



Cunningham House,  
Irvine.

5 November 2015

## Planning Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunningham House, Irvine on **WEDNESDAY 11 NOVEMBER 2015** at **2.00 p.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

### 1. Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

### 2. Minutes (Page 5)

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

### 3. Ardrossan and Arran

Submit report on the following application:

#### **15/00514/PP: Burican Farm, Sliddery (Page 9)**

Modification to remove condition 2 of planning approval CH/76/727 relating to occupancy restriction (copy enclosed).

**4. Kilbirnie and Beith**

Submit report on the following application:

**15/00571/PP: Site to north of Ford Wood, Kilbirnie (Page 17)**

Erection of outbuilding and alterations to incomplete dwellinghouse to include discharge of Section 75 obligation relating to occupancy restriction (copy enclosed).

**5. Kilwinning**

Submit report on the following application:

**13/00038/PPPM: West Byrehill Industrial Estate, Byrehill Place, Kilwinning (Page 27)**

Demolition, erection of residential development with associated accesses, engineering operations, open space, landscaping and a neighbourhood centre (Classes 1, 2 & 3) (copy enclosed).

**6. Dalry & West Kilbride**

Submit report on the following application:

**15/00200/PPM: Blackshaw Farm, West Kilbride (Page 37)**

Erection of six wind turbines each with a maximum blade to a height of up to 125m and associated infrastructure including access tracks, hard standings, substation and control room, 80m meteorological masts, temporary construction of storage compound and borrow pits (copy enclosed).

**7. Tree Preservation Order, North of Glen Road, Fairlie (Page 63)**

Submit report by Chief Executive on the Tree Preservation Order in respect of the area of land North of Glen Road, Fairlie (copy enclosed).

**8. Urgent Items**

Any other items which the Chair considers to be urgent.

## **Planning Committee**

Sederunt:	Matthew Brown John Ferguson Robert Barr John Bell John Bruce Ian Clarkson Joe Cullinane Ronnie McNicol Tom Marshall Robert Steel	(Chair) (Vice-Chair)	Chair:
			Attending:
			Apologies:
			Meeting Ended:



Planning Committee  
21 October 2015

**Irvine, 21 October 2015** - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Matthew Brown, John Ferguson, John Bell, Ian Clarkson, Joe Cullinane, Tom Marshall, Ronnie McNicol and Robert Steel.

**In Attendance**

J. Miller, Senior Manager (Planning) (Economy and Communities); and A. Craig, Team Manager (Litigation) and A. Little, Committee Services Officer (Chief Executive's Service).

**Chair**

Councillor Brown in the Chair.

**Apologies for Absence**

Robert Barr and John Bruce.

**1. Declarations of Interest**

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

**2. Minutes**

The accuracy of the Minutes of the Committee held on 16 September 2015 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**2.1 15/00200/PPM: Blackshaw Farm, West Kilbride**

At its meeting on 16 September 2015, the Committee agreed the application for planning permission for the erection of six wind turbines and associated infrastructure on a site at Blackshaw Farm, West Kilbride, be continued to the next meeting.

The Committee was advised that a number of issues were still outstanding and that the application would be presented to the meeting on 11 November 2015 for consideration.

Noted.

### **3. Isle of Arran: 15/00467/PP: The Manse, Margnaheglish Road, Brodick**

The General Trustees' Secretary's Department Church Of Scotland have applied for the removal of condition 5 of planning permission CH/01/93/0256 to remove occupancy restriction relating to the Manse, Margnaheglish Road, Brodick. One representation had been received, as detailed in the report.

The Committee, having considered the terms of the representation, agreed to grant the application.

### **4. Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: land at 15-40 Station Drive, Springside**

Submitted report by Executive Director (Economy and Communities) on the proposal to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proper maintenance of land at the site of the former properties known as No. 15-40 Station Drive, Springside.

The land is situated at the eastern end of Station Drive, Springside. The buildings on the site have been demolished. The site is adjoined by residential properties to the west, a cycle path to the south and open country to the east and north. The condition of the land due to the accumulation of refuse and litter has a significant adverse impact on the amenity of the local area.

It had been recommended that planning permission be approved in 2010 for the development of the site for 35 houses, subject to the applicant entering into a Section 75 agreement to provide play facilities. The developer did not enter into an agreement, and in 2013 the application was refused. There have not been any subsequent applications for any development of the site.

The Council has received several complaints regarding the site. An inspection of the land on the 12 May 2015, revealed that refuse had been dumped on site and that there had been an accumulation of litter. The owner of the land, TJCR Developments Ltd, was requested in writing to clear the site and confirm their intentions within 21 days. No response was received. Further correspondence has been sent to the owner, but to date, there has been no response.

The Committee agreed, in the interest of the amenity of the area, to approve the serving of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 ("Wasteland Notice") in relation to the land at No. 15-40 Station Drive, Springside requiring steps to be taken to abate the adverse affect of the condition of the land.

## **5. Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997: Blairpark Farm, Dalry**

Submitted report by Executive Director (Economy and Communities) on the proposal to serve a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to a planning permission (ref: 11/00139/PP) in respect of Blairpark Farm, Dalry.

Planning permission was granted on 18 May 2011 (ref: 11/00139/PP) for the use of part of a vacant agricultural building, at Blairpark Farm, as a milk distribution business. The permission was granted subject to conditions. Condition 3, 4 and 5 of the permission required the implementation of a landscaping scheme, the widening of the access road and radii at the junction of the access road and the A760 and the implementation of visibility splays. The conditions were imposed in the interests of the amenity of the area and to meet the requirements of the Council as Roads Authority. These conditions have either not been partially or fully complied with and are found to be in breach.

The owner was advised by letter dated 3 September 2015 that formal enforcement action was being considered. No response was received. A site inspection on the 18 September 2015 revealed that the conditions had not been met.

The Committee agreed, in the interests of the amenity of the area and with respect to road safety and the requirements of the Council as Roads Authority, to issue a Breach of Condition Notice in respect of Blairpark Farm, Dalry requiring the following with regard to planning permission dated 18 May 2011 (ref: 11/00139/PP):

- (i) Carry out the approved landscaping scheme as required by Condition 3;
- (ii) Implement the required alterations to the junction, namely widen the first 15m of the access at the junction with the A760 to 6m in width and alter the radii of the junction to 6m as required by Condition 4; and
- (iii) Provide and maintain on land within the applicant's control, such that there is no obstruction to visibility above a height of 1.05metre measured above the adjacent carriageway level as required by Condition 5.

The meeting ended at 2.15 p.m.



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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 3**

Planning Committee

**11 November 2015**

Planning Area

**Isle of Arran**

Reference

**15/00514/PP**

Application

**22 September 2015**

Registered

Decision Due

**22 November 2015**

Ward

**Ardrossan and Arran**

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**Recommendation      Grant as per Appendix 1**

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**Location**                  Burican Farm  
Sliddery  
Isle of Arran  
KA27 8NY

**Applicant**                  William Tod  
Burican Farm  
Sliddery  
Isle of Arran  
KS27 8NY

**Proposal**                  Modification to remove condition 2 of planning approval CH/76/727 relating to occupancy restriction

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**1. Description**

The property is a modern detached bungalow situated on the east side of the Ross Road approximately 1.5 miles north of the junction with the C147 and approximately 2 miles due north of Lagg. Planning permission was granted for the erection of the dwellinghouse on 1st April 1977 (Ref no. CH/76/727). Condition 2 states:

"That the occupation of the dwelling shall be limited to a person employed or last employed, locally in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972 or a dependant of such a person residing with him (but including a widow or widower of such a person).

The applicant seeks planning permission to remove Condition 2 of the above planning permission.

Planning permission (reference N/08/00051/PP) for the modification of planning approval CH/76/727 to remove condition 2 to remove agricultural ties was refused on the 6th May 2008 for the following reason: "that the proposal would (i) be contrary to Policy ENV1 of the Adopted Isle of Arran Local Plan, in that the dwellinghouse is required for agricultural purposes and no grounds have been submitted by the applicant which would justify the removal of Condition 2 and (ii) establish an undesirable precedent for the removal of agricultural workers accommodation from the existing supply, which would create demand for further residential development in rural areas to the detriment of the character and appearance of the countryside."

A subsequent appeal (reference P/PPA/310/189) was dismissed on the 28th January 2009 as it was concluded that the removal of the condition would be contrary to development plan policy and that there are no material considerations that would justify an alternative view.

In support of the current planning application, during pre-application discussions in January 2015 and July 2015, the applicant confirmed that the land has not been farmed since 2013, due to the ill health of the applicant and the wish to move to a more populated area where there is easy access to facilities. The tie on the consent results in an unnecessary burden upon them in terms of the potential sale of their home. The land on which the client farmed was not under his ownership as the land was tenanted and the landlord is Arran Estates.

Since the permission was granted in 1977, there has been a decline in agriculture on Arran and the applicant considered that the land no longer requires the house for use by an agricultural tenant. From the previous application case officer report, it is acknowledged by the Arran Estate Trust that the land, if relinquished by the current tenant, is unlikely to be leased again as a separate farm unit and that the land could be farmed by adjoining/neighbouring farms without the need for the house to be retained for an agricultural worker.

Scottish Government guidance in relation to the use of such conditions has changed in recent years, and Circular 3/2012: Planning Obligations and Good Neighbour Agreements formalises the Governments advice on these matters. It states that "imposing restrictions on use are rarely appropriate and so should generally be avoided. They can be intrusive, resource-intensive, difficult to monitor and enforce and can introduce unnecessary burdens or constraints."

It is considered that whilst the condition has served its purpose, it is no longer necessary in terms of the ‘tests’ of Circular 4/1998, and that there is no longer a need for the house to be tied to an agricultural worker, due to the decline in agricultural work in the area. The removal of the condition would enable the property to be sold.

Dales Solicitors has confirmed that the agricultural tie has been in force since the 1st April 1977, therefore the condition has been in force for 38 years and has now served its purpose. The circumstances justifying the condition have now entirely altered, therefore it is considered that the condition is no longer appropriate and should be discharged.

The application site lies within an area of countryside as identified within the adopted Local Development Plan and is unaffected by any site specific policies or proposals therein. Policy ENV2 (Housing Development in the Countryside), indicates that for housing for workers engaged in a rural business), that there is a general presumption against development in the countryside which is not related to an appropriate rural business (such as agriculture, forestry or other operations provided for under Policy ENV1). Policy ENV2 indicates that any new housing in the countryside for workers engaged in a rural business requires justification that there is a genuine operational need for a worker to live on site in pursuance of an established rural business.

All development proposals require to be assessed against the relevant criteria of the General Policy of the LDP.

## **2. Consultations and Representations**

Neighbour notification was not required to be carried out, the application was advertised in the local press on the 2nd October 2015 and no objections/representations have been received.

## **3. Analysis**

This application relates to a request to remove an agricultural occupancy condition for a dwellinghouse which received planning permission in 1977.

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

- (a) the dwellinghouse has been in situ for over 37 years (the planning condition has been in force during this time), it has now served its purpose;
- (b) in terms of substantial change in circumstance since the time of the appeal decision in 2009, a justification for the removal of Condition 2 has been submitted and Scottish Government guidance in relation to the use of such conditions has changed in recent years;

(c) the submission indicates that with the decline in agriculture on Arran, the land no longer requires the house for use by an agricultural occupier. The farm land is owned by Arran Estate Trust and the Trust previously indicated in 2009, that the land, if relinquished by the current tenant, would be unlikely to be leased again as a separate farm unit and that the land in all probability would be amalgamated with adjoining farm land. Any change in that advice in the future, could be controlled through the need for a further application. As such, it is now contended that there is no need for the house to be retained for an agricultural worker.

In summary, it is recommended that the agricultural occupancy at Burican Farm has served its original purpose having been in situ for over 37 years.

Although no evidence has been submitted in respect of any attempts to dispose of the property on the open market with the occupancy restriction, for the reasons given above, it is recommended that the occupancy restriction, contained within Condition 2 of planning approval CH/76/727, is removed.

In terms of the General Policy of the LDP, it is considered that the proposal would offer an acceptable level of residential amenity. However in terms of siting and design, it is noted that the property occupies a prominent location adjacent to the Ross Road and the design is clearly suburban in character. Therefore whilst the siting and design would not comply with the current guidance, in particular the approved Rural Design Guide, for the reasons given above, it is considered that the application can be supported in these circumstances.

There are no other material considerations to address and accordingly planning permission can be approved.

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

See Appendix 1.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Cunningham House, Irvine  
23 October 2015

For further information please contact Ms J Hanna , on 01294 324330

## **APPENDIX 1**

### **RECOMMENDATION FOR PLANNING APPLICATION REF NO 15/00514/PP**

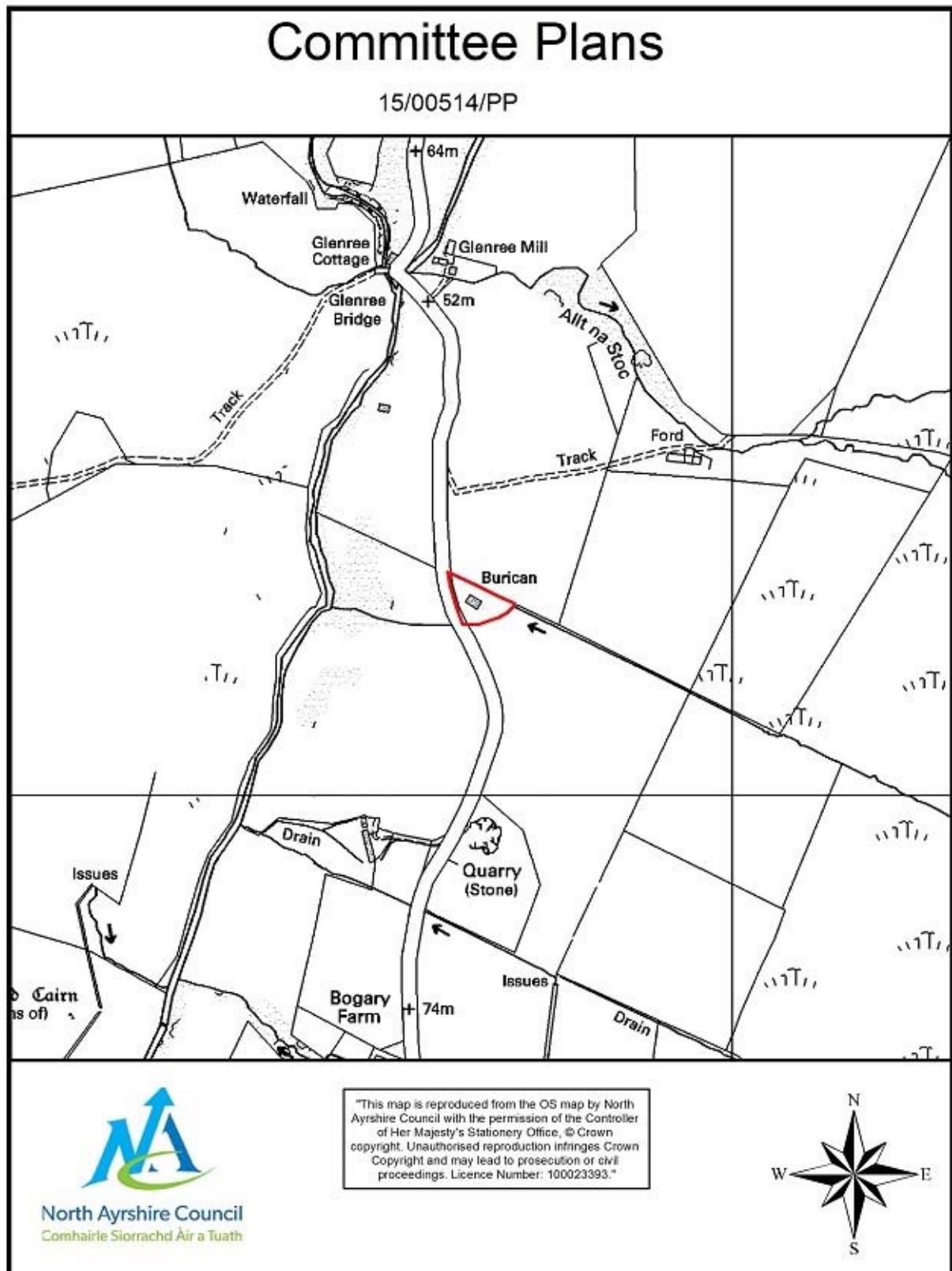
Grant (No conditions).

Reason(s) for approval:

1. The proposal complies with the relevant provisions of the Local Development Plan and there are no other material considerations that indicate otherwise.



## Appendix: Location Map





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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 4**

Planning Committee

**11 November 2015**

Planning Area

**Garnock Valley**

Reference

**15/00571/PP**

Application

**16th October 2015**

Registered

Decision Due

**16th December 2015**

Ward

**Kilbirnie and Beith**

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**Recommendation**      **Grant, with Conditions contained in Appendix 1, subject to no further significant representations being received prior to 18th November 2015.**

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**Location**      Site to north of Ford Wood, Kilbirnie

**Applicant**      Mr M Graham  
6 Auchenhove Crescent  
Kilbirnie  
KA25 7HB

**Proposal**      Erection of outbuilding and alterations to incomplete dwellinghouse to include discharge of Section 75 obligation relating to occupancy restriction

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**1. Description**

This report relates to an application for alterations to a partially built dwellinghouse, to erect an outbuilding within its curtilage and to remove an occupancy restriction under Section 75 of the Town and Country Planning (Scotland) Act 1997 (the Act). The restriction relates to agricultural occupancy. The application has been submitted following the decision of the original owner to place the property on the market.

The application proposes to introduce gables on the principle elevations which would be finished with grey coloured timber cladding laid in a horizontal pattern; introduce additional windows to maximise solar gain and natural light, all using grey coloured UPVC; reduce the width of soffits below the eaves and introduce additional roof lights. Where not clad in timber, the walls would be finished using a white roughcast.

Internally, the house would be re-designed to simplify the original floor layout with an 'open plan' arrangement. There would be a reception hall, three inter-linked public rooms, a games room, two bedrooms, study and bathrooms. Within the curtilage, a landscaping scheme comprising of native trees and low level shrubs would be provided to enhance the setting of the house and frame the views over the countryside from the principle front rooms. To the rear of the house, a proposed outbuilding, measuring 18m x 9m and finished with grey coloured vertical metal cladding, would be sited in the north east corner of the site. The outbuilding would be partially screened by existing mature trees and used for storing vehicles and other domestic items.

In terms of background, outline planning permission for a house on the site was granted on 6th February 2002 following an appeal to Scottish Ministers. The outline permission was subject to an agricultural occupancy condition. On 29<sup>th</sup> July 2005, detailed planning permission (ref. 04/00552/PP) for a large detached single storey dwellinghouse and agricultural building at Ladyland was approved subject to conditions and an occupancy restriction under a S75 legal obligation. The legal obligation had the same effect as the condition imposed on the outline planning permission, but had the effect of creating a real burden on the title of the land.

Construction work to build the house commenced during 2006, but the development was not completed. The health of the original developer has since deteriorated to an extent where there is no longer any prospect of him occupying the property.

A prospective purchaser has expressed an interest in buying the house, but his employment does not meet the criteria set out in the S75 obligation. The removal of the agricultural occupancy restriction would enable the incomplete house to be sold, mortgaged, completed (with modifications) and occupied by the prospective purchaser.

An earlier application (ref. 15/00319/ALO) seeking the removal of the S75 obligation was withdrawn following concerns over the suburban design of the house within a sensitive area of countryside. The current application seeks to overcome these issues through changes to the external appearance and design of the house, with reference to the Council's approved Rural Design Guidance and advice from an architect on the proposed changes.

The application site is located within the countryside of Clyde Muirshiel Regional Park as identified in the adopted Local Development Plan (LDP). The relevant policies are ENV 2 (Housing Development in the Countryside - Housing for workers engaged in a rural business), which states 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. Also of relevance due to the location in the Regional Park is Policy ENV 7 (Special Landscape Areas) and the Rural Design Guidance.

A supporting statement has been submitted with the application which indicates that the health of the original applicant for the house has significantly deteriorated such that there is now no prospect of him occupying the house. The associated land has already been sold in order to raise funds for long term healthcare.

The supporting statement highlights changes in policy at a national level, including that occupancy restrictions on housing in the countryside should be avoided. With reference to Circular 3/2012, which relates to planning obligations, the report contends that the occupancy restriction placed on the dwellinghouse is no longer necessary. The supporting statement concludes that the application now includes improvements to the design and materials in order to make the house a 'better fit' for its rural setting.

## **2. Consultations and Representations**

The application was subject to the statutory neighbour notification procedures, which included a notice in a local newspaper. No representations have been received. No statutory consultations were required.

## **3. Analysis**

The proposal requires to be considered in terms of the adopted Local Development Plan policies ENV 2, ENV 7, the approved Rural Design Guidance and various other material planning considerations.

Policy ENV 2 indicates the circumstances under which new housing in the countryside can be justified. The approval of the dwellinghouse at Ladyland was granted on the basis of need in pursuance of an established rural business. The proposal was originally refused by the Council and granted on appeal, as noted above. A further grant of planning permission, with S75 obligation to restrict occupancy, was then approved by the Council in 2005.

The proposal does not accord with Policy ENV 2 since there is no longer any need for the house in pursuance of an established rural business. However, in its incomplete state, the house and its grounds are harmful to the amenity of the area. The applicant is willing to undertake substantial alterations to the character and appearance of the house in order to address various design issues which have been raised by Officers. Design is a material planning consideration and is a key policy issue within rural areas. In this context the applicant notes that recent Scottish Government advice highlights that siting and design should be afforded greater weight than occupancy. The proposed therefore requires to be considered in relation to Policy ENV 7 and its design merits.

The site for the house is at the edge of a rugged upland area within Clyde Muirshiel Regional Park, which is an area of sensitive landscape character in terms of Policy ENV 7. In general, there is a presumption against development in the Regional Park unless it can be demonstrated that the proposal meets the needs of agriculture or forestry and is appropriate in design and scale to its surroundings. As noted above, there is no longer any demonstrable need for the house in terms of agriculture or forestry activities at Ladyland. However, it is considered that the proposal, as amended responds sensitively to the rural landscape character of the Regional Park. It is considered that the Council's Rural Design Guidance has been addressed, resulting in a house that would, in many respects, mitigate the suburban design character of the partially completed structure. In addition, a landscaping scheme using native trees to soften and enhance the setting of the house has been proposed. Conditions could be imposed to ensure that the proposed changes, including landscaping, are implemented within 12 months of approval.

With respect to the proposed outbuilding, it would occupy the same area of the site as a previously consented agricultural shed which has not been erected. It is considered that the siting, design and external appearance of the proposed outbuilding would be satisfactory, and that there would be no adverse impacts on the amenity of the surrounding area arising from an outbuilding at this location.

It is considered that for the reasons, given above the imposition of a S75 obligation is no longer necessary to make the development acceptable, in view of the changed circumstances of occupancy, land ownership, and the proposed changes to the house and its setting. Significant investment would be required to modify the property and complete the development as now proposed.

There are no other material considerations. It is considered that the proposal offers an acceptable solution to enable the development to be completed without an occupancy restriction.

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

See Appendix 1.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Cunningham House, Irvine  
26 October 2015

For further information please contact Mr Anthony Hume, Senior Development Management Officer , on 01294 324318



## **APPENDIX 1**

### **RECOMMENDATION FOR PLANNING APPLICATION REF NO 15/00571/PP**

Grant subject to the following conditions:-

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

The reason(s) for the above condition(s) are:-

1. To secure the implementation of the proposed alterations prior to the house becoming occupied in order to justify the grant of planning permission.
2. To secure the implementation of the proposed landscaping scheme within 12 months in the interests of the amenity of the area.
3. In the interests of the amenity of the area.

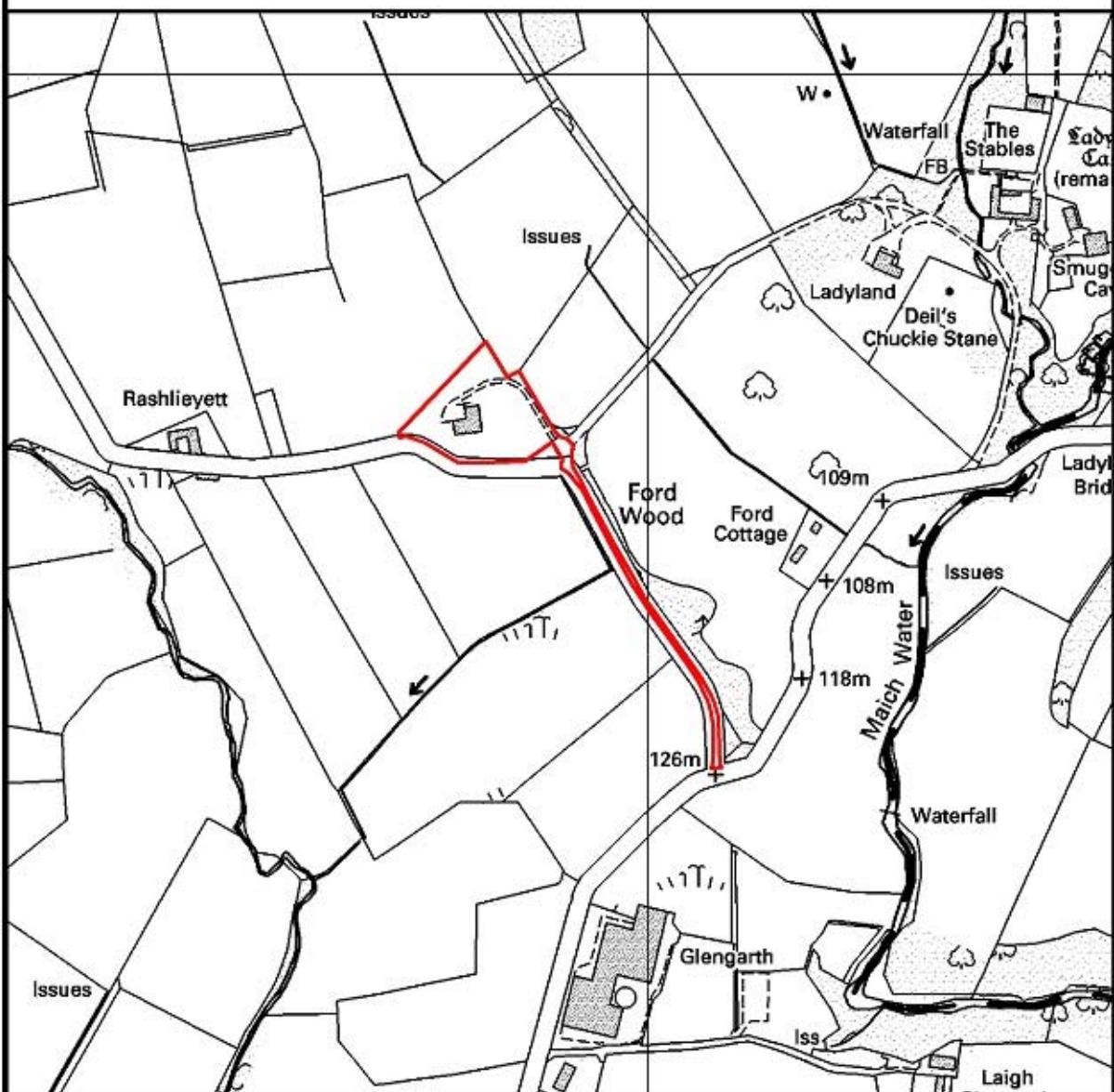
Reason(s) for approval:

1. The proposal does not comply with the relevant provisions of the Local Development Plan, however other material considerations indicate otherwise and planning permission should be granted.

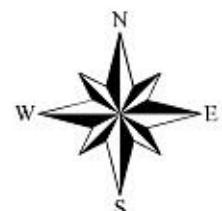


# Committee Plans

15/00571/PP



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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 5**

Planning Committee

**11 November 2015**

Planning Area

**Irvine/Kilwinning**

Reference

**13/00038/PPPM**

Application

**30th January 2013**

Registered

**30th May 2013**

Decision Due

**Kilwinning**

Ward

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**Recommendation**

**Grant with Conditions contained in  
Appendix 1**

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**Location**

West Byrehill Industrial Estate, Byrehill Place,  
Kilwinning

**Applicant**

Ashtenne Industrial Fund LP

**Proposal**

Demolition, erection of residential development  
with associated accesses, engineering operations,  
open space, landscaping and a neighbourhood  
centre (Classes 1, 2 & 3)

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**1. Introduction**

At the meeting on 28th May 2014, the Planning Committee was favourably disposed to grant planning permission in principle for a residential development with an associated neighbourhood centre at West Byrehill, Kilwinning.

The decision to grant permission was subject to conditions and to the applicant entering into a legal obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 in relation to the following:

1. To specify the nature and extent of off-site employment space improvements at Nethermains and South Newmoor Industrial Estates as referenced within a business plan to be agreed;

2. To ensure that no dwellinghouses are occupied until the Council and Transport Scotland have entered into an agreement governing the funding and implementation of works on the A78(T) Pennyburn roundabout and the A738(T)/ Pennyburn Road junction and the A738(T)/ Whitehirst Park Road junction;
3. That no more than 180 dwellinghouses are occupied on the site until the works to the above junctions are undertaken (or such other solution is agreed with Transport Scotland);
4. The provision of affordable housing.

Appendix 2 provides a copy of the Committee Report from 28th May 2014.

## **2. Current Position**

The Council has been unable to conclude the Section 75 obligation with the applicant, mainly due to concerns regarding the viability of the development in relation to items 1 and 4 as noted above. To this end, a review of the these issues in relation to the proposed development have now been undertaken, having regard to current Scottish Government guidance on the use of planning obligations (Circular 3/2012).

The review has concluded that the matters previously identified for inclusion within a legal obligation could be appropriately addressed using planning conditions, or omitted. The applicant has entered a processing agreement, which confirms a willingness to conclude the planning application in this way.

The review of the case has indicated the following:

1. Off-site employment improvements have been the subject of detailed discussion with the relevant parties since mid-2014, including the preparation of valuation reports and consultation with the District Valuer. It is now considered that a condition could be imposed to address this issue as an alternative to an S75 obligation.
- 2 and 3. Scottish Government Circulars 4/1998 and 3/2012 state that conditions should not be duplicated by S75 obligations. As such, there is no requirement to address points 2 and 3 using a S75 obligation since condition 8, as previously supported, is satisfactory in this respect. Condition 8 addresses the phasing of the development. As stated in their consultation response, Transport Scotland are satisfied that up to 180 houses could be built and occupied before there is a need to update the transport assessment for the development. Upgrading the capacity of junctions on the strategic road network would be considered thereafter. The Council intends to address the issue of strategic junction upgrading in the Irvine/Kilwinning area without developer contributions.
4. The issue of affordable housing would be addressed during the consideration of the subsequent detailed planning application, taking into account, amongst other matters, the viability of the development and the housing mix.

During the review, the applicant identified the need for an increased period of time to seek the approval of the matters specified in conditions and for a phasing condition of the development authorised by the consent. In response, it is considered that a period of 5 years to obtain the approval of matters specified in conditions would be acceptable, which represents an increase of two years to the standard 3 year period. In respect of phasing, a modified condition in relation to phasing could be imposed.

Finally, the previously agreed condition which would act to limit the number of house completions to 20 per annum is no longer required. This condition related to the catchment areas of St Luke's and St Winning's Primary Schools. The boundaries of the St Luke's catchment area has since been revised to exclude the application site.

The purpose of this report is to seek the approval of the Planning Committee to enable planning application (ref. 13/00038/PPPM) to be granted, subject to conditions without the imposition of a S75 obligation. For the avoidance of doubt, this report does not seek to reconsider the merits of the proposal, and the description of the application would remain unaltered.

### **3. Full Recommendation**

Granted subject to the conditions contained within Appendix 1. All of the conditions supported previously by the Planning Committee would be included with modifications, additions and deletions where required.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Cunningham House, Irvine  
19 October 2015

For further information please contact Mr Anthony Hume, Senior Development Management Officer , on 01294 324318



## **APPENDIX 1**

### **RECOMMENDATION FOR PLANNING APPLICATION REF NO 13/00038/PPPM**

Grant subject to the following conditions:-

1. Prior to the commencement of any development on site, a further application(s) for the approval of the matters specified in this condition shall be submitted to and approved by North Ayrshire Council as Planning Authority. These matters are as follows:
  - a) a design and access statement taking into account the relevant North Ayrshire supplementary design guidance;
  - b) details of the layout of the development, including roads, footways, shared paths, cycle routes, open spaces, parking and infrastructure;
  - c) the siting, design and external appearance of all buildings and any other structures, including dimensioned plans and elevations together with the details of external materials;
  - d) a suitably detailed flood risk assessment inclusive of measures to reduce the risk of flooding within the site and the surrounding area;
  - e) the means of drainage and surface water strategy and methodology for sewage disposal, including Sustainable Urban Drainage Systems (SuDS), all set out in a comprehensive Drainage Assessment, including maintenance. SuDS shall be self-certified by a suitably qualified person;
  - f) the means of access to the site, including appropriate provision for walking, cycling and public transport;
  - g) the design and location of all boundary treatments including walls and fences;
  - h) details of landscaping and associated maintenance proposals, including details of existing trees, hedgerows and other planting to be retained and tree protection measures together with detailed proposals for all new planting and its aftercare;
  - i) a phasing plan for the development, the details of which may subsequently be varied through written agreement with North Ayrshire Council as Planning Authority; and
  - j) detailed specification of the nature and extent of any off-site employment space improvements at Nethermains and South Newmoor Industrial Estates taking into account the Economic Viability Assessment for West Byrehill produced by GVA James Barr (December 2014).
2. The application(s) for approval of these further matters must be made to the Council as Planning Authority before whichever is the latest of the following:
  - (a) expiry of 5 years from when permission in principle was granted
  - (b) expiry of 6 months from date when an earlier application for approval was refused, and
  - (c) expiry of 6 months from date on which an appeal against the refusal was dismissed.

Approval of the further specified matters can be made for -

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

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

3. The proposed development shall be designed in accordance with the principles of the Scottish Government's "Designing Streets" and Designing Places" policy documents and any replacements thereof and North Ayrshire Council's Neighbourhood Design Guidance to the satisfaction of North Ayrshire Council as Planning Authority.

4. That prior to the commencement of the development, hereby approved, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority, a Strategy for Open Space which shall include proposals for (i) the provision of open space and play provision, in accordance with the North Ayrshire Council policy "Provision and Maintenance of Landscaping, Open Space and Play Areas in New Housing Developments" and any replacements thereof, together with proposals for the management and maintenance of open space.

5. That the further application(s) required under the terms of Condition 1 above shall include submission of a strategic assessment of how new buildings shall reduce their CO<sub>2</sub> emissions to a level above or in line with the building standards through appropriately designed: on-site low or zero carbon generating technologies (LZCGTs); and/or passive/operational energy efficiency measures. The specific implementation/detail documentation shall be submitted at the time of submission for Building Warrant, all to the satisfaction of North Ayrshire Council as Planning Authority.

6. That the recommendations within the Ecology Assessment Survey submitted in support of the application, shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority. Details shall be submitted demonstrating of the undertaking and/or programming of these recommendations. In addition, details of a scheme for the removal of non-native species from the site, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter any such scheme, which may be approved, shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority

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

treated in accordance with an agreed remediation scheme. On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted to the North Ayrshire Council as Planning Authority.

8. The development hereby approved shall commence in phases, and in accordance with the following transport requirements, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority and in consultation with Transport Scotland. For the avoidance of doubt, not more than 180 houses constructed on the site shall be occupied until either:

- (i) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network; OR
- (ii) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network in the event of the implementation of appropriate measures identified within the approved transport assessment; OR
- (iii) The modifications to the A78(T)/A738(T) Pennyburn Roundabout, generally as indicated in SIAS drawing number 75064-1 titled 'Pennyburn Roundabout Signalisation - Revision 1', and the modifications to the A738(T)/Pennyburn Road mini-roundabout and the A738(T) Whitehirst Road signalised to form a roundabout junction generally as indicated in SIAS drawing number 75064-5 titled Whitehirst Park Road have been implemented; OR
- (iv) North Ayrshire Council as Planning Authority or any other party has concluded an appropriate legal agreement or agreements for the funding and implementation of the works to mitigate the development.

9. That there shall be no means of direct access onto the A78 trunk road either pedestrian or vehicular.

10. That prior to the commencement of the development, details of a barrier along the boundary of the site with the A738 trunk road and with the A78 trunk road, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter the details, as may be approved, shall be provided and maintained by the developer or subsequent owner of the land to the satisfaction of North Ayrshire Council as Planning Authority.

The reason(s) for the above condition(s) are:-

1. In order that these matters can be considered in detail.
2. In recognition of the large scale of the development.
3. In order to ensure compliance with current national and local design guidance.
4. To ensure compliance with North Ayrshire Council policy and in the interests

of adequate open space and play provision.

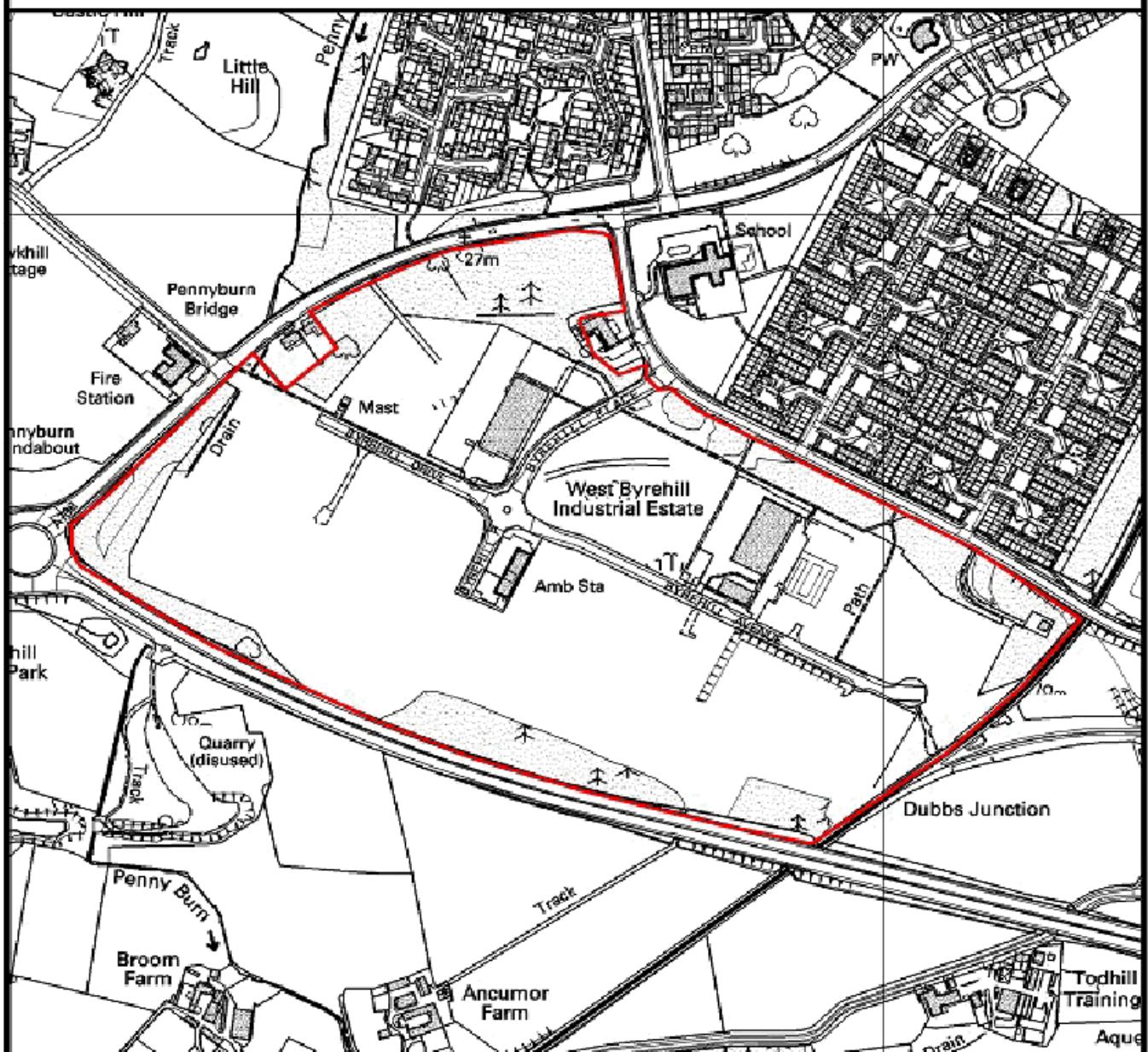
5. To secure a sustainable development.
6. In the interests of preserving flora and fauna.
7. To meet the requirements of Environmental Health.
8. To restrict the scale of the development prior to the implementation of mitigation in the interests of protecting the safety and free flow of traffic on the trunk road.
9. To ensure that the movement of traffic and pedestrians is confined to the permitted means of access thereby lessening the danger to, and interference, with the trunk road.
10. To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

Reason(s) for approval:

1. The proposal complies with the relevant provisions of the approved development plan and there are no other material considerations that indicate otherwise.

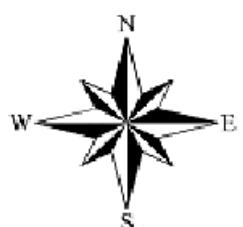
# Committee Plans

13/00038/PPPM



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1:1250 SCALE





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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 3.4**

Planning Committee

**28 May 2014**

Planning Area

**Irvine/Kilwinning**

Reference

**13/00038/PPPM**

Application

**30 January 2013**

Registered

**30 May 2013**

Decision Due

Ward

**Kilwinning**

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**Recommendation**

Agree subject to (a) the applicants entering into a Section 75 Agreement: (i) to specify the nature and extent of off-site employment space improvements at Nethermains and South Newmoor Industrial Estates as referenced within a business plan to be agreed; (ii) to ensure that no dwellinghouses are occupied until the Council and Transport Scotland have entered into an agreement governing the funding and implementation of works on the A78(T) Pennyburn roundabout and the A738(T)/ Pennyburn Road junction and the A738(T)/ Whitehirst Park Road junction; (iii) that no more than 180 dwellinghouses are occupied on the site until the works to the above junctions are undertaken (or such other solution is agreed with Transport Scotland; (iv) for the provision of affordable housing; and (b) to grant subject to the conditions contained in Appendix 1.

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**Location**

West Byrehill Industrial Estate, Byrehill Place,  
Kilwinning

**Applicant**

Ashtenne Industrial Fund LP  
80 St Vincent Street  
Floor 6  
Glasgow  
G2 5UB

**Proposal**

Demolition of industrial building and erection of residential development with associated accesses, engineering operations, open space and landscaping, and a neighbourhood centre (Classes 1, 2 & 3).

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## **1. Description**

This is an application, in principle, for the development of industrial land for residential purposes, including the development of associated accesses, engineering operations, open space and landscaping, and a neighbourhood centre (Classes 1, 2 & 3). Two existing industrial buildings within the site would remain. Given the size of the site 50, the proposals are considered a 'Major' development under Section 26A of the Town and Country Planning (Scotland) Act 1997, as amended, and the Town and Country Planning (Hierarchy of Development) (Scotland) regulation 2008. A further application for the Matters Specified in Conditions (MSC) would be required to address issues of detail. However, indicative proposals, used to inform the supporting Pre-Application Consultation process (PAC) and a 'Development Framework Document' (DFD), offer some details of the potential layout and form of the development.

The DFD indicates that the site would be divided into housing phase packages and an area identified as a neighbourhood centre. It is indicated that between 475-505 residential units could be accommodated and that the neighbourhood centre would comprise 8,000ft ( $743m^2$ ) of retail space: 1x 4,000ft<sup>2</sup> ( $371.5m^2$ ) detached food retail unit; and 4x 1,000ft<sup>2</sup> ( $92.875m^2$ ) terraced retail units. The demolition of an industrial building, for which planning permission would not be required, is also detailed. A number of further industrial buildings have been demolished in past years.

Two primary accesses are proposed off Pennyburn Road, one of which is existing, at the north-west part of the site, and the second would be located to the east of this existing junction. The perimeter of the site is largely enclosed by structural tree planting, additional landscaping is proposed in order to enhance these structural areas as well as to introduce landscaped divisions between the housing areas and to separate the residential areas from retained industrial/business uses. Areas identified for flood water storage and SUDs purposes are also identified within the DFD.

The surrounding land uses are: to the north is Pennyburn Road, beyond which are residential areas and St Luke's Primary to the north-west; to the west the A738 (Stevenston Road), beyond which is Kilwinning Fire Station and agricultural land, the southern part of which has a partially implemented planning permission in place for a large mixed use development, generally comprising: a petrol filling station, 40 bed hotel, restaurant/bar/fast food outlet, parking , landscaping and access arrangements; to the south is the A78, beyond which is land largely in agricultural use; and finally to the east is the Glasgow-Ayr rail line, with agricultural land beyond.

On 4 April 2014, the Local Development Plan Committee approved the North Ayrshire Local Development Plan (LDP) for adoption following the publication of the Reporter's recommendations into the Examination of the LDP. Policy IND 5 of the LDP allocates most of the application site as a 'Mixed Use Employment Area' incorporating an area allocated as Policy RES 2 'Additional Housing Sites' and a smaller area allocated Policy IND3/IND4. The perimeter boundary of the application site is allocated as Policy ENV 12 'Open Space'. The LDP is moving towards adoption and is more up to date than the adopted Local Plan, which dates from 2005. Accordingly, the assessment of this application will be in terms of the Local Development Plan. The following LDP policies are of relevance:

Policy RES 2 requires that such sites will require to mitigate against any unacceptable adverse impacts on infrastructure arising as a result of the site's development. Policy RES 4 requires that sites which meet the thresholds outlined in the Council Supplementary Guidance: Affordable Housing will require to contribute to affordable housing provision at a level of 15% within the Irvine/Kilwinning area.

Policy IND 5 requires that sites must demonstrate an element of retained employment use, the nature of which will be negotiated on a site by site basis with reference to a business plan. Employment uses should be located within the Mixed Use Employment area allocation, unless it can be demonstrated that equal or enhanced benefit can be delivered on other land within the applicant's control.

Policy TC 5 requires that the development of new local shops outwith town centres shall not accord with the Plan unless the proposed units are less than stipulated size thresholds, and are intended to meet local need only. Policy ENV 12 relates to proposals which will impact on allocated open space.

Policies RES 8 (Open Space and Play Provision in New Housing Development), PI 1 (Walking, Cycling and Public Transport), PI 8 (Drainage, SUDs and Flooding), PI 13 (Carbon Emissions and New Buildings) and A3 (Supplementary Guidance) are also relevant. The General Policy must also be taken into account.

There is no particular relevant planning history, with planning records over the past 20 years limited to minor proposals related to the limited industrial use of the site, the erection and subsequent alteration of a telecoms mast, the establishment of an ambulance station and associated fencing and gates, the development of NAC offices, and the provision of a sub-station enclosure.

The following supporting information form part of the submission.

## **Pre-Application Consultation (PAC) Report**

This sets out details of the steps taken by the applicant to disseminate information about the proposed development, the public event, feedback received and how these comments were taken on board by the applicant. The document has been prepared in a conjoined manner and relates to three applications the applicant has submitted at: South Newmoor, Irvine (Ref: 13/00040/PPPM); Nethermains, Kilwinning (Ref: 13/00039/PPPM); as well as West Byrehill, Kilwinning (Ref: 13/00038/PPPM). The two former applications were approved, subject to conditions, by the Planning Committee of 15 May 2013.

## **Development Framework Document (DFD)**

This document again relates to all three applications and advises that both West Byrehill and Nethermains have limited and poor quality accommodation, are not attractive within the marketplace. South Newmoor is more attractive but requires modernisation. It is proposed that by developing West Byrehill for residential purposes that funds will be made available to invest in the redevelopment of Nethermains and Newmoor as improved employment locations. An urban forest is also proposed at Nethermains. Assessment of the issues associated to each site is then undertaken before design principles are put forward.

## **Planning Policy Statement (PPS)**

Again this document considers all three sites and sets out a planning policy framework from the National to the Development Plan level. It concludes that the proposals at West Byrehill are: consistent with SPP, the aims and objectives of the adopted Local Plan (INF8), and the emerging Local Development Plan (General Policy, RES2, TC5, RES4, RES8, IND5, PI1 & PI8).

## **Transport Statement (TS)**

The original TA, submitted at the time the application was made, concluded that the site is well served by footways and cycleways and well placed for bus and rail facilities; all junctions considered by the TS operated in a satisfactory manner in 2011 during the AM and PM peak traffic periods; by 2015, demand at the roundabout junctions of the A78 with Stevenston Road would be approaching capacity, but that Transport Scotland are considering improvement measures; discussed the differences between traffic associated to the existing and proposed use of the site; and that with 400-600 houses proposed, the junctions considered would operate in a satisfactory manner in 2015.

Following detailed discussions with Transport Scotland and NAC Roads, an addendum to the original TA was submitted. It was thereafter concluded that the trunk road infrastructure can accommodate up to 180 dwellings without the need to carry out improvements. (See Transport Scotland consultation response below).

### **Air Quality Assessment (AQA)**

This looks at air quality issues associated to the exiting situation, including the proximity to the A78, and the increased traffic levels associated to the development. It concludes that the development is predicted to have an adverse impact at all receptors locations when compared with the baseline scenario, however the magnitude of the impact is classed as no more than small at all locations and as such, the impact from the development at all receptor location is negligible. As a result there is no requirement for any specific mitigation measures.

### **Ecology Assessment (EA)**

This concludes that the most valuable habitat is 'neutral grassland' and that this would largely be lost. However, there is scope to retain elements around the site edges in conjunction with marshy grassland, woodland and the open water of the SUDs pond. Species assemblage would alter. There is no evidence of use of the site by protected species, other than a small number of bats and a barn owl. No breeding is taking place. Birds will lose forage and nesting habitat and a breeding bird survey should be undertaken to advise landscape design proposals at the detailed stage. Overall minimal impact to local bird populations should occur. Amphibians are not currently an issue and should benefit from the introduction of the SUDs pond. The range of invertebrates is likely to remain constant, subject to the provision of a range of habitats through considered landscape development.

A number of recommendations are made in relation to: landscape and long-term management objectives; production of a Landscape and Habitat management Plan; protection of trees during and post construction; tree felling to take place during winter months (December-February); use of pesticides; production of a Bat Method Statement; pre-start checks for badgers and otters, relating to each phase; site clearance to avoid the bird nesting season (March-July/September), or to undertake nesting surveys during these months, a Bird Method Statement is recommended; prioritisation of native species in landscaping; retain and enhance wildlife corridors and provide edges to woodland areas; SUDs should be designed with ecology in mind; erection of bird and bat boxes, others serving hedgehog and bees may also be possible; workforce ecology training; etc.

## **Flood Risk Assessment (FRA)**

Identifies the SW corner of the site as being at risk of flooding (1:200 year event). It proposes that the Penny Burn culvert be reopened and that regrading of land and provision of flood storage equivalent to that currently available is undertaken. Detailed designs will be required in due course. Finished floor levels are recommended. Site drainage (including SUDs) was not considered, although flooding from surface water runoff is not considered a significant risk. Topographical design and future maintenance issues are discussed. It is also noted that flood risk can be reduced but not eliminated, should events exceed the design conditions and given inherent uncertainty associated with estimating hydrological parameters.

## **Mine Risk Assessment (MRA)**

Concludes that coal mining poses no risk to the development proposals and no precautions are required.

## **Noise Assessment (NA)**

This advises that the majority of the site is dominated by road traffic noise from the A78 and A738 and that additional mitigation, by barriers, is required. Calculations show that it is possible to achieve acceptable standards for noise. The specification and location of such barriers will require to be finalised during the detailed design stage. Noise from the railway, subject to the above recommended barriers, would see train pass noise in excess of WHO recommendations inside facing habitable rooms with windows open. Therefore any habitable rooms facing the rail line will require to be assessed with windows closed and alternative means of ventilation addressed at the detailed design stage. Standard double glazing and trickle vents should ensure compliance with 45dB. Care should be taken to ensure that bedrooms located facing the rail line that acoustic suitability is considered.

## **Services Overview (SO)**

This concludes that Scottish Water have advised the applicant that: there is sufficient capacity at Water Treatment Works to service the development; flow and pressure testing will be required to confirm impacts; and there is sufficient capacity at Waste Water Treatment Works to service the development and a DIA is not required. Indicative costs for diversion of SW infrastructure have been prepared and will be confirmed at the detailed design stage. The cost of diverting a medium pressure gas pipeline is not significant. Telecoms issues are not significant. Scottish Power diversion and connection costs are not significant. Overall detailed design issues, relating to services, will be refined following grant of planning permission in principle.

## **2. Consultations and Representations**

Neighbour notification was undertaken on 30 January 2013 and the application was advertised in a local newspaper for neighbour notification, as development which does not accord with the provisions of the development plan, and as a bad neighbour development on 8 February 2013. No representations or objections have been received.

### **Consultations**

**North Ayrshire Council Transportation** - No objections. The applicant has been working in partnership with the local roads authority to establish the impact of this development on the strategic road network. It has been established that the road infrastructure can accommodate up to 180 dwellings without the need to carry out improvements. However there may be some localised infrastructure improvements in relation to new and extended footpath and cycle networks, along with road crossing facilities to accommodate increased movements. These will be established at the MSC stage when more detail is submitted.

*Response – Noted. This could be addressed by the imposition of an appropriate planning condition. An informative could also be attached to advise the applicant to consult with NAC Transportation prior to a further planning application.*

**Transport Scotland** – Transport Scotland note that the Council has committed to fund the necessary trunk road improvement works that may be required as a result of development allocations within the new Local Development Plan. This commitment includes the improvements identified to the A78(T) Pennyburn roundabout and the A738(T)/ Pennyburn Road junction and the A738(T)/Whitehirst Park Road junction which are likely to be required as a result of development proposed under this application. Transport Scotland and the Council intend to formalise this commitment through a Memorandum of Understanding or other legal agreement, which would provide Transport Scotland with the necessary comfort that there would not be an unacceptable impact on the capacity of the trunk road network. The assessment work undertaken to date indicates that 180 dwellinghouses could be occupied on the West Byrehill site without significant impact on the trunk road network. Transport Scotland therefore propose a condition within their consultation response in relation to an interim cap of occupation of 180 dwellinghouses.

Transport Scotland also propose conditions in relation to: the phasing of the development; that no direct access to the A78 trunk road shall be provided; and that a barrier of a type approved by the Planning Authority, after consultation with the Roads Authority, shall be provided and maintained by the developer or subsequent owner of the land along the boundary of the site with the A738 trunk road and with the A78 trunk road.

*Response – These matters can be addressed by conditions.*

**North Ayrshire Council Flooding Officer** – No objections in principle. The Flood Risk Assessment is considered satisfactory. The recommendation in the FRA to open up the Penny Burn Culvert is welcome, however the developer must allow vehicle access for maintenance of the Burn at all times. A drainage and surface water strategy must be submitted at the MSC stage for the development site as a whole, outlining overall maintenance proposals.

*Response – Suitable planning conditions could be applied to address these issues.*

**SEPA** – No objection. In relation to flood risk SEPA has no objection, generally agreeing with the findings of the FRA, and direct further comment to NAC as Flood Prevention Authority. However, further consultation should take place at MSC stage. Foul and surface water drainage it to be publicly connected and as such Scottish Water are responsible. It is noted that site drainage, including SUDs, has not been considered by the FRA and this matter is deferred to NAC, guidance of relevant standards is given and it is advised that Scottish Water should be contacted regarding the level of SUDs required. Contaminated land issues are deferred to NAC, with SEPA able to provide comment to them in relation to impacts on the water environment. In terms of ecology, the eradication of non-native invasive species is supported and the applicant is directed to guidance on the SEPA website. In addition, it is advised that works to watercourses may/require CAR authorisation. Further advice is given in relation to demolition and pollution prevention and other regulatory requirements.

*Response – Noted. Advice has been given by NAC's Flood Engineer, see above. Suitable conditions can be applied regarding flood and surface water drainage issues. A suitable informative can advise the applicant to contact Scottish Water regarding surface and foul water drainage and connections, as well as CAR requirements, demolition and pollution prevention and other regulatory requirements. Contamination issues are noted in the response from NAC Environmental Health. Ecology issues are considered in the Assessment below.*

**Scottish Water** – No objections. Advise that no guarantee of a connection to Scottish Water's infrastructure is given, but that there may be capacity to service the development in relation to water and waste water treatment and water supply. A separate surface water drainage system will be required. SUDs designed to Sewers for Scotland 2 standards will be required if adoption is proposed.

*Response – A condition can be attached requiring that SUDs are incorporated and informatics can advise the applicant to contact Scottish Water for guidance and regulatory advice.*

**North Ayrshire Council Environmental Health** – Prior to commencement of development a desk study of the application site to assess the likelihood of contamination and to inform a site investigation, subsequent quantitative risk assessment and remediation measures. Such documentation shall meet BS10175:2011 and be verified by a suitably qualified person to the satisfaction of EH. Thereafter any unsuspected contamination encountered shall be reported and treated in an agreed way, to the satisfaction of EH. On completion of works verification of any remediation shall be submitted to NAC (EH).

The findings of the Noise Impact Assessment are noted, in particular the mitigation measures required, including bunds and close board fencing, up to a height of 3 meters. It is pointed out that such measures require the consideration of Development Management. The findings of the Air Quality Assessment, that the impacts at receptors is classed as negligible, is noted.

*Response – Conditions can be applied to address the contamination issues raised. In addition, it is noted that the noise mitigation measures proposed have potential to have significant impacts on, particularly visual amenity and their design will require to be carefully considered at the MSC stage, a suitable planning condition would require the submission of the noise mitigation for consideration*

**West of Scotland Archaeology Service** – Initial advice raised concerns that given there were large areas of the site which appeared to be undisturbed by previous development, there was some potential for buried archaeological deposits to survive. As a result, a programme of intrusive evaluation was advised to quantify this potential. Following further discussions an assessment report, prepared by Rathmell Archaeology Ltd, was submitted. This included historic information on past development of the site and details of site investigations, neither of which were made available at the time of WoSAS's initial assessment.

On the basis of this additional information WoSAS advised that although there are likely to be some areas of the site that have not been subject to substantial levels of previous disturbance, it is apparent that the majority has a relatively low potential to produce in situ buried archaeological remains. On this basis it is accepted that evaluation of the type suggested WoSAS's initial response is not required, and it is not considered that further archaeological work is necessary.

*Response – Noted.*

**North Ayrshire Council Streetscene** – Advises that the perimeter woodland surrounding the site is predominantly compartments of mixed broadleaves with small pockets of conifers, which serve as a screen for the industrial estate and a buffer to noise. The site presently has limited recreational value but is popular with dog walkers and there are desire routes throughout. There is generally little or no under-storey planting and ground flora. There is also a lack of edge planting. Introduction of scalloped edge planting would help increase the woodland biodiversity status and create more of a margin between the woodland and properties should any development take place.

The woodland is generally in moderate condition and maintenance is required. A variety of wildlife from buzzards, kestrels, rabbits and deer use the site. The North Ayrshire Urban Woodlands Project aims 'to maintain them as valuable features in the local landscape in an urban setting and to enhance the setting of the industrial estate to attract investment'. All woodland compartments should be protected from development by adherence to BS 5837: Trees in relation to design, demolition and construction. A future management plan is also required for the woodland compartments.

*Response – Suitable conditions can be applied relating to landscaping proposals incorporating remedial maintenance to the woodland compartments and the introduction of a planted margin to those compartments; and, the protection of trees during development phases, in line with BS 5837. Ecology issues are discussed below.*

**SNH** - Confirm that the applicants have consulted SNH during the development of these proposals and that they are content the proposals are taken forward as described.

*Response – Noted. A condition can be applied requiring that the recommendations of the Ecology Assessment are implemented.*

**Scottish Power** – No objections, but advise that SP Distribution have two Network Sub Stations, one Primary Sub Station and associated underground cables and that there is also a portion of Overhead line in the vicinity of the proposals. As such SP Distribution reserves the right to protect and/or deviate their apparatus/cables at the applicants expense.

*Response – Noted. An informative can be attached advising the applicant to contact Scottish Power in this regard.*

**North Ayrshire Council Education & Skills** – The local catchment school (St Luke's PS) has experienced roll pressures recently which has resulted in a planned extension to the school to be complete for Aug 2014. If development is less than 20 housing completions per annum, then there should be no adverse effect on the school roll.

In order to enable a higher level of development, Education & Skills has commenced proceedings to transfer the West Byrehill site from the catchment of St. Luke's PS to nearby St. Winning's PS. This would resolve any potential capacity issues arising from development of the site.

*Response – Noted. A suitable planning condition could restrict the rate of development to 20 units per annum, unless otherwise agreed by North Ayrshire Council as Planning Authority. Such agreement to exceed this rate will be subject to a successful rezoning of the catchment area of St Luke's and St Winning's Primary Schools to transfer the West Byrehill site from the catchment of the former to the latter.*

**North Ayrshire Council Access Officer** - The Transport Assessment (TA) is limited in its consideration and analysis of provision for pedestrians and cyclists. Only considering the existing National Cycle Network and footway network without consideration of the wider network or any informal access opportunities currently utilised within the site. Furthermore the proposed modal split outlined in Section 6 is significantly adrift of national targets in terms of active travel, for example as detailed within the Cycling Action Plan for Scotland which sets the objective that 10% of all journeys will be undertaken by bike by 2020. Policy PI 1 (Walking, Cycling and Public Transport) and Policy PI 4 (Core Paths Network), of the draft LDP, provide an expanded or updated position which is relevant to this application. Further analysis and consideration of these policies would be welcomed.

The Development Framework does not fully take account informal access opportunities current utilised within the site. The Transport Section recognises the potential for active travel but is not reflected with the proposed modal shift outlined within the Transport Assessment. The analysis of path linkages to and from the site is also limited to the National Cycle Network. Further analysis and consideration of these issues would be welcomed to maximise connectivity.

The neighbourhood centre would require the provision of secure cycle parking of a proportionate scale, in a visible and accessible location to accord with Policy PI 1(e). This should provide for 10% of the overall capacity of the centre including staff. This is to meet the objective of the Cycling Action Plan for Scotland that 10% of all journeys be undertaken by bike by 2020 as previously referenced.

*Response – Noted. A condition requiring the submission of an updated Transport Assessment would be required. An informative could also be attached to advise the applicant to contact NAC Access Officer for advice with this regard.*

**North Ayrshire Council Estates** – Estates provided confirmation of which areas of the site are under Council ownership. This includes an office block and depot, which form part of the application area proposed for residential use.

*Response – Noted. The grant of Planning Permission in Principle would not preclude the ongoing use of the office block and depot.*

### 3. Analysis

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions by planning authorities shall be in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the adopted North Ayrshire Local Plan (excluding Isle of Arran) is the development plan, which is out of date in relation to this proposal. As noted above, the Local Development Plan Committee approved the North Ayrshire Local Development Plan (LDP) for adoption on 4 April 2014 following the publication of the Reporter's recommendations into the Examination of the LDP.

Policy RES 2 of the LDP allocates a large part of the application site for housing development. The site is identified in table 1 and on the LDP maps for market housing to meet the identified housing requirement to 2025 (Policy RES 2 Additional Housing sites) and gives an indicative capacity of 400 units.

RES 4 (Affordable Housing) will require a legal agreement to secure the affordable housing contribution from the development, to accord with the policy. The 15% requirement may be varied, subject to the contents of the business plan to be submitted as part of Section 75 negotiations. The mechanism for delivery in terms of the Council's four prioritised options, and other details, can also be agreed at a later stage.

Policy IND 5 requires that the proposal demonstrates an element of retained employment use, preferably on site, but off site improvements are acceptable. The policy also requires preparation of a development brief and/or masterplan. The DFD, submitted by the applicants, reflects the content that would be expected from both a development brief and masterplan. The document also states that 'it is intended that investment in Newmoor and Nethermains will be phased by redirecting some of the money generated through the development of West Byrehill. Positive receipts from the sale and development of West Byrehill will be recycled into [South] Newmoor and Nethermains'. Separate planning applications for investment at South Newmoor and Nethermains (Refs 13/00040/PPPM and 13/00039/PPPM respectively) were consented during 2013 for:

- South Newmoor: demolition, (1) erection of new business/industrial units (Classes 4, 5 and 6), ancillary hotel, creche, retail units and associated access, engineering operations and landscaping and (2) the erection of ancillary public house/restaurant.
- Nethermains: demolition, erection of new business and industrial development (Classes 4, 5 and 6) and place of worship (Class 10), formation of open space including engineering operations, access and landscaping, and refurbishment of existing industrial units.

A business plan requires to be submitted by the applicants to demonstrate:

- The level of receipts projected to be generated by the sale/development of the West Byrehill site;
- How these receipts will be divided between affordable housing provision, and improvements at South Newmoor and Nethermains; and
- The anticipated timing/phasing of receipts generated and subsequent expenditure.

It is understood that a business plan is under preparation by the applicants, and an agreed business plan will be required to finalise the Section 75 Agreement. Submission of the business plan to the planning authority can be required by condition.

In light of the above, it is considered that the applicant's proposal is compliant in principle with Policy IND 5.

TC6 (Local Shops) only permits retail developments outwith town centres where they can be justified against the following criteria:

- (a) the development does not incorporate a unit of greater than 400m<sup>2</sup> gross, and the total retail development is below 1,000m<sup>2</sup> in size overall;
- (b) the development meets a recognised local need; and
- (c) it is located where it can be conveniently accessed on foot from adjacent, existing development.

In relation to (a) and (b) it is considered that the level of development proposed is of a scale which would be expected to be located within a residential development of the size proposed. A suitable planning condition can be attached to limit the size of the retail element to that indicated.

In terms of (c) the indicative location shown in the development framework, subject to detailed consideration of means of access at the MSC stage, is central and likely to be convenient to surrounding residents. A suitable planning condition can be attached to ensure that non-motorised access is considered in the design of the detailed layout. Subject to these issues it is considered that the retail element would be accessible and compliant with (c).

PI 1 (Walking, Cycling and Public Transport) requires significant trip generating proposals to demonstrate that account has been taken of the needs of walkers, cyclists and public transport users by addressing listed criterion. The issues detailed in the criterion are largely matters of detail and shall be assessed at the MSC application stage. The applicant can be made aware of this issue through an informative directing them to this Report.

In terms of Policy PI 8 (Drainage, SUDs and Flooding) a Flood Risk Assessment (FRA) has been submitted in support of the application and is considered satisfactory. A framework strategy has been prepared from the findings of the FRA. A suitable condition can be applied to any permission requiring that appropriate flood management measures are incorporated at MSC stage. This should be demonstrated by a detailed flood risk assessment including a complete topographic survey to determine the 200 year functional floodplain to determine the developable area. NAC's Flood Engineer and SEPA should be consulted by the applicant in the scoping and preparation of this FRA, an informative would address this matter.

NAC's Flood Engineer welcomes the recommendation in the FRA to open up the Penny Burn Culvert, however notes that developer must allow vehicle access for maintenance of the Burn at all times. It is also advised that a drainage and surface water strategy must be submitted at MSC stage, for the development site as a whole, and should outline the overall maintenance proposals. Suitable planning conditions can be applied to any permission.

Conditions can be also be attached requiring that a comprehensive Drainage Strategy is submitted, which should include details of SUDs techniques proposed.

PI 13 (Carbon Emissions and New Buildings) requires that all new buildings must reduce their CO<sub>2</sub> emissions above or in line with Building Standards, through appropriately designed: on-site low or zero carbon generating technologies (LZCGTs); and/or passive/operational energy efficiency measures. Such measures should be demonstrated and a suspensive condition may be used to submit energy saving or on-site LZCGT schemes at the time of Building Warrant submissions. In order to address these issues a suitable condition can be applied to any planning permission.

The Council's 'Neighbourhood Design Guidance' seeks new high quality design solutions, which seek to 'knit together' and 'mend' existing settings, creating a 'sense of place' and encourage design that links communities and promotes activity. It is considered that these aims can be addressed at the MSC stage. However, a condition could be applied to ensure that the development is designed in accordance with the principles of the Scottish Government's Designing Streets and Designing Places policy documents and NAC Neighbourhood Design Guidance.

ENV 12 (Development of Open Space) seeks to protect areas of open space from development, unless relevant criteria are satisfied. In this regard the areas of the site identified as 'Open Space' comprise areas of structural landscaping and amenity grass, to the periphery of the site. The Development Framework Document indicates that there would be limited impact on these areas and it is considered that the effects on the amenity, character and appearance of the area would not be discernible.

Policy RES 8 (Open Space and Play Provision in New Housing Developments) requires that open space and children's play facilities are provided within the development site in accordance with the Council's published requirements. This can be addressed by a condition.

A material consideration is the impact of the proposed development on flora and fauna. In this regard it is considered that the development area primarily comprises of rough grassland, although there are trees in peripheral areas which will be affected. The woodland areas are likely to be considered the most ecologically important, providing bird nesting and bat foraging habitat. In order to manage and enhance biodiversity, surveys for bat species should be undertaken during March/April - October. It is also recommended that site preparation and vegetation clearance is conducted outwith the breeding bird season (nominally March to August inclusive), alternatively bird nest surveys can be undertaken immediately prior to any proposed works and if an active nest is found it should be protected. Suitable conditions can control such matters.

In view of the foregoing, it is considered that the proposal accords with the relevant Local Development Plan policies, and that subject to the applicants entering into a Section 75 Agreement to specify the nature and extent of off-site employment space improvements, the provision of affordable housing and the Transport Scotland recommendations, planning permission can be approved subject to the conditions contained in Appendix 1.

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

See Appendix 1.

Remember recommendation



CRAIG HATTON  
Corporate Director (Development and Environment)

Cunningham House, Irvine  
24 October 2013

For further information please contact David Hammond, Team Manager (Development Plans), on telephone number 01294 324764.

Last updated By : Melanie Anderson on 19/05/2014 16:14

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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 6**

Planning Committee

**11 November 2015**

Planning Area

**North Coast and Cumbraes**

Reference

**15/00200/PPM**

Application

**16th April 2015**

Registered

Decision Due

**16th August 2015**

Ward

**Dalry & West Kilbride**

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**Recommendation**      **Refuse for Reasons contained in Appendix 2**

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**Location**      Blackshaw Farm  
West Kilbride

**Applicant**      Community Windpower Limited  
First Floor  
2 Parklands Way  
Maxim Business Park  
Motherwell

**Proposal**      Erection of six wind turbines each with a maximum blade to a height of up to 125m and associated infrastructure including access tracks, hard standings, substation and control room, 80m meteorological masts, temporary construction of storage compound and borrow pits

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**1. Introduction**

At the meeting on 26 August 2015, Committee agreed to a request by the applicant to continue consideration of the application to the next meeting, and to allow Members to undertake a site familiarisation visit.

At the meeting on 16th September 2015, Committee was advised that the site familiarisation visit was held on Monday 31 August 2015 and that further late correspondence had been received from the applicant in respect of (i) landscape (ii) noise and private water supplies and (iii) aviation issues. The Committee agreed to continue consideration of the application to the next meeting to allow officers an opportunity to consider the issues raised in the late correspondence. At the meeting on 21st October, Committee was advised that a number of issues were still outstanding and that the application would be presented to the meeting on 11 November 2015 for consideration.

In relation to the above points:

- (i) the applicant's landscape submission was made available to Committee members prior to the Committee meeting of 16 September and it is not considered that it raises any new issues;
- (ii) Environmental Health has confirmed that private water supplies would not be affected by the proposed development. In relation to noise , the applicant submitted a Noise Report, from a different Consultant, on 27th October. Environmental Health Officers have been unable to provide a formal consultation response to date and have requested clarification of a number of matters from the Consultant. Accordingly, they still maintain the previously stated view of having 'serious reservations' that the required noise limits can be met;
- (iii) Glasgow Prestwick Airport has submitted a revised position and consider that any concerns could be addressed through a S75 legal agreement, NATS has made no further comment and the NATS aviation objection still stands. Furthermore, Glasgow Airport, who had originally lodged a holding objection on the grounds of aviation safety, has now confirmed an objection to the proposed development.

## **2. Description**

This planning application is for the erection of six wind turbines on a site at Blackshaw Farm located directly north of the Ardrossan Wind Farm, some 1.5 Km east of West Kilbride, and some 750 metres south of the B781 Dalry – West Kilbride road from which the vehicular access to the site would be taken, at a new junction some 120m west of the existing access to Blackshaw Farm.

The turbines would be located partially within an area of forestry to the south of Blackshaw Hill on land at a height varying between 139 and 177 meters above sea level.

The proposed turbines would measure 125 metres high to blade tip, 74.5 metre high tower with 101 metre diameter blades, and each would have an installed capacity of 3.5 megawatts (Mw). The proposed development would also include the construction of associated access tracks, hardstandings, sub-station and control room, the erection of an 80m high meteorological mast of lattice construction, the formation of a temporary construction and storage compound and the excavation of two borrow pits.

The proposed control building would be a single storey building 17 metres long by 6.6 metres wide with a dual pitched roof with a ridge height of some 5.5 metres and would sit adjacent to the proposed sub-station which would occupy a similar site area within a fenced compound. The wind turbines are intended to have an operational life span of approximately 25 years, following which they would be removed and the site reinstated to an agreed standard, or alternatively they may be the subject of a subsequent application to extend the life of the development.

The proposal falls within the category of "major" development, in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, and the application was accompanied by a Pre-Application Consultation (PAC) report which outlined the steps taken by the applicant to inform the community about the proposed development and offer the opportunity to contribute their views, prior to this application being submitted for determination. The PAC report provides details of (i) those bodies and individuals consulted, (ii) the means of publicity undertaken, (iii) the public events held, and (iv) feedback from the public events.

The proposal also comprises development in respect of which the Environmental Assessment (Scotland) Regulations 1999 apply, and therefore an Environmental Statement (ES) was submitted with the application which examined a range of topics including the construction, operation, maintenance and decommissioning of the site; economic and community benefits; landscape and visual issues; and assessments of hydrology, noise, archaeology, airport radar and other related issues. Part of the ES is a the Landscape and Visual Impact Assessment (LVIA) which is an assessment of the potential significance of changes, which may occur in the landscape as a result of the proposed development. The LVIA contains photomontages of the proposed development from key locations, at both close and long range distances to the site. The general conclusion of the applicant's ES is that the proposed development, subject to implementing mitigation measures where appropriate, would have no long-term significant effects in relation to ecology, cultural heritage, landscape and visual impact, health & safety, hydrology, noise and ornithology.

Scottish Planning Policy (SPP) recognises the role that wind turbines play in meeting renewable energy targets and indicates that there is considerable potential for Scotland's landscape to accommodate such development, although it also recommends that careful consideration must be given to the need to address cumulative impact.

The SPP provides general locational guidance in relation to windfarm proposals, requiring account to be taken of: areas designated for natural heritage value; green belts; cumulative impact; historic environment; tourism and recreational interests; communities; buffer zones; aviation and defence interests and broadcasting installations.

SNH has also published guidance on the siting and design of wind farms, 'Siting and Designing Wind Farms in the Landscape - May 2014', which advises that wind farms should be sited and designed to minimise adverse effects on landscape and visual amenity, and that areas, which are highly valued for their landscapes and scenery are given due protection. The guidance offers design advice on the development of wind farms within landscapes, which already have wind farms.

The application site is located within an area of Countryside in terms of the Adopted North Ayrshire Local Development Plan (LDP) and is also within a Sensitive Landscape Area (SLA), and within the boundary of the Clyde Muirshiel Regional Park (CMRP). The following LDP policies are relevant in the determination of the application: PI9 (Renewable Energy); ENV1 (Development in the Countryside); and ENV7 (Sensitive Landscape Areas).

The Supplementary Planning Guidance (SPG) for wind farm development of 2009 and the NAC Landscape Capacity Study for wind farm development of October 2009 and updated in 2013, give advice on sensitive areas to be avoided by wind turbine developments and are material considerations in the determination of this application.

Policy PI9 of the LDP states that proposals for a range of renewable energy developments, including wind turbines, shall accord with the LDP subject to satisfying the following criteria:-

- (a) the development is appropriate in design and scale to its surroundings; AND
- (b) it can be demonstrated that there is no unacceptable adverse impact on the intrinsic landscape qualities of the area (especially for areas with a specific landscape designation, and coastal waters); AND
- (c) in the case of individual wind turbines or windfarm development, that the proposed development is not in an area designated as "high sensitivity" in the Landscape Capacity Study for Windfarm Development in North Ayrshire"; AND

- (d) the proposal shall not result in unacceptable intrusion, or have an unacceptable adverse effect on the natural, built, cultural or historic heritage of the locality; AND
- (e) it can be demonstrated that there are no unacceptable adverse impacts on the operation of tourism or recreational interest; AND
- (f) it can be demonstrated that any unacceptable adverse effects and telecommunications, transmitting, receiving or radar systems for civil, broadcasting, aviation or defence interests can be effectively overcome; AND
- (g) the proposal can be satisfactorily connected to the national grid without causing any unacceptable negative environmental impacts; AND
- (h) when considered in association with existing sites, sites formally engaged in the Environmental Assessment process or sites with planning permission, including those in neighbouring authorities, there are no unacceptable impacts due to the cumulative impact of development proposals; AND
- (i) in the case of individual wind turbines and windfarm development, that the proposal satisfies the contents of the Ayrshire Supplementary Guidance: Windfarm Development (October 2009); AND
- (j) where appropriate, applicant's will be required to demonstrate consideration of co-location with significant electricity or heat users.

The above policy also requires that any redundant apparatus be removed within 6 months of it becoming non-operational and the site restored, unless it can be demonstrated that the said apparatus will return to productive use within a reasonable time frame.

Policy ENV1 of the LDP relates to new development in the Countryside (excluding Housing) and states that such developments shall not accord with the LDP unless satisfying criteria relevant to (a) being necessary non-residential development associated with agriculture, forestry or other established rural businesses , (b) a small scale Class 4 business with a specific locational need to be located on site, (c) being essential public infrastructure with a special operational need to be located on site, (d) being within an existing rural village, and (e) tourism, outdoor sport or recreational development with a specific operational need to be located on site.

Policy ENV 7 of the LDP relates to development within Special Landscape Areas (SLA) and states that within the identified SLA, which includes the National Scenic Area in North and Central Arran and Clyde Muirshiel Regional Park, as defined on the LDP Map, the Council shall pay special attention to the desirability of safeguarding or enhancing the character or appearance of the landscape in the determination of proposals. Development should be sited so as to avoid adverse impacts upon wild land.

There is a presumption against development in the above areas unless it can be demonstrated that the proposal:-

- (a) meets the needs of agriculture or forestry; OR
- (b) is a recreation, leisure or tourism proposal which will bring a level of social and economic benefit to the area which outweighs the need to protect the area from development; OR
- (c) is a renewable energy generation development; AND
- (d) is appropriate in design and scale to its surroundings; AND
- (e) has no unacceptable direct, indirect or cumulative impacts on the landscape character and/or the natural and built heritage resource; AND
- (f) has no unacceptable impacts on the visual amenity of the area; AND
- (g) has taken cognisance of the Council's Rural Design Guidance, where applicable.

In addition to the above criteria, proposals for development which would affect the National Scenic Area, as identified on the LDP Map, shall not accord with the LDP unless:-

- (h) the objectives of designation and the overall integrity of the National Scenic Area will not be compromised; OR
- (i) any significant adverse impacts on the qualities for which the National Scenic Area has been designated are clearly outweighed by social or economic benefits of national importance.

### **3. Consultations and Representations**

The statutory neighbour notification procedure was carried out. Notice of the planning application and associated Environmental Statement were published in the local press on the 29th April 2015 and in the Edinburgh Gazette on the 1st May 2015 respectively.

A total of 55 letters of objection have been received, 10 of which were of a pro-forma style and which also included a petition of 66 signatures. Fifty seven letters of support were also received, including two styles of pro-forma letters, 51 of which were collected and submitted by the applicant. A further letter was received neither objecting to or supporting the application but indicating matters requiring consideration in the determination of the application.

Grounds of Objection:

1. Questions the policy of the Scottish Government towards wind power as a solution to energy needs.

*Response: Wind power is only one of a number of renewable energy technologies encouraged by the Scottish Government.*

2. There is no need for the proposed development as the Scottish Government target for renewable energy generation is likely to be met given the number of operational developments and consent for the development is yet to be implemented.

*Response: It has been acknowledged by Scottish Government Reporters in previous appeal decisions that the Scottish Government target is not a cap, and that any additional capacity will help to reduce the country's carbon emissions.*

3. The planning system is intended to direct development to appropriate locations and this proposal is contrary to the Council's Local Development Plan and Landscape Capacity guidance. The proposal would be out of scale and character with the landscape and would result in an unacceptable cumulative impact and establish a precedent for further wind farm development within sensitive areas.

*Response: Agree - See analysis.*

4. Questions the various techniques used by the applicants to demonstrate that no significant adverse visual impacts would result from the proposed development. The reality usually shows that wind farms are much more prominent once built, as opposed to the photo montages submitted with the planning application.

*Response: The Environmental Statement submitted with the planning application has been produced in accordance with best practice guidance issued by Scottish Natural Heritage.*

5. Despite repeated advice from North Ayrshire Council that a wind farm in this location would not be supported, the applicant has nonetheless continued to pursue the proposal.

*Response: Noted.*

6. The proposed development if approved would conflict with NAC's aim of achieving new housing development within surrounding settlements.

*Response: Noted.*

7. Concerns regarding the removal of redundant apparatus and the reinstatement of the site following the end of life of the windfarm.

*Response: Appropriate provision can be made for this by entering formal legal agreements and receiving financial bonds from the applicant. These requirements and financial values would also have the ability to be regularly reviewed and amended where necessary.*

8. The proposed development lies within Clyde Muirshiel Regional Park which is identified in the LDP as an area within which special attention to safeguarding the character appearance of the landscape from inappropriate development.

*Response: Policy ENV7 of the LDP contains a presumption against development within Special Landscape Areas, including Clyde Muirshiel Regional Park. The proposed development is assessed against this policy in the analysis section of this report.*

9. The proposed development will adversely impact on the Special Protection Area (SPA) within Clyde Muirshiel Regional Park.

*Response: The SPA is located on the northern side of the A760 Largs Kilbirnie Road some 11km north of the application site. The SPA designation relates to its importance for breeding hen harriers and while SNH and RSPB were consulted on the planning application neither expressed any concerns regarding any potential adverse impact on the SPA.*

10. The proposed development would breach the 2km buffer zone specified in SPP which is intended to provide an adequate separation between windfarms and settlements.

*Response: The proposed turbines would be located some 1.2km to 1.8km distant of the eastern settlement boundary of West Kilbride as identified in the LDP. While this is within the 2km noted in SPP, the separation distance denotes an "area of significant protection" within which windfarms may be considered to be appropriate depending on the outcome of assessment against a range of criteria which may adversely impact on amenity e.g. visual impact, noise, shadow flicker etc. These issues are considered in detail in the Analysis section of this report.*

11. The proposed development would result in an adverse impact on local roads.

*Response: Neither Transport Scotland nor NAC Transportation have objected to the proposed development. If approved, conditions would be attached to the permission in relation to agreeing a traffic management plan, a roads condition survey and a delivery route survey.*

12. The proposed development would result in excess noise from the turbines impacting on nearby properties.

*Response: NAC's Environmental Health Officers have expressed serious reservations on the proposed development until the applicant can demonstrate that they can meet the required noise limits.*

13. The proposed development would result in water pollution.

*Response: SEPA has requested further information from the applicant regarding the collection, containment, treatment and disposal of contaminated site drainage. If approved, a condition could be attached to require a submission of a site drainage strategy as requested by SEPA. Environmental Health is satisfied that no private water supplies would be affected by the proposed development.*

14. The proposed development would have an adverse impact on airport radar systems.

*Response: National Air Traffic Services (NATS) and Prestwick Airport (GPA) both originally objected to the proposed development on the grounds of an unacceptable impact on airport radar and aviation safeguarding criteria. GPA has subsequently withdrawn the objection, advising that the concerns could be dealt with under a S75 legal agreement. Glasgow Airport, who had originally lodged a 'holding objection' on the grounds of aviation safety, has now confirmed an objection to the proposal*

15. The proposed turbines would have an adverse impact on the well-being of livestock within adjacent fields.

*Response: Whilst there is little documented evidence that such effects would occur, it is not considered to be a material planning consideration.*

16. The proposal will result in an adverse impact on tourism and house values.

*Response: The impact of any development proposals on property values is not considered to be a valid land use planning objection. In relation to tourism however, while there are conflicting results in relation to whether or not wind turbines adversely impact on tourism, the presence of the proposed turbines within the Clyde Muirshiel Regional Park, all be it in the southern extremity of the Park, could have an adverse impact on tourists visiting the area.*

17. Concern regarding public safety in relation to potential ice throw from turbine blades, collapse of towers, breakage of blades, or fire.

*Response: Examples of the above incidents are relatively rare in occurrence. It is noted that in relation to ice throw, turbines can be shut down during adverse weather conditions.*

18. Nearby properties would suffer the effects of shadow flicker from the proposed turbines.

*Response: The applicants EA acknowledges that four nearby residential properties could be at risk of the effects of shadow flicker under certain combinations of geographical position, time of day and time of the year and where flicker appears through narrow window openings. The applicant has submitted that control measures could be implemented in order to prevent shadow flicker occurring or to reduce its intensity e.g. by programming individual wind turbines that may give rise to shadow flicker effects to shut down at times when these effects may occur. The theoretical calculations of shadow flicker impact carried out by the applicant do not take account of intervening land forms or vegetation and therefore the predicted impacts are likely to be significantly less than shown and according the ES deems the potential impact to be low.*

19. The proposed development will result in restricting access to the general area for walkers and ramblers.

*Response: There are no statutory public Rights of Way within the application site however, while public access to the site may be temporarily disrupted during construction works for safety reasons, the proposed development once completed would provide improved access to the area through the provision of new access tracks.*

20. The proposed development would result in the loss of Blanket Bog.

*Response: SEPA originally objected to the proposed development on the grounds of lack of information on this issue. Following the submission of additional information from the applicant SEPA are now satisfied that peatland habitats are largely outwith the application boundary and that there is no deep peat in the line of the proposed infrastructure.*

21. The proposed development will have an adverse impact on significant archaeological remains within the locality.

*Response: Historic Scotland has commented on the potential impact on the "Blackshaw Quarry, Cup and Ring-marked Rock", a Scheduled Monument located within the site, and offer no objection to the proposed development. Although located within the application site, the Monument would not be disturbed by the development. The applicants' ES also identified a number of other archaeological features, which are outwith the remit of Historic Scotland to comment on and while a consultation was carried out with West of Scotland Archaeological Service, no response has been received to date. The ES also indicates a high potential of further archaeological discoveries within the application site and if approved, appropriate conditions could be attached to require further archaeological investigation or the appointment of an archaeological clerk of works to monitor all on site works during the course of construction.*

22. The Community Benefits which have been widely highlighted by the applicants should not be seen as being an acceptable form of mitigation for the adverse environmental impacts the proposed development would have on the local area.

*Response: Community Benefits are not a material consideration in the determination of the application.*

#### Grounds of Support:

1. Would result in environmental benefits in the form of reducing CO<sub>2</sub> emissions, be a safe and clean way of electricity production, and result in improved habitat management.

*Response - Agree, however these issues have to be weighed against other negative environmental considerations highlighted in this report.*

2. Would result in economic benefits in the form of community benefit payments, securing a large financial investment, job creation in construction (over 100 jobs) and maintenance (2 jobs), and the use of local contractors and suppliers.

*Response - Agree.*

3. The proposal will help meet renewable targets.

*Response – SPP advises that renewable targets should be only one of the considerations in the determination of the application.*

**SEPA** - Originally objected on grounds of lack of information on peat survey results, protection of wetlands and peatlands, and habitat protection and enhancement. Following submission of additional information from the applicant SEPA has now withdrawn the objection as it is considered that these matters could be addressed by a condition. *SEPA has also requested further information from the applicant regarding the collection, containment, treatment and disposal of contaminated site drainage.*

*Response – Appropriate conditions could address these matters, should the Committee agree to grant permission.*

**Prestwick Airport (GPA)** – Originally objected to the proposed development on the grounds of aviation safety. Following further discussions with the applicant they now consider that their concerns could be dealt with under a S75 legal agreement.

*Response – This could be dealt with under the terms of a S75 legal agreement should the Committee agree to grant permission.*

**National Air Traffic Services (NATS)** – Object as the proposed turbines would result in an unacceptable impact on their safeguarding criteria.

*Response – Noted.*

**Glasgow Airport (BAA)** – Object, as the proposed turbines would conflict with safeguarding criteria.

*Response – Noted.*

**SNH** – It is outwith the statutory remit to offer advice on landscape/visual impacts, but request that the mitigation measures identified in the applicants' ES should be attached as conditions of any planning permission granted and also request additional conditions in relation to otter, bat and deer surveys.

*Response – Appropriate conditions can be attached should the Committee agree to grant permission.*

**NAC Environmental Health** – Express ‘serious reservations’ on the proposal until the applicant is able to demonstrate that they can meet the required noise limits.

*Response – Noted.*

**Historic Scotland** – Advise that while the development would result in an adverse impact on the Scheduled Monument of 'Blackshaw Quarry Cup & Ring marked rock', it would not be significant given its previous exposure to modern development in the locality. Also advise that it would have only a minor adverse impact on the Scheduled Monument of 'Knockjargon Cairn & Fort'.

*Response – Noted.*

**Transport Scotland** – No objections. Require to be consulted by the applicant on the movement of abnormal loads.

*Response – Noted.*

**NAC Transportation** – No objections subject to conditions being attached in relation to the submission of a Traffic Management Plan, a Roads Condition Survey and a Detailed Route Survey.

*Response - Appropriate conditions can be attached should the Committee agree to grant permission.*

**West Kilbride Community Council** – No objections, but make the following observations: contrary to NAC Landscape Policy; adverse environmental impact resulting to the felling of trees; site is within the Clyde Muirshiel Regional Park; question carbon dioxide savings; the tourism section of ES fails to take account of walking and cycling in the area; close to archaeological remains; uncertainty of grid connection route; question the suitability of the access to the site for large vehicles; Community Benefit offered by applicant should not be considered to be part of the proposal; and the ES contains erroneous information on the separation distance between the turbines and Faulds Farm.

*Response – Noted. Agree that the proposed development would be contrary to NAC's Landscape Capacity guidance and have an adverse impact on the Regional Park and therefore would be contrary to the adopted LDP. The other material matters have been considered by Consultees and/or addressed elsewhere in this report.*

**RSPB, MOD** – No Objections.

**Scottish Water, Clyde Muirshiel Regional Park, West of Scotland Archaeological Service** – No response to date.

#### 4. Analysis

The main determining issue of the proposed development is the requirement to satisfy policies PI9 (Renewable Energy), ENV 7 (Special Landscape Areas), and ENV1 (New Development in the Countryside) of the Local Development Plan.

In order to comply with Policy PI9 proposals for wind turbine developments must comply fully with the following range of criteria:-

- (a) be of appropriate scale and design to its surroundings; AND
- (b) have no unacceptable adverse impact on landscape quality; AND
- (c) not be within a "high sensitivity" area as defined in NAC's Landscape Capacity Study; AND
- (d) not result in unacceptable intrusion or have an adverse effect on the natural, built, cultural or historic heritage of the area; AND
- (e) not adversely impact on tourism/recreational interests; AND
- (f) be able to demonstrate that any adverse impacts on radar, broadcasting or telecommunication systems can be overcome; AND
- (g) achieve a satisfactory grid connection without adverse environmental impacts; AND
- (h) not resulting in an adverse cumulative impact; AND
- (i) satisfy the Ayrshire Supplementary Windfarm Guidance of 2009.

Criterion (g) is not directly relevant to this application as the grid connection is not part of the proposed development. Criterion (d) relates to impacts on the natural, built, cultural or historic heritage of the locality and given the absence of objections from statutory consultees and the offer of acceptable mitigation measures by the applicant in relation to these issues, the proposed development is considered to be acceptable, however it is considered that the proposed development would fail to satisfy the remaining criteria for the following reasons.

In relation to criterion (f), NATS safeguarding and Glasgow Airport have submitted objections to the proposed development on the grounds of unacceptable impact on their radar systems. Prestwick Airport has revised their original position of objecting to the proposed development and now advise that the concerns could be dealt with under a S75 legal agreement.

In relation to telecommunications links, the ES identifies two links which might be adversely impacted by the proposed turbines. The applicants advise that discussions are ongoing with the operators of these links with a view to agreeing any mitigation measures that may be required to safeguard these links. They also confirm that any required mitigation would be implemented prior to the construction of the proposed development. The ES also advises that while the proposed development is unlikely to adversely impact on TV reception, they agree to fully investigate and rectify any post operational complaints received.

In relation to criteria (b) and (c), the proposed turbines would be located within the Rugged Moorland Hills and Valleys - Haupland Muir landscape character type as identified in both the 2009 and 2013 NAC Landscape Capacity Studies. This landscape comprises a relatively small area of low hills lying at the southern end of the Clyde Muirshiel Uplands. The well-defined and higher hills of Knockewart and Blackshaw lie on the northern boundary of this landscape while more gently graded south-western slopes fall to the coastal edge, where they form a backdrop to the settlements of Ardrossan and Saltcoats. The visually dominant existing Ardrossan wind farm is located within the upland core of this landscape and on the gently graded south-western slopes. The upland core of this landscape is unsettled and comprises open grass moorland with gorse scrub and some small coniferous plantations with the lower hill slopes patterned with compact farms, small woodlands and fields enclosed by hedges.

The 2013 Capacity Study found that the limited extent of this landscape and the presence of the Ardrossan wind farm, which occupies much of its less sensitive upland core, are key constraints increasing sensitivity to all development typologies. The study concluded that this landscape has a high sensitivity to turbines over 30m high to blade tip.

Key constraints listed in the 2013 Capacity Study for the Rugged Moorland Hills and Valleys – Haupland Muir landscape character type (and relevant to this proposal) include:-

- Lower hill slopes and valleys lying on the fringes of this landscape where small farms, enclosed fields, woodlands and trees provide scale references which would be dominated by larger turbines;
- The setting of the existing Ardrossan wind farm which is clearly associated with more gently graded south-western slopes and is partially contained by the higher Knockewart and Blackshaw Hills to the north and where additional turbines, and particularly separate developments, sited in this landscape character type, would diminish its design integrity and result in significant cumulative effects; and
- Views from Ardrossan, the coast and Firth of Clyde and also from close-by roads and settlement where additional turbines sited on higher and/or more well-defined outer hills, or breaching the containment provided by the Knockewart and Blackshaw Hill to the north, would increase the prominence of wind turbine development from surrounding roads and settlement.

The proposed development would abut the operational Ardrossan wind farm which comprises 15 turbines, each of 100m high to blade tip. This proposal is for 6 turbines, 125m high to blade tip, and when considering the different size of turbines of the two developments, it is considered that this proposal would appear in distant views from the south as a reasonably well integrated extension to the Ardrossan turbines, in close views from the north and north-west, the larger 125m high turbines of this proposal would create a discordant appearance when seen with the smaller Ardrossan wind farm turbines. This effect is particularly evident in visualisations from viewpoints 3 and 6 in the ES when viewed from the B781, close to the proposed site access junction, and from Goldenberry Ave, West Kilbride and, to a lesser extent in the more distant views from Cumbrae. The detailed assessment set out in the applicants Landscape and Visual Impact Assessment (LVIA) of the ES for these viewpoints accepts this effect.

In terms of siting, the proposed development sits within a saddle lying at the foot of the small but distinctive Blackshaw Hill. It is considered that the tall turbines of this proposal would overwhelm the scale of this hill and the nearby Law Hill in some close views to the north and west of the site from the B781 and West Kilbride area. The 2013 Capacity Study notes the importance of these distinctive 'edge' hills in providing containment to the Ardrossan wind farm. The LVIA concludes that the proposed development would contrast with the scale of these hills and in some views would appear to breach the... "topographic threshold formed by Blackshaw Hill". In some close views from the west the proposed turbines would appear to extend up to the landform of Law Hill, contrasting with the siting and design of the Ardrossan wind farm.

The Ardrossan wind farm was specifically designed to form a clustered grouping sited within the core of an upland area which is limited in extent. Its siting at the core of this upland area, together with the degree of containment provided by a rim of higher hills and knolls reduces the intrusion of this wind farm, particularly in views from the north and north-west. The LVIA contends that the proposed development would retain the setting and design integrity of the Ardrossan wind farm and form, however it is considered that given the significant contrast in size between the turbines of the proposed development and the Ardrossan wind farm, and the compromising effect on the containing hills of Knockewart, Blackshaw and Law Hill, which effects also accepted in the LVIA, this proposal would adversely affect the design integrity of the original layout. SNH guidance "Siting and Designing Wind Farms in the Landscape" of 2014 advises that "design objectives and principles should echo those of the original wind farm. Extensions should use turbines which are compatible with those in the existing wind farm, including aspects of scale, form, colour and rotation speed. The design rationale of the original wind farm development should not be eroded" , and continues....."Such compatibility issues will be more important the closer the wind farms are. Extensions should not compromise the landscape setting of neighbouring wind farms and should respect existing focal points in the landscape". The siting and design of the proposed development is therefore considered to be contrary to the principles set out in SNH guidance.

The LVIA includes a detailed critique of the findings of the 2013 NAC Capacity Study in relation to the sensitivity of the Haupland Muir landscape character type and considers that the high sensitivity accorded to this landscape in the study is not credible and that the proposed development would consolidate development in a landscape already influenced by wind farms. However the LVIA accepts that the proposed development would result in a significant effect on part of the Rugged Moorland Hills and Valleys - Haupland Muir landscape character type and on part of the Clyde Muirshiel Regional Park. There would also be significant effects arising on parts of the North Ayrshire Raised Beach Coast and Rugged Moorland Hills and Valleys - Blaeloch and Crosbie Hills landscape character types. The LVIA summarises these effects as principally increasing the presence of wind turbines to the north of the operational Ardrossan wind farm and reducing the sense of containment provided by the rugged, well-defined Blackshaw and Knockewart Hills.

The Council's Landscape Consultant considers that significant effects on views would be likely to occur from 8 representative viewpoints lying within 6km of the proposed development. There would be significant effects when viewed from sections of the B781, from parts of the settlements of West Kilbride and Ardrossan and from parts of Core Paths NC60, NC23 and NC 28 ( paths along the coastline at West Kilbride - Hunterston and on inland routes heading north from West Kilbride). A detailed assessment from dispersed rural residential properties was also undertaken by the applicant which accepted that significant impacts on visual amenity would arise at a number of individual properties.

The Council's Landscape Consultant disagrees with the findings of the applicant's LVIA with regard to the sensitivity of the *Rugged Moorland Hills and Valleys – Haupland Muir* landscape character area. The LVIA disputes the judgement made in the Council's 2013 Capacity Study that this landscape is of high sensitivity to large wind turbines, by citing its large scale, the existence of settlement and man-made features and the limited sense of remoteness/naturalness as factors reducing sensitivity. The assessment set out in the 2013 Capacity Study clearly states that one of the key constraints limiting the scope for additional turbines to be accommodated in this landscape is the presence of the operational Ardrossan wind farm. This is because of the potential effects on the design integrity of the Ardrossan wind farm, which was specifically designed to relate to the simpler core of Haupland Muir, and to benefit from a degree of containment offered by the surrounding Knockewart and Blackshaw Hills.

While this proposal would consolidate development in landscapes with existing wind farms, it would also result in significant cumulative landscape and visual effects because of its discordant relationship to the Ardrossan wind farm and also because it is sited in an upland area which is confined in extent and lies close to more sensitive hills, farmland and settlement on lower slopes. These effects are acknowledged in the LVIA in the detailed assessment from a number of viewpoints where significant effects are judged to arise on close views from the area to the north and west of the proposed development.

There is currently limited visibility of the operational Ardrossan wind farm from the B781 Dalry - West Kilbride Road, and this proposal would extend the influence of wind farms along this route with views of turbines occurring in close proximity (within 1km) of the road. The 125m high turbines would overwhelm the scale of the prominent Blackshaw Hill and smaller scale fields, trees, woodlands and buildings seen in the foreground of these views.

In more distant views from the south the proposed development would appear reasonably well integrated with the operational Ardrossan wind farm as it forms a concentrated grouping, however, the disparity of scale between the turbines of this proposal and the Ardrossan wind farm and the ‘breaching’ of the present containment provided by Blackshaw and Law Hills to the existing wind farm is pronounced in close views from the west along the B781 and in the West Kilbride area.

The main cumulative impact arising from this proposal would principally arise with the Ardrossan wind farm because of the close proximity of the proposed development to it. Additional significant cumulative impacts would also arise where this proposal is seen together with the operational Ardrossan and Kelburn wind farms and the operational/consented Hunterston wind turbines in views from parts of Cumbrae and Bute although the close proximity of this development to the Ardrossan wind farm, would reduce its contribution to these impacts.

While the applicant claims that the proposed development should be viewed as consolidating new development in areas already affected by operational wind farms, it would result in significant cumulative landscape and visual impacts because it would not be compatible in terms of its siting and design in relation to this existing development with the proposed turbines being 25m (25%) higher than the Ardrossan turbines in some views and because it would breach the containment provided to this operational wind farm by the prominent hills of Knockewart, Blackshaw and Law Hill.

While the applicants LVIA concludes that the proposal is appropriately designed and sited to relate to its surroundings, the detailed assessment, also set out in the LVIA, highlights a number of significant landscape and visual effects arising from the location and design relationship of the proposal with the operational Ardrossan wind farm. While appearing as an extension to the Ardrossan wind farm, because of its close proximity, it is not considered that it would be a well designed and appropriate extension in close views from the west. It would also open up new visibility of very large turbines seen in conjunction with smaller scale features and compromise the containment provided by Knockewart and Blackshaw Hill from the B781 and the south-facing slopes of the Crosbie Hills to the north of the proposal development.

In view of the above, the proposal does not accord with the guidance contained in the Landscape Capacity Study and would be unacceptable in terms of landscape and visual appearance, and would result in an unacceptable cumulative visual impact and accordingly result in failure to comply with criteria (a), (b), (c) and (h) of policy PI9.

In relation to the issue of tourism/recreation, there is conflicting evidence of the impact that large scale wind farms can or do have on tourism and recreational interests. The application site lies within Clyde Muirshiel Regional Park (CMRP) and while it could be argued that the site is located at the southern end of the Park and close to other windfarms within it, the proposed turbines would represent a further intrusion into this Special Landscape Area and with the potential, if approved, to set a precedent for other similar developments in the locality, the cumulative impact of which, is considered, would have an adverse impact on visitors to the area or the enjoyment of the Regional Park for general recreational pursuits and accordingly would result in failure to comply with criterion (e) of policy PI9.

Criterion (i) of PI9 requires the proposed development to satisfy the relevant criteria of the Ayrshire Supplementary Guidance: Windfarm development of October 2009. In view of the above assessments, the proposed development is considered to have failed to satisfy some of the key criteria of this Guidance, namely in relation to Landscape and Visual Impacts, Cumulative Impact, Aviation, and Tourism.

A further criterion of the Guidance relates to "Communities", and acknowledges that wind farms have the potential to create significant long term adverse impacts on the amenity of an area on health, well being and quality of life of people living or working nearby, and highlights the potential for adverse impacts from Shadow Flicker, Noise and Visibility. It states that "development will not generally be supported within 2km of a town and village or within either 700 metres or a distance of 10 time the turbines rotor blade diameter (whichever is the greater) from an individual dwelling, work place or community facility unless the developer can demonstrate the impacts are acceptable". The proposed turbines are within both these stated "buffer zones", being only some 1.25 Km from the settlement of West Kilbride, and within 1 Km (10 time the turbines rotor blade diameter of 101m) of 5 nearby dwellings.

In relation to Shadow Flicker, the applicant has submitted an assessment on this topic which accepts that four nearby residential properties could be at risk of shadow flicker under certain combinations of geographical position, time of day and time of the year and where flicker appears through narrow window openings. The theoretical calculations of shadow flicker impact carried out by the applicant do not take account of intervening land forms or vegetation and therefore the predicted impacts are likely to be significantly less than shown and according the ES deems the potential impact to be low. The applicant has submitted that control measures could be implemented in order to prevent shadow flicker occurring or to reduce its intensity e.g. by programming individual wind turbines that may give rise to shadow flicker effects to shut down at times when these effects may occur and this is considered to be acceptable.

In relation to noise, Environmental Health has serious reservations in relation to the potential for the turbines to cause noise nuisance at nearby noise sensitive premises. In these circumstances the proposal is considered to conflict with the Ayrshire Supplementary Guidance and consequently failing to satisfy criterion (i) of Policy PI9.

Policy ENV 7 of the LDP states a general presumption against development within Special Landscape Areas, including Clyde Muirshiel Regional Park. Whilst the policy would allow renewable energy generation developments, subject to satisfying a set of qualifying criteria, this proposal fails to satisfy the criteria as it is considered that it would result in an unacceptable visual impact and cumulative visual impact on the landscape character of the area.

The above reasons for failure to satisfy Policies PI9 and ENV7 were also the main grounds of objection contained within the 55 letters received as objections to the proposed development.

The proposed development is also considered to be contrary to Policy ENV1 of the LDP which relates to all new development in the Countryside, excluding housing. This policy only allows developments to accord with the LDP if they are necessary developments associated with agriculture, forestry or other established rural businesses; small scale Class 4 businesses with a specific locational need; essential public infrastructure with a specific locational need; being within an existing rural village; or which constitute an acceptable form of tourism development. The proposed development does not fall within any of these criteria and therefore is considered to be contrary to Policy ENV1 of the LDP.

The remaining components of the proposed development, including the new junction and access tracks, the erection of a meteorological mast, and the excavation of borrow pits and the construction of a sub-station and control building, have been assessed and are not considered to have any significant adverse impact on the area, which could not be addressed by the imposition of appropriate conditions.

In conclusion therefore, it is considered in relation to the LDP that the proposal would be contrary to Policy ENV1 and would not accord with the relevant criteria of Policies PI9 and ENV7 in that it would represent development which would (i) have both an adverse visual impact and cumulative visual impact, being located within a "high sensitivity" area as designated in the North Ayrshire Supplementary Landscape Wind Energy Capacity Study of 2013, within which there is not considered to be scope for further additional large turbines; (ii) impact adversely on tourism and recreational interests and on the Sensitive Landscape Area of Clyde Muirshiel Regional Park; (iii) have the potential to create significant noise nuisance at nearby residential properties; (iv) impact adversely on airport and aviation safeguarding; and (v) set an undesirable precedent for further developments at this sensitive location.

#### **4. Full Recommendations**

Refuse for Reasons contained in Appendix 2.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Cunningham House, Irvine  
26 October 2015

For further information please contact Gordon Craig, Planning Officer , on 01294 324380

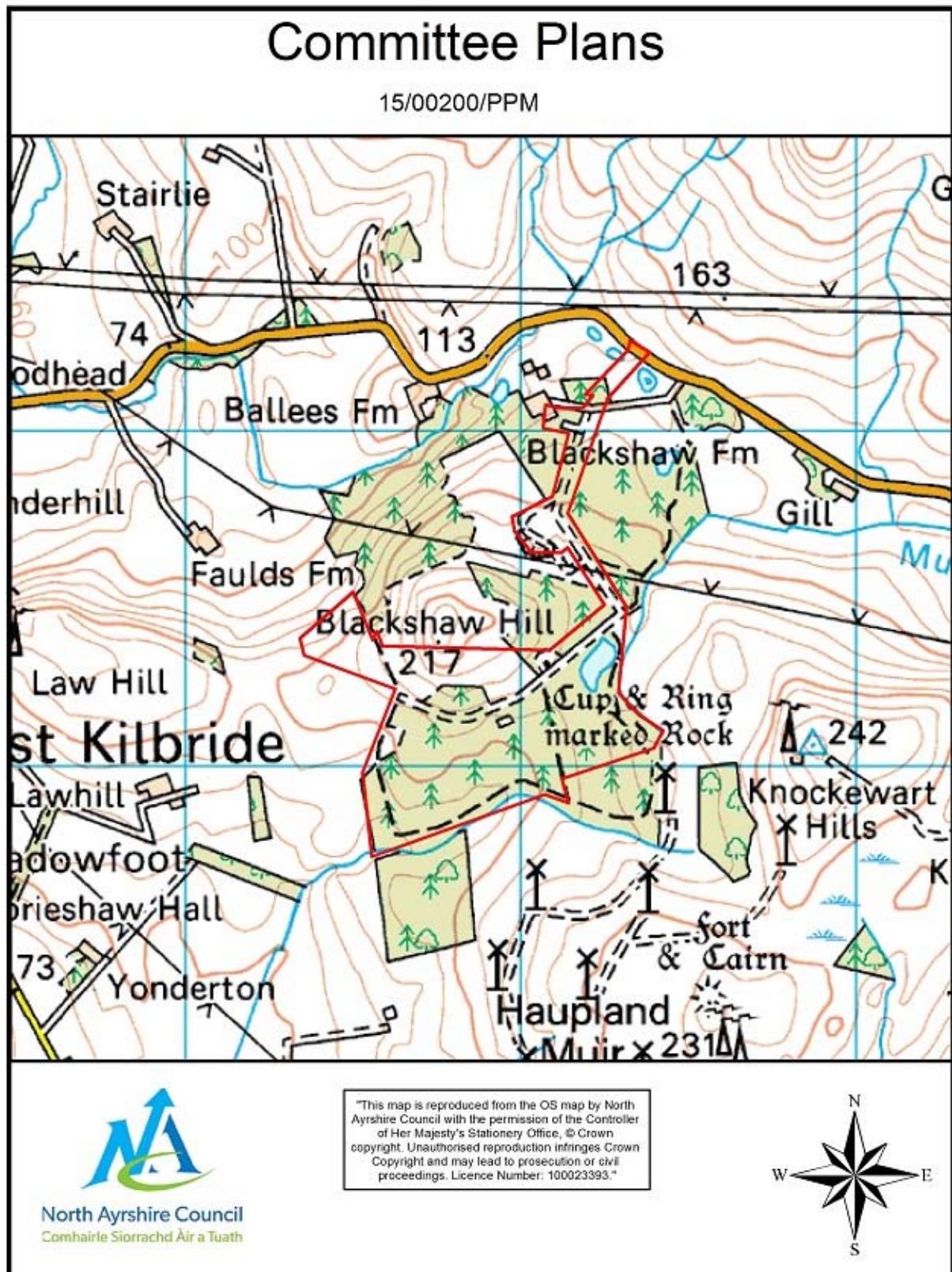
## APPENDIX 2

### **RECOMMENDATION FOR PLANNING APPLICATION REF NO 15/00200/PPM**

Refuse on the following grounds:-

1. The proposal would be contrary to Policy ENV1 of the Adopted North Ayrshire Council Local Development Plan as a development which does not accord with the stated criteria.
2. The proposal would be contrary to Policy ENV7 of the Adopted North Ayrshire Council Local Development Plan being a development which:
  - would be inappropriate in design and scale to its surroundings;
  - have an unacceptable direct and cumulative impact on landscape character and the visual amenity of the area; and
  - result in an adverse visual impact on the Special Landscape Area of Clyde Muirshiel Regional Park.
3. The proposal would be contrary to Policy PI9 of the Adopted North Ayrshire Council Local Development Plan by reason of:
  - inappropriate in design and scale to its surroundings;
  - unacceptable adverse impact on the intrinsic landscape qualities of the area;
  - location within an area designated as "high sensitivity" in the Landscape Capacity Study for Wind Farm Development in North Ayrshire;
  - adverse impact on tourism and recreational interests;
  - adverse impact on airport and aviation safeguarding;
  - adverse cumulative visual impact; and
  - contrary to the Ayrshire Supplementary Guidance : Wind Farm Development (October 2009).
4. The proposed development would set an undesirable precedent for further developments at this sensitive location.







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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 7**

**11 November 2015**

#### **Planning Committee**

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**Title:** **Tree Preservation Order, North of Glen Road, Fairlie**

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**Purpose:** To seek approval for the confirmation of the Tree Preservation Order in respect of the area of land North of Glen Road, Fairlie

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**Recommendation:** It is recommended that the Committee confirm, without modification, the Tree Preservation Order in respect of the area of land North of Glen Road, Fairlie

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#### **1. Executive Summary**

1.1 A proposal to serve a Tree Preservation Order in respect of an area of trees and woodland to the North of Glen Road, Fairlie was considered at the Planning Committee on 3 June 2015. The Order was requested earlier this year. Planning Officers concluded that the Order was merited to protect trees from insensitive works, including a planning application to build two dwellinghouses (Planning Application 15/00294/PP). The Committee considered that the area of woodland served an important amenity purpose, was of cultural and historical significance and was under threat from Planning Application 15/00294/PP . The Committee therefore agreed to serve the Tree Preservation Order.

#### **2. Background**

- 2.1 A Tree Preservation Order was served on the owners of the affected land with the effective date of 24 June 2015. The affected land is shown outlined in red on the plan at Appendix 1. A Public Notice was also published concurrently in the Largs and Millport Weekly News and provided details of the period and process for public objections and representations. The Order remains in force until 24 December 2015, after which date it will expire unless it is confirmed by the Committee.
- 2.2 The statutory period for receipt of objections and representations ended on 22 July 2015. No objections were received from any of the landowners of the affected land. One objection was received within the statutory period. No other objections were received.

- 2.3 The objection was submitted by a resident of Castlepark Drive, Fairlie, which lies to the North of the affected land. The ground of objection provided is that the Tree Preservation Order prevents the landowners from carrying out work to the trees to prevent property damage and protect safety.
- 2.4 The Tree Preservation Order does not prohibit tree works that are urgently necessary in the interests of safety or to prevent or abate a nuisance. An exemption allows such works to be undertaken without the need to apply for the Planning Authority's consent. Furthermore, the Order does not place a blanket prohibition on works intended for another purpose. Consent can be obtained from the Planning Authority for specific works if they are satisfied that they are not unduly detrimental to amenity and/or trees of merit.
- 2.5 Planning Application 15/00294/PP was refused consent on 6 August 2015. Reasons for the refusal of the Application included the severe and excessive loss of trees proposed by the development and the detrimental impact this would have on the amenity of the area .

### **3. Proposals**

- 3.1 It is proposed that the Tree Preservation Order is confirmed in order to protect the existing trees and woodland in the interests of the amenity of the area and in the interests of their cultural and historical significance.

#### 4. Implications

<b>Financial:</b>	There will be registration fees involved in the the registration of the Order if it is confirmed. The costs of the fees are not likely to exceed £100
<b>Human Resources:</b>	There are unlikely to be any significant resource issues with the Order if it is confirmed
<b>Legal:</b>	If the Order is confirmed the landowners will be served with Notice of the confirmation by Legal Services. This means that specific work to lop, chop or fell the trees will require the consent of the Planning Authority. The owners may undertake work which is "urgently necessary in the interests of safety" without the prior consent of the Planning Authority.
<b>Equality:</b>	There are no equality implications
<b>Environmental &amp; Sustainability:</b>	Confirmation of the Order will help to ensure that the trees continue to provide amenity to the local area and the nearby resident population. Furthermore, confirmation of the Order will help retain the cultural and historical link between the woodland area and Fairlie.
<b>Key Priorities:</b>	Confirmation of the Order will help to deliver the Single Outcome Agreement "We value and enjoy our built and natural environment and protect it and enhance it for future generations".
<b>Community Benefits:</b>	There are no community benefit implications.

## **5. Consultation**

- 5.1 The period for Public Consultation ran for four weeks between 24 June 2015 and 22 July 2015. After considering the only objection received the Order should be confirmed without modification.



ELMA MURRAY  
Chief Executive

Reference : 14/12900/KAS

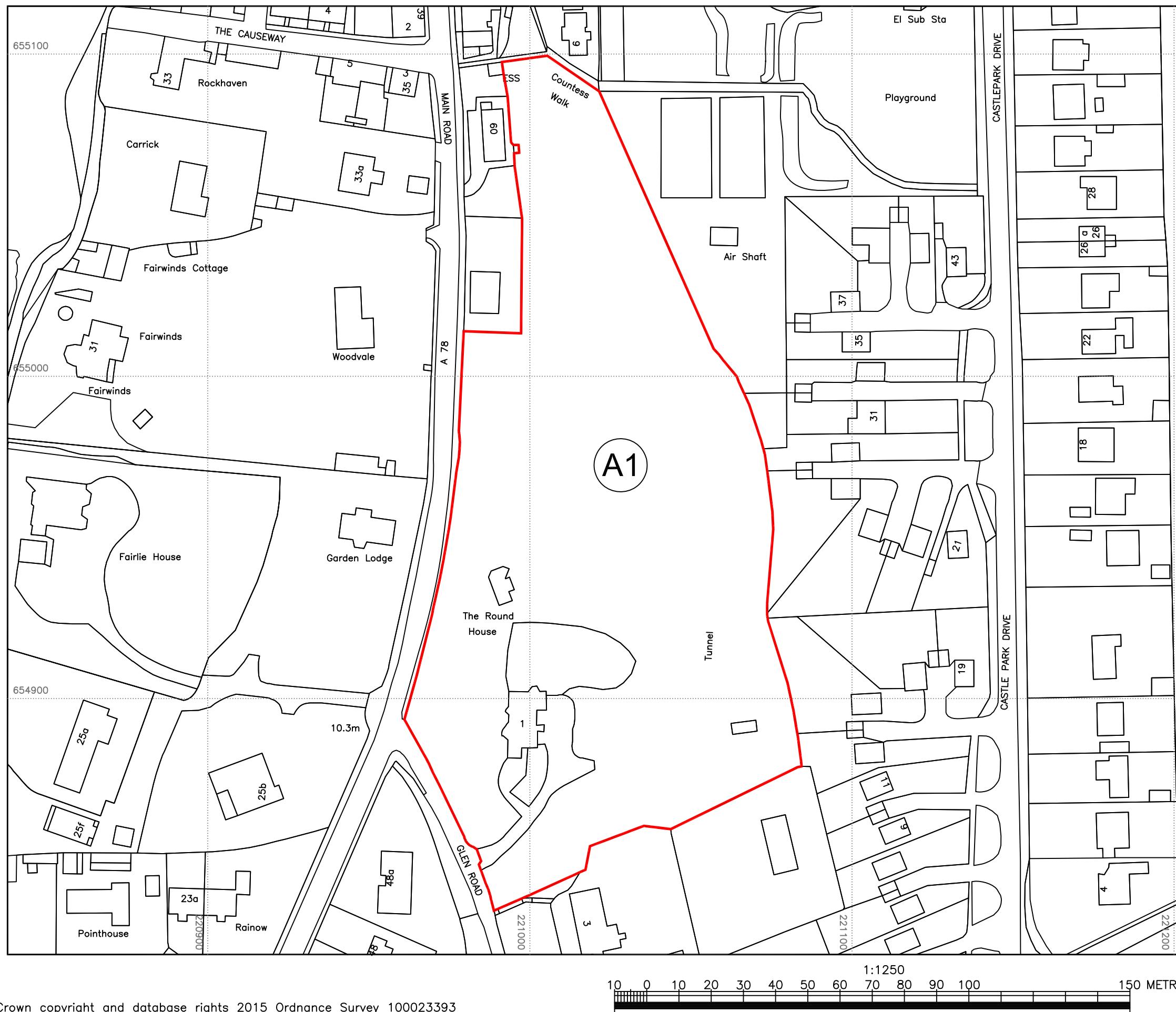
For further information please contact Kenzie Sharkey, Solicitor, on telephone number on 01294 324376

## **Background Papers**

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## Tree Preservation Order, Fairlie No. 6

Area within red boundary = 19463.77m<sup>2</sup> or thereby



**North Ayrshire Council**  
Comhairle Siorrhachd Áir a Tuath

DRAWN BY	Diane Wildridge
DATE	15/06/2015
DRAWING No	2345
SCALE	1:1250
OS SHEET	NS2154