

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 19 MAY 2000

00/0228/FL : PROPOSED VARIATION TO CONDITION 1 OF PLANNING CONSENT CD/95/0058/MIN TO INSERT VWM (SCOTLAND) LIMITED AT DARNCONNER OCCS, C22 ROAD, BY AUCHINLECK

APPLICATION BY S.B. MINERALS LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 **Proposed Development :** Permission is sought for a variation of condition 1 of the issued planning consent CD/95/0058/MIN to allow the transfer of the personal consent to VWM (Scotland) Limited, this company having acquired the interests pertaining to the landfill site from S.B. Minerals Limited.

1.2 Condition 1 of planning consent CD/95/0058/MIN presently states:

'The development hereby permitted shall enure for the benefit of the applicant, or its legal successor only, that it shall be commenced within one month of the date of the issued decision notice and that the approved operations shall be completed within 10 years of the commencement of the date of operations or at such other times as may be agreed with the Planning Authority.'

In this respect it is considered that as the site has transferred to VWM (Scotland) Limited through a commercial sale, the company has not legally succeeded S.B. Minerals Limited. Therefore, permission is now sought to vary Condition 1 as follows:

'The development hereby permitted shall enure for the benefit of VWM (Scotland) Limited, or its legal successor only, that it shall be commenced within one month of the date of the issued decision notice and that the approved operations shall be completed within 10 years of the commencement of the date of operations or at such other times 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 and that the issue of the decision notice be withheld until the Solicitor to the Council has received a performance bond in the sum of £875,000 under the terms of

the existing Section 50 Agreement relating to planning consent CD/0058/MIN.

2.2 It is further recommended that upon receipt of the replacement performance bond, the existing restoration bonds for the Darnconner site be released.

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 Local Plan (finalised).

3.2 The proposed modification of Condition 1 of consent CD/95/0058/MIN to vary the personal consent from S.B.Minerals Limited to VWM (Scotland) Limited is a technical amendment only as S.B. Minerals no longer have any interest in the Darnconner landfill site as the company has sold its interests in this site to VWM (Scotland) Limited.

3.3 Due to the terms of the Section 50 Agreement being legally bound to the development site, the obligations contained therein, as identified in Section 3.1 of the report, VWM (Scotland) Limited will also be bound to these obligations as the new owner of the development site.

**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 S.B. MINERALS LIMITED

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, due to the nature of the proposed development which is of local significance.

2. APPLICATION DETAILS

2.1 **Site Description** : The application site lies approximately 3.5 kilometres north of Cumnock, 3 kilometres north-east of Auchinleck and is located immediately west of Darnconner Farm. The application site accesses directly onto the C22 Commonloch road which in turn accesses onto the A70 Cumnock –Muirkirk Road.

2.2 The site extends to approximately 35 hectares, of which 15 hectares forms the proposed landfill site. The remainder of the site consists of bunding areas, a cover-material stockpile, a water treatment area, a gas flare compound, the access road and a civic amenity centre.

2.3 The site comprises the exhausted opencast coal extraction and fireclay storage areas of the Darnconner Opencast Coal Site. The remainder of the opencast site, outwith the application area has been restored as part of the overall restoration plan for the site.

2.4 Planning permission for the use of the application site for landfill of controlled waste and associated civic amenity centre was granted by East Ayrshire Council on 11 September 1996 under application CD/95/0058/MIN. This approval was the subject of a Section 50 Agreement under the 1972 Planning Act to include for the provision of a restoration bond in the sum of £875,000. The consent granted for the development was also personal to the applicant, S.B. Minerals Limited. Although the planning consent was implemented in terms of preparing the site for the reception of waste, no landfill operation have yet commenced on site.

2.5 **Proposed Development** : Permission is sought for a variation of condition 1 of the issued planning consent CD/95/0058/MIN to allow the

transfer of the personal consent to VWM (Scotland) Limited, this company having acquired the interests pertaining to the landfill site from S.B. Minerals Limited.

2.6 Condition 1 of planning consent CD/95/0058/MIN presently states:

'The development hereby permitted shall enure for the benefit of the applicant, or its legal successor only, that it shall be commenced within one month of the date of the issued decision notice and that the approved operations shall be completed within 10 years of the commencement of the date of operations or at such other times as may be agreed with the Planning Authority.'

In this respect it is considered that as the site has transferred to VWM (Scotland) Limited through a commercial sale, the company has not legally succeeded S.B. Minerals Limited. Therefore, permission is now sought to vary Condition 1 as follows:

'The development hereby permitted shall enure for the benefit of VWM (Scotland) Limited, or its legal successor only, that it shall be commenced within one month of the date of the issued decision notice and that the approved operations shall be completed within 10 years of the commencement of the date of operations or at such other times as may be agreed with the Planning Authority.'

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Legal Division indicates that the planning consent for the landfill development at Darnconner is subject to a Section 50 Agreement associated with planning consent CD/95/0058/MIN. The principal obligations of the Section 50 Agreement are as follows:

- (i) A performance bond of £875,000 to be lodged for the duration of the site with the sum of £5000 per hectare being retained in the form of an aftercare bond following completion of the development.*
- (ii) The undertaking of road infrastructure improvements to Birnieknowe Bridge and Common Farm Bridge.*
- (iii) A survey of the surrounding breeding moorland bird community with the assistance of SNH and RSPB.*
- (iv) Implementation of a bird scaring strategy.*
- (v) Annual monitoring of moorland breeding birds.*
- (vi) Annual review of operations until the final restoration of the site.*

(vii) Waste to be deposited at the site shall be domestic, commercial, industrial and inert waste only and shall originate only from East Ayrshire Council area.

Noted. The new operator of the Darnconner landfill site is willing to meet the obligations contained within the existing Section 50 Agreement which is legally bound to the development site.

3.2 Logan and Lugar 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 Local Plan. There are no specific policies affected by the proposed variation to the personal consent condition attached to the planning consent for the Darnconner landfill site.

Noted.

6. **OTHER PLANNING CONSIDERATIONS** : None

7. **FINANCIAL AND LEGAL IMPLICATIONS**

7.1 While there are no financial implications for the Council associated with the determination of this application, legal implications will arise from the requirement to release current bonds associated with the former opencast coal site and their replacement by bonds to the value of £875,000.

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 Local Plan (finalised).

8.2 The proposed modification of Condition 1 of consent CD/95/0058/MIN to vary the personal consent from S.B.Minerals Limited to VWM (Scotland) Limited is a technical amendment only as S.B. Minerals no longer have any interest in the Darnconner landfill site as the company has sold its interests in this site to VWM (Scotland) Limited.

8.3 Due to the terms of the Section 50 Agreement being legally bound to the development site, the obligations contained therein, as identified in Section 3.1 of the report, VWM (Scotland) Limited will also be bound to these obligations as the new owner of the development site.

9. RECOMMENDATIONS

9.1 It is recommended that the application be approved subject to the condition listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has received a performance bond in the sum of £875,000 under the terms of the existing Section 50 Agreement relating to planning consent CD/0058/MIN.

9.2 It is further recommended that upon receipt of the replacement performance bond, the existing restoration bonds for the Darnconner site be released.

Alan Neish
Head of Planning and Building Control
05 May 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 Local Plan (finalised).
5. Previous application CD/95/0058/MIN.

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

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1972

Implementation Officer : Alan Neish

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1972

Application no: 00/0228/FL

Location	Darnconner OCCS, C22 Road NEAR AUCHINLECK
Nature of Proposal:	Proposed variation of Condition 1 of planning consent no. CD/95/0058/MIN to insert VWM (Scotland) Ltd
Name and Address of Applicant:	S B Minerals Ltd Cadzow Industrial Estate, HAMILTON ML3 7QU
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 1 of planning consent CD/95/0058/FL dated 11 September 1996 shall be amended to read as follows:-

'The development hereby permitted shall enure for the benefit of VWM (Scotland) Ltd, or its legal successor only, that it shall be commenced within one month of the date of the issued decision notice and that the approved operations shall be completed within 10 years of the commencement of the date of operations or at such other times as may be agreed with the Planning Authority.'

REASON – In order to retain effective planning control over the site and to ensure that works are commenced and completed to an agreed timescale.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**

AGENDA