

**Planning Committee**  
**23 May 2018**

**Present**

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

**In Attendance**

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

**Also In Attendance**

A. Wilson and S. Wilson, Attix CIC (representing the applicant) and Lynn Kerr (objector) (agenda item 4.1).

**Chair**

Councillor Marshall in the Chair.

**1. Order of Business**

The Chair, in terms of Standing Order 9.4, agreed to vary the order of business to allow Agenda Item 4.1 (18/00292/PP - 51 Holmhead, Kilbirne) to be considered prior to Agenda Item 3.1 (18/00340/PPPM - Site To South Of 128-130 Meadowfoot Road, West Kilbride).

**2. Declarations of Interest**

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

**3. Minutes**

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

**4. 18/00292/PP - 51 Holmhead, Kilbirne**

GKN Properties have applied for planning permission for the erection of a restaurant with takeaway facility and ATM at 51 Holmhead, Kilbirnie. A significant number of objection letters and letters of support were received and were summarised in the report.

The Chair advised of a formal request to address the Committee with respect to this application which had been received and granted. The applicants were also invited to attend the meeting to respond to the objections raised.

Lynn Kerr, a local resident, addressed the Committee in terms of her objections to the application. Ms Kerr referred to policy TC5 of the North Ayrshire Local Development Plan which sets out criteria which local shops, cafes and hot food uses outwith the

town centres must comply with and questioned if the application did so as there is no need, in her view, for an additional takeaway in the town. The area is mainly residential to the North of the site. Concerns with increased traffic volume on an already busy road and the impact that this would have on pedestrian safety were also raised, the inadequate sight lines and the need to move the bus stop. Ms Kerr also referred to the historic uses of the site, a bus garage and cinema, and stated her belief that due to the amount of time which has passed since these uses they should not be considered relevant. Ms Kerr questioned if the application was materially different to an application refused by the Committee in 2017 for a hot food take away, ATM and carwash. Ms Kerr concluded that while the site is an eyesore which requires development she does not believe that the current proposal is appropriate.

Allan Wilson, of Attix CIC, then addressed the Committee, on behalf of the applicants, in response to the objectors. Mr Wilson provided the Committee with information on the work carried out by Attix CIC, a non-profit organisation and their focus of regenerating the Garnock Valley, and North Ayrshire as a whole, by increasing inward investment and employment.

Mr Wilson spoke about the work which has been carried out by the applicant since a previous application for planning permission for the site was rejected in 2017 and his belief that the current application is materially different. The Committee were informed that the applicant has attracted a market leader to operate a franchise on the site and the belief that this will bring an economic benefit to the area including up to 25 jobs. Mr Wilson spoke about the previous uses and the current state of the site and the mixed uses for neighbouring sites. He then addressed the concerns raised regarding road safety and outlined how the 12 space car park in addition to the 18 spaces at the Co-op site would reduce the number of cars parked at the roadside which has the potential to make the road safer. He also highlighted the work which was carried out between the applicant and transport officials to ensure the proposal meets safety standards. In his opinion Policy TC 5 is sequential.

Ms Kerr was then given opportunity to make final comments. She noted the adverse impact of late opening. She questioned whether sight lines for vehicles leaving the car park had been submitted and stated that residents currently feel the road is already dangerous enough for pedestrians. She also stated that while there may no appropriate town centre locations for this development, this is not reason enough to use the proposed site which is not appropriate for this type of development.

Members then asked questions of the objector and applicant and were provided further information on:-

- the proposed opening hours of the restaurant and whether there were any plans to extend these in the future;
- the number of takeaways currently operating in Kilbirnie and their opening hours;
- an objection which had been submitted suggesting the site was more appropriate for housing as this would have less impact on traffic; and
- other options for operators for the site and whether these had been explored.

The Senior Manager then outlined the terms of the planning report. A recommendation was made by officers that the application be granted subject to the conditions set out in the report.

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

- neighbouring properties which are also owned by the applicant;
- the capacity of the proposed restaurant;
- the impact of noise from ventilation systems and lights from the carpark would have on neighbouring residential properties and possible conditions which can be put in place to minimise this;
- the fact that the application does not comply with policy TC5 and other material considerations which should be taken into account; and
- who will be responsible for constructing and managing the site.

As a motion, Councillor Barr, seconded by Councillor McMaster, moved that application be granted subject to the conditions set out in the report.

As an amendment, Councillor McNicol, seconded by Councillor Foster, moved that the application be rejected as it (a) does not comply with Policy TC5 of the Local Development Plan and (b) there is currently sufficient hot food takeaway provision in Kilbirnie.

On a division, there voted for the amendment 5 and for the motion 4, and the amendment was declared carried.

Accordingly, the Committee agreed to refuse the application for the following reasons:

1. That the proposed development is contrary to Policy TC5 of the Local Development Plan.
2. There is currently sufficient hot food takeaway provision in Kilbirnie.

#### **5. 18/00340/PPPM - Site To South Of 128-130 Meadowfoot Road, West Kilbride**

Gladman Developments Ltd have applied for planning permission in principle for residential development, access, open space, landscaping and associated engineering works at the site to the South of Meadowfoot Road, West Kilbride. 15 letters of objection were received and summarised in the report.

The Senior Manager (Planning) outlined the terms of the planning report, advised that a further 5 letters of objection had been received. The points raised were already addressed within the report and made reference to a letter which had been received from the applicant in response to issues raised in the report. Reference was also made to three letters, forwarded by the applicant, from three housebuilders who noted their interest in the site.

As a motion, Councillor Reid moved that the Committee grant planning permission in principle. There being no seconder, the motion fell.

As a further motion, Councillor McNicol, seconded by Councillor Clarkson, moved that the application be refused for the reasons stated in the report. There being no amendment the motion was declared carried.

Accordingly, the Committee agreed to refuse the application for the following reasons:-

1. That the proposed development is contrary to Policy RES1 of the Adopted North Ayrshire Local Development Plan, as there is an adequate supply of allocated housing land both within North Ayrshire and in the North Coast & Cumbraes' Sub-Housing Market Area. The approval of this development would prejudice the current housing land supply and the proper planning of the area.
  2. That the proposed development is contrary to Policy ENV2 of the North Ayrshire Local Development Plan in that the proposal would represent unjustified development in the countryside, would not constitute small scale growth of existing rural housing groups and would set an undesirable precedent for other unjustified development within the countryside.
  3. That the proposed development is contrary to Policy ENV2 in that it is an application for Planning Permission in Principle leading to a lack of detail about the siting, design, and external appearance of any future development and raising significant concerns about criterion c) of the General Policy of the Local Development Plan, as it would potentially be detrimental to the visual amenity of the area resulting in a significant adverse impact on the landscape setting of West Kilbride.
  4. The proposed development would be contrary to the General Policy of the Adopted North Ayrshire Local Development Plan, as there would be insufficient capacity within the educational provision for the area to accommodate the development. The applicant has failed to assess any contribution for infrastructure or developer contributions to address this matter as required in terms of criterion (g).
- 6. 18/00171/MSC - Site To North West Of Chapelton Mains, Seamill, West Kilbride**

Hope Homes (Scotland) Ltd have applied for approval of matters specified in conditions 1-9 of Planning Consent N/16/00561/PPPM and the submission of detailed affordable housing proposals for Phase 2 of development at the site to the north west of Chapelton Mains, Seamill. Four letters of objection were received and summarised in the report.

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

1. That prior to the commencement the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority details regarding the proposed drainage of surface water, routing of drainage into the Firth of Clyde, details of proposed connections to the public sewerage system and details regarding the proposed treatment of contamination or pollution contained with surface water prior to its discharge into the Firth of Clyde. Thereafter, the scheme as may be approved shall be implemented during the course of development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.
2. That the flood management measures recommended in the Flood Risk Assessment by Kaya Consulting Limited dated December 2016 shall be fully implemented and no development shall take place until information has been submitted for the written approval of North Ayrshire Council as Planning Authority in relation to flood risk, specifically:
  - (i) Details of remediation works and arrangement of ground levels to ensure that surface water runoff reaching the site is intercepted along the eastern boundary and routed around the site and provide an overland flow pathway should the interception measures block during an extreme event;
  - (ii) Proposals for an appropriate inspection and management regime to be put in place with regard to the proposed cut of drain;
  - (iii) Details of an emergency flow pathway through the site in the event of blockage of the site drainage system, or rainfall events in excess of design conditions. The flow pathways should route surface water through the site without flooding properties or increasing flood risk to neighbouring properties;
  - (iv) A programme for the implementation of the flood management measures, all to the satisfaction of North Ayrshire Council as Planning Authority.
3. Prior to the commencement of construction of Phase 2 (formerly Phase 4) of the development, full details of the design of the proposed footpaths, street lighting and the temporary vehicular access onto the A78 trunk road shall be submitted for the written approval of North Ayrshire Council as Planning Authority in consultation with Transport Scotland. The proposed temporary access shall join the trunk road at a new junction which shall be constructed by the applicant to a standard as described in the Department of Transport Advice Note TD 41/95 (Vehicular Access to All-Purpose Trunk Roads) (as amended in Scotland) complying with Layout 5. The junction shall be completed in accordance with the details that shall be submitted and approved by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority, before any part of the development is commenced.
4. That notwithstanding the details within plan 09/16-P01 B, the proposed vehicular access completed in compliance with condition 1 is temporary, and shall be entirely removed within 3 months of the date of completion of the adjoining phase of development, outlined as Phase 3 within drawing No. P03.
5. That the affordable housing units, hereby approved, shall be completed no later than 31 March 2020, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority.

6. That, notwithstanding the plans hereby approved, all windows on the side, western, elevations of blocks 1, 2 and 3 shall be fitted with obscured glazing. Prior to the commencement of the development, hereby approved, details of the obscured glazing shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the obscured glazing, which may be approved, shall be installed and retained permanently, all to the satisfaction of North Ayrshire Council as Planning Authority.
7. That, prior to the commencement of the development, hereby approved, full details of proposed treeworks and tree protection measures for trees within and outwith the site shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall comply with the principles and practices contained in "BS 5837:2012 - Trees in relation to design, demolition and construction - Recommendations." Detailed plans indicating tree protection fencing to be erected and an Arboricultural Method Statement shall be submitted for written approval. For the avoidance of doubt: - there shall be no treeworks undertaken during the main bird breeding season (March - September); - all tree protection measures to be erected shall be maintained in a satisfactory condition for the duration of all engineering and construction operations until the completion of the development. The development shall be implemented only in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.
8. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority details and samples of the proposed external finishes.

## **7. 18/00328/PPM - Blairland Farm, Dalry**

Blair Trust Co Per Saffery Champness and Persimmon Homes have applied under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary conditions 1,2,3,4 and 5 of Planning Permission in Principle (15/00103/PPPM). Three letters of objection were received and summarised in the report.

The conditions relate to the timing of the submission of various technical studies in advance of considering the first matters specified in conditions (MSC) application for the development. It is proposed that, instead of submitting the various technical studies in advance, they would be submitted at the same time as the first application for MSC.

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

1. That, along with the first application for the approval of matters specified in conditions (MSC), further intrusive site investigations shall be undertaken to establish the location and condition of the recorded mine entries, the results of which shall inform the layout of the detailed masterplan required by Condition 5 and any subsequent remediation works which may be required. Confirmation shall be submitted in writing to North Ayrshire Council as Planning Authority and certified by a suitably qualified person that the required site investigations and any subsequent remedial works have been undertaken.

2. That, along with the first application for the approval of matters specified in conditions (MSC), a programme of archaeological works in accordance with a written scheme of investigation, the results of which shall inform the layout of the detailed masterplan required by Condition 5, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the developer shall ensure that the approved programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of North Ayrshire Council as Planning Authority.
3. That, along with the first application for the approval of matters specified in conditions (MSC), a scheme to treat the surface water arising from the site in accordance with the principles and practices contained in CIRIA's "Sustainable Urban Drainage Systems Manual", (November 2015), the results of which shall inform the layout of the detailed masterplan required by Condition 5, shall be submitted for the written approval of North Ayrshire Council as Planning Authority. For the avoidance of doubt:
  - there shall be no drainage connections to the trunk road drainage system;
  - all foul water arising from the development must be collected and diverted away from operational railway land;
  - all surface water arising from the development must be collected and discharged no closer than 10 metres from operational railway land; and,
  - the SuDS scheme shall not be sited within 10 metres of railway infrastructure.

Thereafter, the scheme as may be approved shall be implemented during the course of development (taking phasing into account) and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

4. That, along with the first application for the approval of matters specified in conditions (MSC), a detailed flood risk assessment (FRA) which identifies the areas of the site at risk of flooding, taking into account the impact of the development on flood risk elsewhere, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the FRA as may be approved shall inform the layout of the detailed masterplan required by Condition 5. For the avoidance of any doubt, no built development or infrastructure should be located within the 1 in 200 year functional floodplain.

5. That, along with the first application for the approval of matters specified in conditions (MSC), a detailed masterplan for the site together with a development brief shall be submitted for the approval of North Ayrshire Council as Planning Authority. The detailed masterplan shall take into account the findings of the further intrusive site investigations, archaeological investigations, the detailed SuDS scheme and flood risk assessments required by conditions 1, 2, 3 and 4 respectively. The detailed masterplan and development brief shall take into account the principles of the Scottish Government's 'Designing Streets' and 'Designing Places' policy documents to the satisfaction of North Ayrshire Council as Planning Authority. Thereafter, the details contained in the MSC application(s) shall accord with the detailed masterplan and development brief as may be approved, to the satisfaction of North Ayrshire Council as Planning Authority.
6. That application(s) for the approval of matters specified in conditions (MSC) shall include a scheme of mitigation measures for the design and construction of the houses to ensure that the noise levels at each plot shall not exceed the following:
  - (a) Daytime external level, 50-55dB LAeq 16hrs (0700-2300);
  - (b) Night time internal level, 30dB LAeq 8hrs (2300-0700); and
  - (c) Night time internal level, 45dB LA Max (2300-0700).

Thereafter, the development shall be implemented only in accordance with the approved scheme of noise mitigation measures unless North Ayrshire Council as Planning Authority gives written consent to any variation.

7. That, prior to the commencement of the development hereby approved, the developer shall implement the recommendations contained within the "Preliminary Geo-Environmental Risk Assessment including Coal Mining Risk Assessment Report" dated March 2014 by Waterman (document reference EED14275-100-R-1-2-1-JLD-PERA) and also the recommendations contained within the "Preliminary Slag Analysis Report" by Waterman dated 7th July 2014 (document reference EED14275-100-C-001-SC-HW) in order to assess the likelihood of any ground contamination present at the site. Remediation proposals shall also be presented to North Ayrshire Council as Planning Authority in relation to any significant findings. All documentation shall meet BS 10175:2011 and shall be verified by a suitably qualified environmental consultant. Thereafter, the presence of any significant unsuspected contamination which becomes evident during the development of the site shall be reported to North Ayrshire Council and treated in accordance with a remediation scheme to be agreed in writing with North Ayrshire Council as Planning Authority. On completion of the proposed works, written verification, detailing what was done by way of any remediation, shall also be submitted to North Ayrshire Council as Planning Authority.

8. That prior to the commencement of the development hereby approved, the developer shall submit a Construction Management Strategy Plan for the written approval of North Ayrshire Council as Planning Authority to include details of routing arrangements for construction traffic. For the avoidance of doubt, the Strategy shall be designed to reduce potential adverse impacts on road safety and to minimise potential disruption and congestion for road users, pedestrians and local residents. Thereafter, the development shall progress in accordance with the Construction Management Strategy Plan as may be approved unless North Ayrshire Council as Planning Authority gives written consent to any variation.
9. That prior to the commencement of the development hereby approved, the developer shall submit a Phasing Plan for the written approval of North Ayrshire Council as Planning Authority to include all land within the application site, and the development shall progress in accordance with the approved Phasing Plan unless North Ayrshire Council as Planning Authority gives written consent to any variation.
10. That prior to the commencement of the development hereby approved, the developer shall submit details of the lighting within the site for the written approval of North Ayrshire Council as Planning Authority, after consultation with Transport Scotland TRBO.
11. That prior to the commencement of the development hereby approved, the developer shall submit details of the frontage landscaping treatment along the boundary with the A737 Dalry bypass trunk road for the written approval of North Ayrshire Council as Planning Authority, after consultation with Transport Scotland TRBO.
12. That, prior to the occupation of any dwellings within the development, a barrier/boundary feature of a type to be approved in writing by North Ayrshire Council as Planning Authority in consultation with Transport Scotland TRBO shall be erected and maintained along the proposed boundary of the site with the proposed A737 Dalry Bypass trunk road. In addition, the developer shall provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary, which shall include provision for access to facilitate future maintenance and renewal.
13. That the recommendations of the "Bat Survey Report" (ref. EED14275-100-R-2-2-1) and "Preliminary Ecological Survey" (ref. EED14275-100\_R\_1\_1\_2\_WE) by Waterman shall be taken into account during the MSC stage and implemented during the course of the development to the satisfaction of North Ayrshire Council as Planning Authority.

14. That the development shall initially be limited to a maximum of 20 house completions per annum unless otherwise agreed in writing between the developer and North Ayrshire Council as Planning Authority. Thereafter, at 2 yearly intervals following the commencement of the development until its completion, a review of the build rate shall be undertaken by the developer to consider new house completions, new house sales and local primary school capacity. Each review shall propose the number of houses that can be completed during the following 2 year period (at a rate of not less than 20 units per annum), and shall be submitted for the consideration and written approval of North Ayrshire Council as Planning Authority.

**8. 18/00379/ALO - Site To South And West Of Tighenmenach, Blackwaterfoot, Brodick**

Ian McChlery have applied for the removal of a Section 75 obligation attached to Planning Permission N/04/00937/PP relating to occupancy.

Planning Permission N/04/00937/PP was granted by the Planning Committee on 7 February 2005, subject to a Section 75 obligation and conditions. The Section 75 obligation stipulated that the house must be occupied only by a person either currently or last employed locally in agriculture, or in forestry, or their dependants, or a widow or widower of such a person.

The Committee agreed to grant the application.

**9. Condition No. 1 of Planning Permission (Ref. 17/00740/PP) at Hunterston A Power Station, West Kilbride**

Submitted report by the Executive Director (Economy and Communities) on the proposed cladding as which has been submitted as required by Condition No. 1 of Planning Permission (Ref.17/00740/PP).

On 20th September 2017, the Planning Committee resolved to grant planning permission for the replacement of the weather envelope cladding to the Hunterston A reactor buildings. Planning permission was granted subject to condition 1 which states:

*“That prior to the commencement of the installation of the cladding works, hereby approved, full details/samples of the proposed cladding, including colour, shall be submitted for the written approval of North Ayrshire Council as Planning Authority.”*

The applicant has since submitted details on the manufacturer, profile, colour, material and gauge of the proposed cladding and the Committee were presented with a sample.

The Committee agreed to approve the proposed cladding system and discharge Condition 1 of Planning Permission 17/00740/PP.

## **10. Urgent Items**

The Chair agreed that the following item be considered to allow the matter to be considered without delay.

### **10.1 18/00412/MSC - Site To North West Of Chapelton Mains, Seamill, West Kilbride**

The Senior Manager (Planning) informed the Committee of an application for planning permission which had been received from Hope Homes seeking approval of matters specified in conditions 1-9 of Planning Consent N/16/00561/PPPM and the submission of detailed housing proposals for Phase 3 of development at the site to the north west of Chapelton Mains, Seamill.

The Committee were informed of ongoing work for Phase 1 of the development and the applicant's desire to continue to the next phase seamlessly if the application be approved. The application is due to be determined by the Planning Committee following the summer recess however this would result in a delay which would not allow for the continuation of works.

The Committee agreed to delegate powers to the Executive Director (Economy and Communities) to determine the application for Materials Specified in Conditions (18/00412/MSC).

The Meeting ended at 3.40 p.m.