispatch hours which have been applied in a consistent manner to consents for other opencast coal sites throughout East Ayrshire. These standard hours have generally been applied to reduce environmental impact through noise on residential properties and communities lying on dispatch routes or on routes which vehicles take to arrive at and depart from operational sites.

3.2 It is considered that extending dispatch hours at Skares Road by one hour later in the day will not result in any significant adverse impact on either local communities or residential properties located along the dispatch route.

3.3 In terms of planning policy, the finalised East Ayrshire Opencast Coal Subject Plan, through policy MIN 19, seeks to protect the amenity of local communities and residents from the adverse effects of the transportation of minerals. The amended proposal to dispatch coal from the Skares Road site between 0800-1800 hours would not result in any significant adverse impact on communities and residential properties and therefore would not conflict with the spirit of policy MIN 19.

**Alan Neish**  
**Head of Planning and Building Control**

**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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### 99/0675/FL: PROPOSED MODIFICATION OF COAL DISPATCH HOURS TO 0800 - 1800 HOURS ON WEEKDAYS ONLY AS VARIATION OF CONDITION 37 OF CONSENT 97/0596/FL, SKARES ROAD OPENCAST COAL SITE, SKARES, NEAR CUMNOCK.

#### APPLICATION BY ATH RESOURCES

#### Report by Head of Planning and Building Control

## 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an amended full planning application, which is to be considered by the Local Planning Committee under the scheme of delegation, as the proposed development relates to the alteration of a condition of an existing planning consent for mineral extraction and is the subject of letters of objection.

1.2 The application was originally presented to the Southern Local Planning Committee at its meeting on 18 February 2000. During the Planning Hearing on the proposed development, the applicant indicated a desire to amend the application in order to address concerns regarding early morning dispatch of coal from the Skares Road Opencast Coal Site. Having considered the request of the applicant, the Committee agreed to continue consideration of the application pending further consultation on the amended proposals, the details of which are addressed in this report.

## 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 approximately 4 kilometres east to west and by 1.5 kilometres north to south, covering an area of approximately 608 hectares.

2.2 The application site comprises 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. This site was to be operated in two main phases by two mineral developers. The Milzeoch Farm phase of operation commenced coaling in Summer 1997 this being undertaken by William Grant (Mining) Limited. The main phase of operation at Skares Road was to be operated by Rackwood Colliery Company Limited, with operations on this part of the site scheduled to commence during 1998.

2.3 William Grant (Mining) Limited, however, went into receivership and the personal consent granted to this company has been transferred to the Miller Group under application 97/0686/FL, following approval of this application by the Development Services Committee at its meeting on 02 December 1997. The Milzeoch Farm phase of development is now progressing under the terms of the original planning consent C DI95/02541M 1 N.

2.4 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 have commenced on site and coaling operations are continuing at present.

2.5 A further application (Ref.No. 98/0409/FL) for a variation to Condition 37 of consent 97/0596/FL to amend the coal dispatch hours from the site was refused by the Development Services Committee on 01 September 1998. A subsequent appeal to the Secretary of State was sustained on 11 May 1999 to allow the amended coal dispatch hours to operate for a period of six months.

**2.6 Proposed Development:** Permission is now sought for amended coal dispatch hours to allow dispatch of coal from the Skares Road OCCS between 0800 to 1800 hours on weekdays only as a variation to Condition 37 of the issued planning consent 97/0596/FL dated 15 May 1998 as amended by the appeal decision P/PPA/190/18 dated 11 May 1999. The current approved condition states:

*' that for a period of six months from the date of this letter, except in cases of emergency, the dispatch of coal from the site shall be limited to between the hours of 0700 and 1700 on Mondays to Fridays, with no dispatch of coal on Saturdays and Sundays; thereafter the dispatch of coal from the site shall be limited to between the hours of 0800 and 1700 on Mondays to Fridays, with no dispatch of coal on Saturdays or Sundays, but subject to the discretion of the planning authority to vary such limitations on cause shown'.*

2.7 The variation sought to this condition is to extended dispatch hours of the site by the additional hour each day between 1700 and 1800 hours Monday to Friday. By implication, the applicant seeks to amend Condition 37 to read as follows:

*'that except in cases of emergency, the dispatch of coal from the site shall be confined between 0800 and 1800 hours Mondays to Fridays with no dispatch of coal on Saturdays or Sundays.'*

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads Division makes reference to the comments previously given in response to application 9810409/FL. The Division indicated that it has no authority to limit the use of public roads to specific times. Comment was made that there have been complaints from members of the public about coal vehicles, particularly empty vehicles, running through Ochiltree to Killoch Depot at early hours of the morning. Concern was therefore expressed that this would occur even earlier for haulage vehicles to get from their depots to the site for a 0700 hours start.

***Although the coal traffic dispatching coal from the Skares Road site would not travel through either Skares or Ochiltree, 10% of the coal vehicles could be travelling through other communities as the applicant services local domestic markets with coal not destined for Killoch Disposal Point. However, with the dispatch time now commencing at 0800 hours, the previous concerns regarding early morning disturbance are no longer relevant with respect to the Skares Road site. It is considered that the additional dispatch hour between 1700 and 1800 hours would not result in any significant adverse impact on local communities, residential properties located along the coal dispatch routes or on the road infrastructure itself.***

3.2 Ochiltree Community Council and Cumnock Landward Community Council have not responded to the further consultation letter.

***Noted.***

3.3 East Ayrshire Council's Environmental Health Division states that PAN 50 Annex A suggests that 7am may be construed as a suitable time to commence dayshift working. However, there are additional implications in respect of coal dispatch as this entails lorries on the public highway en route to the site before 7 am.

The Division is not aware of any direct complaints about early morning traffic noise in the area and therefore cannot comment specifically in this respect. However, it is a known fact that empty vehicles can create substantial rattle and the possibility must accordingly exist of some early morning disturbance unless the transit route to the site does not pass in close proximity to properties which would not otherwise be subject to this early disturbance. The principal factors in respect of this application might therefore lie with the proposed highway route, the presence of any sensitive properties along the line of the route, and whether any complaints or objections have been received relating to early morning coal traffic.

***The applicant has amended the proposal to remove the 0700 hours start time for coal dispatch. The applicant now proposes an additional hour later in the day between 1700 and 1800 hours.***

***Further consultation with the Environmental Health Division has taken place without further comments being received. However it is considered that the hours now proposed by the applicant would remove the possibility of coal dispatch encroaching into unsociable hours.***

**4. REPRESENTATIONS:** Two letters of objection were received with respect to the applicant's original proposal. The objectors were contacted with respect to the amended proposal and given the opportunity to make further comment in this regard. Both objectors have submitted further letters of objection.

4.1 Objection is made to the implication that more coal would be dispatched than at present, if the applicant's intentions are as indicated in the planning application for the proposed nightshift operation. It is clear that 8am to 6pm dispatch would not reduce HGV movements each hour by spreading them out over a 10 hour rather than a 9 hour period, but that an hour more allowed for coal dispatch would increase traffic by 50 HGV movements. For this reason alone, MEGA objects to extra HGV traffic using public roads in the vicinity of Skares. The impact of those already using is unacceptable in physical and environmental terms.

***This planning application stands a/one from the applicant\* proposal to introduce a nightshift operation at the Skares Road site (Ref. No. 00/0010/FL). The dispatch hours originally proposed by the applicant were based on the fact that Killoch Coal Disposal Point operates from 0700 hours, and in respect of this application alone, does not result from any increase in coal output from the site. The proposal now for the 0800-1800 hours of dispatch will allow for a reduction in HGV movements per hour based on normal coal production rates within the site. No transport of coal will take place through either Skares or Ochiltree. There are only 3 properties located on the roadside of the agreed haul route, although a number of complaints have been received from one resident. The complaints relate to the early morning dispatch of coal and in particular to the early morning arrival of vehicles at the site. However, it is considered that the removal of the 0700 hours dispatch commencement proposal by the applicant and its replacement by an additional hour from 1700 to 1800 hours would address concerns about early morning movement of vehicles.***

4.2 The condition of the public roads is such that any increase in traffic will damage them at an even greater rate than at present. C class and unclassified roads were just not built for this amount of traffic. If East Ayrshire Council is considering approving this increase in traffic, it must require the applicant to indicate the cumulative impact of such an increase given that HGV's to and from Garlaff also use roads in the immediate vicinity.

**No increase in traffic output will result from this application. No coal traffic will travel along any C class road to access the A70 road. The B7046 road was upgraded by the applicant to Roads Division requirements prior to the commencement of dispatch of coal from the site. The Uc28 road from Burnton to Mote Toll has also been significantly upgraded.**

4.3 MEGA objects to extending dispatch hours to 6pm weekdays and agree with the Council that HGV traffic beyond 5pm is unacceptable. This area needs some respite from some of the activities associated with surrounding industry. Why does the applicant need to take coal out at 6pm as Killoch railhead shuts at 6pm, unless the coal is going further than Killoch.

**The extension of the dispatch hours by one hour later in the day is not considered to be unacceptable in that there is no encroachment into recognised night-time hours. The applicant is aware of the current restrictions relating to the operational hours of the Killoch Disposal Point and in this respect, the applicant is seeking to agree formal arrangements with the operator of the facility to address this issue. The coals won from the Skares Road site also serve domestic markets and in this respect not all coal is destined for Killoch Disposal Point, this point having been addressed in the original planning application for the Skares Road site.**

4.4 Objection is made to the 6pm finishing time on the grounds of adverse impact on the amenity of the area.

**No transport of coal will take place through either Skares or Ochiltree. There are only 3 properties located on the roadside of the agreed haul route, although a number of complaints have been received from one resident. The complaints relate to the early morning dispatch of coal and in particular to the early morning arrival of vehicles at the site. However, it is considered that the removal of the 0700 hours dispatch commencement proposal by the applicant and its replacement by an additional hour from 1700 to 1800 hours would address concerns about early morning movement of vehicles. The extension of the dispatch hours by one hour later in the day is not considered to be unacceptable in that there is no encroachment into recognised night-time hours. It is considered that there would be no additional adverse impact on the amenity of local communities or residential properties.**

## **5. DEVELOPMENT PLAN STATUS**

5.1 The relevant policy document is the finalised East Ayrshire Opencast Coal Subject Plan. Policy MIN 19 relates to the protection of amenity and

opencast operators are required to give proper consideration to mitigating the likely impact of proposed developments on local communities and nearby properties. Particular attention should be given to minimising the potential adverse impacts of the transportation of extracted minerals on settlements, groups of dwellings and individual dwellinghouses located along proposed haul routes.

***In the consent for the revised Skares Road site, it was considered appropriate to impose coal dispatch hours with a commencement time of 0800 hours as a means of reducing adverse impacts associated with the movement of heavy goods vehicles along agreed haul routes and other routes used to access the Skares Road site. The proposal to retain the 0700 hours commencement time for coal dispatch was considered to be contrary to the spirit of Policy MIN 19. Monitoring of the site during the six month period granted on appeal has shown unacceptable activity well in advance of 0700 hours, to the detriment of roadside residential properties in the locality. The applicant, in recognition of these concerns, has proposed that the commencement of dispatch would revert back to 0800 hours but with an additional hour proposed between 1700 and 1800 hours. It is considered that this would remove concerns with respect to ear/y morning disturbance with no significant adverse effects resulting from the additional later dispatch hour. Additionally the opportunity exists to control the arrival of vehicles onto the site at the commencement of coal dispatch.***

## **6. OTHER PLANNING CONSIDERATIONS**

6.1 Planning Advice Note 50 (Annex C) relates to the Control of Traffic at Surface Mineral Workings. PAN 50 Annex C recognises that the movement of mineral products is likely to be the dominant source of environmental concerns for off-site workings at most mineral workings and that the impact on local communities is also likely to be greatest from this aspect.

***PAN 50 recognises that restrictions on the hours of traffic operations may be imposed as a condition of planning permission in order to protect local residents from impacts both on and off site including those from noise, vibration, congestion and road safety. In this regard, East Ayrshire Council has consistently applied a dispatch commencement time of 0800 hours for opencast sites in order to protect local residents from such impacts. The applicant has now amended the proposal to remove the 0700 hours dispatch start on site.***

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no direct financial or legal implications associated with the determination of this application.

## **8. CONCLUSIONS**

8.1 The original approved coal dispatch hours under application 97/0596/FL are standard dispatch hours which have been applied in a consistent manner to consents for other opencast coal sites throughout East Ayrshire. These standard hours have generally been applied to reduce environmental impact through noise on residential properties and communities lying on dispatch routes or on routes which vehicles take to arrive at and depart from operational sites.

8.2 It is considered that extending dispatch hours at Skares Road by one hour later in the day will not result in any significant adverse impact on either local communities or residential properties located along the dispatch route.

8.3 In terms of planning policy, the finalised East Ayrshire Opencast Coal Subject Plan, through policy MIN 19, seeks to protect the amenity of local communities and residents from the adverse effects of the transportation of minerals. The amended proposal to dispatch coal from the Skares Road site between 0800-1800 hours would not result in any significant adverse impact on communities and residential properties and therefore would not conflict with the spirit of policy MIN 19.

## **9. RECOMMENDATION**

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

Alan Neish  
Head of Planning and Building Control  
1 April 2000  
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. East Ayrshire Opencast Coal Subject Plan (finalised).
6. Previous application CD/95/0254/MIN.
7. Previous application 97/0596/FL.

8. Previous application 98/0409/FL.
9. Appeal Decision P/PPA/190/1 8.
10. PAN 50, Annex C: The Control of Traffic at Surface Mineral Workings.

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

**Implementation Officer- Pamela Clifford**

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN ~ COUNTRY PLANNING (SCOTLAND) ACT 1972

Application no: 99/0675/FL

Location Skares Road OCCS, Skares Road, SKARES  
Nature of Proposal: Proposed modification of coal dispatch hours to 0800-1800 hours on weekdays only as variation of condition 37 of consent 97/0596/FL

Name and Address of Applicant: ATH Resources  
Richmonds House  
White Rose Way, DONCASTER

Name and Address of Agent

DPO's Ref: [HUGH MELVIN ]  
PPO's Ref; [

The above FULL application should be granted subject to the following condition.

- (1) Condition 37 of the issued planning consent 97/0596/FL dated 15 May 1998 as amended by the appeal decision P/PPA/190/18 dated 11 May 1999 shall be varied to read as follows:

*'Except in cases of emergency, the dispatch of coal from the site shall be confined between 0800 and 1800 hours Mondays to Fridays with no dispatch of coal on Saturdays or Sundays. Vehicles to be used for the purpose of coal dispatch shall not enter the Skares Road Opencast Coal Site earlier than 15 minutes prior to the commencement of dispatch hours. '*

REASON - In the interests of amenity.

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**AGENDA**