



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Committee

A meeting of the **Planning Committee** of North Ayrshire Council will be held remotely on **Thursday, 25 February 2021** at **14:00** to consider the undernoted business.

Arrangements in Terms of COVID-19

In light of the current COVID-19 pandemic, this meeting will be held remotely 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>. In the event that live-streaming is not possible, a recording of the meeting will instead be available to view at this location.

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 meeting of the Committee held on 27 January 2021 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 Call In Request: SSE Anaerobic Digestion Plant, Dalry

Submit report by the Chief Executive on a call in request in relation to an application for planning permission which would otherwise be determined by an officer under the Council' Scheme of Delegation to Officers (copy enclosed).

4 North Coast and Cumbraes

Submit reports on the following applications:

- 4.1 21/00005/PP: Hunterston Construction Yard, Fairlie, Largs**
Variation of Condition 4 of Permission Reference N/17/01273/PP (copy enclosed).
- 5 Isle of Arran**
Submit reports on the following applications:
- 5.1 20/00710/PP: Sannox Sand Quarry, Sannox, Brodick, Isle Of Arran, KA27 8JD**
Continuation and extension of existing quarry for extraction of sand and gravel (copy enclosed).
- 6 Consultation Paper: Guidance on the Promotion and Use of Mediation in the Scottish Planning System**
Submit a report by the Executive Director (Place) on the draft guidance produced on the Promotion and Use of Mediation in the Scottish Planning System (copy enclosed).
- 7 Urgent Items**
Any other items which the Chair considers to be urgent.

Webcasting - Virtual Meeting

Please note: this meeting may be recorded/live-streamed to the Council's internet site, 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 recorded/live-streamed.

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If you are participating in this meeting by invitation, 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 the them live-streaming/recording 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 'virtual meeting'. This will constitute your revocation of consent.

If you have any queries regarding this, please contact dataprotectionofficer@north-ayrshire.gov.uk.

Planning Committee Sederunt

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

Chair:

Apologies:

Attending:

**Planning Committee
27 January 2021**

Agenda Item 2

At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m. involving participation by remote electronic means.

Present

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

In Attendance

R. McCutcheon, Executive Director (Place); J. Miller, Chief Planning Officer, K. Gee, Technician and L. Dempster, Technician (Planning); A. Craig, Senior Manager (Legal Services); and A. Little and H. Clancy, Committee Services Officers (Chief Executive's Service).

Apologies

Shaun Macaulay.

Chair

Councillor Marshall in the Chair.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct, Councillor Billings, as the applicant, declared an interest in Agenda Item 5.1 (20/01108/PP: Katlin, Lamash, Arran, KA27 8JT) and left the meeting for that item of business.

2. Minutes

The Minutes of the meeting of the Planning Committee held on 2 December 2020 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 20/00975/PP: Site To North Of Tarryholme Pond, Irvine

Irvine Housing Association have applied for a Section 42 planning application to amend condition 9 of the planning permission 19/00930/PPM at the site north of Tarryholme Pond, Irvine. No representations were received.

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

1. That, prior to the commencement of any building operations, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a detailed schedule of the proposed external finishes. Thereafter, the development shall be implemented only in accordance with such details as may be approved, unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

2. That no development shall take place until there has been submitted to and approved by North Ayrshire Council as Planning Authority a scheme of landscaping, which shall include details of species, planting densities, soil treatment and aftercare and shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of the development.
3. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.
4. That prior to the commencement of the development hereby approved, the applicant shall submit full details of the localised regrading for the written approval of North Ayrshire Council as Planning Authority. For the avoidance of doubt, these details shall contain section drawings of the slope at appropriate intervals throughout its length, details of its construction and details of its finish. The development shall then progress in accordance with such details as may be approved.
5. That the ecological mitigation measures set forth on pages 22-23 of the "Tarryholme (Phase 2), Irvine Preliminary Ecological Appraisal" (document no. 8882) prepared by McTaggart Construction and issued on the 24th of October 2019, shall be fully implemented prior to and maintained during the construction of the development hereby approved, to the satisfaction of North Ayrshire Council as Planning Authority.
6. That prior to the first occupation of the development hereby approved, a V-notch shall be cut into the detention basin to channel the flow into the large pond to the south of the basin in the event of the basin capacity exceeding the 1 in 200 years design flow, to the satisfaction of North Ayrshire Council as Planning Authority.
7. That prior to the commencement of the development hereby approved, the applicant shall assess if a Detailed Air Quality Assessment is required to ensure that the development will not impact ambient air quality at any sensitive receptors and submit the findings to North Ayrshire Council. If required, a Detailed Air Quality Assessment will be submitted to the satisfaction of North Ayrshire Council prior to the commencement of the development.
8. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of North Ayrshire Council Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.

9. That notwithstanding the plans hereby approved, details of an all abilities pedestrian/cycle link leading from the northwest of the site to the adjacent public footpath network shall be submitted for the written approval of North Ayrshire Council as Planning Authority prior to the commencement of the development. Thereafter, such details as may be approved shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority prior to the occupation of the final five houses to be completed within the development.

4.1 20/01084/PP: 12 Kirkton Crescent, Millport, Isle of Cumbrae, KA28 0HJ

Mr Cameron McLaws has applied for planning permission for the erection of a detached dwelling house with associated parking and landscaping at 12 Kirkton Crescent, Millport, Isle of Cumbrae. 1 objection was received and summarised in the report.

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

1. That prior to the commencement of the development hereby approved, the applicant shall provide full details of the proposed finishing materials for the written approval of North Ayrshire Council as Planning Authority. The development shall then progress in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.
2. That prior to the commencement of the development hereby approved, the applicant shall obtain a valid construction consent, including Road Bond, for the upgrading of Kirkton Crescent to adoptable standards up to the driveway access to the dwellinghouse hereby approved. The road shall then be upgraded prior to the first occupation of the dwellinghouse to the satisfaction of North Ayrshire Council as Planning Authority.
3. That prior to the commencement of the development hereby approved, the applicant shall provide details of an additional parking space to be provided on site, bringing the total number of on-site parking spaces to three, for the written approval of North Ayrshire Council as Planning Authority. The parking spaces shall then be provided in accordance with such details as may be approved prior to the first occupation of the dwellinghouse.
4. That the first 2m of the driveway shall be hard surfaced to the satisfaction of North Ayrshire Council as Planning Authority. No water surface shall issue from the driveway onto the public carriageway.
5. That no development shall take place until there has been submitted to and approved by North Ayrshire Council as Planning Authority a scheme of landscaping, which shall include details of species, planting densities, soil treatment and aftercare and shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of the development.

6. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.
7. That, prior to the commencement of the development hereby approved, details of the heat and power systems for the house, which shall include low and/or zero carbon technologies to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met, shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the development shall be implemented in accordance with such details as may be approved unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

Councillor Billings left the meeting at this point.

5.1 20/01108/PP: Katlin, Lamlash, Isle of Arran, KA27 8JT

Mr Timothy Billings has applied for planning permission for the erection of a timber garden shed at 20/01108/PP: Katlin, Lamlash, Isle of Arran. No representations were received.

The Committee agreed to grant the application.

Councillor Billings re-joined the meeting at this point.

6 Scotland's Fourth National Planning Framework Position Statement

Submitted report by Executive Director (Place) on the preparation of the National Planning Framework 4 and the Council's response to the Scottish Government's latest Position Statement, with the Position Statement set out at Appendix 1 to the report.

The Chief Planning Officer highlighted the Position Statement signalled a key shift towards a net zero agenda and set out a proposed approach covering four key themes – net zero emissions, resilient communities, wellbeing economy and better greener places. The identified key opportunities, as set out in the Position Statement include: 20 minute neighbourhoods, re-use existing buildings rather than new developments, redevelopment of vacant and derelict land, support for town centres, restricting out-of-town for retail and leisure, low carbon living, low and zero carbon design and heating solutions, support renewable energy, support rural development, and expanding green infrastructure.

The Chief Planning Officer undertook to add the following under the Population Decline section of the Position Statement:

In addition, active travel opportunities and travel reliability on islands to address depopulation are important issues; the connectivity of our islands will play a key determining role in their economic recovery.

The Committee agreed to approve the Council's response to the Scottish Government's NPF4 Positions Statement set out at Appendix 1 to the report.

7 Transforming Places Together: Scotland's Digital Strategy for Planning

Submitted report by Executive Director (Place) on the digital transformation of the Scottish Planning System.

The Chief Planning Officer highlighted that the Scottish Government wished to develop a "world leading digital planning system" that helped connect people with their places to deliver a prosperous, green and fair country and a Digital Strategy for Planning has been published to achieve this. The strategy defines a long-term strategic direction for how Scotland's planning system will digitally transform, embracing the opportunities new digital technologies and data present. Benefits arising from the digital transformation of planning would include: creating an accessible, next generation online portal that provides easy access, in one place, to all information about planning, enabling communities to actively shape their places; improve the planning system for business and industry by creating more consistent, streamlined and coordinated planning processes; and the potential for local planning authorities to avoid costs and generate greater income.

Noted.

8 Planning Performance Framework

Submitted report by Executive Director (Place) on feedback from the Scottish Government on the 2019/2020 Planning Performance Framework, with the feedback set out at Appendix 1 to the report.

The Planning Performance Framework outlines case studies that demonstrate that North Ayrshire are a high-quality planning service (Part 1); provides a performance update in relation to development management, development planning, planning enforcement and development land (Part 2); and considers our service improvement actions (Part 3).

The Committee welcomed the positive feedback and commented favourably on the continued high performance of the Planning Service.

Noted.

The meeting ended at 2.45 p.m.

NORTH AYRSHIRE COUNCIL

25 February 2021

Planning Committee

Title: **Call In Request: SSE Anaerobic Digestion Plant, Dalry, KA24 4JJ**

Purpose: To advise the Planning Committee of a call in request in relation to an application for planning permission which would otherwise be determined by an officer under the Council' Scheme of Delegation to Officers.

Recommendation: The Planning Committee consider whether it wishes to determine the application which would otherwise be determined by an officer under the Council' Scheme of Delegation to Officers.

1. Executive Summary

- 1.1 In terms of Section 43(6)A of the Town and Country Planning (Scotland) Act 1997, three or more Elected Members can refer an application which would otherwise be determined by an officer under the Council' Scheme of Delegation to Officers, for determination by the Planning Committee.

2. Background

- 2.1 A request has been made by Councillors Ferguson, Gallacher and Glovers that a Section 42 application to remove condition 1 of planning permission 09/004444/PPM should be determined by the Planning Committee and not by an officer under the Council' Scheme of Delegation to Officers.
- 2.2 The planning application was validated on 21 January 2021 and the call in request has been submitted within the 3 week deadline in accordance with the approved procedure (Appendix 1).
- 2.3 The stated reason for the call in request is as follows: -
- Increase in noise from both the HGVs and the machinery used to pump out contents;
 - Increase in road traffic on a C Class road which is already very degraded;
 - Light pollution due to an increase in operating hours during the hours of darkness; and
 - Increase in noise levels from the machinery used and from workers at the facility.

3. Proposals

- 3.1 The Planning Committee consider whether it wishes to determine the application which would otherwise be determined by an officer under the Council' Scheme of Delegation to Officers.

4. Implications/Socio-economic Duty

Financial

- 4.1 None

Human Resources

- 4.2 None

Legal

- 4.3 Section 43(6)A of the Town and Country Planning (Scotland) Act 1997, three or more Elected Members can refer an application which would otherwise be determined by an officer under the Council' Scheme of Delegation to Officers, for determination by the Planning Committee.

Equality/Socio-economic

- 4.4 None

Environmental and Sustainability

- 4.5 None

Key Priorities

- 4.6 None

Community Wealth Building

- 4.7 None

5. Consultation

- 5.1 No consultations were required.

Craig Hatton
Chief Executive

For further information please contact **Hayley Clancy, Committee Services Officer**, on **01294 324136**.

Background Papers

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Planning Committee Call-in

In terms of Section 43(6)A of the Town and Country Planning(Scotland) Act 1997, three or more Elected Members can refer an application which would otherwise be determined by an officer under the Council's Scheme of Delegation to Officers, for determination by the Planning Committee.

The following steps should be followed when submitting a call in request:

- Requests must be signed by three Elected Members and delivered to the Chief Executive, or submitted electronically, via an individual email to the Chief Executive from each of the three Elected Members in question.
- Requests must be received no later than 12 noon on the twenty first calendar day (all days inclusive) following validation of the application.
- Requests must state the reasons for the call-in, which must relate to the provisions of the Local Development Plan and any material planning considerations which are relevant to the application. The reasons will be shared with the applicant.

On receipt of a call-in, the Chief Executive will consult with the Chair of the Planning Committee and if the Chief Executive is satisfied that the call-in complies with the terms of Standing Order 26.3.1, the application shall be referred to the Planning Committee for determination of the application. No Member of the Planning Committee who has signed a call-in request may take part in consideration of the call in request.

At least one of the Members who has requested the call in will be asked to attend the Planning Committee to explain the request. The Committee may either determine the application or decide not to determine the application, leaving officers to determine the application under delegated powers.

NORTH AYRSHIRE COUNCIL

25th February 2021

Planning Committee

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

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

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

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

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

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

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

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

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

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

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

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

Relevant Planning History

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

2. Consultations and Representations

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

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

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

The following consultations were undertaken;

Office for Nuclear Regulation - no objection

NAC Environmental Health - no objection

West Kilbride Community Council - no objection

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

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

3. Analysis

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

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

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

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

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

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

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

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

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

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

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

Reason

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

Condition

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

Reason

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

Condition

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

Reason

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

Condition

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

Reason

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

Condition

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

Reason

In the interest of the amenity of the area.

Condition

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

Reason

In the interest of the amenity of the area.

Condition

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

Reason

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

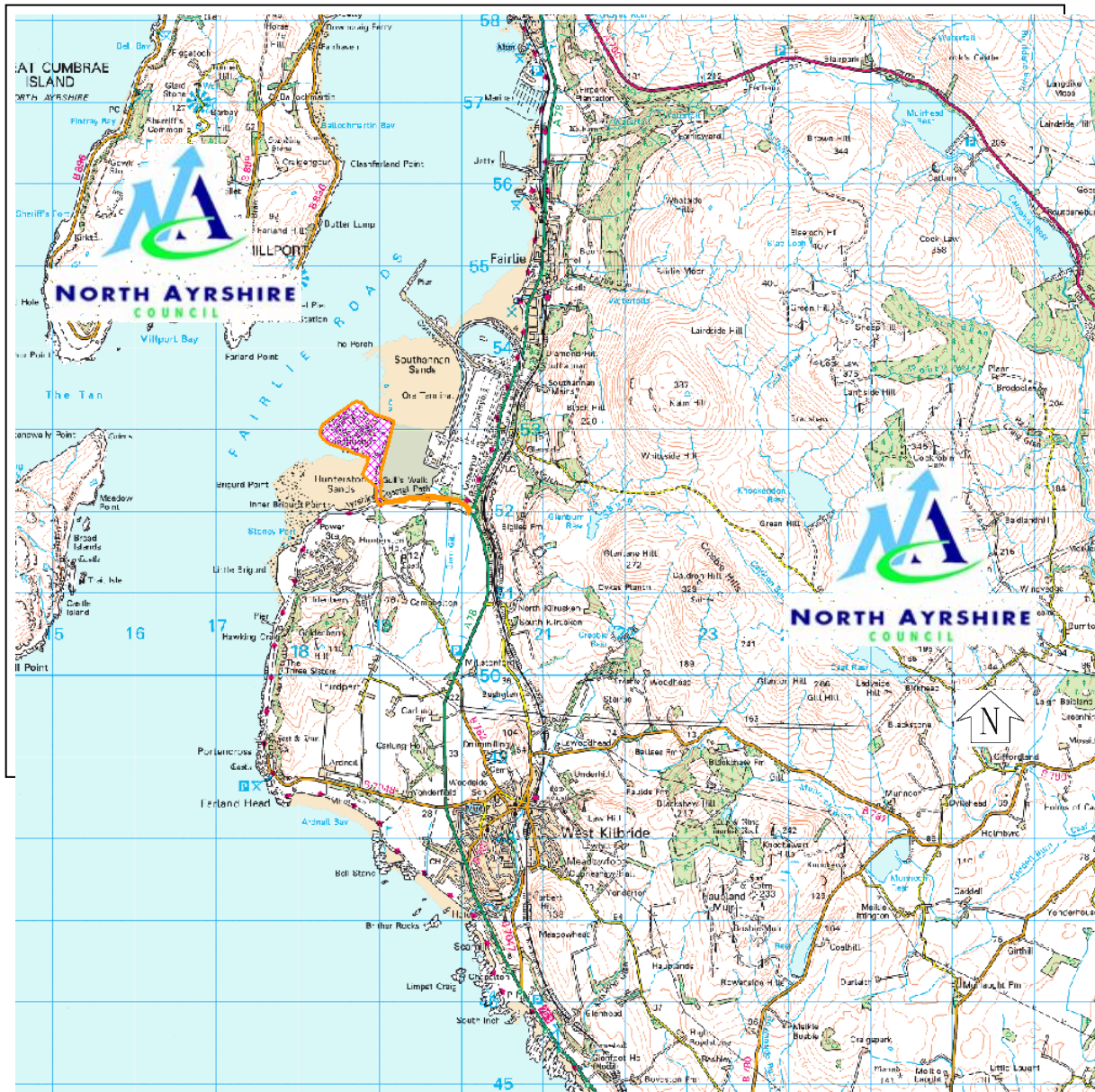
Russell McCutcheon

Executive Director (Place)

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

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

Planning Committee

Locality	Isle of Arran
Reference	20/00710/PP
Application Registered	20th August 2020
Decision Due	20th October 2020
Ward	Ardrossan And Arran

Recommendation	Approved subject to Conditions
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Location	Sannox Sand Quarry Sannox Brodick Isle Of Arran KA27 8JD
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Applicant	Arran Aggregates Ltd F.A.O Mr Iain Thomson
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Proposal	Continuation and extension of existing quarry for extraction of sand and gravel.
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1. Description

The proposal is to both extend the area of an existing sand and gravel quarry at Sannox on the Isle of Arran and to continue quarrying operations on the resulting extended site when the existing planning permission last granted in April 2012 (10/00212/PP) expires on 15th February 2021. The application was made in advance of that expiry date. The expiry of the permission was extended until the end of September 2021 by the provisions of the Coronavirus (Scotland) Act 2020.

The quarry is located to the west of the A841. The site entrance gates, and manoeuvring areas are at the roadside with the quarry is largely screened from public view by the higher ground and scrub vegetation which surrounds it. The quarry site is approximately 250m to the north of the settlement of Sannox, on the north east coast of the Isle of Arran. It is adjoined on three sides by the Sannox Burn with Sannox Golf Course further to the north and north-west; a residential property (Sonaburn) adjoins at the north-east corner, and to the south are agricultural fields and a cricket field.

The application states that the northern part of the existing 2ha quarry site has now been re-instated since the last grant of planning permission and the remaining area is claimed to

be virtually exhausted. It is proposed to extend the site boundary westward to allow the continued extraction of sand and gravel from the site.

A supporting statement characterises the proposal as "a continuation of what is already there at the only suitable resource on the island" and as "handing back some of the existing re-instated quarry and extending the site to the west". The statement advises that the quarry operates on a very small scale and extraction only takes place to satisfy the needs of the island as demand dictates. Based on the last three years figures, it estimates that there is approximately 60 years of extraction left in the extended area which is subject of this application.

The development would comprise of an extension of the quarry area westward for 132m to give a new combined operational quarry area of 19,780m² (1.98ha). It is stated that operations at Sannox are simple and generally comprise only a loading shovel and a 360o excavator as and when required. Sand is removed from the face into stockpiles, which are then removed from site as required for sorting into sand and gravel at another site in the same ownership, Dereneach Quarry, some 14km away to the south west.

Sorting of the sand and gravel is not undertaken at the Sannox site, water is not produced or used on the site and there is no discharge into the adjacent watercourse. Stripped topsoil and any overburden would be stored in bunds within the boundary of the site for later use in the restoration phase.

The quarry would operate, as required, between 8am and 6pm Mon-Fri and 8am-12pm Saturdays and not at all on Sundays. The applicants advise that they operate this and two other quarries on the island and have three direct employees as well as 10 further ancillary workers through the parent company, John Thomson Construction Ltd.

The application was supported by: a Transport Statement; an Extractive Waste Management Plan; a Landscape Specification; a Restoration Schedule; and a Supporting Statement which included: an Ecology Statement, Noise and Air Quality Statement, Water Assessment; a Landscape and Visual Impact Statement; and assessment against National and Local Planning Policy.

The Statement concludes that continuation would avoid significant environmental impact from the import of sand and gravel from alternative sources on the mainland. It further notes that the existing operation already complies with the various conditions of the previous planning approval.

The whole site is within the North Arran National Scenic Area (NSA) and approximately 1km east of the North Arran Wild Land Area (WLA). At its closest point the extension would be 100m east of the Arran Moors Special Protection Area (SPA) which is classified for its breeding population of hen harriers.

The site is located within the countryside area, as identified within the adopted 2019 North Ayrshire Local Development Plan ("the LDP"). Strategic Policy 1 (the Countryside Objective); Policy 15 (Landscape and Seascape); and Policy 33 (Responsible Extraction of Mineral Resources) are relevant.

Planning permission (CH/83/28/Q/S) was granted for extraction of sand and gravel from the site in 1983 and renewed in 1993 (93/00024/PP). Permission (97/00653/PP) was granted

for continuation and extension of the quarry site in 1997. Permission to continue excavation was subsequently granted again in 2004 (04/00353/PP) and 2010 (10/00212/PP).

A financial restoration bond of £10,000 secured by a Section 75 Legal agreement is in place for the existing quarry operation. An independent assessment of the suitability of the existing bond for the restoration of the quarry site following the completion of the proposed development was instructed by Planning Services.

The proposal was screened for EIA in 2020 and a Screening Opinion adopted following a consultation period that a full Environmental Impact Assessment was not required.

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).

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 33 - Extraction of Miner Policy 33:

Responsible Extraction of Mineral Resources

Proposals for the conventional extraction of mineral resources, including extraction of sand, gravel, coal and peat, will be supported provided that:

- i) a need can be demonstrated for the mineral which cannot be met from existing worked deposits or renewable, recycled or secondary sources; and
- ii) It has been demonstrated, for example through the submission of a waste management plan (as per the Management of Extractive Waste (Scotland) Regulations 2010), that any adverse impacts (including cumulatively) on local communities, individual houses, economic sectors, natural and historic environment (including recreational users) and sensitive receptors, can be satisfactorily mitigated, including by taking into account:
 - a. transportation/road traffic generation;
 - b. disturbance, disruption, blasting, vibration, pollution of land, air and water environment; and
- iii) there is a restoration and aftercare plan that includes for example, progressive restoration over the lifetime of the operation, remediation of dereliction, stabilisation actions, creation of natural habitat, new opportunities for recreational use, the long term monitoring of the water environment and an ongoing maintenance plan.

Development proposals for the exploration, appraisal and extraction of coal bed methane, underground coal gasification, shale gas, and other forms of hydrocarbons, which are extracted using unconventional means will not be supported. For new or extended proposals, a financial guarantee or bond may be required to ensure appropriate restoration, enhancement and aftercare following extraction of minerals. Development proposals for the extraction of peat will also be subject to the provisions of Policy 34: Protecting Peatland and Carbon Rich Soils.

2. Consultations and Representations

The statutory neighbour notification was carried out and the application was also advertised in the local press (Arran Banner). One representation was received, and the concerns are summarised as follows:

1. The Sannox Kist was discovered here over five years ago and further studies are needed to ensure other important materials are not lost.

Response: See below the response from the West of Scotland Archaeological Service.

2. This is an important site for a sand martin colony and conditions must be applied to ensure that this is not disturbed during nesting times.

Response: See below the response from NatureScot (formerly SNH).

West of Scotland Archaeological Service: The application site lies in a rich landscape of recorded archaeological sites of prehistoric and later periods, borne out by the erosion and subsequent excavation of a prehistoric cist ceremony and other burials from the quarry face in 2012. The large area of undisturbed ground that would be destroyed by this development stands a high probability of encountering significant finds which will likely be a continuation of the previous remains found. A planning condition should be applied requiring a programme of archaeological works to be submitted for the approval of the planning authority and WOSAS prior to commencement of any works.

Response: Noted. An appropriate condition could be applied.

SEPA: No objection. SEPA understands from the supporting information that there would be no surface water discharge from the quarry. A CARs licence would be required for any future trade effluent discharge but if the site is free draining this would not be required. There have been no pollution complaints or discharges noted to the burn under the operation of the existing planning consent. The operator should note that any future changes to the operation would require to comply with the Controlled Activities Regulations. There is no issue with the restoration proposals which would not involve the import of any new materials to the site. SEPA would view this as being a water compatible use which is unlikely to present a significant detrimental effect on flood plain storage.

Response: All noted. The applicant has been made aware of these comments.

NatureScot (SNH): No response received. SNH was consulted on the potential landscape and wildlife impacts of the proposal at the earlier EIA Screening stage and advised that: (i) based on the location of the proposal, it would be unlikely to significantly affect the Wild Land Area; (ii) based on the available information, the proposal would not significantly adversely affect the integrity of the Special Protection Area. This was informed by the considerations that hen harriers can be susceptible to disturbance at distances of between 500m and 750m during the breeding season but that, based on nesting site data, there have been no nesting attempts by hen harriers within this distance of the proposed site extension. Aerial imagery also suggested that there is no suitable nesting habitat within the vicinity and, given this, NatureScot did not require further ornithology survey work in respect of either the SPA or the Arran Moors Site of Special Scientific Interest. Conditions of the previous planning permission, which were suggested by NatureScot, already restrict work on the face of the quarry between the months of April to July inclusive to protect breeding sand martins and that material be stockpiled prior to this period to be worked on-site during these months so as not to affect the operation of the site. These conditions could again be applied to a renewal of permission.

Environmental Health: No objection subject to the existing conditions being continued or modified and applied to a new planning approval and the existing control and mitigation measures being continued. A letter has been sent to the applicant regarding these matters.

Response: Noted. Appropriate conditions would be applied to planning permission.

Arran Community Council: No objection in principle but asked that the existing planning conditions on the operation of the site continue to apply.

Response: Noted. As above, the existing conditions would be reviewed and re-applied as required.

NAC Active Travel and Transport: No objection

Scottish Water: No objection.

3. Analysis

Section 37 of the Town and Country Planning (Scotland) Act requires that applications for planning permission be determined with regard to the development plan and to any other material considerations.

The determining issue in this application is therefore whether the proposal accords with Strategic Policy 1: the Countryside Objective, Policy 15: Landscape and Seascape, and Policy 33: Responsible Extraction of Mineral Resources in the LDP and whether there are any other material considerations. An assessment against the relevant policies follows:

The proposal is to continue and expand the existing long-standing quarry operation and therefore accords with Strategic Policy 1: the Countryside Objective in terms of both criterion (a) which supports expansion of existing rural businesses and uses, and of criterion (c) which supports developments with a demonstrable, specific locational need. The applicants have operated the sand and gravel quarry for several decades and claim it is the only suitable location for this resource on the island. The proposed expansion would not result in the loss of any locally important agricultural land.

Policy 15: Landscape and Seascape states that development affecting the North Arran National Scenic Area shall only be supported where the objectives of the designation and the overall integrity of the area will not be compromised or any significant adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.

As previously identified, the proposal is to continue and expand the existing longstanding quarrying operation and neither NatureScot nor SEPA have reported any significant issues with the operation of the previous consent. Neither body objected to the application or commented adversely on the likely effects on the water environment, the National Scenic Area, Special Protection Area or the Arran Moors Site of Special Scientific Interest (SSSI). Subject to the re-application of the conditions applicable to the previous permission, there would be no significant adverse effects on habitats or significant additional visual impact on the overall NSA or the qualities for which it was designated. The proposal therefore complies with Policy 15.

Policy 33: Responsible Extraction of Mineral Resources states that proposals for the conventional extraction of sand, gravel, coal or peat will be supported provided that: (a) a need can be demonstrated for the mineral which cannot be met from existing worked deposits or renewable, recycled or secondary sources; and (b) it has been demonstrated that any adverse impacts on local communities can be satisfactorily mitigated.

The proposal is the continuation of the existing sand and gravel working which would continue the supply of sand and gravel to the island's construction industry and thereby be of economic benefit to Arran. There are no identified significant adverse environmental impacts arising from the continued extraction and the submitted transportation, noise and restoration and aftercare provisions, could be monitored and controlled by planning conditions and would satisfactorily mitigate any impacts on the surrounding area. The proposals thereby accord with Policy 33.

Site Restoration

As noted above, future restoration of the site was subject to a Section 75 Agreement and reinstatement bond when planning permission was previously granted. The Section 75 Agreement and £10,000 reinstatement bond remain in place for the existing quarry area but the overall bond amount requires to be updated in order to reflect the timescale for which permission is now sought, and ensure the satisfactory restoration of the extended site as required. The applicants have indicated that they are willing to update the arrangements as required.

An independent assessment of the adequacy of the existing bond in respect of the overall proposals concluded that the bond amount lodged should be updated from £10,000 to £50,000 and that current industry practice is that this should also be secured by planning conditions allowing ongoing future monitoring of the adequacy of the amount lodged. These conclusions were passed to the applicants and have not been disputed.

In view of the foregoing, the proposal accords with the LDP and there are no other material planning considerations. It is therefore recommended that planning permission for continuation and extension of the quarrying operation be granted subject to conditions, as previously applied to the site.

New conditions should also be added requiring: (i) confirmation that the required additional restoration bond has been lodged prior to commencement of any works on the extension of the site area; and (ii) regular review of the adequacy of the agreed restoration bond.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That, prior to the commencement of any works on the western extension of the quarry area hereby approved: (i) the developer shall provide documentary evidence that a bond or financial provision for £50,000 or such other amount as may otherwise be agreed by the planning authority in writing, including appropriate inflationary provisions to cover all decommissioning and site restoration costs required on the completion of the quarrying operations, is in place. No works shall commence until written confirmation has been received that the proposed arrangements in relation to financial provision for restoration of the site are to the satisfaction of the planning authority;

(ii) that the developer shall thereafter ensure that the approved bond or other financial provision is maintained throughout the duration of the development hereby approved and provide confirmation on request from the planning authority, all to the satisfaction of North Ayrshire Council as planning authority; and

iii) that the terms of the bond or financial provisions specified in condition 1(i) hereof shall be reviewed periodically in intervals of not less than four years from the date of commencement of operations hereby approved and shall be reviewed at 4 yearly intervals thereafter. The Council, acting reasonably shall be entitled to seek an increase in the amount of financial provision made by the developer in the event that the audit referred to in Condition 2 hereof indicates that restoration of quarrying operations is likely to require funding in excess of that provided for in the bond or financial provision in place at the time of review.

Reason

To ensure that there are sufficient funds available throughout the life of the development to carry out the full restoration of the site in the interests of the proper planning of the area

Condition

2. That, from the commencement of the planning permission hereby approved, the operator shall submit to the planning authority by the end of each four year period, a statement and plans illustrating the extent of quarry working and projected quarrying operations during the next forthcoming four year period, to allow an audit of operations and progressive site restoration. This statement shall include an audit of compliance with the conditions of the planning permission hereby approved.

Reason

To maintain effective control over the development in the interests of the proper planning of the area.

Condition

3. That unless the planning Authority gives written consent to any variation, no permanent machinery shall be introduced to the site and all stockpiling of materials shall be confined to the areas indicated on the proposed site plan accompanying the Extractive Waste Management Plan dated April 2020, submitted in support of the application, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

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

Condition

4. That the use hereby permitted shall operate only between the hours of 8.00am and 6.00pm Mondays to Fridays, 8.00am to 12 noon Saturdays and at no time on Sundays or public holidays.

Reason

In the interest of the amenity of the area.

Condition

5. That site noise levels when measured at least 3.5m in front of a façade facing the quarry of any dwellinghouse shall not exceed 55 dbLAeq (1 hour) during the working hours specified above, to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To ensure that noise levels in the immediate vicinity of the quarry meet acceptable standards.

Condition

6. That any introduction of plant or working methods likely to increase the negative noise impact on nearby dwellinghouses, shall be agreed in writing with North Ayrshire Council as Planning Authority prior to being implemented.

Reason

To ensure that noise levels in the immediate vicinity of the quarry meet acceptable standards.

Condition

7. That within one month of the date of this permission, details of measures to be taken to minimise the emission of dust and wind-blown sand from the site including screening of equipment from wind and wetting of stock piles, shall be submitted for the written approval of North Ayrshire Council as Planning Authority and implemented thereafter throughout the working life of the quarry

Reason

In the interests of the amenity of the area

Condition

8. That no work on the face of the quarry shall take place between April and July inclusive to avoid the bird nesting season and stockpiling of material shall take place prior to this period so that the stockpiled material can be extracted during these months so as not to affect the operation of the site.

Reason

To avoid disturbance to breeding Sand Martins.

Condition

9. That no soil material shall be deposited either permanently or temporarily on any flood plain and no excavated areas shall be reinstated to a ground level above the pre excavation ground level which could affect the operation of a flood plain unless a flood risk assessment is submitted demonstrating that the operation will not increase flood risk to surrounding properties, to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To meet the requirements of North Ayrshire Council Flooding Services.

Condition

10. That throughout the duration of the development hereby approved: (i) adequate wheel washing facilities shall be provided and wheel washing undertaken as necessary; and (ii) open vehicles carrying materials shall be sheeted before leaving the site, to ensure that

deleterious material is not deposited on public roads, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To avoid depositing material on public roads, in the interest of road safety.

Condition

11. That unless North Ayrshire Council as Planning Authority gives written consent to any variation, the number of wagon loads of sand extracted from the quarry shall not exceed 71 per annum as indicated in the Transport Statement submitted in support of the application.

Reason

To meet the requirements of North Ayrshire Council as Roads Authority.

Condition

12. That, prior to the commencement of any works on the western quarry extension hereby approved, the developer shall secure the implementation of a programme of archaeological works, to be carried out by an archaeological organisation acceptable to North Ayrshire Council as Planning Authority, during any soil stripping. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the programme of works shall be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by North Ayrshire Council as Planning Authority, prior to the commencement. The name of the archaeological organisation retained by the developer shall be given to North Ayrshire Council as Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason

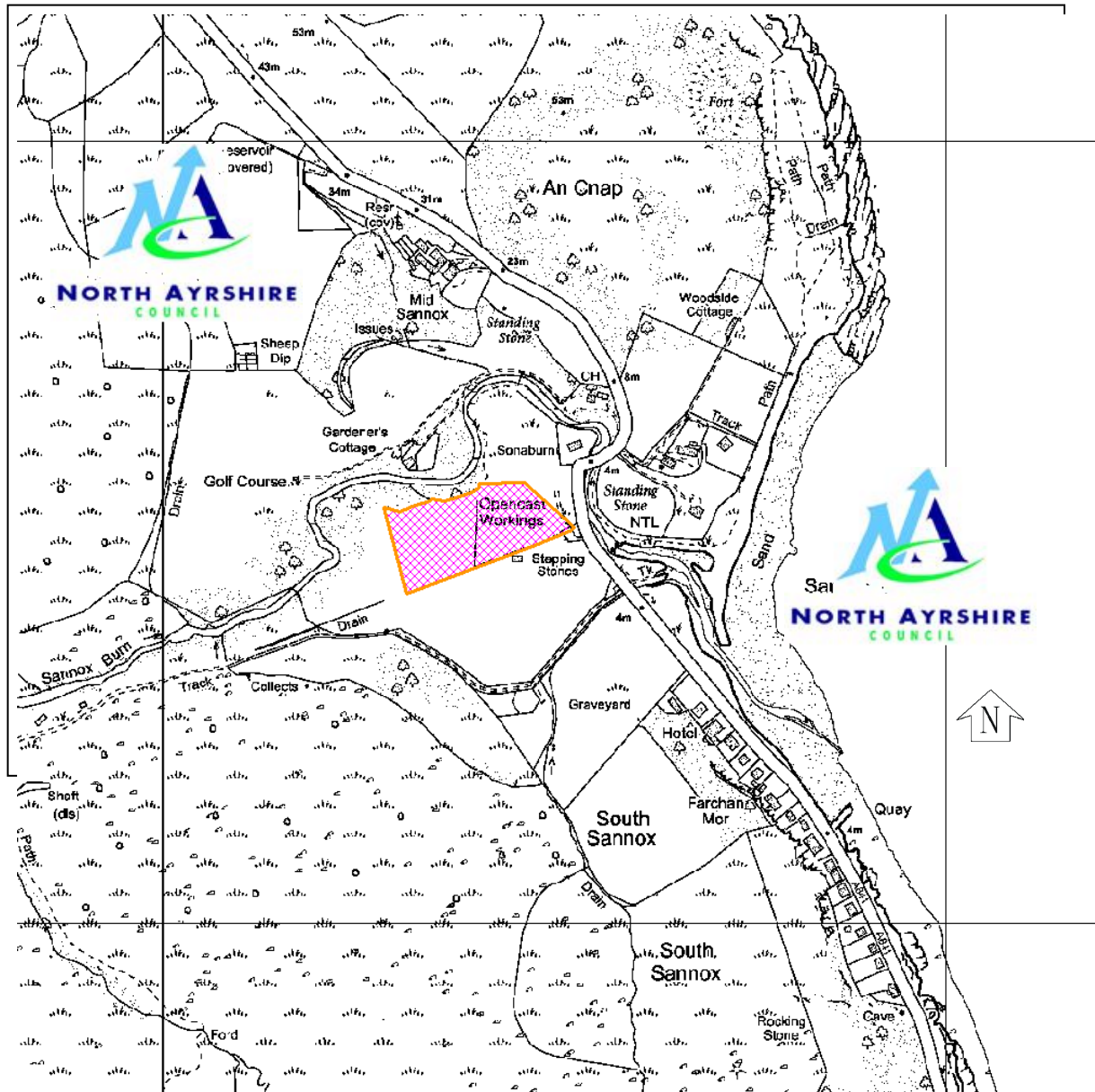
In order to protect archaeological sensitivities in the area

Russell McCutcheon
Executive Director (Place)

For further information please contact Mr Neil McAteer Planning Officer on 01294 324316.

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

25th February 2021

Planning Committee

Title:	Consultation Paper: Guidance on the Promotion and Use of Mediation in the Scottish Planning System
Purpose:	To (1) advise on the draft guidance produced on the Promotion and Use of Mediation in the Scottish Planning System, and (2) seek approval of the response to the consultation on the draft guidance.
Recommendation:	<p>It is recommended that Planning Committee:</p> <ol style="list-style-type: none"> 1) Notes the detail of the proposed guidance relating to the use of mediation in the Scottish planning system, and 2) Approves the submission of the response to the consultation as set out in Appendix 1 (see attached).

1. Executive Summary

- 1.1 The Planning (Scotland) Act 2019 requires Scottish Ministers to prepare and issue guidance on the Promotion and Use of Mediation in Planning.

The use of mediation in Planning is to be promoted during the early stages of the planning process to help reduce conflict, improve community engagement and build public trust. This committee report outlines the key points of the draft guidance and contains the Planning Authority's consultation response for consideration prior to submitting to the Scottish Government

2. Background

- 2.1 The Planning Scotland Act (2019) requires Scottish Ministers to prepare and issue guidance on the Promotion and Use of Mediation in Planning. The consultation paper therefore relates to the introduction and content of this guidance to assist the Scottish Government in finalising the draft guidance on mediation. The final guidance must be issued by the 25th July 2021 to accord with The Act.
- 2.2 Currently mediation is not routinely used by Planning Authorities, or within planning matters, to resolve conflict and issues. However, Scottish Planning Policy and Planning Advice Note 3/2010: Community Engagement do endorse and support the use of mediation as an engagement tool. Therefore, the aim of this guidance on mediation is to promote the use mediation as a consultation and engagement tool as

part of the wider planning reform. It is hoped that the use of mediation in planning matters will help reduce conflict, improve community engagement and build public trust through positive working relationship within the early stages of the Planning Process.

- 2.3 For the purpose of this guidance “mediation” is defined as any means of exploring, resolving or reducing disagreement between persons involving an impartial person that the Scottish Ministers consider appropriate.
- 2.4 Mediation can take the role of Informal and Formal Mediation. Informal Mediation would see planners and other relevant stakeholders taking a mediation facilitation style approach in appropriate situations. Formal Mediation opportunities (referred to as ‘mediation’ in the guidance) would be carried out by trained and experienced mediators when it is considered necessary.
- 2.5 Mediation will remain a voluntary process between two parties and facilitated by a third/independent party. This third party may in some instances be the Local Authority, particularly when informal mediation is considered the most appropriate course of action. There will however be no legislative requirement to use mediation. Notwithstanding the above Scottish Ministers expect that Planning Authorities will have regard to any requests to utilise mediation as an engagement tool when preparing its participation statement.
- 2.6 It is advised that mediation takes place as early as possible in the planning process.

Within Development Planning:

The guidance suggests that mediation is one of the techniques outlined that Planning Authorities may use for consultation and engagement with stakeholder and the public. An example may be mediation is used if necessary, with communities and developers during the draft plan consultation when deciding on the allocation of sites. The guidance expects Planning Authorities to have regard to any requests made by the public for mediation. Any such scope for the use of mediation should be set out in the Planning Authority’s participation statement and Development Plan Scheme.

Within Development Management:

The guidance states that mediation is a tool available to developers and the community during the pre-application consultation and the Proposal of Application Notices period prior to the submission of a planning application. The aim of using mediation at this stage of the process is to encourage engagement and resolve issues prior to a planning application being submitted to the Planning Authority. It is hoped that this will help reduce tensions and representations through the two parties resolving any issues before a decision is taken on the development. However, the guidance does state that any additional consultation requirements as a result of this guidance and mediation should be proportionate, specific and reasonable in the circumstances.

The above it not exhaustive of when mediation can be used in Planning, but these are the areas considered to be of most benefit i.e. as early engagement in the planning process. The guidance states mediation can be used in other areas where appropriate.

3. Proposals

- 3.1 It is recommended that the Planning Committee notes the detail of the consultation on the proposed guidance on Mediation in the Planning System and approves the response to the consultation as set out at Appendix 1.

4. Implications/Socio-economic Duty

Financial

- 4.1 The Scottish Government (SG) has not assessed the cost of mediation in the planning process. Whilst there may be a cost to the Council for third parties, the Scottish Government anticipate that by reducing the number of unresolved issues received prior to a Development Plan Examination, using mediation, the Examination costs to Local Authorities should in turn reduce. The Scottish Government see a similar approach for the planning application process as mediation may reduce the number of representations received when the application is being determined by the Planning Authority.

There is however no evidence to support these views. There is an expectation that mediation will reduce conflict and build trust in the planning process, making the decision making more streamlined and open, and in turn bring savings to the planning process.

Human Resources

- 4.2 Mediation by Officers would be addressed within existing staff resources.

Legal

- 4.3 The guidance on the Promotion and Use of mediation in the Planning System is issued under powers contained within Section 268A of the Town and Country Planning (Scotland) Act 1997, as amended.

Equality/Socio-economic

- 4.4 Scottish Government has considered the requirements for statutory impact assessments, including by screening the proposals in relation to the criteria for Strategic Environmental Assessment, Equalities Impact Assessment, and Children's Rights and Wellbeing Impact Assessment and consider, at this stage, that a fuller assessment is not required given the procedural and technical nature of the proposals.

Environmental and Sustainability

- 4.5 As above.

Key Priorities

- 4.6 Active and strong communities is a key priority of the Council, as set out in the Council Plan. This will be achieved by building stronger relationships between the Council, communities and partners. The forthcoming guidance on Mediation in the Planning System will assist in building strong and active communities by providing a tool for effective engagement which will help address local priorities and increase local decision making.

Community Wealth Building

- 4.7 The guidance will assist local communities, the Local Authority and developers to facilitate fair and open engagement, discussion and decision making on the future of land within North Ayrshire. This guidance will therefore assist in achieving our CWB pillar of Land and Assets to help support fair and equitable land development for businesses and the community.

5. Consultation

- 5.1 None

RUSSELL McCUTCHEON
Executive Director (Place)

For further information please contact **Joanna Glacken, Planning Officer** on joannaglacken@north-ayrshire.gov.uk.

Background Papers

Consultation Paper: Scottish Government: Guidance on the Promotion and Use of Mediation in the Scottish Planning System: December 2020

[Planning system - promotion and mediation: draft guidance - consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultation-papers/pdf/2020120112.pdf)

Appendix 1

North Ayrshire Council's Response to the Scottish Government Consultation Paper on Guidance for the Promotion and Use of Mediation in the Scottish Planning System

Q1. Have we got the range of areas to which the mediation guidance should cover right?

Yes. We agree guidance should cover Development Planning Schemes, the Gate check and Development Plan Examinations. However, mediation could also be best used in the period between consulting on the Draft Plan and before publishing the Proposed Plan. This would allow any unresolved matters to be discussed, and hopefully resolved, before publishing the proposed plan. It is after this stage that the benefit of mediation would be greatest as less unresolved matters would be outstanding at the Development Plan Examination stage making the examination process more timely, efficient and less resource intensive. This would also allow an opportunity for open discussion on outstanding matters

whilst allowing changes to be made to the draft plan before the settled view of the Local Authority is reached when publishing the Proposed Plan. We also agree that the guidance should outline that mediation is a tool available within the Development Plan Scheme.

In relation to Development Management we agree that mediation guidance should include use at pre-application stages of a proposed development which would include the Proposal of Application Notice period and during Pre-Application Consultation.

It would be beneficial for Planning Authorities, developers and communities if the guidance outlines when during the Development Plan Process mediation should be used and in what circumstances. For example, mediation may not be appropriate after the Proposed Plan is published as the settled view of Planning Authority has been reached after extension consultation and perhaps mediation.

In the circumstances that a Planning Authority receive a request for mediation in the latter stages of the planning process the guidance should include that it is at the direction of the Planning Authority as to whether it is appropriate or beneficial to hold further discussions. After this stage the independent review of either a Plan through the Examination process, or a development through the planning application process, should be allowed to take place without delay. By setting out parameters of when mediation is appropriate and the timeframes around arranging and participating in mediation, including outlining the responsibilities of all parties involved, would ensure there are no unnecessary delays to the LDP process/ planning application process

The setting out of timeframes for the mediation process would allow the Local Authority to properly project manage the LDP process to align with the Development Plan Scheme and also to allow us to notify the Scottish Government of when we intend to submit the LDP for examination an examination. If mediation can be requested at very late stages of the Planning Process, there may be unnecessary delays to the LDP and planning application process.

In relation to enforcement, it is the role of the planning authority to determine if a planning breach has taken place and if it is in the public interest to take enforcement action on the development. In these circumstances there would be no scope for formal mediation. Informal mediation is used currently between the developer and the Planning Authority to resolve issues before proceeding to any formal enforcement action. Mediation would still be open to parties to resolve an issue where the Planning Authority determines not pursue action

Q2. Do you agree with the suggestion to maintain policy support for the use of mediation in National Planning Framework 4?

Yes. We agree the existing reference to mediation should be carried through from Scottish Planning Policy to NPF4.

Q3. Please tell us about your experience of using mediation including any financial / non-financial costs incurred. Please set out also how any costs were shared between the parties.

Formal mediation has not been used by Planning Services to date.

Q4. Do you agree with the proposal that the Scottish Government's guidance on Development Plan Schemes should reference the use of mediation as one of a range

of innovative techniques and activities for engaging stakeholders to be considered in the planning authority's participation statement?

Yes, Development Plan Schemes should reference that mediation is one of the tools available that can be used if required to engage stakeholders.

Q5. Do you agree with the proposal that planning authorities should consider the use of mediation when preparing the participation statement element of their Development Plan Schemes?

Yes, Planning Authorities should consider the use of mediation as one of a range of innovative techniques and activities for consulting stakeholders when preparing the Participation Statement element of their Development Plan Scheme. However, if it transpires during the consultation of the draft plan that mediation is not required, and that any issues can be resolved using the normal engagement tools, then the use of mediation should be optional, as opposed to being a requirement that has to be fulfilled in order to comply with the Statement of Conformity.

Q6. Do you agree that the Scottish Government should further investigate the potential role of mediation at the gate check stage?

Yes. Scottish Government should investigate how mediation could be used at the gate check stage once further clarity on gate checks has been finalised.

Q7. Do you agree with the proposal that the Scottish Government guidance should encourage the use of mediation between parties in advance of the development plan examination stage?

The use of mediation, if required, should best serve the period between the publishing of the draft plan and the proposed plan. After the proposed plan is published there may be limited benefit to mediation at this stage as the proposed plan is to settled view of the Local Authority.

As stated in Q1 there is a potential that if mediation was to take place after the publication of the proposed plan that this could cause untimely delays to the submission of the Plan for Examination, with a potential for the plan not being up to date. At this stage it would be more practical to allow an independent review through the Examination Process.

Q8. Do you agree with the proposal that the Scottish Government guidance should amend its guidance on Proposal of Application Notices to encourage the use of mediation between parties in any additional consultation activity attached to PAC?

Yes, the guidance on Proposal of Application Notices should encourage the use of mediation between parties to encourage open discussion and build trust, prior to submitting any planning application. At this stage all mediation should remain between the interested parties

Any guidance should outline who can also instigate mediation, the process involved, and in what circumstances mediation should take place, to both provide clarification on the process and avoid delay to the planning process. Guidance on the Pre-application Consultation report should be amended to address these requirements

Q9. Do you agree with the proposal that the Scottish Government should provide guidance encouraging the use of mediation between parties in Pre-Application Consultation?

Yes, mediation should ideally take place between the Proposal of Application Notice and the submission of the major application, if required. However, the Planning Authority should not be involved with mediation at Pre-application Consultation stage given they have a duty to determine any forthcoming planning application.

The guidance should set out timeframes for the mediation process during pre-application consultation and the responsibilities of all parties involved to be reasonably available for any mediation meetings so as not to cause untimely delay to the development and planning process. This would give clarity and certainty to both developers and the public on how long the process of mediation should reasonably take.

Informal mediation as opposed to formal mediation should be the option for sites allocated in the LDP. Formal mediation should not be required on these sites as the principle is already agreed. It should be related to details of amenity, where formal mediation would be disproportionate in this circumstance.

Q10. Please give us any views you have on the content of these partial assessments.

No Comment.

Q11. Do you have or can you direct us to any information that would assist in finalising these assessments?

No.

Q12. Please give us your views on the Island Communities Impact, the Fairer Scotland Duty and Strategic Environmental Assessment screening documents and our conclusion that full assessments are not required.

No Comment.

Q13. If you consider that full assessments are required, please suggest any information sources that could help inform these assessments?

Not applicable

