

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 19 MAY 2000

00/0117/FL : PROPOSED VARIATION OF CONDITION 1 OF CONSENT 97/0596/FL (AS AMENDED) TO REMOVE RACKWOOD COLLIERY COMPANY LIMITED AT SKARES ROAD OPENCAST COAL SITE, SKARES, NEAR CUMNOCK.

APPLICATION BY ATH RESOURCES

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Permission is sought for a further variation to Condition 1 of planning consent 97/0596/FL to remove Rackwood Colliery Company Limited from the personal planning consent for the Skares Road Opencast Site. Since January 1999, Rackwood Colliery Company Limited has been in Administration. As a result of formally and legally acquiring Rackwood Colliery Company Limited's interests in the Skares Road Opencast Site, ATH Resources is now the sole owner and operator of the site.

1.2 Rackwood Colliery Company Limited no longer has any enforceable interests in the Skares Road 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 97/0596/FL, as amended, presently states:

The development hereby permitted shall enure for the benefit of the applicant and ATH Resources and shall be commenced within 12 months of the date of the issued notice of decision and that the approved operations shall be completed within 12 years of the commencement date of the operations, or at such times as may be agreed with the Planning Authority.

1.3 The applicant, ATH Resources, seeks approval for Condition 1 to be amended to read:

The development hereby permitted shall enure for the benefit of ATH Resources and shall be commenced within 12 months of the date of the issued notice of decision and that the approved operations shall be completed within 12 years of the commencement date of the operations, or at such 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.**

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 97/0596/FL to remove Rackwood's name from the personal joint consent is a technical amendment only as Rackwood no longer have any enforceable interest in the Skares Road site, either in respect of the planning consent or legally through the existing Section 75 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 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 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 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/MIN.

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.

2.5 Proposed Development : Permission is sought for a further variation to Condition 1 of planning consent 97/0596/FL to remove Rackwood Colliery Company Limited from the personal planning consent for the Skares Road Opencast Site. Since January 1999, Rackwood Colliery Company Limited has been in Administration. As a result of formally and legally acquiring Rackwood Colliery Company Limited's interests in the Skares Road Opencast Site, ATH Resources is now the sole owner and operator of the site.

2.6 Rackwood Colliery Company Limited no longer has any enforceable interests in the Skares Road 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 97/0596/FL, as amended, presently states:

The development hereby permitted shall enure for the benefit of the applicant and ATH Resources and shall be commenced within 12 months of the date of the issued notice of decision and that the approved operations shall be completed within 12 years of the commencement date of the operations, or at such times as may be agreed with the Planning Authority.

2.7 The applicant, ATH Resources, seeks approval for Condition 1 to be amended to read:

The development hereby permitted shall enure for the benefit of ATH Resources and shall be commenced within 12 months of the date of the issued notice of decision and that the approved operations shall be completed within 12 years of the commencement date of the operations, or at such times 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 an agreement has been entered into by the Council, ATH Resources and Rackwood Colliery Company Limited (in Administration) regarding the removal of Rackwood from the Section 50 Agreement covering the Skares Road site. The present application formalises this position in respect of the associated planning consent.

As a result of ATH Resources acquiring Rackwood's interests in the Skares Road site, all obligations under the Section 50 Agreement have transferred to ATH Resources. As part of the

amendment to this Section 50 Agreement, Rackwood has been released from these obligations and its name removed from the Agreement.

3.2 Ochiltree Community Council and Cumnock Landward Community Council have 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 Skares Road site.

Noted.

6. OTHER PLANNING CONSIDERATIONS : None

7. FINANCIAL AND LEGAL IMPLICATIONS

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

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 97/0596/FL to remove Rackwood's name from the personal joint consent is a technical amendment only as Rackwood no longer have any enforceable interest in the Skares Road site, either in respect of the planning consent or legally through the existing Section 75 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
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 Opencast Coal Subject Plan (finalised).
5. Previous application CD/95/0254/MIN.
6. Previous application 97/0596/FL.
7. Previous application 98/0407/FL.

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

Implementation Officer : Alan Neish

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1972

Application no: 00/0117/FL

Location	Skares Road OCCS Skares, NEAR CUMNOCK
Nature of Proposal:	Proposed variation of Condition 1 of consent 97/0596/FL (as amended) to remove Rackwood Colliery Company Limited for the benefit of ATH Resources.
Name and Address of Applicant:	ATH Resources, Richmonds Way, White Rose Way, DONCASTER DN4 5JH
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 the planning consent 97/0596/FL, dated 15 May 1998 shall be amended to read as follows:-

'The development hereby permitted shall enure for the benefit of ATH Resources and shall be commenced within 12 months of the date of the issued notice of decision and that the approved operations shall be completed within 12 years of the commencement date of the operations, or at such times as may be agreed with the Planning Authority.'

REASON – To retain effective planning control over the development.

**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

