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## NORTH AYRSHIRE COUNCIL

25th February 2021

### Planning Committee

Locality	North Coast and Cumbraes
Reference	21/00005/PP
Application Registered	7th January 2021
Decision Due	7th March 2021
Ward	Dalry And West Kilbride

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Hunterston Construction Yard Fairlie Largs Ayrshire
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<b>Applicant</b>	Clydeport Operations Ltd
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<b>Proposal</b>	Variation of Condition 4 of Permission Reference N/17/01273/PP
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### 1. Description

Planning permission is sought to vary Condition 4 of a Planning Permission (ref.17/01273/PP), which varied a previous Planning Permission (ref. 16/00268/PP). Planning Permission (ref. 16/00268/PP) removed the temporary restriction on the use of the site which was originally granted permission in 1974.

The use of the site is restricted by condition to the construction, repair and decommissioning of large marine related structures. This is further restricted to oil rigs, platforms and similar structures that have served the oil and gas and offshore renewable industries. It is not proposed to change this restriction.

Condition 4 of Planning Permission (ref.17/01273/PP) currently reads as follows:

4. That no processes or activities shall be carried out which would: a) be incompatible with the nuclear safety arrangements or operations of Hunterston B Power Station; or b) have an adverse effect on water quality at the intakes of the power station.

The reason for Condition 4 was to ensure that the development does not affect the operation of the power station in the interest of safety.

This application seeks to vary this condition. It is proposed to insert the words "or decommissioning" after the word operations. The varied condition would read:

4. That no processes or activities shall be carried out which would: a) be incompatible with the nuclear safety arrangements or operations or decommissioning of Hunterston B Power Station; or b) have an adverse effect on water quality at the intakes of the power station.

The applicant has also requested any permission be for 5 years, rather than the standard 3 years.

The application site is identified by the Local Development Plan adopted 2019 ("the LDP") as part of the Hunterston Peninsula Business and Industry Location. It is also part of the wider Hunterston Development Area. It is considered that the relevant policies of the LDP is Strategic Policy 3: Hunterston Strategic Development Area.

The Scottish Government's Planning Circular 4/1998 sets out their policy on the use of planning conditions.

### **Relevant Planning History**

Application (ref. 17/01273/PP) under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary Condition 1 of Planning Permission ref 16/00268/PP to allow use of the site for decommissioning of large marine structures was approved subject to conditions on 25<sup>th</sup> April 2018.

## **2. Consultations and Representations**

The application was subject to statutory neighbour notification procedures. There has been one objection received which can be summarised as follows;

1. Planning Permission (ref.17/01273/PP) should not have been granted. The Scottish Government has demonstrated that it was consented in error. a Planning Permission (ref.17/01273/PP) should be withdrawn in its entirety. A full application for the use of the site should be submitted with a detailed Environmental Impact Assessment.

Response: The Scottish Government was satisfied with the Council's approach to a Planning Permission (ref.17/01273/PP) and other associated applications determined in 2018. The Scottish Government was content that the Council's processes were robust, and an EIA was not required. Planning Permission (ref.17/01273/PP) remains a valid permission and the applicant is entitled under S. 64 of the Town and Country Planning (Scotland) Act 1997, as amended, to seek a variation of conditions attached to the permission.

The following consultations were undertaken;

**Office for Nuclear Regulation** - no objection

**NAC Environmental Health** - no objection

**West Kilbride Community Council** - no objection

**Fairlie Community Council** and **Cumbrae Community Council** were consulted but no responses have been received.

EDF, as operator of Hunterston B, has confirmed awareness of the proposal. EDF has been in consultation with the applicant and offers no objection.

### **3. Analysis**

Planning permission for the use of the land as a construction yard was originally granted in 1974. Planning permission (ref.16/00268/PP) removed the temporary restriction of the site which had been continually extended Planning Permission (ref.17/01273/PP) defined the parameters of the use of the site. The use of the site is therefore established. The application considers only if the revised Condition 4 would accord with the LDP, Scottish Government advice and any other material considerations.

Strategic Policy 3, in respect of Hunterston, recognises the strategic national importance of Hunterston and sets out the type of development which will be supported. This includes maritime construction and decommissioning and nuclear decommissioning. The Policy states that a masterplanned approach is required. However, as above, this is a variation of an existing use and it is not considered that such a requirement is relevant in respect of this application.

Planning Circular 4/1998 states that planning conditions should only be imposed where they are: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects.

Condition 4 effectively restricts the use of the site so that it is not incompatible with the operation of Hunterston B Nuclear Power Station. This application seeks to clarify that the use of the site should also not be incompatible with the decommissioning of the power station.

Hunterston B sits some 950m south of the main portion of the site. Hunterston B is due to be decommissioned. A Certificate of Lawful Development (ref: 20/00485/LUP) was issued in 2020 in relation to some preparatory works to facilitate decommissioning.

It is considered that the variation of the condition would reflect the likely change in status of the power station. It is noted neither the Office for Nuclear Regulation nor the operator of Hunterston B object. The proposed variation relates to lawful uses which exist at Hunterston, which are also supported by the LDP. The proposal therefore accords with Strategic Policy 3. The proposed variation would add clarity to the condition and the proposed condition meets all the other tests set out in Circular 4/1998. There are no material considerations to the contrary.

In terms of the request for a 5-year permission, this can be undertaken by a direction attached to any permission. The applicant has sought a 5-year permission as in the opinion of the applicant, it will bring clarity which will allow the site to be considered in the context of potential marine development opportunities which accord with the uses already permitted.

As stated above the use of the site is established. The parameters of the use of the site were established by Planning Permission (ref.17/01273/PP), which would be reconfirmed if this permission is granted. Given the long term established use of the site, it is considered there are no material reasons not to grant a 5-year permission.

It is therefore recommended that permission be granted subject all the conditions of Planning Permission (ref.17/01273/PP) with Condition 4 varied as noted above.

#### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That the planning permission shall be restricted to the use of the existing building dock, site, jetty and buildings; erection and use of other associated buildings and plant which would be located on the site in accordance with the operational demands of the work; and the use of the existing site access and jetty; all for the purpose of the construction, repair and decommissioning of large marine related structures; and the site shall be used for no other purpose. For the avoidance of doubt construction, repair and decommissioning shall be restricted to oil rigs, platforms, similar structures that have served the oil and gas industry and offshore renewable industry and are defined within approved drawing '01B'. Storage of these structures shall be restricted to those which are actively being constructed, repaired or decommissioned only.

##### **Reason**

To restrict the use of the site in the interest of the amenity of the area.

##### **Condition**

2. That prior to the recommencement of development on the site the applicant shall obtain the written approval of North Ayrshire Council as Planning Authority regarding: a) the siting, design and external appearance (including colours) of buildings, plant and structures together with a layout plan showing the operational requirements of the site and proposals for open and covered storage of raw materials, finished products and waste; b) the proposed arrangements for the disposal of any excavated material from the site; c) the proposed arrangements for the treatment and disposal of effluents and waste products together with plans showing the proposed drainage system for the treatment and disposal of soil and surface water and arrangements for the control of flotsam arising from any work on the site and for preventative measures to avoid pollution of the foreshore; and d) the proposed arrangements for the lighting of the site during dock reconstruction. For the avoidance of doubt the approval of "preventative measures to avoid pollution of the foreshore", required under part c) shall be agreed with SNH and such measures shall include full details of the mitigation that will be implemented during the construction and operation of the site to ensure that they adequately manage the risk of any pollution entering the SSSI.

##### **Reason**

In the interests of the amenity of the area and protect the integrity of the SSSI.

**Condition**

3. The rated noise level, as defined in BS 4142:2014, from activities associated with the construction, repair and decommissioning of large marine related structures, permitted under Condition 1, must not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property. For the avoidance of doubt this condition would not apply to any operations that are licensed by SEPA or Marine Scotland.

**Reason**

To maintain control over the development in the interest of amenity.

**Condition**

4. That no processes or activities shall be carried out which would: a) be incompatible with the nuclear safety arrangements or operations or decommissioning of Hunterston B Power Station; or b) have an adverse effect on water quality at the intakes of the power station.

**Reason**

To ensure that the development does not affect the operation or decommissioning of the power station in the interest of safety.

**Condition**

5. That no blasting operations or pile driving by percussive means shall be carried out on the site between 10.00pm and 7.00am. Specific times for any blasting and/or pile driving by percussive means shall be agreed in writing by North Ayrshire Council as Planning Authority and it shall be the responsibility of the applicant to advertise the agreed arrangements in a newspaper circulating locally in the week prior to the agreed times.

**Reason**

In the interest of the amenity of the area.

**Condition**

6. That except with the prior approval of North Ayrshire Council as Planning Authority, no dock constructional operations, other than the sinking of piles by other than percussive means, the carrying out of maintenance work on constructional plant and dredging work, shall be carried out on the site between 10.00pm and 7.00am.

**Reason**

In the interest of the amenity of the area.

**Condition**

7. That the hours of operation of the site for construction, repair or decommissioning of large marine related structures, permitted under Condition 1, and the arrangements for the lighting of the site during the hours of operation should be agreed in writing with North Ayrshire Council as Planning Authority prior to the commencement of any further work at the site.

**Reason**

To maintain control over the development in the interest of amenity.

Russell McCutcheon

Executive Director (Place)

For further information please contact Mr Iain Davies on 01294 324320.

## Appendix 1 – Location Plan

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