

**Planning Committee**  
**25 April 2018**

**Present**

Tom Marshall, Timothy Billings, Robert Barr, Ian Clarkson, Christina Larsen, Shaun Macaulay, Ellen McMaster, Ronnie McNicol and Donald Reid.

**Also Present**

Todd Ferguson (Agenda item 5).

**In Attendance**

J. Miller, Senior Manager (Planning) (Economy and Communities); A. Craig, Senior Manager (Legal Services); and E. Gray, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

S. Graham (McInally Associates), W. Marshall and G. McGinty (Clydeports Operations Ltd) and C. Fleming (EnviroCentre) (representing the applicants); R. Holmes (Fairlie Community Council) and D. Nairn (Clyde Porpoise CIC) (representing the objectors) (Agenda items 3.1, 3.2 and 3.3).

**Chair**

Councillor Marshall in the Chair.

**Apologies for Absence**

Robert Foster.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

**2. Minutes**

The Minutes of the meeting of the Committee held on 14 March 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. Hunterston Construction Yard, Fairlie**

The Chair advised the Committee that he had received, and granted, two formal requests to address the Committee, with respect to the three applications for planning permission at Hunterston Construction Yard contained on the agenda. The applicants were also invited to attend the meeting to respond to the points raised by the objectors.

The Senior Manager (Legal Services) requested, and received, confirmation from the representatives of the applicants and objectors in attendance, that they intended to address the Committee on all three applications by Clydeport Operations Ltd, rather than speaking to each individual application in turn.

Rita Holmes, of Fairlie Community Council expressed the view that the piecemeal developments proposed, while apparently relatively benign in nature, would have, cumulatively, a disastrous impact on the local area and that, had they adequate freedom to express themselves, organisations such as SEPA, SNH and the Council's Environmental Health Service would echo the Community Council's concerns. She also raised concerns about the marine structures which would be decommissioned on site, the danger that naturally occurring radioactive material could contaminate the local environment, and the perfunctory noise assessment which had been carried out by the applicants.

Mr Nairn of Clyde Porpoise CIC provided a presentation on the importance of the marine mammal species residing within the Hunterston Channel and surrounding area, the adverse impact of established development on the Site of Special Scientific Interest at Southannan Sands, and the further negative impact that the proposals would have on the area. He made particular reference to the negative effects of prolonged pile driving which, in combination with ongoing acoustic noise and oil rig/vessel movements, would damage the health of the marine mammal population and lead to their displacement.

Mr Nairn also questioned the efficacy of the proposed mitigation measures and whether other mitigation methods had been explored, including bubble curtains.

Scott Graham, of McInally Associates Ltd, accompanied by Warren Marshall and Graeme McGinty, of Clydeport Operations Ltd, and Campbell Fleming of EnviroCentre, then addressed the Committee, on behalf of the applicants, in response to the objectors.

Mr Graham highlighted the Scottish Government's belief that work associated with decommissioning North Sea marine structures will provide £17.6b of economic benefit over the next 10 years and the £5m fund which has been created to provide opportunities for Scotland to benefit from this. Details were provided on the economic impact of the proposed development, with an estimated initial investment of £76m creating 500-550 gross Person Year Equivalent jobs and ongoing operations creating £50m of annual operating contracts, generating 220-260 permanent Full Time equivalent jobs.

Mr Graham also highlighted the Council's Proposed Local Development Plan which gave provision for decommissioning work to be undertaken at Hunterston and his belief that the applications should be considered using planning regulations and therefore no sound reasons were available for refusal. Reference was also made to the other licencing legislation and regulations with which the proposed development would need to comply, including a marine licence and Environmental Health laws.

Members then asked questions of the objectors and applicants' representatives and were provided further information in respect of:-

- timescales for the development and the progress of other licences which are required;

- the objectors' claim that agencies, such as SEPA, are unable to speak freely when commenting on applications for planning permission;
- the claim that radioactive material would be transported into the site and the source of this information; and
- other sites which are used for decommissioning marine structures and lessons which can be learned from these.

The Senior Manager (Planning) then outlined the terms of each of the planning reports and officers' recommendations.

### **3.1 18/00134/PP – Replacement and Enlargement of the Jetty**

Clydeport Operations Ltd. have applied for planning permission for the replacement and enlargement of the existing jetty at Hunterston Construction Yard, Fairlie. One representation was received, as outlined in the report.

Councillor McNicol, seconded by Councillor Clarkson, moved that the application be granted, subject to the conditions set out in the report.

Councillor Barr moved that the application be refused. There being no seconder, the amendment fell.

There being no further amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application subject to the following condition:-

1. That prior to the commencement of development a Construction Method Statement shall be provided for the written approval of North Ayrshire Council. The Construction Method Statement shall include:
  - i) a pre-construction survey for protected marine mammals, protection measures during construction and details of proposed monitoring of the site by a competent observer during the demolition and construction works;
  - ii) proposed timetable and procedure for construction;
  - iii) methods of construction;
  - iv) risk assessment (including potential impacts of construction on marine mammals); and
  - v) details of preventative measures to avoid long term impacts on marine mammals, pollution of the foreshore and SSSI.

### **3.2 17/01273/PP – Vary Condition 1 of Planning Permission ref 16/00268/PP**

Clydeport Operations Ltd. have applied for the variation of planning condition 1 of planning permission ref 16/010268/PP to allow use of the site for decommissioning large marine structures. Three representations were received, as outlined in the report.

On 31 August 2016, the Planning Committee approved an application to delete condition 1 of a Planning Permission (ref.11/00230/PPM) to remove the temporary restriction on the use of the site (ref.16/00268/PP). Condition 1 was deleted and replaced with a revised condition 1 which stated:

*"That the planning permission shall be restricted to the use of the existing building dock, site, jetty and buildings; erection and use of other associated buildings and plant which would be located on the site in accordance with the operational demands of the work; and the use of the existing site access and jetty; all for the purpose of the construction, repair and subsequent removal on completion of large marine related structures; and the site shall be used for no other purpose."*

The applicant proposed to vary this condition to state:

*"That the planning permission shall be restricted to the use of the existing building dock, site, jetty and buildings; erection and use of other associated buildings and plant which would be located on the site in accordance with the operational demands of the work; and the use of the existing site access and jetty; all for the purpose of the construction, repair and subsequent removal on completion and decommissioning of large marine related structures; and the site shall be used for no other purpose."*

Councillor McNicol, seconded by Councillor Billings, moved that the application be granted, subject to the conditions set out in the report and an additional condition regarding the formation of a liaison committee consisting of local councillors and community group members, the site operator, and other interested parties.

There being no amendment the motion was declared carried.

Accordingly, the Committee agreed to grant the application subject to the following conditions:-

1. That the planning permission shall be restricted to the use of the existing building dock, site, jetty and buildings; erection and use of other associated buildings and plant which would be located on the site in accordance with the operational demands of the work; and the use of the existing site access and jetty; all for the purpose of the construction, repair and decommissioning of large marine related structures; and the site shall be used for no other purpose. For the avoidance of doubt construction, repair and decommissioning shall be restricted to oil rigs, platforms, similar structures that have served the oil and gas industry and offshore renewable industry and are defined within approved drawing '01B'. Storage of these structures shall be restricted to those which are actively being constructed, repaired or decommissioned only.
2. That prior to the recommencement of development on the site the applicant shall obtain the written approval of North Ayrshire Council as Planning Authority regarding: a) the siting, design and external appearance (including colours) of buildings, plant and structures together with a layout plan showing the operational requirements of the site and proposals for open and covered storage of raw materials, finished products and waste; b) the proposed arrangements for the disposal of any excavated material from the site; c) the proposed

arrangements for the treatment and disposal of effluents and waste products together with plans showing the proposed drainage system for the treatment and disposal of soil and surface water and arrangements for the control of flotsam arising from any work on the site and for preventative measures to avoid pollution of the foreshore; and d) the proposed arrangements for the lighting of the site during dock reconstruction. For the avoidance of doubt the approval of "preventative measures to avoid pollution of the foreshore", required under part c) shall be agreed with SNH and such measures shall include full details of the mitigation that will be implemented during the construction and operation of the site to ensure that they adequately manage the risk of any pollution entering the SSSI.

3. The rated noise level, as defined in BS 4142:2014, from activities associated with the construction, repair and decommissioning of large marine related structures, permitted under Condition 1, must not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property. For the avoidance of doubt this condition would not apply to any operations that are licensed by SEPA or Marine Scotland.
4. That no processes or activities shall be carried out which would: a) be incompatible with the nuclear safety arrangements or operations of Hunterston B Power Station ; or b) have an adverse effect on water quality at the intakes of the power station.
5. That no blasting operations or pile driving by percussive means shall be carried out on the site between 10.00pm and 7.00am. Specific times for any blasting and/or pile driving by percussive means shall be agreed in writing by North Ayrshire Council as Planning Authority and it shall be the responsibility of the applicant to advertise the agreed arrangements in a newspaper circulating locally in the week prior to the agreed times.
6. That except with the prior approval of North Ayrshire Council as Planning Authority, no dock constructional operations, other than the sinking of piles by other than percussive means, the carrying out of maintenance work on constructional plant and dredging work, shall be carried out on the site between 10.00pm and 7.00am.
7. That the hours of operation of the site for construction, repair or decommissioning of large marine related structures, permitted under Condition 1, and the arrangements for the lighting of the site during the hours of operation should be agreed in writing with North Ayrshire Council as Planning Authority prior to the commencement of any further work at the site.

8. That within 3 months of the date of the consent, a draft Code of Practice for the operation of the construction, repair and decommissioning of Marine Structures, hereby approved, shall be submitted for the approval in writing by North Ayrshire Council as Planning Authority. The draft Code of Practice shall include the formation of a liaison committee, which shall comprise of local councillors, local community group members, the site operator and other interested parties; and should include the timescales for the meetings of the liaison committee. The development shall thereafter be undertaken in accordance with any Code of Practice as approved by North Ayrshire Council as Planning Authority.

### **3.3 18/00132/PP – Erection of Caisson Gates and Subsequent Removal of Existing Bund**

Clydeport Operations Ltd. have applied for planning permission for the erection of caisson gates and subsequent removal of existing bund at Hunterston Construction Yard, Fairlie. One representation was received, as outlined in the report.

Councillor McNicol, seconded by Councillor McMaster, moved that the application be granted, subject to the conditions set out in the report.

There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application subject to the following condition:-

1. That prior to the commencement of development a Construction Method Statement shall be provided for the written approval of North Ayrshire Council. The Construction Method Statement shall include:
2.
  - i) a pre-construction survey for protected marine mammals, protection measures during construction and details of proposed monitoring of the site by a competent observer during the demolition of the bund and construction works;
  - ii) the method and timetable for demolition and disposal of surface material relating to the existing bund;
  - iii) proposed timetable and procedure for construction;
  - iv) methods of construction;
  - v) risk assessment (including potential impacts of construction on marine mammals); and,
  - vi) details of preventative measures to avoid long term impacts on marine mammals, pollution of the foreshore and SSSI.

### **4. 18/00216/PP – West Kilbride Primary School, Hunterston Road, West Kilbride**

West Kilbride Community Sports Hub have applied for planning permission for the erection of static floodlighting and the variation of an existing condition to extend the hours of the Multi-Use Games Area (MUGA) at West Kilbride Primary School, West Kilbride. One representation was received, as outlined in the report.

Planning permission for the erection of the MUGA was granted by the Planning Committee at its meeting on 12 February 2008 (ref: 07/01158/PP), subject to the condition that the facility is only used between 8am and 8pm, Mondays to Fridays, and 8am and 6pm, Saturdays and Sundays.

Members asked questions and were provided further information in respect of:-

- the strength and angle of light emitted from the proposed floodlights and the impact this has on nearby houses;
- the operational hours of the facility and how the noise associated with this might impact on local residents; and
- the role of Environmental Health in policing light and sound pollution.

The Committee agreed to grant the application subject to the following condition:-

1. That the MUGA facility shall only operate between the hours of 8am and 9pm on Mondays - Fridays inclusive and between the hours of 8am and 7pm on Saturdays and Sundays.

Councillor Macaulay left the meeting at this point.

#### **5. 17/01280/DCMS – Site to North of Knowes Farm, Beith**

Smith Skips Ltd. have applied to update the planning conditions for the quarry operations at the site to the North of Knowes Farm, Beith, in line with the periodic Review of Old Mineral Permissions procedure.

Members asked a question and were provided with information in relation to the operation of the site.

The Committee agreed to grant the application subject to the following conditions:-

1. That the mineral extraction operations at the application site shall at all times be carried out in accordance with the working method statement, drawings and supporting information hereby approved, and there shall be no change in the operation or working method without the written approval of North Ayrshire Council, as Planning Authority.
2. That by the 30th November 2027 the operations hereby approved shall cease and the site shall be restored to the satisfaction of North Ayrshire Council, as Planning Authority. For the avoidance of doubt any excavated areas shall be covered over with top soil and grass seeded. The north-west and south-east boundaries will be planted with shrub mix in accordance with drawing Final

3. That in the event of the operations ceasing on the site prior to the date specified in Condition 2, within six months of the cessation of operations all buildings, plant and machinery ancillary to the mineral extraction operations shall be removed and the entire site restored to the satisfaction of North Ayrshire Council, as Planning Authority. For the avoidance of doubt any excavated areas shall be covered over with top soil and grass seeded. The north-west and south-east boundaries will be planted with shrub mix in accordance with drawing Final Restoration Plan 5505-104 and any details approved in accordance with Condition 4.
4. That within 3 months of the date of this decision, an updated scheme for the restoration of the site which fully details the subsoil and topsoil replacement operations, site drainage and details of all plant species including their planting density, shall be submitted to and approved in writing by North Ayrshire Council, as Planning Authority. This restoration scheme shall be accompanied by a detailed aftercare management plan which shall set out a five year programme of works to ensure the successful implementation of the restoration scheme.
5. That within 3 months of the date of the decision the applicant shall submit for the written approval of North Ayrshire Council, as Planning Authority, a schedule of restorations costs.
6. That access to the site shall only be by way of the existing access to the landfill site to the south from Kerse Road (C25).
7. That the first 10 metres of the access road shall be retained as hard surfaced.
8. That the operator shall seek to ensure that no loose material is carried out onto the C25 public road and any which is deposited shall be removed to the satisfaction of North Ayrshire Council, as Roads Authority.
9. That vehicles movements associated with the development shall be undertaken only in accordance with the Code of Practice, originally approved in relation to Condition 22 of planning permission 16/00793/PP.
10. That clay extraction shall only be permitted between the hours of 7am to 6pm Mondays to Fridays and at no time on Saturdays, Sundays or public holidays unless, in exceptional circumstances, North Ayrshire Council, as Planning Authority, gives prior written approval for clay extraction outwith these times.
11. That all topsoil and soil forming material to be stripped shall be stored within the land shown on the approved drawings as being in the applicant's ownership and shall not be taken off site without the written consent of North Ayrshire Council, as Planning Authority.
12. That all topsoil and soil forming material stockpiles shall be kept free of weeds and shall be seeded to the satisfaction of North Ayrshire Council, as Planning Authority.

13. That subsoil and topsoil shall be stored separately from the excavated materials and in the area shown on plans hereby approved to the satisfaction of North Ayrshire Council. Prior to the commencement of the 'Future Works Sector' as identified in drawing Method of Working 5505-103, details of the proposed relocation of the subsoil stockpile will be submitted to North Ayrshire Council, as Planning Authority, for written approval. Works on the 'Future Works Sector' will not commence until such details have been approved and then works will be carried out in accordance with any such details.
14. That there shall be no stockpiling of excavated material without the prior written approval of North Ayrshire Council, as Planning Authority.
15. That within 3 months of the date of this decision, details of measures to prevent and control the emission of dust from the site shall be submitted to, and approved in writing by North Ayrshire Council, as Planning Authority.
16. That in the event of dust produced by the mineral extraction operations hereby approved or by vehicles passing to and from the site constituting nuisance, measures will be taken by the operator to control the dust emissions to the satisfaction of North Ayrshire Council, as Planning Authority.
17. That any significant unsuspected contamination which becomes evident during the development shall be brought to the attention of North Ayrshire Council, as Planning Authority, together with suitable remediation proposals prior any further works taking place.
18. That the operator shall take all necessary measures to control vermin at the site of the operations hereby approved, to the satisfaction of North Ayrshire Council, as Planning Authority.
19. That any field drainage disturbed or damaged during extraction of the clay shall be made good on completion of the works and all necessary precautions shall be undertaken during the operations to prevent contamination of existing watercourses.
20. That any temporary storage of clay shall be located to ensure that any contaminated run-off arising from the stored material does not cause pollution.
21. That if during the extraction process any standing water requires to be pumped from the void, it shall not be discharged to a water course, unless the prior written approval is obtained from North Ayrshire Council, as Planning Authority.

## **6. Urgent Item**

The Chair agreed that the following item be considered to allow the matter to be considered without delay.

## **6.1 Call In Request: 18/00315/PP: Seaview Caravan Park, Site To North Of Seaview Caravan Park Ardrossan Road, Seamill**

The Chair advised the Committee of a call in request, in accordance with the approved call in procedure, in relation to an application for planning permission which would otherwise be determined by Officers under delegated powers.

The request, submitted in accordance with the approved call in procedure, has been made by Councillors Ferguson, Glover and Gallacher that the application for Planning Permission should be determined by the Planning Committee and not by Officers under delegated powers. The stated reasons for the call in request was as follows:-

1. The continued expansion of the Waterside Hotel next door to Seaview; and
2. In the LDP2 - Policy 6 for Supporting Sustainable Tourism it mentions support in principal for caravans both static and touring.

Councillor Ferguson was in attendance and addressed the Committee in support of the call in request. Councillor Ferguson referred to a similar application which was refused by officers under delegated powers in 2015 and stated his belief that this decision was contrary to the LDP. Councillor Ferguson also referred to a survey undertaken by local businesses which showed support for the application.

Members asked questions and were provided further information in respect of the likely timescales associated with processing the application, by Committee and under delegated powers, and the processes associated with each.

Councillor Reid, seconded by Councillor McMaster, moved that the call in request be refused.

As an amendment, Councillor McNicol, seconded by Councillor Clarkson, moved, in terms of Section 43A(6) of the Town and Country Planning (Scotland) Act 1997 and in accordance with the approved call in procedure, that the Committee agree that the application be called in and determined by the Planning Committee and not by officers under delegated powers.

On a division, there voted for the amendment 3 and for the motion 4, and the motion was declared carried.

Accordingly, the Committee agreed not to call in the application and that instead it be determined by officers under delegated powers.

The Meeting ended at 3.50 p.m.