



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Cunninghame House,
Irvine.

15 October 2015

Planning Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 21 OCTOBER 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 16 September 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. Isle of Arran

Submit report on the following application:

15/00467/PP: The Manse, Margnaheglish Road, Brodick (Page 13)

Removal of condition 5 of planning permission CH/01/93/0256 to remove occupancy restriction (copy enclosed).

- 4. Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: land at 15-40 Station Drive, Springside KA11 3BP (Page 21)**
Submit report by Executive Director (Economy and Communities) on plans to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proper maintenance of land for the abatement of the adverse impact on the local area (copy enclosed).
- 5. Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997: Blairpark Farm, Dalry KA24 5LE (Page 27)**
Submit report by Executive Director (Economy and Communities) on plans 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) (copy enclosed).
- 6. Urgent Items**
Any other items which the Chair considers to be urgent.

Planning Committee

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

Chair:

Attending:

Apologies:

Meeting Ended:

Planning Committee
16 September 2015

Irvine, 16 September 2015 - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

Present

Matthew Brown, John Ferguson, Robert Barr, John Bruce, Joe Cullinane, 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

John Bell, Ian Clarkson and Tom Marshall.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Barr, as the Chair of a local committee with an interest in the work of Community Windpower Ltd, declared an indirect, non-pecuniary interest in application 15/00200/PPM from Community Windpower Limited for the erection of six wind turbines at Blackshaw Farm, West Kilbride, submitted under Agenda Item 4, and left the meeting for that item of business.

2. Minutes

The Minutes of meeting of the Committee held on 26 August 2015 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973, subject to the following amendment:-

6.1 15/00200/PPM; Blackshaw Farm, West Kilbride

Paragraph 4 - "The Committee agreed (a) to continue consideration of the application to the next meeting, to allow an opportunity to consider further issues in respect of the internal landscape consultation regarding the scheme, a response from Environmental Health in relation to noise and private water supplies and outstanding aviation issues; and (b) that the Members undertake a site familiarisation visit."

3. Irvine/Kilwinning

09/00690/PPPM: Irvine Harbour, Harbour Street, Irvine

Irvine Bay Developments, c/o Ayrshire Innovation Centre, 2 Cockburn Place, Irvine have applied for planning permission in principle for a mixed use development comprising up to 360 residential units, a hotel, up to 2,700m² of commercial space divided between offices, a cafe/restaurant and retail and health/leisure use at Irvine Harbour, Harbour Street, Irvine.

On 7 April 2010, planning permission was granted for a mixed use development comprising up to 360 residential units, hotel, up to 2,700m² of commercial space divided between offices, cafe/restaurant, retail and health/leisure use, subject to conditions and to the applicant entering into a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure a requirement for off-site road works, access routes and improvements to bus stops.

In the absence of a committed developer for the site, the Council has been unable to conclude the Section 75 agreement and the application seeks approval to grant application 09/00690/PPPM subject to conditions rather than subject to a Section 75 agreement and conditions.

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

1.
 - a) Application for the approval of matters specified in conditions shall be made before the expiration of 5 years from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case application for the approval for all outstanding matters specified in conditions may be made within 6 months of the date of such refusal or dismissal.
 - b) The approved development shall be commenced not later than the expiration of 5 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.
2. Prior to the commencement of the development, hereby approved, details of the undernoted reserved matters shall be submitted to and approved in writing by North Ayrshire Council, as Planning Authority, unless otherwise agreed in writing, for each approved phase of development, where relevant; the submission shall be in the form of a detailed layout of the site (or relevant phase) and include detailed plans, sections of the buildings and all other structures:
 - (a) Siting, design and height of development, including design of all external features and glazing specifications (including acoustic capabilities);

- (b) Particular attention should be paid to setting and treatment of listed buildings and interface with the adjacent Conservation Area;
- (c) A 6 metre wide distributor road to be provided around the site and linked to the existing secondary distributor routes;
- (d) The road, footway and transport infrastructure to be designed in accordance with the current adopted Roads Development Guide or any subsequent amendments;
- (e) Parking for the development to be in accordance with the methodology set out in the addendum to the Transport Assessment dated the 26th March 2010, whereby the development will require a minimum of 683 spaces. A minimum of 50% of the residential unallocated spaces to be located as surface parking, spaced evenly throughout the site;
- (f) Traffic calming in accordance with the requirements set out in the Roads Development Guide or any subsequent amendments;
- (g) Bus stops shall be provided at intervals of no greater than 400 metres along the proposed bus service route. The bus stops shall be located at trip generators (i.e. shops, cafes) along the route;
- (h) Vehicle and cycle parking, access, road layout and alignment, turning areas, footpaths and sightlines all of which should comply with the requirements of North Ayrshire Council's Adopted Roads Development Guidelines;
- (i) No development shall take place within the area hatched in red on drawing No. (PL)004, forming part of this planning permission in principle, until such time as the wave return wall has been constructed to the satisfaction of North Ayrshire Council as Planning Authority. Full details of the wave return wall shall be submitted for prior approval;
- (j) The findings of the "Irvine Bar Study" shall be implemented at the appropriate phase of development;
- (k) All buildings shall be set back a minimum of 10m from the edge of the quay side;
- (l) A Drainage Assessment shall be prepared in support of any application for matters specified in conditions. The general design of the development should be such that all surface water drains naturally towards the quayside;
- (m) Surface water and drainage arrangements. In this regard the discharge of surface water to the water environment should be in accordance with the principles of the SUDS Manual (C697) which was published by CIRIA in March 2007. It is also advised that the seaward area to the south of the site is identified as bathing water under the Bathing Water Directive (2006/7/EC). It should therefore be ensured that surface water run off from the entire site should be treated in accordance with the above principles;
- (n) Refuse and recycling facilities. Such facilities should be in line with North Ayrshire Council collection plans to address the recycling, composting, recovery and disposal targets contained within the Area Waste Plan and NAC's implementation plan;

- (o) Hard and soft landscaping details, possibly guided by a noise assessment and particularly to screen/protect the proposed residential uses from adjacent business uses and to appropriately provide a buffer between buildings and the adjacent noise generating uses, including: Walls, gates, and any other boundary treatments; the location of new trees, shrubs and hedges; a schedule of plants to comprise species, plant size and proposed number/density; Programme of completion and subsequent maintenance; existing and proposed services such as cables, pipelines, substations; other artefacts and structures such as street furniture, including lighting columns and fittings; details of phasing of these works;
 - (p) Existing and finished ground and floor levels in relation to Ordnance Datum. Finished Floor Levels (FFL) shall not be less than 4.41mAOD;
 - (q) Details of all trees to be retained/removed and measures for the protection of any remaining during the construction period;
 - (r) Full details of biomass plant and associated facilities to be submitted for prior approval; and
 - (s) Full details of plant, machinery, venting arrangements, etc
3. A phasing plan, including an overall Design Brief for the development, hereby approved, shall be submitted for prior approval of North Ayrshire Council as Planning Authority.
 4. The following use classes, hereby approved, shall not exceed:

Class 1 (Shops) a maximum of 1400m² with no single unit in excess of 400m²; Class 2 (Financial & Professional Services) a maximum of 1400m² with no single unit in excess of 400m²; Class 3 (Food and Drink) a maximum of 1400m² with no single unit in excess of 600m²; Class 4 (Business) a maximum of 1400m² with no single unit in excess of 400m²; Class 9 (Houses) including Flatted dwellings (Sui Generis) a maximum of 360 units; Class 11 (Assembly and Leisure) a maximum of 1400m² with no single unit in excess of 600m²; Hot Food Takeaway a maximum of 300m²; Public House a maximum of 600m² with no single unit in excess of 300m².
 5. Prior to the commencement of the development, hereby approved, a substantial Travel Plan, which shall include details of phasing and implementation, shall be submitted to and approved by North Ayrshire Council as planning authority. Thereafter the details of the approved Travel Plan shall be implemented to the satisfaction of North Ayrshire Council as planning authority.
 6. That prior to commencement of the development hereby approved, an Access Plan shall be submitted for the written approval of North Ayrshire Council as planning authority. The Access Plan shall seek to address the needs of pedestrians and cyclists, including the provision of secure covered cycle parking facilities, and links to the wider Core Path Network, all taking into account the principles of Secured by Design. The development shall thereafter be completed in accordance with the approved Access Plan.

7. The design of residential properties shall incorporate measures such that the noise levels, associated with traffic and existing and proposed business uses, are attenuated to a satisfactory level. A noise report, prepared by a suitably qualified Acoustic Consultant, demonstrating compliance with these requirements, and impacts on adjacent existing property, shall be submitted, in support of full details of the proposed residential properties, for the prior approval of North Ayrshire Council, as Planning Authority.
8. Site investigation/decontamination arrangements. Prior to the commencement of any phase of development a desk study of the application site shall be undertaken, (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. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitable qualified environmental consultant and submitted 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.
9. That prior to commencement of the development hereby approved, a Play Strategy shall be submitted for the written approval of North Ayrshire Council as planning authority. The Play Strategy shall seek to address provision of play needs of residents of the hereby approved development, taking into account the detail within Support Paper 4 of the adopted Local Plan. The development shall thereafter be completed in accordance with the approved Play Strategy.
10. That prior to the commencement of the development hereby approved, a scheme describing the means by which the provision of public art as part of the development shall be secured shall be submitted for the written approval of North Ayrshire Council as planning authority. Thereafter, the development shall be carried out and completed in accordance with the approved scheme.
11. That no trees or hedges on the site shall be felled or lopped without the prior written approval of North Ayrshire Council as Planning Authority. Such works shall seek to avoid the bird breeding season (March – September).
12. A scheme of replacement habitat should be included within landscaping proposals, such that appropriate levels of provision is made for landscaping lost as a result of the development.

13. Prior to the closure and demolition of the existing public toilet facility full details of a replacement facility shall be provided and approved. Such replacement facility shall be provided within an agreed timescale. Should there be any period of time between the closure of the existing facility and the provision of appropriate temporary arrangements shall be agreed. All to the satisfaction of North Ayrshire Council as Planning Authority.
14. That, prior to the commencement of the development hereby approved, details and phasing of off-site road works, access routes and improvements to the bus stops shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the development shall be implemented only in accordance with such details as may be approved.

4. North Coast and Cumbraes

15/00200/PPM: Blackshaw Farm, West Kilbride

Community Windpower Ltd, First Floor, 2 Parklands Way, Maxim Business Park, Motherwell have applied for planning permission for the erection of six wind turbines each with a maximum blade to a height of up to 125m and associated infrastructure including access tracks, hard standings, substation and control room, 80m meteorological masts, temporary construction of storage compound and borrow pits on a site at Blackshaw Farm, West Kilbride. Initially 55 letters of objection were 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. Additional representations received, comprised one letter of objection, one letter of support and a submission from the applicant of 51 pro-forma letters of support.

At its meeting on 26 August 2015, the Planning Committee agreed to (a) to continue consideration of the application to the next meeting, to allow an opportunity to consider further issues in respect of the internal landscape consultation regarding the scheme, a response from Environmental Health in relation to noise and private water supplies and outstanding aviation issues; and (b) that the Members undertake a site familiarisation visit.

The Committee was advised of further late correspondence from the applicant in respect of (i) landscape (ii) noise and private water supplies and (iii) aviation issues. The Senior Manager (Planning) advised that the areas raised in the correspondence required further consideration by officers.

Members asked questions in relation to the reason for the late correspondence from the applicant. The Senior Manager (Planning) advised that whilst the application had been submitted in April 2015, the late correspondence raised issues that required further investigation by officers.

The late correspondence from the applicant, a letter from Glasgow Prestwick Airport and a further representation were circulated to the Committee.

Councillor Cullinane, seconded by Councillor Steel, moved that the Committee consider the application, including the late correspondence from the applicant. As an amendment, Councillor Ferguson, seconded by Councillor McNicol, moved that the application be continued to the next meeting to allow officers an opportunity to consider the areas raised in the late correspondence. On a division, there voted for the motion 2 and for the amendment 3 and the amendment was declared carried.

Accordingly, the Committee agreed to continue consideration of the application to the next meeting.

5. Notice under Section 179 of the Town and Country Planning (Scotland) 1997: 111 Bank Street, Irvine, Ayrshire KA12 0PT

Submitted report by the Executive Director (Economy and Communities) on the proposed serving of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proper maintenance of land for the abatement of the adverse impact on the local area, in relation to the land and building at 111 Bank Street, Irvine.

The land comprises the building and curtilage of 111 Bank Street, a vacant residential property last in use as a House in Multiple Occupation. The front garden of the property is overgrown and there has been an accumulation of litter. The rear yard of the property has been used for dumping of waste and some burnt-out containers are sited on the land. There has also been an accumulation of litter on the land. Following a fire within the building, a herras fence has been erected over the access to the rear yard. However, the refuse has not been cleared and burnt items remain throughout the site. Several windows have been smashed including many on the front elevation. Whilst most of the windows have been boarded internally, shards of broken glass remain within the frames. The land, particularly the front elevation facing onto Bank Street, is highly visible from adjacent properties and public viewpoints. The yard to the rear can be seen from the public land to the north. The condition of the land due to the condition of the building, the overgrown front garden, and the accumulation of refuse and litter has a significant adverse impact on the amenity of the local area.

It was proposed that a Notice be served under Section 179 of the Town and Country Planning (Scotland) Act 1997 to secure the following:-

- (i) removal of all refuse and litter from the yard between the front elevation and the front boundary of the property;
- (ii) removal of vegetation from the yard between the front elevation and the front boundary of the property;
- (iii) remove all pieces of smashed glass from the windows on all elevations and install, as necessary in any smashed windows not already boarded, exterior grade plywood (or similar) boarding; and

- (iv) remove all vegetation, litter and refuse, including the remains of outbuildings and containers, from the rear yard of the property.

Members asked questions in respect of the period for compliance with the Notice. The Senior Manager (Planning) undertook to provide this information directly to Members.

The Committee agreed (a) to authorise the serving of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring the proper maintenance to abate the adverse impact on the local area, in relation to the land and building at 111 Bank Street, Irvine, as detailed in the report; and (b) that the Senior Manager (Planning) provide information to Members on the time period for compliance with the Notice.

6. Waste Collection and Storage Planning Guidance

Submitted report by the Executive Director (Economy and Communities) on the proposed Waste Collection and Storage Planning Guidance, which brings together the Council's policy for waste collection, sets out up-to-date requirements to ensure waste storage and collection access matters are adequately considered at the design stage and improves collection arrangements at new developments for the benefit of the environment, residents and businesses.

Members asked questions in respect of the time period for residents to collect emptied waste bins from pavements and arrangements for waste bins where there is no pavement in front of the property. The Senior Manager (Planning) undertook to provide this information directly to Members.

The Committee agreed (a) to approve the guidance for use in determining relevant planning applications; and (b) that the Senior Manager (Planning) provide information to Members in respect of the removal of waste bins from pavements and arrangements for waste bins where there are no pavements.

The meeting ended at 2.20 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

Planning Committee

21 October 2015

Planning Area

Isle of Arran

Reference

15/00467/PP

Application

26 August 2015

Registered

Decision Due

25 October 2015

Ward

Ardrossan and Arran

Recommendation	Grant with Conditions contained in Appendix 1
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Location

The Manse
Marnaheglash Road
Lamlash
Brodict

Applicant

General Trustees' Secretary's Department Church
Of Scotland

Proposal

Removal of condition 5 of planning permission
CH/01/93/0256 to remove occupancy restriction

1. Description

This report relates to an application seeking the removal of Condition No. 5 of Planning Permission (Ref. CH/01/93/0256). The condition was in relation to an occupancy restriction. An application for the erection of a new manse for Lamlash Parish Church was approved by Cunninghame District Council on 24th August 1993, subject to conditions. Condition No. 5 states that 'the occupation of the dwelling shall be limited to a Minister of the Church of Scotland or a dependant of such a person residing with him or her or widower of such a person'.

The manse is situated on the northern boundary of Lamlash on the north side of Manse Road at its junction with Marnaheglash Road.

The application site is located within the countryside as identified in the adopted Local Development Plan (LDP) and is unaffected by any site specific policies or proposals therein. The relevant policy is ENV 2 Housing Development in the Countryside which states that the rural landscape should be protected from insensitive housing development but it is recognised that there are opportunities for individual or small scale additions in certain locations. It also indicates that subject to certain criteria there is sometimes an operational need for housing for workers in locations where such development may not normally be acceptable.

2. Consultations and Representations

Neighbour notification has been carried out and the application was advertised in the local press on 26 August 2015. One letter of representation was received. The objection raised the following concerns

1. It is agreeable to live next to a manse and the adjoining land. I am concerned about the timing of this application given the manse has been unoccupied for long periods between ministers for the last 20 years. No such request has been made in the past and there does not appear to be any conclusive evidence in the application of a change in circumstances.

Response: The applicant has provided a supporting statement indicating that due to the planning condition during long periods of vacancy the manse cannot be privately let. The purpose of this application is to remove the restriction. The fact that the applicant has not requested its removal in the past is not material to this application.

2. Opposition to building in the countryside. In approving the original planning application for the manse to be built in the countryside it was considered crucial to limit occupancy to a minister. The removal of such conditions should not set a precedent for others to circumvent planning controls relating to building in the countryside, in particular those cases relating to farm workers houses.

Response: The objector is correct in so much that the original planning condition restricting occupancy was applied due to the siting of the manse in the countryside and its proposed association with the parish church. During the time the new manse has been in existence the settlement of Lamlash has grown to the extent that the manse now lies on the northern boundary of Lamlash. The manse now has a visual and locational relation to the settlement. The purpose of this application is to allow the manse to be privately let during periods of vacancy.

3. Analysis

The proposal requires to be considered in terms of the adopted Local Development Plan policy ENV 2 as well as any other material planning considerations. Policy ENV 2 relates to the circumstances under which new housing in the countryside can be justified. The application seeks to remove the planning condition which restricts occupancy of the dwelling and provides a supporting statement in relation to the justification for the removal of this restriction.

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

- (a) the manse has been occupied on and off since its construction in 1994;
- (b) the manse is currently occupied by the local Minister since 21st March 2015 but was empty for a considerable period prior to that;
- (c) during periods of vacancy the property lies empty and is unable to be privately let due to the existence of the condition; and
- (d) the applicant has indicated that in granting the consent in 1993 the application site was located much further away from the settlement boundary of Lamblash but through changes to the scale of the settlement the manse is now located on its boundary and has a visual and locational relation to the settlement.

Whilst the applicant has not submitted full evidence of periods of occupancy and vacancy over the life of the development, it is considered that for the above reasons there is no longer a requirement to maintain the occupancy restriction. In respect of any potential risks associated with the removal of the occupancy condition, Local Plan policies would address any future development or residential expansion within the site. Finally in respect of the General Policy of the adopted Local Development Plan, it is considered that given the location of the property, relative to the parish church and cemetery, the proposal would offer an acceptable level of residential amenity. Therefore it is recommended that the occupancy restriction and the associated planning condition be removed.

4. Full Recommendation

Approve without conditions as per Appendix 1

A handwritten signature in dark ink, appearing to read 'Karen Yeomans', written in a cursive style.

KAREN YEOMANS
Executive Director (Economy and Communities)

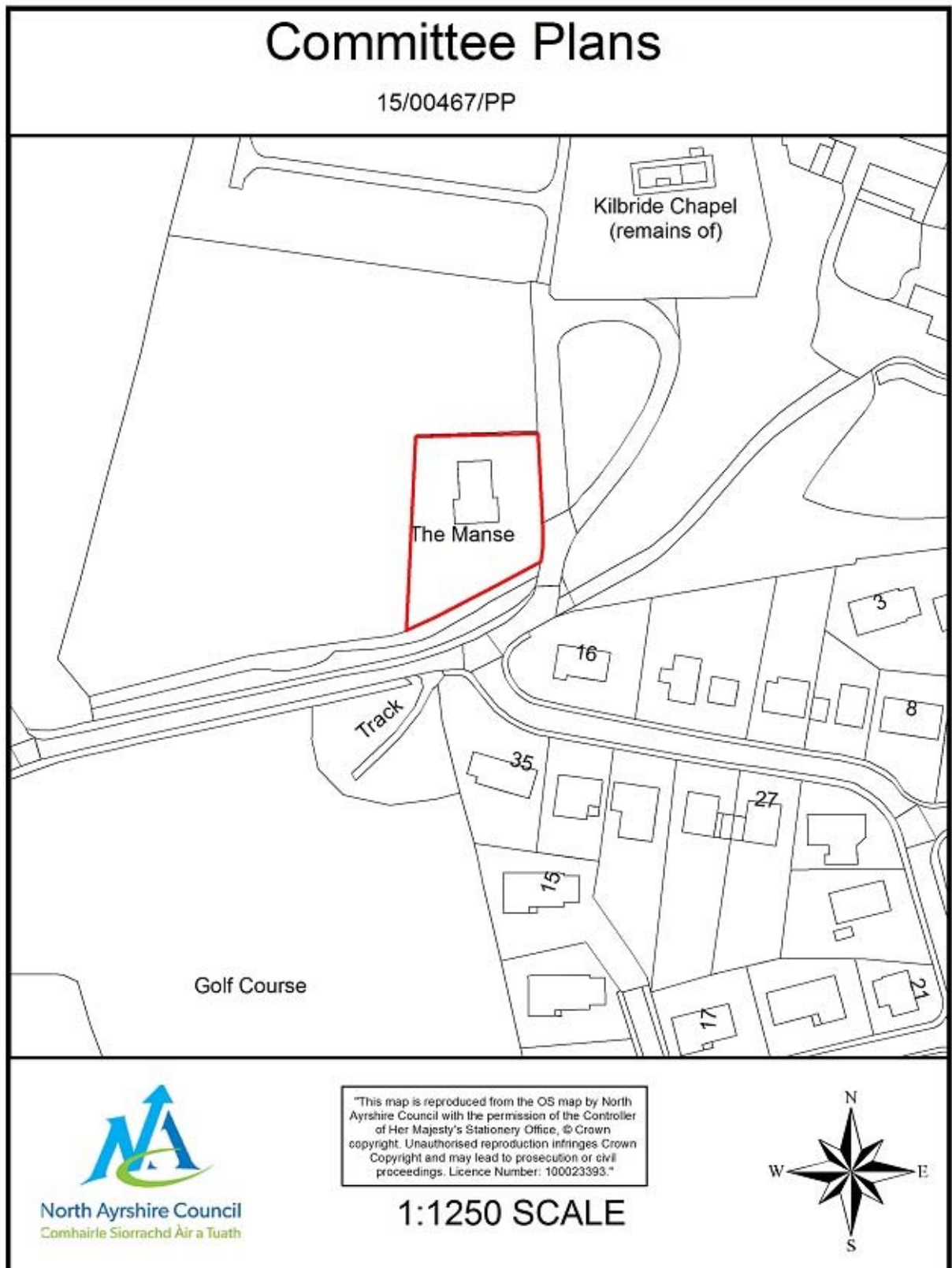
Cunninghame House, Irvine
24 September 2015

For further information please contact Ross Middleton, Senior Planning Officer ,
on 01294 324379

APPENDIX 1

RECOMMENDATION FOR PLANNING APPLICATION REF NO 15/00467/PP

Grant (No conditions).



NORTH AYRSHIRE COUNCIL

Agenda Item 4

21 October 2015

Planning Committee

Title: **Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: land at 15-40 Station Drive, Springside KA11 3BP**

Purpose: To seek approval to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proper maintenance of land for the abatement of the adverse impact on the local area

Recommendation: That the Committee grants authority for the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 to abate the adverse impact of the land on the local area

1. Executive Summary

- 1.1 This report recommends the service 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. A Wasteland Notice allows the Council as Planning Authority to serve on the owner, lessee and occupier of the land, which is adversely affecting the amenity of any part of the area, a notice requiring steps to be taken to abate the adverse affect of the condition of the land.
- 1.2 The land comprises the site of the former properties known as No. 15-40 Station Drive, situated at the eastern end of that street. The buildings on the site have been demolished. The site comprises hardstanding, formerly an extension of the road and pavement of Station Drive, and scrub where the buildings had formerly been located. The site is adjoined by residential properties to the west, a cycle path to the south and open country to the east and north.
- 1.3 The land has been used for dumping of what appears to be household items, building and general and waste. There has also been an accumulation of litter on the land. The land is highly visible from the residential street to the east and any vehicle entering Station Drive, and adjacent streets and residential properties. 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.

2. Background

- 2.1 Planning permission was agreed to be approved in 2010 for the development of the site for 35 houses, subject to the applicant entering into a S.75 agreement to provide play facilities. The developer did not enter into an agreement, and in 2013 the application was refused. There has not been any subsequent applications for any development of the site.
- 2.2 The Council has received several complaints regarding the site. An inspection of the land on the 12th 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.
- 2.3 Given the above, it is considered that the owner has been given adequate opportunity to alleviate the harm caused by the condition of the land. No works have been undertaken and the condition of the land continues to cause harm to local amenity.

3. Proposals

- 3.1 The condition of the land is having a significant adverse impact upon the amenity of the area. The land is located within a predominantly residential area of Springside.
- 3.2 In the interest of the amenity of the area, it is recommended that Committee approves the serving of a Notice under Section 179 of the Town and Country planning (Scotland) Act 1997 requiring the following;
 - (i) Removal of the refuse and litter from the land.
- 3.3. It is proposed that the owner would be given 28 days from the date of any Notice taking effect in which to carry out the requirements.

4. Implications

Financial:	Should any requirement of the Notice not be complied with following expiry of the compliance period, the Council as planning authority may enter the land and carry out such steps in order to achieve compliance with the requirements of the Notice. The Council may then seek to recover from the person(s) who was the then the owner or lessee any expenses reasonably incurred during the carrying out of these works. Cleasning has been made aware of the condition of the land and the possibility of the Council carrying out the works itself. The estimated cost of any works is to be advised
Human Resources:	N/A
Legal:	The proposed Wasteland Notice is in accordance with Statutory Regulations.
Equality:	N/A
Environmental & Sustainability:	N/A
Key Priorities:	The proposed Wasteland Notice supports the Council Plan priority - "Protecting and enhancing the environment for future generations."
Community Benefits:	The proposed Wasteland Notice would address complaints about the condition of the site, within a residential area.

5. Consultation

- 5.1 Finance and Property Services has been advised of the report in terms of its budgetary provision



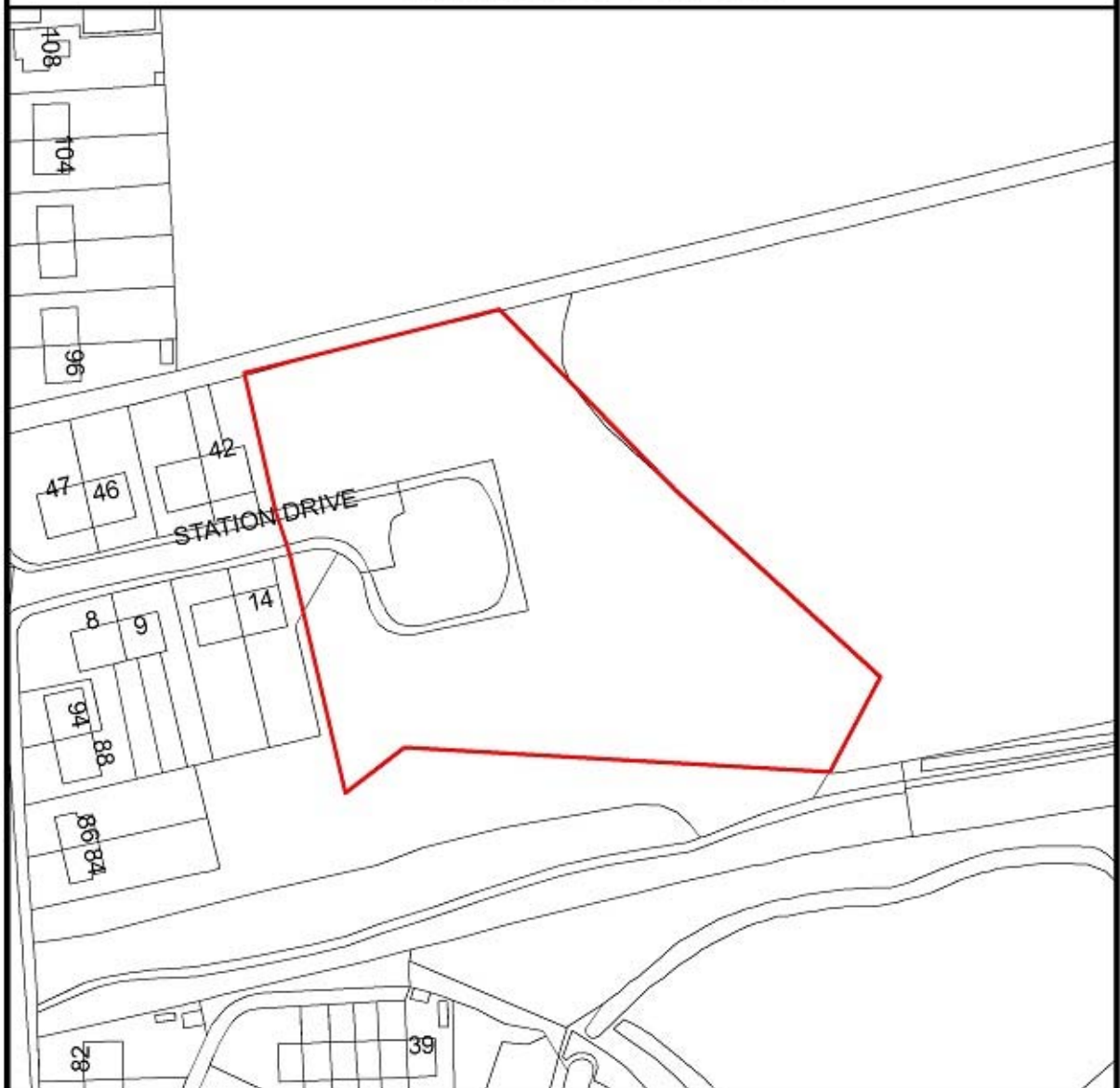
KAREN YEOMANS
Executive Director (Economy and Communities)

Reference : ID

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

Background Papers

Notice under Section 179 of the Town and Country Planning
(Scotland) Act 1997: land at 15-40 Station Drive,
Springside KA11 3BP



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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NORTH AYRSHIRE COUNCIL

Agenda Item 5

21 October 2015

Planning Committee

Title: **Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997: Blairpark Farm, Dalry KA24 5LE**

Purpose: To seek authority 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)

Recommendation: That the Committee grants authority for the service of a Notice Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with conditions attached to a planning permission (ref: 11/00139/PP)

1. Executive Summary

- 1.1. Planning permission was granted 18th 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 milk distribution business had commenced without the benefit of planning permission and the permission was granted in retrospect. 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.
- 1.2. The owner of the property and the operator of the milk distribution service have been written to on several occasions and requested to fully comply with the requirements of the conditions attached to the planning permission. Whilst some aspects of the conditions have been complied with, Conditions 3, 4 and 5 are in breach. In the interests of the amenity of the area and with respect to road safety and the requirements of the Council as Roads Authority, it is considered expedient to issue a Notice under S.145 of the Town and Country Planning (Scotland) Act 1997 ("Breach of Condition Notice").

- 1.3. A Breach of Condition Notice would require full compliance with the requirements of the conditions. Compliance will be required on or before the 31st March 2016. There is no right of appeal against a Breach of Condition Notice. Anyone responsible for complying with a Breach of Condition Notice is guilty of an offence, for which they can be reported to the Procurator Fiscal, should they not comply within the specified time period.

2. Background

- 2.1 The following conditions attached to planning permission dated 18th May 2011 (ref: 11/00139/PP) have not been complied with and are therefore in breach.

Condition 3 - That within 3 months of the date of the date of this permission, the applicants shall submit to and shall have received the written approval from North Ayrshire Council, as Planning Authority, a scheme of landscaping within the field lying between the building containing the milk distribution business and the A760, which will include details of species, plant densities, soil treatment and aftercare; the approved landscaping scheme shall be carried out within 6 months of the date of this approval to the satisfaction of North Ayrshire Council, as Planning Authority.

A scheme of landscaping was submitted 15th June 2011. This indicated an area of the field which would be planted with tree whips of various species at 1 metre centres. This scheme was approved by the Council 19th July 2011. In order to fully comply with the requirements of Condition 3, the tree whips were to be planted within 6 months of the 19th July 2011 i.e. by 19th January 2012. To date the scheme of landscaping has not been implemented.

Condition 4 - That the first 15m of the access at the junction with the A760 shall be a minimum of 6m wide and shall be hardsurfaced, the radii at the junction with the public road shall be 6m and no surface water shall issue from the access/driveway onto the public road; the junction works shall be implemented within 6 months of the date of this permission, to the satisfaction of North Ayrshire Council as Planning Authority.

The works to the junction should have been completed on or before 18th November 2011. To date no works to the junction have been carried out. The first 15m of the access road are 5.05m wide and the radii at the junction are approx. 3m.

Condition 5 - That within 3 months of the date of this permission visibility splays of 2.5m by 160m in both directions at the junction with the public road shall be provided and maintained on land within the applicant's control, such that there is no obstruction to visibility above a height of 1.05 metre measured above the adjacent carriageway level, to the satisfaction of North Ayrshire Council as Planning Authority.

The works to the visibility splays should have been carried out on or before 18th August 2011. At present there is a fence 1.2m high situated within the western visibility splay at a distance of approx. 1.8m from the A760 and 5m from the access road.

- 2.2. The Council became aware that the conditions were in breach in December 2013, when investigating allegations of unauthorised use of part of the building. Following extensive correspondence the owner of the property advised that the Condition 4 would be complied with by the end of September 2014 and that Condition 3 would be complied within the next planting season (Oct 2014 to Mar 2015). However, despite these assurances no action to comply with the requirements of the conditions has been taken and the conditions remain in breach.
- 2.3. The owner was advised by letter dated 3rd September 2015 that formal enforcement action was being considered. No response was received. A site inspection on the 18th September 2015 revealed that the conditions had not been complied with. The operator of the milk distribution business was advised that the issue of a Breach of Condition Notice was being considered.

3. Proposals

- 3.1 In the interests of the amenity of the area and with respect to road safety and the requirements of the Council as Roads Authority, it is proposed to issue a Breach of Condition Notice requiring the following in respect of planning permission dated 18th 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;
 - (iii) Provide and maintain on land within the applicants 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.

- 3.2. It is proposed that the time period for compliance be on or before 31st March 2016. This will allow more than enough time to carry out the requirements of Conditions 4 and 5 and will give until the end of the autumn/winter 2015/2016 planting season to give the trees, required by Condition 3, the best chance to bed in.

4. Implications

Financial:	The service of the Notice has no financial implications outwith normal budgetary provisions.
Human Resources:	N/A
Legal:	The proposed Breach of Condition Notice is in accordance with Statutory Regulations. Non-compliance with such a Notice is an offence and the Council, as Planning Authority, could report such an offence to the Procurator Fiscal.
Equality:	N/A
Environmental & Sustainability:	N/A
Key Priorities:	The proposed Breach of Condition Notice supports the Council Plan priority - "Protecting and enhancing the environment for future generations."
Community Benefits:	N/A

5. Consultation

- 5.1 Finance and Property Services has been advised of the report in terms of its budgetary provision.



KAREN YEOMANS
Executive Director (Economy and Communities)

Reference : 13/00138/ID

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

Background Papers

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