

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 20 APRIL 2000

**00/0010/FL: PROPOSED MODIFICATION OF EXISTING CONSENT
97/0596/FL TO PERMIT A LIMITED NIGHTSHIFT OPERATION AT
SKARES ROAD OPENCAST COAL SITE, SKARES, NEAR CUMNOCK.**

APPLICATION BY ATH RESOURCES

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

- 1.2 Permission is sought for a variation to the existing planning consent to allow for the operation of a limited nightshift restricted to Area F. The current approved operational hours of the site are 0700 to 1900 hours on weekdays and 0800 to 1200 hours on Saturdays with only essential maintenance and water control measures being undertaken outwith these hours.
- 1.3 The applicant proposes to introduce a nightshift with hours of operation being between 1900 to 0700 hours Monday to Friday and in order to ensure a continuous operation, the Saturday morning hours would be adjusted to between 0700 hours and 1100 hours. This in effect would result in continuous 24 hour working from 0700 hours on a Monday through to 1100 hours on a Saturday.
- 1.4 However, the applicant recognises that the greatest potential for disturbance to the public during night-time hours is through noise and in order to address this issue, the nightshift operation will be restricted to below ground only with one exception. During the early stages of operation in the area most distant from Skares village, it is possible that there may be an unavoidable need to tip overburden at surface level. The operations will be lit using 3/4 facing light sets at working face level and at dumptruck discharge points.
- 1.5 Noise levels will also be reduced by restricting the operational plant and activities undertaken. Only up to three overburden excavation teams will operate during the nightshift and only overburden excavation will take place. With the exception stated above, all operations will be confined within the void with excavators digging at depth and trucks tipping at depth. No coaling operations will take place, no out-of-pit haul routes will be in use and no coal processing or dispatch will be undertaken. No blasting operations will take place during the nightshift operation. The operation of the nightshift will also be limited for a period of three years only, thereafter the site will return to a dayshift operation only.

- 1.6 The introduction of the nightshift operation will have an impact on the current level of output of coal from the site. Coal released by the nightshift operation will be transported to the coal preparation area during the dayshift but in order to prepare this coal for the market, it will be necessary to operate the coal processing plant until 2200 hours on weekdays rather than the current stop time of 1900 hours.
- 1.7 The increased output of coal from the site will also result in an increase in coal haulage with lorry movements increasing from 80 movements per day to 120 movements (i.e. an additional 3/4 lorries per hour). In this respect the applicant also seeks to adjust and increase the coal dispatch hours from 0800 - 1700 hours to 0800 - 1800 hours. It should be noted that a separate application (Ref. No. 99/0675/FL) solely relating to the extended dispatch hours proposed under this application also appears on the agenda for this meeting.
- 1.8 The proposed nightshift operation will result in the direct provision of a further 15 permanent jobs in the nightshift itself and a further 10 permanent jobs during the dayshift. Additionally, increased indirect employment and employment support on and off-site will result from the proposed operation. This would be in addition to the 115 direct jobs supported by the Skares road operation.
- 1.9 The applicant has indicated that the reason for promoting the nightshift operation is to increase the efficiency of plant resources within the site. During the current working week, many productive hours are lost in maintaining and making safe site haul roads particularly following overnight rain. The applicant has also deployed new mobile plant within the site at a cost of over £15 million. Under the present approved site working hours, this plant is under utilised at 59 hours out of a total of 168 hours per week. The applicant states that the current proposal would increase the available hours for the relevant plant to 119 hours thereby adding significantly to the efficiency of the mining operation.
- 1.10 The present application has been the subject of a formal Environmental Impact Assessment, the scope of which had been agreed following discussion with the Planning Authority. The Environmental Statement that accompanies the planning application considers the potential impact on the local population resulting from noise and increased traffic movements.

2. RECOMMENDATION

- 2.1 **It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal amendment to the existing Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 for the Skares Road site, in respect of the matters described in Section 8.7 of this report.**

3. SUMMARY OF ANALYSIS

- 3.1 In terms of policy, the proposal to introduce a nightshift operation at the Skares Road site would not conflict with the provisions of the East Ayrshire Opencast Coal Subject Plan. The proposed development would also be consistent with PAN 50, Annexes A and C as described in Sections 6.1 and 6.2 above.
- 3.2 The proposed nightshift operation is limited in both its nature, scale, location and duration, specifically so in order to meet the noise limit criterion advised in PAN50, Annex A. It is therefore considered that this limited operation would not have a significant detrimental impact on the village of Skares or on nearby noise sensitive properties, although there is significant objection from the local community of Skares as indicated by the petition submitted.
- 3.3 The proposed nightshift operation will result in a significant increase in coal transport from the site on weekdays, the hours of dispatch proposed by the applicant will not encroach into unsociable hours and the potential adverse impact of the additional coal movements require to be balanced against the overall benefits resulting from the reduction in the life of the site and the additional employment generated on site by the proposal.
- 3.4 The operator also proposes that the coal preparation plant would require to operate until 2200 hours, this being restricted to one barrel washer and one loading shovel. The additional hours of operation of this plant and machinery has been taken into account in the predictions of noise limits and this should not result in any adverse noise impacts on the local community.
- 3.5 As indicated in the report, the introduction of the nightshift operation will have the effect of reducing the overall life of the site and will provide a further 25 jobs over the three-year duration of the proposal.
- 3.6 It is considered that the existing noise monitoring programme for the Skares Road site should be extended to monitor noise at specific noise sensitive locations and that monitoring results should be submitted on a weekly basis. It is considered that the existing noise monitoring scheme secured through the existing Section 75 Agreement should also encompass the ability of the Council to suspend the nightshift operation, should monitoring indicate breaches of the 42dB(A) night-time noise limit.
- 3.7 Any approval of the application should therefore be the subject of an amendment to the existing Skares Road Section 75 Agreement to cover the following matters:
 - (i) the extension of the noise monitoring programme for the Skares Road site to monitor the nightshift operation, to a scheme to be agreed in consultation with the Environmental Health Division.

The results of the night-time noise monitoring shall be submitted to the Planning Authority on a weekly basis.

- (ii) the right of the Council as Planning Authority to suspend the night-shift operations if monitoring indicates persistent breaches of the nominal night-time noise limit of 42dB(A), through noise attributable to such operations.
- (ii) the securing of additional road infrastructure improvements on the U728 Road to be agreed with the Roads Division and the requirement to pursue with the operator of the Killoch D.P., the use of the existing direct access to this facility from the A70 road thereby preventing the use of the Creoch Road access in terms of road safety.

3.8 With respect to the previous decision of the Council to refuse the amendment of the Saturday morning start time of 0700 hours (Ref. No. 98/0408/FL), it is considered that the present proposal to again seek approval for the commencement of Saturday dayshift operations at 0700 hours should not be acceded to, given the Council's previous recent decision in this respect.

3.9 As it is considered that the proposal is acceptable in environmental terms and taking account of the benefits accrued through the reduction in the life of the site and the employment generated, it is recommended that the application be approved.

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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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 because it represents an alteration to the method of working on site which is in accordance with the Opencast Coal Subject Plan and the application is the subject of letters of 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 approximately 4 kilometres east to west and by 1.5 kilometres north to south, covering a total 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 CD/95/0254/M 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. The Skares Road site comprises 3 separate coal extraction areas known as Areas C, E and F. Coal extraction from Area E was completed in September 1999 and extraction in Area C will be completed by May 2000. Coaling in Area F has commenced and this area is the subject of the present application.

2.5 **Proposed Development:** Permission is sought for a variation to the existing planning consent to allow for the operation of a limited nightshift restricted to Area F. The current approved operational hours of the site are 0700 to 1900 hours on weekdays and 0800 to 1200 hours on Saturdays with only essential maintenance and water control measures being undertaken outwith these hours.

2.6 The applicant proposes to introduce a nightshift with hours of operation being between 1900 to 0700 hours Monday to Friday and in order to ensure a continuous operation, the Saturday morning hours would be adjusted to between 0700 hours and 1100 hours. This in effect would result in continuous 24 hour working from 0700 hours on a Monday through to 1100 hours on a Saturday.

2.7 However, the applicant recognises that the greatest potential for disturbance to the public during night-time hours is through noise and in order to address this issue, the nightshift operation will be restricted to below ground only with one exception. During the early stages of operation in the area most distant from Skares village, it is possible that there may be an unavoidable need to tip overburden at surface level. The operations will be lit using 3/4 facing light sets at working face level and at dumptruck discharge points.

2.8 Noise levels will also be reduced by restricting the operational plant and activities undertaken. Only up to three overburden excavation teams will operate during the nightshift and only overburden excavation will take place. With the exception stated above, all operations will be confined within the void with excavators digging at depth and trucks tipping at depth. No coaling operations will take place, no out-of-pit haul routes will be in use and no coal processing or dispatch will be undertaken. No blasting operations will take place during the nightshift operation. The operation of the nightshift will also be limited for a period of three years only, thereafter the site will return to a dayshift operation only.

2.9 The introduction of the nightshift operation will have an impact on the current level of output of coal from the site. Coal released by the nightshift

operation will be transported to the coal preparation area during the dayshift but in order to prepare this coal for the market, it will be necessary to operate the coal processing plant until 2200 hours on weekdays rather than the current stop time of 1900 hours.

2.10 The increased output of coal from the site will also result in an increase in coal haulage with lorry movements increasing from 80 movements per day to 120 movements (i.e. an additional 3/4 lorries per hour). In this respect the applicant also seeks to adjust and increase the coal dispatch hours from 0800 - 1700 hours to 0800 - 1800 hours. It should be noted that a separate application (Ref. No. 99/0675/FL) solely relating to the extended dispatch hours proposed under this application also appears on the agenda for this meeting.

2.11 The proposed nightshift operation will result in the direct provision of a further 15 permanent jobs in the nightshift itself and a further 10 permanent jobs during the dayshift. Additionally, increased indirect employment and employment support on and off-site will result from the proposed operation. This would be in addition to the 115 direct jobs supported by the Skares road operation.

2.12 The applicant has indicated that the reason for promoting the nightshift operation is to increase the efficiency of plant resources within the site. During the current working week, many productive hours are lost in maintaining and making safe site haul roads particularly following overnight rain. The applicant has also deployed new mobile plant within the site at a cost of over £15 million. Under the present approved site working hours, this plant is under utilised at 59 hours out of a total of 168 hours per week. The applicant states that the current proposal would increase the available hours for the relevant plant to 119 hours thereby adding significantly to the efficiency of the mining operation.

2.13 The present application has been the subject of a formal Environmental Impact Assessment, the scope of which had been agreed following discussion with the Planning Authority. The Environmental Statement that accompanies the planning application considers the potential impact on the local population resulting from noise and increased traffic movements.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads Division indicates the number of traffic movements proposed for this route (240 movements per day over 10 hours) is acceptable in terms of the capacity of the road. This increased concentration of HGV traffic is likely to cause additional distress to the road surface and I would recommend that the applicant is made aware that additional maintenance patching work (as previously discussed with them) will

require to be carried out on the section of the U728 road between Mote Toll and the Burnton junction with costs rechargeable, in line with Section 69 of the Roads (Scotland) Act 1984, to the applicant and this be incorporated within the Section 75 Agreement.

The applicant is aware of the requirements of the Roads Division and the additional infrastructure works to the U728 road can be addressed through an amendment to the existing Section 75 Agreement for the Skares Road site.

The Roads Division is concerned with respect to the increase in turning traffic at the Creoch Road junction for access to Killoch D.P. and would require the applicant to utilise the existing right turn lane at the western entrance to Killoch D.P. to reduce the movements at the sub-standard junction.

The Killoch D.P. is operated by a company independent from the applicant and the applicant has no direct control over the traffic management at the facility. The existing Section 75 Agreement could be amended to require the applicant to secure, if possible, the use of appropriate access to the Killoch D.P. facility in line with the Roads Division's comments.

3.2 Ochiltree Community Council and Cumnock Landward Community Council have not responded to the further consultation letter. The Secretary of Cumnock Landward Community Council has, however, signed an objection letter representing the Community Council, the details of which are addressed in Section 4 of this report.

Noted.

3.3 East Ayrshire Council's Environmental Health Division states that it is aware that from an operative point of view the availability of a nightshift operation represents a more effective return on investment in site plant which in a normal day time operation will lie idle for virtually two thirds of the time. The downside of any proposed nightshift operation is, of course, the perceived risk of disturbance to any nearby householders which is why those opencast coal sites which currently engage in nightshift working generally tend to be in more isolated locations where there are very few occupied properties.

Noted

One of the principal criteria which the Environmental Health Division will require to take cognisance of will be the ability or otherwise of the applicant to ensure that any proposed nightshift can operate within the noise limits contained in PAN 50, Annex A. In this respect, it is noted that the consultant's report in Appendix 1 of the Environmental Statement predicts that night time

noise levels at Skares village will generally be better than the PAN 50 night time criterion of 42dB(A).

The applicant has, in promoting a nightshift operation, taken full cognisance of the noise limit criterion indicated within PAN 50, Annex A and sought through the Environmental Impact Assessment process, to design the nightshift operation which would be significantly quieter than the 42dB(A) criterion.

The report from Vibrock predicts that noise levels at Skares village will meet the night time criterion of 42dB(A). The Division questions whether this also includes the properties at Hindsward which are several hundred metres closer to the area involved in this application.

The applicant has indicated that the Hindsward properties are closer to the proposed area of operation and may therefore receive a higher level of night-time noise. However the noise received will at no time be higher than the recommended night time level of 42dB(A) and, for the greater part of the planned period of operation, will be considerably lower than that level. The applicant has discussed the matter in detail with the occupiers and they are generally supportive of the proposed development. A formal letter of support has been received from the occupiers following statutory publicity.

The applicants concede that, during the early stages of operation, some tipping operations at surface level may be unavoidable. This could be a potentially contentious issue and should if possible be covered by condition or agreement to limit both the timescale and the potential for noise disturbance to an absolute minimum.

The possible tipping at surface level during the early stages of the operation has been taken into account in terms of assessing the impact of noise. The tipping at surface level will not result in noise exceeding the 42dB(A) night-time criterion. The worst case scenarios indicated in the Environmental Statement predicts a maximum noise level of 39dB(A) where surface tipping operations take place.

The document states that night shift activities will normally be restricted to a maximum of three excavation teams, will be confined to the void area, and will be restricted to overburden excavation activity only, no coal loading or haulage will take place. It is important that these points are covered unequivocally either by condition or agreement for the avoidance of any misunderstandings.

A condition can be attached to any consent granted for the proposed development to specify and limit the operations to be undertaken during the nightshift working.

The applicant states that the proposed nightshift, if permitted, would be for a period of three years after which the operations would return to day shift only. There have been

occasions when applications from operators for temporary modifications of planning consent have been followed by further applications to extend consents. It is therefore assumed that any consent issued would be for a finite period and should any subsequent application for an extension to that period be submitted by the applicant, the onus would clearly be on them to justify the application.

A condition can be attached to any consent granted for the proposed development to limit the timescale of the proposed nightshift operation to the three-year period sought by the applicant. Any future application for an extension to this timescale would require to be considered on its own merits.

The introduction of a nightshift operation would necessitate the modification of the Saturday morning shift to start an hour earlier at 0700 hours instead of the current 0800 hours. This could well have some adverse impact on the local community, which will by now have become accustomed to the hours of operation, although it is difficult to see how any adjustment of night shift patterns would be feasible. This could well be an area of possible conflict and objection by local residents.

A previous application for an adjustment of the Saturday working hours to commence at 0700 hours as opposed to the approved 0800 hours start time (Ref. No. 99/0537/FL) was refused by the Southern Local Planning Committee on 22 October 1999. It is considered that the nightshift operation commencing on a Friday evening could be extended by one hour in order that the existing Saturday hours of working are retained. This would minimise any adverse impact on the local community resulting from a change to the normal operational activities undertaken on Saturday mornings.

The increased volume of coal created by the nightshift operation will be transported to the coal preparation area by the dayshift workforce. In order to process this increased amount, the applicant will require the coal processing plant to close at 2200 hours instead of 1900 hours on weekdays. I would recommend that the situation be specifically covered either by agreement or condition to ensure that any site works between 1900 and 2200 hours are restricted to the limited nightshift operation plus the localised operation of the coal processing plant only, with no site haulage/transportation or other noisy activities taking place. It should be a condition that the coal processing plant operates within night-time noise parameters i.e. noise levels at any noise

sensitive location should not exceed 42dB(A). Some confirmation should be obtained from the applicant that this can be achieved.

The applicant has confirmed that the night time noise limit of 42dB(A) can be achieved regarding the extended operation of the coal/ processing plant A condition can be attached to any consent granted for the proposed development to ensure compliance with night time noise limits set out in PAN 50, Annex A.

Should the operation proceed, another aspect that would require to be covered is the question of monitoring. The noise aspect of the operation should be covered by specific conditions, but some monitoring of noise sensitive locations e.g. adjacent to Hindsward Cottages etc. should be incorporated into the scenario in order that the applicant can provide some documented data to demonstrate continuing compliance in this respect.

Noise monitoring is currently undertaken in respect of the Skares Road Opencast Site including monitoring at noise sensitive locations. This existing scheme of monitoring, which is secured under the existing Section 75 Agreement for the Skares Road site, could be adjusted to ensure that appropriate night time monitoring is undertaken, the scope of which can be the subject of discussion and agreement with the Environmental Health Division. Monitoring of the properties at Hindsward is currently undertaken, as they are the nearest properties to the site.

It is noted that the applicant is proposing to alter the road haulage time from 0700 - 1700 hours to 0800 - 1800 hours. Whilst this, and the increase of coal throughput due to the nightshift operation, will result in some increase in the concentration of traffic, it will serve to reduce any unsociable hours impact on the very few properties which front or are in close proximity to the highway haul route.

Noted.

The related proposal to restore the Hannahston OCCS at Drongan will be welcomed by all concerned. However any such offer should not circumvent any legitimately held concerns over this application. If the concerns outlined above can be satisfactorily addressed and resolved, then the Hannahston restoration would be regarded as a welcome bonus.

The applicant has stated within the submitted application that a benefit of the proposed development would be the restoration of the Hannahston Opencast Site at Drongan. This site remains unrestored following the placing of the operating company, Rackwood Colliery Company, in Administration. The applicant is concerned that the failure to restore the Hannahston site has a detrimental effect on the amenity of the local population and is likely to lead to considerable damage to the

confidence of the local people and the Local Authority in the mining industry's ability to operate to high environmental standards. As a consequence, the applicant is prepared to work with the local planning authority to resolve this situation and, as a result of the efficiency savings derived from the limited nightshift operation, will undertake to utilise plant and employees to restore the Hannahston site to an agreed scheme.

The restoration responsibility with respect to the Hannahston site is currently the subject of a report to the Procurator Fiscal under the enforcement provisions of the Town and Country Planning (Scotland) Act 1997, the outcome of which is awaited. While acknowledging the applicant's proposal, the restoration of the Hannahston OCCS is not a material consideration in the determination of the present application.

3.4 Scottish Natural Heritage does not anticipate that the proposal for a limited nightshift operation will have any significant harmful impacts on the natural heritage and therefore raises no objection to the development being carried out strictly in accordance with the terms and conditions of the accompanying Environmental Statement. SNH should be advised of any modifications or amendments which may affect the natural heritage.

Noted

3.5 East Ayrshire Council's Local Division has no adverse comments to make on the proposed development.

Noted.

3.6 East Ayrshire Council's Economic Development Division has no comments to make on the proposed development

Noted.

3.7 The Scottish Environment Protection Agency has no objections to the proposed development. All consented discharges from the site and the coal processes will continue to be monitored by SEPA and will be required to comply with current consent authorisation conditions.

3.8 The Health and Safety Executive and the Scottish Executive have not responded to the consultation letter.

Noted.

4. **REPRESENTATIONS:** A total of 5 letters of representation have been received, three of which make objection to the development with one letter in support. One of the letters of objection is endorsed by the Secretary of

Cumnock Landward Community Council and this letter is also accompanied by a petition containing 15 signature from residents in Skares opposed to the development. One letter of objection was received anonymously.

4.1 Noise from these machines is dangerous to hearing and Health and Safety insist on ear defenders when near. So on a Summer night with windows ajar what quality of sleep can you imagine us getting. This report has omitted the sounds of excavator horns peeping every 40 seconds, the noise from rocks hitting empty skips, bulldozers clattering about, reversing beepers, lighting set generators etc.

The Environmental Statement which accompanies the planning application considers the potential impact of noise on the local community and noise sensitive properties in close proximity to the proposed nightshift operational area. Noise predictions, in terms of worst case scenarios resulting from the nightshift operations, indicate that the noise generated would not exceed the night time limits advised under PAN 50, Annex A - The Control of Noise at Surface Mineral Workings. The applicant has designed a scheme which seeks to further reduce noise levels to below the night time limit of 42dB(A). A further factor in affenuating noise is the topography of the surrounding land. The Muir ridge lies between the proposed night shift operational area and Skares village (approximately 1.1 to 1.5 kilometres distant) and an overburden mound also lies on the eastern side of the site. It is therefore unlikely that there would be a significant adverse impact on the village of Skares or surrounding noise sensitive properties.

4.2 No village people work at this site. Adding a nightshift will put people back on the dole quicker.

The Skares Road site currently employs 115 people, 75% of which live within 15 miles of the site. The proposed development, in introducing a nightshift operation, will provide a further 25 jobs with additional increased indirect employment through service requirements. The introduction of the nightshift operation may result in the overall timescale for the site operations being reduced. However this has to be balanced against the additional jobs created and the environmental benefits of a reduced lifespan of the site which is consented until June 2010.

4.3 The traffic through the village is diabolical; ask the police about complaints. There will be additional traffic affect on Auchencloigh Lodge.

No coal-laden vehicles from the Skares Road Opencast Site are, as a result of the existing Section 75 Agreement, allowed to travel through Skares village. The proposed nightshift operation will not result in any dispatch of coal outwith the daytime dispatch hours.

The applicant is seeking an amendment to the dispatch hours to allow an additional dispatch hour between 1700 and 1800 hours on weekdays. This is to allow a better distribution of traffic movements which will increase by approximately 3/4 movements per hour as a result of increased coal production. It is considered that this would not result in any significant adverse impact on the 3 properties which lie directly on the dispatch route.

4.4 Hannahston is a planning mess and there should have been assurances that the restoration bond was sufficient and infallible. What about the bond for Skares? Is this guaranteed to be enough?

The restoration responsibility with respect to the Hannahston site is currently the subject of a report to the Procurator Fiscal under the enforcement provisions of the Town and Country Planning (Scotland) Act 1997, the outcome of which is awaited. The restoration of the Hannahston site is not a material consideration in the determination of this present application. The existing Skares Road site is covered by restoration bonds secured through the existing section 75 Agreement for the site. These bonds are assessed as being appropriate to meet restoration obligations should the operator default in this respect.

4.5 All low loader traffic is routed through Skares. This is one of the worst routes in the district. The upgrade of the road from the site to west was cheap, nasty and dangerous. The route from the site to Killoch D.P. passes three cottages not one.

The applicant had no involvement in the upgrading of the B7043 road to the west of the site access. As all plant and machinery for the Skares road site are in place, it is unlikely that wide loads travelling through Skares will result from the proposed development. The routing of such vehicles is a matter for the police in consultation with the Roads Authority.

4.6 Meeting coal lorries on this dangerous road is more than mitigation as there are six dangerous spots where one can come face to face with 41 tonne trucks.

As part of infrastructure requirements for the existing Skares Road operations, the applicant implemented an upgrading scheme at a cost of £400,000 to meet the requirements of the Roads Division in terms of usage and road safety

4.7 Who are Vibrock as we don't care and suppose they don't either because they don't live here. Their assessment is meaningless. To us noise is a nuisance and intermittent noise is disturbing.

Vibroch is the consultancy that undertook the assessment of noise impact relating to the proposed development, on behalf of the applicant. The assessment of the noise impact is a material consideration in the determination of this application despite the views of the objector.

4.8 There is nothing in this for the community of Skares but more grief to add to the lot we have had so far: the breaking of planning permission - Ward Farm entrance, muck soot and diesel trailed through the village, polluted stream through the village, weekend working shifting overburden, night time working.

The objector has previously made representations to the Planning Division with respect to alleged breaches of conditions, all of which have been made verbally. Although requested to do so, no formal written complaints have been received. Nonetheless, allegations of breaches have been pursued with the applicant and additional monitoring of the site undertaken. To date, such matters have been resolved through the submission of planning applications (e.g. Ward Farm access), the breach has been remedied or no actionable breach was found. Formal responses to complaints are only made where a formal letter of complaint is received.

4.9 Councillors should remember their pledge to serve the voters in this community not the selfish one-sided directors of ATH. It is your elected duty to try and ensure that the welfare of the community is tolerable, comfortable and contains certain qualities of life that you yourselves would hope to enjoy.

Noted.

4.10 East Ayrshire does not have the capability to supervise 3 or 4 opencast coal sites let alone 5 times that number. You have information from many sources regarding abuses of conditions of working at virtually all opencast coal sites and instead of relaxing regulations you should be closing down or drastically reducing the working at these sites. Skares is one of the worst offenders.

The effectiveness of monitoring of opencast sites in general by the Planning Authority is not a valid reason for objection to the current proposal. Specifically in relation to the Skares Road site, there have been complaints with respect to breaches of planning control, which have all been investigated. To date, such matters have been resolved through the submission of planning applications (e.g. Ward Farm access), the breach has been remedied or no actionable breach was found.

4.11 The noise levels, 39dB(A), mentioned in the Environmental Statement, are not acceptable. This is confirmed by the applicant's letter to the residents of Skares. This letter states that noise will be well below government levels and will be lower than in a library. This would mean that the noise level should not exceed 6dB(A). I experienced night-time noise levels over 70 dB(A) in my living room from Piperhill OCCS and despite repeated complaints, nothing was done.

The Environmental Statement predicts that the maximum noise level based on worst case scenarios will not exceed 39dB(A). This is within the 42dB(A) limit advised in PAN 50, Annex A for night time working. As a comparison, the Environmental Statement indicates that the approximate typical noise level in a public library is 40dB(A).

4.12 MEGA believes that the Environmental Assessment is so poor it should be referred to the Institute of Environmental Assessment for an impartial technical appraisal of its apparent limitations. The assessment of predicted noise levels is glib and not backed up by any detailed assessment of the Skares area. Remarks about avoiding noise perception and irritation, by restricting operations to below ground level are then cancelled out by reference to tipping at the surface. MEGA requests that the Council appoints an independent acoustic expert to assess noise implication, even if the Council is minded in principle to approve this proposal.

It is considered that reference of the Environmental Statement to the Institute of Environmental Assessment would not be of any particular benefit as the Institute does not make any comment on the technical details contained within the Statement. The Institute undertakes an audit of the processes by which the Statement is formulated. The assessment of predicted noise levels has been undertaken by recognised consultants within this field of expertise. The predictions have been arrived at taking account of local conditions and circumstances and by recognised prediction methods. It is not considered appropriate for the Council to appoint its own acoustic expert. However should consent be granted for the proposed development, appropriate monitoring will be undertaken to ensure compliance with noise limits imposed on the night shift operation

4.13 We note that the applicant states that as there was an EIA initially, the Council had agreed that only the potential impact of noise and increased traffic should be assessed. From our recollection of the subsequent applications at Skares, the situation has changed since the original EIA. Areas changed when more coal was found. We believe that an all embracing EIA should have been requested at this time. For example if there is to be more activity on the site then a thorough dust survey should be required.

The original application for the Skares Road site (Ref. No. CD/95/0254/MIN was the subject of a formal Environmental Impact Assessment. Equally, the revised application for the site Ref. No. 97/0596/FL), in recognition of the changes proposed to the original scheme, was also the subject of a formal Environmental Impact Assessment It was considered that a further examination of some of the impacts associated with a nightshift operation

was necessary and in this respect, the applicant was advised of the need for a formal impact assessment, albeit a tightly scoped one addressing particular impacts. A further all embracing assessment as advocated by the objector was therefore considered unnecessary.

4.14 MEGA sees no justification of benefit to local communities, nor of any indication of a review of the success of the existing operations including restoration which should have commenced on Area E, which according to the applicant, completed coaling some 6 months ago.

The proposed nightshift operation will result in the creation of a further 25 direct jobs at the Skares Road site. Coaling has ceased on Area E and overburden has been replaced in the void. In terms of the existing consent, Area E is used for the storage of overburden until coaling has ceased on site.

4.15 What is the point of this application when the applicant has planning consent to extract coal for 12 years? If they wish to double production for 3 years then they are either intending to extract more coal over the 12 year period or perhaps they are intending to finish earlier. Making most efficient use of the resource is certainly questionable. If this applies to using plant 24 hours per day, that is of no concern to the Council. If the applicant means to extract the coal as quickly as possible, then this is hardly sustainable development, nor careful management of scarce unrennewable natural resources. Whatever the applicants reasons, they are commercial and are not material to the consideration of this planning application.

Notwithstanding the comments of the objector, the Council requires to determine this application on its merits having regard to material considerations. If the proposal is considered to be environmentally acceptable, having due regard to the development plan and representations made, permission should not be unreasonably withheld despite the objectors views on the applicant* reasons for making this application. The introduction of a nightshift operation will have the effect of reducing the life of the site, and if the nightshift operation is acceptable in environmental terms, then there would be significant benefit to the community of Skares through the reduction in the life of the site which is consented to June 2010.

4.16 A nightshift is unacceptable in an area which will already have to endure 12 years of opencasting during daytime hours. Some respite is justifiable particularly when the cumulative impact of this site, the landfill at Garlaff, opencasting at Milzeoch and potential disturbance at Piperhill are added to the equation. The Skares area is remote and peaceful when no operations are taking place. This should be taken into account in any planning and noise assessment. It is quite likely that background noise levels are well below 35dB(A) when sites are closed for the night. Residents and visitors to the area have a right of peaceable enjoyment, even if it is only in the evening.

The nightshift operation proposed is limited in both its timescale and nature, with only the excavation of overburden being undertaken by up to a maximum of three teams operating over a three years period. The operations are to be restricted to Area F, which lies approximately 1.1 kilometres distant from Skares village and, with the exception of some tipping at surface level in the early stages, will be contained within the working void. Noise predictions prepared as part of the Environmental Impact Assessment indicate that noise levels can be maintained within night-time limits advised in PAN50, Annex A.

4.17 MEGA is most concerned that the applicant holds the site under a mining lease from a bankrupt company. We ask therefore whether ATH is entirely responsible for the restoration of the Skares Road OCCS and what the implications are, in planning terms of the current and separate proposal to remove Rackwoods name from the personal consent.

Rackwood Colliery Company Limited is not in Receivership but is in company Administration. ATH Resources has now acquired all Rackwoods interests in the Skares Road site and is therefore responsible entirely for the restoration of the site. This is secured by the Section 75 Agreement which was amended to reflect the acquisition of the site by ATH Resources. An application (Ref. No. 00/0117/FL) to remove Rackwood's name from the personal consent is a technical one, in view of the fact that Rackwood no longer have an enforceable interest in the site.

4.18 The application is for more than a nightshift. It suggests Saturday working should be from 0700 - 1100 hours instead of 0800 - 1200 hours. MEGA cannot understand why this is even included when a similar application has been refused so recently by the Council.

A previous application for an adjustment of the Saturday working hours to commence at 0700 hours as opposed to the approved 0800 hours start time (Ref. No. 99/0537/FL) was refused by the Southern Local Planning Committee on 22 October 1999. The applicant is seeking amendment to these working hours in order

to ensure continuity with the proposed nightshift operation following through from the Friday evening. However, it is considered that the nightshift operation commencing on a Friday evening could be extended by one hour in order that the existing Saturday hours of working are retained. This would minimise any adverse impact on the local community resulting from a change to the normal operational activities undertaken on Saturday mornings.

4.19 The EIA is supposed to assess the traffic impact, yet all it states is that HGV movements will increase to an average of 50 or more than at present (120 per day). Mitigating factors are stated to be cleaning HGV's and sheeting loads. These are basic legal requirements so are not being offered as a bonus, they are merely an acknowledgement of current requirements. MEGA objects to extending dispatch hours to 6 pm on weekdays and agrees with the Council that traffic beyond 5 pm is unacceptable, particularly when it is clear that there can be no control over early morning arrivals to the site. ATH is incorrect in saying that it will minimise the effect of coal haulage by reducing them from 7am -7pm, times for which they have not and would not obtain planning consent. If the applicant is committed to using Killoch railhead we ask why they wish to dispatch coal until 6 pm from Skares when Killoch shuts at 6 pm.

The haul route currently used by the Skares Road opencast site takes coal in the main directly to the Killoch coal disposal point without passing through any local community. No coal is transported through either Skares or Ochiltree, this forming part of the Section 75 Agreement for the existing site. In addition, the haul route used has very few roadside properties which would be affected by traffic from the Skares Road site, with on/y three properties having a direct frontage onto the B7043 road. The applicant is stating that with the extra traffic that would be generated as a consequence of the nightshift operation, measures will continue to be undertaken to minimise dust and dirt through the sheeting of vehicles and wheel washing. The extension of the dispatch hours by one hour later in the day would not result in encroachment into unsociable hours, and certainly not into recognised night time hours. The extension of the dispatch hours would assist in reducing the concentration of traffic activity. It would also be preferable to the earlier commencement time of 0700 hours which was temporarily granted on appeal to the Scottish Ministers (Ref. No. 98/0407/FL). Although the Killoch Disposal Point does not presently operate as late as 1800 hours, the applicant has indicated that it is hoped that suitable arrangements can be made with the operator of the facility.

4.20 To use 1998 traffic figures in a 1999 Traffic Impact Assessment when they are clearly out of date, particularly due to increased activity at Garlaff

and to the lack of freight trains from Killoch is unacceptable and must be questioned by the Council. MEGA objects to the lack of figures for HIV's transporting from the site directly to markets. To state that an element travels onwards by road is totally inadequate.

In preparing an Environmental Impact Assessment, the Local Authority is required by the Environmental Impact Assessment (Scotland) Regulation 1999, to provide applicants with information which would assist in this process. The most recent information available to the applicant was through traffic surveys conducted during November/December 1998. These surveys were undertaken during increased activity at the Garlaff landfill site. The number of vehicles using traffic routes, whether destined for Killoch or local markets is currently governed by agreement through the existing Section 75 Agreement for the Skares Road site. This could be amended to ensure that the current proportion of coal dispatched by rail is maintained and that transport of coal destined for local markets does not adversely impact on other communities.

4.21 MEGA notes that one inadequate justification for nightshift working is that constant vehicle movements will keep the roads in a firm and secure condition. This is not an argument which could be applied to public roads. Indeed increased usage of soft haul roads will wear them down more quickly so we see no justification in 24 hour use. We simply state that haul roads are known to be dangerous more so at night when parts of the site will be in darkness. Rain at such a high and exposed site does not just fall at night.

Noted.

4.22 ATH has a poor record in terms of river pollution. There has been a land slippage at night already. MEGA believes that the applicant should be operating the site better during the day rather than extending into hours which the Council clearly cannot possibly monitor.

The Scottish Environment Protection Agency has no objections to the proposed nightshift operation from a water management point of view. The practice of 24 hour working is undertaken at other sites within East Ayrshire without presenting any particular operational or safety difficulties.

4.23 The question of the restoration of Hannahston should be kept quite separate from this application. We would however question whether any restoration proposal by the applicant can simply be tacked on to this application. Hannahston has effectively been abandoned so any new engineering operations are, we submit, new development. We have not seen the original planning consent for Hannahston, but suspect it would be a personal consent with an appropriate condition attached. The statement by

the applicant that it would cost £500,000 to £600,000 to restore is not backed up by any facts or figures. If there was a restoration bond for Hannahston and it was properly placed in a separate account, why is it unobtainable? Was the amount originally set aside inadequate? These are important questions which the Council should answer publicly. Many opencast sites stress land restoration or removal of dereliction, but our members perception is that many sites have not been completely or properly restored. It appears to MEGA that it is time re-appraise the whole question of restoration if public confidence is not to be eroded further.

If it is agreed that the applicant's proposal with respect to the restoration of Hannahston should not be considered as material/ to the determination of the present proposal for a nightshift operation at Skares Road. The issues regarding the failure of Rackwood Colliery Company Limited to restore the Hannahston opencast site are currently the subject of a report to the Procurator Fiscal under the enforcement provisions of the Town and Country Planning (Scotland) Act 1997, the outcome of which is awaited

4.24 MEGA submits that the application is contrary to the following policies of the finalised East Ayrshire Opencast Coal Subject Plan:

MIN3 in that it provides no overall benefits to the community. Night working near a hamlet like Skares poses a potential threat to a vulnerable community;

The proposed development relates to the introduction of a nightshift operation on a site where the principle of opencast development has already been established. The proposed development will result in the establishment of an additional 25 jobs at the site for a period of three years. It is not considered that policy MIN3 is relevant to this proposal.

MIN4 in that there is no formal EIA, just a superficial appraisal of the points the applicant thinks relevant.

The submitted Environmental Statement has resulted from a formal EIA process and the application has been dealt with in terms of the Environmental Impact Assessment (Scotland) Regulations 1999 and has been advertised accordingly. The issues which the applicant has addressed within the Statement are those which were identified in consultation with the Planning Authority.

MIN6 in that there is no clearly demonstrated and justified markets for the coal. The applicant acknowledges that there are imports of cheaper coal. Indigenous coal is being stock-piled so why increase production at Skares?

The principle of development at Skares Road has already been established. National Planning Policy Guideline 16 on Opencast Mining and Related Minerals makes it clear that it is for the operators to determine the level of output they wish to aim for in light of market conditions.

MIN7 in that a nightshift operation would have an adverse cumulative impact of bad neighbour developments on the area, in particular on residents. Increased HGV volumes would also cause unacceptable detriment to the amenity of the area and along routes used to access the site in the morning and on routes used for dispatch.

The Skares Road Opencast Site is already operational and will not lead to any further cumulative impact on the community of Skares. No HGV's laden with coal will travel through the closest communities of Skares or Ochiltree. While it is accepted that there will be an increase in the number of lorry movements along the B7043 route used for haulage, there are only three properties which lie directly on this route. The disbenefit of this has to be considered in light of the additional employment that the proposal will generate.

MIN8 in that if extraction is to be speeded up, there are no proposals to retimetable restoration.

Restoration of the site is being carried out in a progressive manner, with excavation and backfilling being undertaken as normal operations. If extraction is accelerated, then restoration will consequently also be accelerated.

MIN9 in that the proposal should be determined on its own merits, not linked to the restoration of another site, not in the ownership or control of the applicant.

The proposal is being considered on its own merits, as it has previously been stated that the restoration proposal by the applicant for Hannahston is not a material consideration in the determination of this application.

MIN12 in that it is ironic that this application should be linked to restoration of another site when the applicant has not demonstrated progressive restoration of its own workings at Skares

Coaling has ceased on Area E and restoration of this area is ongoing. Deposition of soils will not take place until they are sufficiently dry to move and handle in order to avoid damage to soils. Such works are normally undertaken during appropriate seasons.

MIN14 in that if Area F is to be completed in half the time originally envisaged, then a new restoration plan and time-table should accompany the current proposal.

The restoration of the Skares Road site has already been established in principle and the present application does not impact on the restoration proposals. The submission of a revised restoration time-table would be addressed in terms of the requirement to undertake a review process of the site which is conditioned in the planning consent for the Skares Road site.

MIN15 in that this policy requirement is not satisfied by a vague reference to Killoch being used.

The introduction of any nightshift operation will not release the operator from the current obligations concerning the dispatch of coal and the routing of vehicles contained within the existing Section 75 Agreement for the site.

MIN18 in that the applicant has breached the Road Transport Protocol. The Council and the police have confirmed complaints.

The protocol for road transportation promoted in the East Ayrshire Opencast Coal Subject Plan is not yet formally in place.

MIN19 in that the applicant has not given proper consideration to mitigating the impact of the operations other than stating it will confine operations to behind a slight ridge. What mitigation measures are proposed to reduce the impact of traffic to and from the coaling area, the effect of crushing coal in the evening and activity from workers coming on/off shift.

In addressing the potential impact of a nightshift operation, the applicant has designed a scheme which seeks to better the night time noise limits advised in PAN50, Annex A as the basic premise. The operations proposed are restricted both in nature, scale, duration and location with all these elements mitigating the otherwise potential adverse impacts that a full scale normal dayshift operation would present if undertaken as a night time operation. No movement of coal will take place during the nightshift operation.

MIN29/31 in that is the Council satisfied that Section 75 Agreements and the legal and financial requirements of restoration bonds are adequate?

The appropriate Section 75 Agreement and restoration bonds are already in place with respect to the existing Skares Road site.

MIN 35/36 in that as part of the mining progress plan, does the Council have a record of how much restoration if any has taken place? Will the Council publish these plans in the interests of accessible and open local government? Similarly with the Environmental Audit, has one been prepared and is the Council satisfied with it?

As part of monitoring and the review process, the operator is required and has submitted site progress plans. These plans form part of the planning application file which is in the public domain and can therefore be readily inspected. The operator has been asked to submit an Environmental Audit following the most recent review of the site and submission is expected in due course.

5. DEVELOPMENT PLAN STATUS

5.1 The relevant policy document is the finalised East Ayrshire Opencast Coal Subject Plan. There are no specific policies which relate to nightshift operations. However 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 addressing the potential impact of a nightshift operation, the applicant has designed a scheme which seeks to better the night time noise limits advised in PAN50, Annex A as the basic premise. The operations proposed are restricted both in nature, scale, duration and location with all these elements mitigating the otherwise potential adverse impacts that a full scale normal dayshift operation would present if undertaken as a night time operation. No movement of coal will take place during the nightshift operation. While it is accepted that there will be an increase in the number of lorry movements along the B7043 route used for haulage, there are only three properties which lie directly on this route. The disbenefit of this has to be considered in light of the additional employment that the proposal will generate. The proposal to extend the dispatch times by one hour later in the day from 1700 to 1800 hours will not encroach into unacceptable night time hours and will assist in reducing the concentration of traffic movements which will increase as a result of the nightshift operation.

6. OTHER PLANNING CONSIDERATIONS

6.1 Planning Advice Note 50 (Annex A) relates to the Control of Noise at Surface Mineral Workings. PAN 50 (Annex A) indicates that the night time

nominal limit at noise sensitive properties used as dwellings should be 42dB(A).

The Environmental Statement which accompanies the planning application provides noise limit predictions at given noise sensitive properties. The conclusion of the assessment is that the worst case conditions of the proposed nightshift operation will meet the normally applied night time criterion of 42dB(A).

6.2 Planning Advice Note 50 (Annex C) relates to the Control of Traffic at Surface Mineral Workings and recognises that the movement of mineral products is likely to be the dominant source of environmental concerns for offsite 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, it is considered that while there will be a resultant increase in coal traffic as a result of increased production of coal from the site, the hours of dispatch proposed would not encroach into unsociable or recognised night time hours.

6.3 As indicated in the report, notwithstanding the proposals contained within this application, the applicant is also seeking permission for the 0800 1800 hours coal dispatch times as a separate application (Ref. No. 99/0675/FL).

The applicant wishes to pursue the extended dispatch hours in the event of a negative decision by the Committee with respect to the proposed nightshift application. The applicant has indicated that should the Committee approve the nightshift application, then they would withdraw the separate application for the extended dispatch hours. Should the Committee refuse the nightshift application, then the applicant would wish the application for the extended dispatch hours to be considered on its own merits.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no direct financial implications for the Council associated with the determination of this application.

7.2 Legal implications would be restricted to amendments to the existing Section 75 Agreement for the Skares Road site as indicated in Section 8.7 of this report.

8. CONCLUSIONS

8.1 In terms of policy, the proposal to introduce a nightshift operation at the Skares Road site would not conflict with the provisions of the East Ayrshire Opencast Coal Subject Plan. The proposed development would also be consistent with PAN 50, Annexes A and C as described in Sections 6.1 and 6.2 above.

8.2 The proposed nightshift operation is limited in both its nature, scale, location and duration, specifically so in order to meet the noise limit criterion advised in PAN50, Annex A. It is therefore considered that this limited operation would not have a significant detrimental impact on the village of Skares or on nearby noise sensitive properties, although there is significant objection from the local community of Skares as indicated by the petition submitted.

8.3 The proposed nightshift operation will result in a significant increase in coal transport from the site on weekdays, the hours of dispatch proposed by the applicant will not encroach into unsociable hours and the potential adverse impact of the additional coal movements require to be balanced against the overall benefits resulting from the reduction in the life of the site and the additional employment generated on site by the proposal.

8.4 The operator also proposes that the coal preparation plant would require to operate until 2200 hours, this being restricted to one barrel washer and one loading shovel. The additional hours of operation of this plant and machinery has been taken into account in the predictions of noise limits and this should not result in any adverse noise impacts on the local community.

8.5 As indicated in the report, the introduction of the nightshift operation will have the effect of reducing the overall life of the site and will provide a further 25 jobs over the three-year duration of the proposal.

8.6 It is considered that the existing noise monitoring programme for the Skares Road site should be extended to monitor noise at specific noise sensitive locations and that monitoring results should be submitted on a weekly basis. It is considered that the existing noise monitoring scheme secured through the existing Section 75 Agreement should also encompass the ability of the Council to suspend the nightshift operation, should monitoring indicate breaches of the 42dB(A) night-time noise limit.

8.7 Any approval of the application should therefore be the subject of an amendment to the existing Skares Road Section 75 Agreement to cover the following matters:

- (i) the extension of the noise monitoring programme for the Skares Road site to monitor the nightshift operation, to a scheme to be agreed in consultation with the Environmental Health Division. The results of the night-time noise monitoring shall be submitted to the Planning Authority on a weekly basis.
- (ii) the right of the Council as Planning Authority to suspend the night-shift operations if monitoring indicates persistent breaches of the nominal night-time noise limit of 42dB(A), through noise attributable to such operations.
- (ii) the securing of additional road infrastructure improvements on the U728 Road to be agreed with the Roads Division and the requirement to pursue with the operator of the Killoch D.P., the use of the existing direct access to this facility from the A70 road thereby preventing the use of the Creoch Road access in terms of road safety.

8.8 With respect to the previous decision of the Council to refuse the amendment of the Saturday morning start time of 0700 hours (Ref. No. 98/0408/FL), it is considered that the present proposal to again seek approval for the commencement of Saturday dayshift operations at 0700 hours should not be acceded to, given the Council's previous recent decision in this respect.

8.9 The central issue to be addressed in determining the application is whether the predicted maximum noise level of 39dB(A) is acceptable in Skares. The national guidance is quite clear that a higher level of 42dB(A) is appropriate as a reference level in a rural area for night time. The Council has no general policy setting a different level. The Committee should note also that current background noise levels which have been measured recently in the area at night time have at times been higher.

8.10 As it is considered that the proposal is acceptable in environmental terms and taking account of the benefits accrued through the reduction in the life of the site and the employment generated, it is recommended that the application be approved.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal amendment to the existing Section 75

Agreement under the Town and Country Planning (Scotland) Act 1997 for the Skares Road site, in respect of the matters described in Section 8.7 of this report.

Alan Neish
Head of Planning and Building Control
13 April 2000
HM/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices and certificates.
3. Environmental Statement.
4. Consultation responses.
5. Letters of Representation.
6. East Ayrshire Opencast Coal Subject Plan (finalised).
7. Previous application CD/95/0254/MIN.
8. Previous application 97/0596/F
9. Previous application 98/0409/FL.
10. Application 99/0675/FL
11. Appeal Decision P/PPA/190/18.
12. PAN 50, Annex A: The Control of Noise at Surface Mineral Workings.
13. 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 1997

Application no: 00/00010t/L

Location Skares Rd OCCS, Skares Rd, SKARES

Nature of Proposal: Proposed modification of existing consent
97/0596/FL to permit a limited nightshift operation

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

Name and Address of Agent:

DPO's Ref: [HM/HM]
PPO's Ref; []

The above [FULL] application should be approved subject to the following conditions:

(1) Permission is granted for a limited period of 3 years from the date of commencement of the limited nightshift operations, thereafter the operations on the Skares Road site shall revert to those approved under planning consent 97/0596/FL dated 15 May 1998. The applicant shall inform the Planning Authority, in writing, of the date of commencement of the limited nightshift operation, a minimum of one week prior to its commencement.

REASON: The nature of the nightshift operation is temporary only and to allow the Planning Authority to ensure appropriate monitoring systems are in place prior to works commencing.

(2) The proposed nightshift operation shall be confined to the area demarcated in Area F on the approved plan (Ref.No. 2a (a)) with no night time coal production activities taking place outwith this area. The plant to be used in the nightshift operation shall be restricted to the plant complement identified in the list identified within Table I of the Noise Assessment report contained within the Environmental Statement which accompanied the planning application.

REASON: In the interests of amenity.

(3) The operational hours of the proposed nightshift operation shall be confined between 1900 and 0700 hours Mondays to Thursdays and between 1900 and 0800 hours on Fridays. There shall be no nightshift operations outwith these specified hours. The nightshift operations shall be restricted to those identified in the Environmental Statement which accompanied the planning application.

REASON: In the interests of amenity.

(4) 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, Sundays or on recognised East Ayrshire Public Holidays. 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.

(5) The operational hours of the coal preparation plant shall be extended from 1900 to 2200 hours Mondays to Fridays only and the activities undertaken during this extended period shall be restricted to the operation of one barrel washer unit and one servicing loading shovel.

REASON: In the interests of amenity.

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AGENDA