



Cunninghame House,
Irvine.

26 November 2015

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 2 DECEMBER 2015** at **2.00 p.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 meeting of the Committee held on 11 November 2015 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. Kilbirnie and Beith

Submit report on the following application:

15/00264/DCMS: Loanhead Quarry, Beith (Page 13)

Periodic review of mining site (copy enclosed).

- 4. Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997:23 Fullarton Street, Irvine KA12 8DG (Page 29)**
Submit report from Executive Director (Economy & Communities) seeking authority to serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring cessation of unauthorised use as a hot-food takeaway with sit in facilities (copy enclosed).
- 5. Notices under Section 145 of the Town and Country Planning (Scotland) Act 1997: Parks Garage and Showroom, 5 Corsehill Mount Road, Dreghorn KA11 4JZ (Page 35)**
Submit report from Executive Director (Economy & Communities) seeking authority to serve Notices under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to planning permissions (copy enclosed).
- 6. Cancellation of Article 4 Direction Orders (Page 43)**
Submit report from Executive Director (Economy & Communities) seeking approval to cancel the Article 4 Direction Orders, which restrict permitted development rights in six of North Ayrshire's conservation areas (copy enclosed).
- 7. Energy Targets and Scottish Planning Policy**
Submit report from Executive Director (Economy & Communities) on the Scottish Government's Chief Planner's letter to Scotland's planning authorities (copy enclosed).
- 8. Trees and Development Guidance (Page 55)**
Submit report from Executive Director (Economy & Communities) on the Trees and Development Guidance (copy enclosed).
- 9. 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
11 November 2015

IRVINE, 11 November 2015 - 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, Ian Clarkson, Joe Cullinane, Tom Marshall, Ronnie McNicol and Robert Steel.

In Attendance

J. Miller, Senior Manager (Planning) (Economy and Communities); and J. Law, Solicitor (Contracts and Licensing) and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Chair

Councillor Brown in the Chair.

Apologies for Absence

John Bruce.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Barr, as Chair of a group which disburses funding from Community Benefit monies, declared an indirect pecuniary interest in the Agenda Item 6 (15/00200/PPM: Blackshaw Farm, West Kilbride) and left the meeting for that item of business.

2. Minutes

The accuracy of the Minutes of the Committee held on 21 October 2015 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Ardrossan and Arran: 15/00514/PP: Burican Farm, Sliddery

William Tod, Burican Farm, Sliddery, Isle of Arran has applied for planning permission for a modification to remove condition 2 of planning approval CH/76/727 relating to a restriction limiting occupation of this dwelling at "a person employed, or last employed, locally in agriculture as defined in Section 272(1) of the Town and Country Planning (Scotland) Act 1972 or a dependant of such a person residing with him (but including a widow or widower of such a person."

The Committee agreed to grant the application.

4. Kilbirnie and Beith: 15/00571/PP: Site to North of Ford Wood, Kilbirnie

M. Graham, 6 Auchenhove Crescent, Kilbirnie was applied for planning permission for the erection of an outbuilding and alterations to an incomplete dwellinghouse to include the discharge of a Section 75 obligation relating to an occupancy restriction relating to agricultural occupancy, on a site to the north of Ford Wood, Kilbirnie.

The Committee agreed to grant the application, subject to (a) no further significant representations being received prior to 18 November 2015: and (b) the following conditions:-

1. That the alterations to the dwellinghouse hereby approved shall be completed to the satisfaction of North Ayrshire Council as Planning Authority within 12 months of the date of this approval and prior to the house being occupied.
2. That the landscaping scheme hereby approved shall be completed to the satisfaction of North Ayrshire Council as Planning Authority within 12 months of the date of this approval.
3. That the outbuilding hereby approved shall be used only for purposes incidental to the enjoyment of the associated dwellinghouse on the land, to the satisfaction of North Ayrshire Council as Planning Authority.

5. Kilwinning: 13/00038/PPPM: West Byrehill Industrial Estate, Byrehill Place, Kilwinning

At its meeting on 28 May 2014, the Planning Committee granted planning permission in principle for a residential development with an associated neighbourhood centre at West Byrehill Place, Kilwinning to Ashtenne Industrial Fund LP, 80 St Vincent Street, Floor 6, Glasgow. The decision was subject to the applicant entering into a legal obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997.

The Council has been unable to conclude the Section 75 obligation with the applicant. A review of issues in relation to the proposed development has concluded that the matters previously identified for inclusion within a legal obligation could be appropriately addressed using planning conditions, or omitted. The applicant has entered a processing agreement, which confirms a willingness to conclude the planning application in this way.

The report sought the Committee's approval to enable the planning application 13/000/38/PPPM to be granted, subject to conditions without the imposition of a Section 75 obligation.

The Committee, having considered the terms of the report and the outcome of the review, agreed to grant the application, subject to the following conditions:-

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

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

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

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

Approval of the further specified matters can be made for -

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

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

3. That the proposed development shall be designed in accordance with the principles of the Scottish Government's "Designing Streets" and "Designing Places" policy documents and any replacements thereof and North Ayrshire Council's Neighbourhood Design Guidance to the satisfaction of North Ayrshire Council as Planning Authority.
4. That, prior to the commencement of the development, hereby approved, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority, a Strategy for Open Space which shall include proposals for (i) the provision of open space and play provision, in accordance with the North Ayrshire Council policy "Provision and Maintenance of Landscaping, Open Space and Play Areas in New Housing Developments" and any replacements thereof, together with proposals for the management and maintenance of open space.
5. That the further application(s) required under the terms of Condition 1 above shall include submission of a strategic assessment of how new buildings shall reduce their CO2 emissions to a level above or in line with the building standards through appropriately designed: on-site low or zero carbon generating technologies (LZCGTs); and/or passive/operational energy efficiency measures. The specific implementation/detail documentation shall be submitted at the time of submission for Building Warrant, all to the satisfaction of North Ayrshire Council as Planning Authority.
6. That the recommendations within the Ecology Assessment Survey submitted in support of the application, shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority. Details shall be submitted demonstrating of the undertaking and/or programming of these recommendations. In addition, details of a scheme for the removal of non-native species from the site, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter any such scheme, which may be approved, shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority.
7. That, prior to the commencement of the development, hereby approved, the applicant shall undertake a desk study of the application site, (including the review of any previous site investigations) to assess the likelihood of contamination and assist in the design of an appropriate site investigation and subsequent suitable quantitative risk assessment as advocated in BS10175: 2011. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to North Ayrshire Council as Planning Authority. Any required remediation measures shall be undertaken, prior to the commencement of the development to the satisfaction of North Ayrshire Council as Planning Authority. Thereafter the presence of any significant unsuspected contamination, which becomes evident during the development of the site, shall be reported to North Ayrshire Council and treated in accordance with an agreed remediation scheme. On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted to the North Ayrshire Council as Planning Authority.

8. That the development hereby approved shall commence in phases, and in accordance with the following transport requirements, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority and in consultation with Transport Scotland. For the avoidance of doubt, not more than 180 houses constructed on the site shall be occupied until either:
- (i) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network; OR
 - (ii) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network in the event of the implementation of appropriate measures identified within the approved transport assessment; OR
 - (iii) The modifications to the A78(T)/A738(T) Pennyburn Roundabout, generally as indicated in SIAS drawing number 75064-1 titled 'Pennyburn Roundabout Signalisation - Revision 1', and the modifications to the A738(T)/Pennyburn Road mini-roundabout and the A738(T) Whitehirst Road signalised to form a roundabout junction generally as indicated in SIAS drawing number 75064-5 titled Whitehirst Park Road have been implemented; OR
 - (iv) North Ayrshire Council as Planning Authority Planning Authority or any other party has concluded an appropriate legal agreement or agreements for the funding and implementation of the works to mitigate the development.
9. That there shall be no means of direct access onto the A78 trunk road either pedestrian or vehicular.
10. That, prior to the commencement of the development, details of a barrier along the boundary of the site with the A738 trunk road and with the A78 trunk road, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter the details, as may be approved, shall be provided and maintained by the developer or subsequent owner of the land to the satisfaction of North Ayrshire Council as Planning Authority.

6. Dalry and West Kilbride:15/00200/PPM: Blackshaw Farm, West Kilbride

At its meeting on 26 August 2015, the Committee agreed to continue consideration of an application for planning permission in principle by Community Windpower Limited, First Floor, 2 Parklands Way, Maxim Business Park, Motherwell, for the erection of six wind turbines each with a maximum blade to a height of up to 125m and associated infrastructure including access tracks, hard standings, sub-station and control room, 80m meteorological masts, temporary construction of storage compound and borrow pits, at Blackshaw Farm, West Kilbride. The continuation was intended to allow Members to undertake a site familiarisation visit.

At its meeting on 16 September 2015, the Committee was advised that the site familiarisation visit took place on 31 August 2015 and that further late correspondence from the applicant in respect of (i) landscape, (ii) noise and private water supplies and (iii) aviation issues. The Committee agreed to continue consideration of the application to the next meeting to allow Officers an opportunity to consider the issues raised.

At its meeting on 21 October 2015, the Committee was advised that a number of issues was still outstanding and that the application would be presented to the meeting on 11 November 2015 for consideration.

The Senior Manager (Planning) advised Members of a request by the applicant that consideration of the application be continued further to enable further investigation of outstanding matters and that the applicant had suggested conditions to address the concerns of the statutory consultees in the event that the Committee were minded to determine the application. The Committee was satisfied that sufficient time had been allowed to enable these matters to be progressed by the applicant, and therefore agreed to proceed with the determination of the application.

Thereafter, there were circulated at the meeting laminated illustrative documents and photomontages submitted by the applicant.

The Committee, having considered the terms of the objections and letters of support received and having considered the Officers' response to the further issues raised in respect of the application, agreed to refuse the application on the following grounds:-

1. That the proposal would be contrary to Policy ENV1 of the Adopted North Ayrshire Council Local Development Plan as a development which does not accord with the stated criteria.
2. That the proposal would be contrary to Policy ENV7 of the Adopted North Ayrshire Council Local Development Plan being a development which:
 - would be inappropriate in design and scale to its surroundings;
 - have an unacceptable direct and cumulative impact on landscape character and the visual amenity of the area; and
 - result in an adverse visual impact on the Special Landscape Area of Clyde Muirshiel Regional Park.

3. That the proposal would be contrary to Policy PI9 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 tourism and recreational interests;
 - adverse impact on airport and aviation safeguarding;
 - adverse cumulative visual impact; and
 - contrary to the Ayrshire Supplementary Guidance : Wind Farm Development (October 2009).
4. That the proposed development would set an undesirable precedent for further developments at this sensitive location.

7. Tree Preservation Order: North of Glen Road, Fairlie

Submitted report by the Chief Executive on the Tree Preservation Order in respect of the area of land north of Glen Road, Fairlie.

At its meeting on 3 June 2015, the Committee agreed to serve a Tree Preservation Order in respect of an area of woodland to the north of Glen Road, Fairlie, as shown in the location plan at Appendix 1 to the report. The order was served on the owners of the affected land with the effective date of 24 June 2015, remaining in force until 24 December 2015 unless confirmed by the Committee.

The report set out the terms of an objection submitted by a residential of Castlepark Drive, Fairlie, and the response of officers to the points raised.

The Committee, having considered the terms of the objection, agreed to confirm the Tree Preservation Order on the area of land north of Glen Road, Fairlie, as shown in the location plan at Appendix 1 to the report, in order to protect the existing trees and woodland in the interests of the amenity of the area and in the interests of their cultural and historical significance.

The Meeting ended at 3.00 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

Planning Committee

2 December 2015

Planning Area

Garnock Valley

Reference

15/00264/DCMS

Application

15th May 2015

Registered

Decision Due

N/A

Ward

Kilbirnie and Beith

Recommendation	Grant with Conditions contained in Appendix 1
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Location	Loanhead Quarry, Beith KA15 2JN
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Applicant	W H Malcolm Ltd
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Proposal	Periodic review of mining site
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1. Description

This proposal seeks to update the planning conditions for the quarry operations at the above site in accordance with the periodic Review of Old Mineral Permissions (ROMP) procedure. The present conditions are over 17 years old, and relate to planning permission granted in 1998 (ref: N/01/96/0585) for an extension of an existing hard rock quarry. The proposed conditions were prepared, on the applicant's behalf, by a firm of consultants, who specialise in planning for minerals and mainly reflect the conditions imposed by the 1998 consent.

The application was submitted in May 2015, following contact by Planning Officers. The application initially presented 33 conditions. Clarification and further information was sought by Officers, who then reviewed the conditions and undertook minor modifications. The edited version of the conditions was issued to the applicant for consideration, and the applicant has verbally agreed to the changes.

It is now considered that the resulting 33 conditions represent an improvement, in accordance with current best practice (ref. PAN 50 and Circular 34/1996), to the 1998 consent. The main effect of the proposed conditions, in comparison to those imposed in 1998, is to introduce a duration for workings at the site, update restoration plans, and to introduce protection for a protected bird species known to be nesting within the site. The proposed conditions are contained within Appendix 1.

Loanhead Quarry is situated in a rural location, around 1km north-east of Beith. Access to the site is from the Boydstone Road, off of the Clerksbridge Toll roundabout on the A737. Although the site is wholly within North Ayrshire, land to the west, including the access roads are located within Renfrewshire. The site is bounded mainly by agricultural land. Nearby residential properties, farms and the Beith Golf Club clubhouse are located at varying distances, with the closest being approximately 60m distant.

The site comprises of the excavation area and storage mounds and was originally an extension of a quarry to the west. The original quarry to the west is no longer excavated and has planning permission for infill. The car park and offices are within the infill area and are shared between the infill and the current quarrying operation.

In terms of the adopted North Ayrshire Local Development Plan (LDP), the application site is located within the countryside. Policy ENV 10 relates to proposals for mineral extraction. However, the use for mineral extraction is permitted and policy is relevant only to the proposed review of the associated conditions. All proposals require to be considered in terms of the General Policy. Scottish Government advice should also be taken into account.

2. Consultations and Representations

An advertisement was published in a local newspaper on 10th June 2015. No representations have been received.

Renfrewshire Council - offered no objections but suggested that consideration be given to changing the junction of Boydstone Road and Quarry Road to give priority to the quarry.

Response: Any change to the road junctions would be a matter for Renfrewshire Council, as Roads Authority, and any relevant land owners.

SEPA - no objections.

Response: Noted.

The South Strathclyde Raptor Study Group - consulted as a proposed condition requires the applicant to retain their services for the duration of the quarry operations. The Study Group confirmed that they monitor the site annually for breeding raptors. They were aware of a peregrine falcon pair who breed at the site and that barn owls also breed regularly.

Response: The proposed condition, which required the developer to adopt appropriate measures to ensure no employee visits the nests of Peregrines or Ravens, has been amended to include Barn Owls.

Environmental Health - comment in respect of Conditions 10-21, which relate to Noise, Blasting and Dust, and offers no objections. In respect of Condition 10, Environmental Health has received no complaints regarding day to day operational noise from Loanhead Quarry since 2009. There are therefore no objections from Environmental Health to allowing the site to continue to operate in line with current noise conditions ie LAeq(1 hour) 55dB(A) which have been in place since 1998. There are also properties for which no background noise level has been identified. Given that new noise sensitive locations have been identified, a new noise monitoring method statement (Condition 13) will be required.

Response: These matters can be addressed by appropriate conditions.

3. Analysis

As noted above, the application requires to be considered in terms of the relevant provisions of the adopted Local Development Plan, in particular Policy ENV 10 and the General Policy. Consideration of the application requires to take into account Scottish Government advice on ROMP, in particular Circular 34/1996 and Planning Advice Note 50: Controlling the Environmental Effects of Surface Mineral Workings ("PAN 50").

Proposed Condition 1 would limit the operation of the site to 4th May 2058. The 1998 permission did not contain a condition in relation to the duration for working the site. The 2058 date reflects 60 years from the date of the original permission and is in accordance with requirements of The Town and Country Planning (Scotland) Act 1997. The applicant does not anticipate working the site for this timescale and currently estimates a working life of approximately 18 years. However, the date of 2058 would allow them flexibility to operate their business in response to market demands. The Council is able to review the conditions attached to the permission every 15 years.

Loanhead Quarry is an operational site and, therefore, the provisions of Policy ENV 10 are only relevant insofar as they relate to the proposed conditions. The relevant criteria are (b), (c) and (d). Criterion (b) states that proposals should be in accordance with nature conservation policies within the LDP. Criterion (c) states that there should be no unacceptable impacts on the amenity of nearby dwellings or communities or on groundwater, watercourses and water supplies. Criterion (d) states that there should be restoration and aftercare plans which shall identify a positive end use and which include progressive restoration over the life of the operation. The relevant parts of the General Policy are (b) Amenity, (c) Landscape Character and (d) Access. Criterion (b) Amenity states that development should avoid significant impact on biodiversity and upon natural heritage resources and should have regard to their potential to contribute to national and local green network objectives. Regard should also be given to the impact on amenity of noise, vibration and dust emissions. Criterion (c) Landscape Character states that development should seek to protect the landscape character from insensitive development. Criterion (d) Access states that development should have regard to the Council's guidelines and meet access requirements.

Proposed Conditions 2-9 (Phasing, Access/Transportation and Hours of Working) are essentially updates of similar conditions imposed in 1998. These conditions seek to impose clarity over the working plans, maintain existing access and an adjacent right of way, ensure materials are not deposited onto the road and to define the working hours of the quarry. It is considered that these proposed conditions are in accordance with criterion (c) of ENV10 and criterion (d) of the General Policy.

Proposed Conditions 10-13 relate to Noise from the operation of the quarry. Proposed Condition 10 sets a noise level from the quarry, for operations other than soil stripping, as 55dB, which is a reiteration of the noise condition imposed in 1998. Proposed Condition 11 sets a limit for the noise caused by soil stripping and the number of weeks on which this can occur. Proposed Condition 12 seeks to ensure plant and machinery are properly maintained and fitted with silencers. Proposed Condition 13 seeks the submission of a scheme for monitoring noise and for noise to then be monitored in accordance with the approved scheme, which provides an update on the noise monitoring plan submitted following the 1998 permission.

Environmental Health has offered no objections to Conditions 10,11 and 12. The current noise level was set in 1998 and there are no exceptional circumstances to warrant a change at this date. The monitoring plan for the site can be updated, as per proposed Condition 13. The operator will also be required to complete an audit of their compliance with the conditions every 5 years. It must also be noted that should the Council alter conditions relating to working rights, the land and/or mineral owner would be due compensation from the Council.

Given the above, it is considered that proposed Conditions 10-13 accord with criterion (c) of ENV10 and criterion (b) of the General Policy and Scottish Government guidance.

Proposed Conditions 14-18 relate to Blasting at the site. These conditions restrict the days and hours of blasting, the number of blasts per day, the vibration level, the type of detonating cord and require the monitoring and recording of each blast. These proposed conditions are essentially reiterations of conditions imposed in 1998. EH does not object to these conditions and it is considered that they are in accordance with criterion (c) of ENV10 and criterion (b) of the General Policy.

Proposed Conditions 19-21 relate to the control of Dust from the operations. These conditions require water bowzers and sprayers to be used to minimise the emission of dust from the site, the monitoring and recording of dust levels and the control of operations in accordance with the submitted Environmental Statement. These proposed conditions are essentially updates of conditions imposed in 1998. EH does not object to these conditions and it is considered that they are in accordance with criterion (c) of ENV10 and criterion (b) of the General Policy.

Proposed Conditions 22-24 relate to Water Management. These conditions require creation and maintenance of perimeter ditches to prevent water ingress, the carrying out of operations to safeguard against pollution to groundwater or any water course and the even grading, shaping and drainage of soil storage mounds to prevent water ponding. SEPA does not object to these conditions and any pollution of water courses, etc., arising from the operation of the site would be addressed by SEPA. It is considered that these proposed conditions are in accordance with criterion (c) of ENV10.

Proposed Conditions 25-29 relate to Ecology. These conditions require; vegetation clearance to be carried out outside bird nesting season, or with appropriate surveys and mitigation measures; protected species surveys to be carried out prior to soil stripping; the retention of the services of the South Strathclyde Raptor Study Group for monitoring; working practices to ensure no employee visit the nests of specific protected birds; and a bat survey prior to the removal of specific buildings and associated trees. The South Strathclyde Raptor Study Group remain involved in the development, and has identified Barn Owls as a protected species known to nest within the quarry area. Proposed Condition 28 has been altered to require steps to ensure no employee visits the nests of Peregrines, Ravens or Barn Owls. It is considered that the amended proposed conditions are in accordance with criterion (b) of ENV10 and criterion (b) of the General Policy.

Proposed Conditions 30-32 relate to the Restoration/Aftercare of the site. These require the site to be progressively worked and restored in accordance with submitted plans, the removal of all buildings, plant and machinery and the implementation of the aftercare scheme. The applicant has submitted a restoration strategy and aftercare scheme as part of their environmental statement supporting this application. The strategy includes plan drawings of the progressive restoration at the end of years 1, 3, 5, 8, 12 and 15 of the remaining operational life, which provides details through until 2029. A final restored plan and section for a projected year of 2032 has also been provided. The final restoration plan is to restore the quarry floor to use as agricultural grazing with woodland planting at the base of the quarry walls. The quarry walls would be regraded to form six benches at heights of between 6 metres and 71 metres above the quarry floor. The benches would be soiled and grass seeded and subject to tree planting. The woodland mix would comprise birch, rowan, goat willow, Sitka spruce, ash, hazel and hawthorn. At the top of the benches, seeded soil bunds would be retained. All planting would be subject to a 5 year aftercare period, details of which are set out in the environmental statement.

It is considered that the proposed restoration details and conditions represent a significant improvement on the restoration conditions required by the 1998 permission. There is now a progressive phased scheme of restoration and a detailed aftercare strategy. The applicant has provided details of the final restoration scheme, which can be reviewed under the ROMP procedures in 2030. A positive end use has been identified. When restored the quarry area would complement the local landscape character. It is considered that proposed Conditions 30-32 are in accordance with criterion (d) of ENV10 and criterion (c) of the General Policy.

Proposed Condition 33 requires that every 5 years the operator shall submit a statement and drawings to the Council, as Planning Authority, illustrating the extent of quarry working and projected operation for the forthcoming 5 year period, which shall include an audit of compliance with conditions. This condition is considered to constitute best practice and would assist the Council in monitoring the compliance with the planning conditions. It would also allow the developer to advise the Council of any revised operational time scale. Such monitoring would complement the ROMP procedure, which would be undertaken every 15 years should the quarry operate until 2058.

In these circumstances, it is recommended that the ROMP be approved subject to conditions in Appendix 1.

4. Full Recommendation

See Appendix 1



KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
24 September 2015

For further information please contact Iain Davies, Planning Officer , on 01294 324320

Duration

1. The extraction of mineral shall cease on 4th May 2058 or an earlier date to be agreed in writing with North Ayrshire Council, as Planning Authority. All plant and machinery shall be removed from the site and the land restored within twelve months of the expiration of the permission or twelve months of the earlier date agreed by North Ayrshire Council, as Planning Authority.

General/Phasing

2. The developer shall operate the development in accordance with the working plans hereby approved. If, due to unforeseen circumstances, it becomes necessary or expedient to materially amend the provisions contained within the approved documents, developer shall submit for the consideration of North Ayrshire Council, as Planning Authority, proposals, plans and a statement of intent. The developer shall adhere to the approved plans until such time as an amended application may be approved by the Council, as Planning Authority.
3. From the commencement of development until its completion, a copy of the permission, including all documents hereby approved and any other documents subsequently approved in accordance with any conditions of this permission shall be kept available for inspection on the site during the prescribed working hours.

Access/Transportation

4. All vehicular access to the site shall be via the existing access with the A737/Boydstone Road.
5. That the public road adjacent to the site shall be kept clear of mud or other deposited material arising from the site at all times, to the satisfaction of North Ayrshire Council as Planning and Roads Authority.
6. That adequate vehicle washing facilities shall be maintained to ensure that vehicles leaving the site shall not deposit deleterious materials on public roads.
7. That all loaded vehicles carrying aggregate materials 75mm and under in open containers shall be sheeted or otherwise covered.
8. The diverted Right of Way footpath shall be maintained to the satisfaction of North Ayrshire Council, as Planning Authority.

Hours of Working

9. The hours of operation shall be restricted to 0700-1900 Monday to Friday and 0700-1300 Saturday except for essential maintenance work, and no work shall be undertaken on Sundays or Public Holidays,.

Noise

10. That noise from the quarry shall not exceed 55dB_Laeq, 1h(60mins) during the agreed working hours measured at least 3.5m in front of the most exposed façade of any existing noise sensitive property except during periods of overburden removal where prior written approval shall be obtained from North Ayrshire Council, as Planning Authority, to exceed this limit.

11. Noise from the development caused by soil/drift stripping and/or landscaping operations shall not exceed 70dB LAeq, 1 hour (free field) at any noise sensitive premises. This noise limit shall only be permitted for a maximum of eight weeks in any calendar year. Otherwise the noise limit in Condition 10 above shall be complied with.
12. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers. All new plant introduced to the site shall be fitted with broadband type reversing alarms.
13. That within 3 months of the date of this decision the developer shall submit for the written approval of North Ayrshire Council, as Planning Authority, a scheme for the monitoring of noise from the site to reflect the locations identified in Table 6.10 of 6 of the Environmental Statement dated May 2015. Thereafter the developer shall monitor noise from the site and to record the findings in reports all in accordance with the submitted and approved monitoring scheme.

Blasting

14. That blasting shall be restricted to weekdays between 1000 and 1600 hours.
15. That there shall be no more than 3 blasts in any day.
16. That each blast shall be designed and controlled so that the air overpressure is minimised and the acceptable magnitude of ground vibration of 8.5mm per second is not exceeded on more than 10% of the blasting occasions at the nearest existing vibration sensitive property.
17. That surface detonating cord and plaster boarding shall not be used at the site unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority.
18. That the developer shall monitor blasts on the site and record the findings in reports all in accordance with the previously submitted and approved monitoring scheme dated March 2003.

Dust

19. At all times during the carrying out of operations authorised or required under this permission water bowsters and sprayers, mobile or fixed, shall be used at times as it is necessary to minimise the emission of dust from the site.
20. That the developer shall continue to monitor dust from the site and to record the findings in reports all in accordance with the previously submitted and approved monitoring scheme dated March 2003.
21. The developer shall ensure that all operations are controlled so as to prevent or minimise the release of dust into the atmosphere and the dust mitigation measures listed within Section 7.6 of the Environmental Statement dated May 2015 shall be implemented on site and in a method which ensures that the best practice methodologies as set out in PAN50 are adopted.

Water Management

22. Perimeter ditches shall be maintained in order to prevent the ingress of surface water.

23. The developer shall undertake all works to ensure that there are safeguards against pollution of groundwater or any watercourse from all construction activities and ongoing operational activities.
24. All soil storage mounds shall be evenly graded, shaped and drained to prevent water ponding on or around them and they shall be seeded with a suitable low maintenance grass seed mixture.

Ecology

25. All vegetation clearance shall be carried out out-with the bird nesting season (March to July inclusive.) Where this is not possible, surveys for nesting birds shall be carried out and suitable mitigation measures put in place, as approved by the Council, as Planning Authority.
26. Before vegetation clearance/soil stripping of previously unquarried land, the area affected plus the surrounding 30metres shall be subject to protected species walkover surveys undertaken by a suitably qualified ecologist who shall, in consultation with the Planning Authority, advise the operator of any necessary mitigation measures.
27. That during the life of the quarry operations the applicant shall retain the services of the South Strathclyde Raptor Study Group whose recommendations shall be followed unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority.
28. The developer shall continue to adopt appropriate measures to ensure that no employee from the site visits the nest of either the Peregrines or the Ravens or the Barn Owls at any time.
29. Prior to the removal of the building structures at Gateside of Fullwoodhead and any associated broadleaved trees, with potential to support roosting bats, the developer shall undertake a survey in order to confirm the presence, or absence of roosting bats.

Restoration/Aftercare

30. That the site shall be progressively worked and restored in accordance with the phasing and restoration details shown in Drawing Numbers 3s to 11s of the Environmental Statement and in accordance with Section 3.14 of the Environmental Statement dated May 2015.
31. Unless retained for agricultural purposes, on the cessation of the workings, all buildings plant or machinery and areas of hardstanding within the ROMP site boundary shall be removed from the site with reinstatement being undertaken in accordance with Section 3.14 of the Environmental Statement.
32. The aftercare scheme as detailed in Section 3.14 of the Environmental Statement shall be implemented progressively following the reinstatement of appropriate areas of the ROMP site.

Planning Audit

33. That every five years from the approval of conditions, the operator shall submit a statement and drawings to the planning authority illustrating the extent of quarry working and projected operations during the forthcoming five year period as an audit of operations. This shall include an audit of compliance with conditions.

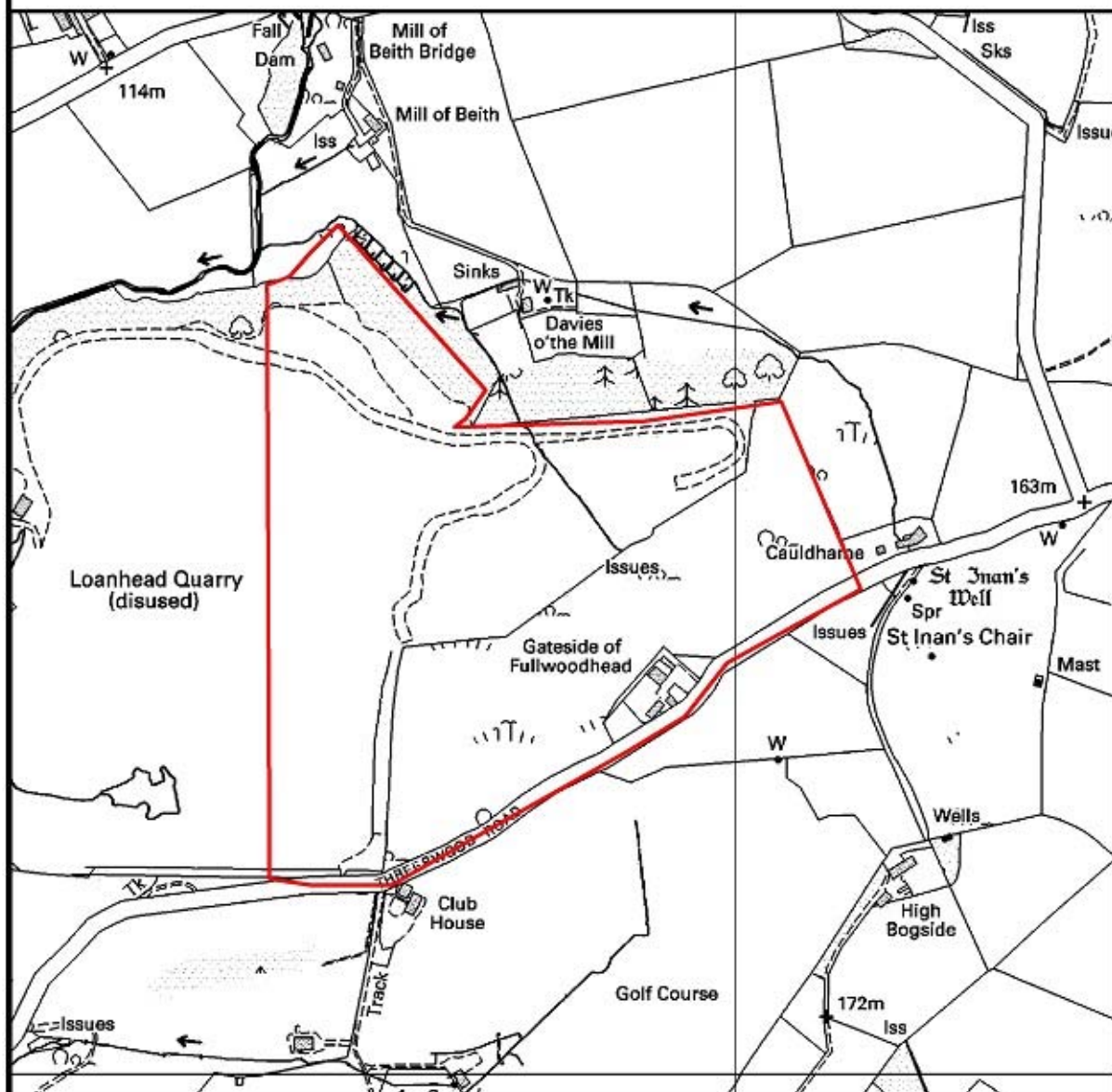
Reasons

1. In recognition of projected extraction rates and to ensure proper restoration of the site.
2. To ensure the extraction and restoration in carried out in accordance with approved documents in the interests of the amenity of the area.
3. To ensure the extraction and restoration in carried out in accordance with approved documents in the interests of clarity.
4. To ensure a consistent access to the site in the interests of traffic safety.
5. To ensure no material is deposited on the road in the interests of traffic safety.
6. To ensure no material is deposited on the road in the interests of traffic safety.
7. To ensure no material is deposited on the road in the interests of traffic safety.
8. To ensure the Right of Way is maintained and available to members of the public with respect to rights of access.
9. To protect occupants of nearby housing and the wider area from noise/disturbance at night and in the afternoon/evenings at weekends.
10. To protect the area from excessive noise disturbance during the day.
11. To protect the area from excessive noise disturbance during periods of soil/drift stripping.
12. To protect the area from excessive noise disturbance during the day.
13. To ensure proper monitoring of the noise from operations is undertaken in the interest of the amenity of the area.
14. To protect the area from undue disturbance outwith reasonable day time hours.
15. To protect the area from continual disturbance from blasting.
16. To protect the area from undue disturbance outwith reasonable day time hours.
17. To ensure blasting is carried out in the interests of amenity.
18. To ensure proper monitoring of the blast operations is undertaken in the interest of the amenity of the area.
19. To mitigate the impact of dust arising from the operation of the site.
20. To ensure proper monitoring of the dust generated by operations is undertaken in the interest of the amenity of the area.
21. To mitigate the impact of dust arising from the operation of the site.
22. To ensure proper water management.

23. To ensure proper water management.
24. To ensure proper water management and in the interest of visual amenity.
25. To prevent disturbance of protected nesting birds in the interests of nature conservation.
26. To prevent disturbance of protected species in the interests of nature conservation.
27. To monitor protected bird species activity within the site in the interests of nature conservation.
28. To prevent disturbance of protected species known to be resident within the site in the interests of nature conservation.
29. To prevent disturbance of protected bat species in the interests of nature conservation.
30. To ensure restoration works are undertaken in the interests of the amenity of the area.
31. To ensure removal of all redundant buildings, plant, machinery and hardstanding following completion of the operational life, in the interests of the amenity of the area.
32. To ensure phased restoration works are undertaken in the interests of the amenity of the area.
33. To assist in the monitoring and review of operations on the site.

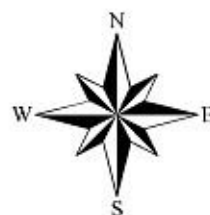
Committee Plans

15/00264/DCMS



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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NORTH AYRSHIRE COUNCIL

Agenda Item 4

2 December 2015

Planning Committee

Title: **Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997:23 Fullarton Street, Irvine KA12 8DG**

Purpose: To seek authority to serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring cessation of unauthorised use as a hot-food takeaway with sit in facilities.

Recommendation: Agree that the Committee grants authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring cessation of unauthorised use as a hot-food takeaway with sit in facilities.

1. Executive Summary

- 1.1 The lawful use of the property is Class 1 Retail unit i.e. where the sale or display of goods or the service provided is principally for visiting members of the public. However, the sale of hot-food for consumption on or off the premises is not included in Class 1. The property was last in Class 1 use around April 2014 when it was operated as a butcher's shop. The property is located within a row of commercial units below flatted dwellinghouses.

- 1.2 The Council first received complaint that the property was being used for hot-food takeaway in April 2015. An inspection of the property revealed that it was being operated as a hot-food takeaway with some seating. The operator was advised that planning permission was required for the new use. The operator indicated that an application for planning permission would be submitted to use the property as a hot-food take away with sit in facilities. Following further complaints about the use and further correspondence with the operator, a valid application for the use was received in October 2015 (ref: 15/00513/PP). The application proposed to retain the use and erect a flue to the rear of the premises. Due to the adverse impact on the amenity of the local residents, particularly those residing above the property, with regard to odour nuisance, it is likely that this application will be refused. The submitted application does not contain adequate details of the flue and other proposed ventilation measures designed to mitigate the impact on residential amenity. As the use was already in operation, it was not considered that a condition requiring the submission of these details was appropriate.
- 1.3 Given the above and in particular, the adverse impact of the unauthorised use on residential amenity, it is recommended that authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997, as amended, (an "Enforcement Notice") be approved. An Enforcement Notice would require cessation of the use and removal of all cooking equipment and machinery, associated with the use. The Enforcement Notice would take effect not less than 28 days from the date on which it is served, unless an appeal is lodged before it takes effect. The Enforcement Notice would require to be in full compliance within 28 days of the date that it takes effect. There is a right of appeal against an Enforcement Notice, but not on the grounds that planning permission ought to be granted.

2. Background

- 2.1 The use of the property as a hot food takeaway with sit in facilities has commenced without the requisite planning permission and is therefore unauthorised. An application to retain the use has been made and has been determined to be unacceptable due to its impact on residential amenity by way of inadequate odour control. Complaints about odour from cooking on the premises have been received, and that, due to a lack of information, Environmental Health is not satisfied that the proposed extraction system would prevent complaints relating to noise, smoke or odours in the future.

- 2.2 The unauthorised use is contrary to criterion (b) Amenity of the General Policy of the Local Development Plan, which states that development should have regard to the impact on amenity of factors including smell or fumes. It is considered that the odours arising from this development are having an adverse impact on amenity. The operator has been advised that should an application for permission not be made or made and refused, formal enforcement action would be considered. The Council pursued the submission of an application for 6 months before a valid application was received. However it is considered that the application should be refused for the reasons given above. Given the length of time the unauthorised use has been in operation and the adverse impact of the use on residential amenity, it is considered expedient to take formal enforcement action.

3. Proposals

- 3.1 The use, which has occurred within the last 10 years without the benefit of planning permission, causes harm to local amenity by way of odour impacts and is contrary to the Council's Local Development Plan, in particular criterion (b) of the General Policy. For these reasons it is recommended that an Enforcement Notice be issued requiring the following;
- (i) Cease the use of the property as a hot-food takeaway with sit in facilities; and
 - (ii) Remove all machinery, equipment, fixtures and fittings used for cooking, which facilitates the use as a hot-food takeaway.
- 3.2 It is proposed that the time period for compliance be 28 days from the date that the Enforcement Notice takes effect.

4. Implications

Financial:	The Council can take direct action against non-compliance with an enforcement and seek any costs incurred from the land owner or lessee.
Human Resources:	N/A
Legal:	The proposed Enforcement 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 Enforcement 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 : 15/00019/COUB

For further information please contact Iain Davies, Planning Officer on 01294 324320

Background Papers

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Appendix: Location Map

Notice under Section 127 of the Town and Country Planning (Scotland)
Act 1997:23 Fullarton Street, Irvine KA12 8DG



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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NORTH AYRSHIRE COUNCIL

Agenda Item 5

2 December 2015

Planning Committee

Title: **Notices under Section 145 of the Town and Country Planning (Scotland) Act 1997: Parks Garage and Showroom, 5 Corsehill Mount Road, Dreghorn KA11 4JZ**

Purpose: To seek authority to serve Notices under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to planning permissions (ref: 11/00033/PP and 13/00660/PP)

Recommendation: Agree that the Committee grants authority for the service of Notices under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to planning permissions (ref: 11/00033/PP and 13/00660/PP)

1. Executive Summary

- 1.1 The lawful use of the property is a car showroom with associated workshops. Planning permission was granted 8th April 2011 (ref: 11/00033/PP) for the extension of a car showroom/workshop to form a larger showroom with larger workshop. Planning permission was granted subsequently on 6th December 2013 (ref: 13/00660/PP) for a further car showroom. Both of these permissions were granted subject to conditions. Condition 2 of the permission granted in 2011 and Condition 1 of the 2013 permission are identical. These conditions required, that prior to the commencement of the development, the details of the means of taking delivery of new and used cars, particularly in relation to transporter type vehicles, should be submitted to the Council for approval. Thereafter the means of delivery, as may be approved, was to be implemented and maintained to the satisfaction of the Council, as Planning Authority. The reasons for these conditions were to meet the requirements of the Council, as Roads Authority.

- 1.2 Both of these planning permissions have been implemented. The details required by the conditions were submitted and approved. The details relating to Condition 2 of the 2011 permission were approved on 29th October 2013. The details relating to Condition 1 of the 2013 permission were approved 6th November 2014. The approved details are exactly the same in that all deliveries of new and used vehicles are to be by transporter entering the site from the access on Corsehill Mount Road, the transporter would turn right and park at the eastern side of the main building complex, the transporter would then reverse to the northern side of the showroom which was granted within the 2013 consent, to allow egress from the site. All cars would be loaded and unloaded within the forecourt as indicated in the approved plans (ref. 47-09.037 A and 069-13.002 respectively).
- 1.3 Complaints have been received since 2013 regarding deliveries not being carried out in accordance with the approved details. In particular, transporters have been parking on Corsehill Mount Road and cars have been loaded and unloaded on the public road. The owner of the property has been advised in writing, on several occasions, to fully comply with the requirements of the conditions. There has not been any response to the most recent correspondence and complaints continue to be received regarding the loading and unloading of transporters on the public road. Therefore Condition 2 of planning permission dated 8th April 2011 (ref: 11/00033/PP) and Condition 1 of planning permission dated 6th December 2013 (ref: 13/00660/PP) are found to be in breach. In the interests of road safety and the requirements of the Council as Roads Authority, it is considered expedient to issue Notices under S.145 of the Town and Country Planning (Scotland) Act 1997 ("Breach of Condition Notices").
- 1.4 Breach of Condition Notices would require full compliance with the requirements of the conditions. Compliance would be required within 28 days of the service of the Notice, the minimum period specified in the Town and Country Planning (Scotland) Act 1997. There is no right of appeal against a Breach of Condition Notice. Anyone responsible for failing to comply with a Breach of Condition Notice is guilty of an offence, for which they can be reported to the Procurator Fiscal, should they not comply following the expiry of the compliance period.

2. Background

- 2.1 The following condition attached to planning permission dated 8th April 2011 (ref: 11/00033/PP) has not been complied with and is therefore in breach;

Condition 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, details of the means of taking delivery of new and used cars, particularly in relation to transporter types vehicles. Thereafter the means of delivery, as may be approved, shall be implemented and maintained to the satisfaction of North Ayrshire Council, as Planning Authority.

Works commenced without the required details being submitted and approved. Following correspondence from the Council, details of the means of taking delivery of new and used cars from transporters was submitted and approved. However, the Council continues to receive complaints that deliveries are made from the public road, in breach of the condition.

- 2.2 The following condition attached to planning permission dated 6th December 2013 (ref: 13/00660/PP) has not been complied with and is therefore in breach;

Condition 1 - 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, details of the means of taking delivery of new and used cars, particularly in relation to transporter types vehicles. Thereafter the means of delivery, as may be approved, shall be implemented and maintained to the satisfaction of North Ayrshire Council, as Planning Authority.

Details of the means of taking delivery of new and used cars from transporters was submitted and approved. However, the Council continues to receive complaints that deliveries are made from the public road, in breach of the condition.

- 2.3. The Council received complaints that deliveries of vehicles were being undertaken from Corsehill Mount Road in 2013. Following action taken by the Council, this led to the submission of details of the means of taking delivery as required by Condition 2 of permission dated 8th April 2011 (ref: 11/00033/PP). These details were approved in October 2013 and at that time, the Council did not receive any further complaints. However, complaints were again received of deliveries being undertaken from the public road in the summer of 2015, including on the 2nd September 2015. The operator of the site was reminded, by letter dated 10th September 2015, of the need to comply with the permission and advised that formal enforcement action would be considered. The Council has not received any response to that letter. Further complaints regarding deliveries of vehicles have been received, including on the 7th October 2015, 10th November 2015 and 12th November 2015. There are no permitted physical constraints which would prevent the conditions being complied with. The approved details were designed and submitted by the operator.

3. Proposals

- 3.1 In the interests of road safety and the requirements of the Council as Roads Authority, it is proposed to issue a Breach of Condition Notice requiring the following in respect of planning permission dated 8th April 2011 (ref: 11/00033/PP);

(i) Carry out all deliveries of new and used cars from transporter type vehicles in accordance with drawing 47-09.037 A (to be attached to Notice) as approved by North Ayrshire Council, as Planning Authority 29th October 2013,

- 3.2 It is proposed that the time period for compliance be 28 days from the date of the service of the Notice.

- 3.3 In the interests of road safety and the requirements of the Council as Roads Authority, it is proposed to issue a Breach of Condition Notice requiring the following in respect of planning permission dated 6th December 2013 (ref: 13/00660/PP);

(i) Carry out all deliveries of new and used cars from transporter type vehicles in accordance with drawing 069-13.002 (to be attached to Notice) as approved by North Ayrshire Council, as Planning Authority 6th November 2014.

- 3.4 It is proposed that the time period for compliance be 28 days from the date of the service of the Notice.

4. Implications

Financial:	The service of the Notices 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 - "Supporting all of our people to stay safe, healthy and active."
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)

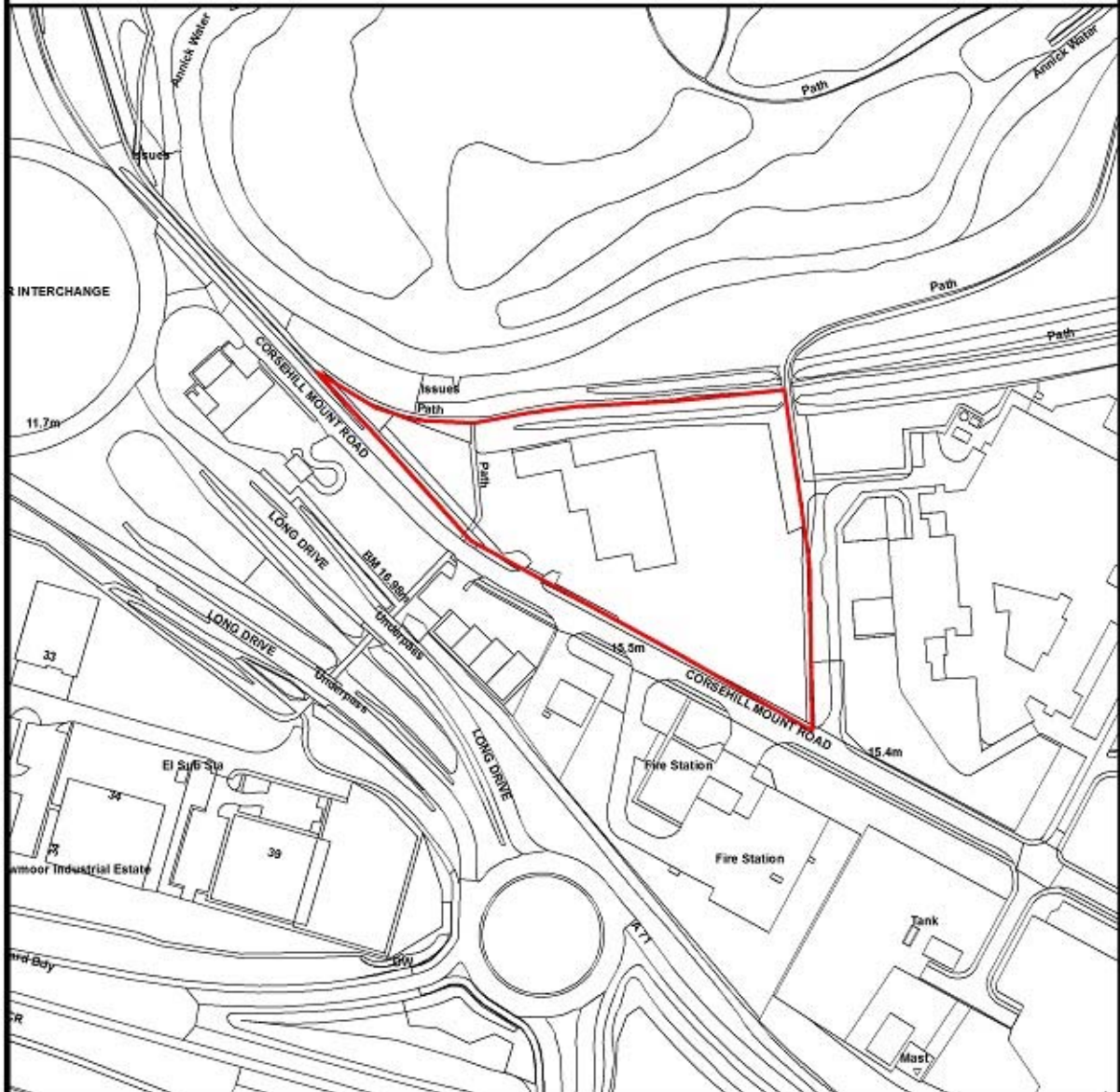
Reference : 15/00095/NONCOM

For further information please contact Iain Davies, Planning Officer on 01294 324320

Background Papers

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Notices under Section 145 of the Town and Country Planning
(Scotland) Act 1997: Parks Garage and Showroom,
5 Corsehill Mount Road, Dreghorn KA11 4JZ



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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NORTH AYRSHIRE COUNCIL

Agenda Item 6

2 December 2015

Planning Committee

Title: **Cancellation of Article 4 Direction Orders**

Purpose: To approve the cancellation of the Article 4 Direction Orders, which restrict permitted development rights in six of North Ayrshire's conservation areas.

Recommendation: That the Committee agrees to cancel the current Article 4 Direction Orders listed within Appendix.

1. Executive Summary

- 1.1 Permitted development rights allow certain works and changes of land use to be undertaken without the need for planning permission. These rights are subject to conditions and limitations set out in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) to control the impact of development on its surroundings. The Order allows planning authorities to restrict permitted development rights in certain circumstances through the imposition of Article 4 Directions. Article 4 directions are no longer required following the enactment of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011. The Order removes permitted development rights for householder developments in all Conservation Areas. This report seeks approval to repeal existing Article 4 Directions in six of North Ayrshire's Conservation Areas.

2. Background

- 2.1 Article 4 Directions were made by North Ayrshire Council and its predecessors to restrict permitted development rights for specific works in selected conservation areas, the effect of which meant that planning permission for the specific works was required. In particular the Directions served to control minor householder development to buildings in a conservation area, which could detract from the historic character and appearance of the Conservation Area.
- 2.2 Appendix 1 details the Classes of the Permitted Development, which are restricted by the Article 4 Directions in six Conservation Areas at Dreghorn, Corrie, Lamblash, High Corrie, West Kilbride and Skelmorlie.

- 2.3 The existing Article 4 Direction Orders are outdated and no longer required, particularly those enacted under superseded legislation, dating back to 1950 or 1981. Some Orders restricted classes of householder development in Conservation Areas, which are now addressed in more up-to-date legislation - the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011.
- 2.4 In Corrie, Lamash and High Corrie Conservation Areas, Article 4 Directions also imposed restrictions requiring the Council to obtain planning permission to undertake minor works.

3. Proposals

- 3.1 It is recommended that the Committee agrees to cancel the current Article 4 Direction Orders listed within Appendix 1. The cancellations would take effect from the date of the Committee's decision. Thereafter the cancellations would be publicised in statutory press notices as required.

4. Implications

Financial:	The costs of revoking the Article 4 Directions can be met from existing budgets.
Human Resources:	None.
Legal:	The revocation of the Article 4 Directions brings planning controls in Dreghorn, Corrie, Lamash, High Corrie, West Kilbride and Skelmorlie Conservation Areas into line with North Ayrshire's remaining seven conservation areas and the current GPDO. In the majority of cases, householder development will still require planning permission even with the revocation of Article 4 Directions.
Equality:	None.
Environmental & Sustainability:	None as existing legislative controls on development within Conservation Areas would remain in force.
Key Priorities:	The report supports the Council Plan 2015-2020, specifically its priority "protecting and enhancing the environment for future generations".
Community Benefits:	None.

5. Consultation

5.1 Legal Services has been consulted on the Report.



KAREN YEOMANS
Executive Director (Economy and Communities)

Reference :

For further information please contact Andrew McNair, Planning Officer on 01294 324769.

Background Papers

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Appendix 1

Classes of Development Restricted by Article 4 Directions

The following provides a list of the categories of permitted development that are restricted by Article 4 Directions in six of North Ayrshire's thirteen conservation areas. The cancellation of these Article 4 Direction is merited due to the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, which substitutes and updates these classes of development.

Conservation Areas	Classes Restricted	Year of General Permitted Development Order	Year Approved
Dreghorn	Class I - development within the curtilage of a dwellinghouse Class II - sundry minor operations Class IV - temporary buildings and uses	1950	1974
Corrie & Lamash	Class I - development within the curtilage of a dwellinghouse Class II - sundry minor operations Class XI - development by local authorities Class XII - development by local highways authorities	1981	1986
High Corrie	Class I - development within curtilage of a dwellinghouse Class II - sundry minor operations Class VIII - repairs to private streets and private ways Class XI - development by local authorities	1981	1986
Skelmorlie	Class 7 - The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure	1992	1999
West Kilbride	Class 1 - The enlargement, improvement or other alteration of a dwellinghouse	1992	2007

NORTH AYRSHIRE COUNCIL

Agenda Item 7

2 December 2015

Planning Committee

Title: **Energy Targets and Scottish Planning Policy**

Purpose: To advise the Committee of the Scottish Government's Chief Planner's letter to Scotland's planning authorities

Recommendation: That the Committee notes the wider implications of the Chief Planner's letter for North Ayrshire.

1. Executive Summary

- 1.1 Guidance on various aspects of the planning system is provided by the Scottish Government's Chief Planner. By letter dated 11 November 2015, the Chief Planner, Mr. John McNairney, reaffirmed the Scottish Government's current position on on-shore wind farms, in light of the UK Government's announcement in June 2015 to the earlier end of subsidies for new onshore wind farms. This report gives an overview of the current position and its wider implications for North Ayrshire.

2. Background

UK Context

- 2.1 On 22 June this year, Amber Rudd MP, UK Secretary of State for Energy and Climate Change made a statement that there is enough planned and existing onshore wind to meet the 11-13GW of electricity from onshore wind by 2020. This statement was made in the context of the UK Government's decision to bring early close to the Renewable Obligation subsidy scheme. Any proposed new onshore wind farms would be excluded from this scheme from 1 April 2016, which is one year earlier than originally planned.
- 2.2 In this context, the Chief Planner seeks to remind Planning Authorities that the Scottish Government's Scottish Planning Policy (2014) and Electricity Generation Policy Statement (2013), which contain the government's current position on on-shore wind farms, remains valid.

Scottish Government's Position

- 2.3 The Scottish Government's retains the target for Scotland to generate at least the equivalent of 100% gross electricity consumption from renewables by 2020. Scottish Planning Policy directs the planning system to support transformation change to a low carbon economy, consistent with national objectives and targets, including the 100% target mentioned. The Chief Planner states that this does not place a cap on support for renewable energy developments, including on-shore wind, once the target has been reached. There have been recent cases, in other local authority areas, where planning applications have been refused, partly on the grounds, that further wind turbine development is not necessary to meet national renewable targets.
- 2.4 Scottish Ministers still expect development plans to continue to provide spatial frameworks for onshore wind in accordance with Scottish Planning Policy (SPP) and that individual decisions be informed by the relevant development plan policies. The Chief Planner also advises that SPP makes it clear that "net economic impact", including community socio-economic benefits such as employment, associated business and supply chain opportunities, are relevant material considerations, which should be addressed in determining planning application for renewable energy technologies, such as on-shore wind.
- 2.5 Finally, the Chief Planner advises that the Scottish Government's 500 MW target for community and locally owned renewables has been reached but will be reviewed to maintain momentum, and that the Scottish Ministers support for community and local ownership remains undiminished.
- 2.6 Responding the above, Officers can advise the letter refers to existing Scottish Government policy in terms of renewable energy developments; and would be considered as a material consideration amongst others in future planning application for such developments. The North Ayrshire Local Development Plan is under review, providing an opportunity to refresh current local planning policy and guidance for renewable energy development in light of SPP, which was published after the plan's adoption in May 2014.

3. Proposals

- 3.1 The Committee is invited to note the Chief Planner's letter, which will inform consideration of future applications for Planning Permission for renewable energy technologies, such as on-shore wind.

4. Implications

Financial:	None.
Human Resources:	None.
Legal:	The Chief Planner's letter would be considered as a material consideration in the determination of relevant planning applications for renewable development in North Ayrshire.
Equality:	None.
Environmental & Sustainability:	The Chief Planner's letter will be considered as a material consideration against other considerations, including environmental and sustainability, in the determination of relevant planning applications.
Key Priorities:	The letter aligns with the Council's ambitions for renewable energy as set out in its Environmental Sustainability & Climate Change Strategy 2014-2017, which seeks to maximise the access to clear, affordable renewable energy for everyone in North Ayrshire and develop more business supply chain opportunities within the green industry.
Community Benefits:	None.

5. Consultation

- 5.1 Copies of the letter have been passed to Energy and Sustainability (Place), and Community Development (Economic and Communities), which is currently consulting on the Council's draft policy for community benefits from wind turbines.



KAREN YEOMANS
Executive Director (Economy and Communities)

Reference :

For further information please contact Andrew McNair, Planning Officer on 01294 324769

Background Papers

Letter dated 11 November 2015 from The Scottish Government's Chief Planner

All Heads of Planning



Our ref: A12537067
11 November 2015

Dear Colleague,

Energy Targets and Scottish Planning Policy

On 22 June this year Amber Rudd, UK Secretary of State for Energy and Climate Change, made a statement to the UK Parliament stating that there is enough onshore wind in the pipeline to meet the 11-13GW of electricity from onshore wind by 2020. This statement was made in the context of the UK Government's decision to bring an early closure to the Renewable Obligation subsidy scheme. The statement went on to confirm that community led wind energy remained supported and was clear that onshore wind is an important part of the current and future low-carbon energy mix.

I am writing to you to re-emphasise that the Scottish Government's Scottish Planning Policy (2014) and Electricity Generation Policy Statement (2013) set out the Scottish Government's current position on on-shore wind farms and that this remains the case.

The Scottish Government's target is to generate at least the equivalent of 100% of gross electricity consumption from renewables by 2020. The Electricity Generation Policy Statement is clear that this target is a statement of intent and that it is known Scotland has the potential resource to deliver and exceed it.

Scottish Planning Policy on delivering heat and electricity is clear that the planning system should support the transformational change to a low carbon economy, consistent with national objectives and targets, including the 100% target mentioned above. This does not place a cap on the support for renewable energy developments, including on-shore wind once the target has been reached.

We expect development plans to continue to provide spatial frameworks for onshore wind in accordance with the approach in Scottish Planning Policy and that individual decisions be informed by the relevant development plan policies, themselves informed by the considerations set out in paragraph 169 of Scottish Planning Policy.

Whilst the ownership of any development is not a material consideration in determining the acceptability of the development in planning terms, in National Planning Framework 3 and the Electricity Generation Policy Statement the Scottish Government commits to achieving at least 500 megawatts of renewable energy in community and local ownership by 2020. National Planning Framework 3 paragraph 3.24 states 'Local and community ownership and small-scale generation can have a lasting impact on rural Scotland, building businesses and community resilience and providing alternative sources of income. Collectively the potential benefits of community energy projects are nationally significant.'

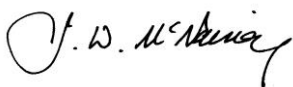
Scottish Planning Policy paragraph 169 is clear that net economic impact including the community socio-economic benefits such as employment, associated business and supply chain opportunities are relevant material considerations in the determination of planning applications for renewable energy applications, including on-shore wind. It is our expectation that such considerations are addressed in the determination of applications for renewable energy technologies.

While the Scottish Government's 500 MW target for community and locally owned renewables has recently been met, we will be reviewing it to maintain momentum, and our support for community and local ownership remains undiminished. The Minister for Business, Enterprise and Tourism recently launched the 'Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments'. This is an annex to the Community Benefit Good Practice Principles for Onshore Renewable Energy Developments. The guidance is based on the policy position of National Planning Framework 3 and Scottish Planning Policy. It is designed to assist planning authorities, communities and developers in considering a shared ownership renewable energy project within the planning system. I encourage you to become familiar with this guidance and highlight it to communities and renewable energy developers in your area. Local Energy Scotland assists communities and rural businesses through a variety of means including advice and support to access funding through CARES and and (in the case of communities) the Renewable Energy Investment Fund. If you or your colleagues are unsure whether the community involvement in a proposed development is meaningful you should consult Local Energy Scotland for advice: <http://www.localenergyscotland.org/>

You can download the good practice principles guidance from the Local Energy Scotland website at: <http://www.localenergyscotland.org/good-practice/>.

I trust this information clarifies that despite changes to UK policy the Scottish Government's policy remains unchanged. Our policy supports new on-shore renewable energy developments, including onshore wind farms and particularly community-owned and shared ownership schemes. This policy support continues in the situation where renewable energy targets have been reached.

Yours faithfully,



John McNairney

Chief Planner

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NORTH AYRSHIRE COUNCIL

Agenda Item 8

2 December 2015

Planning Committee

Title: **Trees and Development Guidance**

Purpose: To seek the Committee's approval to adopt the Trees and Development Guidance.

Recommendation: Approve the Guidance contained in Appendix 1.

1. Executive Summary

- 1.1 Trees can positively contribute to North Ayrshire's environment, enhancing the character and amenity of the area. They can also provide opportunities and some constraints for applicants. New guidance has been prepared to address common tree issues within new development schemes. This report provides further background to the guidance.

2. Background

- 2.1 Section 159 of the Town and Country Planning (Scotland) Act 1997 imposes a duty on the Council as Planning Authority "to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees."
- 2.2 The Council's Local Development Plan (LDP) contains policies, which seek to protect trees and hedgerows from inappropriate development. The General Policy of the LDP requires new development to have regard to the preservation and planting of trees and their potential to contribute toward green networks. There is an absence of planning guidance on trees and development for developers, particularly on requirements for tree assessments and the construction and siting of new buildings in proximity to trees or hedgerows.

3. Proposals

3.1 The proposed guidance, at Appendix 1, would offer prospective developers a set of standards, which would inform new developments, where trees are a planning consideration. The guidance would also encourage developers to consider trees and hedgerows at an initial site assessment. In summary, the guidance covers the following areas:

- the policy and legislative framework for tree protection, including tree preservation orders (TPOs)
- advice on the content of tree assessments
- design and construction of new buildings near trees or hedgerows
- useful contacts to find additional information

The guidance provides applicants with a checklist of information to accompany planning applications, where trees are a planning consideration. It also outlines the latest British Standard for trees in relation to design, demolition and construction, which is the Standard, used by Councils to consider the potential impacts on trees.

If approved, the guidance would be published on the Council's website and be a material consideration in the determination of planning applications, where relevant.

4. Implications

Financial:	None
Human Resources:	None.
Legal:	None
Equality:	None.
Environmental & Sustainability:	This guidance would provide further protection for existing trees and hedges within North Ayrshire to the benefit of the natural environment.
Key Priorities:	The guidance supports delivery of key Council priorities, namely the Council Plan 2015-2020 and Local Biodiversity Action Plan for North Ayrshire, through encouraging the preservation of trees and hedgerows within new development.
Community Benefits:	None.

5. Consultation

- 5.1 Consultation has been undertaken with the Council's Arboricultural Officer, Place, who has informed the content of the guidance.



KAREN YEOMANS
Executive Director (Economy and Communities)

Reference : AM

For further information please contact Andrew McNair, Planning Officer,
Strategic Planning and Infrastructure on 01294 324769

Background Papers

North Ayrshire Local Development Plan - adopted 20 May 2014

British Standards 'Trees in relation to design, demolition and construction'

TREES AND DEVELOPMENT GUIDANCE

Introduction

Woodlands, groups of trees and individual specimen trees along with hedges are important features which enhance the natural environment within North Ayrshire, and which contribute significantly to the landscape quality and local amenity of the area.

Trees are also habitats for wildlife, which means more variety of species with increased biodiversity. Trees can have a positive effect on climate change by reducing flooding, filtering air pollution and providing a more pleasant microclimate.

This guidance seeks to ensure that trees, hedges and other vegetation are given proper consideration in the determination of planning applications in North Ayrshire.

North Ayrshire Local Development Plan

This guidance supplements and expands on the policies of the North Ayrshire Local Development Plan. The General Policy of the Plan requires new development to have regard to the preservation and planting of trees and their potential to contribute to national and local green network objectives.

Protected Trees - Tree Preservation Orders & Conservation Areas

Some trees may have legal protection by either location within a Conservation Area or an area subject to a Tree Preservation Order (TPO). A TPO is an Order made by North Ayrshire Council, which makes it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree protected by that order without the Council's permission.

You must obtain the Council's consent before carrying out work on legally protected trees, except in special circumstances. For further information on these 'circumstances', please read the Scottish Government's Planning Circular 1/2011 – Tree Preservation Orders. Any proposals to cut down or carry out work on a tree in a Conservation Area must give the Council six weeks prior notice in writing.

Trees in some developments may also be protected by planning conditions.

You may also require a Felling Licence from the Forestry Commission Scotland (FCS) if you propose to fell a certain volume of timber (a maximum of 5 cubic metres in a single calendar quarter), or consent from your feu superior if you are renting the land. Further information can be found on FCS's website:

<http://scotland.forestry.gov.uk/supporting/grants-and-regulations/felling-licences>

To find out if a tree is in a Conservation Area or covered by a TPO or a planning condition, please contact the Council's Planning Service. Contravention could result in legal action.

How to obtain consent from the Council

Before making an application for tree works, you may find it helpful to consult a suitably qualified arborist to help you clarify what you need to do.

Applications can be made to the Council in the following ways:

- apply online at the ePlanning Scotland website (<https://eplanning.scotland.gov.uk/WAM>)
- completing the relevant form from the Council's website (www.north-ayrshire.gov.uk) and send to:
 - by post: Planning, North Ayrshire Council, Cunninghame House
Irvine, KA12 8EE
 - or by email: eplanning@north-ayrshire.gov.uk
- by letter to above postal address

Please include the following information with your application:

- an appropriate scaled plan showing the location of the tree(s)
- a tree assessment on the tree(s) from a qualified arborist to justify the proposed works (to comply with British Standards 5837:2012 'Trees in Relation to Design, Demolition and Construction')
- the species, location and size or height e.g. ash, 3m of the new tree(s)

Tree Assessments in relation to New Development

Where trees of amenity value are potentially affected by a development proposal, it is recommended that applicants undertake a tree assessment as per British Standards 5837:2012 'Trees In relation to Design, Demolition and Construction' and as part of the initial site assessment. The tree assessment should be submitted along with the planning application.

The assessment should provide the following information:

- A plan showing the location of each individual tree or group, including trees overhanging from adjacent sites (tree tags must be used to number individual trees on site), Root Protection Area (RPA) and mature hedges.
- Species, age, class and life expectancy
- Trunk diameter, height & canopy spread
- Health, vigour & condition - and amenity value
- Contours or spot heights
- Recommendations for tree surgery
- Root Protection Area (RPA) former Tree Protection Zone -TPZ)
- Other tree constraints (e.g. unreasonable shading due to the proposed development; SUDS)

Categories

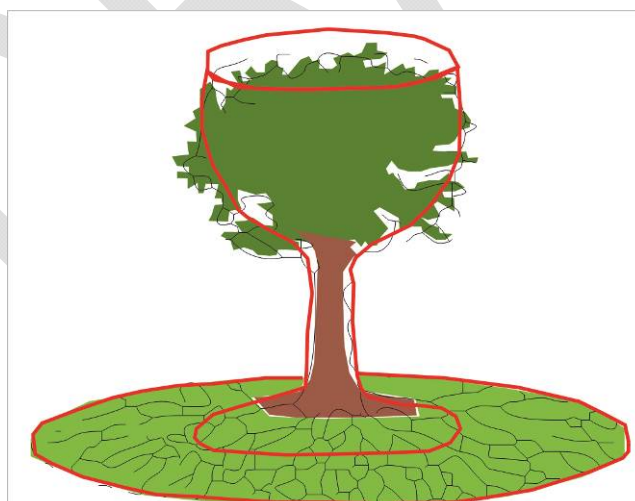
Based on the tree assessment, the trees should be divided into four categories (which can be colour coded on the survey plan).

- A** Trees of high quality with a remaining life expectancy of at least 40 years, good examples of species or part of a formal feature
- B** Trees of moderate quality with remaining life expectancy of at least 20 years, (would be category A but for impaired condition)
- C** Trees of low quality with a remaining life expectancy of at least 10 years, stem diameter below 150mm (limited merit or damaged)
- U** Trees which are in such a condition that they cannot realistically be retained for longer than 10 years

Tree Roots

Damage to trees is not usually deliberate but is due to a lack of understanding of how easily they can be harmed by nearby activities. The roots are most vulnerable to damage - but because they are out of sight, their protection can be frequently ignored. Although damage to branches can be unsightly, damage to roots can affect the health of the whole tree.

- There is almost as much of a tree below ground as above, species dependent.
- Tree roots are often shallow and often spread beyond the edge of the canopy.
- As much as 90% of the roots can be within the top 600mm of the soil, species dependent. They need air, water and minerals to survive.
- Avoid compaction of the soil around the tree by driving over it or sitting/storing materials under the canopy - as this will also kill the feeding roots. See British Standards 5837:2012 'Trees in relation to Design, Demolition and Construction'.



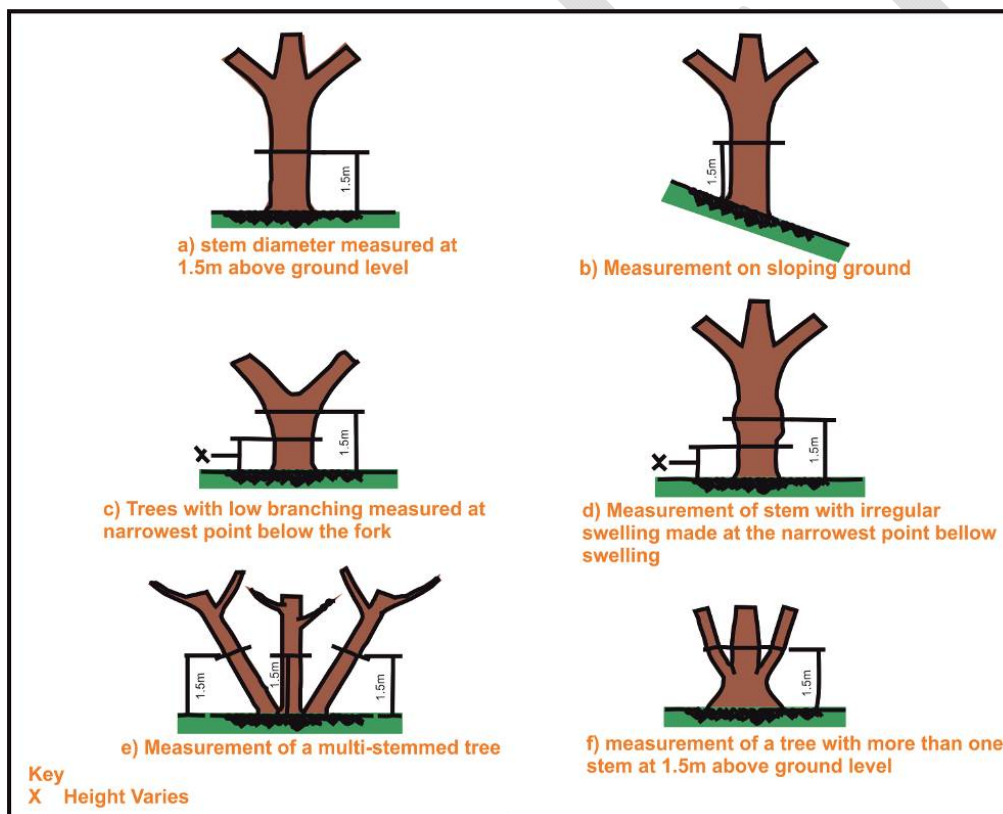
Think of the shape of a tree and its roots as similar to a wine glass on a dinner plate.

In applying BS5837:2012 the NJUG "Guidelines for the planning, installation & maintenance of utility apparatus in proximity to trees" may assist. Trench excavation should wherever possible be avoided near roots.

Position of Building on Site

There should be no ground disturbance or new construction under the canopy of trees.

- The Root Protection Area (RPA) should be 12 times the trunk diameter at breast height (or 10 times the diameter if the tree has a multi-stemmed trunk). This should prevent physical damage to the tree.
- Greater separation distances may be required if the tree is not yet mature to allow for future growth- and to avoid shading of windows of habitable rooms and gardens, especially on the south side (where light loss is a common reason for requesting removal).
- Choose the species of tree or hedge to minimise problems. Large trees such as oak or beech will suit rural or public open space locations where they can provide a feature and scale - but might be too large for small domestic gardens where they are likely to cause excessive shade.
- When building near trees it is important to consider the size and depth of foundations - ensuring they take account of the proximity and type of trees, their age and potential growth, as well as the soil type.



Ground Levels should not be changed within a tree's root spread. Lowering levels will destroy essential feeding roots and potentially change moisture content. Raising levels will cause compaction, kill sensitive feeding roots, and cause rot where bark is covered by soil. Changing levels will precipitate the decline and ultimate death of the tree. Hand digging is essential within a RPA.

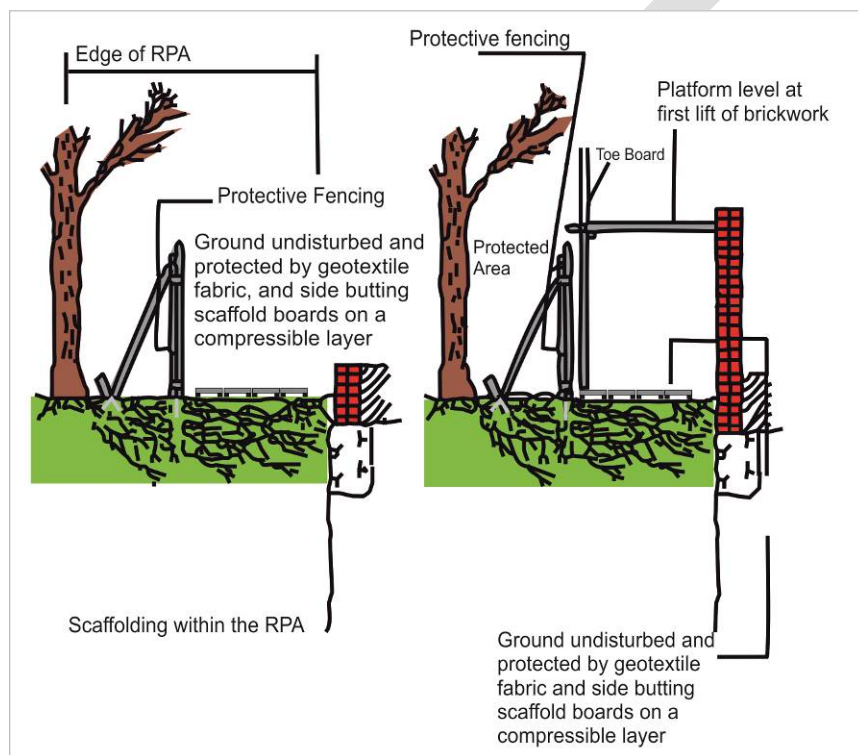
Other matters to consider:

- Changes in levels close to the canopy may need retaining walls.
- Avoid vehicle access or storage near or under tree canopies through careful management.
- Paving under trees requires very careful design. Kerbs have haunchings that can sever roots and concrete is generally toxic to roots.
- Paths & lightly trafficked surfaces (e.g. domestic driveways) can be provided under the canopy of retained trees where the surface is permeable or of a raised non-dig design and there are no kerbs or changes in level.
- Consider crown lifting to allow adequate headroom.
- Where possible keep service runs together and avoid surrounding a tree with trenches. Trenches should be outside the RPA and the canopy spread.
- If running a service under the canopy is unavoidable, it must be thrust bored, or excavated by hand, leaving all roots greater than 25mm intact.
- Locate trees to avoid interfering with light spread from streetlights.
- Where existing mature trees or hedges are affected by proposed development a tree assessment will be required as part of the Design & Access Statement. This should include a location plan showing all the trees (T1, T2, etc.) and a schedule of the trees to be retained, removed or requiring surgery (and type of surgery proposed). The positions and species of trees you propose to remove need to be shown.
- Planted tree or hedge areas can have an important buffer function - helping to screen and soften new development as well as in ensuring defensible space and good visibility. Specimen mature trees can help to provide scale to a development.
- All large or sensitive developments will also require a detailed landscape scheme. This should indicate the location and specification of fencing to protect existing trees during construction.
- Some development sites may also require an Arboricultural Impact Assessment or an Arboricultural Method Statement, these should be undertaken by a suitably qualified arborist.

Before Construction

Tree removal and surgery (to comply with BS5837:2012) is best done before the contractor starts on site. Works to trees should usually NOT be undertaken between April and September inclusive (when birds may be nesting). Advice should be sought if a habitat survey identifies specific wildlife, birds or bats on the site. See BS5837:2012 (or update).

Protective fencing (to comply with BS5837:2012) should be erected around all retained trees and hedgerows AFTER surgery BUT BEFORE any materials or machinery are brought onto site, and before any demolition, earth moving (including stripping of top soil) is started. Such fencing needs to be maintained at all times whilst the contractor is on site. See BS5837:2012 (or update). With protective fencing erected and properly maintained to prevent disturbance within the RPA or protected area, tree survival should be assured.



USEFUL CONTACTS

On larger or more complicated sites you may benefit from the advice and design expertise of a qualified professional from:

The Arboricultural Association, Tel: 01794 368717, www.trees.org.uk or www.treesurgery.com

The Landscape Institute, 6/7 Barnard Mews, Clapham, London SW11 1QU, Tel: 071 738 9166, www.li-scotland.org.uk or www.landscapeinstitute.org

Forestry Commission Scotland, Tel: 0845 3673787, www.forestry.gov.uk/scotland

British Standards 5837:2012 'Trees in relation to Design, Demolition and Construction'

For enquiries and advice relating to planning applications, contact the Council by:

Email: eplanning@north-ayrshire.gov.uk

Telephone: 01294 324319

In person or by post: Planning, North Ayrshire Council, Cunninghame House
Irvine KA12 8EE