



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Committee

A Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 20 February 2019** at **14:00** to consider the undernoted business.

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

The accuracy of the Minutes of the meeting of the Committee held on 5 December 2018 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 1 of the Local Government (Scotland) Act 1973 (copy enclosed).

3 Garnock Valley

Submit reports on the following applications:

3.1 18/00968/PPM - Middleton Depot, Burnhouse

Manufacturing of soil from waste including treatment operations (copy enclosed).

3.2 18/01067/ALO - Dalziel House, Beith

Removal of Section 75 obligation attached to planning permission 07/01160/OPP to remove occupancy restriction (copy enclosed).

4 Master Planning Update

Receive a presentation on master planning.

5 Urgent Items

Any other items which the Chair considers to be urgent.

Planning Committee Sederunt

Tom Marshall (Chair)
Timothy Billings (Vice-Chair)
Robert Barr
Ian Clarkson
Robert Foster
Christina Larsen
Shaun Macaulay
Ellen McMaster
Ronnie McNicol
Donald Reid

Chair:

Apologies:

Attending:

Irvine, 5 December 2018 - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

Present

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

In Attendance

J. Miller, Senior Manager (Planning) (Economy and Communities); M. Barbour, Solicitor (Legal Services); and E. Gray, Committee Services Officer (Chief Executive's Service).

Also In Attendance

C. Briggs and C. Duff, (Friends of the Firth of Clyde), and D. Nairn (Fairlie Community Council) (representing the objectors); D. Coleman (Peel Ports) and C. Fleming (Envirocentre) (representing the applicants) (agenda item 3); B. Calderwood (Brodick Improvements Committee) and P. McMullen (Arran Community Council) (representing the objectors); S. Ainsley (Cohesion Consultant) and J. Metcalf (Abode Group) (representing the applicants) (agenda item 4.1).

Chair

Councillor Marshall in the Chair.

Apologies for Absence

Christina Larsen.

1. Chair's Remarks

The Chair welcomed Councillor Shaun Macaulay back to the Committee following a period of ill health. The sentiment was echoed by Committee members.

2. Declarations of Interest

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

Councillor Billings referred to historical interests as the owner of the Glenisle Hotel and Bistro, which was sold in 2017, and as a shareholder in Arran Hotels Ltd, which is currently being wound up. Due to the nature of the interests no declaration was made.

3. Minutes

The Minutes of the meeting of the Planning Committee held on 31 October 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Hunterston Construction Yard – SEPA Consultation Response

Submitted report by the Executive Director (Economy and Communities) on a consultation response on behalf of the Council as the Local Authority to SEPA with respect to an application for a Waste Management Licence (WML) at Hunterston Construction Yard, Fairlie.

The Chair advised that he had accepted a request from Friends of the Firth of Clyde to address the Committee in terms of their objections to the consultation response. Peel Ports, as the licence applicant, and SEPA were invited to respond to the objections raised. Peel Ports were in attendance. It was also noted that deputations have historically only been permitted in relation to planning applications however in this case, given the high level of public interest and in the interest of transparency, the Chair agreed to make an exception.

Ms Briggs, of Friends of the Firth of Clyde, addressed the Committee in support of their objections and circulated three documents in support of their oral submission: a brief outlining their grounds for objection and recommendations, a list of their representations, and a summary of the legal opinion by their senior counsel on the decision making processes by the statutory bodies.

A background was provided on the group who are made up of local residents and environmental experts, many of whom live in the area surrounding Hunterston Construction Yard and have done for a number of years. Concerns were raised around the complexity of the project; the lack of experience of Peel Ports and SEPA in dealing with this type of project; that all activities of the project will be sub-contracted; and that no information had been provided in the WML licence application on the risks associated with sub-contracting or who the sub-contractors may be. Ms Briggs highlighted that the site is bordered on three sides by Sites of Special Scientific Interest which would be at risk if contaminated by the toxins which would be handled at the site, as listed in the WML application. The Committee was asked to consider the request for an environmental impact assessment to be carried out.

Friends of the Firth of Clyde requested that the consultation response be amended to recommend that the WML be rejected. Failing that, changes should be made to the response to:-

- exclude the coal yard and jetty from the WML;
- recommend that all competent authorities reassess the original screening opinion;
- add a condition to tighten control over the removal of waste via road; and
- require the applicant to employ an independent Environmental Clerk of Works.

Mr Coleman, of Peel Ports, then addressed the Committee on behalf of the applicants in response to the objections raised. It was stated that due to the volume of information presented he did not intend to respond point-by-point but was happy to answer any questions the Committee had.

Members then asked questions of the objectors and applicant's representatives and received further information on the following:-

- work which had been undertaken by Friends of the Firth of Clyde, in conjunction with Police Scotland, to improve road safety in the village and the potential impact of removing waste from the Hunterston site via road would have;
- the types and quantities of waste which would be processed at the site and whether these were typically covered by a WML and the conversations between the applicant and SEPA to this effect; and
- the planning permissions which were granted in April 2018, whether these covered the coal yard and jetty area of the site, and the method of waste removal set out in those permissions.

The Senior Manager (Planning) then set out the terms of the committee report and summarised a letter which had been received from Councillors Hill and Murdoch stating their belief that SEPA, in the first instance should be asked to refuse the licence until either (a) the Working Plan is amended to remove any reference to the areas which are not currently consented (the coal yard and jetty) and all reference to transportation by road be similarly removed or (b) until after Peel has successfully obtained planning permission for the areas it intends to use and until after the transportation of these materials has been satisfactorily agreed with both the Council and the Trunk Roads Authority.

The Senior Manager (Planning) also noted and circulated the terms of reference for the Hunterston Marine Yard Liaison Committee as set out in Condition 8 of planning permission 17/01273/PP which had been submitted by Peel Ports.

Members asked questions and were provided with further information on:-

- the reason for the delay in the set up of the Hunterston Marine Yard Liaison Committee and the amount of time and effort which might have been saved had this been done earlier;
- the possibility of strengthening the wording of the consultation response and the presence of planning conditions which are already in place which may ease some of the concerns raised;
- the amount of waste which would be removed via road and if this amount is different to what the Committee were originally led to believe; and
- the requests made by Friends of the Firth of the Clyde and how these are covered in the draft consultation response.

Councillor McNicol, seconded by Councillor Clarkson, moved that the Committee agree to approve the draft consultation response set out in Appendix 1 to the committee report.

As an amendment, Councillor Barr, seconded by Councillor Billings, moved that, in response to SEPA's consultation, an objection be lodged to the granting of a WML on the grounds raised by Friends of the Firth of Clyde.

On a division, there voted for the amendment two and for the motion seven and the motion was declared carried.

Accordingly, the Committee agree to approve the draft consultation response set out in Appendix 1 to the report.

In terms of Standing Order 5.7, the Chair agreed that the meeting be adjourned at 2.50 p.m. for a short comfort break. The meeting reconvened at 2.55 p.m. with the same Members and officers present and in attendance.

5. 18/00419/PP: McLaren Hotel, Brodick, Isle of Arran

AbodeGroup have applied for planning permission for the demolition of an existing hotel and the erection of a new hotel at the McLaren Hotel, Brodick, Isle of Arran. 23 letters of objection and one letter of support were received in response to the original submission and a further 13 letters of objection were received in response to the applicant's amended submissions, and were summarised in the report along with a summary of the officer's responses.

Mr Calderwood, of Brodick Improvements Committee, and Mr McMullen of, Arran Community Council, addressed the Committee in support of their objections.

Referring to the site in question, Mr Calderwood encouraged development of this prime location due to the state of disrepair which the existing building has fallen into and the eyesore that it has become to residents and visitors. Of the proposed development, concerns were raised around the scale of the proposal which would dominate the frontage and would be more suited to an urban setting, not an island village. He said there was a fear among locals that a development on this scale would result in pressure on local services, businesses and roads, some of which are already struggling to cope with demand. The lack of constructive community engagement was highlighted along with the general lack of regard to the local needs. There was also concerns that the plans do not include adequate staff accommodation or disabled and general parking, and that no plans for noise, dust or traffic management had been proposed for either the construction or operation phases.

Mr Calderwood requested that the Committee refuse the application and, failing that, that conditions be attached to the planning permission requiring a noise impact statement, details on parking and detailed plans are provided prior to the commencement of construction.

Mr McMullen provided details of how Arran Community Council operates, encompassing the views of the entire island, not just Brodick, when considering planning consultations and how the work closely with groups including the Brodick Improvement Committee. He spoke of the Community Council's initial delight when they were informed that a proposal to develop the site had been received and the contrasting opinion that was formed when the plans were revealed. After carefully considering the plans, they felt it was in conflict with sub-section (d) of Policy TOU1 of the Local Development Plan as they were not of a scale and character which enhances the local landscape or amenity. It was suggested that, while the proposal might not seem large on the mainland, in an island village it would be far too big and that a smaller development of around 27 rooms would be much more suited. Mr McMullen

asked that when determining the application the Committee consider if it complied with Policy TOU1 and if there was any doubt, that the application be refused.

Mr Ainsley, of Cohesion Consult, then addressed the Committee on behalf of the applicants in response to the objections raised.

Mr Ainsley began by welcoming the officer's recommendation to approve the application and highlighted that no objections had been received from statutory consultees. A presentation was given which highlighted the support received from Visit Scotland and the economic benefits which would accompany the development through additional visitors. Mr Ainsley took the Committee through a number of slides which gave details on the existing site and addressed a number of the concerns raised by the objectors. It was stated that the application complies with the LDP policy, Brodick Design Framework, Coastal Design Guidance and Tourism Action Plan in terms of size, scale and massing and that the building footprint had been reduced following a consultation with locals. The Committee was advised that a smaller hotel would not be commercially viable. It was highlighted that while a restaurant had been removed from the proposed hotel would contain a café/bar and rooms would offer self-catering facilities. It was noted that SEPA and NAC Flooding had no objections and that the design complies with the recommendations of a fire risk assessment which was carried out. Finally, Mr Ainsley recommended that the Committee take the officer's recommendation and grant the application to allow the regeneration of an eyesore that would create jobs and provide opportunities for the community.

The objectors then had an opportunity to make brief final comments. Mr Calderwood raised the fact that Arran Community Council are a statutory planning consultee and that their objections had been lodged and that while Visit Scotland may support the application, Visit Arran do not, and the applicant was being selective with the information they provided. Mr McMullen stated that the artist's impression displayed was not to scale and that Arran Community Council are not opposed to there being a hotel on this site, just not a hotel of this scale.

Members then asked questions of the objectors and applicant's representatives in respect of parking spaces for the proposed development, the decision to remove the restaurant from the proposal, and the reasons behind choosing Arran as the location for this development.

The Senior Manager (Planning) then outlined the terms of the planning report and summarised a consultation response from Arran Community Council which, due to typing error, had not been received in time to be included in the report.

Members had the opportunity to ask further questions and received clarification on the following:-

- how the waste created from the demolition of the existing building would be used and the common practice of using this type of to form the foundations of new development;
- the self-catering facilities in the room, whether this would allow for long term leases, and the requirement for a change of use application to permit this;

- why there had been a lack of consultation with locals and understanding of what type of development the island required, namely domestic flatted properties;
- the appropriateness of the design for a site in this location; and
- the significance of the commercial model used and the impact that this has had on the design which has been chosen.

Councillor Clarkson, seconded by Councillor McNicol, moved that the Committee approve the application subject to the conditions set out in the report.

As an amendment, Councillor Billings, seconded by Councillor McMaster, moved that the Committee refuse the application on the grounds that it does not comply with the Coastal Design Guidance.

On a division, there voted for the amendment four, and for the motion five and the motion was declared carried.

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

1. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority:
 - i) Details and samples of the proposed external finishes;
 - ii) Details of all external lighting;
 - iii) Details of the proposed bin storage; and
 - iv) Details of the proposed cycle parking spaces and storage (including number, location and design).

The details, which may be approved, shall be implemented in full to the satisfaction of North Ayrshire Council as Planning Authority. The approved cycle parking and storage shall be installed prior to the coming into use of the hotel accommodation, hereby approved, and thereafter retained.

2. That the flood management measures recommended in the Flood Risk Assessment by Kaya Consulting Limited dated July 2016 shall be fully implemented and no development shall take place until information has been submitted for the written approval of North Ayrshire Council as Planning Authority in relation to flood risk, specifically:
 - (i) Site levels which ensure the site is raised above the 200 year sea level (i.e. 3.62 m AOD) and designed to shed water away from any buildings and direct any potential surface water entering the site from the south away from the buildings without increasing the risk of flooding to others;
 - (ii) Details of an overland flow path along the western boundary of the site which is at least 1 metre wide and directs flows north towards the A841;
 - (iii) Confirmation that the finished floor levels of the main building shall be no less than 4.52m AOD; and,
 - (iv) A programme for the implementation of the flood management measures, all to the satisfaction of North Ayrshire Council as Planning Authority. The details which may be agreed shall be implemented in compliance with the programme in part (iv) and maintained in perpetuity to the satisfaction of North Ayrshire Council as Planning Authority.

3. That prior to the completion of the development the parking, as outlined in approved drawing 268-03C, shall be completed in full and operational prior to the coming into use of the hotel accommodation, hereby approved, and thereafter retained. For the avoidance of doubt the hotel shall be limited to 88 rooms for rental and at least 5 staff accommodation rooms.
4. That no development shall take place until there has been submitted to and approved by North Ayrshire Council as Planning Authority a scheme of landscaping, which shall include details of species, planting densities, soil treatment and aftercare and shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of the development.
5. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.
6. That the first 5 metres of the access, measured from the heel of the footway shall be hard surfaced in order to prevent deleterious material being carried onto the carriageway and designed in such a way that no surface water shall issue from the access onto the carriageway.

Councillor Foster left the meeting at this point.

6. 18/00917/PP - Site To North West Of Chapelton Mains, West Kilbride

Hope Homes (Scotland) Ltd. have applied for planning permission for phase five of their residential development consisting of 25 detached dwelling houses to the north west of Chapelton Mains, West Kilbride. No representations were received.

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

1. That the flood management measures recommended in the Flood Risk Assessment by Kaya Consulting Limited dated December 2016 shall be fully implemented and no development shall take place until information has been submitted for the written approval of North Ayrshire Council as Planning Authority in relation to flood risk, specifically:
 - (i) Details of remediation works and arrangement of ground levels to ensure that surface water runoff reaching the site is intercepted along the eastern boundary and routed around the site and provide an overland flow pathway should the interception measures block during an extreme event;
 - (ii) Proposals for an appropriate inspection and management regime to be put in place with regard to the proposed cut of drain;

- (iii) Details of an emergency flow pathway through the site in the event of blockage of the site drainage system, or rainfall events in excess of design conditions. The flow pathways should route surface water through the site without flooding properties or increasing flood risk to neighbouring properties;
 - (iv) A programme for the implementation of the flood management measures, all to the satisfaction of North Ayrshire Council as Planning Authority.
2. That no development shall take place until there has been submitted to and approved by North Ayrshire Council as Planning Authority a scheme of landscaping, which shall include details of species, planting densities, soil treatment and aftercare and shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of the development.
3. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.
- 7. Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: 6 Kames Bay, Millport, Isle Of Cumbrae KA28 0EA**

Submitted a report by the Executive Director (Economy and Communities) proposing that a Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997 is served requiring that a fence which has been erected without planning permission be removed and the original stone wall be reinstated.

The Senior Manager (Planning) informed Members of a letter which had been received from the owner's solicitor which proposed replacing the panel fence with hedging in spring 2019. Details of the proposed boundary measures would be required.

The Committee unanimously agreed to (a) defer enforcement action for six months subject to a site inspection by officers; and (b) request that an application is made for planning permission for the retrospective removal of the stone wall and replacement with hedging.

8. Urgent Items

The Senior Manager (Planning) informed members of a number of site visits which had been scheduled to take place on 11 February 2019, namely to the Hope Homes development in West Kilbride, Clyde Port in Fairlie, and Largs Academy.

Noted.

The meeting ended at 4.05 p.m.

NORTH AYRSHIRE COUNCIL

20th February 2019

Planning Committee

Locality	Garnock Valley
Reference	18/00968/PPM
Application Registered	8th November 2018
Decision Due	8th March 2019
Ward	Dalry And West Kilbride

Recommendation	Approved subject to Conditions
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Location	Middleton Depot Lochlibo Road Burnhouse Beith Ayrshire KA15 1LL
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Applicant	William Tracey Limited
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Proposal	Manufacturing of soil from waste including treatment operations
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1. Description

The site is a former quarry with the quarry cut having been restored under planning permission granted in 2002 (ref: 00/00500/PP). That permission allowed the disposal of inert waste and the establishment of an associated waste composting facility. The permission was varied in 2006 (ref: 05/00537/PP) to increase the landfill level and in 2014 (ref: 14/00639/PP) to update the restoration scheme and extend the life time of the operations by 3 years.

The restoration works ceased and planning permission is sought to retain the use of the site for the manufacture of soil from waste including treatment operations. The manufacture of soil comprises the recycling of a variety of non-hazardous and inert waste streams into restoration materials. The type of material is controlled by SEPA through the licensing regime. However, typical materials include construction/demolition rubble which is crushed to extract soil and aggregate. That soil is then mixed with other material such as ash from biomass boilers, compost and/or sludge from industrial processes. The mixed material creates a soil richer in nutrients. It is anticipated that up to 100,000 tonnes of material will be processed through the site per annum.

The machinery involved includes crushing/sorting plant, which sorts the aggregates from the soil contained within the construction/demolition rubble. The soil is formed using mobile digger vehicles. The diggers mix the various ingredients together. The mixed material is then left for a period of time, such as a week, before it is ready as nutrient rich soil.

The site is approx. 6.6 hectares in area. It is aligned north-west/south-east with access from the A736 at the south-eastern end. The workshop and offices are within existing buildings at the south-eastern end with the area where soil manufacturing takes place being some 350m distant at the north-western end. This is accessed by an existing concrete access road.

Planning permission was also granted in 2010 (ref: 09/00873/PP) for the installation of an in-vessel composting plant to process approx. 24,500 tonnes per annum of combined green and food waste. This permission was not implemented and has now lapsed.

The application site is within the Countryside as identified within the Adopted Local Development Plan (LDP). The LDP maps also identify the site as a waste management installation. The proposal requires to be assessed against Policy PI7: Waste Management and the General Policy of the LDP.

The applicant also carried out a Pre-Application Consultation in accordance with the requirements for a planning application classified as 'major.' The applicant publicised the proposal and held a public event. No representations were received. A report of this process has been submitted by the applicant.

Relevant Development Plan Policies

General Policy GENERAL POLICY

(a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.
- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.
- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.
- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas. Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.
- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.
- Design should have regard to the need to reduce carbon emissions within new buildings.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

(c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

(d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

(e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

(f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering, health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services, facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

POLICY PI 7: WASTE MANAGEMENT

General

1. Development of waste management installations, including any activity ancillary to any

industrial process, shall only accord with the LDP where:

(a) the proposal accords with the principles of the Zero Waste Plan (ZWP) and makes a positive contribution to the provision of a network of waste management installations; AND

(b) the proposal meets an identified need and reflects the proximity principle; AND

(c) the location offers a good standard of accessibility; AND

(d) the proposal provides a sufficient landscape buffer and screening, where

appropriate; AND

(e) the proposal is located in close proximity to an existing waste management installation and/or within an industrial allocation unless it can be demonstrated that there is an overriding site specific locational need or benefit to locate elsewhere.

Proposals must also be compatible with surrounding development and the underlying allocation where this is not industrial; AND

(f) the proposal demonstrates satisfactory mitigation measures for any unacceptable impacts arising from the development with respect to air emissions, noise, odour, dust, litter, vermin, insects, birds, visual impact, traffic, natural or built heritage, leachate, operational hours, proximity to water sources or cumulative impacts.

Waste Processing

2. Development involving the transfer, sorting, handling, processing, recycling or composting of waste shall only accord with the LDP where it accords with the general provisions at 1. (where applicable) and where the proposal seeks to minimise the residual waste material arising from the process.

Waste Recovery and/or Disposal

3. Development involving the recovery or disposal of waste shall only accord with the LDP where it accords with the general provisions at 1. (where applicable) and:

(a) the proposal will positively contribute to meeting waste management targets set by EU Directives and/or the Scottish Government; AND

(b) the proposal complies with any restrictions on the amount of waste treated by recovery and disposal as may be nationally prescribed; AND

(c) consultation with West of Scotland Archaeology Service has taken place where the proposal involves landfill or landraising; AND

(d) the potential for heat and/or electricity generation has been fully explored and provided where viable (including the potential for local or district heating schemes);

AND

(e) the proposal includes, where appropriate, an agreed after care and restoration plan of at least five years duration, with a restoration bond if necessary, to secure beneficial reinstatement.

Other Development Proposals

4. Applications for other types of development which constitute "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

5. All development proposals will require to take satisfactory cognisance of waste collection requirements at the design stage. Such requirements may include waste storage, kerbside collection and small scale recycling facilities.

2. Consultations and Representations

Statutory neighbour notification was carried out and the application advertised in the local press. One representation was received raising concern related to land ownership, which would be a matter for the relevant interested parties. The applicant was advised of the representation and the land ownership section of the application form was amended.

Consultations

SEPA - No objection. SEPA has found the transfer station, WML/W/0022028, to be well-run, with an excellent CAS score for a number of years. This site has produced materials/soils for the restoration of the adjacent landfill. The Landfill Unit has confirmed that this has also been carried out satisfactorily.

Response: Noted

NAC Environmental Health - No objections. The facility should continue to be operated in accordance with SEPA's requirements.

Response: Noted

NAC Active Travel and Transportation - No objections.

Response: Noted. A condition could be attached to any permission requiring no loose material is carried out onto the A736 and any that is brought on is removed by the operator.

Beith Community Council - No response.

3. Analysis

The Scottish Government's 'Zero Waste Plan,' introduces a long term target of 70% recycling for all waste by 2025. It also states that legislative changes will be made to ensure no resources with a value for reuse or recycling are sent to landfill by 2020. By 2025 the target is that no more than 5% of all waste will be sent to landfill. The plan states that a zero waste Scotland will contribute to sustainable economic growth by seizing the economic and environmental business and job opportunities of a zero waste approach. The Zero Waste Plan clarifies that recycling of bio-waste, e.g. through composting or soil manufacture, will be classed as recycling when the product is used on land for the production of growing media.

Therefore the type and amount of waste which can be sent to landfill will decrease. Facilities to recycle waste which cannot be otherwise reused are required to support the Zero Waste Plan. This facility will allow the recycling of waste into soil. The soil can be used on sites where vegetation growth may not otherwise be possible. Such sites can include mineral extraction sites where that use has ceased. Soils manufactured at the site have been used to restore the adjacent former quarry cut and are being used to restore the former Trearne Quarry, also within North Ayrshire. The site provides 27 jobs. The retention of the site for soil manufacture therefore accords in principle with the Scottish Government plan for reducing waste.

Policy PI7: Waste Management of the LDP states that development of waste management installations shall only accord with the LDP where certain criteria is met. The site is identified

by the LDP as a waste management site and it is considered the relevant parts of the policy are: 1(a) the proposal accords with the principles of the Zero Waste Plan; 1(d) the proposal provides a sufficient landscape buffer and screening; where appropriate; 1(f) the proposal demonstrates satisfactory mitigation measures for any unacceptable impact arising from the development with respect to air emissions, noise, odour, dust, litter, vermin, insects, birds, visual impact, traffic, natural or built heritage, leachate, operational hours, proximity to water courses or cumulative impacts; PI7 2 the recycling or composting of waste shall only accord with the LDP where it accords with the general provisions as PI7 1 (where applicable) and where the proposal seeks to minimise the residual waste arising from the process.

In terms of the General Policy (b) Amenity, (c) landscape character and (d) access are considered to be relevant. Criterion (b) states that development should have regard to the character of the area in which it is located. Regard should be given to the impact on amenity of factors including noise, smell, fumes, environmental pollution and disturbance by traffic. Development should avoid significant adverse impact on biodiversity and upon natural heritage resources. Criterion (c) states that development should seek to protect the landscape character from insensitive development. Criterion (d) states that access on foot, cycle, by public transport and other forms of transport should be integral part of any significant development.

With respect to PI7 1(a) it is considered that the proposal accords with the principles of the Zero Waste Plan as outlined above.

The site is surrounded by Countryside to all sides. The site and particularly the working area is not readily visible in long views from any public vantage point. The soil manufacture process takes place at the western end of the site on an existing concrete slab. The existing workshop and office buildings are at the eastern end. These buildings and the car park are visible from the A736 road but the working area is not. To the north and east of the working area is the restored quarry cut. This restoration has effectively formed a bund around the working area, screening the working area further. To the south of the working area is Old Mill Quarry.

This site has permission for lime extraction until 30th April 2022 (ref: 98/00057/DCMS). The nearest residential properties to the south are some 560m beyond at Middleton Farm. Given the distance and the position of Old Mill Quarry, it is also considered that there is a sufficient landscape buffer to the south. Between the working area and the western boundary of the site are drainage ponds. To the west at a distance of some 220m is Blaelohead Farm. The farm sits some 415m from the working area with the agricultural buildings closest to the site.

The residential properties are aligned to face away from the site and it is again considered that there is a sufficient landscape buffer from the nearest residential property. A condition could be added to any permission requiring the soil manufacturing process to be carried out on the concrete slab only to ensure the working processes are suitably located. A condition could also be attached to any permission requiring any plant used in the process to be removed in the event of the use ceasing. The proposal therefore accords with PI7 1(d) and criterion (c) of the General Policy.

In respect of PI7 1(f) the site is operational and its use for soil manufacture has been ongoing since 2002. Environmental Health and SEPA have no objection to its continuation. SEPA has advised that the facility has been rated excellent under the methodology. The SEPA licensing regime will control the operation of the site to mitigate against environmental impacts. There have been no complaints to Planning about the site, with

Planning Officers having monitored the site as the time period for restoring the quarry cut came to an end.

Active Travel and Transport has no objection in respect of traffic. The site operates a wheel wash for vehicles and a condition could be attached to any permission to ensure no loose material is brought onto the road. Any brought onto the road could be required to be removed. The site is accessed from a main road and on a bus route. However, given the type of use it is not considered that specific foot or cycle access is necessary or appropriate. The proposal is therefore also considered to accord with PI7 1(f) and criteria (b) and (d) of the General Policy.

As outlined above, the proposal is considered to accord with the relevant parts of PI7 1. The proposal is for a recycling use. There is minimal residual waste with waste on site producing both soil and aggregate. The proposal therefore also accords with PI7 2.

In view of the foregoing, the proposals accord with the relevant LDP policies and planning permission can therefore be granted.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That only non-hazardous and inert waste, as defined by SEPA, be brought to the site for the purposes of the permitted waste treatment and soil manufacture operations.

Reason

In terms of the special justification for the continuation of the process on the site and to ensure any change of waste, away from non-hazardous and inert, can be considered by North Ayrshire Council, as Planning Authority.

Condition

2. That the permitted waste treatment and soil manufacture operations shall take place only on the areas identified on 'Existing Site Layout' drawing 120084/PA18/03 as Existing Concrete Slab.

Reason

To ensure the soil manufacturing process takes place in an appropriate part of the site in the interest of ensuring an appropriate landscape buffer and level of screening.

Condition

3. That the operations at the site shall take place only between the following times:-

Mondays to Fridays: 0700hrs - 1900hrs (except Bank Holidays)
Saturdays: 0700hrs - 1300hrs

and at all other times, including all day on Sundays, no operations shall be carried out except routine maintenance tasks, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To protect nearby noise sensitive properties from undue noise disturbance on Sundays, Bank Holidays and late at night.

Condition

4. That the operator shall seek to ensure that no loose material is carried out onto the A736 public road and any which is deposited shall be removed to the satisfaction of North Ayrshire Council, as Roads Authority.

Reason

To prevent loose material from the site being brought onto the public road and to ensure any brought on is removed.

Condition

5. In the event of the permitted waste treatment and soil manufacture operations ceasing for a consecutive period of at least 6 months, any plant brought onto the site for the purposes of waste treatment and soil manufacture operations will be removed within 3 months of North Ayrshire Council, as Planning Authority, giving notification that the use has ceased.

Reason

To ensure redundant plant is removed in recognition of the location within the countryside and in the interests of the visual amenity of the area.

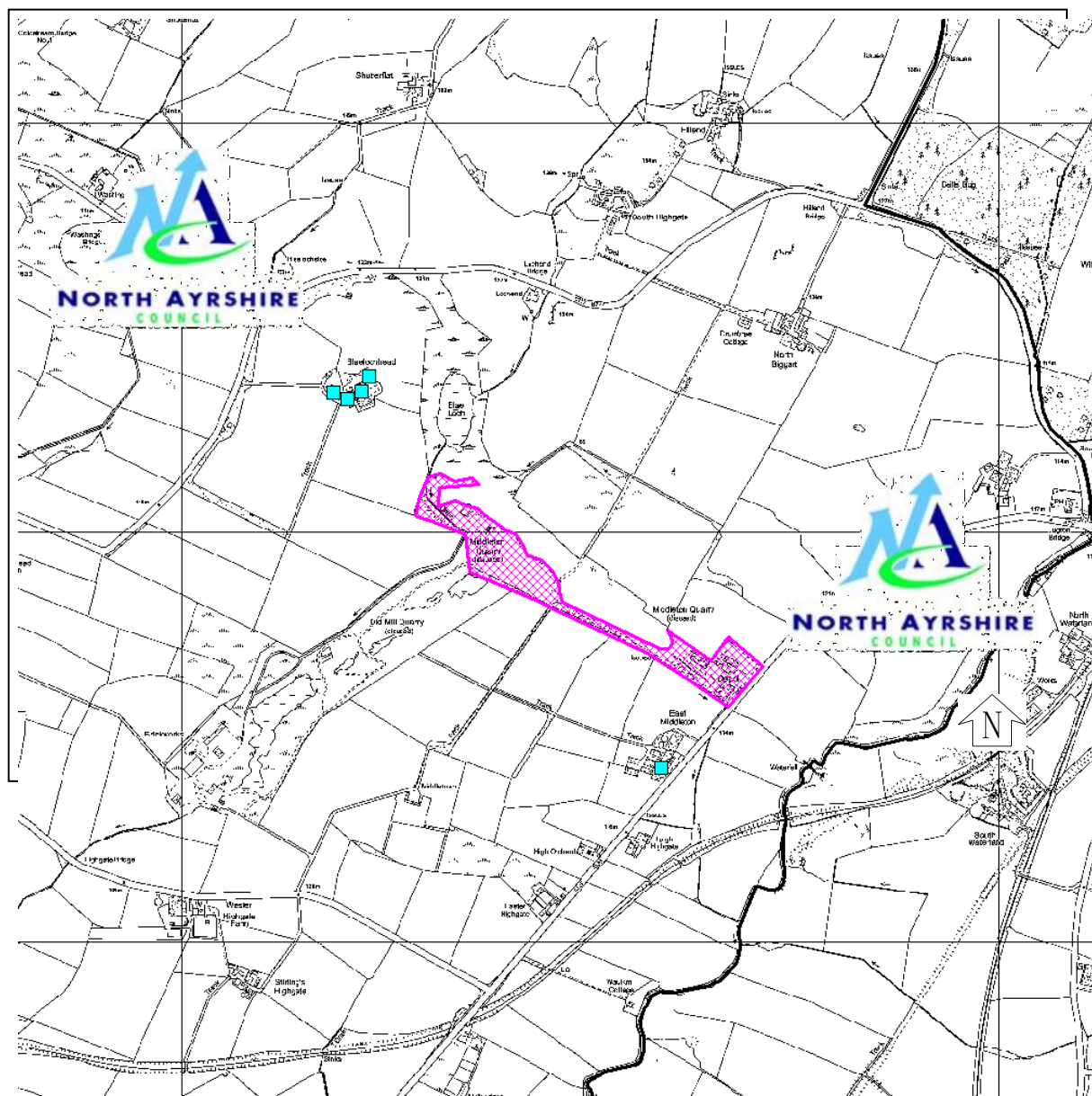


Karen Yeomans
Executive Director
Economy & Communities

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

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

20th February 2019

Planning Committee

Locality	Garnock Valley
Reference	18/01067/ALO
Application Registered	5th December 2018
Decision Due	5th February 2019
Ward	Kilbirnie And Beith

Recommendation	Approved with no Conditions
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Location	Dalziel House Beith Ayrshire KA15 2JN
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Applicant	Mr D Young
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Proposal	Removal of Section 75 obligation attached to planning permission 07/01160/OPP to remove occupancy restriction
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1. Description

An application has been made in terms of Section 75A of the Town and Country Planning (Scotland) Act 1997 to remove a legal obligation that was entered in to under Section 75 of the Town and Country Planning (Scotland) Act 1997. The obligation was in relation to an occupancy restriction.

On the 25th March 2008, the Council's Planning Committee agreed to grant planning permission (in principle) for the erection of a dwellinghouse (ref. 07/01160/OPP). This permission was subsequently issued on the 23rd June 2008 following the signing of a Section 75 legal obligation, the purpose of which was to limit the occupancy of the new house to a person solely, mainly or last employed in the locality in agriculture or forestry, or to a dependent, widow or widower of such a person.

An application to discharge the matters specified in the planning permission in principle was subsequently granted on 19th August 2011 (ref. 11/00415/MS). An amendment to the house design was also permitted 13th September 2013 (ref: 13/00427/PP). Thereafter, the house was built along with an associated agricultural shed.

The detached one and a half storey dwellinghouse is sited to the northeast of Beith, on the southern side of the access road between Clerksbridge Roundabout on the A737 and Brownmuir Farm, approx. 900m east of the A737 and close to the boundary with Renfrewshire.

The 2008 planning application was accompanied by a labour report, which stated that the applicant worked in agriculture and had been a tenant farmer for many years. However, that farmhouse was sold for development. The applicant retained land in his own ownership and a herd of cattle. The house was held to be required to allow the applicant to continue the agricultural use of the land in his ownership.

The current applicant is the son of the original applicant. A supporting statement has been submitted with this application stating he has taken over the running of the farm. The applicant makes this application to support the plans to diversify the farm business and make it sustainable for the future. The S.75 obligation prevents borrowing against the house to raise money for investment in the farm. The applicant is specifically seeking finance to improve the agricultural shed which remains open-sided.

The applicant also makes reference to the Scottish Government Chief Planner's letter to planning authorities of 4th November 2011 in which he stated that "the Scottish Government believes that occupancy restrictions are rarely appropriate and should generally be avoided." This is reiterated in Scottish Government Planning Circular 3/2012. The advice continues that occupancy restrictions should only be used where there is a potential for adverse impacts on road safety, landscape quality, natural heritage etc. and it is submitted that there would be no such impacts at Dalziel House.

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

Relevant Development Plan Policies

ENV2

POLICY ENV 2: HOUSING DEVELOPMENT IN THE COUNTRYSIDE

Single houses in rural areas

Proposals for a single new stand-alone house within its own established setting in a rural area shall not accord with the LDP unless it can be demonstrated that:

- (a) the proposal demonstrates outstanding quality of design; AND
- (b) is distinctive and responsive to its setting, making a positive contribution to the locality of the area; AND
- (c) the proposal integrates with, complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable; AND
- (d) is located a sufficient distance from a village, existing grouping, building or settlement

to ensure that the development is considered as part of an established rural landscape;
AND

(e) account has been taken of the possibility of converting, rehabilitating or replacing an existing building in the countryside or of locating a new building in a brownfield location;
AND

(f) the development is not proposed in an area of 'sensitive countryside' (see glossary), is not of a suburban character and takes cognisance of the Rural Design Guidance; AND

(g) the proposal has been closely scrutinised and positively endorsed by a design review (internal to the Council) and/or Architecture and Design Scotland.

Small scale growth of existing rural housing groups

Proposals for development in rural areas not defined in the LDP as a settlement or village shall accord with the LDP subject to satisfying the following criteria:

(a) the proposal constitutes a small-scale, sympathetic addition to an existing well-defined nucleated group of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Expansion of such a group will be limited to 50% of dwellings existing in that group as of 1 January 2005 up to a maximum of four new housing units (rounded down where applicable); AND

(b) the proposal is not suburban in character and takes cognisance of the approved Rural Design Guidance; AND

(c) any individual proposal does not prejudice a future development opportunity; AND

(d) the proposal complies with relevant Roads Guidelines.

(e) the proposal is not located within an area of 'sensitive countryside' (see glossary).

The sensitive infilling of any available gap sites consolidating existing groups will be particularly encouraged.

Housing for workers engaged in a rural business

Proposals for housing for workers engaged in an appropriate rural business (such as agriculture, forestry, or other operations provided for under Policy ENV 1) shall accord with the LDP subject to the following criteria:

1. The dwelling is for a farmer who owns and operates a viable agricultural holding full time which has no farmhouse at present; OR

2. A farmer is the owner and occupier of an agricultural holding and proposes to erect a dwelling for a family member in full time employment on the farm and who intends to take over the farm in time; OR

3. A genuine operational need for a worker to live on site in pursuance of an established rural business has been demonstrated; AND

4. All proposals will also be required to demonstrate that:

(a) accommodation cannot be reasonably provided by another existing dwelling on site or in the area (including by any buildings after re-use, replacement, conversion or rehabilitation at reasonable cost) or within existing rural housing groups suitable for expansion under the other provisions of this policy;

(b) there are no existing planning consents (not time expired) for residential developments which have not commenced and would provide a suitable accommodation arrangement;

(c) the siting, design and external appearance of the new development (including any conversion) complements any existing building group on the site;

(d) the scale of the housing provided is commensurate with the need of the person or persons who will occupy it; and

(e) cognisance has been taken of the Council's Rural Design Guidance.

Note:

In the case of housing for a worker engaged in a rural business, where an operational need requires to be demonstrated, this should take the form of an independent report/business plan prepared by a suitably qualified professional. This justification should demonstrate the ongoing viability of the business and provide reasons why residential accommodation located on site is essential to the functional needs of the business, and is not merely for convenience.

For housing justified as 'housing for workers engaged in a rural business', occupation of such shall be limited to persons employed (and any dependents) in agriculture, forestry or other rural activities allowed under Policy ENV 1 and this will be secured via planning condition and/or legal agreement as appropriate.

All proposals will require to be supported by a design statement, inclusive of landscaping proposals particularly in regard to urban fringe sites, to assist the Council to fully assess the proposal.

The submission of an area landscape capacity evaluation will normally be required for all development in the countryside.

It will be a condition that the development be commenced within two years to prevent land banking.

In the case of single houses in rural areas, permitted development rights may be removed in recognition of the high standard of design required from the development.

No applications for planning in principle shall be accepted for development. Pre-application discussions are encouraged prior to the submission of a full application.

Provision of temporary accommodation for an agreed period in pursuance of a viable rural business, requiring an operational need for a worker to live on-site, will be in accordance with the Plan subject to compliance with other policies.

2. Consultations and Representations

Consultations were not required, the statutory neighbour notification procedures were followed and the application did not require to be advertised. No objections were received.

Relevant Planning History

07/01160/OPP for Erection of detached dwelling house Approved subject to Conditions on 23.06.2008.

11/00415/MSC Erection of detached dwellinghouse (07/01160/OPP) Approved subject to Conditions on 19.08.2011.

13/00427/PP Amendment to house type on planning permission N/11/00415/MSC to form 2 dormers to front elevation, additional bay window and reduction in size of lay-by Approved subject to Conditions on 13.09.2013.

3. Analysis

The proposal requires to be considered in terms of the adopted Local Development Plan policy ENV2 and any other material planning considerations. Policy ENV 2 relates to the circumstances under which new housing in the countryside can be justified. It does not specifically address a change of circumstances such as has been presented in this case. The application seeks to discharge the occupancy restriction attached to the Section 75 obligation and includes a supporting statement which offers a justification for the removal of this restriction.

In terms of the removal of occupancy conditions, the following points can be considered to be material considerations:

- (i) since it was built around 5 years ago, the house has been occupied in association with the rural business against which it was justified;
- (ii) the associated agricultural unit continues to be operated;
- (iii) the occupancy restriction has caused difficulty for the owner in achieving finance for his planned investment in the agricultural unit, since lenders advise that the house cannot be used as a security against borrowing;
- (iv) Scottish Government advice dating from 2011 indicates that little weight should now be afforded to the use of occupancy conditions for housing in the countryside. Instead, the planning considerations should focus on siting, design, environmental impacts, access and so on.

Requests to remove such occupancy restrictions should normally take into consideration the following factors: the time passed since the original restriction was imposed; the change in circumstances given as justification; consideration of any risks associated with removal of the restriction; difficulties caused by retention of the restriction, e.g. mortgage borrowing; and that the house is suitably sited and designed and provides a reasonable level of residential amenity.

The farm is a family concern with its operation having been passed from father to son. The family originally lived as tenants in a nearby farm house which was sold by its owner. The family retained agricultural land and a herd of cattle. The house, the subject of this application, was permitted to allow the operator of this farming unit to live on site. The farm unit can therefore be seen to be a long standing business with the current arrangement having been in place for around ten years and although the house was erected less than five years ago, taken with the previous occupancy of the unit, it could be considered to be a sufficiently long period following the imposition of the occupancy restriction.

The supporting statement advises that the occupancy restriction restricts the potential to raise finance against the house, which limits the potential for diversification of and investment in the farm business. Whilst removal of the restriction may result in the house being occupied in isolation from the operation of the farm unit, planning law cannot compel an owner to work farmland in his or her ownership. Should the house be split from the farm unit in the future, any proposed additional residence associated with the farm unit would require planning permission which would be assessed on its own merits against the LDP policies.

In terms of siting and amenity, the house has been in occupation for several years and provides a reasonable level of residential amenity and outlook. It is at least 100m from the

next nearest residential property. It is also agreed that the Scottish Government's advice, in the form of the Chief Planner's letter, Circular 3/2012 and Scottish Planning Policy 2014, on the desirability of avoiding occupancy restrictions, other than to guard against identified impacts on road safety, amenity etc. is a material planning consideration.

Taking all of these factors into consideration, it is considered that there is no longer a requirement to retain the occupancy restriction. It is therefore recommended that the occupancy restriction be removed, and the associated Section 75 obligation be discharged.

4. Full Recommendation

Approved with no Conditions



Karen Yeomans
Executive Director
Economy & Communities

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

Appendix 1 – Location Plan

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