

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 11 AUGUST 2000

00/0424/FL : PROPOSED VARIATION OF CONDITION 1 OF CONSENT CD/95/254/MIN TO TRANSFER THE PERSONAL CONSENT FROM THE MILLER GROUP LIMITED TO ATH RESOURCES LIMITED AT MILZEOCH OPENCAST COAL SITE, NEWFIELD ROAD, BY CUMNOCK.

APPLICATION BY MILLER MINING

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Permission is sought for a variation to Condition 1 of planning consent CD/95/254/MIN to allow the transfer of the personal consent from Miller Mining to ATH Resources. Coaling on Area A (Milzeoch) has now ceased and under the terms of the existing consents, the void left in Area A is to be backfilled using overburden excavated from Area B (Skares Road). Operations have now commenced in Area B, with overburden being transferred into Area A.

1.2 Miller Mining and ATH Resources have now concluded a legal agreement whereby Miller Mining's legal interests in Area A have been transferred to ATH Resources. In terms of site restoration, this means that ATH Resources will require to backfill the void in Area A and complete the final restoration and aftercare responsibilities for the Milzeoch site in accordance with the approved restoration scheme. This legal agreement also transfers obligations in respect of the existing planning consent, Section 50 Agreement and Restoration Bond relative to the Milzeoch site to ATH Resources.

1.3 Miller Mining no longer has any legal interests in the Milzeoch site in planning terms and the present application seeks to remove the company from the personal planning consent for the site. Condition 1 of consent CD/95/254/FL, as amended, presently states:

The development hereby permitted shall enure for the benefit of Rackwood Colliery Company Limited and the Miller Group only and that the approved operations shall be completed within 12 years of the commencement date of the operations, or by such other time as may be agreed with the Planning Authority.

1.4 The applicant, Miller Mining, seeks approval for Condition 1 to be amended to read:

The development hereby permitted shall enure for the benefit of Rackwood Colliery Company Limited and ATH Resources and shall be completed within 12 years of the commencement date of the operations, or by such other time as may be agreed with the Planning Authority.

2 RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 In terms of policy, the proposal to vary a condition relating to a personal joint planning consent does not conflict with any policy provisions of the East Ayrshire Opencast Coal Subject Plan (finalised).

3.2 The proposed modification of Condition 1 of consent CD/95/254/MIN to remove Miller Mining's name from the personal consent and replace it with ATH Resources is a technical amendment only as Miller Mining no longer has any enforceable legal interest in the Milzeoch site, either in respect of the planning consent or through the existing Section 50 Agreement.

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 MILLER MINING

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application, which is to be considered by the Local Planning Committee under the scheme of delegation, as it involves the alteration to the method of working of a mineral site and accords with the opencast coal subject plan.

2. APPLICATION DETAILS

2.1 **Site Description :** The application site lies approximately 2 miles south west of Cumnock and 4 miles south-east of Ochiltree and lies on the west side of the U43 Newfield Road, approximately 1 mile east of the small village of Skares. The site relates to some of the lands of the former Milzeoch farmstead, covering a total area of approximately 69 hectares.

2.2 The application site comprises the existing opencast coal development 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 (Area A) commenced coaling in Summer 1997 this being undertaken by William Grant (Mining) Limited. The main phase of operation at Skares Road (Areas B through F) 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/MIN. Coaling on this part of the site has now ceased and restoration is now being progressed. The site is the subject of a Section 50 Agreement under the Town and Country Planning (Scotland) Act 1972 and a Restoration Bond in the sum of £100,000.

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. A further application (Ref. No. 98/0407/FL) to vary condition 1 of this consent to allow ATH Resources to be joint holders of the personal planning consent was approved by the Development Services Committee on 01 September 1998. Following approval of a further application (Ref. No. 00/0117/FL) on 19 May 2000, ATH Resources became the sole holder of the personal planning consent due to Rackwood Colliery Company (In Administration) disposing of its interests in the Skares Road site.

2.5 **Proposed Development** : Permission is sought for a variation to Condition 1 of planning consent CD/95/254/MIN to allow the transfer of the personal consent from Miller Mining to ATH Resources. Coaling on Area A (Milzeoch) has now ceased and under the terms of the existing consents, the void left in Area A is to be backfilled using overburden excavated from Area B (Skares Road). Operations have now commenced in Area B, with overburden being transferred into Area A.

2.6 Miller Mining and ATH Resources have now concluded a legal agreement whereby Miller Mining's legal interests in Area A have been transferred to ATH Resources. In terms of site restoration, this means that ATH Resources will require to backfill the void in Area A and complete the final restoration and aftercare responsibilities for the Milzeoch site in accordance with the approved restoration scheme. This legal agreement also transfers obligations in respect of the existing planning consent, Section 50 Agreement and Restoration Bond relative to the Milzeoch site to ATH Resources.

2.7 Miller Mining no longer has any legal interests in the Milzeoch site in planning terms and the present application seeks to remove the company from the personal planning consent for the site. Condition 1 of consent CD/95/254/FL, as amended, presently states:

The development hereby permitted shall enure for the benefit of Rackwood Colliery Company Limited and the Miller Group only and that the approved operations shall be completed within 12 years of the commencement date of the operations, or by such other time as may be agreed with the Planning Authority.

2.8 The applicant, Miller Mining, seeks approval for Condition 1 to be amended to read:

The development hereby permitted shall enure for the benefit of Rackwood Colliery Company Limited and ATH Resources and shall be completed within 12 years of the commencement date of the operations, or by such other time as may be agreed with the Planning Authority.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Legal Division has no comment to make on this application other than confirming that the planning agreement recorded in respect of the Milzeoch site shall require to be amended to substitute ATH for Miller and a new restoration bond shall also require to be submitted prior to any decision notice being issued.

As a result of ATH Resources acquiring Miller Mining's interests in the Milzeoch site, all obligations under the Section 50 Agreement be transferred to ATH Resources. A replacement Restoration Bond will also require to be lodged with the Council as planning authority, to allow the release of the existing bond to Miller Mining.

3.2 Cumnock Landward Community Council has not responded to the consultation letter.

Noted.

4. REPRESENTATIONS : None

5. DEVELOPMENT PLAN STATUS

5.1 The relevant policy document is the finalised East Ayrshire Opencast Coal Subject Plan. There are no specific policies affected by the proposed variation to the personal consent condition attached to the planning consent for the Milzeoch site.

Noted.

6. OTHER PLANNING CONSIDERATIONS : None

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council associated with the determination of this application. Legal implications will result from the requirement to amend the existing Section 50 Agreement and Restoration Bond relative to the Milzeoch site.

8. CONCLUSIONS

8.1 In terms of policy, the proposal to vary a condition relating to a personal joint planning consent does not conflict with any policy provisions of the East Ayrshire Opencast Coal Subject Plan (finalised).

8.2 The proposed modification of Condition 1 of consent CD/95/254/MIN to remove Miller Mining's name from the personal consent and replace it with ATH Resources is a technical amendment only as Miller Mining no longer has any enforceable legal interest in the Milzeoch site, either in respect of the planning consent or through the existing Section 50 Agreement.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control
25 July 2000
HM/HM
FV/AN

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices and certificates.
3. Consultation responses.
4. East Ayrshire Opencast Coal Subject Plan (finalised).
5. Previous application CD/95/0254/MIN.
6. Previous application 97/0686/FL.

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: 000424/FL

Location	Milzeoch Opencast Site, Newfield Road BY CUMNOCK KA18 2RA
Nature of Proposal:	Proposed application to amend Condition 1 of consent CD/96/0254/MIN so that the applicant shall be ATH Resources Ltd in place of the Miller Group Ltd
Name and Address of Applicant:	Miller Mining, Miller House Pontefract Road, NORMANTON WF6 1RN
Name and Address of Agent	

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

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

- (1) Condition 1 of planning consent CD/95/254/MIN dated 13 March 1997 shall be substituted with the following condition:-

'The development hereby permitted shall enure for the benefit of Rackwood Colliery Company Limited and ATH Resources and shall be completed within 12 years of the commencement date of the operations, or by such other time as may be agreed with the Planning Authority.'

REASON – The development is acceptable only because of the individual circumstances of the applicants, and because the operations are of a temporary nature.

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PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**

AGENDA