

Planning Committee  
11 November 2015

**IRVINE, 11 November 2015** - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Matthew Brown, John Ferguson, Robert Barr, John Bell, Ian Clarkson, Joe Cullinane, Tom Marshall, Ronnie McNicol and Robert Steel.

**In Attendance**

J. Miller, Senior Manager (Planning) (Economy and Communities); and J. Law, Solicitor (Contracts and Licensing) and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

**Chair**

Councillor Brown in the Chair.

**Apologies for Absence**

John Bruce.

**1. Declarations of Interest**

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Barr, as Chair of a group which disburses funding from Community Benefit monies, declared an indirect pecuniary interest in the Agenda Item 6 (15/00200/PPM: Blackshaw Farm, West Kilbride) and left the meeting for that item of business.

**2. Minutes**

The accuracy of the Minutes of the Committee held on 21 October 2015 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. Ardrossan and Arran: 15/00514/PP: Burican Farm, Sliddery**

William Tod, Burican Farm, Sliddery, Isle of Arran has applied for planning permission for a modification to remove condition 2 of planning approval CH/76/727 relating to a restriction limiting occupation of this dwelling at "a person employed, or last employed, locally in agriculture as defined in Section 272(1) of the Town and Country Planning (Scotland) Act 1972 or a dependant of such a person residing with him (but including a widow or widower of such a person."

The Committee agreed to grant the application.

#### **4. Kilbirnie and Beith: 15/00571/PP: Site to North of Ford Wood, Kilbirnie**

M. Graham, 6 Auchenhove Crescent, Kilbirnie was applied for planning permission for the erection of an outbuilding and alterations to an incomplete dwellinghouse to include the discharge of a Section 75 obligation relating to an occupancy restriction relating to agricultural occupancy, on a site to the north of Ford Wood, Kilbirnie.

The Committee agreed to grant the application, subject to (a) no further significant representations being received prior to 18 November 2015: and (a) the following conditions:-

1. That the alterations to the dwellinghouse hereby approved shall be completed to the satisfaction of North Ayrshire Council as Planning Authority within 12 months of the date of this approval and prior to the house being occupied.
2. That the landscaping scheme hereby approved shall be completed to the satisfaction of North Ayrshire Council as Planning Authority within 12 months of the date of this approval.
3. That the outbuilding hereby approved shall be used only for purposes incidental to the enjoyment of the associated dwellinghouse on the land, to the satisfaction of North Ayrshire Council as Planning Authority.

#### **5. Kilwinning: 13/00038/PPPM: West Byrehill Industrial Estate, Byrehill Place, Kilwinning**

At its meeting on 28 May 2014, the Planning Committee granted planning permission in principle for a residential development with an associated neighbourhood centre at West Byrehill Place, Kilwinning to Ashtenne Industrial Fund LP, 80 St Vincent Street, Floor 6, Glasgow. The decision was subject to the applicant entering into a legal obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997.

The Council has been unable to conclude the Section 75 obligation with the applicant. A review of issues in relation to the proposed development has concluded that the matters previously identified for inclusion within a legal obligation could be appropriately addressed using planning conditions, or omitted. The applicant has entered a processing agreement, which confirms a willingness to conclude the planning application in this way.

The report sought the Committee's approval to enable the planning application 13/000/38/PPPM to be granted, subject to conditions without the imposition of a Section 75 obligation.

The Committee, having considered the terms of the report and the outcome of the review, agreed to grant the application, subject to the following conditions:-

1. That, prior to the commencement of any development on site, a further application(s) for the approval of the matters specified in this condition shall be submitted to and approved by North Ayrshire Council as Planning Authority. These matters are as follows:

- a) a design and access statement taking into account the relevant North Ayrshire supplementary design guidance;
- b) details of the layout of the development, including roads, footways, shared paths, cycle routes, open spaces, parking and infrastructure;
- c) the siting, design and external appearance of all buildings and any other structures, including dimensioned plans and elevations together with the details of external materials;
- d) a suitably detailed flood risk assessment inclusive of measures to reduce the risk of flooding within the site and the surrounding area;
- e) the means of drainage and surface water strategy and methodology for sewage disposal, including Sustainable Urban Drainage Systems (SuDS), all set out in a comprehensive Drainage Assessment, including maintenance. SuDS shall be self-certified by a suitably qualified person;
- f) the means of access to the site, including appropriate provision for walking, cycling and public transport;
- g) the design and location of all boundary treatments including walls and fences;
- h) details of landscaping and associated maintenance proposals, including details of existing trees, hedgerows and other planting to be retained and tree protection measures together with detailed proposals for all new planting and its aftercare;
- i) a phasing plan for the development, the details of which may subsequently be varied through written agreement with North Ayrshire Council as Planning Authority; and
- j) detailed specification of the nature and extent of any off-site employment space improvements at Nethermains and South Newmoor Industrial Estates taking into account the Economic Viability Assessment for West Byrehill produced by GVA James Barr (December 2014).

2. The application(s) for approval of these further matters must be made to the Council as Planning Authority before whichever is the latest of the following:

- (a) expiry of 5 years from when permission in principle was granted
- (b) expiry of 6 months from date when an earlier application for approval was refused, and
- (c) expiry of 6 months from date on which an appeal against the refusal was dismissed.

Approval of the further specified matters can be made for -

- (i) different matters, and
- (ii) different parts of the development at different times.

Only one application for approval of matters specified in conditions can be made after 5 years from the grant of planning permission in principle.

3. That the proposed development shall be designed in accordance with the

principles of the Scottish Government's "Designing Streets" and Designing Places" policy documents and any replacements thereof and North Ayrshire Council's Neighbourhood Design Guidance to the satisfaction of North Ayrshire Council as Planning Authority.

4. That, prior to the commencement of the development, hereby approved, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority, a Strategy for Open Space which shall include proposals for (i) the provision of open space and play provision, in accordance with the North Ayrshire Council policy "Provision and Maintenance of Landscaping, Open Space and Play Areas in New Housing Developments" and any replacements thereof, together with proposals for the management and maintenance of open space.
5. That the further application(s) required under the terms of Condition 1 above shall include submission of a strategic assessment of how new buildings shall reduce their CO2 emissions to a level above or in line with the building standards through appropriately designed: on-site low or zero carbon generating technologies (LZCGTs); and/or passive/operational energy efficiency measures. The specific implementation/detail documentation shall be submitted at the time of submission for Building Warrant, all to the satisfaction of North Ayrshire Council as Planning Authority.
6. That the recommendations within the Ecology Assessment Survey submitted in support of the application, shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority. Details shall be submitted demonstrating of the undertaking and/or programming of these recommendations. In addition, details of a scheme for the removal of non-native species from the site, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter any such scheme, which may be approved, shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority
7. That, prior to the commencement of the development, hereby approved, the applicant shall undertake a desk study of the application site, (including the review of any previous site investigations) to assess the likelihood of contamination and assist in the design of an appropriate site investigation and subsequent suitable quantitative risk assessment as advocated in BS10175: 2011. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to North Ayrshire Council as Planning Authority. Any required remediation measures shall be undertaken, prior to the commencement of the development to the satisfaction of North Ayrshire Council as Planning Authority. Thereafter the presence of any significant unsuspected contamination, which becomes evident during the development of the site, shall be reported to North Ayrshire Council and treated in accordance with an agreed remediation scheme. On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted to the North Ayrshire Council as Planning Authority.

8. That the development hereby approved shall commence in phases, and in accordance with the following transport requirements, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority and in consultation with Transport Scotland. For the avoidance of doubt, not more than 180 houses constructed on the site shall be occupied until either:
- (i) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network; OR
  - (ii) An updated transport assessment has been submitted to and approved by the planning authority, in consultation with Transport Scotland, confirming that additional development can be accommodated within the capacity of the trunk road network in the event of the implementation of appropriate measures identified within the approved transport assessment; OR
  - (iii) The modifications to the A78(T)/A738(T) Pennyburn Roundabout, generally as indicated in SIAS drawing number 75064-1 titled 'Pennyburn Roundabout Signalisation - Revision 1', and the modifications to the A738(T)/Pennyburn Road mini-roundabout and the A738(T) Whitehirst Road signalised to form a roundabout junction generally as indicated in SIAS drawing number 75064-5 titled Whitehirst Park Road have been implemented; OR
  - (iv) North Ayrshire Council as Planning Authority Planning Authority or any other party has concluded an appropriate legal agreement or agreements for the funding and implementation of the works to mitigate the development.
9. That there shall be no means of direct access onto the A78 trunk road either pedestrian or vehicular.
10. That, prior to the commencement of the development, details of a barrier along the boundary of the site with the A738 trunk road and with the A78 trunk road, shall be submitted for the approval in writing of North Ayrshire Council as Planning Authority. Thereafter the details, as may be approved, shall be provided and maintained by the developer or subsequent owner of the land to the satisfaction of North Ayrshire Council as Planning Authority.

#### **6. Dalry and West Kilbride:15/00200/PPM: Blackshaw Farm, West Kilbride**

At its meeting on 26 August 2015, the Committee agreed to continue consideration of an application for planning permission in principle by Community Windpower Limited, First Floor, 2 Parklands Way, Maxim Business Park, Motherwell, for the erection of six wind turbines each with a maximum blade to a height of up to 125m and associated infrastructure including access tracks, hard standings, sub-station and control room, 80m meteorological masts, temporary construction of storage compound and borrow pits, at Blackshaw Farm, West Kilbride. The continuation was intended to allow Members to undertake a site familiarisation visit.

At its meeting on 16 September 2015, the Committee was advised that the site

familiarisation visit took place on 31 August 2015 and that further late correspondence from the applicant in respect of (i) landscape, (ii) noise and private water supplies and (iii) aviation issues. The Committee agreed to continue consideration of the application to the next meeting to allow Officers an opportunity to consider the issues raised.

At its meeting on 21 October 2015, the Committee was advised that a number of issues was still outstanding and that the application would be presented to the meeting on 11 November 2015 for consideration.

The Senior Manager (Planning) advised Members of a request by the applicant that consideration of the application be continued further to enable further investigation of outstanding matters and that the applicant had suggested conditions to address the concerns of the statutory consultees in the event that the Committee were minded to determine the application. The Committee was satisfied that sufficient time had been allowed to enable these matters to be progressed by the applicant, and therefore agreed to proceed with the determination of the application.

Thereafter, there were circulated at the meeting laminated illustrative documents and photomontages submitted by the applicant.

The Committee, having considered the terms of the objections and letters of support received and having considered the Officers' response to the further issues raised in respect of the application, agreed to refuse the application on the following grounds:-

1. That the proposal would be contrary to Policy ENV1 of the Adopted North Ayrshire Council Local Development Plan as a development which does not accord with the stated criteria.
2. That the proposal would be contrary to Policy ENV7 of the Adopted North Ayrshire Council Local Development Plan being a development which:
  - would be inappropriate in design and scale to its surroundings;
  - have an unacceptable direct and cumulative impact on landscape character and the visual amenity of the area; and
  - result in an adverse visual impact on the Special Landscape Area of Clyde Muirshiel Regional Park.

3. That the proposal would be contrary to Policy PI9 of the Adopted North Ayrshire Council Local Development Plan by reason of:
  - inappropriate in design and scale to its surroundings;
  - unacceptable adverse impact on the intrinsic landscape qualities of the area;
  - location within an area designated as “high sensitivity” in the Landscape Capacity Study for Wind Farm Development in North Ayrshire;
  - adverse impact on tourism and recreational interests;
  - adverse impact on airport and aviation safeguarding;
  - adverse cumulative visual impact; and
  - contrary to the Ayrshire Supplementary Guidance : Wind Farm Development (October 2009).
4. That the proposed development would set an undesirable precedent for further developments at this sensitive location.

## **7. Tree Preservation Order: North of Glen Road, Fairlie**

Submitted report by the Chief Executive on the Tree Preservation Order in respect of the area of land north of Glen Road, Fairlie.

At its meeting on 3 June 2015, the Committee agreed to serve a Tree Preservation Order in respect of an area of woodland to the north of Glen Road, Fairlie, as shown in the location plan at Appendix 1 to the report. The order was served on the owners of the affected land with the effective date of 24 June 2015, remaining in force until 24 December 2015 unless confirmed by the Committee.

The report set out the terms of an objection submitted by a residential of Castlepark Drive, Fairlie, and the response of officers to the points raised.

The Committee, having considered the terms of the objection, agreed to confirm the Tree Preservation Order on the area of land north of Glen Road, Fairlie, as shown in the location plan at Appendix 1 to the report, in order to protect the existing trees and woodland in the interests of the amenity of the area and in the interests of their cultural and historical significance.

The Meeting ended at 3.00 p.m.