



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Committee

A Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 22 March 2023** at **14:00** to consider the undernoted business.

Meeting Arrangements - Hybrid Meetings

This meeting will be held on a predominantly physical basis but with provision, by prior notification, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003. Where possible, the meeting will be live-streamed and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>.

1 Declarations of Interest

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

2 Minutes

The accuracy of the Minutes of the meeting held on 22 February 2023 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 23/00070/PP: Site to Former Coal Terminal, Hunterston, West Kilbride

Proposal for Variation of conditions 9 and 18 of planning permission N/22/00133/PPPM relating to the construction of a high voltage sub-sea cable manufacturing facility (copy enclosed).

4 23/00058/PP: Site to Oldhall ERF 16 - 20 Murdoch Place, Oldhall West Industrial Estate, Irvine

Proposal to increase flue height at energy recovery facility by an additional 10m as alternative to permitted scheme under refs. 20/00819/PPM and 19/00539/PPM (copy enclosed).

- 5 23/00120/PP: Site to Oldhall ERF 16 - 20 Murdoch Place, Oldhall West Industrial Estate, Irvine**
Proposal for Variation of Condition 1 of planning permissions 19/00539/PPM and 20/00819/PPM to facilitate temporary 24 hour working on the slip forming of the approved concrete bunker (copy enclosed).
- 6 23/00097/CON: Site At Benthead Farm, Kilwinning**
Proposal for Installation of a solar farm with a generating capacity of up to 63MW and a battery storage system with a capacity of up to 31.1mw and associated infrastructure (copy enclosed).
- 7 Grouping of Trees in the grounds surrounding Moorpark House, Kilbirnie**
Submit report by the Chief Planning Officer regarding the process and merits of protecting a group of trees located on the grounds of Moorpark House, Kilbirnie via a Tree Preservation Order (TPO) (copy enclosed).
- 8 Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997: 17 Auldlea Road, Beith**
Submit report by the Chief Planning Officer seeking authority to serve a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with Condition 1 of planning permission (ref. 22/00536/PP) (copy enclosed).
- 9 Urgent Items**
Any other items which the Chair considers to be urgent.

Webcasting

Please note: this meeting may be filmed/recorded/live-streamed to the Council's internet site and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>, where it will be capable of repeated viewing. At the start of the meeting, the Provost/Chair will confirm if all or part of the meeting is being filmed/recorded/live-streamed.

You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the webcast will be retained in accordance with the Council's published policy, including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Generally, the press and public seating areas will not be filmed. However, by entering the Council Chambers, using the press or public seating area or (by invitation) participating remotely in this meeting, you are consenting to being filmed and consenting to the use and storage of those images and sound recordings and any information pertaining to you contained in them for webcasting or training purposes and for the purpose of keeping historical records and making those records available to the public. If you do not wish to participate in a recording, you should leave the meeting. This will constitute your revocation of consent.

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Planning Committee Sederunt

Robert Foster (Chair)
Timothy Billings (Vice-Chair)
Scott Davidson
Stewart Ferguson
Cameron Inglis
Amanda Kerr
Davina McTiernan
Jim Montgomerie
Ian Murdoch
Chloe Robertson

Chair:

Apologies:

Attending:

At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m. involving a combination of participation by remote electronic means and physical attendance within the Council Chambers, Irvine.

Present (Physical Participation)

Robert Foster, Timothy Billings, Stewart Ferguson, Cameron Inglis and Davina McTiernan.

Present (Remote Participation)

Scott Davidson, Jim Montgomerie, Ian Murdoch and Chloé Robertson.

Also Present (Physical Participation)

Todd Ferguson (Agenda Items 1-4).

In Attendance

J. Miller, Chief Planning Officer, A. Gemmell, Strategic Planning Manager and T. Ledingham, Planning Officer (Strategic Planning) (Economic Development and Regeneration) (Place); R. Lynch, Senior Manager, J. Niven, Solicitor (Legal Services), D. McCaw, C. Stewart and S. Wilson, Committee Services Officers (Democratic Services) (Chief Executive's Service).

Chair

Councillor Foster in the Chair.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the Meeting held on 25 January 2023 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. National Planning Framework 4 (NPF4)

Submitted report by the Executive Director (Place) on the adoption of Scotland's fourth National Planning Framework (NPF4), which now formed part of the local development plan for North Ayrshire, sitting alongside the adopted Local Development Plan (LDP2).

The Strategic Planning Manager presented information in connection with the background to implementation of the plan, including spatial principles, regional priorities and national developments which aimed to contribute to creating places which were sustainable, liveable and productive. The Committee was advised that a Delivery Programme had been prepared setting out the approach for key short and medium term actions in relation to governance and collaboration, delivery mechanisms, infrastructure funding and finance, skills resources and performance, and monitoring and evaluation. This would be updated within 6 months and thereafter on an annual basis.

Members asked questions and were provided with information in relation to:-

- the designation of Hunterston as a National Development within NPF4 to support repurposing;
- any unforeseen issues in connection with implementation of NPF4 in conjunction with LDP2 where matters may not accord; and
- the fit of Arran and Cumbrae within the Central Region and how this would be interpreted to sustain communities and pioneer investment in the blue economy.

The Chief Planning Officer advised that an Elected Member development session would take place on 20 March 2023 covering transitional arrangements in connection with implementation of NPF4 in conjunction with LDP2.

The Committee agreed to note (i) the adoption of National Planning Framework 4; and (ii) that the Framework was now part of the development plan for North Ayrshire.

4. Tree Preservation Order: Grouping of Trees adjacent to Wildcat Lane and Summerlea Road, West Kilbride

Submitted report by the Chief Planning Officer regarding confirmation of a Tree Preservation Order (TPO) for a group of trees located along Wildcat Road and Summerlea Road, West Kilbride.

The TPO, created in September 2022 following approval by the Planning Committee, was subject to a public consultation period in line with relevant legislation. The report summarised the representations made and provided recommendations on further action upon consideration of those recommendations. The report recommended that the TPO be confirmed unmodified as the grouping of trees contributed to wider public amenity.

Councillor Billings, seconded by Councillor Stewart Ferguson, moved confirmation of the TPO in line with the report recommendation. There being no amendment, the motion was declared carried.

The Committee agreed to confirm a Tree Preservation Order (TPO) under Section 160 of the Town and Country Planning (Scotland) Act 1997 in the interests of protecting public amenity.

Councillor Todd Ferguson left the meeting at this point.

5. Tree Preservation Order: Grouping of Trees located at Stevenston High Kirk Manse

Submitted report by the Chief Planning Officer regarding the process and merits of protecting a group of trees located on the grounds of Stevenston High Kirk and the adjacent Manse.

The report indicated that concerns had been raised by a member of the public in connection with a lack of protection for trees located within the grounds of Stevenston High Kirk and the adjoining Manse. Council Officers conducted a site visit and desk top analysis to assess the suitability of a TPO and relevant legislation. Following a preliminary assessment of the trees, it was considered that the trees added to the local landscape character and contributed to amenity. It was also noted that the trees were mostly located in the grounds of Stevenston High Kirk, a Category B-Listed Church and cemetery and designated within the Local Development Plan as Open Space. Further considerations included the existence of a core path located east of the Kirk which led to the Town Centre then down to the Coast. A subsequent site visit confirmed numerous tree species of note including a Tulip Tree normally found within botanical gardens. The trees were found to have met the criteria for a TPO and the report recommended that this be served in the interests of protection of public amenity and cultural heritage.

Members of the Committee expressed support for a TPO to preserve the heritage and character of the particular area of Stevenston.

Councillor Montgomerie, seconded by Councillor McTiernan, moved to support the serving of a TPO in line with the report recommendation. There being no amendment, the motion was declared carried.

The Committee agreed to the serving of a Tree Preservation Order (TPO) under Section 160 of the Town and Country Planning (Scotland) Act 1997.

6. Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: Tennox Farm, Kilbirnie

Submitted report by the Executive Director (Place) seeking authority to serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act, 1997 requiring the removal of the unauthorised dwellinghouse, associated outbuildings and ancillary works at Tennox Farm, Kilbirnie and restoration of the land to its former condition prior to development.

The report advised that the Council had received a number of reports in recent years that land at Tennox Farm near Kilbirnie had been developed with a number of unauthorised buildings as well as formation of a large yard area. An Enforcement Notice under Section 33A of the Act was served on the owner of the land in March 2022. The Notice included the requirement for the submission of a planning application in respect of a dwellinghouse and ancillary outbuildings, which was subsequently refused planning permission during 2022. A review of the decision was undertaken by the Local Review Body on 25 January 2023. The review was dismissed with the consequence that the development remained unauthorised.

Councillor Foster, seconded by Councillor Billings, moved to grant authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 in line with the report recommendation. There being no amendment, the motion was declared carried.

The Committee agreed to grant authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997, requiring the removal of the unauthorised dwellinghouse, associated outbuildings and ancillary works at Tennox Farm (ref. 22/00331/PP) and the restoration of the land to its former condition prior to the development taking place.

The meeting ended at 2.35 p.m.

NORTH AYRSHIRE COUNCIL

22nd March 2023

Planning Committee

Locality	North Coast and Cumbraes
Reference	23/00070/PP
Application Registered	2nd February 2023
Decision Due	2nd April 2023
Ward	North Coast

Recommendation	Approved subject to Conditions
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Location	Former Coal Terminal Hunterston West Kilbride Ayrshire
Applicant	XLCC Fao Mr David Kelly
Proposal	Variation of conditions 9 and 18 of planning permission N/22/00133/PPPM relating to the construction of a high voltage sub-sea cable manufacturing facility

1. Description

Planning Permission (ref. 22/00133/PPPM) was granted 29th June 2022 for 'Planning Permission in Principle for the erection of a high voltage cable manufacturing facility, including detailed planning permission for the construction of a 185m high extrusion tower with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system.'

The permission was subject to 21 conditions including Conditions 9 and 18 which are as follows:

Condition 9, which relates to the Planning Permission in Principle and states: "That further application(s) for approval under the terms of Condition 1 shall be accompanied by a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded. In accordance with the recommendations of the submitted FRA, finished floor levels shall be set a minimum of 6m AOD, threshold levels shall be raised a minimum of 150mm above external ground levels, and all key external infrastructure shall be elevated by at least 150mm or protected by bunds."

Condition 18 which relates to detailed planning permission for the construction of the 185m high extrusion tower, and states: "The prior to the commencement of the development of the tower, that a scheme to treat surface water arising from the or otherwise affecting the site of the tower, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter, the certified scheme shall be implemented prior to the completion of the development of the tower and maintained thereafter to the satisfaction of North Ayrshire Council, as Planning Authority.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded. In accordance with the recommendations of the submitted FRA, finished floor levels shall be set a minimum of 6m AOD, threshold levels shall be raised a minimum of 150mm above external ground levels, and all key external infrastructure shall be elevated by at least 150mm or protected by bunds."

This application seeks to delete the final sentence from both conditions - "In accordance with the recommendations of the submitted FRA, finished floor levels shall be set a minimum of 6m AOD, threshold levels shall be raised a minimum of 150mm above external ground levels, and all key external infrastructure shall be elevated by at least 150mm or protected by bunds." This would remove reference to a finished floor level (FFL). The applicant considers that FFLs do not need to be 6m AOD and consider they could be between 4.7m AOD and 6m AOD.

In support of the application an addendum to the previously submitted Flood Risk Assessment (FRA) has been provided.

The site is some 51ha in area, including existing access roads and jetty. The site is a former coal yard, which has been vacant since 2016. The development would make use of an existing access and the existing jetty and port. The site is identified in the Local Development Plan (LDP) as part of the Hunterston Strategic Development Area and suitable for business and industrial development. The Southannan Sands Site of Special Scientific Interest ("the SSSI") is some 85m to the west. The Hunterston House Tree Preservation Order ("the TPO") runs along the eastern boundary of the site.

The relevant policy of the Local Development Plan adopted November 2019 (LDP) is considered to be Policy 23: Flood Risk Management.

National Planning Policy 4 (NPF4) was adopted 13th February 2023. NPF4 identifies Hunterston as a Strategic Asset. NPF4 is considered to be a material consideration for this application. The relevant policy is considered to be Policy 22.

Other planning applications have been submitted to provide details required by other conditions (ref: 22/00712/MSCM) and to vary Conditions 11 and 12 (ref: 23/00131/PP).

2. Consultations and Representations

The application was subject to statutory neighbour notification procedures including an advert in the local press. No representations have been received.

SEPA - No comment.

Response: Noted.

NAC Flooding - No objections. The 6m AOD FFL level had been recommended by the originally submitted FRA. Specific justification including appropriate flood risk mitigation will still be required in order to discharge the condition.

Response: Noted.

Fairlie Community Council - will seek independent advice from a hydrologist. However, no further comments were received.

Response: Noted.

3. Analysis

Policy 23 of the LDP stated that support will be given to development which is in accordance with relevant flood risk strategies. Development should avoid locations of flood risk and should not lead to a significant risk of flooding elsewhere.

Policy 22 of NPF4 states that development at risk of flooding or in a flood risk area will only be supported in certain circumstances.

The site is not at risk from fluvial or coastal flooding. SEPA offer no comments but noted in the original application that the development would be limited to land not likely to flood. NAC Flooding has no objection. The specific details of any surface water mitigation would still be required to be submitted and approved under the amended conditions.

The applicant's submission that the FFL has been considered in more detail following the grant of planning permission 22/00133/PPPM is noted, as are SEPA and NAC Flooding comments. The applicant would still have to provide sufficient details to demonstrate that surface water would be appropriately dealt with. The removal of the reference to 6m AOD would allow the applicant more flexibility to develop an appropriate drainage scheme but would not diminish the Council's ability, as Planning Authority, to assess and approve/refuse any such details as may be submitted. The proposal would remain in accordance with Policy 23 of the LDP and Policy 22 of NPF4.

It is therefore recommended that planning permission be granted with the original 21 conditions but with Conditions 9 and 18 amended as follows.

Condition 9, which relates to the Planning Permission in Principle would now state: "That further application(s) for approval under the terms of Condition 1 shall be accompanied by a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded."

Condition 18 which relates to detailed planning permission for the construction of the 185m high extrusion tower, would now state: "The prior to the commencement of the development of the tower, that a scheme to treat surface water arising from the or otherwise affecting the site of the tower, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter, the certified scheme shall be implemented prior to the completion of the development of the tower and maintained thereafter to the satisfaction of North Ayrshire Council, as Planning Authority.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded."

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the permission is for a high voltage cable manufacturing facility with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system only and planning permission would be required for any other use within Class 5 of the Town and Country Planning (General Permitted Development) (Scotland) Order, as amended.

Reason

In recognition of the special justification for the tower and to retain control over the site and re-assess the need for the tower in the event of a different operation.

Condition

2. That the approval of North Ayrshire Council, as Planning Authority, with regard to the siting, design and external appearance of all building and external plant or machinery, including landscaping, means of access, internal roads, external lighting, sustainable travel plan and low and zero carbon technology, shall be obtained before the development permitted in principle is commenced.

Reason

In order that these matters can be considered in detail.

Condition

3. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of on-site heat recovery and re-use, or a heat network infrastructure plan, or demonstrable evidence that such schemes have been explored but are not feasible for technical or economic reasons.

Reason

In order that the future proofing of the site for heat networks is properly considered as required by Policy 31 of the LDP.

Condition

4. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.

Reason

To ensure proper management of the construction process, including impact on the road network.

Condition

5. That further application(s) for approval under the terms of Condition 1 shall be accompanied by details of an appointed Ecological Clerk of Works (ECoW). The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved.

Reason

To ensure appropriate oversight of the construction of the development

Condition

6. Prior to development commencing the applicant shall implement the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 9 Hydrogeology, Geology and Ground Conditions of the submitted EIA report dated February

2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council, as Planning Authority.

Reason

To ensure proper consideration is given to ground conditions and ground water.

Condition

7. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Dust Management Plan. This shall include the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 13 Air Quality of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To ensure proper management of dust throughout the construction period.

Condition

8. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of the details in terms of the rated noise level, as defined in 'BS4142:2014+A1:2019, from the operation of the facility. The assessment must demonstrate that the noise from the operation of the facility will not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application and include details of a monitoring scheme for the first 12 months of operation of the facility.

Reason

To ensure proper consideration of potential noise from the development.

Condition

9. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded.

Reason

To ensure proper consideration of surface water drainage.

Condition

10. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a habitat survey dated not more than 1 year prior to the date of the submission of the application.

Reason

To ensure habitat and protected species considerations are of an appropriate date.

Condition

11. Prior to commencement of the development of the tower, details of a financial bond to be secured with the landowner for the removal of the tower in the event of redundancy shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Any such bond shall be retained through the life of the development with confirmation to be provided to North Ayrshire Council, as Planning Authority, on a yearly basis following completion of the tower.

Reason

To ensure steps are in place to remove the tower should the site become redundant, in the interest of visual amenity, and in recognition of the landowner being ultimately responsible for compliance with any conditions.

Condition

12. Should the tower become redundant, it shall be removed within 6 months of redundancy. For the avoidance of doubt, redundancy means the factory not becoming operational within 3 years of construction of the tower or the factory ceasing to operate for a period of more than 1 year after first becoming operational.

Reason

To ensure the timely removal of the tower should the site become redundant, in the interest of visual amenity.

Condition

13. The prior to commencement of the development of the tower, details of the external finish shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. The development will thereafter be undertaken in accordance with any details as may be approved and the tower maintained with those details unless otherwise agreed in writing with the Planning Authority.

Reason

To ensure an appropriate external finish for the tower in the interest of visual amenity.

Condition

14. The prior to the commencement of the development of the tower, a Dust Management Plan for the control of dust from the construction of the tower shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter the development shall be undertaken in accordance with any Plan as may be approved.

Reason

To ensure proper management of dust throughout the construction period.

Condition

15. That prior to the commencement of the development of the tower, a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance shall be submitted to North Ayrshire Council, as Planning Authority, for approval. Thereafter the construction shall be carried out only as approved by the Plan and

Code of Practice. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle route network.

Reason

To ensure proper management of the construction process, including impact on the road network

Condition

16. That prior to the commencement of the development of the tower, details of an appointed Ecological Clerk of Works (ECoW) shall be submitted to North Ayrshire Council, as Planning Authority, for approval. The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved. The development will thereafter be undertaken only with the oversight of the appointed ECoW.

Reason

To ensure proper oversight of the construction of the tower.

Condition

17. The rated noise level, as defined in BS4142:2014+A1:2019, from the operation of the tower must not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application.

Reason

To ensure the operation of the tower does not cause undue noise disturbance or sterilise the wider area for further development.

Condition

18. The prior to the commencement of the development of the tower, that a scheme to treat surface water arising from the or otherwise affecting the site of the tower, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter, the certified scheme shall be implemented prior to the completion of the development of the tower and maintained thereafter to the satisfaction of North Ayrshire Council, as Planning Authority.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded.

Reason

To ensure the proper treatment of surface water.

Condition

19. Prior to the commencement of the tower, confirmation that the basement proposals are sufficiently flood resilient/resistant, including an accompanying certified flood management plan suitably addresses residual flood risk at the site from all sources of flooding, certified by a suitable qualified person, shall be submitted in writing for the written approval of North Ayrshire Council, as Planning Authority.

Reason

To ensure the risk of flooding to basement level proposal is suitable addressed.

Condition

20. In the event that the works to commence the tower are not undertaken within 1 year of the date of this permission, an updated habitat survey dated not more than 1 year prior to the date of commencement shall be submitted to North Ayrshire Council, as Planning Authority, for written approval prior to the commencement.

Reason

To ensure habitat and protected species considerations are of an appropriate date.

Condition

21. Prior to the commencement of the development, details of omni-directional red aviation warning lights to be fitted to the tower shall be submitted to North Ayrshire Council, as Planning Authority, for approval in consultation with Prestwick Airport, Air Traffic Control and the Ministry of Defence. The lighting will thereafter be fitted and retained thereafter in accordance with any details as may be approved.

Reason

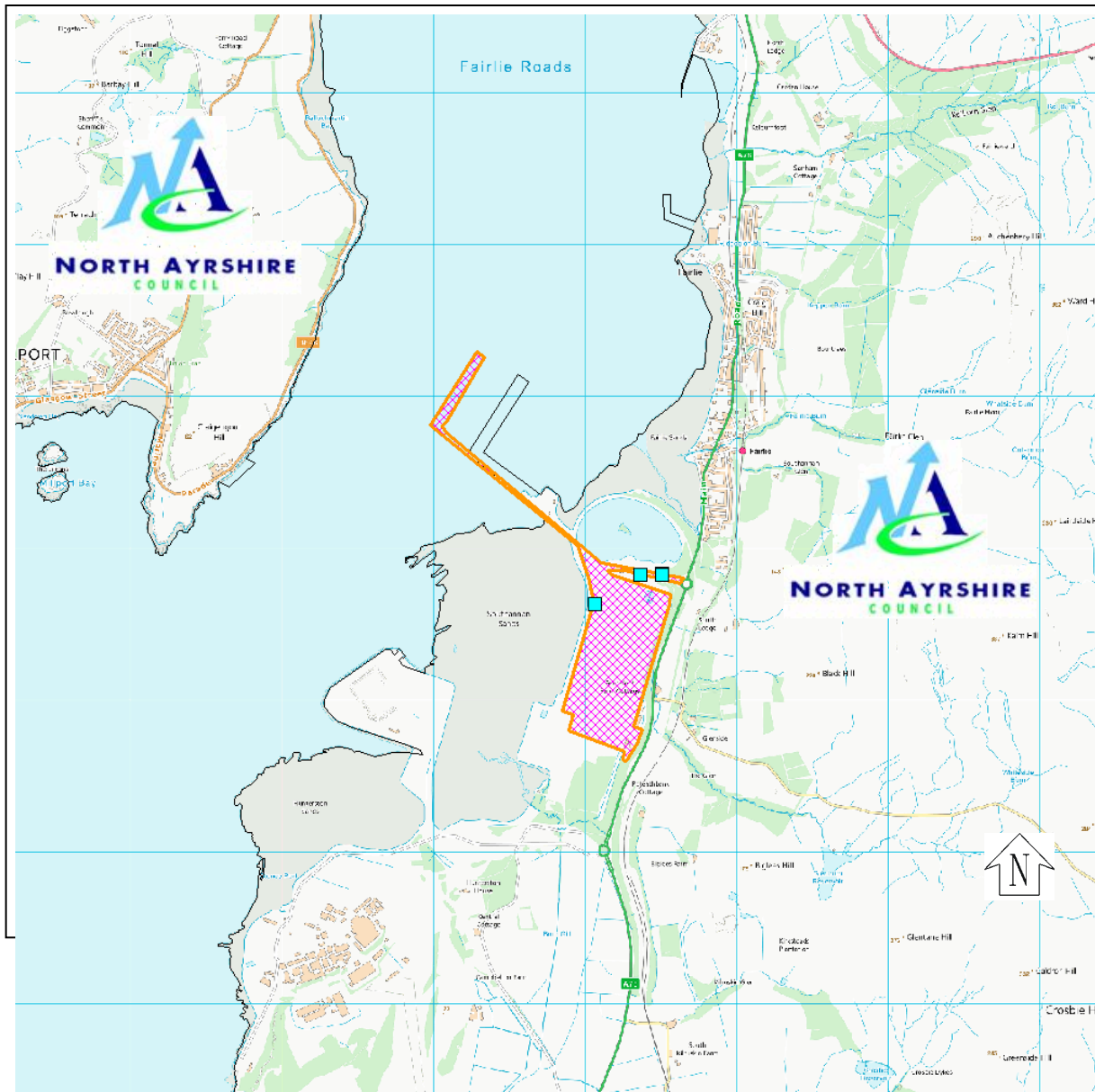
To meet the requirements of the relevant Air Authorities.

James Miller
Chief Planning Officer

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

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

22nd March 2023

Planning Committee

Locality	Irvine
Reference	23/00058/PP
Application Registered	1st February 2023
Decision Due	1st April 2023
Ward	Irvine South

Recommendation	Approved subject to Conditions
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Location	Oldhall ERF 16 - 20 Murdoch Place Oldhall West Industrial Estate Irvine North Ayrshire KA11 5DG
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Applicant	Doveryard F.A.O. Mr Scott Brown
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Proposal	Increase of flue height at energy recovery facility by an additional 10m as alternative to permitted scheme under refs. 20/00819/PPM and 19/00539/PPM
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1. Description

Planning permission was granted by the Planning Committee during 2020 for the development of an energy recovery facility (ERF) at Murdoch Place in Oldhall Industrial Estate, Irvine (ref. 19/00539/PPM and ref. 20/00819/PPM).

The development is being implemented and is now approaching the second year of a three-year construction period. The facility would generate heat and power from non-recyclable waste from domestic and industrial sources, excluding hazardous and medical wastes. The facility would have the capacity to process up to 180,000 tonnes per year. Once operational, the ERF would employ between 30 and 40 people. The peak construction workforce would be around 200 people.

The applicant is working with SEPA to obtain a Pollution Prevention and Control (PPC) permit to enable the facility to be operated within the appropriate environmental standards. Once operational, SEPA would be the regulatory body for all pollution control measures at the site.

To this end, SEPA and the applicant have identified the potential for further improvements to the scheme design in relation to air quality. As part of the incineration process, the exhaust gases would be treated, with harmful chemical compounds removed before gases are discharged through the flue stack. In response to SEPA's requirements, the applicant proposes to increase the flue stack height by 10 metres, taking the height to 70m above ground level. The applicant advises that the increased height would improve the dispersion of the exhaust gases into the atmosphere in the interests of air quality in the vicinity of the site.

The application site is located at the southern edge of the Oldhall Industrial Estate to the southeast of Irvine. Oldhall was established during the 1970s by Irvine Development Corporation as a purpose-built location for certain types of incoming industry to Irvine New Town.

There are a variety of industries nearby, including a large recycling plant (Lowmac), a precast concrete block making factory (Hillhouse) and the Council's waste pulverisation plant. Nearby is the large pharmaceutical works of GSK and the UPM paper mill. There are a variety of other small and medium sized businesses in the surrounding area.

In terms of the adopted Local Development Plan, the site is allocated for business and industry. Strategic Policy 2 (Placemaking) is of relevance to the proposed variation of condition 1.

Relevant Development Plan Policies

Strategic Policy 2

Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

2. Consultations and Representations

SEPA - No objection. The following commentary has been provided:

- The application process for determining whether it is appropriate to grant a Part A permit under the Pollution Prevention Control (PPC) (Scotland) Regulations (2012) for this facility is ongoing. During the determination the applicant requires to demonstrate that the Best Available Techniques (BAT) will be deployed to mitigate the environmental impacts associated with the activities that will take place on site. During the determination process changes to the plant design may be identified which require further amendment of the existing planning consent. For clarity, the determination of the PPC application is ongoing, and the necessary stack height remains under consideration.

- In its response to the Church Review: 'Stop, Sort, Burn, Bury?' (2022), the Scottish Government stated that "Scotland does not need additional waste incineration facilities to treat our unavoidable and unrecyclable municipal waste beyond those for which planning permission has already been granted, with limited exceptions and mindful that there will be a short-term capacity gap in 2025".

- On the basis that this facility has planning permission, that was granted in accordance with planning and energy policy that was in place in 2020, SEPA has no objection to this proposal to increase the stack height by 10m to 70m.

Response: Noted. Whilst national policy on incineration has altered since the development at Oldhall was granted planning permission in 2020, the main development is already under construction and the current application seeks only to amend the flue height. The proposed change has been identified as part of the PPC process to ensure Best Available Techniques are utilised once the facility is operational. The original planning permissions remain extant and would be unaffected by the determination of this proposal. Any further changes to the flue height would require another planning application to be made.

Glasgow Prestwick Airport - no comments made on this application. In response to the original applications, GPA advised that, due to the height and position of the flue stack, there is a requirement for an omni-directional red warning light to be fitted at the top. GPA also noted that if the warning light becomes unserviceable it should be reported immediately to Glasgow Prestwick Airport (GPA), Air Traffic Control (ATC) so that notification can be advised to pilots through the appropriate channels.

Response: A condition could be attached in relation to the need for an omni-directional red warning light on top of the flue stack in the interests of aviation safety, as per the previous grants of planning permission in 2020. An informative could also be attached in relation to any failure of the light to operate, as per the previous grants of planning permission in 2020.

3. Analysis

The application relates only to the height of the flue stack. The main issues associated with the development, granted planning permission in 2020 and now under construction, are unaffected.

Strategic Policy 2 of the LDP (Placemaking), would be relevant in that there are two determining factors in respect of this proposal. One is the pollution control improvements as required by SEPA for the PPC, the other is the landscape and visual impact of the increased height.

In terms of pollution control, SEPA has no objection and advise that the development must deploy Best Available Techniques to ensure effective mitigation of environmental impacts. The approval of the planning application would provide the developer with a better solution to the original flue height following SEPA's detailed consideration of the PPC application. SEPA advise the negotiations on the PPC permit are ongoing.

In terms of landscape and visual impacts, the proposed height increase from 60m to 70m is not considered to be significant given the established industrial context of the surrounding area. To the south of Oldhall is the UPM paper mill at Meadowhead which has a flue stack in excess of 70m. Also nearby are the GSK wind turbines, the final two of which are currently under construction. All four wind turbines at GSK would be over 100m in height, and significantly taller than the proposed 70m flue stack at Oldhall ERF. It is therefore considered that the landscape character of the area would not be adversely affected by the proposed height increase given the presence of taller towers and flue stacks nearby.

The application has also been assessed against the adopted National Planning Framework 4 and it has been determined that the proposal does not raise any significant strategic planning issues which conflict with the foregoing assessment, notwithstanding the policy shift in respect of future incinerator developments. As noted above, the permissions granted in 2020 are extant and the development is being implemented.

There are no other material considerations. It is recommended that the proposed 10m increase to the flue height is permitted, subject to the condition that an omni-directional red warning light is fitted as per the recommendations of Glasgow Prestwick Airport.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the flue stack shall be fitted within an omni-directional red warning light which requires to be commissioned immediately upon erection of the stack. The warning light shall be operated continuously during hours of darkness and permanently retained in working condition thereafter unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

Reason

In the interests of aviation safety.

James Miller
Chief Planning Officer

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

22nd March 2023

Planning Committee

Locality	Irvine
Reference	23/00120/PP
Application Registered	16th February 2023
Decision Due	16th April 2023
Ward	Irvine South

Recommendation	Approved subject to Conditions
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Location	Oldhall ERF 16 - 20 Murdoch Place Oldhall West Industrial Estate Irvine North Ayrshire KA11 5DG
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Applicant	Doveryard F.A.O. Mr Scott Brown
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Proposal	Variation of Condition 1 of planning permissions 19/00539/PPM and 20/00819/PPM to facilitate temporary 24 hour working on the slip forming of the approved concrete bunker
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1. Description

Planning permission was granted by the Planning Committee during 2020 for the development of an energy recovery facility (ERF) at Murdoch Place in Oldhall Industrial Estate, Irvine. The development is being implemented and is now approaching the second year of a three-year construction period. The facility would generate heat and power from non-recyclable waste from domestic and industrial sources, excluding hazardous and medical wastes. The facility will have the capacity to process up to 180,000 tonnes per year. Once operational, the ERF would employ between 30 and 40 people. The peak construction workforce would be around 200 people.

The applicant is seeking permission to vary the terms of condition 1 of the planning permissions (ref. 19/00539/PPM and ref. 20/00819/PPM) to enable 24 hour working to take place for 'slip forming' works on the concrete bunker at the construction site between the end of March 2023 and the end of August 2023 (i.e., approximately 5 months). 'Slip forming' is the process of forming a concrete structure using a reinforced timber frame then pouring concrete into the 'mould'. Reinforcement bars are added to the concrete whilst it sets. The

timber shutters are then removed once the concrete hardens. The concrete bunker at the ERF would be 35 metres in height and would form the main structure of the facility. Later phases of construction would result in the bunker being enclosed by a steel frame which would then be clad with metal panels as per the previously approved planning permissions.

Condition 1 currently states:

"That the development hereby approved shall be implemented in accordance with the details and recommendations contained in the supporting documentation submitted with the planning application unless otherwise indicated below, all to the satisfaction of North Ayrshire Council as Planning Authority."

The relevant "supporting documentation" in this case is the previously approved Planning Statement, which sets out the approved routine construction hours. The relevant text reads as follows:

"Construction Phase

3.85 Construction operations would generally take place between the following hours:

0700 - 1900 Monday to Friday

0700 -1600 Saturday and Sunday

3.86 Notwithstanding this, it may from time to time be necessary to work outside of these hours; for example, in connection with the continuous pouring of concrete. It is also envisaged that non-intrusive activities (such as electrical installations, plumbing and similar activities) would be undertaken outside of these hours in order to minimise overall construction time. HGV movements associated with such activities would be insignificant.

3.87 Any intrusive work outside of these hours would be with the prior agreement of the Local Planning Authority, except in the case of any emergency".

The Planning Statement recognises that at times it may be necessary to work outside the principal working hours, particularly in respect of the continuous pouring of concrete. It is the slip forming of the main structure for which express authorisation is sought in this case. Arguably this is provided for in the existing text at 3.86, but for the avoidance of doubt, the applicant is seeking the following variation to condition 1:

"That the development hereby approved shall be implemented in accordance with the details and recommendations contained in the supporting documentation submitted with the planning application unless otherwise indicated below, and in accordance with the details submitted in the 'Temporary Construction Hours Variation of Condition' document dated 15/02/2023, all to the satisfaction of North Ayrshire Council as Planning Authority."

The 'Temporary Construction Hours Variation of Condition' document has been submitted with the application. The document states that the proposed working is for the formation of the concrete bunker of the approved ERF. It would take place wholly within the approved development site and would involve working on the semi-automated pouring of the concrete to form the bunker walls using a technique known as slip forming which also includes a trailing platform where the concrete finishers would use hand tools to repair any blemishes in the concrete as its still fresh and easily repaired.

All other activities would be kept to day shift working, such as fitting the metal reinforcement bars in 6m sections during the day, allowing sufficient work for the shutter to cover during the night shift. No steel fixing or additional craneage activities like adjusting the form would

take place at night - these would continue to be carried out within the normal stated construction hours.

The bunker itself is to be slip formed up to a height of 35m, with a total working height of no more than 38m. The bunker is the largest section of the approved building. The walls would be formed in 6m height intervals, beginning at ground level and working upwards until complete.

The night-time activity would require safety lighting, which primarily would be use of LED lights on the platforms positioned facing inwards towards the working area of the slip form walls. Intumescent strip lights on the access stairways would also be provided. The applicants state that best industry practice for light pollution would be employed at all times.

The applicant advises that the principal visual effect of the proposed work would be the introduction of the lighting to facilitate the proposed night-time working. There would be no significant noise generating plant or traffic used during night-time working.

The application site is located at the southern edge of the Oldhall Industrial Estate to the southeast of Irvine. Oldhall was established during the 1970s by Irvine Development Corporation as a purpose-built location for certain types of incoming industry to Irvine New Town.

There are a variety of industries nearby, including a large recycling plant (Lowmac), a precast concrete block making factory (Hillhouse) and the Council's waste pulverisation plant. Nearby is the large pharmaceutical works of GSK and the UPM paper mill. There are a variety of other small and medium sized businesses in the surrounding area.

In terms of the adopted Local Development Plan, the site is allocated for business and industry. Strategic Policy 2 (Placemaking) is of relevance to the proposed variation of condition 1.

Relevant Development Plan Policies

Strategic Policy 2 Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

2. Consultations and Representations

Neighbour notification was undertaken in accordance with statutory procedures, which included a notice in a local newspaper. No representations have been received. No consultations required to be undertaken.

3. Analysis

The application relates only to the working hours for slip forming works and proposes 24 hour working during the period between the end of March 2023 and the end of August 2023. Due to the nature of the concrete slip forming works, continuous pouring is required to ensure the structural integrity of the concrete bunker, as well as reducing the overall timescale for completion than would be the case otherwise.

Strategic Policy 2 of the LDP (Placemaking), would be relevant to the application in respect of amenity impacts arising from 24 hour working on concrete slip forming operations. The main effect of which would be the illumination required during the hours of darkness. The period between the end of March and the end of August is associated with shorter nights and longer daylight hours. As such, the works would not necessarily result in greater illumination of the site, especially during the period between June and July. Furthermore, there are existing industrial installations nearby which are lit 24 hours per day, including at GSK and the UPM paper mill. Given this locational context within an industrial area, it is considered that the visual impact of such lighting, which is required for safety reasons, would neither be unreasonable nor unacceptable in land use planning terms, especially since the duration of the 24 hour concrete works would be for a relatively short period of approximately 5 months. Once slip forming works are complete, the remaining construction operations would revert to the previously approved day time hours, as noted above.

With respect to noise, the submitted supporting information states that "the noise generating effects of the proposed working technique are very limited, consisting principally of transport movements of one or two concrete trucks per hour, the pouring of the concrete, and the slow movement of the working platform at some 50mm per hour." As per the day-time traffic routing for the development, vehicles travelling to/from the site would use the main road network, avoiding residential areas. Accordingly, given the very limited level of noise and limited number of vehicle movements, the proposal is considered acceptable in terms of Strategic Policy 2.

The application has also been assessed against the adopted National Planning Framework 4 and it has been determined that the proposal does not raise any significant strategic planning issues which conflict with the foregoing assessment.

There are no other material considerations. It is recommended that the proposed variation to condition 1 is granted.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That condition 1 of planning permissions 19/00539/PPM and 20/00819/PPM are hereby amended as follows:

"That the development hereby approved shall be implemented in accordance with the details and recommendations contained in the supporting documentation submitted with the

planning application unless otherwise indicated below, and in accordance with the details submitted in the 'Temporary Construction Hours Variation of Condition' document dated 15/02/2023, all to the satisfaction of North Ayrshire Council as Planning Authority."

For the avoidance of doubt, all other conditions attached to the above planning permissions are unaffected by this decision and shall continue to have effect.

Reason

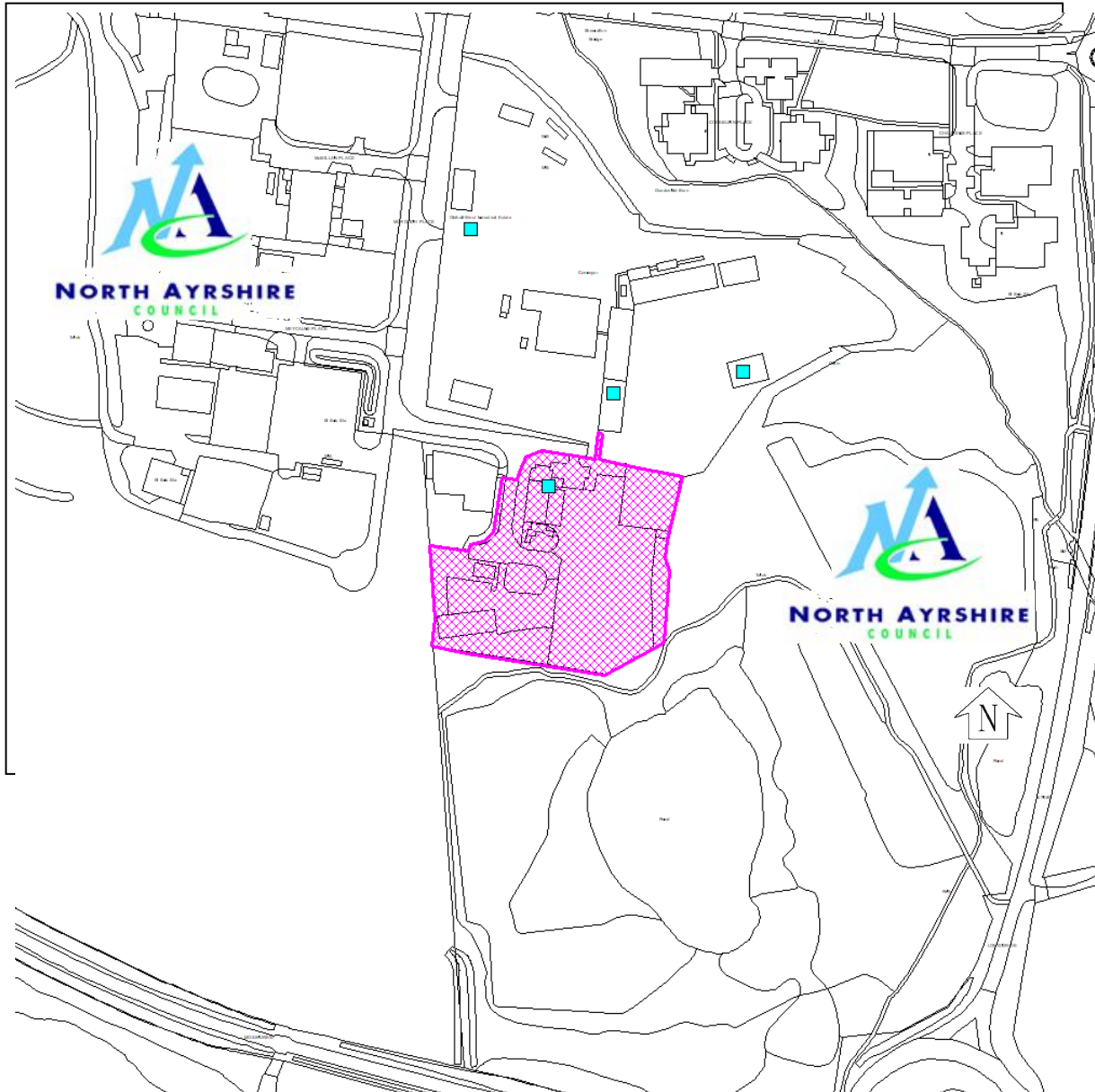
To secure the implementation of the development in accordance with the additional supporting information.

James Miller
Chief Planning Officer

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

22nd March 2023

Planning Committee

Locality	Kilwinning
Reference	23/00097/CON
Application Registered	8th February 2023
Decision Due	
Ward	Kilwinning

Recommendation	Approved subject to Conditions
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Location	Benthead Farm Kilwinning Ayrshire KA13 7RU
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Applicant	Gina Mackenzie Loughrey
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Proposal	Installation of a solar farm with a generating capacity of up to 63mw and a battery storage system with a capacity of up to 31.1MW and associated infrastructure
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1. Description

The Scottish Government's Energy Consents Unit has consulted the Council, as Planning Authority, on an application under Section 36 of the Electricity Act 1989.

The application, at Benthead and Dykeneuk Farms, is for a "solar generating facility with a capacity of up to 63 MW and battery storage with a capacity of up to 31.1MW on farmland." The site covers an extensive area of approximately 130 hectares in the rural area 4km to the northeast of Kilwinning. The area to be covered with solar panels is approximately 69.4 hectares. It is estimated that the solar farm would generate 73GWh of electricity per year.

Section 36 of the Electricity Act states that consent is required from the Scottish Ministers for the construction of such facilities with a capacity exceeding 50 megawatts. The Energy Consent Units, in accordance with The Electricity (Applications for Consent) Regulations 1990, has sought the views of the Council, as Planning Authority on the proposed development.

The proposed development includes the following components:

- A solar farm of up to 63MW capacity. Solar PV panels to be rack mounted and arranged in linear rows on an east-west alignment, all facing south;
- Up to 18 no. battery storage container units (providing 31.1MW capacity), associated transformers and switchgear (approx. 18m x 2.5m x 3.2m), within a compound to be located on land to the east of an existing woodland area towards the southern end of the site near to the Benthead Farm access road;
- Vehicular access points from the Lylestone - Barrmill Road to the west and from the B778 to the southeast;
- Formation of access tracks (these would not be interconnected across the site area);
- 1 no. substation building (approx. 12m x 4m x 3m), to be located within a compound at the most southerly point of the site, east of a woodland area near to the Benthead Farm access road;
- 15 no. inverter kiosks (approx. 6m x 2m x 2m);
- 16 no. transformer kiosks (approx. 6m x 5m x 3m);
- Underground cables connecting substation, switchgear, transformers and inverters;
- Deer fencing to site boundaries with regular openings to provide passage for small mammals;
- Existing field boundaries are to be retained with improved management of roadside hedges (for enhanced screening and biodiversity);
- Fields to continue to be used for rough grazing land by sheep, with areas to be reserved for enhancing the biodiversity of the land to provide comparable habitats in relation to the neighbouring SSSI/SAC (e.g. peatland restoration on areas which are degraded and unsuitable for the development);
- seeding with locally sourced wildflowers would take place following completion of all works involving ground disturbance around the solar panels, excluding areas to be retained for compounds or tracks), the purpose of which would be to enhance the ecological value of the land for nature (e.g. pollen producing flowers for attracting insects and birds).

On reaching the end of its 40-year operational life, the proposed solar development would be decommissioned, and the site restored to farmland.

The consultation includes a number of reports, plans and drawings. These include a design and access statement, flood risk and drainage assessment, farming and land management plan, pre-application consultation reports, habitat survey reports and a glint and glare assessment. The submitted documentation notes that most of the site would be naturally screened from public roads by existing hedgerows and the topography once enhancement has taken place. Viewpoints from local houses and farms have also been taken into account during design following two stages of public consultation. The hedgerows and trees surrounding the site would remain intact.

The existing land use is agricultural, primarily rough grazing land (for sheep) within the north fields (Dykeneuk Farm) and improved pasture (for cattle grazing and/or silage) in the fields towards the south and west (Benthead Farm). Areas of rough grazing adjoin deep peatland areas towards the north and central areas of the farmland, where disturbance of deep peat would be avoided. As noted above, the proposals also provide for peatland restoration where appropriate. There are some small pockets of woodland on the fringes of the site and several small woodlands within it, which would be retained. Site topography is generally a flat plateau, with a wide 'open' landscape character providing long views in all directions. The land rises slightly towards the west towards Jameston Moss. There is an existing wind turbine (Benthead), which is approximately 61m in height to blade tip located towards the western edge of the site. There are coniferous plantation woodland areas to the west near

Jameston Moss and also to the north around Lissens Moss. A number of minor watercourses or field ditches pass through the site. These would be left undisturbed with road crossing points provided only where necessary for access.

In terms of the adopted North Ayrshire Local Development Plan (LDP), the site is within the Countryside. To the northeast of the boundary is Dykeneuk Moss, which is a designated Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and Local Nature Conservation Site (LNCS). These designations relate to the peatland habitat of Dykeneuk Moss. To the southeast is the B778 Lylestone - Auchentiber road. To the west the land uses include farmland and plantation woodlands. Within the site are several minor public roads, including the Lylestone - to Barrmill road which bisects the site from SW to NE; a minor road running E-W to Benthead Farm and a minor road running from SE to NW linking the B778 to the Lylestone - to Barrmill road via Darmule.

In terms of the adopted LDP, the proposal requires to be considered against Strategic Policy 1 (The Countryside Objective), Strategic Policy 2 (Placemaking), Policy 14 (Green & Blue Infrastructure), Policy 15 (Landscape & Seascape), Policy 16 (Protection of our Designated Sites); Policy 18 (Forestry, Woodland, Trees and Hedgerows), Policy 23 (Flood Risk Management) and Policy 29 (Energy Infrastructure Development). National Planning Framework 4 (NPF 4) is also of relevance given its status as part of the statutory development plan.

The proposed development was screened for EIA purposes during early 2022 (ref. 22/00050/EIA). The conclusion reached was that EIA was not required.

Relevant Planning History

None.

Relevant Development Plan Policies

SP1 - The Countryside Objective
The Countryside Objective

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes.

We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

We also recognise that, in general, countryside areas are less well suited to unplanned residential and other developments because of their lack of access to services, employment and established communities. We will seek to protect our prime and locally important agricultural land from development except where proposals align with this spatial strategy. In principle, we will support proposals outwith our identified towns and villages for:

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.

- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e., wind turbines, hydroelectric schemes and solar farms.
- d) tourism and leisure uses, where they would promote economic activity, diversification and sustainable development, particularly where they develop our coastal tourism offer/ infrastructure.
- e) developments which result in the reuse or rehabilitation of derelict land or buildings (as recognised by the Vacant and Derelict Land Survey) for uses which contribute to the Green and Blue Network such as habitat creation, new forestry, paths and cycle networks.
- f) sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.
- g) small-scale expansion of settlements on Arran and Cumbrae for community led proposals for housing for people employed on the island, where a delivery plan is included, and infrastructure capacity is sufficient or can be addressed by the development and where the proposal meets an identified deficiency in the housing stock and is required at that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.
- h) new housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.
- i) sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Additions will be limited to 50% of dwellings existing in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).

Strategic Policy 2

Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

Detailed Policy 14-Green & Blue Infrastructure

Policy 14:

Green and Blue Infrastructure

All proposals should seek to protect, create, enhance and/or enlarge our natural features and habitats which make up our green and blue infrastructure (including open space), ensuring no unacceptable adverse environmental impacts occur.

Green and blue infrastructure should be multi-functional, accessible and integral to its local circumstances. For example, Sustainable Urban Drainage Systems (SuDS) have the potential to play a key role in the delivery of meaningful blue and green infrastructure, providing amenity and improving biodiversity as well as providing a sustainable flood risk solution. We will require details of the proposed arrangements for the long-term management and maintenance of green infrastructure, and associated water features, to form a key part of any proposal.

Our Open Space Strategy (2016-2026) highlights the need for an audit which identifies valued and functional green and blue infrastructure or open space capable of being brought into use to meet local needs. We will support the temporary use of unused or underused land as green infrastructure including where it consists of advanced structure planting to create landscape frameworks for future development. Support will be given to proposals

which seek to enhance biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats. We will also support proposals that are in accordance with the vision and outcomes of the Central Scotland Green Network as well as those of the Garnock Connections Project.

Detailed Policy 15-Landscape & Seascape Policy 15:

Landscape and Seascape

We will support development that protects and/or enhances our landscape/seascape character, avoiding unacceptable adverse impacts on our designated and non-designated landscape areas and features. In particular, we will consider the following:

a) National Scenic Areas

Development that affects the North Arran National Scenic Area including the need to protect existing sport and recreation interests, will only be supported where:

- i) the objectives of the designation and the overall integrity of the area will not be compromised; or
- ii) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

b) Special Landscape Areas

We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting.

c) Wild Land

We will only support development within Wild Land areas where any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

d) Local Landscape Features

Where appropriate, development should take into consideration its individual and cumulative impacts on landscape features, including:

- i) patterns of woodlands, fields, hedgerows and trees;
- ii) lochs, ponds, watercourses, wetlands, the coast and wider seascape;
- iii) settlement setting, including approaches to settlements;
- iv) the setting of green network corridors, such as important transport routes and the cycle and footpath network;
- v) historic, natural and recreational features of interest, skylines and hill features, including important views to, from and within them.

For all development with the potential to have an impact on either Landscape Character or Landscape features (including their setting), appropriate mitigation measures should be considered as part of any planning application. Where there is potential for development to result in significant adverse landscape/visual impact, a landscape and visual impact assessment (LVIA) will be required. The Ayrshire Landscape Character Assessment (SNH, 1998) and North Ayrshire Settlement Development Strategy (Entec, 2008) provide further

information on designations such as Local Landscape Character Areas and the Potential Limit of Development Expansion areas as shown on the map on page 81 and on our online proposals map. These landscape assessment documents, and any new or updated landscape assessments, will be key considerations in determining whether development proposals would be acceptable within the landscape.

Detailed Policy 16- Protection of our Policy 16:

Protection of our Designated Sites

We will support development which would not have an unacceptable adverse effect on our valuable natural environment as defined by the following legislative and planning designations;

a) Nature Conservation Sites of International Importance

Where an assessment is unable to conclude that a development will not adversely affect the integrity of a site, development will only be permitted where there are no alternative solutions; there are imperative reasons of overriding public interest; and suitable compensatory measures are provided to ensure that the overall coherence of the Natura Network is protected.

b) Nature Conservation Sites of National Importance

Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.

c) Nature Conservation Sites of Local Importance

Development adversely affecting Local Nature Reserves or Local Nature Conservation Sites will generally not be permitted unless it can be demonstrated the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of local importance.

d) Marine Protected Areas

Development likely to have an adverse effect on the protected features of South Arran MPA will not be supported. Proposals are also required to consult with the Clyde Marine Planning Partnership (CMPP).

e) Biodiversity Action Plan Habitats and Species

Development adversely affecting priority habitats or species set out in the North Ayrshire Local Biodiversity Action Plan will not be permitted unless it can be demonstrated the impacts are clearly outweighed by social or economic benefits of local importance.

f) Protected Species

Development likely to have an unacceptable adverse effect on;

i) European Protected Species (see Schedules 2 & 4 of the Habitats Regulations 1994 (as amended) for definition); Birds, Animals and Plants listed on Schedules 1, 5 and 8 (respectively) of the Wildlife and Countryside Act 1981 (as amended); or badgers, will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.

ii) The Scottish Biodiversity List (SBL) of animals, plants and habitats that Scottish Ministers considered to be of principle importance for biodiversity conservation in Scotland.

Detailed Policy 18 - Forestry, Woodland Policy 18:

Forestry, Woodland, Trees and Hedgerows

Development proposals will only be supported when it would not result in the loss or deterioration of an ancient or long-established plantation or semi-natural woodland unless there are overriding public benefits from the development that outweigh the loss of the woodland habitat.

Where development includes the removal of woodland, the Scottish Government's Control of Woodland Policy and the current Ayrshire and Arran Woodland Strategy including relevant compensatory planting requirements will be taken into account.

Where the loss of trees, hedgerows or woodlands of merit is unavoidable and compensatory planting is required, replacement trees should be of a similar scale and massing to the loss or if smaller there should be additional tree planting committed to ensure a net gain is achieved. We will also expect developers to engage with Forestry Commission Scotland.

We recognise that trees and woodlands are an important yet dynamic part of our landscape. In recognition of this where a tree (or group of trees) is of significant value to public amenity or where they strongly contribute to the character of a Conservation Area we may consider promoting a formal Tree Preservation Order (TPO). We will normally only do this when there is a clear, pressing and immediate threat to a valuable tree (or group of trees) - not as a matter of course and not in conflict with good arboricultural practice and management. In the case of works to trees covered by a tree preservation order we will support management schemes and maintenance works that adhere to good arboricultural practice.

Generally, we will support proposals for dedicated timber export facilities as well as timber export developments that are combined with other marine based activities on Arran where there are no unacceptable adverse environmental impacts and align with our Placemaking policy. Proposals should also align with Policy 28: Transport as an Economic Driver.

Supplementary Guidance: Trees and Development provides guidance on information required to be submitted as part of planning applications involving tree works as well as matters to consider when designing and constructing development to minimise impacts on trees.

Detailed Policy 23-Flood Risk Management Policy 23:

Flood Risk Management

We will support development that demonstrates accordance with the Flood Risk Framework as defined in Scottish Planning Policy and shown in schedule 7, relevant flood risk management strategies and local flood risk management plans. We will also support schemes to manage flood risk, for instance through natural flood management, managed coastal realignment, wetland or green infrastructure creation.

Generally, development should avoid locations of flood risk and should not lead to a significant increase in the flood risk elsewhere. Land raising and elevated buildings will only be supported in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area.

Development proposals should:

- o Clearly set out measures to protect against, and manage, flood risk.
- o Include sustainable urban drainage systems (SuDS) where surface water is proposed to be discharged to the water environment, in accordance with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 as amended.
- o Include provision of temporary/construction phase SuDS.
- o include appropriate long-term maintenance arrangements.
- o Be supported by an appropriate flood risk assessment where at risk of flooding from any source in medium to high risk areas and for developments in low to medium risk areas identified in the risk framework (schedule 7).
- o Take account of SEPA's flood risk and land use vulnerability guidance (2018) and any relevant updates to, or replacements of this guidance.

Detailed Policy 29 - Energy Infrastructure

Policy 29:

Energy Infrastructure Development

We will support development proposals for energy infrastructure development, including wind, solar, tidal, cropping and other renewable sources, where they will contribute positively to our transition to a low carbon economy and have no unacceptable adverse environmental impacts, taking into consideration (including cumulatively) the following:

Environmental

- o Communities and individual dwellings - including visual impact, residential amenity, noise and shadow flicker;
- o Water quality;
- o Landscape - including avoiding unacceptable adverse impacts on our landscape designations;
- o Effects on the natural heritage - including birds;
- o Carbon rich soils including peat;
- o Impacts on the historic environment - including scheduled monuments, listed buildings and their settings.

Community

- o Establishing the use of the site for energy infrastructure development;
- o providing a net economic impact - including socio-economic benefits such as employment, associated business and supply chain opportunities;
- o Scale of contribution to renewable energy generation targets;
- o Public access - including impact on long distance walking and cycling routes and scenic routes identified in the National Planning Framework;
- o Impacts on tourism and recreation;
- o Specific locational opportunities for energy storage/generation.

Public Safety

- o Greenhouse gas emissions;
- o Aviation and defence interests and seismological recording;
- o Telecommunications and broadcasting installations - particularly ensuring that transmission links are not compromised; radio telemetry interference and below ground assets;
- o Road traffic and adjacent trunk roads;
- o Effects on hydrology, the water environment and flood risk including drinking water quality and quantity (to both the public and private water supplies);
- o Decommissioning of developments - including ancillary infrastructure, and site restoration and aftercare.

Proposals should include redundancy plans which will demonstrate how apparatus will be timeously removed as reasonably soon as the approved scheme ceases operation. There may be a requirement for financial bonds to ensure that decommissioning can be achieved. Taking into consideration the above, proposals for wind turbine developments should accord with the Spatial Framework (as mapped) and consider the current Landscape Capacity Study for Wind Farm Development in North Ayrshire. This study will be used as a point of reference for assessing all wind energy proposals including definitions of what small to large scale entails.

Buildings: Low and Zero Carbon Generating Technology

Proposals for all new buildings will be required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies. A statement will be required to be submitted demonstrating compliance with this requirement. The percentage will increase at the next review of the local development plan.

This requirement will not apply to:

1. Alterations and extensions to buildings
2. Change of use or conversion of buildings
3. Ancillary buildings that stand alone and cover an area less than 50 square metres
4. Buildings which will not be heated or cooled, other than by heating provided solely for frost protection.
5. Buildings which have an intended life of less than two years.

2. Consultations and Representations

A range of consultations for Section 36 applications are undertaken by the Energy Consents Unit of the Scottish Government, who have the statutory duty to determine such applications. In this respect, the Council is a statutory consultee. Publicity for proposals of this type is carried out by the Energy Consents Unit, who would consider any public comments they receive.

To inform the Council's position on the proposals, a number of internal consultations were undertaken, and are summarised below:

NAC Active Travel & Transportation - No objections, and recommend that, for all the junctions accessing the site, visibility splays of 2.5 metres by 120 metres, in both directions, must be provided and maintained at the junction with the public road. No item with a height greater than 1.05 metre above adjacent carriageway level must be located within these sightline triangles.

Response: Noted. A condition requiring the implementation of the above sightlines could be recommended in the Council's response.

NAC Flooding Officer - Advise that SEPA's flood hazard map indicates that parts of the site are at high and medium risk of surface water flooding and the application documents show that there is a network of drainage ditches within and around the site. The site plan shows that the proposed solar panels would generally be located away from the areas of indicative flood risk, which is an approach that NAC would support. NAC Flooding would, however, strongly advise that the recommendations of the applicant's Flood Risk and Drainage Assessment are either incorporated into the application drawings or that the implementation and maintenance of the recommended actions are controlled by conditions that would be attached to any consent.

Response: Noted. A condition requiring the implementation and maintenance of the works indicated above could be recommended in the Council's response.

3. Analysis

As noted above, the proposal requires to be considered against Strategic Policy 1 (The Countryside Objective), Strategic Policy 2 (Placemaking), Policy 14 (Green & Blue Infrastructure), Policy 15 (Landscape & Seascape), Policy 16 (Protection of our Designated Sites); Policy 18 (Forestry, Woodland, Trees and Hedgerows), Policy 23 (Flood Risk Management) and Policy 29 (Energy Infrastructure Development). Each policy is considered individually below.

Strategic Policy 1 (The Countryside Objective)

Part c) of SP1 states that, in principle, the Council will support proposals in the countryside for "developments with a demonstrable specific locational need including developments for renewable energy production ie. wind turbines, hydroelectric schemes and solar farms." In this case, it is proposed to develop a solar farm with battery storage and ancillary infrastructure. The majority of the site would retain its agricultural use, with improved management of peatland and enhanced ecology. It is considered that the proposal has a specific locational need and accords with SP1.

Strategic Policy 2 (Placemaking)

The intention of SP2 is to ensure that all development contributes to making quality places. It safeguards, and where possible enhances, environmental or amenity impacts. In this case, it is noted that the proposed solar farm would be sited so as to minimise impacts on housing near the site. This would be achieved by siting solar panels away from the edges of fields near housing; retaining and restoring hedgerows and ensuring that the site compounds (eg. battery storage area, sub-station area) would be screened by existing woodland plantations. It is considered that, in certain places, the woodland plantations are in need of enhancement through additional or replacement planting to reinforce their

effectiveness for screening and amenity purposes during the lifespan of the development. A condition could be recommended in this respect. It should be noted that the proposed racking system for mounting the solar panels would not exceed 3m above ground level, thus minimising the visual impact on the flat, plateau landscape of the site. CCTV poles would also be erected around the site, to enable monitoring of the panels and other plant to take place remotely, the height of which would also be 3m. Again, the landscape and visual impact of these vertical elements would not be significant across the expansive site area, being close to ground level and screened from external viewpoints by hedgerows and, in places, woodland. There would be no other amenity impacts arising from the development in terms of noise, overshadowing or privacy impacts. The glint and glare assessment indicates that the panels would be black in colour and non-reflective. In summary, it is considered that the proposals are acceptable in terms of SP2.

Policy 14 (Green & Blue Infrastructure)

The intention of this policy is to require that all proposals "seek to protect, create, enhance and/or enlarge our natural features and habitats which make up our green and blue infrastructure." As noted above, the proposed development would include measures to enhance biodiversity through the restoration of hedgerows, the restoration of degraded peat and the planting of wild flowers following ground disturbance. The policy notes that "support will be given to proposals which seek to enhance biodiversity.... including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats." It is noted that the peatland restoration would bring a significant part of the site up to a standard of habitat closer to that of the neighbouring SSSI/SPA designation at Dykeneuk Moss. The benefits of the development, in terms of habitat restoration and creation, would therefore exceed the baseline conditions of the land in terms of its current use. The proposals are therefore acceptable in terms of Policy 14.

Policy 15 (Landscape & Seascape)

The policy sets out to support development that protects and/or enhances our landscape/seascape character, avoiding unacceptable adverse impacts on both designated and non-designated landscape areas. The landscape character of the site and its surroundings is with the 'Ayrshire Lowlands' in terms of the landscape character type defined in the 'Ayrshire Landscape Assessment' produced in 1998 for the former Scottish Natural Heritage. 'Ayrshire Lowlands' is described as "an extensive area of agricultural lowland which occupies much of the Ayrshire basin.... The landform is surprisingly complex, dissected by many burns and streams draining to incised main river valleys to create an undulating lowland landscape. Landcover is predominantly pastoral. Cattle, sheep and grassland are common.... A number of placenames include the term 'moss', reflecting the presence of peat bogs and mires. Whilst many of these have been drained and reclaimed for agriculture, some areas of peatland remain."

The commentary goes on to state that "fields are often regular in shape and enclosed by beech or hawthorn hedges. For the most part the hedges are in good condition. Many field boundaries are also marked by mature hedgerow trees. These trees give the landscape a surprisingly wooded character, often forming avenues along minor roads. In places this structure has begun to decline as trees have been felled and not replaced."

It is considered that, as part of the landscaping and mitigation works associated with the proposals, the opportunity has arisen to restore not only the peatland and hedgerows but also the hedgerow trees which were once typical of the locality. It is noted that most hedgerows along the edges of the site have been cut back quite severely, with very few

hedgerow trees remaining. Such tree planting within the hedgerows would help to filter views towards the rows of solar panels, repair and enhance landscape character and promote further biodiversity within this locality. Tree planting within hedgerows would not form a dense barrier to light and would therefore be unlikely to have any material impact on the performance of the solar panels. Elsewhere, it has been noted that within the woodland areas that would be utilised for screening of battery storage units and other items of plant, there is evidence of ash dieback and limited natural regeneration. In these areas, work would be required to restore the woodlands and thus repair the decline to landscape character. A condition could be recommended to secure the details of such planting. Subject to such a condition, the proposals would be acceptable in terms of Policy 15.

Policy 16 (Protection of our Designated Sites)

The policy supports proposals which would not have an unacceptable effect on our valuable natural environment as defined by a variety of legislative and planning designations. As noted above, the site is close to the Dykeneuk Moss SSSI/SPA and Nature Conservation Site of Local Importance. No part of the development would take place within the boundary of these designations. The proposal would, however, enhance habitats within the boundary of the solar farm site which would have a beneficial impact on the ecology of the SSSI (e.g. peatland restoration). As such, the proposals would be acceptable in respect of Policy 16.

Policy 18 (Forestry, Woodland, Trees and Hedgerows)

The policy seeks to resist the loss of established woodlands, trees and hedgerows. Where loss is unavoidable as a result of development, compensatory planting is required. As discussed above, the opportunity has arisen to increase tree planting at various locations within the site, to improve woodland and to reinforce established hedgerows. Such planting would compensate for the sections of hedgerow to be removed for site accesses (although existing field gates would be used whenever possible). Subject to the recommended condition discussed above, the proposals would be acceptable in terms of Policy 18.

Policy 23 (Flood Risk Management)

The policy supports development that demonstrates accordance with the Flood Risk Framework shown in Schedule 7 of the LDP. The policy notes that development should generally avoid locations of flood risk and should not lead to a significant increase in the flood risk elsewhere. Sustainable drainage systems should be incorporated into new development. In this instance, the consultation includes a flood risk and drainage assessment. This has been reviewed by the Council's Flooding Officer and found to be fit for purpose. A general condition is recommended that would require the implementation of all measures identified in the supporting information, including flood protection and drainage works, to be implemented during the course of the development. A Construction Environmental Management Plan (CEMP) condition is also recommended.

Policy 29 (Energy Infrastructure Development)

This policy states that support will be given to energy infrastructure development, including solar, where it will contribute to the transition to a low carbon economy and have no unacceptable adverse environmental impacts. The policy requires that consideration be given to environmental, community and public safety aspects of a development.

In terms of environmental impacts, the proposals would be acceptable in terms of the detailed policies considered above, resulting in a biodiversity net gain in comparison with the baseline conditions (farmland).

In terms of community impacts, it is considered that the proposals would contribute significantly to the generation of renewable energy targets. There are no plans to create pathways through the site (there are no designated footpaths within the site at present). It is not considered that the proposals would have any adverse impacts on tourism and recreation. The opportunity has been taken to provide battery storage within the site, which would be screened from the nearby public road by woodland.

In terms of public safety, the internal consultations carried out do not indicate any areas of concern with the proposals. A Construction Environmental Management Plan (CEMP) could be included as a recommended condition.

The decommissioning of the site following its 40-year operational period could be secured by condition, which could be recommended as part of the Council's consultation response.

The proposals are considered to accord with Policy 29.

The application has also been assessed against the adopted National Planning Framework 4 and it has been determined that the proposal does not raise any significant strategic planning issues which conflict with the foregoing assessment. In respect of this proposal, it is noted that the key aims of NPF 4 relate to the climate and nature crises. The proposed development would generate electricity from a renewable source, as well as providing battery storage facilities to improve the efficiency and effectiveness of the scheme. In addition, considerable benefits for biodiversity and nature would be created through peatland restoration, hedgerow restoration and new planting of pollen rich wild flowers. The underlying agricultural land use would also be retained in the interests of food production.

Taking the foregoing into account, it is recommended that the Council, as Planning Authority, does not object to the proposed development and recommends the undernoted conditions to the Scottish Government's Energy Consents Unit for its consideration.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the development shall be implemented in accordance with the submitted plans, drawings and recommendations contained in the application (inclusive of all associated supporting reports and documentation) unless otherwise indicated below, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To secure the implementation of the development in accordance with the supporting information.

Condition

2. That prior to the commencement of the development, the applicant shall submit a Construction Environmental Management Plan for the written approval of North Ayrshire Council as Planning Authority, which shall address site construction traffic routes and management, working hours, dust suppression measures, noise control measures and

surface water run-off control measures. Thereafter, the development shall be implemented in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In the interests of environmental protection during the construction phase.

Condition

3. That, for all roads/tracks accessing the site, visibility splays of 2.5 metres by 120 metres, in both directions, shall be provided and maintained at the junction with the associated public road. No item with a height greater than 1.05 metre above adjacent carriageway level must be located within these sightline triangles.

Reason

In the interests of road safety.

Condition

4. That, prior to the commencement of the development, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a scheme of landscaping and tree planting. The scheme shall include:

- the restoration of existing hedgerows, including the planting of hedgerow trees throughout the site;
- the restoration of existing woodland areas, including the removal of diseased/dead trees and details of their replacement;
- details of tree protection measures;
- details of wild flower planting;

The landscaping and tree planting scheme shall include details of species, planting densities, soil treatment and aftercare. Thereafter, the scheme as may be approved shall be implemented prior the development becoming operational and managed thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To secure a comprehensive scheme taking account of landscape character, visual impact, biodiversity and habitats.

Condition

5. That, prior to the commencement of any peatland restoration, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a detailed scheme of such works, including their timing and future management arrangements. Thereafter, the scheme as may be approved shall be implemented and managed during the lifespan of the solar farm to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To secure a comprehensive scheme taking account of biodiversity and habitats.

Condition

6. That, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority, the rated noise level, as defined in BS 4142:2014+A1:2019, from the operation of fixed plant and machinery, including the battery storage facilities, sub-station, transformers,

etc. shall not exceed the background noise level at the curtilage of any noise sensitive property existing or consented at the time of the application.

Reason

To safeguard the residential amenity of houses within the vicinity of the site from noise generated by fixed plant and machinery.

Condition

7. That the solar farm and battery storage facilities hereby permitted shall be removed and the land restored for agriculture and/or nature conservation purposes within 40 years of the date of the consent, all to the satisfaction of North Ayrshire Council as Planning Authority, unless otherwise agreed beforehand.

Reason

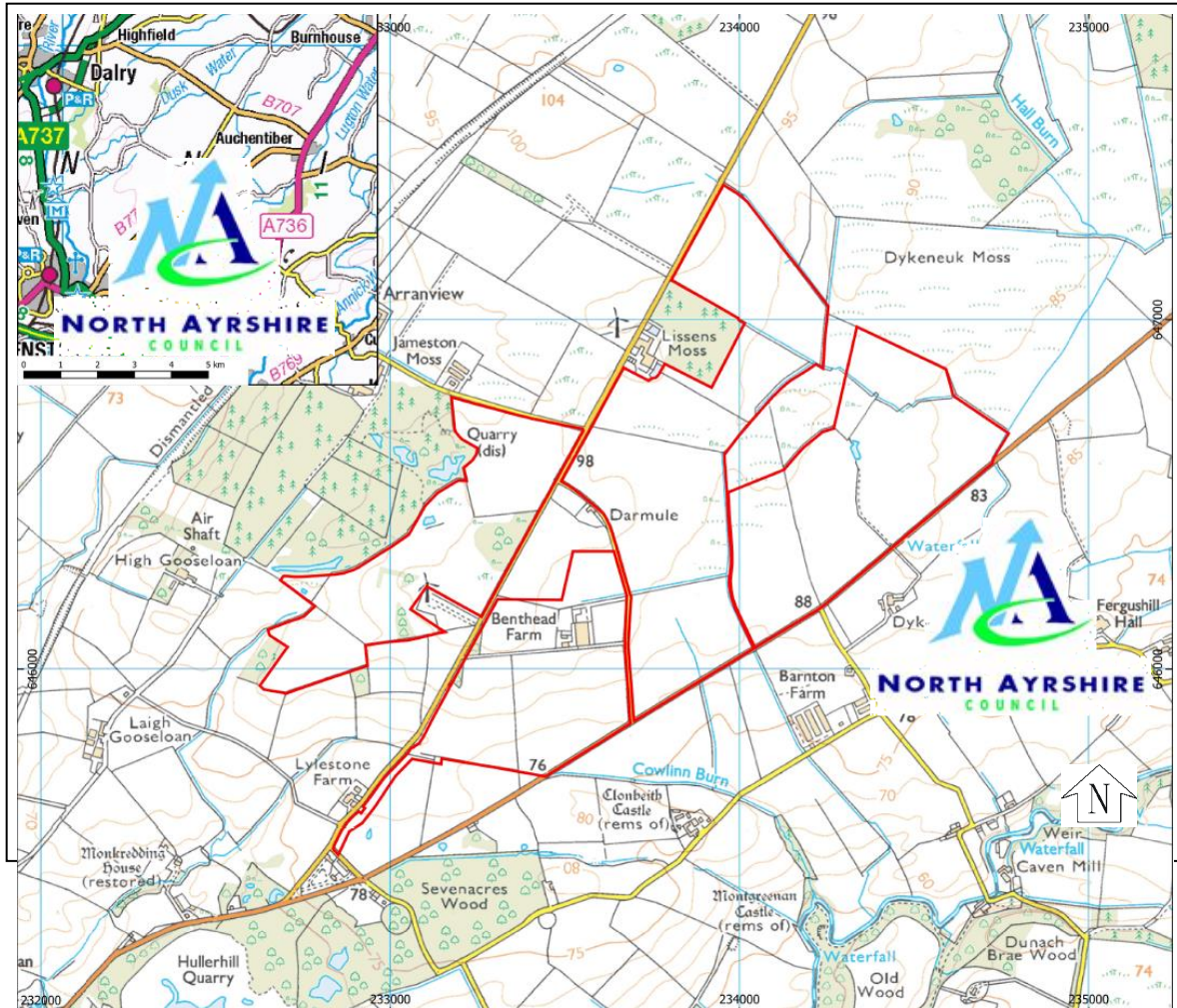
To make provision for future land use to reflect that the operational phase of the development is estimated to be 40 years.

James Miller
Chief Planning Officer

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

22 March 2023

Planning Committee Report

Title:	Grouping of Trees in the grounds surrounding Moorpark House, Kilbirnie
Purpose:	To advise Committee regarding the process and merits of protecting a group of trees located on the grounds of Moorpark House, Kilbirnie via a Tree Preservation Order (TPO)
Recommendation:	That the Council serves a Tree Preservation Order (TPO) under S.160 1997 Town and Country Planning Act.

1. Executive Summary

- 1.1 This report is in response to a request from a member of the public relating to the protection offered to a grouping of trees in and around the grounds of Moorpark House. It was brought to the Council's attention that works have taken place on some of the trees.
- 1.2 Some of the trees are afforded some protection by a planning condition in terms of the Planning Permission (ref: 06/00001/PP). The Council has received complaints that works were taking place on the trees.
- 1.3 It is considered that the trees meet the criteria for a Tree Preservation Order (TPO). A TPO would formalise and provide clarity to the level of protection offered. It is therefore recommended that a TPO is served in the interests of protecting public amenity. This report outlines the reasons for this recommendation and the procedures involved.

2. Background

- 2.1 Concerns have been raised from a member of the public about the protection afforded to the trees, some of which are currently subject to works, located within the grounds of Moorpark House. Following receipt of this request, Council Officers conducted a site visit and desk top analysis to assess the suitability of a Tree Preservation Order under relevant legislation.
- 2.2 The Council as the Planning Authority has the power under S160 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc 2006 (Scotland) Act) to make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation. The Council can exercise these powers providing the tree (or grouping of trees) meets either or both the following requirements:

- (a) that it is expedient in the interests of amenity to make that provision,
- (b) that the trees, groups of trees or woodlands are of cultural or historical significance.

It should be noted that under the legislation, a TPO cannot be served due to the trees being at risk alone. The only two criteria in which a Planning Authority can create a provision are as noted above.

- 2.3 The site surrounding Moorpark House has been subject to a variety of Planning Permissions. Planning Permission (ref: 06/00001/PP), which approved the use of a hotel with associated landscaping, is considered most relevant relating to the protection of the trees. The consent was subject to a condition which requires written approval from the Council as the Planning Authority before any works taking place to any trees within the site. As some time has passed since this consent and the site has been subject to other consents, the validity and extent of protection afforded has been disputed by the owner. Therefore, in the interests of expediency, consideration is required to provide formal protection of the woodland to provide clarity to the level of protection. The Council can create such an order under sc160 of the 1997 Town and Country Planning (Scotland) Act.
- 2.4 Following the desktop assessment, Officers conducted a site visit to determine whether the trees and woodland have the potential to meet the criteria for formal protection. Within the former grounds of Moorpark House, the species and ages of trees found were mixed, ranging from Scots Pine, Sycamore, Lime, Larch and Horse Chestnut to name a few. It is noted that the former grounds of Moorpark House are now in separate ownerships. The area identified for the proposed TPO reflects both physical boundaries at the site, and historic Planning Permissions.
- 2.5 Attention now turns to the criteria for creating TPOs. With regards to contribution to public amenity, it is clear the trees contribute significantly. The trees are an important characteristic of the local area and are visible from various parts of Kilbirnie and its fringes. The western part of the proposed TPO area is directly adjacent to a Core Path, which leads from the edge of the town centre to the more rural northwest fringes of the settlement. The site is also allocated as Open Space within the Local Development Plan, which green infrastructure such as trees play a significant role in contributing to amenity and setting.
- 2.6 Taking the above into account, it is considered that the trees meet the criteria for a Tree Protection Order as trees contribute significantly to public amenity.
- 2.7 The legislation states that a Tree Preservation Order may, in particular, make provision—
 - (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of trees except with the consent of the planning authority, and for enabling that authority to give their consent subject to conditions.

(b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.

(c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of the 1997 Town and Country Planning (Scotland) Act.

2.8 The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 outlines the procedures in which Planning Authorities can exercise their powers. If the Council serves a TPO, it is required to be confirmed within 6 months of the date of that notice. Within this time, all interested parties such as Landowners, Occupiers and Lessees must be notified and given a time to respond to the notice of no less than 28 days. The notice is required to be advertised locally in the relevant newspapers that serve the area.

2.9 The six-month period would allow the Council to consult with stakeholders and gain direction from Committee on whether to confirm the TPO (or amend it) and put it in place in perpetuity.

2.10 It should be noted that protection of the trees under a TPO does not provide absolute protection to all the trees on the site. Protection via a TPO only means that permission is required to cut down, top, lop, uproot trees from the Council. Should the removal of trees be part of any future planning consent, then that would supersede the TPO. Should a TPO be created however, then the impacts upon the trees may become a material consideration when determining a planning application.

3. Proposals

3.1 It is proposed that the Council serves notice of a Tree Preservation Order in the interests of public amenity. It is then proposed that Council will seek the views of stakeholders and advertise the notice in the local newspapers.

3.2 Once the Tree Preservation Order has been created. The Council has 6 months to confirm the TPO when the Order will be placed within the Scottish Land Register.

4. Implications/Socio-economic Duty

Financial

4.1 None. The TPO can be created and advertised within existing budgets.

Human Resources

4.2 None. The TPO can be created and advertised within existing staff resources.

Legal

4.3 Should a TPO be confirmed, a notice is required to be written and recorded in the Scottish Land Register.

Equality/Socio-economic

4.4 Trees can have numerous benefits for those seeking tranquillity. The grounds, that the trees are located in, play a significant role in society and are part of a community that use the church and the grounds.

Climate Change and Carbon

4.5 Trees can have positive impacts on the climate through carbon sequestration.

Key Priorities

4.6 The proposed TPO would align with the Council Plan Priorities of 'Vibrant, welcoming, and attractive places' and 'A sustainable environment.'

Community Wealth Building

4.7 None.

5. Consultation

5.1 Consultation is required with landowners, occupiers and lessees and published in a local paper with at least 28 days given for response.

JAMES MILLER
Chief Planning Officer

For further information please contact **Thom Ledingham, Planning Officer (Strategic Planning)**,
on **01294 324 623**

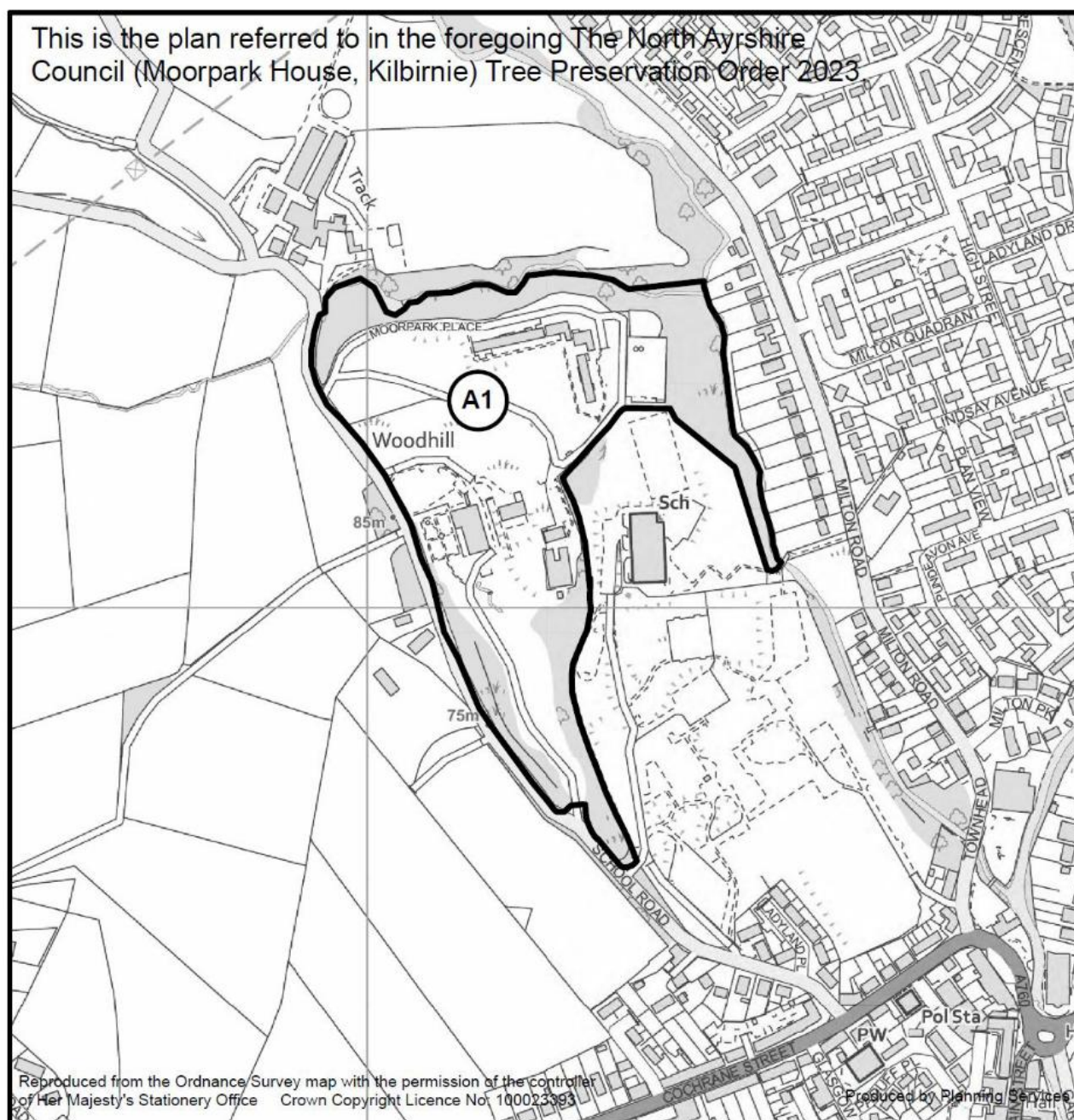
Background Papers

Appendix 1 – Proposed Tree Preservation Order

TREE PRESERVATION ORDER

Moorpark House, Kilbirnie

APPENDIX 1



Address: Moorpark House, Kilbirnie

Grid Ref: NS 3114.5512

Area: A1 - 8.567Ha

Description: Mixed deciduous trees



Scale: 1:5000

NORTH AYRSHIRE COUNCIL

22nd March 2023

Planning Committee

Title: **Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997: 17 Auldlea Road, Beith**

Purpose: To seek authority to serve a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with Condition 1 of planning permission (ref. 22/00536/PP)

Recommendation: That the Committee grants authority for the service of a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with Condition 1 of planning permission ref. 22/00536/PP at 17 Auldlea Road, Beith

1. Executive Summary

- 1.1 To seek authority to serve a Breach of Condition Notice requiring compliance with condition 1 of planning permission 22/00536/PP which requires details of obscure glazing to be fitted to the north elevation of a consented conservatory to the rear of a house at No. 17 Auldlea Road, Beith, and retained thereafter.
- 1.2 The condition was required to safeguard the privacy and amenity of neighbouring housing.

2. Background

- 2.1 On 5th June 2022 it was brought to the Council's attention that a conservatory extension had been erected to the rear of an end-terraced dwellinghouse at 17 Auldlea Road, Beith. Public concerns had been raised regarding the scale and height of the conservatory. Initial checking of the approved building warrant drawings showed that the conservatory was to be built within the limits of Householder Permitted Development Rights (HPDR), meaning that a planning application did not require to be submitted. However, for the avoidance of doubt, the conservatory was measured on site and was found to exceed the height limits set out in Class 1A of the HPDR. Consequently, an application for planning permission was requested from the householder at 17 Auldlea Road, Beith.

2.2 A retrospective planning application was duly received in July 2022 and validated on 1st August 2022. Through assessment of the planning application concerns were raised about the impact of the conservatory on the privacy of the attached neighbouring dwelling. Mitigation measures were discussed with the applicant's agent. It was concluded that obscure glazing should be installed on the north elevation of the conservatory to lessen the impact of potential overlooking and loss of privacy to the attached neighbouring property. It was agreed with the agent that the matter could be addressed by a condition. The planning application was duly granted, subject to conditions, on 27th September 2022.

2.3 Condition 1 of the planning permission reads as follows:

“That within four weeks of the date of this decision, details of the obscure glazing to be fitted to the north elevation of the conservatory hereby approved shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the method of obscure glazing as may be approved shall be installed within 8 weeks of the date of this decision, and permanently retained thereafter, all to the satisfaction of North Ayrshire Council as Planning Authority”.

The reason for the condition was *“to safeguard the privacy and amenity of neighbouring housing”*.

2.4. As noted above, condition 1 states that details of the obscure glazing required to be submitted within four weeks of the date of the decision (27th September 2022). However, the required details were not received within four weeks of the decision notice. Several reminders were sent. To date, the required details have still not been received. The second part of the condition stated that the method of obscure glazing as approved required to be installed within 8 weeks of the decision. To date, the obscure glazing has not been installed to the north elevation of the conservatory.

2.5 Correspondence with the agent and applicant has taken place. However, there was disagreement from the applicant on the need for the condition. The applicant was advised that they could request a local review of the condition within 3 months of 27th September 2022. An appeal to the Local Review Body was not submitted within the required time. The applicant was also advised that there is a statutory right to apply to the planning authority for the amendment/removal of the condition under Section 42 of the Town and Country Planning (Scotland) Act 1997 (the Act).

2.6 Over five months have elapsed since the date of the decision. It is considered that the applicant has had sufficient time to comply with, or to challenge, the condition.

2.7 To remedy the breach, it is recommended that authority for the service of a Notice under Section 145 of the Act (a “Breach of Condition Notice”) be approved. A Breach of Condition Notice would require the applicant to adhere to the requirements of condition 1 of the above planning permission and install obscure glazing to the north elevation of the conservatory. The Notice would take effect not less than 35 days from the date on which it is served. There is no right of appeal against such a Notice. The service of a Notice would remedy the breach and address the requirements of the condition. The Council could report those responsible for not complying with a Breach of Condition Notice to the Procurator Fiscal, should its requirements not be met.

3. Proposals

3.1 In the interest of the amenity of the area and to safeguard the privacy and amenity of neighbouring housing, it is recommended that the Committee approve the service of a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 (as amended) to require compliance with condition 1 as follows:

- (i) That details of the obscure glazing to be fitted to the north elevation of the conservatory at 17 Auldlea Road shall be submitted for the written approval of North Ayrshire Council as Planning Authority within two weeks of the notice coming into effect. Thereafter, the method of obscure glazing as may be approved shall be installed within 8 weeks of the effective date of this Notice, and permanently retained thereafter, all to the satisfaction of North Ayrshire Council as Planning Authority.

4. Implications/Socio-economic Duty

Financial

4.1 The service of the Notice can be addressed with existing budgetary provision.

Human Resources

4.2 The service of the Notice can be addressed with existing staff resources.

Legal

4.3 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/Socio-economic

4.4 None.

Climate Change and Carbon Environmental and Sustainability

4.5 None

Key Priorities

4.6 The proposed Breach of Condition Notice would safeguard the privacy and amenity of neighbouring housing.

Community Wealth Building

4.7 None

5. Consultation

5.1 None.

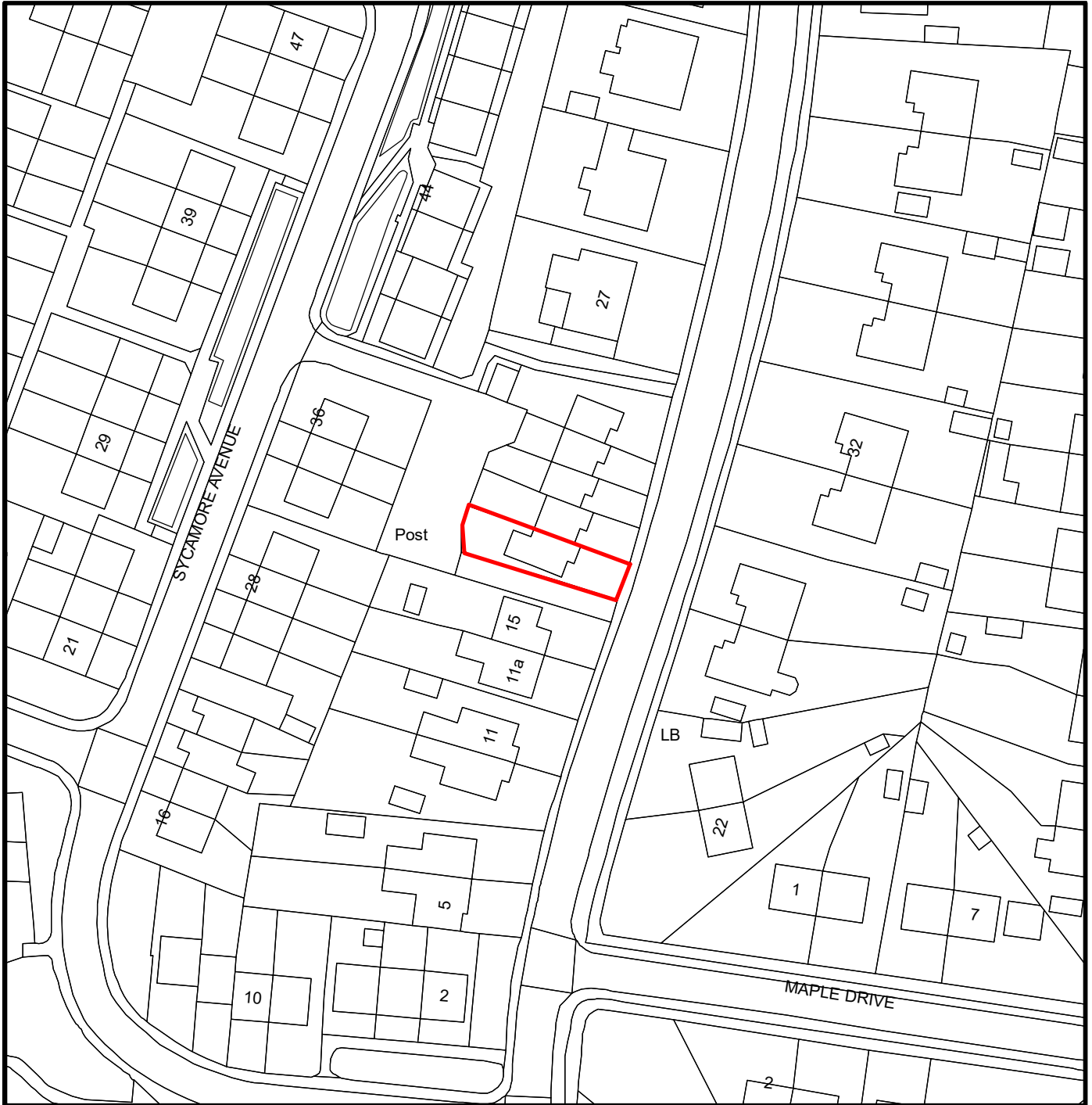
James Miller
Chief Planning Officer

For further information please contact **Charlotte Conway, Assistant Planning Officer**, on **01294 324153**.

Background Papers

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Notice under Section 145 of the Town and Country Planning
(Scotland) Act 1997: 17 Auldlea Road, Beith



1:1,000

0 12.5 25 50 Metres

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