

Cunninghame House,
Irvine.

25 August 2016

Planning Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 31 AUGUST 2016** at **14.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

1. Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2. Minutes (Page 5)

The accuracy of the Minutes of meetings of the Committee held on 10 August 2016 and will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3. Isle of Arran

Submit reports on the following application:

16/00545/PP: Cottages 1, 3 & 4 Kilmichael Country House Hotel (Page 13)

Amendment to planning permission N/05/00248/PP for change of use from holiday letting cottages (cottages 1, 3 and 4) to permanent dwellinghouses in respect of condition 7 of planning permission N/05/00248/PP (copy enclosed).

4. Garnock Valley

Submit reports on the following applications:

4.1 16/00632/PP: Lintseedridge Farm, Dalry (Page 25)

Removal of condition 4 of permission no. CH/82/0151 to allow occupancy of a non-agricultural worker (copy enclosed).

4.2 16/00698/PP: 67 Stoopshill Crescent, Dalry (Page 33)

Formation of stairs to rear of semi-detached dwelling house, to include reduced platform area and trellis screen (copy enclosed).

5. Irvine and Kilwinning

Submit report on the following application:

16/00638/PP: Middleton Farm, Perceton Gate, Irvine (Page 41)

Removal of conditions 3 and 4 of permission ref. N/03/00035/PP (occupancy restrictions) (copy enclosed).

6. North Coast and Cumbrae

Submit reports on the following applications:

6.1 16/00268/PP: Hunterston Construction Yard, Fairlie (Page 49)

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to delete Condition 1 of planning permission 11/00230/PPM to remove the temporary restriction on the use of the site. (copy enclosed).

6.2 16/00561/PPPM : Site To North West Of Chapelton Mains, Seamill (Page 67)

Residential development with associated access roads, open space, landscaping and other required infrastructure (copy enclosed).

7. Notices under Section of 145 of the Town and Country Planning (Scotland) Act 1997: 'Kirkton Touring Park,' Millport Holiday Park, Millport, Isle of Cumbrae KA28 0HB (Page 85)

Submit report by the Executive Director (Economy & Communities) on a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to planning permission (ref: CH/87/746/S).

8. Urgent Items

Any other items which the Chair considers to be urgent.

Planning Committee

Sederunt: Matthew Brown
(Chair)
John Ferguson
(Vice-Chair)
Robert Barr
John Bell
John Bruce
Ian Clarkson
Joe Cullinane
Ronnie McNicol
Tom Marshall
Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Planning Committee
10 August 2016

Irvine, 10 August 2016 - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

Present

Matthew Brown, John Ferguson, Robert Barr, John Bell, John Bruce, Ian Clarkson, Joe Cullinane, Ronnie McNicol, Tom Marshall and Robert Steel.

In Attendance

J. Miller, Senior Manager (Planning) (Economy and Communities); C. Andrews, Senior Manager (Legal Services) and A. Little, Committee Services Officer (Chief Executive's).

Chair

Councillor Brown in the Chair.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Cullinane, as one of the complainers regarding the site at 61 Glenapp Place, Kilwinning, declared an interest in Agenda Item 7 (Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: 61 Glenapp Place, Kilwinning) and took no part in its determination.

2. Minutes

The accuracy of the Minutes of meeting of the Committee held on 1 June and the Special Meeting held on 4 July 2016 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Isle of Arran

3.1 15/00768/PP: Carradale, Shiskine

Mr Galbraith, Carradale, Shiskine, Isle of Arran has applied for the removal of condition 1 of planning permission N/01/96/0713/PP relating to occupancy restriction in respect of Carradale, Shiskine, Isle of Arran.

The Committee agreed to grant the application.

3.2 16/00545/PP: Cottages 1, 3 & 4, Kilmichael Country House Hotel, Brodick

Mr Botterill, Kilmichael Country House Hotel, Brodick, Isle of Arran has applied for an amendment to planning permission N/05/00248/PP for a change of use from holiday letting cottages (cottages 1, 3 and 4) to permanent dwellinghouses in respect of condition 7 of planning permission N/05/00248/PP. One letter of support was received as detailed in the report.

Councillor Brown, seconded by Councillor Ferguson, moved that the application be continued to the next meeting to allow for further discussion to take place with the applicant on a range of options in respect of the application.

As an amendment, Councillor Bruce, seconded by Councillor Marshall, moved that in addition to the motion, a site visit take place prior to the next meeting to allow the Committee to observe the site and surrounding area.

Councillor Brown agreed to accept the amendment. There being no further amendment, the amendment was declared carried.

The Committee agreed to continue the application to the next meeting to allow a site visit to take place and for further discussion to take place with the applicant on a range of other options in respect of the application.

4. Ardrossan, Saltcoats and Stevenson

16/00350/PPM: Ardrossan Marina, Dock Road, Ardrossan

Irvine Bay URC, Ayrshire Innovation Centre, 13 Irvine Innovation and Industry, 2 Cockburn Place, Irvine have applied for a renewal of unexpired planning permission 11/00766/PPM to extend Ardrossan Marina, comprising a new breakwater, marina facilities building, improved access arrangements, car parking and boat storage, a new pedestrian link bridge and a drop off car park facility. One letter of objection was received as detailed in the report.

Councillor Barr, seconded by Councillor McNicol, moved that the application be refused.

As an amendment, Councillor Ferguson, seconded by Councillor Cullinane, moved that the application be granted subject to the conditions detailed in the report.

On a division, there voted for the amendment 6 and for the motion 4 and the amendment was declared carried.

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

1. That, unless otherwise provided for by the terms of this permission, the applicant shall construct and operate the development in accordance with the provisions of the application, the submitted plans and, where necessary, shall implement recommended mitigation measures contained in the Environmental Statement and ES Addendum to the satisfaction of North Ayrshire Council as Planning Authority.
2. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a customer and staff parking management plan with the aim of preventing the use of adjacent and nearby public roads, and parking bays within Mariners View by vehicles associated with the Marina use. The management plan should also include details of enforcement measures to secure compliance.
3. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority full details of (i) the proposed facilities building, (ii) the pedestrian link bridge, (iii) the proposed fencing around the secure compound within the drop-off car park, and (iv) provision for storage of refuse containers within the drop-off car park.
4. That prior to the commencement of the development the applicant shall submit information to demonstrate to the satisfaction of North Ayrshire Council as Planning Authority that the proposed facilities building has been designed to be protected against a 1:200 year extreme still water level derived from the Coastal Flood Boundary Method (3.61mAOD).
5. That no construction shall take place during the bird breeding season unless the use of nest sites within the application site is prevented prior to the commencement of the bird breeding season
6. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority (i) details of alternative nest sites, comprising a minimum of 5 nest boxes, to be provided in locations unaffected by the development, and (ii) proposals for the incorporation of new black guillemot nest sites within the breakwater structure.
7. That, prior to the commencement of the development, hereby approved, confirmation shall be submitted in writing to North Ayrshire Council as Planning Authority and certified by a suitably qualified person that a scheme to treat the surface water arising from the site has been prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C753, published November 2015). Thereafter, the certified scheme shall be implemented prior to the completion of the development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

8. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.
9. That the applicant shall ensure that vehicular access is maintained to the 'Inner Roll-on/Roll-off berth' at Winton Pier at all times and that prior to the commencement of the development shall submit for the written approval of North Ayrshire Council as Planning Authority an amended layout plan of the car park/boat storage area to indicate the proposed vehicular route between the berth and the main harbour access road.
10. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority full details of the proposed drop-off car park, including surface treatment, ground levels, access control barrier, and drainage proposals, and that prior to the use of the berths hereby approved, the drop-off car park shall be fully constructed to the satisfaction of North Ayrshire Council as Planning Authority.

5. Irvine and Kilwinning

16/00510/PP: East Park, Quarry Road

North Ayrshire Council, Cunninghame House, Irvine has applied for the erection of a 2 storey office building to include the formation of an access road and the provision of parking at East Park, Quarry Road, Irvine. Representations were received as detailed in the report.

At its meeting on 4 July 2016, the Planning Committee agreed that this application be determined by the Committee and not by officers under delegated powers.

Discussion took place on a number of areas in relation to the application, including:-

- the availability of existing office accommodation throughout North Ayrshire;
- no further requirement for neighbour notification for people living on Quarry Road, Irvine about future development proposals as they would be more than 20m from the next application site;
- the phased masterplan which identified a number of community, business and leisure opportunities;
- proposals for cycle paths, walkways and road safety measures, such as a pelican crossing at the junction of East Road and Quarry Road that had been highlighted during the community consultation process; and
- consideration of the masterplan as a whole and not in a piecemeal manner.

Councillor Barr, seconded by Councillor McNicol, moved that the application be refused.

As an amendment, Councillor Marshall, seconded by Councillor Steel, moved that the application be continued to a future meeting to allow the application to be considered in light of the whole plan for the site.

In light of the amendment, Councillor Barr withdrew his motion. The amendment then became the substantive motion.

As an amendment to the motion, Councillor Ferguson, seconded by Councillor Bruce, moved that the application be granted, subject to the conditions as detailed in the report.

On a division, there voted for the amendment 6 and for the motion 4 and the amendment was declared carried.

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

1. That, prior to the commencement of the development hereby approved, details of the external finishes to be used on the building, car park and pedestrian areas shall be submitted for the written approval of North Ayrshire Council as Planning Authority.
2. That visibility splays of 4.5 metres by 35 metres, in both directions, shall be provided and maintained at the junction with the public road. No item with a height greater than 1.05 metre above adjacent carriageway level shall be located within these sightline triangles.
3. That, prior to the commencement of civil engineering and building operations, the applicant shall implement the recommendations made within Section 6 of the 'Ground Investigation Interpretive Report, Quarry Road, Irvine 117448/JAS/230316 v2' by Grontmij and dated 29th April 2016, which shall be certified by a suitably qualified person upon completion, all to the satisfaction of North Ayrshire Council as Planning Authority.

6. North Coast and Cumbrae

6.1 16/00559/PP: 38 Main Street, Largs

James McGonigle, 2 Warrenpark Road, Largs has applied for a change of use from Class 1 (retail) to Class 2 (financial and professional) in respect of 38 Main Street, Largs. One letter of objection was received as detailed in the report.

At its meeting on 4 July 2016, the Planning Committee agreed that this application be determined by the Committee and not by officers under delegated powers.

Councillor Marshall, seconded by Councillor Barr, moved that the application be refused on the grounds that there are sufficient Class 2 businesses in Largs town centre.

As an amendment, Councillor Ferguson, moved that the application be granted. There being no seconder, the amendment fell. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to refuse the application on the grounds that the proposed development would be contrary to Policy TC2 of the Adopted North Ayrshire Council Local Development Plan in that it would be prejudicial to the vitality and viability of the Core Shopping Area due to an over-provision of non-retail uses in the Town Centre.

6.2 16/00268/PP: Hunterston Construction Yard, Fairlie

Clydeport Operations Limited, 16 Robertson Street, Glasgow have applied under Section 42 of the Town and Country Planning (Scotland) Act 1997 to delete Condition 1 of planning permission 11/00230/PPM to remove the temporary restriction on the use of the site at Hunterston Construction Yard, Fairlie. Three objections and a representations were received, as detailed in the report. A letter of support was received and circulated at the meeting.

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

Councillor Marshall, seconded by Councillor Steel, moved that the application be continued to a future meeting to allow the Committee to visit the site. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to continue consideration of the application to a future meeting to allow for a site visit to take place to Hunterston Construction Yard.

7. Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: 61 Glenapp Place, Kilwinning

Submitted report by the Executive Director (Economy & Communities) on a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proper maintenance of land for the abatement of the adverse impact on the local area.

The Council has received several complaints regarding the site. An inspection of the land in June 2016, revealed that the residential property has an accumulation of refuse and waste in the garden ground and the rear ground floor window has been smashed. The owner of the property was requested in writing to clear the site and confirm intentions for the site. No response was received. Further correspondence has been sent to the owner, but to date, there has been no response.

It is considered that the condition of the property is having a significant adverse impact on the amenity of the area. The area where the refuse is located is visible from the public footpath and adjacent residential properties.

The Committee agreed to (a) approve the serving of a Notice under Section 179 of the Town and Country planning (Scotland) Act 1997 requiring the removal of all refuse from the grounds of the property; and (b) request the Executive Director (Place) to make safe and board up the smashed window of the property.

8. North Ayrshire Local Development Plan: Action Programme

Submitted report by the Executive Director (Economy & Communities) on the revised Local Development Plan Action Programme which listed actions to deliver the proposals of the Local Development Plan, the lead agencies to undertake and actions and the timescales for completion, as outlined in Appendix 1 to the report.

The Committee agreed to (a) note progress on the implementation of North Ayrshire Local Development Plan to date; and (b) adopt and publish the Action Programme as detailed at Appendix 1 to the report.

The meeting ended at 3.45 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

Planning Committee

31 August 2016

Planning Area

Isle of Arran

Reference

16/00545/PP

Application

9 June 2016

Registered

Decision Due

9 August 2016

Ward

Ardrossan and Arran

Recommendation**Refuse for the reasons contained in
Appendix 2**

LocationCottages 1, 3 & 4
Kilmichael Country House Hotel
Brodict
Isle Of Arran
KA27 8BY**Applicant**Mr Geoffrey Botterill
Kilmichael Country House Hotel
Brodict
Isle Of Arran
KA27 8BY**Proposal**Amendment to planning permission
N/05/00248/PP for change of use from holiday
letting cottages (cottages 1, 3 and 4) to permanent
dwellinghouses in respect of condition 7 of
planning permission N/05/00248/PP

Introduction

Consideration of this application was continued at the meeting of the Planning Committee on 10 August 2016 for a site familiarisation visit by the Members of the Committee. The applicant has since advised of their intention to withdraw the application. Therefore the arrangements for the site familiarisation visit were continued awaiting clarification of the applicants intentions with regard to the application.

1. Description

Kilmichael Country House Hotel, a B-Listed Building, is situated at Glencloy in countryside to the south-west of Brodick. Planning permission is being sought for an amendment to planning permission N/05/00248/PP for change of use from holiday letting cottages (cottages 1, 3 and 4) to permanent dwellinghouse, in respect of condition 7 of planning permission reference N/05/00248/PP.

Planning permission (N/05/00248/PP) was approved on 1 July 2005 for the erection of 4 semi-detached self-catering cottages at the hotel. Condition 7 states "that the self-catering cottages shall be used only for holiday letting purposes and shall not be rented, sold or sub-let for any purpose. For the avoidance of doubt, none of the cottages shall be occupied on a permanent basis without the prior written approval of North Ayrshire Council as Planning Authority."

The applicant has submitted a supporting statement, which states that the request to remove the restriction from the other three cottages is a matter of economic necessity. Business income has been in decline and there is an unsustainable low occupancy level. There were no enquiries for hotel rooms over Easter and there was only one room let on the first Saturday of the Easter school holidays. In April, the occupancy level was under 10%; one third of the rooms have been closed to reduce operating costs. A principal cause of this decline in occupancy is considered by the applicant to be the continued expansion of the Auchrannie Resort. The 5 star holiday cottages at the Kilmichael Country House Hotel had a very low occupancy level of 8% in 2015 and less than 1% the year before.

The applicant acknowledges that the cottages were built under tourism policies, however the operating environment has deteriorated dramatically since consent was granted. The cottages cannot be lawfully let for any other purpose than holidays, for longer periods such as long lets throughout the winter and cannot be occupied to meet other established needs, for example, accommodation for GPs. The applicant also needs the option to sell the cottages, should this be required in the future.

The applicant advises that Kilmichael House is an expensive building to run to contemporary standards. Even after the planned repairs have been carried out in association with planning approval N/15/00208/PP, it is likely that it will always need to generate income to pay its way. It has no viable future as a hotel. One of the original outbuildings, which has been converted into a cottage and has no occupancy restriction on it, could be sold, however the long-term future of this historic building and the preservation of its setting can best be served by keeping the original group of main house and converted outbuildings intact in one ownership. With further capital investment, the garden and grounds could be opened to the public, creating another visitor attraction on the island and the house could be made available for exclusive use events such as small weddings, conferences and other celebrations, for which there is no comparable venue. Although it should be noted that in planning terms there is no reason why these proposals could not be introduced at present. The applicant would also propose to buy the access road and make significant investment in upgrading it. It is advised that the road is currently in private ownership.

The cottages already exist and were designed specifically to harmonise with both the original listed group and the existing landscape. No physical alterations of any kind are proposed and since holiday lets and permanent residences both fall into the same use class order in Scotland, this does not fall under the definition of development. The removal of the restriction would allow the hotel to operate more flexibly and include more positive environmental effects, including improvement of the grounds, enhancement of the original listed group and upgrading of the road.

A planning application (reference N/12/00202/PP) was registered on the 8 May 2012 for modification of condition no. 7 of planning permission N/05/00248/PP to permit change of use from holiday letting cottage to permanent dwellinghouse (cottage no 2). The application was referred to Legal Services on the 3 July 2012, with a mind to grant the modification following the signing and registration of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure that the funds raised from the sale of the dwellinghouse are used to fund the repairs to Kilmichael House in terms of the business plan submitted by the applicants.

Prior to agreement being reached on the Section 75 Legal Agreement, a Notice of Review to the Local Review Body (LRB) was submitted in respect of the non-determination of planning application reference N/12/00202/PP and was considered on the 14 November 2012 by the Local Review Body. The Local Review Body were minded to grant the application provided that a Section 75 Agreement was entered into ensuring that the funds from the sale of the property would be used for repairs to Kilmichael House.

Planning permission could not be issued until the Section 75 Agreement was finalised and registered.

The applicant submitted an appeal to DPEA (Directorate for Planning and Environmental Appeals) against the failure of North Ayrshire Council to determine the application for planning permission, as no decision could be made by the Local Review Body until the Section 75 Legal Agreement was finalised. A site visit was carried out by the reporter on the 20 February 2013 and the appeal was decided on the 8 March 2013. The appeal was dismissed and planning permission was refused.

The Reporter stated in the decision letter that the business plan submitted by the applicants was very brief and does not contain any detailed quotes as to the cost of the works required or any detail about the income from the existing holiday letting or hotel businesses. The Reporter stated that the business plan was not adequate in order to meet the terms of Policy BE5 (superseded by Policy HE3 of the LDP - Listed Building Restoration). The Reporter was not convinced that alternative funds could not be raised from other sources, for example, the self-catering and hotel business. The Reporter was not satisfied that the sale of one of the cottages for permanent residential use was the only option available to raise funds.

A complaint to SPSO (Scottish Public Services Ombudsman) was dismissed on the 24 February 2014.

Planning application (reference N/15/00208/PP) was approved on the 17 August 2015 for an amendment to planning permission N/05/00248/PP for change of use from holiday letting cottage to permanent dwellinghouse at Bluebird Cottage, in respect of condition 7 of planning permission reference N/05/00248/PP, which was justified on the basis that the applicant was seeking to fund repairs to the listed Hotel through the sale of one holiday letting cottage as a permanent dwellinghouse. The dwellinghouse is still for sale.

In the adopted Local Development Plan (LDP), the application site is located within an area of countryside and is unaffected by any site specific policies therein.

The proposal requires to be assessed against Policies ENV2 (Housing Development in the Countryside), TOU1 (Tourist Accommodation and Facilities) and ENV6 (Economic Development or Diversification in Rural Areas) of the Local Development Plan.

Policy ENV6 states that housing development to enable economic or diversification allowed under this policy shall accord with the LDP subject to the following criteria:

- (a) the proposal is for enabling development, not normally exceeding four houses, providing all or part of the funding for delivery of an economic development or diversification enterprise allowed under this policy; AND

- (b) a detailed business plan is submitted for the overall development showing how funds raised from the sale of the enabling housing development are to be channelled into the economic development or diversification to secure its implementation and ongoing use. This shall be done on the basis of open book accounting on both land and development sales and would allow for reasonable developers profit only (indicatively 12%) with all other proceeds being channelled to the development to be enabled; AND
- (c) the developer can demonstrate that sufficient financial assistance is not available from any other source; AND
- (d) the extent of any new build is restricted to the minimum necessary, and in any case not normally exceeding four houses, to facilitate the economic development or diversification and its future viability; AND
- (e) the enabling development should wherever possible be grouped with the economic development or diversification in a cohesive cluster to facilitate servicing and to reduce their environmental impact; AND
- (f) the proposal is not located within an area of 'sensitive countryside' (see glossary).

Policy HE3 (Listed Building Restoration) would not be relevant in this instance.

The proposal also requires to be assessed against the relevant criteria of the General Policy of the LDP.

2. Consultations and Representation

Neighbour notification has been carried out and the application was advertised in the local press on the 24th June 2016. One letter of support has been received and the grounds can be summarised as follows:

1. The Arran Economic Group offer support to remove the current planning restriction to the cottages. The removal of the condition would allow the current owners to operate within a more flexible environment and allow the implementation of improvement works. Without the removal of this restriction, it could result in the potential loss of Arran's only 5 star country house hotel and the planning condition also restricts the availability of professional rented accommodation. Given the lack of affordable housing on Arran, the island is facing a very real challenged together with a declining population. The Arran Economic Group suggests the initial sale of one cottage, with the other two cottages being made available for local long term rental or sale with a priority given to people working/living on the Isle of Arran.

Response: noted. It is considered that again there has been insufficient evidence and justification submitted to support the removal of the restriction in relation to a further cottage (see analysis below). The condition was relaxed in relation to Bluebird Cottage on the 17th August 2015 and the property has still not been sold. These cottages were solely approved for tourist accommodation, and, as such, cannot be used for long term rental (unless for holiday accommodation) or for accommodation for professionals. The removal of this restriction would result in the loss of three additional tourist accommodation cottages, which cannot be justified in planning terms.

Since the introduction of the Road Equivalent Tariff, Arran has continued to enjoy an increase in visitor numbers and a subsequent increase in demand for holiday accommodation. The information provided on the Hotel's website, would indicate that the cottages are enjoying high levels of occupancy, being largely fully booked over the summer and significant booking numbers running until December.

Consultations:

Arran Community Council - supports the application.

Response: noted.

NAC Transportation - no objections.

Response: noted.

3. Analysis

The applicant seeks planning permission to remove the restriction imposed by the planning condition in relation to the other three cottages at Kilmichael Country House Hotel, a B Listed Building, situated outside Brodick, through the sale or long term let of these cottages as permanent dwellinghouses. The applicant has confirmed that this is result of a major change of circumstances and a consequent change of intention since the original planning consent was granted; it is a matter of economic necessity.

The main determining issues are whether the proposal accords with Policies ENV2, TOU1, ENV6 and the General Policy of the adopted Local Development Plan. A further consideration is the concerns raised within the DPEA appeal decision notice (dated the 8th March 2013).

In terms of Policy ENV2 (Housing Development in the Countryside), as the proposal relates to existing development and not to a proposal for new build residential accommodation, Policy ENV2 would not be applicable in this instance. Furthermore, should planning permission have been sought for residential cottages in the first instance, this unjustified development in the countryside could not have been supported. A current proposal for new residential development in this location would be contrary to Policy ENV2 of the LDP and would be refused.

Policy TOU1 relates to Tourist Accommodation and Facilities. The original planning permission for the development was restricted in terms of its justification as tourist accommodation. Residential development in the countryside could not have been supported, as discussed above. Condition 7 of N/05/00248/PP relates to a specific requirement with the aim of preventing unnecessary residential development in the countryside. The granting of planning permission would result in an undesirable precedent for further loss of tourist accommodation and unjustified residential development in the countryside.

It is acknowledged that planning permission (reference N/15/00208/PP) was approved on the 17th August 2015 for an amendment to planning permission N/05/00248/PP for change of use from holiday letting cottage to permanent dwellinghouse at Bluebird Cottage, in respect of condition 7 of planning permission N/05/00248/PP. This was justified on the basis that the applicant was seeking to fund repairs to the listed Hotel through the sale of one holiday letting cottage as a permanent dwellinghouse. The dwellinghouse is still for sale, therefore the capital has not been raised and the repairs have not yet taken place. One unit was considered to be acceptable as it would have a limited impact on the amenity of the area and the tourism industry. Furthermore, this one unit was justified in terms of funding repairs to the Listed Building, which is secured by a Section 75 Agreement; this is not the case for this current planning application. The use of the other three cottages as permanent dwellinghouses would have an unacceptable impact on the amenity of the area and on tourism. There is no justification for any further cottages to be used as permanent residential accommodation.

In terms of Policy ENV6 (Economic Development or Diversification in Rural Areas), no supporting information has been submitted in this regard, which would include a comprehensive business plan, open book accounting and evidence to illustrate that sufficient financial assistance is not available from any other source.

With regard to the concerns raised within the DPEA appeal decision notice in relation to planning application N/12/00202/PP, these were addressed during planning application N/15/00208/PP when the proposal was to fund repairs to the Listed Building. Within the DPEA appeal decision, the reporter did not accept the argument of the appellant that the proposal would not constitute development; the terms of the original planning permission clearly preclude the permanent residential use of the cottages. The reporter acknowledged that there is a presumption against development in the countryside which is not related to agriculture, forestry and other legitimate rural enterprises. However, the reporter considered that the proposal could be assessed as enabling development of new housing where the funds would be used to facilitate the restoration of an exceptional listed building. This justification was used for planning application N/15/00208/PP; this is not the justification for this current planning application. The reporter did not consider the business plan of N/12/00202/PP to be of adequate detail and considered the proposal to be contrary to Policies ENV1 and BE5 of the Isle of Arran Local Plan (now replaced by the Local Development Plan). The reporter also considered that condition 7 of planning approval N/05/00248/PP meets the 6 tests of planning conditions in Circular 4/1998.

The proposal also requires to be assessed against the relevant criteria of the General Policy of the LDP, relating to impact on amenity and access, road layout and parking provision.

In terms of amenity, it is considered that the cottages have reasonable garden ground and there are no significant adverse impacts with overlooking and loss of privacy between the cottages. The cottages have been designed and built to a high standard. The parking for the cottages is separate to that of the main Hotel. Although, the prospective residents of the cottages may not enjoy a normal standard of acceptable residential amenity, due to their proximity to the Hotel and other associated tourist accommodation. The cottages can only be accessed from the private access road to the Hotel and are located to the rear (south-west) of the Hotel. The Hotel, as a result of the nature of such establishments, could result in a degree of disturbance to the cottages to the rear, should they be used as permanent dwellinghouses.

With regard to access, road layout and parking provision, NAC Transportation has no objections.

Accordingly, there are no other material considerations that outweigh the above assessment and planning permission should be refused.

4. Full Recommendation
See Appendix 2.



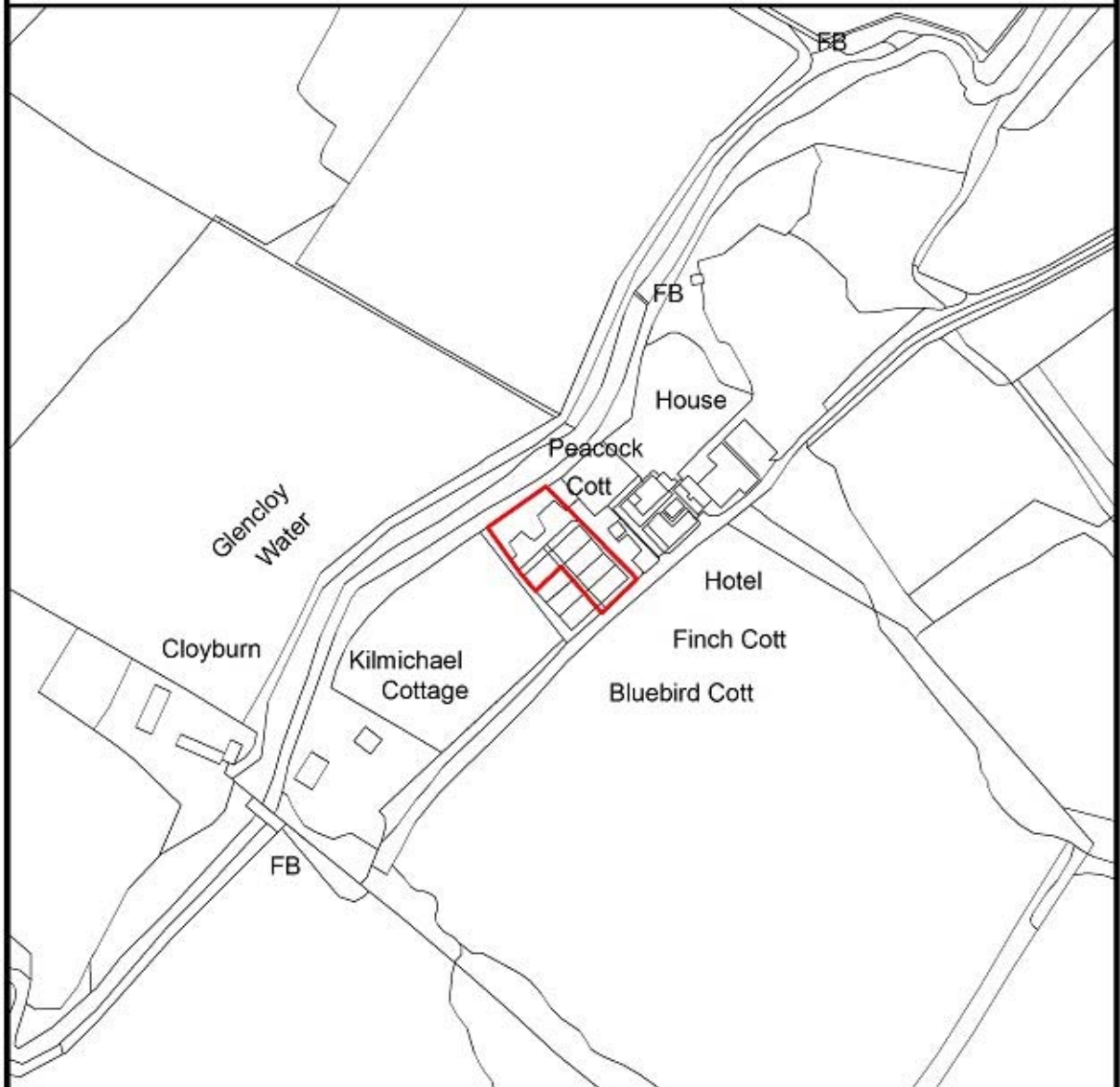
KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
16 August 2016

For further information please contact Julie Hanna, Planning Officer , on 01294
324330

Committee Plans

16/00545/PP



North Ayrshire Council
Comhairle Siorrachd Air a Tuath

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NORTH AYRSHIRE COUNCIL

Agenda Item 4.1

Planning Committee

31 August 2016

Planning Area

Garnock Valley

Reference

16/00632/PP

Application

1st July 2016

Registered

Decision Due

1st September 2016

Ward

Dalry and West Kilbride

Recommendation	Grant without conditions as per Appendix 1
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Location	Lintseedridge Farm, Dalry
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Applicant	Mrs Sheena Harper per Bryce Boyd Planning Solutions Ellersleigh Castlehill Road Kilmacolm
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Proposal	Removal of condition 4 of permission no. CH/82/0151 to allow occupancy of a non-agricultural worker
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1. Description

This report relates to an application in terms of Section 42 of the Town and Country Planning (Scotland) Act 1997 to remove a condition attached to a planning permission granted in April 1982 for the erection of a dwellinghouse at a farm near Dalry (ref. CH/82/0151). The occupancy of the dwellinghouse is restricted by planning condition 4 of permission ref. CH/82/0151. This condition limits occupation of the dwelling to a person employed or last employed, locally in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972 or in forestry, or a dependent of such person residing with him (but including a widow or widower of such a person).

The property is a detached bungalow, formerly Lintseedridge Farmhouse, situated on high ground approximately 110 metres to the east of the B780 Dalry - Kilbirnie Road, one mile north of Dalry. The main justification in support of the house being granted in 1982 was a direct consequence of a fire, which resulted in the loss of the original farmhouse at Lintseedridge. The farm remained operational until the late 1990s when it was sold on. The farmhouse, land and farm steading were then sold off separately. The buildings have not been in agricultural use since that time.

The site of the former farm steading is to north-east of the application site. Following the approval of planning permission, the former steading was redeveloped for housing during the mid-2000s, with four new build dwellings replacing the original farm buildings (refs. 05/00096/PP and 07/00491/PP). The occupancy of the new build dwellings are not restricted.

The application site is located within the countryside as identified in the adopted Local Development Plan (LDP) and is unaffected by any site specific policies or proposals therein. The relevant policy is ENV 2 (Housing Development in the Countryside - Housing for workers engaged in a rural business), which states that housing for workers engaged in an appropriate rural business, such as farming, shall accord with the LDP, subject to a range of criteria, including a genuine operational need for a dwellinghouse.

A supporting statement has been submitted with the application, which indicates that the applicants have been resident in the house since 2003. The occupants are not involved in agriculture or forestry. They have applied on two previous occasions to have the occupancy restriction removed, but both applications were refused based on the local and national policy framework at the time. The supporting statement argues that the policy framework has since altered following the publication of the Scottish Planning Policy in 2014, which states that occupancy restrictions should not be imposed on rural housing. This policy shift follows a letter from the Scottish Government's Chief Planner issued in November 2011. The letter highlighted that such restrictions causes practical difficulties in the delivery of housing in rural areas, and advised that "occupancy restrictions are rarely appropriate and so should generally be avoided."

2. Consultations and Representations

Neighbour notification was undertaken in accordance with statutory procedures, which included an advertisement in a local newspaper. Representations were not received, and consultations were not required.

3. Analysis

The proposal requires to be considered in terms of the adopted Local Development Plan policy ENV 2 and any other material planning considerations. Policy ENV 2 sets out the circumstances under which new housing in the countryside can be justified. The approval of the dwellinghouse in 1982 was granted on the basis of need for a replacement farm house in pursuance of an established farm business. Since that time, the farm has been separated from the use and there is not any relationship between the house and the surrounding land.

The policy does not address a change of circumstances such as has been presented in this case. Whilst previous attempts to have the occupancy restriction removed were refused by the Council during 2008 and 2009 (refs. 08/00533/PP and 09/00624/PP), these applications related to the policy framework in place at that time.

Notwithstanding its focus on new development rather than established development, Scottish Planning Policy (2014) highlights that occupancy restrictions on rural housing "should not be imposed." In reviewing this particular case, it is evident that the dwellinghouse is not of any particular design merit, but equally, the house does not have any significant adverse impact on the rural landscape around the site due to its concealed position in the lee of the hill and enclosure with mature hedgerows. It is also evident that the house forms part of a group of 5 houses in the countryside when viewed in context with the new build houses at Lintseedridge, which are not subject to occupancy restrictions, and would help to address any concerns about either the house being isolated or seen as sporadic development in the countryside.

The condition is not enforceable since the applicant has occupied the dwelling for a period in excess of 10 years. Over that period, there has not been any record of complaints regarding the breach.

In conclusion, for the reasons given above, it is found that the proposal does not comply with the relevant provisions of the Local Development Plan, however other material considerations indicate otherwise and planning permission should be granted.

4. Full Recommendation

See Appendix 1.

A handwritten signature in black ink, appearing to read 'Karen Yeomans', written in a cursive style.

KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
2 August 2016

For further information please contact Mr Anthony Hume, Senior Development
Management Officer , on 01294 324318

APPENDIX 1

RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00632/PP

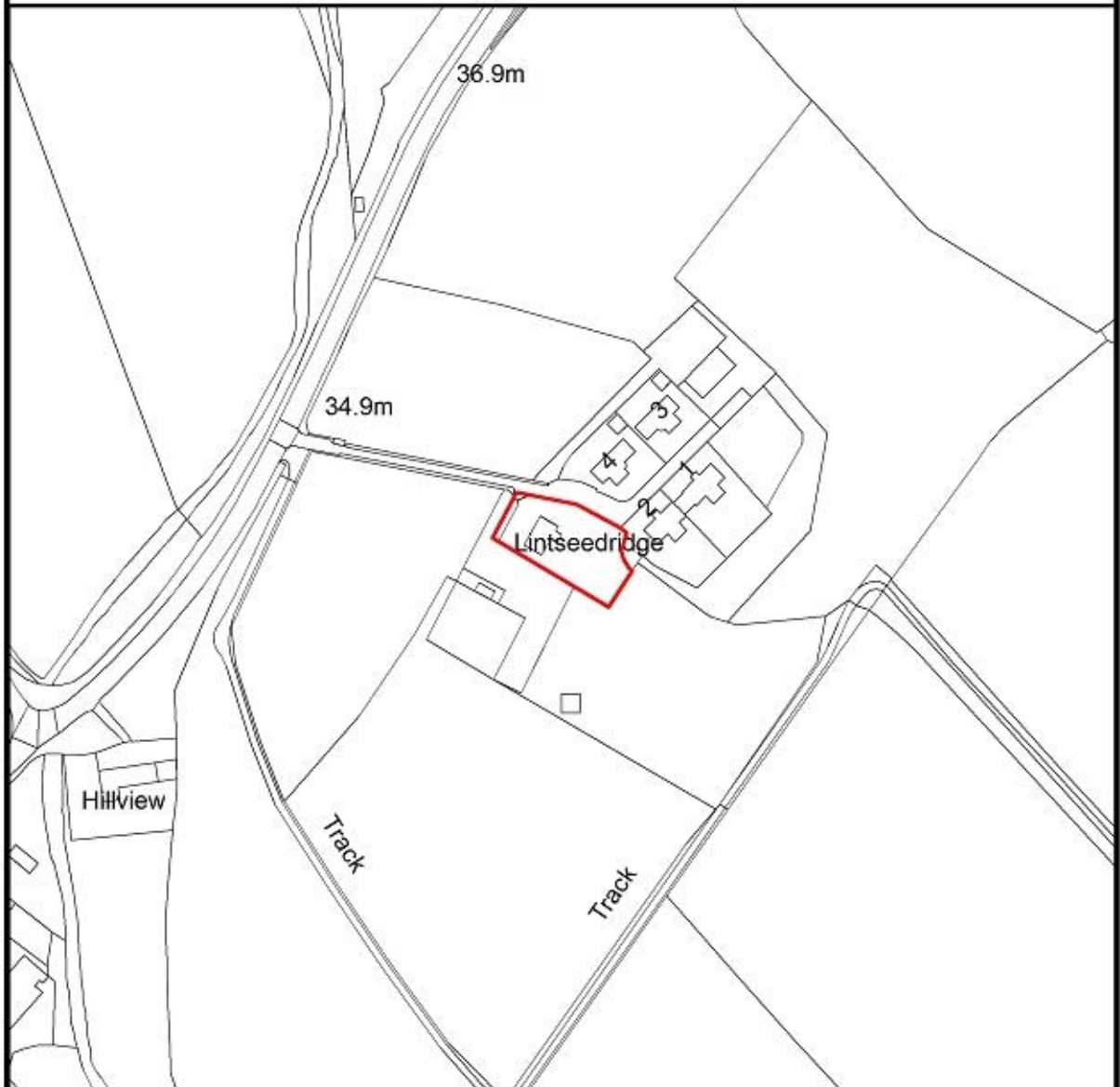
Grant (No conditions).

Reason(s) for approval:

1. The proposal does not comply with the relevant provisions of the Local Development Plan, however other material considerations indicate otherwise and planning permission should be granted.

Committee Plans

16/00632/PP



North Ayrshire Council
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NORTH AYRSHIRE COUNCIL

Agenda Item 4.2

Planning Committee

31 August 2016

Planning Area

Garnock Valley

Reference

16/00698/PP

Application

22/07/16

Registered

Decision Due

22/09/16

Ward

Dalry and West Kilbride

Recommendation	Grant with Conditions contained in Appendix 1; and Agree to take Enforcement Action, if the unauthorised structure is not removed.
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Location	67 Stoopshill Crescent, Dalry
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Applicant	Mr James Taylor, 67 Stoopshill Crescent, Dalry
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Proposal	Formation of stairs to rear of semi-detached dwelling house, to include reduced platform area and trellis screen
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1. Description

The applicant has altered the rear ground floor elevation of a semi-detached dwelling at 67 Stoopshill Crescent, Dalry. The alterations comprise the blocking up of the external kitchen door and replacing it with a window, removing the access stairs and replacing a living room window with French doors. The alterations to the rear elevation of the dwelling are permitted developments, which do not require planning permission. For access into the rear garden, a set of timber stairs and a landing have also been constructed. The stairs and landing require planning permission. This application seeks permission to retain the stairs and landing with some modifications.

The stairs are built parallel to the rear elevation of the existing building and, as built, are approximately. 1.8m wide. The landing platform is also approximately. 1.8m in width and approximately. 2.1m in length. This application proposes to retain the stairs and landing at a reduced width of 0.9m. A balustrade with posts 2.4m in height, which would be 1.15m high from the level of the landing, would be erected around the landing and stairs. On the north-west elevation of the landing, it is proposed to install a timber trellis or screen at 1m in height above the level of the landing.

A previous application for a landing with a width of 1.3m was refused (ref: 15/00671/PP) due to the adverse impact on the neighbouring property to the north-west. The decision to refuse was reviewed by the Local Review Body (LRB). The LRB agreed with the original decision with Members expressing particular concern regarding the width of the platform.

The property is located in a residential area with houses to both sides, including the adjoining semi-detached property to the north-west. To the rear (north-east) is open countryside. The site is within a residential area, as identified in the Adopted North Ayrshire Council Local Development Plan (the LDP). All development proposals require to be assessed against the General Policy of the LDP.

2. Consultations and Representations

Neighbour notification was carried out and there was not any requirement to advertise the application. One representation has been received and can be summarised as follows:

1. The proposed reduction in the decking is welcomed, but would wish the decking to be 8 inches lower. The conifers growing on the northern-western boundary are not intended to be higher than the fence as they would block out light to the window of the adjacent property.

Response: Noted. The platform height would align with the internal floor level of the house. The proposed height is considered to be the minimum height for safe access from the property onto the landing.

3. Analysis

There are not any land use policy issues arising from the erection of external stairs and a landing platform in the garden of an existing dwellinghouse and the details of the application therefore only require to be assessed against criteria (a) siting, design and external appearance and (b) amenity of the General Policy.

The stairs and landing are of timber construction and have been sited adjacent to the rear wall. The structures are not readily visible from any public view points and timber structures are appropriate for the rear garden of a domestic property. The application therefore complies with criterion (a).

The stairs and landing would be located approximately. 0.40m from the boundary to the north-west, which is the boundary with the adjoining semi-detached property. The boundary comprises a 1.4m high fence and hedge and the landing sits approximately. 0.15m below the top of the boundary. Conifer trees have been planted on the boundary, within the neighbouring property's garden. These trees are approximately. the height of the platform. The closest habitable window, which is the rear window of the property's living room, of the adjoining property is approximately. 0.90m from the landing.

With the previously proposed width of platform, it was possible to look directly into the living room window of the adjacent property. The rear portion of the living room and kitchen were visible. In this application it is proposed that the landing would be reduced to 0.9m in width from the rear elevation. At the reduced width, the view towards the rear window is at a much more acute angle and a much smaller portion of the adjacent property is visible.

Whilst the landing would afford views over the adjacent rear garden, the reduced width would result in the landing being used mainly for access to the rear garden. The doors could not be opened onto the reduced width landing with any chairs or other obstruction on it. It is also considered that there exists a level of mutual overlooking of rear garden areas, which would not be significantly altered.

It is also proposed to install a 1m high timber screen on top of the platform at the north-western end, which would provide a degree of screening from anyone using the stairs from the south-east and a condition could be attached to any permission requiring details of the screen to be submitted. It is not considered that a higher screen would either be necessary or desirable, as a higher screen would potentially impact on the neighbouring window in terms of overshadowing.

Criterion (b) of the General Policy states that in relation to neighbouring properties regard should be taken of privacy, sunlight and daylight. It is not considered that there are any impacts in terms of sunlight and daylight. Given the proposed width of the platform and the existing degree of overlooking, it is not considered that there would be any significant impacts in terms of overlooking.

Given the preceding considerations, the application accords with the relevant requirements of the Local Development Plan. It is recommended that planning permission be granted subject to condition.

It is also recommended that authority for the issue of an enforcement notice requiring removal of the stairs and landing as built. An enforcement notice could be issued in respect of the current unauthorised structure should works to amend the stairs, in accordance with any permission granted, not commence within a satisfactory period.

4. Full Recommendation

See Appendix 1 for recommendation for planning application

Agree to grant authority for the issue of an enforcement notice requiring removal of the stairs and landing as built.



KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
15 August 2016

For further information please contact Iain Davies , on 01294 324 320

APPENDIX 1

RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00698/PP

Grant subject to conditions, and agree to take Enforcement Action, if the unauthorised structure is not removed.

Reason(s) for approval:

1. The proposal complies with the relevant provisions of the Local Development Plan and there are no other material considerations that indicate otherwise.

Condition(s)

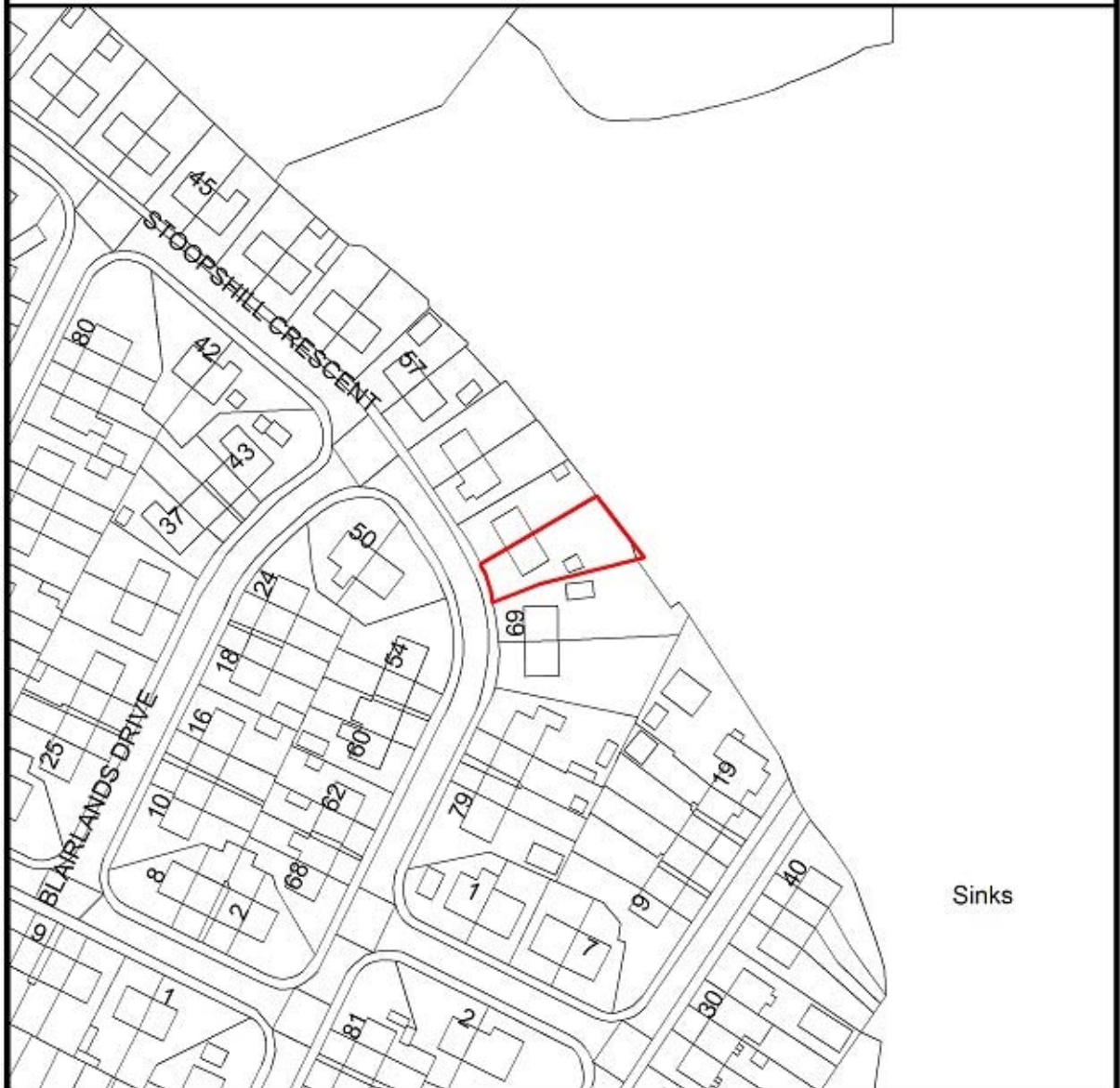
1. That within 3 months of the date of this permission, details of the screen to be installed on the north-west elevation of the landing platform shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The screen as may be approved shall be erected as part of the modification works hereby approved and shall be retained permanently, all to the satisfaction of North Ayrshire Council as Planning Authority.

The reason(s) for the above condition(s) are:-

1. To ensure that an appropriate screen is erected to safeguard residential and visual amenity.

Committee Plans

16/00698/PP



NORTH AYRSHIRE COUNCIL

Agenda Item 5

Planning Committee

Planning Area

Reference

Application

Registered

Decision Due

Ward

31 August 2016**Irvine/Kilwinning****16/00638/PP****11th July 2016****11th September 2016****Irvine East**

Recommendation	Grant without conditions as per Appendix 1
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Location	Middleton Farm, Perceton Gate, Irvine
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Applicant	Mr Trevor Hamilton Middleton Farm Perceton Gate Irvine
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Proposal	Removal of conditions 3 and 4 of permission ref. N/03/00035/PP (occupancy restrictions)
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1. Description

The property is a modern two storey detached dwellinghouse, located to the north of the B769 Irvine - Stewarton Road. The house was built following the approval of planning permission (ref. 03/00035/PP) under delegated powers in March 2003 at which point a requirement for a new dwelling had been justified on the grounds that the farm holding had split into two separate units. The original steading at Middleton Farm was on the opposite side of the B769, with the dwellinghouse and outbuildings there now converted to housing not associated with a farming business. The farmland on the south side of the B769 is also in separate ownership.

The planning permission for the house was subject to the following occupancy conditions:

3. That the occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 277 of the Town and Country Planning (Scotland) Act 1997 or in forestry, or a dependant of such a person residing with him or her, or a widow or widower of such a person.
4. That the dwelling house and granny annexe hereby approved shall be used in conjunction with the land known as Middleton Farm, as identified by the blue line on the ownership plan, and neither shall be sold as a separate planning unit for use as a separate dwellinghouse, all to the satisfaction of North Ayrshire Council as Planning Authority.

These conditions tie the occupancy of the house to a farmworker at Middleton Farm, including his dependents. The applicant is seeking to have both conditions deleted in order to provide more flexibility in dealing with the future, mainly in relation to business and personal financial planning. A number of potential scenarios have been presented in response to what are described as the increasingly challenging economic circumstances affecting dairy and livestock farming. Due to the reduction in income from milk production, dairy farming has now ceased at Middleton Farm, leaving only livestock production.

The tie created by the planning conditions between the house and the farm business is considered by the applicant to act as a constraint on dealing with matters such as a declining income and the need to raise capital for servicing debts, replacing farm equipment, etc. Whilst there is no immediate need to dispose of either the farm or the dwellinghouse, the applicant has submitted the application in response to the changing circumstances in which he finds himself. A series of possible future scenarios have been presented in a supporting statement to the application, the purpose of which serves to illustrate the importance of having more flexibility over the role of the house in relation to the farm. The applicant still occupies the dwellinghouse and operates the farm unit.

The application site lies within an area of countryside as identified within the adopted Local Development Plan and is unaffected by any site specific policies or proposals therein. Policy ENV 2 (Housing Development in the Countryside), indicates that for housing for workers engaged in a rural business), that there is a general presumption against development in the countryside which is not related to an appropriate rural business (such as agriculture, forestry or other operations provided for under Policy ENV 1). Policy ENV 2 indicates that any new housing in the countryside for workers engaged in a rural business requires justification that there is a genuine operational need for a worker to live on site in pursuance of an established rural business.

All development proposals require to be assessed against the relevant criteria of the General Policy of the LDP.

2. Consultations and Representations

There was no requirement for neighbour notification due to the location of the site within a larger area of land owned by the applicant. No consultations were necessary.

3. Analysis

This application relates to a request to remove an agricultural occupancy condition for a dwellinghouse which received planning permission in 2003. In terms of the removal of occupancy conditions, the following points can be considered to be material considerations:

- (a) the dwellinghouse has been in situ for almost 13 years, with the planning condition in force during this time, and has now served its purpose;
- (b) in terms of substantial change in circumstances, a justification for the removal of Conditions 3 and 4 has been submitted on grounds of economic viability. In addition, Scottish Planning Policy (SPP) advises that restrictive occupancy conditions are to be avoided;
- (c) the house remains linked to the farmland around it. However, the submission indicates that applicant would like to have more flexibility over the future of the house and the farmland given the declining farm income following the cessation of dairy production on the grounds that this practice is no longer economically viable. Moreover, it is considered by the applicant's agent that "the pressures facing the farming industry are widely acknowledged and a business such as that at Middleton Farm requires maximum flexibility in the current economic climate if it is to evolve and remain economically viable in the future. This includes the potential to raise further investment through a mortgage related to the house, if deemed necessary."

In terms of the General Policy of the LDP, it is considered that the dwelling would offer an acceptable level of residential amenity in the event of it being occupied by a non-agricultural worker. In terms of siting and design, it is noted that the property occupies a prominent location in relation to the B769, with the dwellinghouse set back from the road by approximately 30 metres with its principal elevation facing south east. Several farm sheds are located to the rear, north west of the house. The design of the dwellinghouse has a relatively suburban character in common with many farmhouses of the period. The Council's Rural Design Guidance for housing has been substantially improved since that time.

There are no other material considerations to address and accordingly, the proposal to remove conditions 3 and 4 is justified and can be approved.

4. Full Recommendation

See Appendix 1.



KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
16 August 2016

For further information please contact Mr Anthony Hume, Senior Development Management Officer , on 01294 324318

APPENDIX 1

RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00638/PP

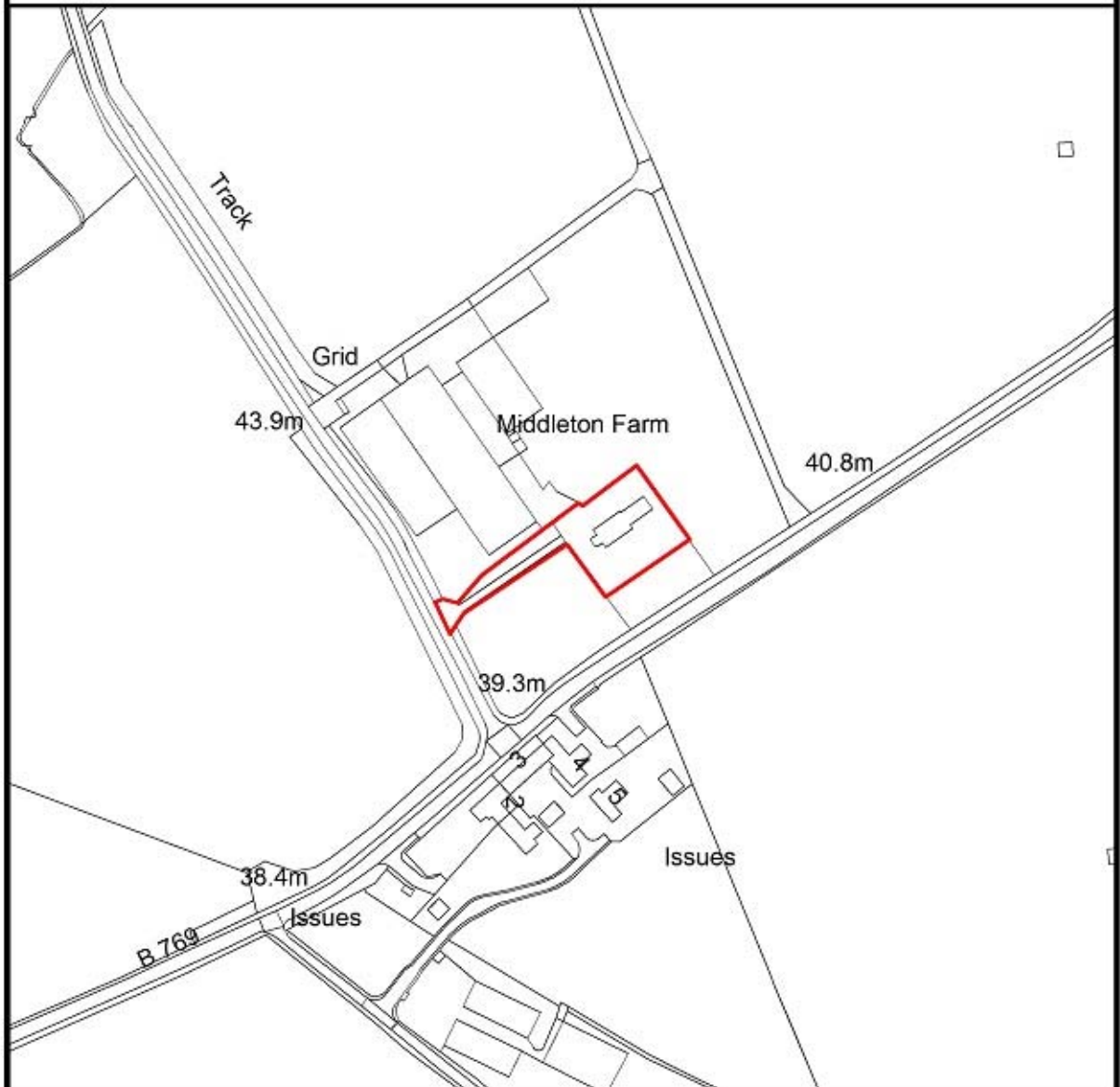
Grant (No conditions)

Reason(s) for approval:

1. The proposal does not comply with the relevant provisions of the Local Development Plan, however other material considerations indicate otherwise and planning permission should be granted.

Committee Plans

16/00638/PP



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NORTH AYRSHIRE COUNCIL

Agenda Item 6.1

Planning Committee

31 August 2016

Planning Area

North Coast and Cumbraes

Reference

16/00268/PP

Application

5th April 2016

Registered

Decision Due

5th August 2016

Ward

Dalry and West Kilbride

Recommendation	Grant with Conditions contained in Appendix 1
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Location	Hunterston Construction Yard, Fairlie
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Applicant	Clydeport Operations Limited, 16 Robertson Street, Glasgow
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Proposal	Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to delete Condition 1 of planning permission 11/00230/PPM to remove the temporary restriction on the use of the site.
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Introduction

Consideration of this application was continued at the meeting of the Planning Committee on 10th August 2016 for a site familiarisation visit by the Members of the Committee. The site familiarisation visit was held on 25th August 2016.

1. Description

The yard is located on reclaimed land off the north shore of Hunterston Peninsula (see attached location plan). It has a dedicated access road which connects to the A78 at the roundabout serving Hunterston Power Station. The application seeks permission under Section 42 of the 1997 Town and Country Planning (Scotland) Act, to seek a new planning permission for a development but with different conditions from those attached to a previous permission for that development. This application proposes the deletion of Condition 1 of the current planning permission (Ref. 11/00230/PPM), to remove the temporary restriction on the use of the site.

Hunterston is recognised in the third National Planning Framework (NPF3) as an 'area of coordinated action' a location of particular significance for low carbon infrastructure. NPF3 states "future development at Hunterston should aim to make sustainable use of its key assets, including its deep water access. Activities which could align with our national strategy include manufacturing and servicing support for offshore renewable energy development, building on the success of the onshore test facility for offshore wind turbines." The site, is also identified within NPF3 and Scotland's National Marine Plan as a 'National Renewables Infrastructure Plan' (N-RIP) site, as one of the best fit locations for meeting offshore renewable industry needs, including integrated manufacturing.

In the adopted North Ayrshire Local Development Plan (LDP), the site has an underlying Countryside allocation where Policies IND1 and IND2 apply. Policy IND1 identifies Hunterston as one of a number of Strategic Business Locations. Policy IND2 sets out a range of development types supported by NPF, NRIP, OFGEM and Scottish Enterprise which shall accord with the LDP, subject to meeting specific requirements identified.

The site is located adjacent to the Portencross Site of Special Scientific Interest (SSSI). Policy ENV9(2) states that proposals for development that would affect SSSI's shall not accord with the plan unless the objectives of designation and the overall integrity of the area are not compromised or any significant adverse effects are clearly outweighed by social or economic benefits of national importance. All proposals require to be assessed against the relevant criteria of the General Policy of the Local Development Plan.

On 31 May 2011, planning permission (Ref. 11/00230/PPM) was granted to extend for a further 5 years, the duration of planning permission for the marine construction yard. Planning permission for the yard had originally been granted, subject to conditions, under an Order by the then Secretary of State for Scotland. The Order, which required all planning applications for industrial development at Hunterston to be referred to the Secretary of State/Scottish Ministers, was superseded and the determination of such planning applications now rests with NAC as Planning Authority.

Since outline planning permission was originally granted for the construction yard in 1974, the site has periodically been used for construction and repair/maintenance of large concrete and steel structures for the offshore oil and gas industry. Over recent years the applicant advises that there have been a number of enquiries for the use of the yard for maritime construction purposes but none have materialised as a result of ownership issues and the uncertainty in relation to the temporary nature of the planning permission for the use of the site. The applicant advises that the ownership issues have now been resolved and consider that the removal of the time limiting planning permission is essential to provide sufficient certainty to allow long term investment plans for the site to progress and, that the continuing availability of the facility would assist in generating employment and income in North Ayrshire. The applicant also highlights that the yard is recognised in National and Local planning policy as an important strategic industrial location with its deep water access and the potential to create manufacturing and servicing support for offshore renewable energy development.

Although designated a 'major development' under the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 in terms of the site area exceeding 2 hectares in size, an application under Section 42 of the Act does not require to undergo pre-application consultation between developers and communities as is the case in applications for other 'major developments'.

2. Consultations and Representations

The standard neighbour notification procedure was carried out and the application was also advertised in the local press on 13 April 2016. A total of three objections and a representation were received, which can be summarised as follows:

1. The time restrictions included as part of the original consent were included for good reasons, and these have not changed or lessened with time. Whatever other reasons were intended, one major result has been to mitigate the possibility of permanent damage to this area of the Clyde estuary, and this is now as important as it ever was.

Response: The site has been intermittently used for the construction of maritime structures since outline planning permission was first granted in 1974. The original permission has been continuously renewed, more recently every 5 years, by applications to vary the time limiting condition. The conditions attached to the previous permissions ensured that the Council maintained control in ensuring that all redundant buildings were removed from the site on cessation of construction activities. Given the relative remoteness of the construction yard and its proximity to the industrial complex at Hunterston, it is considered that the condition of the site has not significantly detracted from the amenity of the area. If approved, the conditions of this new permission would continue to provide similar control in relation to removal of redundant buildings and the general condition of the site.

2. Rather than promoting heavy industrial development, the site owners should seek to attract a more sustainable and less environmentally polluting use for the site.

Response: The application is not proposing any use but only seeks to remove a time limiting condition to allow an existing use to continue indefinitely.

3. The removal of the condition would result in difficulty in controlling what suitable industrial activity is established in future. The site is very close to protected environmental areas and its hinterland consists of residential communities.

Response: The current planning permission states the industrial activities which are permitted to operate from the site, which are for the purpose of the construction, repair and subsequent removal on completion of large marine related structures.

4. It is understood that the Secretary of State's original 1988 planning consent for the Hunterston Basin required that, on completion of operations, the site be returned to a state acceptable to the relevant local authority. This must mean that the site is returned to the natural state of the original Hunterston foreshore. The developer seeks to maximise profit at the expense of the environment and local amenity by avoiding spending money in returning the site to its original condition. No trace of the 1998 permission is available on the NAC website and therefore the applicant should have been asked to lodge this document as part of their submission.

Response: The condition referred to does not require the site to be returned to its original, pre-construction, condition. Condition 12 of the current application requires, that on expiry of the permission, the applicant submits proposals for a scheme of remediation to bring the site into some favourable or beneficial use. The 1998 permission referred to is not the original permission and it is not considered relevant for the applicant to have submitted previous planning documents with this application.

5. No objection to the extension of planning permission past 29 May 2016 for a period deemed appropriate by the Local Authority on the proviso that all other conditions dependent on that date are also suitably amended to ensure that the site is restored to the satisfaction of the Local Authority at the end of this extended period.

Response: The application is to remove, not extend, the time restriction from the planning permission. It is considered that the proposed new conditions would offer sufficient control over future activities within the site and the appearance of it.

Fairlie Community Council - If planning permission is approved Condition 12 would also require to be varied, although this is not proposed by the applicant in this application. If indeed Condition 12 is being proposed to be removed then a separate planning application should be submitted. Condition 12 was imposed to ensure that the site would be left in a condition acceptable to the Council on cessation of the use. The Community Council considers that if condition 12 is deleted then it would be possible for the owner/ applicant to leave the site in a state which is not favourable or beneficial and to do this without limit of time, with the potential for the site being left in a derelict or unsightly state for many years after an activity has ceased.

Equally, if condition 12 remains then it would also be possible for the site to remain in an unacceptable condition without limit of time as there would be no expiry date if condition 1 is deleted. The Community Council considers that either situation would be quite contrary to the purpose of condition 12 as intended by the Secretary of State in granting the original permission.

Response: The application seeks to delete the time limitation for the use of the site as specified in Condition 1 of the 2011 planning permission. If, however, Condition 1 is deleted, some of the other conditions of the permission would also require to be amended/deleted as a consequence and the Committee is being asked to agree the required amendments to these other conditions, i.e. without the need for the applicant to make further planning applications. The conditions of the most recent permission (Ref. 11/00230/PPM) are attached at Appendix 1a of this report.

In response to the concern about the loss of control in ensuring that the site would be left in an acceptable condition on cessation of the use, that concern would be addressed through condition 8 of the new permission, which would require all redundant buildings or structures, lighting columns, scrap materials etc. remaining on the site to be removed and thereafter the site maintained in a tidy and safe condition, to the satisfaction of the Council in the event of the site being inactive for a period in excess of 12 months. It is proposed that the new condition 8 would replace condition 12 of the current permission as there would no longer be an expiry date on the new permission as a result of the removal of Condition 1, if approved.

Health & Safety Executive (Office for Nuclear Regulation) - No objection. Following consultation with the emergency planners within North Ayrshire Council, which is responsible for the preparation of the Hunterston off-site emergency plan required by the Radiation Emergency Preparedness and Public Information Regulations (REPPPIR) 2001, adequate assurance has been provided that the proposed development can be accommodated within the off-site emergency planning arrangements. The proposed development does not present a significant external hazard to the safety of the nuclear site.

Response: Noted.

West Kilbride Community Council - Object. The removal of Condition 1 is not in the best interest of the surrounding area, which is predominately residential and tourism, and will prevent the ability of NAC to control what happens at the site. The use of the site for decommissioning Oil Rigs would require extensive investment before work could be undertaken, plus it would have an adverse effect on the area due to the inevitable pollution attached to the decommissioning of these rigs. The site now also incorporates the Flask Loading and Unloading facility used by Hunterston B which restricts the site use during these operations.

Response: Since the granting of the original outline planning permission by the Secretary of State for Scotland in 1974 which imposed a time restriction on the authorised use, all subsequent applications have also had a time limiting condition attached, more recently for 5 year periods. A condition of the current permission, which would be carried forward into the new decision notice, if approved, still allows the Council to control activities on the site with regard to the siting, design and external appearance of buildings, plant and other structures, the storage of raw materials, finished products and waste, and arrangements for the treatment and disposal of effluents and waste products.

The concern about the potential for oil rig decommissioning work is not a relevant as the current permission does not allow decommissioning operations and the inclusion of such activities would require a further variation to the planning permission, and which would require to be supported by a detailed environmental report. The reference to nuclear flask loading activities taking place from the site is incorrect as this takes place at the adjacent Clydeport terminal and not the application site.

Scottish Natural Heritage – No objections. As the application does not propose any other changes to the operational restrictions at the site, this will not have any additional impacts on the adjacent Southannan Sands SSSI.

Response: Noted.

Environmental Health, SEPA - no objection.

3. Analysis

This application proposes the deletion of Condition 1 of planning permission 11/00230/PPM to remove the temporary restriction on the use of the site. Permission is sought under Section 42 of the 1997 Town and Country Planning (Scotland) Act to seek a new planning permission for a development but with different conditions from those attached to a previous permission for that development. The main determining issues are whether the proposals accord with the National Planning Framework and the Local Development Plan (LDP).

In relation to the LDP, the marine construction yard forms part of the overall industrial allocation at Hunterston, subject to Policies IND1 and IND2, which identify the site as a strategic business location and a national development area respectively. The national development area being allocated in NPF2 and safeguarded for development of national importance requiring deep water access. Whilst the site has seen only intermittent development activity since the original 1974 planning permission, the existing permitted use of the site for the construction, repair and subsequent removal on completion of large marine related structures, does not conflict with either IND1, IND2, NPF2 or the NPF3 of 2014 which now designates Hunterston as an 'area of co-ordinated action' rather than a 'national development' area. NPF3 and Scotland's National Marine Plan also designates the Hunterston area as a 'National Renewables Infrastructure Plan' (N-RIP) as one of the best fit locations for meeting offshore renewable industry needs, including integrated manufacturing.

With regard to Policy ENV6 (2), SNH has not objected to the proposal. SNH does not consider that the removal of the time limiting condition in itself would have any additional impacts on the adjacent Southannan Sands SSSI and therefore it is considered that the proposal would not conflict with ENV6 (2).

The General Policy of the LDP requires all development proposals to be assessed against a range of criteria however, given that the existing permitted use has now been established on the site for some 40 years, it is not considered that the current proposal for the removal of a planning condition requires such further assessment. Issues of siting, design, amenity and landscape character would all be controlled through conditions of the permission, for example, the erection of further buildings associated with re-use of the site, would require the prior approval of the Council.

In relation to the matter of the temporary nature of the planning permission, Scottish Government policy on the use of conditions in planning permissions outlines a number of tests for the appropriate application of temporary planning permission, namely, that:

- it will rarely be necessary to give a temporary consent to an applicant who wishes to carry out development which conforms to the provisions of the Development Plan;
- the reason for granting a temporary permission can never be that a time limit is necessary because of the effect of the development on the amenity of the area; and,
- a temporary permission will normally only be appropriate either where the applicant proposes temporary development or when a trial run is needed in order to assess the effect of the development in the area.

The applicant submits that the five year time limit on the permission does not provide sufficient certainty to allow long term investment plans for the site to progress, and that a further temporary consent would not meet the above tests of Circular 4/1998.

The time limiting condition was originally imposed by the Secretary of State in 1974 with the apparent intention of retaining control on the nature of the activities which could take place within the site. Conditions of the permission, which have been varied slightly, in the previous applications to extend the time limit, enable effective controls over the visual appearance of the site, with any further buildings required in connection with the re-use of the site requiring the prior approval of the Council.

The applicants submit that throughout the period of the most recent temporary permissions they have received a number of enquiries for the use of the yard for a variety of uses, including oil rig construction, repair and decommissioning, however, they consider that the limitation imposed by condition 1 has been one of the main obstacles in attracting such projects to the site. They further advise that, more recently, interest was expressed about extending the jetty at the yard to enable its use for the transportation of larger components for offshore wind turbines, which was originally intended to service the wind turbine test facility at Hunterston, but also with the potential to provide a basis for the manufacture of large scale offshore components at Hunterston for transportation to offshore installations in the future. However, it was found that the level of investment necessary for such a project could not be justified against the uncertainty of a time limited planning permission.

In view of the above it is accepted that the confidence and scale of investment required to equip the site for construction of offshore wind turbines, or possibly decommissioning activities, would require a degree of certainty on the long term use of the site. It is considered therefore that the removal of the temporary constraint on the operation of the site would be consistent with current Government guidance and accord with NPF3 and the Local Development Plan.

Conditions 4, 11 and 12 of the current permission should be deleted to reflect both the authorised use of the site and the removal of the time limit on operations. Other conditions should be amended to maintain control over the future condition of the site on cessation of operations. All other conditions of the current permission should be re-imposed. The applicant has been advised of the need to vary or delete other conditions of the permission as a consequence of removing Condition 1 and has confirmed their acceptance to the proposed wording of the new conditions.

It is recommended therefore that conditional planning permission can be granted.

4. Full Recommendation

See Appendix 1.



KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
16 August 2016

For further information please contact Gordon Craig, Planning Officer , on 01294 324380

APPENDIX 1

RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00268/PP

Grant 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 subsequent removal on completion of large marine related structures; and the site shall be used for no other purpose.
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.
3. That all processes and activities shall be carried out in such a manner as to minimise nuisance by way of noise, dust, smell, vibration or pollution of the sea.
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 vessel construction and/or repair 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 should the authorised use of the site, as detailed in Condition 1, be discontinued for a period in excess of one year, all redundant buildings or structures, including lighting columns and any scrap materials remaining on the site shall be removed and thereafter the site shall be maintained in a tidy and safe condition, to the satisfaction of North Ayrshire Council as Planning Authority.

The reason(s) for the above condition(s) are:-

1. In the interest of the amenity of the area.
2. In the interest of the amenity of the area.
3. In the interest of the amenity of the area.
4. To ensure that the development does not affect the operation of the power station in the interest of safety.
5. In the interest of the amenity of the area.
6. In the interest of the amenity of the area.
7. In the interest of the amenity of the area.
8. In the interest of the amenity of the area.

Reason(s) for approval:

1. The proposal complies with the relevant provisions of the Local Development Plan and there are no other material considerations that indicate otherwise.

Appendix 1 a

Conditions attached to planning permission 11/00230/PPM

Condition 1. That the planning permission shall expire on 29th May, 2016.

Reason 1. In recognition of the temporary nature of the development.

Condition 2. That the planning permission shall be restricted to the use and enlargement of the existing building dock; use of the existing 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.

Reason 2. To restrict the development to the terms of its justification/special need.

Condition 3. That before commencing development the developer 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 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.

Reason 3. In the interest of the amenity of the area.

Condition 4. That except with written consent of North Ayrshire Council as Planning Authority, work on the site shall not begin until any approvals necessary under Condition 3 above have been obtained.

Reason 4. In the interest of the amenity of the area.

Condition 5. That all processes and activities shall be carried out in such a manner as to minimise nuisance by way of noise, dust, smell, vibration or pollution of the sea.

Reason 5. In the interest of the amenity of the area.

- | | | |
|-----------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Condition | 6. | That no processes or activities shall be carried out which would:
a) be incompatible with the nuclear safety arrangements or operations of Scottish Nuclear's Power Station at Hunterston; or
b) have an adverse effect on water quality at the intakes of the power station |
| Reason | 6. | <i>To ensure that the development does not affect the operation of Scottish Nuclear's power station in the interest of safety.</i> |
| Condition | 7. | 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 |
| Reason | 7. | <i>In the interest of the amenity of the area.</i> |
| Condition | 8. | 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. |
| Reason | 8. | <i>In the interest of the amenity of the area.</i> |
| Condition | 9. | That the hours of operation of the site for vessel construction and/or repair 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. |
| Reason | 9. | <i>In the interest of the amenity of the area.</i> |
| Condition | 10. | That in the event of reclamation, dock reconstruction or construction work being discontinued for a period in excess of one year, the total site shall be maintained in a tidy and safe condition, to the satisfaction of North Ayrshire Council as Planning Authority. |
| Reason | 10. | <i>In the interest of the amenity of the area.</i> |
| Condition | 11. | That within six months from the date of this approval the applicants shall remove all redundant buildings or structures, including lighting columns and any scrap materials remaining on the site to the satisfaction of North Ayrshire Council as Planning Authority. |
| Reason | 11. | <i>In the interest of the amenity of the area.</i> |

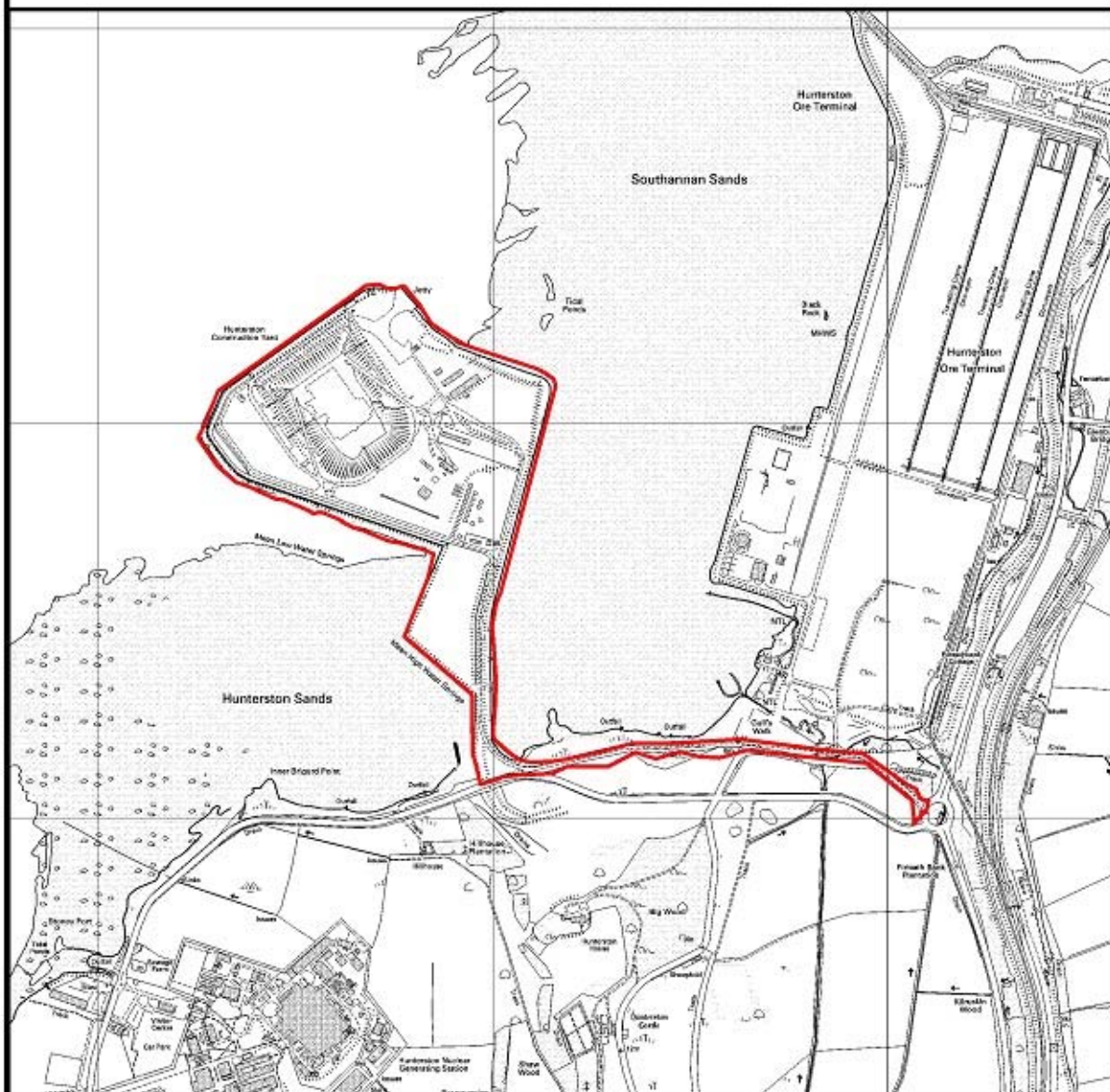
Condition 12. That, prior to the expiry of this permission, the applicant shall submit details to North Ayrshire Council as Planning Authority of a scheme of remediation to bring the site into some favourable or beneficial use, within an agreed timescale, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason 12. In the interest of the amenity of the area.

Location Plan

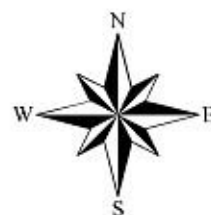
Committee Plans

16/00268/PP



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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NORTH AYRSHIRE COUNCIL

Agenda Item 6.2

Planning Committee

31 August 2016

Planning Area

North Coast and Cumbraes

Reference

16/00561/PPPM

Application

15.06.2016

Registered

Decision Due

15.10.2016

Ward

Dalry And West Kilbride

Recommendation**Grant with Conditions contained in
Appendix 1**

Location

Site To North West Of Chapelton Mains, Seamill

Applicant

Hope Homes (Scotland) Ltd

ProposalResidential development with associated access roads, open space, landscaping and other required infrastructure

1. Description

This application seeks Planning Permission in Principle for the erection of a residential development with associated access roads, open space, landscaping and other required infrastructure

The application site comprises an area of relatively flat Countryside approximately 6 hectares in size, located to the north west of Chapelton Mains, south of Seamill. The site is bound by the A78 and existing residential properties fronting the A78 to the west, Chapelton Mains to the south and countryside and Chapelton Road to the east (see attached location plan).

The application seeks Planning Permission in Principle and is considered to be a "major" development as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 as the site exceeds two hectares in size. The proposal has been subject to pre-application discussions with Officers. The proposal falls within the category of "major" development, in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, pre-application consultation (PAC) was required, and a notice (ref. 15/00259/PREAPM) was submitted on 6th May 2015. The PAC initiated the statutory pre-application procedures.

In support of the application the following documents have been submitted:

Pre-application consultation (PAC) report

A public exhibition was held at Seamill Hydro Hotel, Seamill on Tuesday 23rd June between 11am and 7pm. A PAC report has been prepared and submitted with the proposal. The PAC report notes the pre-event publicity measures, which were undertaken and the methods used at the public event to inform those attending. The report states that around 99 members of the public, or representatives from interested bodies, attended the event. 25 comments were received. The PAC report outlines and responds to each point and concludes that the applicant is encouraged by the response to the proposals. The applicant considers that as a Planning Permission in Principle many of the concerns raised regarding layout, privacy, pollution etc would be addressed during each detailed phase.

Transport Assessment

The applicant submitted a Transport Assessment which considers that the development is likely to generate around 132 (am) and 127 (pm) two way people trips during weekday AM and PM peak periods respectively. The assessment also states that it is envisaged the development is likely to generate around a maximum of 78 and 75 two way vehicle trips during the weekday AM and PM periods respectively. The assessment includes consideration for pedestrians, cyclists, public transport, vehicular access requirements, parking and potential off site traffic impacts that the residential development will have on the surrounding transport network. Due to the sites location on the A78 cycling and pedestrian needs are well served. Existing bus services on the A78 and West Kilbride railway station provide opportunities for active travel. The assessment considers that the site is well located to take advantage of good bus and rail links and as such no improvements are proposed as the existing public transport services and infrastructure provide a high level of accessibility to and from the site.

It is proposed that vehicular access to the site would be taken from the A78 (T) and be located to the south of the existing village. The assessment considers this location has sufficient space to accommodate a ghost-island priority access junction that meets the needs of Transport Scotland. The initial access appraisal has indicated that there would not be any capacity issues associated with a junction at this location. The assessment recommends that the existing 30mph speed limit to the north of the proposed access is extended approximately 200m southwards along the A78 (T) to ensure that the development and its access are located within an appropriate urban setting.

Outline Masterplan Statement

The applicant has provided a masterplan statement which provides a contextual analysis, design principles, design concepts and a sustainability statement. Indicative photomontages are also provided to provide an illustration of the proposed housing types. The applicant proposes to take influence from more historic development in the area with the view of creating a 'Place'. The statement notes that there is a range of building types in the area as well as more modern bungalow/suburban type housing. Overall a mixture of one, two and two and a half storey housing is proposed to provide variety and focal points within the development. The statement also refers to potential materials and detailing, which reflect a more traditional approach to design, with influence taken from North Ayrshire Council's design documents.

Drainage Strategy Report

The report states that SEPA's Indicative Flood Map reveals that the 1:200 year flood plain does not impinge on the site although some surface water flooding is predicted on the southern boundary of the site. It is proposed that surface water arising from the site would be discharged to tidal waters directly from the site and that there should not be any issues regarding flooding of the proposed development, or elsewhere as a result of the development. The report concludes that for these reasons a Flood Risk Assessment is unnecessary. In regard to surface water, detailed design of SUDS is yet to be developed and would be subject to detailed design as each phase develops.

In the adopted Local Development Plan (LDP) the application site is allocated for market housing, where Policy Res 2 (Additional Housing Sites) applies. In terms of Policy Res 2, the site has an indicative capacity of 124 units.

Policy PI 1 relates to the promotion of active travel, which is relevant due to the scale of the development and its potential to be a significant trip generator. Policy PI 8 deals with drainage, SuDS and flooding, which is relevant due to the scale of the project.

Policy RES 4 (affordable housing) is also relevant and requires all proposals for residential development to make a contribution to affordable housing provision. For the North Coast and Arran market housing area, a contribution of 25% is required and should be provided in line with the Council's supplementary guidance.

The General Policy of the LDP is also relevant and requires all development proposals to be considered against a set of assessment criteria, the relevant ones in this case being (a) siting, design and external appearance, (b) amenity, and (d) access, road layout, parking provision.

2. Consultations and Representations

The statutory neighbour notification procedure was carried out and the application was also advertised in the local press on 22nd June 2016 for neighbour notification purposes. 60 letters of objection were received, which can be summarised as follows:

1. The proposed access onto the A78 is inappropriate due to existing traffic levels and road safety. The transport statement is out of date. Transport Scotland advise to refuse planning permission. The proposal will generate congestion on A78 and in West Kilbride. West Kilbride has narrow paths and lack of parking. Access should be provided on the B7047 rather than the A78. A roundabout should be created at the junction of the B7047 and the A78 at the expense of the developer. A cycle/foot path should be created along the B7047. The creation of an access onto the B7047 would be dangerous.

Response: Transport Scotland has offered no objection to the proposals subject to condition. Transport Scotland have audited the applicants transport assessment and conclude that the assessment and base traffic data to be robust and appropriate. It is also considered that use of 2001 Census data for vehicle trip distribution and assignment to be appropriate as the most up to date census does not include assessment of travel patterns. The applicant has considered a potential secondary access onto the B7047 but due to site levels and poor sight lines there are road safety concerns. Transport Scotland or NAC Transportation have not required the provision of a roundabout. Objection on road safety or capacity concerns have not been raised by consultees during the LDP consultation or application stages. It would not be appropriate to require the developer to create a path from the site into West Kilbride as the existing path network is sufficient. Concerns about a lack of parking within the town centre are not material to this application.

2. The proposed development will increase water run-off in the area and result in flooding in rear gardens of properties on Ardrossan Road and on the A78. Existing sewerage system cannot cope with more housing. Surface water must be treated before being discharged to the sea.

Response: The applicant has provided a drainage assessment which concludes that SEPA's Indicative Flood Map reveals the 1:200 year flood plain does not impinge on the site although some surface water flooding is predicted on the southern boundary of the site, which would be addressed within an appropriate drainage scheme to be submitted within a subsequent stage of application. It is proposed that surface water arising from the site would be discharged to tidal waters directly from the site. Subsequent applications would be subject to a drainage design and SUDS to ensure that surface water is discharged to the sea at a greenfield rate and does not discharge into neighbouring gardens.

3. The farmland to be developed is of high quality having been used in the past for growing. Priority should be given to developing brownfield land rather than greenfield. There is no need for the development of more housing in West Kilbride. The proposal is better suited for the Three Towns.

Response: The applicant has confirmed that the site is currently used as grazing. The spatial strategy which underpins the strategic policies identifies providing housing land to stimulate population growth. The LDP requires to allocate sufficient land to meet need and demand for housing over the 10 year period following adoption. The land supply provides a range of sites in a variety of locations to meet the anticipated need and demand. Within West Kilbride this allocation included Ardrossan Road, Seamill (124 units), Ardrossan High Road, West Kilbride (30 units) and Lawhill Farm, West Kilbride (70 affordable housing units). The LDP has been subject to consultation and review by the Scottish Government Reporters who determined that the site is suitable for the development. Through the LDP process, the selection of land for future housing development is carefully considered, taking into account a range of criteria including factors such as sustainability, infrastructure, settlement patterns, transportation, landscape and visual impact. A key issue in North Ayrshire remains the legacy of vacant and derelict land within and on the fringes of settlements, as evidenced in Policy STRAT3 which seeks "transformational" change in North Ayrshire's settlements in order to regenerate communities physically, socially and economically. This site is considered in addition to proposed development on more significant areas of existing brownfield land in the area which includes proposed housing developments at Ardrossan North Shore.

4. The proposed development will impact on facilities in the town including schools, nursery's, dentists, doctors. The developer should pay for a school extension.

Response: NAC Education has not objected to the proposal, as noted below. The impact of the development on other services was considered during the LDP process.

5. Affordable housing should be provided with each phase. There are no details of affordable housing types, locations or numbers.

Response: NAC Housing has not objected to the scheme subject to an appropriate condition requiring details of affordable housing. Affordable housing would be provided within each phase in compliance with LDP policy.

6. The proposals will impact on amenity by way of overlooking/privacy and noise from new occupiers. The proposals will impact on property prices.

Response: The indicative masterplan provides basic information on layout. Each phase would be subject to a separate detailed application where these matters would be considered. Impact on property prices is not a material planning consideration.

7. The architectural style of housing is out of keeping within surrounding area. Materials are inappropriate. The proposals should include landscaping and play areas. No details of layout, parking or building locations with plans.

Response: The indicative masterplan for the site provides basic information on building style, materials, design and layout. The matter of detail of design and layout would be considered in future applications.

8. There is no archaeology report with proposals. The site has the potential to contain historic artefacts.

Response: West of Scotland Archaeology Service has offered no objection subject to a condition requiring a written scheme of investigation. A condition can be applied in this regard.

9. The wildlife study is out of date and was carried out in winter. A number of species have been witnessed on site including deer, owls, bats and badgers.

Response: Further to comments received the applicant has provided a further walk over survey of protected species and bat assessment, which was undertaken in July 2016. The assessment includes a daytime walk over and dusk assessment. The study concludes that no protected terrestrial mammal species, nor signs indicating their presence were observed within the site boundary. Small numbers of bird species typical for the location and habitat were recorded flying over the site, with none observed on the ground or in sparse hedges bordering the site. Small numbers of two common and wide-spread bat species were recorded foraging over and commuting across parts of the site. No other signs of protected or notable species were observed. The report includes a number of recommendations including a further bat survey and considerations given to increasing fauna on the site and sensitive lighting. A condition regarding these matters could be applied.

10. The allocation of the site through the LDP was not properly consulted upon.

Response: Whilst not material to this application the LDP was subject to the statutory consultation procedures. The LDP was subject to an independent assessment by the Scottish Government's Reporters who confirmed that the consultation was satisfactory .

11. The plans were not available to view online. Insufficient time was provided in order to comment on the proposals.

Response: Noted. An issue with the online system was noted at the point of registration which was resolved and the consultation period extended to reflect this delay.

Consultations

NAC Transportation – No objection. Transport Scotland should be consulted on the acceptability of the proposed junction on to the A78. The detailed design of internal roads should be negotiated with NAC Transportation prior to submission of planning applications.

Response: Noted. Conditions regarding detailed road layouts with each phase could be applied in this regard.

Transport Scotland - No objection. Transport Scotland have audited the transport assessment and proposed junction design. Transport Scotland conclude that the assessment and base traffic data to be robust and appropriate. It is also considered that use of 2001 Census data for vehicle trip distribution and assignment to be appropriate as the most up to date census does not include assessment of travel patterns. Consideration should be given to extending the 30mph zone. The design of the junction onto the trunk road, proposed lighting and footpath links should be controlled through condition. The applicant should also provide a Travel Plan for the development with the aim of reducing dependency on the private car.

Response: Noted. Conditions could be applied in this regard. The extension of the 30mph zone could be addressed by the applicant through Transport Scotland.

NAC Flooding Officer - no objection.

Response: Noted.

NAC Education - Confirm that 15 units per year and a total of 124 units have been included in the roll projection for West Kilbride Primary School, St Peter's PS, Ardrossan Academy and St Matthew's Academy.

Response: Noted.

NAC Housing Services - Confirm that the developer will have to provide an affordable housing contribution for this site in line with the Affordable Housing Policy.

Response: Noted. This requirement would be subject to separate agreement if planning permission was granted and an appropriate conditions could address that matter.

West of Scotland Archaeology - The proposal is situated in an area of high archaeological potential in a landscape which has clearly been in use by humans for thousands of years. This is illustrated by the archaeological records located in the surrounding landscape which are the result of random reporting of finds and sites made accidentally during ground disturbance over the last 150 years or so. These include prehistoric and medieval sites including burials, a hoard and an unlocated early chapel and burial ground. West of Scotland Archaeology, therefore, recommends that a condition be applied requiring the implementation of a programme of archaeological works in association with a written scheme of investigation.

Response: A condition could be applied in this regard.

West Kilbride Community Council (WKCC) – Raise concerns regarding:

- Treatment of groundwater springs / flooding of the site arising from construction at the bottom of the hill. Although this has been looked at in the desk study in the drainage report residents still have reservations. There is no water run-off settlement area shown on the proposed layout as this water has to be treated prior to discharge to the nearest watercourse. Again this is referred to in the Drainage Report as discharge to the Coastal Waters however this water still has to be treated before discharge;
- The design of the dwellings are out of keeping with the existing settlement buildings in Ardrossan Road adjacent to the site which are all no more than one and a half storey dwellings;
- The extension of the restricted zone to Chapelton while advantageous would however be subject to consultation and Scottish Government / Trunk Road approval;
- The existing dwellings on the east side of Ardrossan Road all have garden ground to the road, the proposal submitted indicates that the dwellings located close to the road have no buffer zone;
- There is concern that the development will overload the infrastructure, doctors, school etc. which are currently operating at maximum capacity;
- The Traffic projections in the Traffic Report are based on 132 traffic movements Am peak and 127 traffic movements PM peak. The view of WKCC is that this is unrealistic as for 134 dwellings construction would be expected to allow for 268 car places. There is no indication as to when traffic census data was obtained, and will be variable, as this is dependent on outside factors such as outage at Hunterston B increase for 8/12 weeks at a time of 1000 plus additional contractors on site, this will add to peak time travel additions;
- Concern has been raised by existing residents on the east side of Ardrossan Road and at Chapelton Farm Steading development regarding their privacy being invaded as the rear gardens of their dwellings would be adjacent to the new development. Significant screening measures should be required.

WKCC would request that the developer consider assisting with infrastructure improvements to the village of West Kilbride as they are proposing an additional 124 residential units and the residents would be expecting to utilise local facilities.

Response: The traffic and transport issues associated with the proposed development have been assessed by the Council's Transportation Officers and Transport Scotland, who offer no objections, subject to conditions (see consultation responses, above). NAC Education has not objected to the proposals. The impact of the development on other services was considered during the LDP process. The indicative masterplan provides basic information on layout. Each phase would be subject to a separate detailed application where matters regarding siting and design would be considered. The applicant has provided a drainage assessment which concludes that SEPA's Indicative Flood Map reveals the 1:200 year flood plain does not impinge on the site although some surface water flooding is predicted on the southern boundary of the site. It is proposed that surface water arising from the site would be discharged to tidal waters directly from the site. Subsequent detailed applications would be subject to a detailed drainage design and SUDS to ensure that surface water is discharged to the sea at a greenfield rate. There are no objections from NAC Flooding. The remainder of the concerns are addressed in response to the objections above.

3. Analysis

The application seeks planning permission in principle for the residential development with associated access roads, open space, landscaping and other required infrastructure.

Policy STRAT1 of the LDP states that the Council is committed to stimulating population growth within North Ayrshire. The proposed development would contribute to this strategic aim. The proposal requires to be considered in terms of LDP policies RES 2, PI 1, PI 8, RES 4 and the General Policy.

In terms of Policy RES 2 the site is allocated for market housing with an indicative capacity of 124 units. The applicant has provided a draft masterplan and phasing plan to illustrate the potential layout and development of the site although it is expected that development will occur in stages.

The Action Programme provides indicative key actions including:

- Investigate capacity issues at St Peter's primary. Secure contribution toward education, if necessary.
- Undertake analysis of cumulative impact on the junction of Chapelton Road and A78.
- Agree vehicular access arrangements.
- Secure contribution toward Affordable Housing.

In support of the proposal the applicant has provided an assessment of the transport implications of the proposed development including consideration for pedestrians, cyclists, public transport, vehicular access requirements, parking and potential off site traffic impacts that the residential development will have on the surrounding transport network. Due to the sites location on the A78 cycling and pedestrian needs are well served. Existing bus services on the A78 and West Kilbride railway station provide opportunities for active travel. The assessment considers that the site is well located to take advantage of good bus and rail links and as such no improvements are proposed as the existing public transport services and infrastructure provide a high level of accessibility to and from the site.

It is proposed that vehicular access to the site would be taken from the A78 (T) and be located to the south of the existing village. The assessment considers this location has sufficient space to accommodate a ghost-island priority access junction that meets the needs of Transport Scotland. The initial access appraisal has indicated that there would not be any capacity issues associated with a junction at this location. The assessment recommends that the existing 30mph speed limit to the north of the proposed access is extended approximately 200m southwards along A78 (T) to ensure that the development and its access are located within an appropriate urban setting.

Both Transport Scotland and NAC Transportation have reviewed the transport statement and raise no objections subject to certain conditions.

With respect to capacity at St Peters Primary NAC Education confirm that the sites development has been included in the roll projection for West Kilbride Primary School, St Peter's Primary School, Ardrossan Academy and St Matthew's Academy.

Affordable housing requirements are currently being discussed with the applicant and will be developed through the phasing of the development. A condition could be applied in this regard.

The proposal would comply with Policy RES2.

In terms of Policy PI 1, which relates to all development proposals which will result in significant trip generation, applications require to demonstrate that account has been taken of the need of walkers, cyclists and public transport users. As stated a transport assessment has been submitted with the application, which considers the various issues and methods to promote active travel and the use of public transport. The site is well located for pedestrians and cyclists, being connected to the existing network of local footpaths, national cycle route and is within walking distance of West Kilbride town centre. The site is also well located for public transport, with the A78 being on the main bus route between Greenock and Ayr. Finally, in terms of motorised traffic, the site can be accessed conveniently from the trunk road network. In summary, the proposal is satisfactory in relation to Policy PI 1.

Policy PI 8 deals with drainage, SuDS and flooding, which is relevant due to the location of the site beside the Annick Water. The application has been subject to a drainage assessment. The assessment concludes that SEPA's Indicative Flood Map reveals the 1:200 year flood plain does not impinge on the site although some surface water flooding is predicted on the southern boundary of the site. It is proposed that surface water arising from the site would be discharged to tidal waters directly from the site and that there should be no issues regarding flooding of the proposed development, or elsewhere as a result of the development. The report concludes that for these reasons a Flood Risk Assessment is unnecessary. In regard to surface water, detailed design of SUDS is yet to be developed. A condition could be required to ensure that the proposal is subject to an appropriate SUDS scheme. In summary, the proposal is satisfactory in relation to Policy PI 8.

Policy RES 4 (affordable housing) is also relevant and requires all proposals for residential development to make a contribution to affordable housing provision. For the North Coast sub-market housing area, a contribution of 25% is required and should be provided in line with the Council's supplementary guidance. The applicant is aware of this requirement and is agreeable to this matter being addressed through a suitable condition.

In relation to the General Policy of the LDP criterion (a) requires the proposed development to be of acceptable siting, design and external appearance. Policy PI 1, criterion (a) also requires the development to incorporate the principles of the Scottish Government's Designing Streets and Designing Places guidance. The applicant has provided an indicative phasing and road plan. Each phase would be subject to a separate detailed application where these matters would be considered.

In relation to criterion (b) Amenity, the proposed development would require to demonstrate that it could be achieved without any significant adverse impact on the amenity of nearby properties. Impact on privacy, overshadowing and outlook would be considered with each phase in the subsequent detailed applications.

In relation to criterion (d) the applicants transport statement places an emphasis on encouraging active/ sustainable travel. They indicate that each dwelling would receive a welcome pack to raise awareness of sustainable forms of transport. With regard to private vehicles, consideration was given to the provision of a secondary access from the B7047, Chapelton Road, but due to ownership issues, site levels and sight lines the only vehicular access will be from the A78. This access has been considered by Transport Scotland who offer no objection subject to a condition on its design. Similarly the Council's Transportation Service has offered no objection to the proposed development. Conditions would be required to ensure that the development is designed in accordance with the principles of the Scottish Government's Designing Streets and Designing Places policy documents.

There are no other material considerations at this stage. As noted above, conditions could be imposed to address concerns regarding the detailed design of the proposals as well as the provision of surface drainage. Affordable housing would be addressed at each phase of the development. Accordingly, it is recommended that planning permission in principle is granted for this welcome addition to the housing land supply in North Ayrshire.

4. Full Recommendation

See Appendix 1



KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
3 August 2016

For further information please contact Ross Middleton , on 01294 324379

APPENDIX 1

RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00561/PPPM

Grant subject to the following conditions:-

- 1 That prior to the submission of the first application for the approval of matters specified in conditions (MSC), a programme of archaeological works in accordance with a written scheme of investigation, the results of which shall inform the layout of the detailed masterplan required by Condition 4, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the developer shall ensure that the approved programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of North Ayrshire Council as Planning Authority.
- 2 That prior to the submission of the first application for the approval of matters specified in conditions (MSC) a scheme to treat the surface water arising from the site in accordance with the principles and practices contained in CIRIA's SuDS Manual (C753) (published 11th November 2015), the results of which shall inform the layout of the detailed masterplan required by Condition 4, shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the scheme as may be approved shall be implemented during the course of development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.
- 3 That prior to the submission of the first application for the approval of matters specified in conditions (MSC), a detailed flood risk assessment (FRA) which identifies the areas of the site at risk of flooding, taking into account the impact of the development on flood risk elsewhere, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the FRA as may be approved shall inform the layout of the detailed masterplan required by Condition 4. For the avoidance of any doubt, no built development or infrastructure should be located within the 1 in 200 year functional floodplain.
- 4 That prior to the submission of the first application for the approval of matters specified in conditions (MSC), a detailed masterplan together with a development brief shall be submitted for the approval of North Ayrshire Council as Planning Authority with regard to the siting, design and external appearance of, landscaping and means of access to the proposed development. For the avoidance of doubt the detailed masterplan shall take into account the findings of the further intrusive site investigations, archaeological investigations, the detailed SuDS scheme and flood risk assessments required by conditions 1, 2 and 3 respectively, and shall incorporate details in relation to:
 - the means of access to the site, including at least one vehicular connection from the public road network into the site and at least two multi-user links including links into the wider settlement of West Kilbride;
 - the street layout;
 - all hard and soft landscaping;
 - areas of open space; and
 - areas for children's play.

In addition, the detailed masterplan and development brief shall take into account the principles of the Scottish Government's 'Designing Streets' and 'Designing Places' policy documents to the satisfaction of North Ayrshire Council as Planning Authority.

Thereafter, the details contained in the MSC application(s) shall accord with the detailed masterplan and development brief as may be approved, to the satisfaction of North Ayrshire Council as Planning Authority.

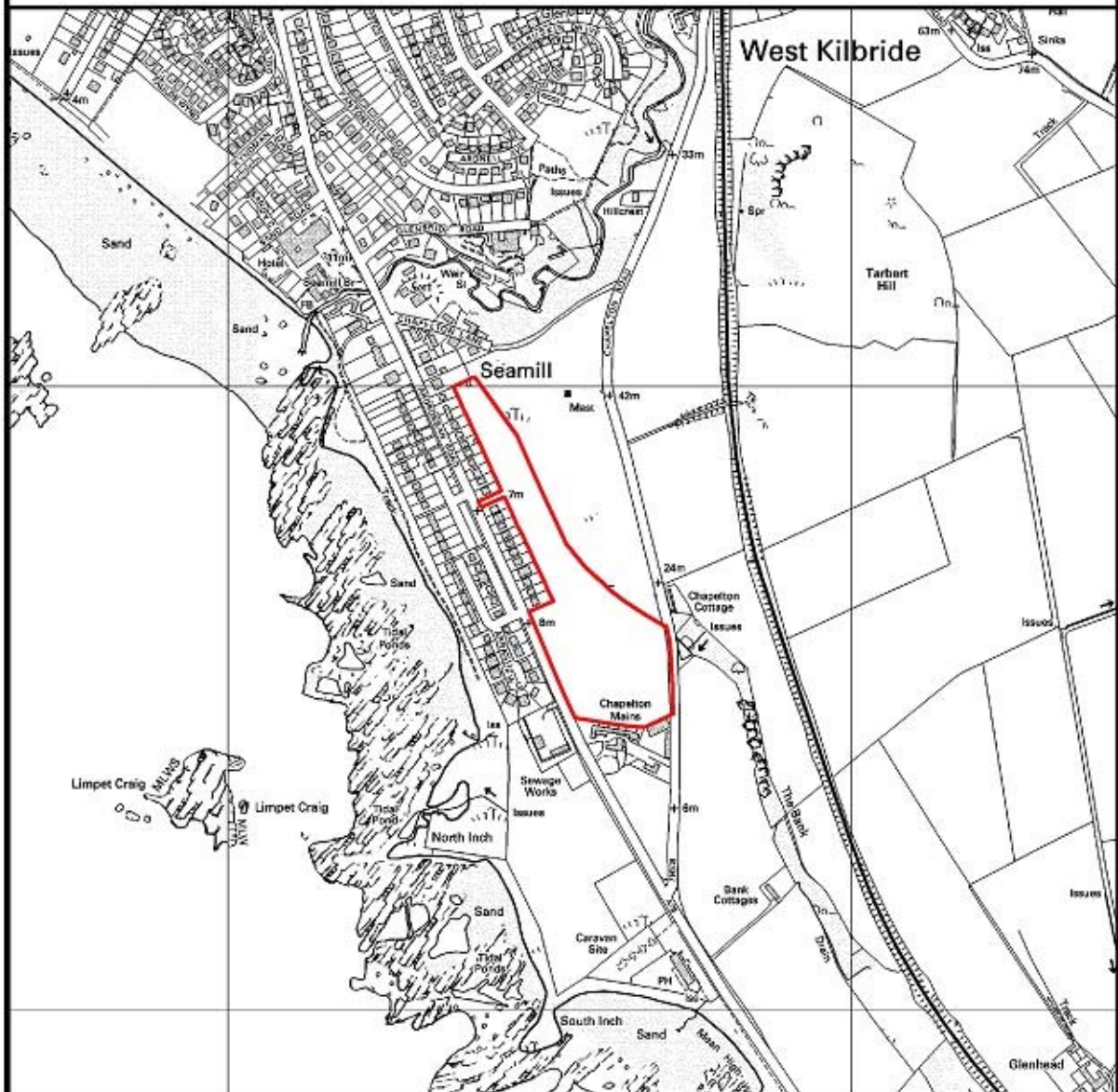
- 5 That prior to the submission of the first application for the approval of matters specified in conditions (MSC), details of proposed affordable housing contributions shall be provided. For the avoidance of doubt a contribution rate of 25% will be applied to those units associated with the private housing site.
6. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.
- 7 That prior to the commencement of the development hereby approved, the developer shall submit a Construction Management Strategy Plan for the written approval of North Ayrshire Council as Planning Authority to include details of routing arrangements for construction traffic. For the avoidance of doubt, the Strategy shall be designed to reduce potential adverse impacts on road safety and to minimise potential disruption and congestion for road users, pedestrians and local residents. Thereafter, the development shall progress in accordance with the Construction Management Strategy Plan as may be approved unless North Ayrshire Council as Planning Authority gives written consent to any variation.
- 8 That prior to the commencement of the development hereby approved, the developer shall submit a Phasing Plan for the written approval of North Ayrshire Council as Planning Authority to include all land within the application site, and the development shall progress in accordance with the approved Phasing Plan unless North Ayrshire Council as Planning Authority gives written consent to any variation.
- 9 The applicant must demonstrate that the increased road traffic, generated as a result of this development, shall not have a detrimental effect on local air quality or result in an increase in concentrations of atmospheric pollutants such that statutory Air Quality Objectives would be exceeded at any location of relevant public exposure

The reason(s) for the above condition(s) are:-

- 1 To meet the requirements of the West of Scotland Archaeology Service.
2. To ensure that an appropriate SuDS strategy is prepared and implemented.
3. To meet the requirements of SEPA.
4. To secure a masterplan for the development in the interests of the proper planning of the area.
5. To meet the needs of affordable housing.
6. To ensure that any contamination is appropriately remediated.
7. In the interests of amenity, traffic and pedestrian safety.
- 8 In the interests of proper planning of the area and to enable the development proceed on a phased basis in order to take into account local primary school capacity.
9. In the interests of ensuring that air quality standards are achieved.

Committee Plans

16/00561/PPPM



North Ayrshire Council
Comhairle Siorrachd Air a Tuath

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NORTH AYRSHIRE COUNCIL

Agenda Item 7

31 August 2016

Planning Committee

Title:	Notices under Section of 145 of the Town and Country Planning (Scotland) Act 1997: 'Kirkton Touring Park,' Millport Holiday Park, Millport, Isle of Cumbrae KA28 0HB
Purpose:	To seek approval to serve Notices under Section of 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to planning permission (ref: CH/87/746/S)
Recommendation:	That the Committee grants authority for the service of a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to planning permission (ref: CH/87/746/S).

1. Executive Summary

- 1.1 Planning permission was granted 27th April 1988 (ref: CH/87/746/S) for the change of use of waste ground to a caravan park and the formation of an associated access. The permission was granted subject to several conditions including Condition 1, which states that the site shall not be used as a caravan site between 1st October in any one year and 1st March in the succeeding year; and Condition 2 which states that the site shall be used for touring caravans and for no other purpose. The reason for Condition 1 was to prevent the use of site for permanent residential purposes. The reason for Condition 2 was to maintain control over the development in the interest of the amenity. The development was carried out and the area of caravan park, known as 'Kirkton Touring Park', was formed at Millport Holiday Park.
- 1.2 The land is sited to the south of the main holiday park and is separated from it by the residential properties at Kirkton House and Kirkton Cottage. Further residential properties are located between Kirkton Touring Park and Golf Road to the east. The site is bounded by the main caravan park to the west and a cemetery to the south.
- 1.3 The Council received a complaint in 2015 that the static caravans were on site, in breach of Condition 2. It was also alleged that the land was used all year round in breach of Condition 1. An inspection of the site in June 2015 revealed 2 static caravans were on site.

- 1.4 A Planning Contravention Notice (PCN) was issued to the owner of the site. In response, it was stated that Condition 1 had been in breach for a period exceeding 10 years and was therefore immune from Planning Enforcement. In terms of Condition 2 it was claimed that there had not been any breach. However, despite requests to the owner to provide information to establish this position, further information has not been submitted. An employee of the owner has subsequently confirmed verbally that Condition 1 was not in breach and the PCN return was a mistake. Again, however, despite requests that they confirm this in writing, no further information has been received.
- 1.5 Inspections of the site between 31st October and 1st March have revealed that the land is used as a caravan site in contravention of Condition 1 of the permission. Inspections have also revealed that the site is used for static caravans and other associated structures, which is in contravention of Condition 2.
- 1.6 A Breach of Condition Notice would require full compliance with the requirements of the conditions. Compliance would be required from 1st November 2016, to reflect the wording of Condition 1. There is no right of appeal against a Breach of Condition Notice. Anyone responsible for not complying with a Breach of Condition Notice is guilty of an offence, which can be reported to the Procurator Fiscal.

2. Background

- 2.1 The following conditions attached to planning permission dated 27th April 1988 (ref: CH/87/746/S) have not been complied with and are therefore in breach.

Condition 1 - That the site shall not be used as a caravan site between 31st October in any one year and 1st March in the succeeding year.

Condition 2 - That the site shall be used for touring caravans and for no other purpose.

Complaints have been received that the site is used all year round and that static caravans and other associated structures are on site. Inspections of the site have revealed static caravans to be in situ and inspections between 31st October and 1st March have revealed the site to be in use.

- 2.2 It is not known when the caravan site, known as Kirkton Touring Park was first formed. However, for the conditions to be immune from planning control they would have to have been in breach for at least the last 10 consecutive years. The owner stated in their completed PCN that Condition 1 has been in breach since at least 2005 but has not provided any evidence to substantiate this statement. Representations have not been made indicating when Condition 2 was first breached. The Council first received complaints regarding the use of the land in 2015 and it is considered, in the absence of any evidence to the contrary that the conditions have been breached within the last 10 years.
- 2.3 Following complaints received in June 2016, the Council served a PCN on the owner requesting information as to how the site has been used. The PCN was completed and returned in October 2016; as noted above. Following receipt of the completed PCN the owner was requested to submit an application for a Certificate of Lawful Existing Use if they believed they could substantiate that Condition 1 had been in breach for at least 10 years. The owner was also advised to remove the static caravans and comply with Condition 2. An application was not received. Following further complaints in 2016, the owner was again written to advising that the requirements of the Conditions had not complied with, and therefore that formal enforcement action was being considered. A telephone call was received from an employee of the owner. The employee stated that the terms of the PCN had been misunderstood, and that Condition 1 was not in breach. Further clarification was sought but to date there has not been any reply.

3. Proposals

- 3.1 In the interests of the amenity of the area and to prevent permanent occupation of the site, it is proposed to issue a Breach of Condition Notice requiring the following actions, in respect of Condition 1 and 2 of the planning permission dated 27th April 1988 (ref: CH/87/746/S);
- (i) Remove all static caravans and associated structures, including any decks, steps and underbuild and use the site only for touring caravans and no other purpose between 1st March and 31st October in any year;
- 3.2 It is proposed that the compliance period be before 1st November 2016, which allow sufficient time for the removal of the non-touring caravans and associated structures and would align with the date on which the use of the site must cease each year.

4. Implications

Financial:	The service of the Notice has no financial implications outwith normal budgetary provisions.
Human Resources:	N/A
Legal:	The proposed Breach of Condition Notice is in accordance with Statutory Regulations. Non-compliance with such a Notice is an offence and the Council, as Planning Authority, could report such an offence to the Procurator Fiscal.
Equality:	N/A
Environmental & Sustainability:	N/A
Key Priorities:	The proposed Breach of Condition Notice supports the Council Plan priority - "Protecting and enhancing the environment for future generations."
Community Benefits:	N/A

5. Consultation

- 5.1 Finance and Corporate Support has been advised of the report in terms of its budgetary provision.



KAREN YEOMANS
Executive Director (Economy and Communities)

Reference : 15/00042/NONCOM

For further information please contact Iain Davies on 01294 324320

Background Papers

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This is the notice referred to under Section of 145 of the Town
and Country Planning (Scotland) Act 1997:
'Kirkton Touring Park,' Millport Holiday Park, Millport, Isle of Cumbrae KA28 0HB

