
NORTH AYRSHIRE COUNCIL

4th November 2020

Planning Committee

Locality	Garnock Valley
Reference	20/00171/PP
Application Registered	28th February 2020
Decision Due	28th April 2020
Ward	Kilbirnie And Beith

Recommendation	Approved subject to Conditions
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Location	Site To North Of Standingstone Hill Kilbirnie Ayrshire
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Applicant	Ashrona Power Systems Limited Fao Mr Austen Brown
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Proposal	Formation of access tracks and associated ancillary works for Pundeavon Hydro Electric Scheme (retrospective)
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1. Description

This planning application seeks retrospective planning permission for the two deviations in the access track serving the hydroelectric power scheme which has been constructed within the vicinity of Surge Burn and at the intake of the Pundeavon Burn.

The application also seeks planning permission for the retention of the entire access track, which was constructed to enable engineering operations, subject to mitigation measures. Permission for the deviation to the pipeline is also included within the planning application.

The background to the application is as follows:

On 16th December 2015, Ashrona Power Systems Ltd was granted conditional planning permission to construct a 900kW hydroelectric power scheme to include a turbine house at Holehouse Farm, Kilbirnie and the associated upstream pipework. As well as consenting the turbine house and a short length of track leading to the public road, the permission included approval for temporary access tracks for use by construction vehicles over the upland area north of the Pundeavon Reservoir (15/00683/PP). The track extended

northwards from the reservoir, which has since been decommissioned and drained by Scottish Water.

The track follows a generally northerly route on high ground to the west of the River Garnock. Land use in the area is dominated by hill sheep farming, consisting of heather and other moorland plants and grasses consistent with the altitude (approx. 300m AOD), acid soils and heavy rainfall. There are few fences or other means of enclosure, with relatively few trees and no hedgerows. The route of the track follows a relatively steady uphill gradient for the most part, deviating around the narrow valleys cut by the Surge Burn and in several other places.

The more rugged, higher ground to the west, east and north of the track encloses the landscape, with the summits of High Corby Knowe, Black Law, Misty Law, Capet Law and Auchenbourach forming the backdrops. The Garnock Spout, to the southwest of Misty Law, is also clearly visible from many parts of the track. In contrast, there are open southerly and south-easterly views from the track out of the valley to the lowland area around Kilbirnie and beyond towards the Ayrshire plain. The landscape is also dominated by the steeply sided sides of the glen which contains the upper reaches of the River Garnock as it flows south towards Kilbirnie from its source on the southern slopes of Hill of Stake (522m) on the North Ayrshire/Renfrewshire boundary.

There is Ordnance Survey map evidence of a previous track leading north from the former Pundeavon reservoir. This appears to have been disused for several decades resulting in vegetation largely covering the surface, although still used in recent years by quad bikes for farm workers access to the livestock. The route of the old track has been utilised by the developer and resurfaced using minerals quarried from several borrow pits or rock outcrops in the vicinity.

However, during the construction of the temporary access tracks, deviations from both the consented route took place primarily due to engineering challenges such as gradients and ground conditions. While the route deviations are primarily within the vicinity of Surge Burn, a section of access track was also constructed to the main intake of the Pundeavon Burn, near the former reservoir.

The track width is approximately 3.5m and the surface consists of crushed stone bound by finer aggregates laid over a geo-textile membrane. The developer also surfaced grass trackways on ground previously used by the farmer for livestock access by quadbike. The developer wishes to retain the tracks in order to provide access to the dam sites for future maintenance during the lifespan of the hydro scheme. The farmer would also gain the benefit of the tracks along routes he previously used to gain access to the remoter areas of the farm.

In the applicants Written Design Statement (26th February 2020), it states that instead of laying a pipe to the Surge intake as originally proposed, the pipe has been directed downhill to meet with the main Surge to Pundeavon pipeline.

The length of the track is approximately 4.72km, although when the two spurs to the dams on the Surge and Pundeavon Burns are added, this increases the total length to nearer to 5.4km. The applicant proposes to mitigate the impact of the track on the landscape through the following measures:

- For the most part (up to 3.58km from its starting point to the east of the former Pundeavon Reservoir), reduce track width to maximum 3.5m wherever possible;
- Reduce the remaining 1.1km section to the Garnock Dam by overlaying soil on the track and embankment slopes, thus eliminating the stone surface from the ground;
- Perimeter embankment slopes of all sections softened through landscaping (grass);
- Plant copses of broadleaved tree in clusters along the length of the track.

In terms of the adopted Local Development Plan, the application site is within the Countryside. In terms of Strategic Policy 1, the Countryside Objective applies, as does Strategic Policy 2 - Placemaking.

The following detailed policies are also of relevance:

Policy 15 - Landscape and Seascape

Policy 16 - Protection of our Designated Sites

Policy 17 - Clyde Muirshiel Regional Park

Policy 29 - Energy Infrastructure Development

Policy 34 - Protecting Peatland and Deep Carbon Soils

In addition to plans showing the route and specification for the track and pipework, the following documents have been submitted in support of the application:

- Ecology Report on Track Re-Alignments (22/1/20)
- Pundeavon Reservoir Written Statement (26/02/20)
- Landscape Appraisal (24/07/20)
- Peat Depth and Nesting Bird Survey Check (24/07/20, updated 31/08/20)
- Ecology Report and Environmental Assessment (1/9/20)

The route of track passes through a Wild Land Area (Waterhead Moor - Muirshiel), with a 1.5km section crossing into the Renfrewshire Heights Site of Special Scientific Interest (SSSI) and Renfrewshire Heights Special Protection Area (SPA).

The planning authority is required to consider the effect of the proposal on the SPA before the proposal can be consented (commonly known as a Habitats Regulations Appraisal). This process has been undertaken with the conclusion that the development would not have any likely significant effects on the qualifying interests of the Renfrewshire Heights SPA. There is one qualifying interest, which is the hen harrier. The total area of the track is (approximately) 1.89 hectares out of an SPA/SSSI area totalling 8940.8 hectares. Therefore, the area of the track equates to 0.02% of the total. As such, the track as constructed:

- clearly has no ecological connectivity to the site's qualifying interests, since the route, for the most part, was previously used by quad bikes for agricultural purposes. The land around the track continues to be used for sheep grazing and the only change on the ground is the loss of vegetation along the 3.5m wide route and its verges;
- won't undermine the conservation objectives for the qualifying interests to which it has a connection. The volume of traffic using the track is insignificant, slow moving and infrequent. As such, the track would not result in additional levels of traffic in the area that could pose any risk of harm to hen harriers (the qualifying interests of the SPA);
- NatureScot (formerly Scottish Natural Heritage) advises the development does not adversely affect the integrity of the SPA.

The application has been subject to numerous and lengthy delays due to the COVID-19 pandemic of 2020. The final document (required by NatureScot) was not submitted to the Council until 1st September 2020. NatureScot provided their final consultation response on 18th September 2020.

The Planning Committee agreed, at its 4th September 2019 meeting, “to grant authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring the reinstatement of the construction access track to wild land following the construction of pipework to serve a hydro electric power generating plant near Holehouse Farm, Kilbirnie”. However following subsequent discussion with Legal Services, it was advised that a notice under Section 33A should be served on the developer, which is a notice requiring an application for planning permission for development already carried out.

Relevant Development Plan Policies

Strategic Policy 1 (Spatial Strategy)

Our spatial strategy is based on the principle that we want to direct the right development to the right place. This means we want to direct most development to our towns, villages and developed coastline where we have infrastructure capacity to support new development, where there is access to existing services and where we have opportunities to re-use and redevelop brownfield land.

We recognise that for island and rural communities we have to be more flexible to ensure they can grow and thrive too so we have set out a distinct approach for them which continues to promote a sustainable pattern of development but that also empowers our rural economy and communities to develop while protecting our countryside areas as a valuable natural asset. We have indicated what this means on our Spatial Strategy Map and in the mini maps included throughout this Local Development Plan.

Strategic Policy 1 includes objectives and policies for how development can enhance and protect our Towns and Villages, our Countryside and our Coast.

We will assess development proposals against the principles set out in the spatial strategy. All development proposals must also comply with Policy 2: Placemaking and any relevant policies of this Plan. We will resist development outwith the boundaries of towns and villages, except where the development would positively contribute to the vision or priorities identified in the spatial strategy or where detailed policies of the LDP provide support. We will refer to Scottish Planning Policy's presumption in favour of development that contributes to sustainable development in considering proposals that are not supported by the spatial strategy.

Strategic Policy 2 (Placemaking)

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places,

contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

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

Welcoming

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

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces. The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement. The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

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

Resource Efficient

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

Easy to Move Around and Beyond

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

Policy 15 - Landscape & 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.

Policy 16 - Protection of our Designated Sites

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

a) Nature Conservation Sites of International Importance

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

b) Nature Conservation Sites of National Importance

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

c) Nature Conservation Sites of Local Importance

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

d) Marine Protected Areas

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

e) Biodiversity Action Plan Habitats and Species

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

f) Protected Species

Development likely to have an unacceptable adverse effect on;

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

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

Policy 17 - Clyde Muirshiel Regional Park

Proposals that affect Clyde Muirshiel Regional Park must have regard to the Park's statutory purpose of providing recreational access to the countryside.

Proposals should also take account of wider objectives as set out in relevant management plans and strategies, namely to:

o Provide visitors of all ages and abilities the opportunity for quality recreation. Using its unique assets, the Park will facilitate a high quality programme of leisure activities which contribute to the health agenda

- o Ensure the Park is an increasingly popular and productive venue for formal and informal education and outdoor learning. More people will participate in learning opportunities and will develop a better appreciation of the area's natural and cultural heritage
- o Ensure the Park is an attractive and ecologically important visitor destination with increased biodiversity value. The Park embraces opportunities for positive environmental change

Policy 29 - Energy Infrastructure Development

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

Environmental

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

Community

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

Public Safety

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

Proposals should include redundancy plans which will demonstrate how apparatus will be timeously removed as reasonably soon as the approved scheme ceases operation. There may be a requirement for financial bonds to ensure that decommissioning can be achieved.

Taking into consideration the above, proposals for wind turbine developments should accord with the Spatial Framework (as mapped) and consider the current Landscape Capacity Study for Wind Farm Development in North Ayrshire. This study will be used as a point of reference for assessing all wind energy proposals including definitions of what small to large scale entails.

Buildings: Low and Zero Carbon Generating Technology

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

This requirement will not apply to:

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

Policy 34 - Protecting Peatland and Carbon Rich Soils

We will take a precautionary approach to development affecting peat or carbon-rich soils (shown on the SNH Carbon Rich Soils and Peat map and indicated on the mini-map on page 102 of the LDP).

We will only support development where there is no viable alternative and it has been demonstrated, for example, through the submission of a peat survey and management plan, that mitigation measures can be implemented to minimise carbon emissions (by minimising the draining or disturbance of the peatland) and that the economic and social benefit of the development outweigh any potential detrimental effect on the environment.

Proposals for commercial peatland will only be supported in areas suffering historic, significant damage through human activity, where the conservation value is low and restoration is impossible.

2. Consultations and Representations

NatureScot (NS) (formerly Scottish Natural Heritage) - This development has resulted in natural heritage impacts which raise issues of national interest due to the significant adverse impacts on the Waterhead Moor - Muirshiel Wild Land Area. NatureScot therefore object to this retrospective application unless it is made subject to conditions which would substantially reduce the impacts of the development to the lowest practicable level.

On the 18 October 2019 NAC sought NatureScot's advice regarding the assessments that would be required to accompany a retrospective planning application to retain the tracks, including the track deviations. NS responded to NAC on 18 October 2019 advising on the

habitat surveys that would be required, the potential for breeding bird surveys if construction works were ongoing and the requirement for a Wild Land Assessment to be undertaken. NS also advised that a Habitats Regulations Appraisal (HRA) would be required for the Renfrewshire Heights Special Protection Area (SPA).

In a letter of 17th April 2020 NatureScot objected to the proposal until a Wild Land Assessment and further information was obtained from the applicant in relation to the Renfrewshire Heights SPA/SSSI.

The applicant has since provided a Landscape Appraisal and a Peat Depth and Nesting Bird Check report dated 21/7/2020. CSM Ecology provided clarifications relating to this report in an e-mail dated 27 August 2020. On 1 September 2020, NatureScot then received an updated NVC (National Vegetation Classification), Peat Depth Survey and Nesting Bird Check report dated 31/8/2020.

NatureScot officers undertook site visits on the 19th and 28th August 2020 to assess the impacts on the Waterhead Moor-Muirshiel WLA and the extent of damage to the Renfrewshire Heights SPA/SSSI. While on site, officers also observed a landslip adjacent to the track that had caused damage to an area of ground, within the SPA/SSSI north west of the Garnock Spout. These matters have been reported back to the applicants for their information and action.

The text of the required planning condition has been provided by NatureScot.

Response: Noted. A statutory objection from NatureScot requires to be addressed in the decision making process. If the planning authority intend to grant an application that is subject to objection without applying the condition, then it would need to refer the matter to Scottish Ministers. On the grounds of mitigation, the planning authority fully support NatureScot's requirements. The format of the condition would need to be slightly modified for compliance with Circular 4/1998 (The Use of Conditions in Planning Permissions), but with no deviation from its requirements. The applicant is agreeable to the condition required by NatureScot. See Analysis.

Objection

One letter of representation, objecting to the proposal, was received on 3rd June 2020. The points raised are as follows:

1. Strongly object to this track remaining. It is already being used as access by people who are leaving large amounts of rubbish. At the time of writing there were: 5 spent barbecues, half eaten food, various types of plastic bags, used fishing tackle, wellington boots, glass drinks bottles, beer cans, etc.

Response: Noted. The track has been developed in order to lay water pipes to a hydroelectric power scheme, the intention of which is to harness a renewable natural resource within an upland river valley, an area of high rainfall, for hydroelectric generation.

2. This rubbish would not have been brought onto the land without the access road being there.

Response: Such anti-social behaviours cannot be directly attributed to the presence of the track, the extent of which was exacerbated by the COVID-19 'lockdown' during the Spring and early Summer of 2020. See also the response below.

3. This is a bird nesting area for hen harriers and peregrine falcons what with the disturbance of the road, people drinking, fishing and leaving a lot of rubbish for the wildlife, and the outright horrendous eyesore of the road alone - which runs across the Garnock spout, the highest waterfall in Ayrshire - completely negates the idea of the area being in any way a wilderness for people or wildlife.

Response: Surveys undertaken do not indicate any adverse effects on the qualifying bird interests at the 8940.8 hectare SPA/SSSI. The attraction of the track for walking and other activities during the COVID-19 'lockdown' was replicated throughout many parts of rural Scotland. This period cannot be regarded as an indicator of typical use in the future. Nonetheless, better management would be required by the developer and landowner going forward, and this could be the subject of a planning condition. The standard of track construction had not been anticipated when the hydroelectric development was granted planning permission in 2015: the information at the time indicated that temporary, low-impact tracks would be formed on the route of existing quad bike tracks, leaving little impact on the landscape. As noted above, various mitigation measures are proposed to soften the impact and cover parts of the track, especially near the Garnock Spout, with soil from the excavation works and tree planting.

4. There appears to be no need for yet another wind turbine, or a weather station at this location: surely if necessary, they can be placed where there is already an access road?

Response: The proposed track is not related to a wind farm or weather station.

5. Muirshiel is an absolute gem. As more people hear of its wilderness status it will be valued as such. This track cuts right through a wonderful wild place, rendering it just an access track, which is being extended and ruined.

Response: Although the track passes through an area of designated Wild Land, a Special Protection Area and a Site of Special Scientific Interest, it is also within Clyde Muirshiel Regional Park where outdoor leisure and recreation pursuits are actively encouraged by the LDP and supported by the Scottish Outdoor Access Code. As such, there is a recognised need to balance competing interests against one another, including the underlying land use of hill sheep farming. The track has been developed to support a consented renewable energy development which would contribute to North Ayrshire's response to climate change and the global need to decarbonise electricity generation. Taking all of these points together, it is considered that, subject to appropriate landscape mitigation measures, the impact of the track on the area could be acceptable.

3. Analysis

In terms of the adopted Local Development Plan, the application site is within the Countryside. In terms of Strategic Policy 1, the Countryside Objective applies, as does Strategic Policy 2 - Placemaking. Detailed policies 15, 16, 17, 29 and 34 also apply.

Below, each will be considered in turn, starting with Strategic Policy 1, followed by the detailed policies and concluding with Strategic Policy 2.

With regard to the Countryside Objective, part (b) supports ancillary development for existing rural businesses and uses, in principle. Part (c) supports developments with a demonstrable specific locational need including developments for renewable energy production including hydroelectric schemes. Given that the track has been developed to support a hydroelectric power scheme and would also support ongoing agricultural use of the land, it is considered that there is a specific locational need for the track and that, in principle, it can be supported.

The following detailed policies require to be considered:

Policy 15 - Landscape and Seascape

Part (b) states "we will only support development which affects Special Landscape Areas (such as Clyde Muirshiel Regional Park) where it would not have an unacceptable impact on their special character, qualities and setting.

Part (c) states "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."

Taking both of these points together, since the track covers both categories of landscape, the supporting information contained in the application demonstrates how mitigation measures would be applied to the track and its verges in order to reduce the 'scarring' effect on the upland landscape. It should be noted that the landscape impacts are very localised and confined only to the immediate area along the route of the track: there are no long-distance impacts since the track has no vertical elements nor buildings and the topography of the area itself is undulating and hilly, thus limiting the landscape and visual impacts from any given point. In addition, the Special Landscape Area covers a very extensive part of the North Ayrshire mainland, whereas the track does not have any significant effects across the area as a whole. Whilst the Wild Land Area is the only such designation south of the Scottish Highlands, the impact of the track does not diminish its wild qualities to any significant extent nor undermine its overall character. It is considered that the need for the track has been justified in the interests of the long-term management of the hydroelectric scheme that has been developed. As such, the implementation of the measures proposed in the supporting information would be the subject of appropriate conditions. The proposal therefore satisfies Policy 15.

Policy 16 - Protection of our Designated Sites

Part (a) states that "where an assessment is unable to conclude that a development will not adversely affect the integrity of a site, development will only be permitted where there are no alternative solutions." Part (b) states that "development affecting SSSIs will not be permitted unless it can be demonstrated that the overall objectives of the designated area would not be compromised.

Taking both together, despite its 5km length (approximately), the small scale and infrequent use of the track by vehicular traffic relative to the total area of the Renfrewshire Heights SPA designation would have no adverse impacts on the qualifying interest at the SPA, as noted above. NatureScot concur with this assessment. Mitigation measures as proposed would be secured by conditions, helping to repair damage and restore the adverse

landscape/ecology impacts created by the development (ie. enabling the ground cover vegetation to recover). The proposal therefore satisfies Policy 16.

Policy 17 - Clyde Muirshiel Regional Park

Proposals that affect the Regional Park must have regard to its statutory purpose of providing recreational access to the countryside. Due to the outdoor access code, which permits walking and cycling in the Scottish countryside, it is recognised that the track has become a new route for people wishing to reach the Garnock Spout and surrounding hills since it was developed. Hitherto, access into this landscape was relatively constrained by the heather and dense tussocks of grass which form much of the groundcover. There are relatively few paths or tracks in the core area of the Regional Park. As part of the mitigation measures which have been proposed, better management is required if the track is to become a positive resource for the Regional Park. A condition could therefore be attached to ensure some of the concerns raised by the objector are addressed. Subject to such a condition, the proposal would accord with Policy 17.

Policy 29 - Energy Infrastructure Development

The proposal is related to a hydroelectric power development that has been developed during the past four years. The developer has formed tracks which required to be more durable in construction than was envisaged at the time the planning permission was granted and now seeks consent to retain what has been developed, subject to mitigation measures being put in place. One of the considerations set out in Policy 29 relates to community, with public access being a specific issue. As noted above, the track has had the effect of attracting a greater number of walkers and cyclists into the core area of Clyde Muirshiel Regional Park. With appropriate mitigation and management measures in place, the retention of the track would not only provide service access for maintaining the dams necessary for the hydroelectric power development but would provide a public access resource for the wider community. It is considered that this would contribute positively to the delivery of community priorities for the Garnock Valley, which include moving around and facilities and amenities. The proposal therefore accords with Policy 29.

Policy 34 - Protecting Peatland and Carbon Rich Soils

A precautionary approach to this issue is required in terms of Policy 34, which aims to protect peatland resources from development. Peatland and carbon rich soils can, when disturbed and exploited, result in increased carbon emissions. As noted above, a peat depth survey undertaken by a specialist consultant was submitted with the application. 59 core samples were taken within areas identified as having potentially having peaty soils. The deepest soil depth was 80cm and the thickest peat found to be 24cm. No sensitive peatland areas were identified within either the pipeline or track routes. As such, it has been demonstrated that the development has no significant adverse impacts on peatland or carbon rich soils and therefore does not conflict with Policy 34.

Finally, turning to Strategic Policy 2 (Placemaking), the majority of relevant issues have been covered in the text above. Of most relevance are the qualities of resource efficient and easy to move around and beyond. Regarding the former, it is noted that the development of the track was undertaken using low impact methods (digger, pecker and dumper truck) and using rock outcrops from the route itself. The work was undertaken over a period of several years and did not give rise to any significant imports of materials from elsewhere other than plastic pipes needed for conveying the water to the turbine house near Holehouse Farm. The track would contribute to the easy to move around and beyond quality in respect of

future maintenance requirements of the hydroelectric scheme, for agricultural land management and for outdoor access.

There are no other material considerations. As such, it is considered that adequate justification has been provided for the retention of the track, subject to the mitigation proposed measures and condition recommended by NatureScot. Accordingly, it is recommended that planning permission is granted, subject to conditions.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

The proposal complies with the relevant provisions of the current adopted Local Development Plan and there are no other material considerations that indicate otherwise. This is determined following an assessment which has had regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

Condition

1. That, within 3 months of the date of approval, a detailed restoration plan shall be submitted for the written approval of North Ayrshire Council as Planning Authority in consultation with NatureScot and SEPA. The key objective of the plan shall be to substantially reduce the impacts on the nationally important Waterhead Moor - Muirshiel Wild Land Area to 'not significant.' The plan shall contain the details as set out in Annex 2 of NatureScot's consultation response to North Ayrshire Council dated 18th September 2020. Thereafter, the restoration works as may be approved shall be implemented in full to the satisfaction of North Ayrshire Council as Planning Authority within a period not exceeding 2 years from the date of the approval of the restoration plan, unless otherwise agreed in writing.

Reason

To meet the requirements of NatureScot in the interests of the Wild Land Area, SPA and SSSI.

Condition

2. That the restoration plan as referred to in condition 1 shall be accompanied by a management and aftercare plan for the track which shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The plan shall take into account the Scottish Outdoor Access Code. Thereafter, the management and aftercare plan as may be approved shall be brought into operation upon completion of the implementation phase of the restoration plan to the satisfaction of North Ayrshire Council as Planning Authority, unless otherwise agreed in writing.

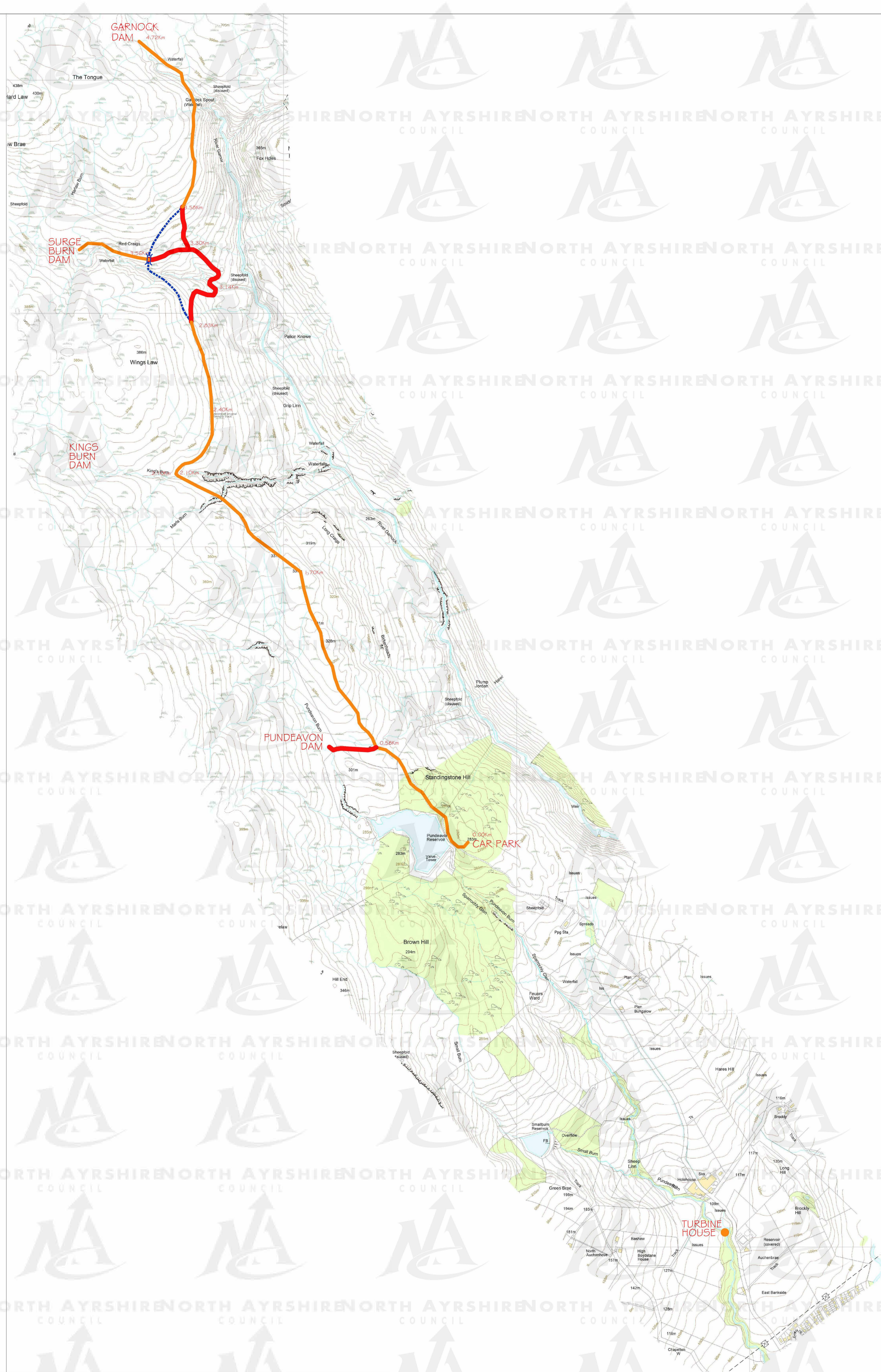
Reason

To ensure management measures are established due to the siting of the track within Clyde Muirshiel Regional Park.

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan



- ORIGINAL TRACK ALIGNMENT
- ADDITIONAL / RE-ALIGNED TRACK
(Subject of retrospective planning application)
Length of tracks identified equals
1.27 lin. Km. x 3.5m width
= 4,445sq.m. (0.4445 hectares) area
- BURIED PIPE ALIGNMENT
(To satisfy original planning condition)
- PIPE CROSSING BRIDGE