
NORTH AYRSHIRE COUNCIL

24 June 2020

Planning Committee

Locality	Kilwinning
Reference	20/00323/PPM
Application Registered	29th April 2020
Decision Due	29th August 2020
Ward	Kilwinning

Recommendation	Approved subject to Conditions
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Location	West Byrehill Industrial Estate Byrehill Place Kilwinning Ayrshire
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Applicant	Ashtenne Industrial Fund LLP
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Proposal	Section 42 planning application to remove/vary conditions 1 (j) and 2 of planning permission 13/00038/PPPM (for residential development and a neighbourhood centre)
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1. Description

Planning permission is sought to remove/vary condition 1 (j) and condition 2 of a planning permission in principle (ref. 13/00038/PPPM) for a residential development and neighbourhood centre at West Byrehill Industrial Estate, Kilwinning that was granted, subject to conditions, on 11th November 2015.

The permission is subject to a suite of conditions which set out the requirements that any subsequent applications for the matters specified in the conditions should meet. Should this application be granted, a new permission would be issued along with the other conditions previously attached.

Condition 1 of 13/00038/PPPM currently reads as follows:

Prior to the commencement of any development on site, a further application(s) for the approval of the matters specified in this condition shall be submitted to and approved by North Ayrshire Council as Planning Authority. These matters are as follows:

- a) a design and access statement taking into account the relevant North Ayrshire supplementary design guidance;
- b) details of the layout of the development, including roads, footways, shared paths, cycle routes, open spaces, parking and infrastructure;
- c) the siting, design and external appearance of all buildings and any other structures, including dimensioned plans and elevations together with the details of external materials;
- d) a suitably detailed flood risk assessment inclusive of measures to reduce the risk of flooding within the site and the surrounding area;
- e) the means of drainage and surface water strategy and methodology for sewage disposal, including Sustainable Urban Drainage Systems (SuDS), all set out in a comprehensive Drainage Assessment, including maintenance. SuDS shall be self-certified by a suitably qualified person;
- f) the means of access to the site, including appropriate provision for walking, cycling and public transport;
- g) the design and location of all boundary treatments including walls and fences;
- h) details of landscaping and associated maintenance proposals, including details of existing trees, hedgerows and other planting to be retained and tree protection measures together with detailed proposals for all new planting and its aftercare;
- i) a phasing plan for the development, the details of which may subsequently be varied through written agreement with North Ayrshire Council as Planning Authority; and
- j) detailed specification of the nature and extent of any off-site employment space improvements at Nethermains and South Newmoor Industrial Estates taking into account the Economic Viability Assessment for West Byrehill produced by GVA James Barr (December 2014).

It is proposed to delete part (j) of the above condition, since it is no longer necessary to support the development following the re-designation of the site in the recently adopted LDP to a General Urban Area of Kilwinning. Previously, the site had been allocated as 'mixed employment/residential area', with revenues from any new housing development expected to contribute to improvements to the other industrial estate owned by the applicants in the Kilwinning/Irvine area.

Condition 2 set the time limit for the submission of applications for matters specified in conditions as 5 years from the date of the planning permission, this being up until 11th November 2020. It is now proposed to extend this period for a further 5 years. This would extend the lifespan of the planning permission in principle in order to attract further development onto the site in the years ahead. Thus far, only one detailed planning application has come forward for West Byrehill (erection of 76 houses, ref. 20/00106/PPM) in the four and a half years since the permission in principle was granted, and six years after the previous LDP was adopted.

The application site is identified by the LDP as part of the General Urban Area of Kilwinning. It is also identified in the LDP as being a housing development site with an indicative capacity of 400 dwellings. It is considered that the relevant policies of the LDP are Strategic Policy 1: The Towns and Villages Objective Strategic and Policy 1: New Homes and Maintaining an Effective Housing Land Supply.

The Scottish Government's Planning Circular 4/1998 sets out guidance on the use of planning conditions.

Relevant Development Plan Policies

SP1 - Towns and Villages Objective

Towns and Villages Objective

Our towns and villages are where most of our homes, jobs, community facilities, shops and services are located. We want to continue to support our communities, businesses and protect our natural environment by directing new development to our towns and villages as shown in the Spatial Strategy. Within urban areas (within the settlement boundary), the LDP identifies town centre locations, employment locations and areas of open space. Most of the remaining area within settlements is shown as General Urban Area. Within the General Urban Area, proposals for residential development will accord with the development plan in principle, and applications will be assessed against the policies of the LDP. New non-residential proposals will be assessed against policies of this LDP that relate to the proposal.

In principle, we will support development proposals within our towns and villages that:

- a) Support the social and economic functions of our town centres by adopting a town centre first principle that directs major new development and investment to town centre locations as a priority including supporting town centre living.
- b) Provide the right new homes in the right places by working alongside the Local Housing Strategy to deliver choice and variety in the housing stock, protecting land for housing development to ensure we address housing need and demand within North Ayrshire and by supporting innovative approaches to improving the volume and speed of housing delivery.
- c) Generate new employment opportunities by identifying a flexible range of business, commercial and industrial areas to meet market demands including those that would support key sector development at Hunterston and i3, Irvine.
- d) Recognise the value of our built and natural environment by embedding placemaking into our decision-making.
- e) Prioritise the re-use of brownfield land over greenfield land by supporting a range of strategic developments that will deliver:
 - o regeneration of vacant and derelict land through its sustainable and productive re-use, particularly at Ardrossan North Shore, harbour and marina areas, Montgomerie Park (Irvine) and Lochshore (Kilbirnie).
 - o regeneration and conservation benefits, including securing the productive re-use of Stoneyholm Mill (Kilbirnie) and supporting the Millport Conservation Area Regeneration Scheme.
- f) Support the delivery of regional partnerships such as the Ayrshire Growth Deal in unlocking the economic potential of the Ayrshire region.

Detailed Policy 1 -New Homes/Land Supply

Policy 1:

New Homes and Maintaining an Effective Housing Land Supply

In principle we will support and promote residential development of the 51 effective housing supply sites shown in Schedules 2a and 2b. We will protect them by resisting alternative development, including significant reductions in capacity which would undermine our ability to confirm an ongoing 5-year land supply.

In principle, we will also support and promote residential development of our 27 long-term housing sites shown in schedule 3. In particular, but not limited to, where they would contribute to our ongoing 5-year effective land supply.

Notwithstanding the above, we will support ancillary development for a range of accommodating and integrated uses including locally important community, leisure, and other employment uses like shops, banks, cafes, workshops, garages, and small offices within these sites where they would not negatively impact upon our ability to maintain an effective 5 year housing land supply.

We will monitor the delivery of new homes in North Ayrshire through a housing land audit to ensure the maintenance of an effective five-year supply of land for housing. Where we identify and confirm a shortfall we will consider innovative approaches to enable development in the first instance. We will only support new housing proposals where they would help us achieve the vision, for example by aligning with the principles of the spatial strategy and being compliant with other aspects of the plan particularly by way of impact on committed infrastructure and the environment.

2. Consultations and Representations

The application was subject to statutory neighbour notification procedures and advertised in the local press. No representations were received. No consultations required to be undertaken.

3. Analysis

The planning permission in principle (ref.13/00038/PPPM) established that residential development of the site was acceptable subject to a number of conditions. The determination for this application is whether the development would be acceptable without part (j) of Condition 1 and to enable an extension of time for the submission of the applications for the approval of matters specified in conditions for a further 5 years.

Strategic Policy 1 of the LDP states that proposals for the right new homes in the right places will be supported. Policy 1 of the LDP states that the Council will support and promote the principle of residential development in the effective housing supply sites identified in the LDP.

Planning Circular 4/1998 states that planning conditions should only be imposed where they are; necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects.

Condition 1 (j) related to a specific policy of the 2014 Local Development Plan which required provision of improvements to employment space arising from housing development at West Byrehill. Therefore, Condition 1(j) was considered to be necessary, relevant to the development and reasonable in the context of the 2014 LDP.

The site now forms part of the General Urban Area of Kilwinning and, as such, is suitable in principle for uses appropriate in such an area without the previous restriction for improvements to employment sites at Nethermains and South Newmoor. The LDP also lists the site as a potential housing development site. The principle of the site for housing is confirmed by the LDP. Also, of note is that there is a detailed, major application currently under consideration as a first phase of housing development at West Byrehill (ref.

20/00120/PPM). If the proposed extension of time to the permission in principle is granted, this could assist with the marketing of the site for further development in the years ahead.

The LDP no longer has any specific requirement for improvements to employment land in the Irvine/Kilwinning area. This policy change was endorsed by the Scottish Government through its examination of the current LDP in 2019.

The proposed changes to Condition 2, which would provide another 5 years in which applications for matters specified in conditions could be submitted for the development of the site, is considered appropriate given the prevailing economic circumstances, especially given the large area of the site covers. This amendment would accord with LDP Policy 1: New Homes and Maintaining an Effective Housing Land Supply.

In summary, the proposal accords with the relevant policies of the LDP and as there are no material considerations to the contrary, it is recommended that planning permission in principle be granted subject to the amended conditions as set out below.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. Prior to the commencement of any development on site, a further application(s) for the approval of the matters specified in this condition shall be submitted to and approved by North Ayrshire Council as Planning Authority. These matters are as follows:

- a) a design and access statement taking into account the relevant North Ayrshire supplementary design guidance;
- b) details of the layout of the development, including roads, footways, shared paths, cycle routes, open spaces, parking and infrastructure;
- c) the siting, design and external appearance of all buildings and any other structures, including dimensioned plans and elevations together with the details of external materials;
- d) a suitably detailed flood risk assessment inclusive of measures to reduce the risk of flooding within the site and the surrounding area;
- e) the means of drainage and surface water strategy and methodology for sewage disposal, including Sustainable Urban Drainage Systems (SuDS), all set out in a comprehensive Drainage Assessment, including maintenance. SuDS shall be self-certified by a suitably qualified person;
- f) the means of access to the site, including appropriate provision for walking, cycling and public transport;
- g) the design and location of all boundary treatments including walls and fences;
- h) details of landscaping and associated maintenance proposals, including details of existing trees, hedgerows and other planting to be retained and tree protection measures together with detailed proposals for all new planting and its aftercare; and
- i) a phasing plan for the development, the details of which may subsequently be varied through written agreement with North Ayrshire Council as Planning Authority.

Reason

In order that these matters can be considered in detail.

Condition

2. The application(s) for approval of these further matters must be made to the Council as Planning Authority before whichever is the latest of the following:

- (a) expiry of 5 years from when this permission in principle was granted
- (b) expiry of 6 months from date when an earlier application for approval was refused, and
- (c) expiry of 6 months from date on which an appeal against the refusal was dismissed.

Approval of the further specified matters can be made for -

- (i) different matters, and
- (ii) different parts of the development at different times.

Only one application for approval of matters specified in conditions can be made after 5 years from the grant of this planning permission in principle.

Reason

In recognition of the large scale of the development.

Condition

3. The proposed development shall be designed in accordance with the principles of the Scottish Government's "Designing Streets" and "Designing Places" policy documents and any replacements thereof and North Ayrshire Council's Neighbourhood Design Guidance to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In order to ensure compliance with current national and local design guidance.

Condition

4. That prior to the commencement of the development, hereby approved, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority, a Strategy for Open Space which shall include proposals for (i) the provision of open space and play provision, in accordance with the North Ayrshire Council policy "Provision and Maintenance of Landscaping, Open Space and Play Areas in New Housing Developments" and any replacements thereof, together with proposals for the management and maintenance of open space.

Reason

In the interests of adequate open space and play provision.

Condition

5. That the further application(s) required under the terms of Condition 1 above shall include submission of a strategic assessment of how new buildings shall reduce their CO2 emissions to a level above or in line with the building standards through appropriately designed: on-site low or zero carbon generating technologies (LZCGTs); and/or passive/operational energy efficiency measures. The specific implementation/detail documentation shall be submitted at the time of submission for Building Warrant, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To secure a sustainable development in the interests of environmental protection.

Condition

6. That the recommendations within the Ecology Assessment Survey submitted in support of the application, shall be reviewed and implemented to the satisfaction of North Ayrshire Council as Planning Authority. Details shall be submitted demonstrating of the undertaking and/or programming of these recommendations. In addition, details of a scheme for the removal of non-native species from the site, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter any such scheme, which may be approved, shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority

Reason

In the interests of environmental protection.

Condition

7. That prior to the commencement of the development, hereby approved, the applicant shall undertake a desk study of the application site, (including the review of any previous site investigations) to assess the likelihood of contamination and assist in the design of an appropriate site investigation and subsequent suitable quantitative risk assessment as advocated in BS10175: 2011. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to North Ayrshire Council as Planning Authority. Any required remediation measures shall be undertaken, prior to the commencement of the development to the satisfaction of North Ayrshire Council as Planning Authority. Thereafter the presence of any significant unsuspected contamination, which becomes evident during the development of the site, shall be reported to North Ayrshire Council and treated in accordance with an agreed remediation scheme. On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted to the North Ayrshire Council as Planning Authority.

Reason

In the interests of environmental protection and human health.

Condition

8. The development hereby approved shall commence in phases, and in accordance with the following transport requirements, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority and in consultation with Transport Scotland. For the avoidance of doubt, not more than 180 houses constructed on the site shall be occupied until either:

- (i) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network; OR
- (ii) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network in the event of the implementation of appropriate measures identified within the approved transport assessment; OR
- (iii) The modifications to the A78(T)/A738(T) Pennyburn Roundabout, generally as indicated in SIAS drawing number 75064-1 titled 'Pennyburn Roundabout Signalisation - Revision 1', and the modifications to the A738(T)/Pennyburn Road mini-roundabout and the A738(T)

Whitehirst Road signalised to form a roundabout junction generally as indicated in SIAS drawing number 75064-5 titled Whitehirst Park Road have been implemented; OR (iv) North Ayrshire Council as Planning Authority Planning Authority or any other party has concluded an appropriate legal agreement or agreements for the funding and implementation of the works to mitigate the development.

Reason

To restrict the scale of the development prior to the implementation of mitigation in the interests of protecting the safety and free flow of traffic on the trunk road network near the site.

Condition

9. That there shall be no means of direct access onto the A78 trunk road either pedestrian or vehicular.

Reason

In the interest of road safety.

Condition

10. That prior to the commencement of the development, details of a barrier along the boundary of the site with the A738 trunk road and with the A78 trunk road, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter the details, as may be approved, shall be provided and maintained by the developer or subsequent owner of the land to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In the interest of road safety.

Russell McCutcheon
Executive Director (Place)

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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