

Planning Committee  
15 December 2009

**IRVINE, 15 December 2009** - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Elizabeth McLardy, Margie Currie, Robert Barr, Matthew Brown, Ian Clarkson, Ronnie McNicol, Pat McPhee, John Moffat, David Munn and Ryan Oldfather.

**In Attendance**

J. Miller, Chief Development Management Officer, G. Craig, Planning Officer, A. Craig, Senior Solicitor and J. Law, Solicitor (Legal and Protective); and M. Anderson Committee Services Officer (Chief Executive's Service).

**Chair**

Councillor McLardy in the Chair.

**Apologies for Absence**

Robert Rae.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 16.

**2. Deputations**

**2.1 Garnock Valley: 09/00424/PP: Dalry: Site to North of Baidland Hill**

Community Windpower, Godscroft Lane, Frodsham, Cheshire, have applied for planning permission for a wind farm development consisting of 6 wind turbines, the erection of a sub station control building, associated access tracks, borrow pits, permanent anemometer mast and underground cabling on a site to the north of Baidland Hill, Dalry. 824 objections have been received, as detailed in the case officer's file. An objection has also been received from Kilbirnie and Glengarnock Community Council.

Robert Maund and Nigel Willis, member and Chairman of Save Your Regional Park Campaign, respectively, addressed the Committee in support of objections. Mr Maund emphasised the importance of the role of the regional park in terms of conservation, education, recreation and leisure, health and well-being, tourism and the local economy. He referred the cumulative impact of turbines on both the accessibility of the park and its visual impact on the wider landscape.

Mr Willis made reference to health and safety issues arising from recent works to strengthen the foundations of 3 of existing turbines and expressed concern about public access to the park being further compromised. Mr Willis referred to the detrimental visual impact of the existing quarries and access road embankment and urged the Committee to resist the further industrialisation of the park and its surroundings.

Rod Wood, Director of Community Windpower, then addressed the Committee in response to the objectors. Mr Wood emphasised the importance of renewable energy in tackling climate change and reducing carbon emissions. He asserted that the current application was for a small development outwith the more sensitive northern area of the park. Mr Wood cited the decision of Scottish Ministers to grant the 14 turbine Kelburn wind farm on Appeal, and he expressed the view that the current application would form a natural development with Wardlaw and Kelburn. Mr Wood concluded by referring to the findings of the Council's own Landscape Capacity Study for Wind Farm Development and the potential identified for small scale wind farm development in the area.

The Chief Development Management Officer advised of the receipt of a letter from Clyde Muirshiel Regional Park requesting the inclusion within the officer's report of the full terms of the Park Authority's letter of objection. The officer indicated his satisfaction that the report highlighted all of the points raised in the letter of objection. The Chief Development Manager Officer further advised of proposed amendments to Conditions 7 and 9 contained in the officer's report.

The Committee then had the opportunity to ask questions of the objectors, applicants and officers.

Councillor Barr, seconded by Councillor McPhee, moved that the application be refused on the grounds that the proposed development would be detrimental to the regional park and its visual amenity, and would bring no economic benefit to the area in terms of employment.

As an amendment, Councillor Currie, seconded by Councillor McLardy, moved that the application be approved, subject to the conditions, as amended, contained in the officer's report.

On a division, there voted for the amendment 5, and for the motion 5. On the casting vote of the Chair, the amendment was declared carried.

Accordingly, the Committee, having heard the deputation and applicant and having considered the terms of the objections, agreed to grant the application subject to (a) the applicants entering a Section 75 Agreement to secure financial bonds to provide for the restoration of the site and to remedy any potential interference with TV/radio and other telecommunications systems; and (b) the following conditions:-

1. That the development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

2. That, prior to the commencement of the development, the developer shall give North Ayrshire Council as Planning Authority one month's notice in writing of the intention to commence the development. By the end of a period of 27 years from the commencement of development, all the turbines, turbine foundations down to one metre below ground level, buildings, and ancillary equipment, shall be dismantled and removed from the site, the site roads treated, other elements of the scheme dealt with, and the site restored, all in accordance with the Decommissioning Method Statement approved under condition 3.

3. That, prior to the commissioning of the wind farm, the developer shall submit for the written approval of North Ayrshire Council as Planning Authority a Decommissioning Method Statement (DMS) containing detailed proposals and timescales for the ultimate reinstatement of the site and for the removal of the turbines. The DMS shall include details of all site decommissioning and will include for the appointment of an Ecological Clerk of Works whose role will be to oversee implementation of the plans so approved for the duration of the decommissioning period. These plans shall include the method, frequency and duration of ecological monitoring, particularly of watercourses, over the decommissioning period.

Within 6 months prior to the expiry of the planning permission, the DMS shall be reviewed by the wind farm company and the planning authority and any amendments to be made to the DMS shall be submitted to the Planning Authority for its written approval.

Within 6 months, or any alternative timescale approved by the Planning Authority, of the wind farm ceasing to be used for the generation of electricity, the site shall be restored to such condition as is set out in the agreed DMS.

4. That if any turbine ceases to be operational for a continuous period of 6 months or such other period of time as may be agreed in writing by the planning authority, all of its above ground elements, plus its foundation to a depth of one metre below ground level, shall be removed, and the ground reinstated, within a period of not more than 6 months after the expiry of the 6 month period referred to above, all in accordance with the Decommissioning Method Statement approved under condition 3. The developer shall provide operational data for individual turbines to North Ayrshire Council as Planning Authority on reasonable request.

5. That the turbines shall be erected and the site roads constructed in the locations in Figure 6.4 of the Environmental Assessment (ES) published in June 2009, save for the ability to vary these locations by 30 m with the written approval of the planning authority. Before the turbine bases are concreted, the precise position of the turbines shall be notified to, and approved in writing by, North Ayrshire Council as Planning Authority.

6. That all cabling on the site between the wind turbines and the site sub-station shall be installed underground and the electricity connection between the sub-station and the power supply network shall also be installed underground unless existing overhead lines are utilised.

7. That no development shall commence on the site until a Construction Method Statement, including details of all on-site construction works, post-construction reinstatement, drainage, mitigation, and other restoration, together with details of their timetabling, have been submitted to, and approved in writing by, North Ayrshire Council as Planning Authority. This shall include detailed specifications of:

- the construction method of the site roads including their width, means of drainage (which shall have regard to SUDS principles), and edge reinstatement. The specification shall be accompanied by a plan at a scale of not less than 1:25,000 identifying the locations where cut roads, other excavated roads and “floating” road construction are proposed.
- the cable trenches (which shall be located alongside the site roads).
- the turbine bases.
- the method of working of the borrow pits, including any proposals for blasting, together with the post-construction reinstatement of the borrow pits.
- the formation of the construction compound.
- the construction of the crane pads.
- all foundation works.
- the construction and design of the control building/sub-station, to an alternative design which reduces its floor area and is constructed as an extension to the existing sub station serving Wardlaw Wood wind farm.
- the means of erection of the permanent meteorological mast.
- the formation of the hardstanding areas.
- post-construction restoration/reinstatement of all working areas.
- watercourse crossings.
- a pollution prevention and control method statement.
- arrangements for the storage of oil on the site.
- measures to protect ecological and ornithological interests. These shall include the making of check surveys for nesting birds and a check survey timetable.
- a peat depth survey and, where peat deposits exceed 1 metre in depth, a peat stability assessment. These shall be used to determine the exact siting of turbine bases, access tracks and other infrastructure which could disturb peatland. SNH recommends that peat depths of over 1 metre should be avoided.
- a traffic management plan.
- avoidance of vegetation and ground clearance within the main bird breeding season (March to July inclusive).

Thereafter, the development shall take place in accordance with the Construction Method Statement unless otherwise agreed in writing by North Ayrshire Council as Planning Authority.

8. That no development shall take place until details of the model, colour and finish of the turbines (which shall have a hub height of no more than 80 m and a blade tip height of no more than 125 m above the adjacent ground level and no part of which shall exceed 460 metres above mean sea level), and of any external transformers, have been submitted to, and approved in writing by, the planning authority. All the turbines blades shall rotate in the same direction as each other, which shall be the same direction as the turbines at the Wardlaw Wood wind farm. The turbines shall not be illuminated and shall not carry any symbols, logos or other lettering except where required under other legislation.

The development shall be carried out thereafter in accordance with the approved details, unless any changes are subsequently agreed in writing by North Ayrshire Council as Planning Authority.

9. That, prior to the commencement of development, the developer shall prepare and submit for the written approval of North Ayrshire Council as Planning Authority:

- (a) public access plan for the site, and
- (b) an archaeological mitigation plan.

Plan (b) shall provide for: (i) a written scheme of investigation; (ii) proposals for the avoidance of known archaeological features; (iii) a watching brief during construction; and (iv) the excavation, recording and analysis or any previously unknown features identified during the watching brief. Thereafter, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority, the development shall be undertaken in accordance with the plans as approved.

10. That no development shall commence until a Habitat Enhancement Plan following the principles set out in the ES has been submitted to, and approved in writing by, North Ayrshire Council as Planning Authority. The approved plan shall be implemented thereafter.

11. That, prior to the commencement of the development, the developer shall submit for the written approval of the planning authority in consultation with the Scottish Environment Protection Agency, a report addressing the potential effect of the development on any private drinking water resources in the area and any measures required to minimise the impact on drinking water quality during construction and operation.

12. That the level of noise emissions (including tonal noise) from the turbines at any existing dwelling shall not exceed the acceptable levels defined in ETSU-R-97.

13. That, at the request of North Ayrshire Council as Planning Authority following a complaint to it, the developer shall measure the level of noise emissions resulting from the operation of the turbines in accordance with the methods recommended in ETSU-R-97. Wind speed shall be continually measured on site and referenced to a height of 10m. Where it is necessary to convert between measured wind speeds and the wind speed at 10m height, this conversion shall be undertaken using a methodology to be agreed with North Ayrshire Council as Planning Authority.

14. That the developer shall supply wind speed and direction data to and at the request of North Ayrshire Council as Planning Authority to enable it to evaluate measurements made by the developer.

15. That three months before the start of the development, an ecological clerk of works (ECOW) shall be appointed by the developer and approved in writing by North Ayrshire Council as Planning Authority. The clerk of works shall be in place for the period from the commencement of works to the commissioning of the wind farm. The duties of the clerk of works shall include:-

- (i) Monitoring compliance with the agreed construction method statement; and
- (ii) Monitoring compliance with the habitat management plan.

16. That no development shall commence until the applicant has provided Defence Estates with the date of commencement of construction; the date of completion of construction; the maximum height of construction equipment; and the latitude and longitude of the turbines.

17. That, prior to the commencement of the development, hereby approved, the applicants shall undertake further survey work in relation to ascertaining the importance of the application site and adjacent habitats for foraging and breeding birds, otters, bats, badgers and water voles and the results of which, together with mitigation measures to avoid any potential impacts as a result of the proposed development, shall be submitted for the written approval of North Ayrshire Council .

## **2.2 North Coast and Cumbraes: 08/00662/PP: Fairlie: Kaim Hill**

Kaim Hill Wind Limited, c/o Fred Olsen Renewables Limited, King Scholars House, 230 Vauxhall Bridge Road, London have applied for planning permission for the erection of 5 wind turbines with ancillary development, including the construction of access tracks and foundations, on-site borrow pits, temporary construction compound, on-site anemometry mast, on-site electrical control building and underground electrical cables, at Kaim Hill, Fairlie. 1687 objections have been received, as detailed in the case officer's file. Objections have also been received from Largs, Fairlie, Beith and District, West Kilbride and Kilbirnie and Glengarnock Community Councils. 1 letter of support has been received.

Nigel Willis, Chairman of Save Your Regional Park Campaign, accompanied by Richard Maund, addressed the Committee in support of objections. Mr Willis referred to supplementary planning guidance by Inverclyde Council, which excludes the regional park as a site for wind farm developments due to its importance and urged North Ayrshire Council to treat the park in the same manner. He asserted that the proposed 5.5 mile access road was excessive for a development of 5 turbines. Mr Willis also made reference to the importance of Kaim Hill for recreational pursuits such as walking, hang-gliding and paragliding, and asserted that the proposals would have an adverse impact on this activities. In addition, Mr Willis expressed the view that the visual impact of the proposed development would be detrimental to important local businesses, including tourism and nearby marinas.

John Riddell, of Fairlie Community Council, then addressed the Committee in support of objections. Mr Riddell referred to the position of Scottish Natural Heritage which had not objected to the Kelburn wind farm proposals granted by Scottish Ministers on appeal, did object to the Kaim Hill proposals due to their adverse impact on visual amenity. Similarly, Clyde Muirshiel Regional Park had objected to Kaim Hill as a proposed location for the development. Mr Riddell expressed concern about the proximity of the proposals to the village of Fairlie and referred to the development pressures, including the power station, coal terminals and nearby marina, which served to increase the importance of nearby hills as recreational outlets for the people of Fairlie. Mr Riddell concluded by asserting that the Scottish Ministers' decision in respect of the Kelburn wind farm application did not set an irresistible precedent for all such developments in future.

Giles Dearden, Associate Director - Development, accompanied by Andy Precious, Project Manager - Development, both of Natural Power on behalf of the applicants, then addressed the Committee in response to the objectors. Mr Dearden advised that, whilst supplementary planning guidance excluded large-scale wind farm development at this location, the current proposals were for a small-scale development. He asserted that 5 wind turbines were unlikely to have a significant adverse impact on tourism. He expressed the view that the size and scale of Kaim Hill were such that the visual impact of the turbines would not be pronounced and the turbines themselves would appear as a continuation of existing wind farm development in the area. Mr Dearden indicated that the decision of Scottish Ministers in respect of the Kelburn proposals emphasised the importance of protecting the northern part of the regional park only. Mr Dearden concluded by expressing the view that the modest number of turbines proposed and the separation distance from Fairlie were such that there would be no significant adverse impact on the village.

The Chief Development Management Officer referred to paragraph 4 of the description section of the officer's report and advised that the reference to guy wires in respect of a wind monitoring mast should be deleted as the proposed mast would be free-standing. The officer further advised of a collective response from the North Coast Area Committee of 9 October 2008 to the Planning Committee voicing the Area Committee's concerns about the proposed wind farm development at Kaim Hill.

The Committee then had the opportunity to ask questions of the objectors, applicants and officers.

The Committee, having heard the deputation and the applicant's representative and having considered the terms of the objections, agreed to refuse the application on the following ground:-

1. That the proposed development would to be contrary to Policies ECON6, ECON7, ENV1 and ENV2 of the Approved Ayrshire Joint Structure Plan and Policies INF7, ENV1, ENV5 and ENV5A of the Adopted North Ayrshire Local Plan (excluding Isle of Arran) in that it would (i) have both a significant adverse landscape and visual impact and significant adverse cumulative visual impact; (ii) be detrimental to the interests of tourism and recreation; (iii) adversely impact on the radar system of Glasgow Airport and the operational needs of Glasgow Prestwick Airport; (iv) be within the recommended separation distance of 2 Kms from Fairlie; and (v) have a significant adverse impact on Clyde Muirshiel Regional Park; and the Council's approved landscape capacity study for wind farm development within North Ayrshire.

### **3. Irvine/Kilwinning**

#### **09/00301/PP: Irvine: Heatherhouse Industrial Estate: Third Avenue: Site To South And West Of Unit 83**

Jim Adams, 49 Glen Orrin Avenue, Kilmarnock, has applied for planning permission for the erection of 11 starter business units with associated access road and parking on a site to the south and west of Unit 83, Third Avenue, Heatherhouse Industrial Estate, Irvine.

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



1. That the layout shown on Drawing No. 429/02 is not approved and, prior to the commencement of any works, a revised plan shall be submitted with regard to revised access and parking arrangements, for the approval in writing of North Ayrshire Council as Planning Authority. The revised drawing shall be amended as follows: (i) internal and junction radii to be 9m, (ii) the footway in front of units 5 -11 to be widened to 1.5 minimum and additional pedestrian access points to be provided between parking spaces, (iii) a drop kerb provided at the end of both footways, and (iv) a hard standing area provided between the boundary and the proposed road adjacent to unit 5 to allow adequate turning dimensions for an HGV.

2. That the units shall be used for uses as defined in Classes 4, 5 and 6 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 or in any provision equivalent to that Class in a statutory instrument revoking or re-enacting that Order.

3. That no plant or machinery shall be operated or used and no process shall be carried out from outwith the buildings, hereby approved, which would detract from the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

4. That no development shall take place until there has been submitted to, and approved by, North Ayrshire Council as Planning Authority details of measures for the protection of the retained trees in the course of the development, which measures shall be in place prior to the commencement of any construction works.

5. That, prior to the commencement of the development, hereby approved, details of a scheme to treat the surface water arising from the site in accordance with the principles and practices contained in CIRIA's "Sustainable Urban Drainage Systems Manual", published in March 2007, shall be submitted to, and approved by North Ayrshire Council as Planning Authority. Thereafter, any scheme that may be approved shall be implemented prior to the completion of the development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

In addition, prior to the commencement of the development, hereby approved, details of the proposed factor or management agency and a management plan, including a risk assessment for public safety, management responsibilities and maintenance schedules for the approved scheme, shall be submitted to, and approved in writing by North Ayrshire Council as Planning Authority. The management plan shall be carried out in accordance with the approved details unless the prior written approval of North Ayrshire Council as Planning Authority is obtained for any variation, and the agreed agency shall only be changed with the agreement of North Ayrshire Council as Planning Authority.

6. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of Environmental Health. Thereafter, a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.

#### **4. Enforcement Notices**

##### **4.1 Irvine: Land at 2-4 High Street: Porthead Tavern**

Submitted report by the Assistant Chief Executive (Legal and Protective) on the proposed serving of an Enforcement Notice to require the removal of the unauthorised retractable awning attached to the front elevation of the Porthead Tavern Public House, 2-4 High Street, Irvine.

In 2006, an application for a retractable awning to the front elevation of the Porthead Tavern Public House was refused by the Planning Committee. A subsequent appeal was dismissed by Scottish Ministers and the retractable awning duly removed.

On 19 August 2009, a complaint was received that a retractable awning had been erected to the right-hand side of the front elevation of the public house. This was confirmed during a site visit by the Planning Inspector on 24 August 2009. The licensee/manager was advised in writing of the complaint and asked either to remove the awning or make a retrospective application within 28 days. This was followed by a meeting between the licensee/manager and Planning Inspector and a letter seeking confirmation that a retrospective application would be submitted. However, no application was made and the licensee/manager was advised in writing on 4 November 2009 of the intention to report the matter to the Planning Committee.

The Committee agreed to approve the serving of an Enforcement Notice in terms of section 127(1)(b) of the Town and Country Planning (Scotland) Act 1997 to require the removal of the unauthorised retractable awning attached to the front elevation of the Porthead Tavern Public House.

##### **4.2 Ardrossan: Land at 69/71 Princes Street**

Submitted report by the Assistant Chief Executive (Legal and Protective) on the proposed serving of a Listed Building Enforcement Notice to require the removal of 3 unauthorised UPVC windows and a UPVC door at 69/71 Princes Street, Ardrossan.

The property at 69-71 Princes Street, Ardrossan, is a Category C listed building. On 19 May 2009, a complaint was received about the installation of 2 UPVC-framed windows to the front of the building, 1 UPVC-framed window to the rear and a UPVC door at the communal hallway entrance to the 2 first-floor flats. This was confirmed on 24 May 2009 during a site visit by the Planning Inspector.

The owner of the property was advised in writing of the listing of the building and asked to make contact with the Planning Service. At a subsequent meeting with the Planning Inspector, the owner was advised that the unauthorised UPVC windows and door should be removed and replaced with timber sliding sash and case windows and a timber panelled door, respectively. This was confirmed in writing on 23 June 2009. However, the unauthorised windows and door have not been replaced.

The Committee agreed to approve the serving of a Listed Building Enforcement Notice in terms of Section 34 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 to require the removal of 3 unauthorised UPVC windows and a UPVC door at 69/71 Princes Street, Ardrossan

#### **4.3 Irvine: 14 Eglinton Street**

Submitted report by the Assistant Chief Executive (Legal and Protective) on the proposed serving of (1) an Enforcement Notice to require the removal of two unauthorised roller shutters and box housings; and (2) a Listed Building Enforcement Notice to require the removal of two unauthorised roller shutters and box housings from a Category (CS) Listed Building within a Conservation Area.

The 2-storey building at 14 Eglinton Street, Irvine, is part of a group of buildings listed Category C(S). On 26 November 2009, a complaint was received that 2 unauthorised roller shutters and box housings had been installed at the ground floor windows at 14 Eglinton Street, Irvine. This was confirmed during a site visit by the Planning Inspector.

On 1 December 2009, the owner was advised by letter that the 2 roller shutters and box housings would require planning permission and listed building consent. The owner was further advised that the applications would not be supported and was asked instead to remove the unauthorised roller shutters and box housings. To date, no response has been received and the roller shutters and box housings remain in situ.

The Committee agreed to approve the serving of (a) an Enforcement Notice in terms of Section 127(1)(b) of the Town and Country Planning (Scotland) Act 1997 to require the removal of two unauthorised roller shutters and box housings; and (b) a Listed Building Enforcement Notice in terms of Section 34 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 to require the removal of two unauthorised roller shutters and box housings from a Category (CS) Listed Building within a Conservation Area.

The Meeting ended at 3.30 p.m.