

Planning Committee
23 August 2017

Irvine, 23 August 2017 - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

Present

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

In Attendance

J. Miller, Senior Manager (Planning), Paul Brennan, Specialist Environmental Health Officer (Noise), (Economy and Communities); A. Craig, Team Manager (Litigation) (Legal Services), A. Little, Committee Services Officer (Chief Executive's).

Also In Attendance

Rita Holmes (Chair - Fairlie Community Council) and Dr. J Yelland (Fairlie Community Council).

Chair

Councillor Marshall in the Chair.

Chair's Remarks

The Chair advised of a request from Rita Homes, Fairlie Community Council, to record the proceedings of the meeting.

The Committee agreed, in terms of Standing Order 2.2, not to permit the recording of the proceedings of the meeting

1. Declarations of Interest

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

2. Minutes

The Minutes of meetings of the Committee held on 14 June 2017 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 17/00034/PPM: Hunterston Construction Yard, Fairlie

SSE Generation Limited have applied for the variation of planning condition No. 1 of a Planning Permission (ref. 14/00164/PPM) to extend the operational time period of the National Offshore Wind Turbine Testing Facility until 14 October 2019.

The application for the variation of condition No. 1 was considered at the meeting of the Planning Committee on 8 March 2017. Objectors addressed the Committee and outlined their objections to the application. The applicant, the applicant's agent and their acoustic consultant responded to the objectors comments and offered to remeasure background noise and re-evaluate noise limits as part of an upcoming operational noise survey for the Mitsubishi turbine. The Committee agreed to continue the application to a future meeting to allow a further background noise survey to be carried out by the applicant.

The application was reconsidered at the meeting of the Planning Committee on 14 June 2017 however the applicant had been unable to carry out the re-measurement of background noise, due to the original noise consultant not being available to conduct the work and a request by Fairlie Community Council to agree the location of measurement apparatus and procedures for monitoring. The Committee agreed to continue the application to the meeting on 20 September 2017 to allow a further background noise survey to be carried out by the applicant.

A noise survey is now ongoing, however in the intervening period, the applicants have submitted an appeal to the Scottish Ministers against the non-determination of the application by the Council. The applicants are entitled to appeal under Section 47(2) of the Town and Country Planning (Scotland) Act 1997, after a period of four months has lapsed since the application was registered. The application was registered on the 17th January 2017.

The effect of the submission of an appeal, is that the Council can no longer determine the application. However, as part of the appeal process, the Committee are asked to form an opinion on the merits of the case, to form the basis of the Council's evidence to be presented to the Scottish Ministers. It was recommended that the Committee adopt the opinion that planning permission should be granted subject to the conditions contained within Appendix 1 to the report.

In response to a point from Councillor Barr about lobbying, Aileen Craig, Team Manager (Litigation) (Legal Services) advised the Member to have regard to the Councillors' Code of Conduct.

Rita Holmes (Fairlie Community Council) addressed the Committee in support of the objections. Ms Holmes detailed the health issues experienced by 17 local residents which began in 2014 and are believed to be caused by low frequency sound emitted by the Mitsubishi turbine. Ms Holmes went on to detail her symptoms which include nausea, lack of coordination and speech and breathing difficulties when the turbines are running. These symptoms do not subside until she leaves the village.

Ms Holmes also raised concerns regarding SSE's perceived attempts to establish a permanent facility at Hunterston though varying planning conditions; the lack of manufacturing facilities which were promised in the original planning application; North Ayrshire Council's failure to implement the precautionary principal in relation to public health; and finally the methods used by North Ayrshire Council Environmental Health to measure and monitor the sounds emitted by the turbines.

Finally, Ms Holmes made the Committee aware the Dr John Yelland, Independent Acoustician, was present to answer any questions about infrasound and requested that the Committee recommend the application is rejected as it is the responsibility of SSE to prove they are safe, not of residents to prove the contrary.

The applicant was not in attendance to respond to the objections.

The Senior Manager (Planning) informed the Committee of further objections to the application from local Councillors Murdoch, Hill and Gallagher and West Kilbride Community Council. He then outlined the terms of the planning report and Members had the opportunity to ask further questions and received clarification on the following:-

- the impact which wind direction, land and water mass has on the sounds created by the turbines;
- the scope and current standards of sound testing which has been carried out by environmental health; and
- timescales associated with the Council submitting recommendations for the appeal process.

The Committee agreed that it would adopt the opinion that planning permission should be refused on the following grounds:

1. The proposal would be contrary to Policy PI9 and criteria a), b), and c) of the General Policy of the Adopted North Ayrshire Council Local Development Plan by reason of:
 - Inappropriate in design and scale to its surroundings;
 - Unacceptable adverse impact on the intrinsic landscape qualities of the area;
 - Location within an area designated as High Sensitivity in the Landscape Capacity Study for Wind Farm Development in North Ayrshire;
 - Adverse impact on the built and natural historic heritage of Hunterston Castle, Hunterston House and views from the Historic Gardens and Designed Landscape at Kelburn Castle;
 - Contrary to the Ayrshire Supplementary Guidance: Wind Farm Development (October 2009)
2. The proposal would be contrary to Policies HES(a) and HE5(a) of the adopted North Ayrshire Council Local Development Plan by reason of its detrimental impact on the built and natural historic character of Hunterston Castle, Hunterston House and impact on views from the Historic Gardens and Designed Landscape at Kelburn Castle
3. The proposed development would set an undesirable precedent for further developments at this sensitive location.

The Committee requested, given the representations from the local community that Scottish Ministers be requested when determining the appeal to satisfy themselves that the development is not impacting detrimentally on the health of local residents.

4. 14/00593/PPPM: Site to West of First Avenue, Stevenston Industrial Estate

Clowes Developments (Scotland) Ltd were granted planning permission in principal in 2015 for a residential development on a site to the West of First Avenue, Stevenston Industrial Estate, Stevenston subject to (a) the applicants entering into a Section 75 Agreement (i) to specify the nature and extent of new employment provision or improvements to existing employment space as detailed within an agreed business plan; and (ii) to secure an appropriate affordable housing contribution at a rate of 10%; and (b) a number of planning conditions (14/00593/PPPM).

The applicant has requested that the requirement for a Section 75 Agreement be removed as both of the above issues could be covered by conditions of the planning permission in principal.

The Committee agreed to (a) remove the proposed Section 75 Agreement and (b) Grant subject to the following conditions:

1. That 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 shall be obtained before the development is commenced.
2. That prior to the commencement of the development hereby approved, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a scheme to deal with contamination on the site. The scheme shall contain details of proposals to deal with contamination including:
 - a) the nature, extent and type(s) of contamination on the site, including the testing of groundwater for explosives residue and a review of the Mason Evans site investigation report dated February 2008 submitted in support of the application;
 - b) measures to treat/remove contamination to ensure the site is fit for the use proposed, including details of phasing of the proposed measures;
 - c) measures to deal with contamination during construction works; and
 - d) the condition of the site on completion of decontamination measures.

All documentation shall meet BS10175:2011, be verified by a suitably qualified Environmental Consultant, and submitted to the satisfaction of the North Ayrshire Council as Planning Authority.

Thereafter the presence of any significant unsuspected contamination which becomes evident during the development of the site shall be reported to North Ayrshire Council and treated in accordance with an agreed remediation scheme.

On completion of the proposed works, written verification of what was done by way of remediation shall be submitted to North Ayrshire Council as Planning Authority.

3. That prior to the commencement of the development hereby approved, the applicant 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.
4. That the further application(s) for approval under the terms of Condition 1 shall be accompanied by a scheme to treat the surface water arising from the site in accordance with the principles and practices contained in CIRIA's "Sustainable Urban Drainage Systems Manual", published in March 2007, shall be submitted to, and approved by North Ayrshire Council as Planning Authority. Thereafter any scheme that may be approved shall be implemented prior to the completion of the development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.
5. That the further application(s) for approval under the terms of Condition 1 shall include a revised/updated Transportation Assessment which details of both vehicle speeds and traffic counts for both Lundholm Road and First Avenue.
6. The proposed development shall be designed in accordance with the principles of the Scottish Government's "Designing Streets" and "Designing Places" policy documents and shall provide a minimum of 2 points of vehicular access from existing road network and multiple points of pedestrian access to the satisfaction of North Ayrshire Council as Planning Authority.
7. That the further application(s) for approval under the terms of Condition 1 shall include detailed proposals for (i) the provision of landscaping along the eastern boundary of the site to form a suitable buffer between the development site and the adjacent industrial area, and (ii) the retention and protection of trees along the western boundary of the site adjacent to residential properties on the eastern side of Lundholm Road, all to the satisfaction of North Ayrshire Council as Planning Authority.
8. That the further application(s) for approval under the terms of Condition 1 shall include detailed proposals for the nature and extent of new employment provision or improvements to existing employment space as detailed within an agreed business plan.
9. That the further application(s) for approval under the terms of Condition 1 shall include detailed proposals to secure an appropriate affordable housing contribution at a rate of 10%.

5. 17/00681/PP: Derrilin View, Gateside, Beith

Mr Ian Maitland, Derrilin View, Gateside, Beith KA15 2LQ, has applied for planning permission for the formation of new vehicular access onto B777, closure of existing access and deletion of condition 1 (b) of planning permission in principle ref. 08/00473/PPP.

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

1. That visibility splays of 2.4m must be provided and maintained at the junction with the public road within land under the applicant's control. No item greater than 1.05m above the adjacent carriageway level must be located within the splays all to the satisfaction of the Council, as Roads Authority.
2. That prior to the use of the access, the first 5 metres of the access from the junction with the public road will be hardsurfaced to the satisfaction of the Council, as Planning Authority.
3. approval. Any scheme should reflect the visibility splay requirements of Condition 1. Any scheme approved shall be implemented within the first planting season following approval. Any trees or plants which, within a period of five years from planting die, are removed or become seriously damaged or diseased shall be replaced with others of a similar size and species, unless the Council, as Planning Authority, gives written consent to any variation.

6. 17/00581/PPM: Site 21 Crompton Way , North Newmoor Industrial Estate, Irvine

Persimmon Homes & Dawn Developments Ltd has applied for planning permission for the erection of residential development comprising of 93 dwellinghouses with associated roads, paths, open space and landscaping at Site 21 Crompton Way, North Newmoor Industrial Estate, Irvine.

Planning permission was approved in June 2016 for the erection of 144 dwellinghouses (ref: 16/00070/PPM) which consisted of two phases (phase one, with 90 dwellings and phase two with 54). The current application site relates only to the previously approved phase one site and would increase the number of previously approved houses by three.

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

1. That no development shall take place until there has been submitted to and approved by North Ayrshire Council as Planning Authority a scheme of landscaping, which shall include details of species, planting densities, soil treatment and aftercare and shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of the development.

2. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.
3. That prior to the occupation of any of the dwellinghouses and where Council adoption of open space and landscaped areas is not to be pursued, details of the proposed factor or management agency for all areas of open space, landscaping and SuDs area within the site shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the areas of open space and landscaping shall be maintained and managed in accordance with the details as may be approved under the terms of Condition 1 above.
4. That, prior to the commencement of the development, details of all boundary treatments to be formed shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, all boundary fences and/or walls as may be approved relating to or adjacent to each plot shall be erected prior to the occupation of the dwelling within that plot. All other boundary treatments shall be erected prior to the completion of each phase within the development, all to the satisfaction of North Ayrshire Council as Planning Authority.
5. That, prior to the commencement of the development, hereby approved, full details of any treeworks and tree protection measures for the development shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall comply with the principles and practices contained in "BS 5837:2012 - Trees in relation to design, demolition and construction - Recommendations." Detailed plans indicating tree protection fencing to be erected, an Arboricultural Impact Assessment and an Arboricultural Method Statement shall be submitted for written approval. For the avoidance of doubt:
 - there shall be no treeworks undertaken during the main bird breeding season (March - September);
 - all tree protection measures to be erected shall be maintained in a satisfactory condition for the duration of all engineering and construction operations until the completion of the development. Thereafter, the development shall be implemented only in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.

6. That prior to the commencement of development, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority details of a scheme for the delivery of a 15% affordable housing contribution in accordance with LDP Policy RES 4 (Affordable Housing). Thereafter, the affordable housing contribution shall be implemented only in accordance with such scheme as may be agreed with North Ayrshire Council as Planning Authority, unless otherwise agreed in writing.
7. The noise mitigation measures detailed within paragraphs 7.4 and 7.6 of the Noise Impact Assessment prepared by Bureau Veritas and submitted in support of the application shall be implemented during the construction of the dwellinghouses hereby approved to the satisfaction of North Ayrshire Council as Planning Authority.
8. That the first 2 metres of the driveways shall be hard surfaced in order to prevent deleterious material being carried onto the carriageway and designed in such a way that no surface water shall issue from the access onto the carriageway.
9. That connecting public paths within the site shall be constructed to a multi user and all abilities access standard to the satisfaction of North Ayrshire Council as Planning Authority.
10. That, prior to the commencement of the development, a drainage strategy and plan shall be submitted for consideration and approval in writing by North Ayrshire Council as Planning Authority. This shall include confirmation and certification by a suitably qualified person that a scheme to treat the surface water arising from the site including the wider master plan 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.
11. That, prior to the erection of any of the dwellinghouses hereby approved, a detailed schedule of the proposed external finishes for each of the dwellinghouses together with a plan and schedule of the surface treatments to be used on the roads and footpaths within the site shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the houses, roads and footpaths shall be constructed only in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.

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

7. 17/00530/PP: Site to north of Corsehillhead Farm, Kilwinning

Cunninghame Housing Association has applied for the deletion of Condition 1 of planning permission ref. 16/01162/PPM to enable the removal of a tree/hedgerow belt on the south western boundary of the site.

On 8th February 2017, the Planning Committee approved the development of 64 new houses on a greenfield site adjacent to Weirston Road on the eastern outskirts of Kilwinning (ref. 16/01162/PPM). Following an archaeological investigation and the discharge of various planning conditions, the development commenced on 29th May 2017.

Condition 1 of the planning permission stated the following:

That the existing tree/hedgerow belt along the south western site boundary shall be retained. Prior to any site operations, details of tree/hedgerow protective fencing shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the protective fencing as may be approved shall be erected for the duration of all site excavations, land engineering and construction operations until the completion of the development and to the satisfaction of North Ayrshire Council as Planning Authority.

It has since been established that ground levels on the site require to be adjusted to ensure a gravity connection for foul drainage, to the south west, and surface water drainage, to the south east can be achieved. One consequence of the adjusted ground levels is that the planning condition which requires the retention of the tree and hedgerow belt along the south western boundary of the site cannot be met. The applicant has committed to replacing the tree and hedgerow with evergreen climbing plants following completion of the project.

The Committee agreed to grant the application.

The meeting ended at 3.00 p.m.