



**North Ayrshire Council**  
Comhairle Siòrrachd Àir a Tuath

## **Planning Committee**

A Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunningham House, Irvine, KA12 8EE** on **Wednesday, 25 April 2018 at 14:00** to consider the undernoted business.

**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 meetings of the Committee held on 14 March 2018 and 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      North Coast and Cumbraes**

Submit reports on the following applications:

**3.1    18/00134/PP - Hunterston Construction Yard, Fairlie**

Replacement and enlargement of existing jetty (copy enclosed).

**3.2    17/01273/PP - Hunterston Construction Yard, Fairlie**

Application 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 (copy enclosed).

**3.3    18/00132/PP - Hunterston Construction Yard, Fairlie**

Erection of caisson gates and subsequent removal of existing bund (copy enclosed).

- 3.4 18/00216/PP - West Kilbride Primary School, Hunterston Road, West Kilbride**  
Erection of static floodlighting and the variation of an existing planning condition to extend the hours of operation of the MUGA facility (copy enclosed).
- 4 Garnock Valley**  
Submit reports on the following applications:
- 4.1 17/01280/DCMS - Site To North Of Knowes Farm, Beith**  
Periodic review of mining site (copy enclosed).
- 5 Urgent Items**  
Any other items which the Chair considers to be urgent.

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## **Planning Committee Sederunt**

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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:

**Present**

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

**In Attendance**

J. Miller, Senior Manager (Planning) (Economy and Communities); J. Law, Solicitor (Contracts & Licensing) (Legal Services); and E. Gray, Committee Services Officer (Chief Executive's Service).

**Chair**

Councillor Billings in the Chair.

**Apologies for Absence**

Robert Foster, Shaun Macaulay and Tom Marshall.

**1 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.

**2 Minutes**

The Minutes of the meeting of the Committee held on 14 February 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3 Notice under Section of 145 of the Town and Country , KA24Planning (Scotland) Act 1997: 67 Sharon Street, Dalry, KA24 5DT**

Submitted report by the Executive Director (Economy and Communities) on a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with a condition attached to planning permission (ref: 16/00488/PP).

Planning permission was granted on 23 June 2016 (ref: 16/00488/PP) for the demolition of a dwellinghouse, including boundary walls to the front and rear. The permission was granted subject to two conditions. Condition 2 sets out the requirement for timber screen fencing to be erected around the site frontages following demolition in the interest of visual amenity and for the designs for said fencing to be submitted to North Ayrshire Council for written approval.

The Council became aware that the dwellinghouse had been demolished in November 2017 and following inspection, most recently in February 2018, revealed that Condition 2 had not been complied with. The site has been enclosed by heras fencing and not timber screen fencing and the design details of the fencing were not submitted to the Council for consideration and approval.

Councillor McNicol, seconded by Councillor Clarkson, moved that in the interest of amenity, to issue a Breach of Condition Notice requiring the following action, in respect of Condition 2 of the planning permission dated 23 June 2016 (ref: 16/00488/PP);

- (i) Submit for the written approval of North Ayrshire Council as Planning Authority, design details of the 2m high screen fencing within 4 weeks of the Notice being served; and
- (ii) Erect the screen fencing as may be approved, along Sharon Street and Wee James Street within 6 weeks of the Notice being served.

There being no amendment, the motion was declared carried.

#### **4 Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: Site to East of Linevern, Whiting Bay, Isle of Arran**

Submitted report by the Executive Director (Economy and Communities) on a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring cessation of the residential use and removal from the site of the residential caravan and associated works at site to the east of Linevern, Whiting Bay, Isle of Arran.

A residential caravan with associated power connections, attached raised timber deck and a 1m high timber boundary fence has been sited on land in the Silverhills area of Whiting Bay, Isle of Arran. Planning Officers visited the site on 3 August 2017 and advised the owner that the development was unauthorised. Two complaints have subsequently been received by Planning Services regarding the continued unauthorised siting of the caravan and the resulting impact on amenity. The caravan was placed on the site at some point prior to 3rd August 2017 without the benefit of planning permission having been granted.

The Committee agreed, in the interest of visual and residential amenity, to serve a Notice under Section 127 of the Town and Country Planning Act requiring the removal of the residential caravan and associated infrastructure, raised deck and timber boundary fence from the land.

#### **5 Urgent Items**

The Senior Manager (Planning) informed the Committee of a number of applications which have been submitted regarding development at Hunterston

Construction Yard, Fairlie which will be presented to the Committee for decision at the meeting on 25 April 2018 and suggested that a site visit would be beneficial to Committee Members.

The Committee agreed to (a) undertake a site visit prior to the Committee meeting on 25 April 2018; and (b) note that all Committee members will be eligible to consider the applications regardless of whether or not they attend the site visit.

The Meeting ended at 2.15 p.m.

## NORTH AYRSHIRE COUNCIL

### Planning Committee

Locality	North Coast
Reference	18/00134/PP
Application Registered	20th February 2018
Decision Due	20th April 2018
Ward	Dalry And West Kilbride

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**Recommendation** Approved subject to Conditions

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**Location** Hunterston Construction Yard Fairlie Largs Ayrshire

**Applicant** Clydeport Operations Ltd

**Proposal** Replacement and enlargement of existing jetty

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#### 1. Description

This can be ascertained by reference to the attached plans and photographs.

The application proposes alterations to the quay located on the north side of Hunterston Construction Yard.

The existing Peel Ports Hunterston Marine Construction Yard, lies on the Firth of Clyde, north of the EDF Hunterston Power Stations and west of the Hunterston Coal Terminal. The site forms part of the Offshore Wind Turbine Test Facility operated by SSE, but is otherwise vacant at present. The site is reclaimed land that has historically been used for industry and currently comprises an access road, service infrastructure, a deep void (dry dock) with a bund in place and a hammerhead quay.

This application is to re-orientate and increase the size of the hammerhead quay.

The existing quay is rectangular in shape, measuring approximately 67 metres long, 20 metres wide with a maximum jetty height of 6 metres.

The new quay would be approximately 100 metres long and 30 metres wide with a maximum jetty height of 6 metres. As part of the re-orientation of the quay, any excess voids

would be backfilled with earth with new sections of rock armour sloping down into the sea to provide protection and a wave break.

The walls of the quay would be formed with piles backfilled with concrete and earth. Two new lighting masts would be sited on the rear sections of the quay with a concrete mooring dolphin and connecting walkway located to the west of the quay.

The applicant has indicated that the backfilled soil would be material dredged from the seabed and a programme of dredging is proposed around the new quay. The dredging would not require planning permission and would be controlled through license by Marine Scotland. However the applicant has confirmed that no dredging would occur or be deposited within the SSSI

In support of the application a Coastal Assessment has been provided which gives an analysis on extreme sea water levels for the design, wave analysis to establish significant wave heights for the design, analysis of water levels and an overtopping analysis.

The purpose of the report is to ensure that the new quay is sufficiently designed to avoid overtopping for the protection of workers. The report takes into account extreme weather events and climate change.

The report summarises that the analysis of extreme sea levels shows that the existing construction yard bund crest level and quay crest levels (6mAOD), are situated well above (+1.8m) the predicted 1 in 200 year extreme water level (including climate change allowance) of 4.2mAOD. The assessment of wave overtopping indicates that only limited overtopping would be expected during an extreme 1 in 200 year return period storm event. It is anticipated that during such extreme storm events work activities on site would be limited. Given the potential for large waves (> 3m) during an extreme 1 in 200 year return period storm event, the report provides recommendations regarding the safety of workers.

Within the North Ayrshire Local Development Plan the site is located within the Hunterston industrial area. As the development is to erect a caisson gate Policies IND1 (Strategic Business Locations) and IND2 (Hunterston: Development in the National Interest) would not apply.

The site is in close proximity to Southannan Sands SSSI where Policy ENV 9 (Nature Conservation) is most relevant.

With respect to the General Policy of the LDP, the relevant criteria in this case are (a) siting, design and external appearance, (b) amenity and (c) landscape character.

The application is also accompanied by two other planning applications for the erection of a caisson gate (Reference 18/00132/PP), and an application 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 (Reference 17/01273/PP).

## **2. Consultations and Representations**

The standard neighbour notification process was undertaken and the application was advertised in the local press on 14th March 2018.

One letter of representation was received which expresses support for the application but also states:

1. It is understood that the construction would involve piling and if this includes driving piles by percussive means that conditions are imposed on any consent to ensure that noise is controlled to avoid disturbance to nearby communities.

Response: A condition would not generally be applied with respect to control of noise from construction works, particularly piling. Environmental Health Legislation would control any noise where it is considered to be excessive or a nuisance.

## **Consultations**

**Fairlie Community Council (FCC)** - object on the following grounds:

1. The proposed jetty extension would not be big enough for the marine structures as such this is just the first extension to the quay. Further extensions would be required as well as extensive dredging.
2. The proposed formation of the quay and dredging would have a detrimental impact on the SSSI.
3. FCC has not been provided with enough detail to make an informed judgement and consider this application is inconsistent with the true extent of what is being proposed.
4. This application is directly related to 2 other applications in respect of the Hunterston Construction Yard. North Ayrshire Council must ensure that the cumulative impact of these linked proposals is clearly identified and taken into consideration. The full environmental impact of all the applications should be considered. The application is contrary to LDP Policies IND 1, IND2 and NPF3

Response - This application is for the formation of a quay. The viability of the quay is not a material planning consideration, the applicant has applied for the quay to be extended and the main consideration is whether the scale, design and appearance of the proposal are acceptable. Dredging is proposed but does not require planning permission and is controlled by Marine Scotland. The applicant has confirmed that no dredging would occur or be deposited within the SSSI. It is not considered that the proposed formation of the quay would have a detrimental impact on the SSSI. It is considered that the information provided is sufficient to make an informed opinion on the proposal, which in this case is for the formation of a new quay. In this case Policies IND1 and IND2 would not apply.

**West Kilbride Community Council** – has no objections but wish to raise the following points.

1. The installation of a quay would require significant dredging which would have a significant detrimental effect on the SSSI.
2. Any decommissioning would have to be subject to noise restrictions.

3. Decommissioning would also increase the probability of environmental pollution that could result in environmental damage. The adjacent area is a winter feeding ground for migrating birds which constant noise operation would seriously effect.

Response - Noted. This application is for the formation of a new quay. Any decommissioning of structures, control over noise and operation of such structures is not relevant to this application. Similarly any concerns regarding pollution associated with the use of the site are not relevant to this proposal. In terms of dredging, this would be controlled by Marine Scotland and not by Planning but the purpose of this application is to improve the current situation whereby the existing jetty is to be expanded to improve the site's viability.

**Cumbrae Community Council** - wish to make the following observations on the above application.

1. This application is directly related to 2 other applications in respect of the Hunterston Construction Yard. North Ayrshire Council must ensure that the cumulative impact of these linked proposals is clearly identified and taken into consideration. The full environmental impact of all the applications should be considered.
2. The applications all involve major construction works which could have a major negative impact on the landscape and environment, both marine and land based, as well as adversely impacting on tourism, particularly marine based tourism, in the area.
3. The application is contrary to LDP Policy IND 1 and NPF3 as this application would adversely affect any other proposed form of development on the site due to nature of the work involved in decommissioning such structures. All criteria of Policy IND2 would not be met.
4. LDP 2 refers to the need to ensure that the LDP be aligned "..... closer with the ambitions of key national, regional and local strategies such as the Clyde Marine Regional Plan, National Renewables Infrastructure Plan, National Planning Framework 3 and the Council's Economic Development and Regeneration Strategy .....". This proposal does not comply with this aspiration.

Response: Noted. This application is for the formation of a new quay. Any decommissioning of structures, control over noise and operation of such structures is not relevant to this application. Similarly any concerns regarding pollution associated with the use of the site are not relevant to this proposal. In this case Policies IND1 and IND2 would not apply. The development would comply with the aspirations of LDP2. An EIA screening request was submitted on February 2017 where it was determined that an EIA was not required for decommissioning, erection of caisson gates or the extension to the quay as any adverse environmental impacts could be successfully mitigated through compliance with best practice guidelines or through the use of conditions attached to the planning permission.

Scottish Natural Heritage (SNH) - No objections. During construction the piling operations have the capacity to generate significant noise levels while the terrestrial construction works activity may in certain conditions, be a source of dust. SNH note the proximity of the works to the Southannan Sands Site of Special Scientific Interest but confirm that it is unlikely, providing the construction management plan contains measures for the suppression of dust

generation in dry conditions, that there would be no damaging impacts on the features of interest within the protected site.

There is a risk that otters may be present on the site. As otters are a mobile species it is essential that a pre-construction survey is undertaken by a competent surveyor. Should evidence of otters being present be found then there may be a need for the developers to obtain an appropriate licence and implement a mitigation plan. This process could potentially impact on construction schedules and therefore we advise that this risk should be taken into account in contingency planning. The Firth of Clyde is home to a number of species of seals and cetaceans and there is a strong potential that construction noise, particularly piling operations could cause disturbance to these specially protected species. It is noted that efforts to minimise the percussive impacts could help reduce the transmitted noise however there remains a significant risk of disturbance. In addition the adjacent, related works at the Caisson gates would also generate percussive noise via separate piling operations and the cumulative impact would be more significant.

SNH therefore recommend that consideration is given to undertaking a sea watch, specifically for marine mammals, during piling operations. It is anticipated that a competent observer, potentially on a boat, would scan the sea for mammal activity and be able to communicate sightings to the piling foreman. The foreman could put piling on hold until the risk of disturbance has passed.

**Response:** Noted. The applicant has provided an impact assessment on marine mammals regarding potential noise generated by both vibratory and impact piling during construction. The report summarises that subject to certain mitigation measures there would be no adverse, long term, impacts on the local marine mammal population. There is the potential that protected species could be adversely affected as such a condition could be applied requiring a pre-construction survey and mitigation plan for protecting marine mammals prior to any works proceeding on site.

**Marine Scotland** - No comments.

### **3. Analysis**

The application proposes alterations to the quay located on the north side of Hunterston Construction Yard by re-orientating and increasing the size of the hammerhead quay.

The main determining issues are whether the proposed quay would accord with the provisions of the development plan, and if there are any other material planning considerations which would indicate otherwise.

In this case, the adopted North Ayrshire Local Development Plan (LDP) is the development plan. The application requires to be assessed against Policy ENV 9 (Nature Conservation) as well as criteria a), b) and c) of the General Policy of the LDP.

ENV 9 states that proposals for development which would affect national designations such as Sites of Special Scientific Interest shall not accord with the LDP. The site is located in close proximity to Southannan Sands SSSI which comprises a coastal section, subdivided into three discrete areas, which together support one of the best examples of intertidal sandflats habitat on the Clyde coastline. The applicant has provided an impact assessment on marine mammals regarding potential noise generated by both vibratory and impact piling

during construction. The report summarises that subject to certain mitigation measures there would be no adverse, long term, impacts on the local marine mammal population. SNH has confirmed that the greatest potential impact from the proposed development would be in its construction. As such it would be considered appropriate to require a pre-construction survey and construction management plan which outlines the proposed steps for removal of the existing quay and formation of the new one and how marine mammals would be protected.

Any pollution associated with the ongoing use of the site would be controlled through separate means. Any dredging works would be controlled by Marine Scotland and would not require planning permission, however the applicant has confirmed that no dredging would occur or be deposited within the SSSI. Subject to condition it is considered that the objectives and overall integrity of the SSSI would not be compromised. The proposal would comply with Policy ENV 9.

With respect to the General Policy of the LDP, the relevant criteria in this case are (a) siting, design and external appearance, (b) amenity and (c) landscape character.

With regard to (a) the proposed scale, design and appearance of the quay would be suited to the use of the site as a construction yard. The quay would not appear out of place when considered in context of the site, its use and its location. The visual impact of the development would be limited.

In relation to (b) the use of the site for construction, and potentially decommissioning of structures, is controlled through other means. There would be limited visual impact when the quay is in situ. Subject to condition regarding the submission of a Construction Method Statement, the SSSI would be protected. There would be no significant detrimental impact on the visual amenity of the area.

Finally with respect to (c) the scale and siting of the development would be such that there would be limited impact on the landscape character of the area. The greatest impact would be within the construction yard itself, where access is controlled. The proposal would not appear out of place and any medium to long range landscape views would not be impacted.

Overall, the proposal complies with the terms of the Local Development Plan and it is recommended planning permission be granted, subject to conditions.

#### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That prior to the commencement of development a Construction Method Statement shall be provided for the written approval of North Ayrshire Council. The Construction Method Statement shall include:
  - i) a pre-construction survey for protected marine mammals, protection measures during construction and details of proposed monitoring of the site by a competent observer during the demolition and construction works;

- ii) proposed timetable and procedure for construction;
- iii) methods of construction;
- iv) risk assessment (including potential impacts of construction on marine mammals); and,
- v) details of preventative measures to avoid long term impacts on marine mammals, pollution of the foreshore and SSSI.

If agreed, the development shall proceed in compliance with the method statement to the satisfaction of North Ayrshire Council as Planning Authority.

#### **Reason**

In order to protect and maintain the integrity of the SSSI, and any potential impact on European Protected Species.

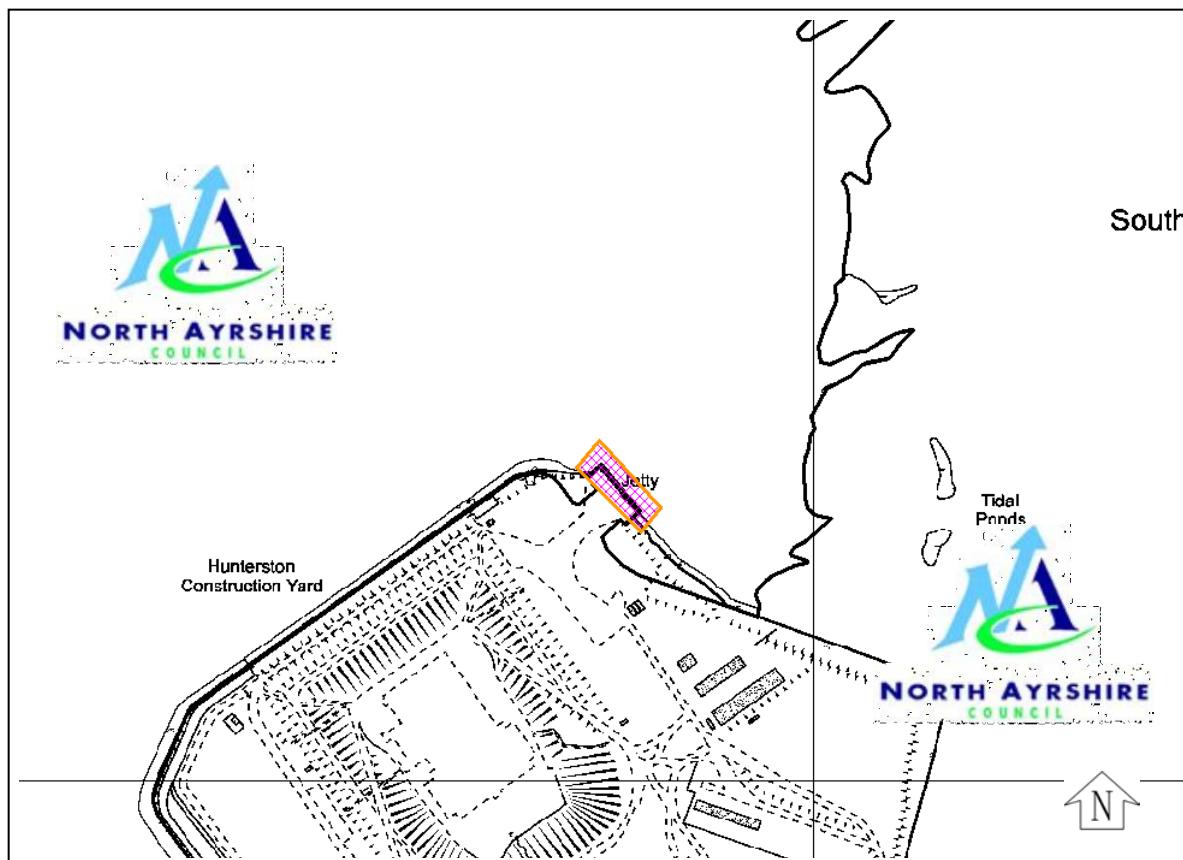


Karen Yeomans  
Executive Director  
Economy & Communities

For further information please contact Mr Ross Middleton Planning Officer on 01294 324379.

## Appendix 1 – Location Plan

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## NORTH AYRSHIRE COUNCIL

### Planning Committee

Locality	North Coast
Reference	17/01273/PP
Application Registered	17th January 2018
Decision Due	17th March 2018
Ward	Dalry And West Kilbride

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Hunterston Construction Yard Fairlie Largs Ayrshire
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<b>Applicant</b>	Clydeport Operations Ltd
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<b>Proposal</b>	Application 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
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#### 1. Description

This is an application to vary a condition of a Planning Permission to permit the decommissioning of large marine structures, at the Hunterston Construction Yard.

On 31 August 2016, the Planning Committee approved an application to delete condition 1 of a Planning Permission (ref.11/00230/PPM) to remove the temporary restriction on the use of the site (ref.16/00268/PP). Condition 1 was deleted and replaced with a revised condition 1 which stated:

'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 subsequent removal on completion of large marine related structures; and the site shall be used for no other purpose.'

The applicant proposes to vary this condition to state:

"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 subsequent removal on completion and decommissioning of large marine related structures; and the site shall be used for no other purpose."

The applicant has provided a list of the main structures and components related to the oil and gas industry and offshore renewables industry which would be decommissioned at the site. They include:

#### Oil and Gas Industry

- FPSOs (Floating Production, Storage and Offtake vessels)
- Floating oil & gas platforms
- FSUs (Floating Storage Units)
- MODUs (Mobile Offshore Drilling Units) including semisubmersibles and jack-ups
- Storage tanks
- Platform topsides (including integrated decks, Module Support Frames, modules and components)
- Platform superstructures, bridges and decks
- Subsea structures (wellhead protection structures, ESDV structures, manifolds)
- Pipelines
- Umbilical's (hydraulic and electrical control lines and bundles)

#### Renewables Industry

- Turbine jackets, piles and transition pieces
- Floating and submersible bases
- Anchorage mechanisms
- Wind generators including towers, blades and nacelles
- Wave generators
- Underwater turbines
- Cables and pipework
- Substations and platforms

In support of the application the following documents have been provided:

#### Environmental Statement

This statement summarises the scope of development proposed at the construction yard including this application, a proposal to erect caisson gates (Reference 18/00132/PP) and the extension of the existing quay (Reference 18/00134/PP).

With regard to this application it is stated that a coastal flooding and wave overtopping study was not required as the existing marine construction yard has never been known to flood since its establishment; is not indicated within SEPA flood maps to be at risk from coastal flooding; and the platform is above SEPA's 1:1000yr extreme flood level by over 1 metre.

It is also indicated that an underwater noise assessment is not considered relevant to this application as day to day operation of the yard would not generally involve piling or other large scale noise generating operations in the marine environment, as these would be contained within the dry dock area or on the existing yard.

Finally with regard to the wider environment and pollution control the applicant states that conditions 2 and 3 already provide potential protection with regard to the existing use and that a Pollution Prevention and Control license would be required from SEPA to ensure that the site can operate without detriment to the local and surrounding environment prior to any operations at the site.

### Planning Statement

The Statement assesses the key planning considerations arising from the application, its need and benefits, and compliance with the Development Plan and relevant material considerations. The statement focuses on changes in the industry whereby the Scottish Government is offering decommissioning opportunities in Scotland, referring directly to Scottish Enterprise's, Decommissioning Action Plan.

The statement indicates that the Scottish Government has established a new £5million fund to provide opportunities in Scotland to benefit from the decommissioning of North Sea infrastructure, which is expected to generate £17.6 billion in decommissioning large marine structures over the next 10 years. Over the next 35 years the expectation is that some 470 platforms would require decommissioning from the North Sea. In relation to Hunterston it stated that decommissioning offers a significant opportunity for the creation of new jobs at Hunterston to replace jobs lost by the recent closure of the Coal Stockyard at this location.

As decommissioning is not included within the definition or work which can currently be carried out at the Hunterston Construction Yard, it is necessary to seek a variation of Condition 1 to ensure that the opportunities arising from decommissioning can be attracted to Hunterston.

The statement confirms that the proposal would not have additional impacts on the transport network as bulk exports of scrap would leave the site via rail or sea.

### Socio Economic Report

The report provides socio-economic baseline information on the area and the scale and scope of the investment proposed at Hunterston. It provides the predicted economic impacts of future activity based on upgraded infrastructure and the securing of contracts associated with oil and gas /renewable energy sector and decommissioning activity secured by the site. It outlines that Peel Ports Groups are advancing a series of investment packages at Hunterston and have been successful with funding through the DECOM Challenge Fund. DECOM Challenge Fund support has been provided for feasibility studies to redevelop the marine construction dock and marine quay, and infrastructure to support marine decommissioning activity. The report summarises that the long term investments at the site would secure initial investment of approximately £60-80 million from partners and funding resulting in a capital investment of £76m at the site to accommodate the decommissioning. The initial investment would create 500-550 gross Person Year Equivalent jobs in construction and related sectors and the ongoing

operations at the site would result in £50m annual operating contract values, generating some 220-260 permanent full time equivalent jobs.

### Noise Appraisal

This document provides a desk study of the potential for the development to have effects on the surrounding environment with respect to noise.

The appraisal outlines potential noise impacts on existing residential properties and wildlife in the SSSI. It states that while most operational activities for decommissioning are considered comparable to operational activities for construction, the movement and loading of scrap is acknowledged as a potentially significant noise generating decommissioning activity if not well controlled. The report refers to the Dales Voe facility in Shetland and from experience of visiting the AFDecom operational decommissioning base in Vats in Norway where the main noise sources associated with decommissioning activities are linked to cutting, dismantling and other operations within laydown and dismantling areas; movement of clean waste and scrap materials both around the site and into containers for transport offsite; impact noises such as metal dropping from height; and loading of materials e.g. scrap metal onto a barge or other vessel for shipment off site.

The document provides advice on potential mitigation to avoid detrimental impacts on people and wildlife with respect to noise from decommissioning.

Within the North Ayrshire Local Development Plan the site is located within an industrial area where Policies IND1 (Strategic Business Locations) and IND2 (Hunterston: Development in the National Interest) specifically apply. Policies ENV 8 (Coastal Zone) and ENV 9 (Nature Conservation) are also relevant. All development proposals require to be assessed against the relevant criteria of the General Policy of the LDP.

The application is also accompanied by two other planning applications for the erection of caisson gates (Reference 18/00132/PP) and the extension of the existing quay (Reference 18/00134/PP).

## 2. Consultations and Representations

The standard neighbour notification process was undertaken and the application was advertised in the local press on 24th January 2018. Three letters of representation were received, one objection and two general comments.

The main points of objection could be summarised as:

1. NAC Policy IND2 states that applications should clearly demonstrate that it is a forerunner of large-scale industrial development. The applicant is proposing unknown future applications that will be made by a third party operator.

Response: Policy IND2 refers to Maritime Construction and Decommissioning Yard as a potential use. This would result in the development/use of the majority of the Marine Construction yard. There are 3 planning applications being considered which deal with

different aspects of separate developments on the site. The applicant has provided a statement which outlines potential socio-economic benefits.

2. This application fails to clearly demonstrate the environmental and social-economic impacts that could result from as yet unknown aspects of the proposed 3-tier future planning proposals. There are many unanswered environmental questions about this development that need to be resolved. A full EIA is required. Before this application is considered assurance need to be made that Policy ENV9 applies to this development proposal and has primacy over other policies in the Local Development Plan. The construction yard has been constructed from reclaimed land. Pile driving and constructional work in the basin will be transmitted to the sea.

Response: An EIA screening request was submitted on February 2017 where it was determined that an EIA was not required as any adverse environmental impacts could be successfully mitigated through compliance with best practice guidelines and through the use of conditions attached to the planning permission. This position was also adopted by Marine Scotland who has responsibility for development within the marine environment. The principle of the development is assessed against Policy IND2. An assessment against Policy ENV9 is considered within the analysis, Policy ENV9 does not restrict or stop development but must be considered in light of proposed development. Pile driving and construction work could be carried out as it stands. This application is only to assess a change to Condition 1 to allow decommissioning. Any piling works would be controlled through condition.

3. The surrounding communities have not been made properly aware of the scale of this development. This application should remain open until after the statutory Marine Scotland pre-consultation deadline.

Response: The statutory planning notification and advertisement procedures have been undertaken as part of this application. Planning and Marine Scotland licencing regimes are not reliant on one another. There is no requirement to hold the decision until Marine Scotland consider the position on licensed operations.

4. Clyde Porpoise marine mammal project has determined that the area around Hunterston is a critical habitat for cetacean species and insist that European Protected Species guidelines are instigated for this and proposed future applications. Clyde Porpoise marine mammal project has made a considerable investment in the areas natural marine capitol for the social-economic benefit of surrounding communities. As stated in IND2, issues around mitigation and compensation need to be addressed before this application proceeds.

Response: Scottish Natural Heritage (SNH) has not objected to the proposals, subject to amendment to condition 2. Policy IND2 is not intended to compensate third parties for development in the Hunterston area where there is no indication that significant environmental impacts would occur. The applicant has provided a statement which outlines potential socio-economic benefits. The applicant states that the introduction of decommissioning could result in significant investment in the provision of new infrastructure at the site, the creation of approximately 220-260 permanent full time equivalent jobs.

The two general comments state:

1. Some local concern has arisen as to whether the planning application, if granted, would allow vessels as well as marine structures to be decommissioned. To remove any ambiguity Condition 1 should clarify that decommissioning does not include any form of vessel. If approved, Condition 7 should also be amended to take account of decommissioning. Conditions regarding noise, similar to the Hunterston Turbines appeal should be applied.

Response: Conditions 1 and 7 could be amended to reflect these concerns. The conditions applied to the Hunterston Turbines appeal are specific to that development and would not apply in this case, however an amendment to condition 3 is proposed to provide clarity on the controls over noise.

2. The use proposed by the amendment is one appropriate to the construction yard site and unlike past proposals has a realistic prospect of taking place. The potential for significant sustainable local employment opportunities is welcomed. EDF Energy has no objections to the proposals.

Response: Noted.

## **Consultations**

**SEPA** - No objection to this planning application from a land use planning perspective. SEPA consider that the principle of development has been established at this site. Notwithstanding this, there would be a requirement for the developer to provide further information and to apply for the relevant environmental regulatory permits. The applicant should contact SEPA to discuss what permits may be required and to consider what controls would fall upon the Local Authority.

Response: Noted. It is understood that the applicant has engaged SEPA with regard to seeking a PPC permit which controls operations on the site.

**Scottish Natural Heritage (SNH)** - No objection subject to amendment to condition 2 which required that preventative measures to avoid pollution of the foreshore are considered in consultation with SNH.

Response: Condition 2 could be amended to take account of this recommendation.

**NAC Environmental Health** - No objection subject to a condition controlling noise. The condition would be applicable if the control of noise from the site is regulated by North Ayrshire Council. SEPA has requested further information from the applicant to allow a determination of what environmental regulatory permits would be required. It may be the case that control of noise from the site will be a matter for SEPA to consider under permit.

Response: Noted. A condition could be applied in this regard. It is understood that the applicant has engaged SEPA with regard to seeking a PPC permit which controls operations on the site. If a PPC permit is provided by SEPA the controls would take precedence over any Planning conditions.

**HSE Office for Nuclear Regulation** - The application falls outside ONR's consultation criteria. No objection.

Response: Noted.

**Marine Scotland** - Marine Scotland the regulator for the marine aspects of the proposal would not normally comment on a planning application. Marine Scotland - Licensing Operations Team understands that applications for marine licences for the marine elements of this proposal would be submitted in the coming weeks and the marine aspects would be considered through that process.

Response: Noted.

**Fairlie Community Council (FCC)** - object on the following grounds:

1. FCC would appreciate NAC Planning tightening up the terminology over interpretation of what is meant by a "large marine structure". The remaining conditions should be scrutinised to ensure conditions are not unenforceable.
2. FCC appreciates the need for employment opportunities in North Ayrshire, but many jobs are in the tourist and leisure industries which rely on the beauty and attractiveness of the area being maintained.
3. FCC are somewhat cynical about the applicant being concerned too much about our environment.

Response: Noted. The applicant has provided a list of potential marine structures and equipment that would be decommissioned at the site. The revision of conditions 1, 2, 3 and 7 would ensure that the site could operate under clearer controls. The remaining conditions would be enforceable. An amendment to condition 3 would ensure that there is no significant detrimental impact by way of noise but in the event that a PPC permit is provided by SEPA, those conditions within the permit would strengthen any planning controls. Pollution and lighting would be controlled through the remaining conditions as well as any regulations outlined by SEPA and Marine Scotland when a license is applied to the site.

**West Kilbride Community Council (WKCC)** - would wish the following to be considered:

1. WKCC consider that the proposal is contrary to NPF3. The re-industrialisation of the peninsula either by further construction or decommissioning must be accompanied by improved access to the peninsula as the A78 is now at the limit of its capacity where it passes through both Seamill and Fairlie.
2. The Offshore Wind Turbine test facility has permission for an additional two years. It would be dangerous to have decommissioning of structures so close to active turbines.
3. The decommissioning of offshore structures would increase the potential of contamination of the SSSI adjacent to the site. In the event that Section 42 is allowed, the proposals for the installation of a Caisson gate and extension to the adjacent Jetty would require significant dredging which will have a significant detrimental effect on the SSSI. The only structures that could be decommissioned are ones that were the same size as the one that was constructed on the site i.e. Semi-submersible less than 20,000 tonnes.

**Response:** Noted. As outlined within the analysis below it is not considered that the proposal is contrary to NPF3. NPF3 states that Hunterston should aim to make sustainable use of its key assets, including its deep water access. There are no proposals as part of this application to improve access to the site via the A78 as scrap material would be removed via rail or the sea. The applicant has control of the land and could ensure the turbines are removed prior to works, should they be causing obstruction to development on the site. The management of dredging would be controlled by Marine Scotland. The applicant has confirmed that no dredging would occur or be deposited within the SSSI. Similar to construction, the scale of structures being decommissioned would be restricted by the limitations of the site.

**Cumbrae Community Council (CCC) - would wish to raise the following concerns:**

1. CCC consider that the proposal is contrary to the LDP and NPF3 in that the use of this site for decommissioning would limit any renewable energy based development, due to the nature of work involved in decommissioning such structures. Similarly the proposal would be contrary to Policy IND 2 in that it would not be possible for its objectives to be delivered if the site is used as a decommissioning site and it would not be possible to "safeguard the wider potential for development within the designated industrial site" or to provide "deep water access from other parts of the site".
2. LDP 2 refers to the need to ensure that the LDP be aligned "..... closer with the ambitions of key national, regional and local strategies such as the Clyde Marine Regional Plan, National Renewables Infrastructure Plan, National Planning Framework 3 and the Council's Economic Development and Regeneration Strategy .....". This proposal does not comply with this aspiration.
3. Although the proposed change to the existing consent initially appears to be a minor change of use, the "construction, repair and subsequent removal on completion of large marine related structures" is a very different operation to that of the "decommissioning" of such structures. Decommissioning would require the huge quantities of resultant scrap materials to be stored on site for indefinite periods of time. These structures would also be contaminated and contain pollutants which present a risk of spillage and environmental damage and which would also need to be stored/ transported with the associated risks that entails to the environment.
4. In LDP 1 it states that the "Storage of oil rigs, platforms and similar structures shall be restricted to those which are actively being decommissioned only." This proposal would result in large numbers structures being moored within the vicinity of the site awaiting access to the dock. This would present the risk of a contaminated/polluted structure being blown on shore causing risk to the SSSI. The visual effect these structures would also have an extremely adverse effect on the essential tourism based economy in this area.
5. Finally it would appear that Condition 7 of the 2016 Consent also requires to be amended to reflect the proposal to also decommission structures.

**Response:** Noted. As outlined within the analysis below it is not considered that the proposal is contrary to NPF3 or the Local Development Plan. The applicant has provided a list of potential marine structures and equipment that would be decommissioned at the site. The development would comply with the aspirations of LDP2. Concerns regarding the local environment and the SSSI would be controlled by condition and would be subject to

further consideration by SNH. General management of the construction yard and the avoidance of accidents offshore would be controlled by SEPA and Marine Scotland. Condition 7 would be amended to reflect the changes to condition 1.

### **3. Analysis**

In relation to an application under Section 42 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority shall consider only the question of the conditions subject to which permission should be granted. The applicant proposes to vary condition No. 1 of a Planning Permission (ref. 16/00268/PP) in order to allow use of the site for the decommissioning of large marine structures.

The main determining issues are whether the proposed decommissioning would accord with the provisions of the development plan, and if there are any other material planning considerations which would indicate otherwise.

In this case, the adopted North Ayrshire Local Development Plan (LDP) is the development plan.

The marine construction yard forms part of the overall industrial allocation at Hunterston, subject to Policies IND1 and IND2, which identify the site as a strategic business location and a national development area respectively. The national development area being allocated in NPF2 and safeguarded for development of national importance requiring deep water access. Whilst the site has seen only intermittent development activity since the original 1974 planning permission, the existing permitted use of the site is for the construction, repair and subsequent removal on completion of large marine related structures.

Policy STRAT2 states that the LDP will contribute to the Council's aim of creating new jobs by 2020 by safeguarding key business and industrial sites at Ardeer and Hunterston. At the time of adoption of the LDP, Hunterston was highlighted, at national level, as having potential for major employment generating development. NPF2 identified Hunterston as a National Development location for a clean coal fired power station, container transhipment hub, maritime construction and decommissioning yard and associated energy and industrial development. It was not site specific but identified the location of the National Development as "adjoining the existing bulk handling terminal and marine construction yard at Hunterston, Ayrshire".

NPF3 replaced NPF2 and is the spatial expression of the Scottish Government's Economic Strategy and of the Government's plans for infrastructure investment. A key ambition of NPF3 is to achieve at least an 80% reduction in greenhouse gas emissions by 2050. Hunterston is not any longer identified as a national development, but forms part of an area of co-ordinated action to provide energy hubs throughout Scotland. NPF3 states that the low carbon agenda forms a crucial part of the strategy and in regard to Hunterston NPF3 states that it should aim to make sustainable use of its key assets, including its deep water access. Activities which could align with the national strategy include manufacturing and servicing support for offshore renewable energy development, building on the success of the onshore test facility for offshore wind turbines.

The applicant states that in this regard the proposal to introduce decommissioning of large marine structures offers a significant opportunity for industrial employment which makes use of the key assets of the deep water access, the existing construction yard facilities and particularly the dry dock without impacting upon future potential uses. As such the proposal continues to be in conformity with National Planning Policy as stated in National Planning Framework 3. The applicant states that the introduction of decommissioning could result in significant investment of at least £25 million in the provision of new infrastructure of the site, the creation of approximately 100 jobs on the site and in addition the construction phases for the new infrastructure and the new employment at the site would introduce more than £3 million per annum into the local economy.

Scottish Planning Policy (SPP) introduced a new presumption in favour of sustainable development. The presumption in favour of sustainable development does not change the statutory status of the development plan. The SPP sets out a series of principles whereby development could be considered to be sustainable. For this application, the most relevant are: giving due weight to net economic benefit; supporting delivery of infrastructure; and, supporting climate change mitigation.

There is a need, during transition to more renewable technologies, to accommodate the decommissioning of those marine structures, particularly those relating to activities in the North Sea Oil Industry. Whilst the site is currently being used for the testing of off shore wind turbines, this consent will expire in 2020. This application would assist in the ongoing use of the site and subsequently the overall aims of the government to support climate change mitigation through the decommissioning of redundant oil platforms and associated structures.

With respect to the Local Development Plan the proposal requires to be assessed against Policies IND1, IND2, ENV 8, ENV 9 and the General Policy of the LDP. Policy IND1 identifies Hunterston as a Strategic Business Location for nationally important development as identified in Policy IND2.

Policy IND2 sets out a list of developments that shall accord with the LDP including a maritime construction and decommissioning yard, and the criteria against which such developments require to be assessed. In this regard the LDP states that decommissioning shall be restricted to oil rigs, platforms and similar structures which have served the national oil and gas industry and offshore renewables industry. It also states that storage of oil rigs, platforms and similar structures shall be restricted to those which are actively being decommissioned only.

The applicant has provided a list of structures, equipment and platforms which would be decommissioned at the site. Condition 1 could be amended to ensure that vessels not associated with the oil and gas industry and offshore renewables industry are not decommissioned at the site. In addition Condition 7 could be amended to ensure that only those structures being constructed, repaired or decommissioned should be stored on site. Subject to amended conditions the proposal would comply with Policies IND1 and IND2.

Whilst the applicant proposes the decommissioning of large marine related structures there is the potential that this description could be interpreted to include vessels. It would therefore be recommended that the wording of the condition specifically omits the potential for vessels and only those structures being constructed, repaired or

decommissioned shall be stored on site, which would ensure that the proposal would comply with Policies IND1 or IND2.

With regard to Policy ENV8 the site lies within the Developed Coast where development which requires a coastal location and which would enhance the developed coast shall accord with the LDP. The site is existing and the proposed commissioning and decommissioning of marine structures requires a coastal location.

ENV 9 states that proposals for development which would affect national designations such as Sites of Special Scientific Interest shall not accord with the LDP. The site is located in close proximity to Southannan Sands SSSI which comprises a coastal section, subdivided into three discrete areas, which together support one of the best examples of intertidal sandflats habitat on the Clyde coastline. SNH has not objected on the basis that the approval of preventative measures to avoid pollution of the foreshore, required under condition 2, and conducted in consultation with SNH. These measures should include full details of the mitigation to be implemented during construction and operation of the site to ensure any risk of pollution of the SSSI is adequately managed. Subject to this requirement it is considered that the objectives and overall integrity of the SSSI would not be compromised. The proposal would comply with Policy ENV 9.

With respect to the General Policy of the LDP, the relevant criteria in this case are (a) siting, design and external appearance, (b) amenity and (d) transport.

With regard to (a) the existing permitted use for construction has now been established on the site for some 40 years, it is not considered that the current proposal for the decommissioning of structures requires further assessment. Issues of siting, design and landscape character would all be controlled through conditions of the permission.

In relation to (b) the applicant has provided a noise appraisal which outlines the potential impacts of the development by way of disturbance to local residents and wildlife. Environmental Health has not objected to the proposal and has recommended that any operations not licensed by SEPA, be controlled through a noise condition. This condition would allow clearer control of operations on site. It is therefore recommended that condition 3 be updated to avoid any impact on residential amenity.

With respect to (d) the applicant has confirmed that structures to be decommissioned would be brought to the site by sea. The resulting scrap materials would be transported from site via the sea or rail. Any impact on the road network would be negligible.

Overall, the proposal complies with the terms of the Local Development Plan and it is recommended planning permission be granted.

#### **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 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 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.

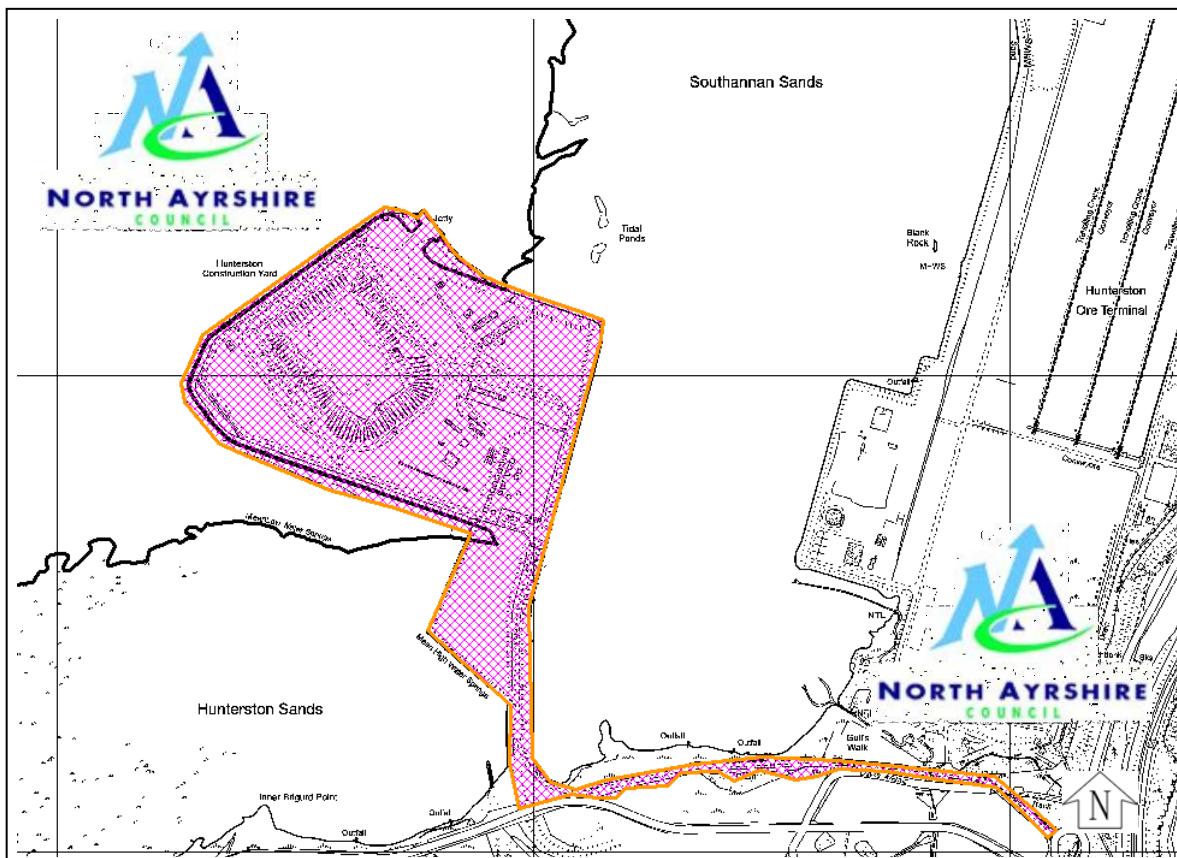


Karen Yeomans  
Executive Director  
Economy & Communities

For further information please contact Mr Ross Middleton Planning Officer on 01294 324379.

## Appendix 1 – Location Plan

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**NORTH AYRSHIRE COUNCIL****Planning Committee**

Locality	North Coast
Reference	18/00132/PP
Application Registered	20th February 2018
Decision Due	20th April 2018
Ward	Dalry And West Kilbride

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Hunterston Construction Yard Fairlie Largs Ayrshire
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<b>Applicant</b>	Clydeport Operations Ltd
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<b>Proposal</b>	Erection of caisson gates and subsequent removal of existing bund
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**1. Description**

The application proposes alterations to the existing bund formed at the entrance to Hunterston Construction Yard. Part of the bund, on the western side of the yard is to be removed and replaced with a floating caisson gate.

The existing Peel Ports Hunterston Marine Construction Yard, lies on the Firth of Clyde, north of the EDF Hunterston Power Stations and west of the Hunterston Coal Terminal. The site forms part of the Offshore Wind Turbine Test Facility operated by SSE, but is otherwise vacant at present. The site is reclaimed land that has historically been used for industry and currently comprises an access road, service infrastructure, a deep void (dry dock) with a bund in place and a hammerhead quay.

This application is to partially remove the bund and erect a caisson gate.

The existing bund would be partially removed and replaced with a new caisson gate. The gate would measure approximately 115 metres long, 20 metres deep and 15 metres high. The gate would be constructed of concrete but for the most part would be hollow to allow the gate be flooded when in place and emptied to allow floatation.

The walls and foot of the opening would be formed with a concrete abutment which would be shored up with a sheet pile wall filled with earth. A rock armour slope would provide protection and a wave break for the concrete walls and sheet pile wall.

Flexible seals at the sides and bottom of the gate would ensure the gate is fixed and avoid any water leaking into the dry dock.

In support of the application a Coastal Assessment has been provided which gives an analysis on extreme sea water levels for the design, wave analysis to establish significant wave heights for the design, analysis of water levels and an overtopping analysis.

The purpose of the report is to ensure that the design of the new opening and height of the gate are sufficiently designed to avoid overtopping for the protection of workers. The report takes into account extreme weather events and climate change.

The report summarises that the analysis of extreme sea levels shows that the existing construction yard bund crest level, and proposed caisson gate (6mAOD), are situated well above (+1.8m) the predicted 1 in 200 year extreme water level (including climate change allowance) of 4.2mAOD. The assessment of wave overtopping indicates that only limited overtopping would be expected during an extreme 1 in 200 year return period storm event. It is anticipated that during such extreme storm events work activities on site would be limited. Given the potential for large waves (> 3m) during an extreme 1 in 200 year return period storm event, the report provides recommendations regarding the safety of workers.

Within the North Ayrshire Local Development Plan the site is located within the Hunterston industrial area. As the development is to erect a caisson gate Policies IND1 (Strategic Business Locations) and IND2 (Hunterston: Development in the National Interest) would not apply.

The site is in close proximity to Southannan Sands SSSI where Policy ENV 9 (Nature Conservation) is most relevant.

With respect to the General Policy of the LDP, the relevant criteria in this case are (a) siting, design and external appearance, (b) amenity and (c) landscape character.

The application is also accompanied by two other planning applications for the extension of the existing quay (Reference 18/00134/PP), and an application 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 (Reference 17/01273/PP).

## **2. Consultations and Representations**

The standard neighbour notification process was undertaken and the application was advertised in the local press on 14th March 2018.

One letter of representation was received which expresses support for the application but also states:

1. It is understood that the construction of the gate abutments and cill would involve piling and if this includes driving piles by percussive means that conditions are imposed on any consent to ensure that noise is controlled to avoid disturbance to nearby communities.

Response: A condition would not generally be applied with respect to control of noise from construction works, particularly piling. Environmental Health Legislation would control any noise where it is considered to be excessive or a nuisance.

## Consultations

**West Kilbride Community Council** - has no objections but wish to raise the following points.

1. The installation of a Caisson gate would require significant dredging which would have a significant detrimental effect on the SSSI.
2. Any decommissioning would have to be subject to noise restrictions.
3. Decommissioning would also increase the probability of environmental pollution that could result in environmental damage. The adjacent area is a winter feeding ground for migrating birds which constant noise operation would seriously effect.

Response: Noted. This application is for the formation of Caisson gates, only. Any decommissioning of structures, control over noise and operation of such structures is not relevant to this application. Similarly any concerns regarding pollution associated with the use of the site are not relevant to this proposal. In terms of dredging, this would be controlled by Marine Scotland and not by Planning but the purpose of this application is to improve the current situation whereby a bund is built up and removed during the use of the site which has the potential to impact on the local environment. The applicant has also confirmed that no dredging would occur or be deposited within the SSSI.

**Cumbrae Community Council** - wish to make the following observations on the above application.

1. This application is directly related to 2 other applications in respect of the Hunterston Construction Yard. North Ayrshire Council must ensure that the cumulative impact of these linked proposals is clearly identified and taken into consideration. The full environmental impact of all the applications should be considered.
2. The applications all involve major construction works which could have a major negative impact on the landscape and environment, both marine and land based, as well as adversely impacting on tourism, particularly marine based tourism, in the area.
3. The application is contrary to LDP Policy IND 1 and NPF3 as this application would adversely affect any other proposed form of development on the site due to nature of the work involved in decommissioning such structures. All criteria of Policy IND2 would not be met.
4. LDP 2 refers to the need to ensure that the LDP be aligned "..... closer with the ambitions of key national, regional and local strategies such as the Clyde Marine Regional Plan, National Renewables Infrastructure Plan, National Planning Framework 3 and the Council's

Economic Development and Regeneration Strategy .....". This proposal does not comply with this aspiration.

Response: Noted. This application is for the formation of a caisson gate, only. Any decommissioning of structures, control over noise and operation of such structures is not relevant to this application. Similarly any concerns regarding pollution associated with the use of the site are not relevant to this proposal. In terms of dredging, this would be controlled by Marine Scotland and not by Planning but the purpose of this application is to improve the current situation whereby a bund is built up and removed during the use of the site which has the potential to impact on the local environment. The applicant has confirmed that no dredging would occur or be deposited within the SSSI. In this case Policies IND1 and IND2 would not apply. The development would comply with the aspirations of LDP2. An EIA screening request was submitted on February 2017 where it was determined that an EIA was not required for decommissioning, erection of caisson gates or the extension to the quay as any adverse environmental impacts could be successfully mitigated through compliance with best practice guidelines or through the use of conditions attached to the planning permission.

**Fairlie Community Council** - wish to make the following observations on the above application.

1. This application is directly related to 2 other applications in respect of the Hunterston Construction Yard. North Ayrshire Council must ensure that the full environmental impact of all the applications should be considered. All conditions associated with the decommissioning should be amended and re-assessed.
2. The proposal is contrary to LDP Policy IND 1 and NPF3.
3. Interim storage of the caisson gate is proposed to be to the east side of Hunterston Jetty 800m opposite Fairlie. The impact of this has not been assessed. No information is available to say how often or for how long this will occur and no comment has been made regarding alternatives.
4. The installation of a Caisson gate would require significant dredging which would have a significant detrimental effect on the SSSI.

Response: Noted. This application is for the formation of a caisson gate, only. In this case Policies IND1 and IND2 would not apply. An EIA screening request was submitted on February 2017 where it was determined that an EIA was not required for decommissioning, erection of caisson gates or the extension to the quay as any adverse environmental impacts could be successfully mitigated. In terms of dredging, this would be controlled by Marine Scotland and not by Planning. The applicant has confirmed that no dredging would occur or be deposited within the SSSI. The purpose of this application is to improve the current situation whereby a bund is built up and removed during the use of the site which has the potential to impact on the local environment. The operation of the gates would be controlled by Marine Scotland but plans provided by the applicant illustrate that the gates would be removed to the west of the dry dock, away from the settlement of Fairlie.

Scottish Natural Heritage (SNH) - No objections. During construction the piling operations have the capacity to generate significant noise levels while the construction works activity may in certain conditions, be a source of dust. SNH note the proximity of the works to the

Southannan Sands Site of Special Scientific Interest but confirm that it is unlikely, providing the construction management plan contains measures for the suppression of dust generation in dry conditions, that there would be no damaging impacts on the features of interest within the protected site.

There is a risk that otters may be present on the site. As otters are a mobile species it is essential that a pre-construction survey is undertaken by a competent surveyor. Should evidence of otters being present be found then there may be a need for the developers to obtain an appropriate licence and implement a mitigation plan. This process could potentially impact on construction schedules and therefore SNH advise that this risk should be taken into account in contingency planning. The Firth of Clyde is home to a number of species of seals and cetaceans and there is a strong potential that construction noise, particularly piling operations could cause disturbance to these specially protected species. While it is acknowledged that the proposed piling operations within the sand bund would be muted to a degree, there remains a risk that should bedrock be encountered that the noise levels might be raised temporarily. In addition, as the related planning application for the works at the adjacent hammer head pier also requires a significant amount of piling the in cumulative noise could be much more significant.

SNH therefore recommend that consideration is given to undertaking a sea watch, specifically for marine mammals, during piling operations. It is anticipated that a competent observer, potentially on a boat, would scan the sea for mammal activity and be able to communicate sightings to the piling foreman. The foreman could put piling on hold until the risk of disturbance has passed.

**Response:** Noted. There is the potential that protected species could be adversely affected as such a condition could be applied requiring a pre-construction survey and mitigation plan for protecting marine mammals prior to any works proceeding on site.

**Marine Scotland** - No comments

### **3. Analysis**

The application proposes alterations to the existing bund formed around Hunterston Construction Yard. Part of the bund, on the western side of the yard is to be removed and replaced with a floating caisson gate.

The main determining issues are whether the proposed erection of caisson gates would accord with the provisions of the development plan, and if there are any other material planning considerations which would indicate otherwise.

In this case, the adopted North Ayrshire Local Development Plan (LDP) is the development plan. The application requires to be assessed against Policy ENV 9 (Nature Conservation) as well as criteria a), b) and c) of the General Policy of the LDP.

ENV 9 states that proposals for development which would affect national designations such as Sites of Special Scientific Interest shall not accord with the LDP. The site is located in close proximity to Southannan Sands SSSI which comprises a coastal section, subdivided into three discrete areas, which together support one of the best examples of intertidal sandflats habitat on the Clyde coastline.

The purpose of the erection of caisson gates is to improve access to the dry dock associated with Hunterston Construction Yard. The current arrangement for use of the site for construction, involves the formation of a bund to maintain the dryness of the dock during works and the removal of the bund in order to flood the dock. The formation of the caisson gates is proposed to improve the current use of the site as well as reducing the impacts that can occur, from the removal and building up of the bund, within the marine environment.

SNH has confirmed that the most significant impact from the proposed development would be in its construction. As such it would be considered appropriate to require a pre-construction survey and construction management plan which outlines the proposed steps for deconstruction of the bund and formation of the opening and how marine mammals would be protected.

Any pollution associated with the use of the site would be controlled by SEPA and Marine Scotland. It is considered that the formation of the gates would result in an improvement to the site and ensure that any significant impact to the SSSI is adequately managed. Any dredging works would be controlled by Marine Scotland and would not require planning permission, however the applicant has confirmed that no dredging would occur or dredged materials be deposited within the SSSI. Subject to condition it is considered that the objectives and overall integrity of the SSSI would not be significantly compromised. The proposal would comply with Policy ENV 9.

With respect to the General Policy of the LDP, the relevant criteria in this case are (a) siting, design and external appearance, (b) amenity and (c) landscape character.

With regard to (a) the proposed scale, design and appearance of the gates would be largely hidden. The gates would not appear out of place when considered in context of the site, its use and its location. The visual impact of the development would be limited.

In relation to (b) the use of the site for construction, and potentially decommissioning of structures, is controlled by Marine Scotland and SEPA. There would be limited visual impact when the gates are in situ and would result in an improvement to the current situation whereby a bund is removed and built up within the marine environment. There would be no detrimental impact on the visual amenity of the area.

Finally with respect to (c) the scale and siting of the development would be such that there would be limited impact on the landscape character of the area. The greatest visual impact would be within the construction yard itself, where access is controlled. The proposal would not appear out of place and any medium to long range landscape views would not be adversely impacted.

Overall, the proposal complies with the terms of the Local Development Plan and it is recommended planning permission be granted.

#### **4. Full Recommendation**

Approved subject to Conditions

## **Reasons for Decision**

### **Condition**

1. That prior to the commencement of development a Construction Method Statement shall be provided for the written approval of North Ayrshire Council. The Construction Method Statement shall include:

- i) a pre-construction survey for protected marine mammals, protection measures during construction and details of proposed monitoring of the site by a competent observer during the demolition of the bund and construction works;
- ii) the method and timetable for demolition and disposal of surface material relating to the existing bund;
- iii) proposed timetable and procedure for construction;
- iv) methods of construction;
- v) risk assessment (including potential impacts of construction on marine mammals); and,
- vi) details of preventative measures to avoid long term impacts on marine mammals, pollution of the foreshore and SSSI.

If agreed, the development shall proceed in compliance with the method statement to the satisfaction of North Ayrshire Council as Planning Authority.

### **Reason**

In order to protect and maintain the integrity of the SSSI, and any potential impact on European Protected Species.

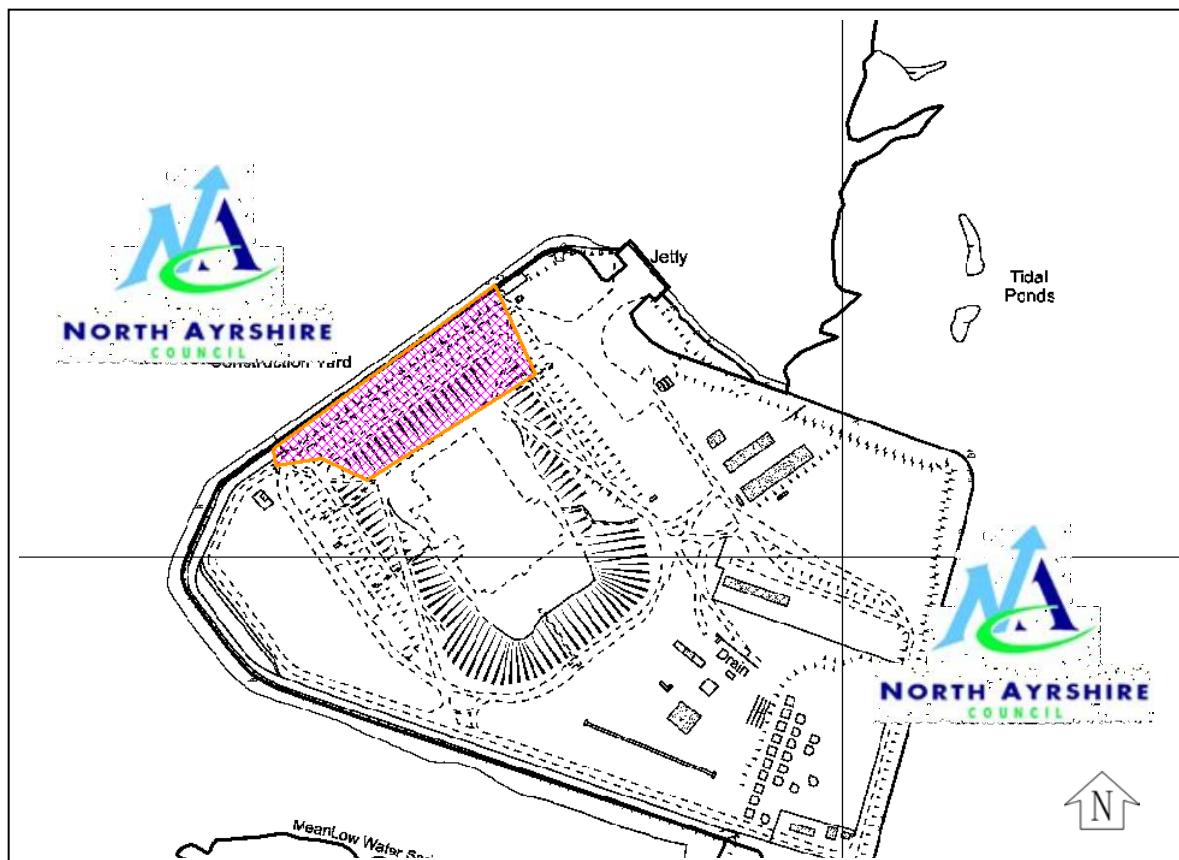


Karen Yeomans  
Executive Director  
Economy & Communities

For further information please contact Mr Ross Middleton Planning Officer on 01294 324379.

## Appendix 1 – Location Plan

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**NORTH AYRSHIRE COUNCIL**

25th April 2018

**Planning Committee**

Locality	North Coast
Reference	18/00216/PP
Application Registered	13th March 2018
Decision Due	13th May 2018
Ward	Dalry And West Kilbride

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	West Kilbride Primary School Hunterston Road West Kilbride Ayrshire KA23 9EX
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<b>Applicant</b>	West Kilbride Community Sports Club F.A.O. Mrs Lucy Chisholm
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<b>Proposal</b>	Erection of static floodlighting and the variation of an existing planning condition to extend the hours of operation of the MUGA facility
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**1. Description**

Planning permission is sought for the erection of static floodlighting to illuminate a Multi-Use Games Area (MUGA) within West Kilbride Primary School playground. Permission is also sought to extend the permitted hours of operation.

Planning permission for the erection of the MUGA was granted by the Planning Committee 12th February 2008 (ref: 07/01158/PP), subject to the condition that the MUGA only be used between 8am and 8pm Mondays to Fridays and 8am and 6pm Saturdays and Sundays.

The MUGA is operated by the West Kilbride Community Sports Club under a Minute of Agreement with the Council, as land owner. The Minute of Agreement currently runs until 27th June 2018 and can be renewed at the end of the term if the Council and Sports Club are able to reach mutually agreeable terms. Either party has the right to cancel the agreement with four weeks written notice.

The MUGA is approximately 2330sqm in area, comprising an astroturf pitch enclosed by mesh fencing. It is aligned north-west/south-east. Four floodlights mounted on columns

would be erected outside the fence. The columns would be some 9m in height and approx. 0.2m in width. Two would be erected on the south-west side of the MUGA, one at the north-western end and one at the south-eastern end. Two would be erected on the north-east side, again one at the north-western end and one at the south-eastern end.

The MUGA is surrounded by the grounds of the primary school. To the north-west is Portencross Road with residential properties beyond, at a distance of approx. 20m to the nearest proposed floodlight. To the south-west is Wellbank Gardens with residential properties beyond, at a distance of approx. 8.3m to the nearest proposed floodlight.

The site is within the settlement of West Kilbride, as identified in the Adopted North Ayrshire Council Local Development Plan (the LDP). The development requires to be assessed against Policy PL10: Community Infrastructure and the General Policy of the LDP.

## **2. Consultations and Representations**

Neighbour notification was carried out and application was advertised. There has been 1 objection received which can be summarised as follows;

1. Nearby properties are already disturbed by noise from the MUGA. The only respite from the noise is currently when it is dark. Floodlighting will mean noise later at night.

Response: The hours of operation of the MUGA and the floodlighting could be governed by condition. Environmental Health was consulted and the response is outlined below.

2. The site is too close to neighbouring properties which would suffer from light pollution. It is understood that floodlighting was rejected as part of the original application. If that was the case what has changed in the meantime?

Response: It is not considered that any light emissions outside the MUGA would cause significant impact on neighbouring properties. The applicant has submitted an assessment for the potential spread of light which is analysed below. Floodlighting was not proposed as part of the development of the MUGA (ref: 07/01158/PP).

3. The site is not properly managed. Unauthorised entry into the site often occurs. The Council should invest in proper security.

Response: Planning and Environmental Health are aware of previous disturbance from unauthorised use of the MUGA. When the MUGA was operated by West Kilbride Primary School, the fence was often vandalised to allow unauthorised entry.

The applicant has submitted a supporting statement outlining public consultation, including a public meeting where unauthorised use of the MUGA by local youths was raised. The applicant has stated that the Sports Club would supervise the let of the MUGA with a nominated keyholder in attendance throughout. The keyholder would be responsible for managing behaviour and locking up. The applicant considers that increased authorised use would reduce opportunities for unauthorised use and any potential disturbance therefrom.

## Consultations

NAC Environmental Health - NAC Environmental Health has reservations about the proposal in terms of noise disturbance in the evening to occupiers of nearby noise sensitive properties. This is particularly the case for the proposed extended hours on Saturdays and Sundays. Environmental Health would suggest that any permission either be granted on a temporary basis for a maximum of 12 months in order to allow assessment of any disturbance or that the hours be limited until 7pm on Saturdays and Sundays.

Response: Conditions limiting the development, either in terms of duration or operational hours, could be attached to any permission. An assessment of this against the LDP policies is given below.

The applicant has advised that, if the planning permission was for a temporary period, then funding for the floodlights would be doubtful. The applicant initially sought hours of operation from 8am to 9pm Monday to Sunday, however, has agreed to accept lesser hours of 8am to 9pm Monday to Friday and 8am to 7pm on Saturday and Sunday.

NAC Connected Communities - has confirmed that there are no issues about amending the Minute of Agreement to reflect an amended planning permission.

Response: Noted.

### **3. Analysis**

Policy PI10: Community Infrastructure, states that proposals for a variety of community infrastructure, including leisure facilities, shall accord with LDP subject to meeting certain criteria. The criteria relates to the location of such facilities. The facilities should be located in areas with a high level of accessibility and that consideration is given to clustering such uses within or close to similar uses and town centres.

The MUGA already exists and therefore PL10 is relevant in so far as the support it gives to leisure facilities in principle. Although the siting of the MUGA is fixed, it is considered that it is in an area of high accessibility, it is within the grounds of a primary school, and it is within 60m of a community centre and 165m of the West Kilbride Town Centre. The proposal for floodlights and extended hours would facilitate the use of the MUGA and as such the proposal accords with Policy PI10 of the LDP.

All planning applications require to be assessed against the General Policy. The relevant criteria in this instance are (a) siting, design and external appearance and (b) amenity of the General Policy.

The floodlights are the only physical works proposed. There would be four floodlights mounted on columns erected outside the existing fence. The columns would be some 9m in height with the existing fence being 5m in height. The columns would be approx. 0.2m in diameter at their widest part. As such it is not considered that the appearance of the floodlights would have a significant adverse visual impact and the proposal therefore complies with criterion (a).

The MUGA can currently be used between the hours of 8am and 8pm Monday to Friday and 8am to 6pm Saturdays and Sundays. The proposal initially sought to permit operational hours until 9pm daily, an additional hour on weekdays and 3 additional hours on Saturdays and Sundays. Environmental Health has expressed reservations about such additional

hours at the weekend, and has suggested that Saturdays and Sundays be limited to 8am to 7pm. The applicant has accepted this amendment to the hours.

It is considered that extending the authorised period of use by one hour daily would not unduly impact on the amenity of neighbouring properties by way of noise disturbance. Indeed increased authorised usage would reduce opportunity for unauthorised use. If the authorised operation of the MUGA caused a statutory noise nuisance, Environmental Health could investigate and take action under the powers. It would remain for the operator to ensure the hours of operation were adhered to and the site appropriately secured at other times. A condition could be attached to any permission determining the permitted hours.

The applicant has provided an illumination assessment of potential light emissions from the floodlights. The floodlights would provide an average illumination of the interior of the MUGA of 235Lux. Outside the MUGA light emissions would vary between 50Lux at a distance of approx. 12m from the closest floodlight and 5Lux between approx. 18m and 38m from the nearest floodlight. 50Lux is considered to be the equivalent of a lit living room. 1Lux is the equivalent of the light at night from a full moon with no other illumination.

Although the nearest residential properties are approx. 8.3m from the floodlights, on the west side of Wellbank Garden, the nearest habitable windows are between 13m to 15m distant. The nearest floodlights would face away from those windows. The floodlights on the opposite side of the MUGA would be approx. 44m from those windows. All floodlights would be angled to illuminate the MUGA surface.

The nearest windows (Nos. 1 and 2 Wellbank Gardens) would experience the light emitted by the floodlights as between approx. 25Lux and 15Lux. Habitable windows at 9 Portencross Road would experience the light as between 25Lux and 5Lux. To the north of the MUGA habitable windows at Nos. 14 and 16 Portencross Road would experience the light at between 15Lux and 5Lux, at a distance of approx. 30m. Environmental Health also have the power to investigate any light disturbance under the powers.

Given the above it is not considered that the proposal would have any significant impact on amenity and it accords with criterion (b) of the General Policy.

Consideration was given to the imposition of a condition limiting the duration of the development to 12months, which would allow the operation of the MUGA at the additional hours to be assessed. However, the applicant has advised that such a condition would likely impact upon the ability to secure funding for the floodlights, as lenders or grant giving bodies would seek assurances of the long term viability of floodlights.

Given the Council's policies supporting leisure facilities including Policy PL10 of the LDP and Priority 4 of the Council Plan "Supporting all our people to stay safe, healthy and active," and the negotiated lesser hours, it is not considered necessary to limit the duration of any permission. The Council will retain its ability to investigate and take action against statutory nuisance under Environmental Health powers and will also retain control over the MUGA as land owner, through the terms of the Minute of Agreement.

The proposal complies with the relevant provisions of the Local Development Plan and there are no other material considerations that indicate otherwise. Therefore it is recommended that permission be granted subject to the condition listed below.

#### **4. Full Recommendation**

Approved subject to Conditions

##### **Condition**

1. That the MUGA facility shall only operate between the hours of 8am and 9pm on Mondays - Fridays inclusive and between the hours of 8am and 7pm on Saturdays and Sundays.

##### **Reason**

To protect nearby noise sensitive properties from the operation of the MUGA outwith those hours.

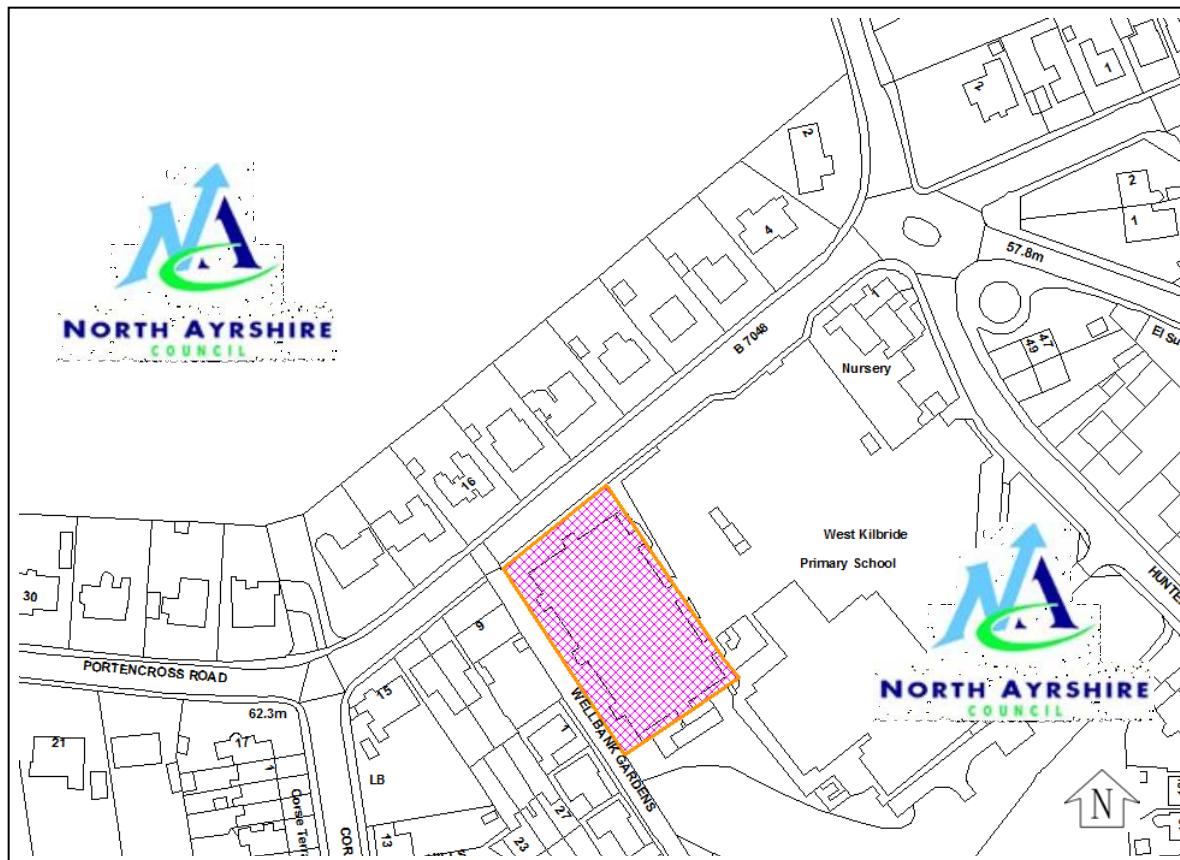


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For further information please contact Mr Iain Davies on 01294 324320.

## Appendix 1 – Location Plan

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**NORTH AYRSHIRE COUNCIL**

25th April 2018

**Planning Committee**

Locality	Garnock Valley
Reference	17/01280/DCMS
Application Registered	20th December 2017
Decision Due	20th March 2018
Ward	Kilbirnie And Beith

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**Recommendation**      Approved subject to Conditions

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**Location**      Site To North Of Knowes Farm Beith Ayrshire

**Applicant**      Smith Skips Ltd

**Proposal**      Periodic review of mining site

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**1. Description**

This can be ascertained by reference to the attached plans and photographs.

This proposal seeks to update the planning conditions for the quarry operations at the above site in accordance with the periodic Review of Old Mineral Permissions (ROMP) procedure. The planning conditions were last reviewed and updated in 2006.

The application was submitted in December 2017, following contact by Planning Officers as required by the ROMP procedure. The main amendment to the conditions sought by the applicant is to allow the use to continue until 30th November 2027 with an updated restoration scheme. The conditions have been reviewed and modified by Planning Officers and issued to the applicant for consideration. The applicant has agreed to the modified conditions as now proposed.

It is now considered that the resulting 21 conditions would represent an improvement to the existing planning permission conditions, in accordance with current best practice (PAN 50: Controlling the Environmental Effects of Surface Mineral Workings, Circular 34/1996: Guidance on ROMP and Circular 4/1998: The Use of Conditions in Planning Permissions).

The main effect of the proposed conditions, in comparison to those currently imposed, are to extend the lifetime of extraction until 2027; to introduce a requirement for site restoration in the event of extraction ceasing prematurely; to update the restoration plans; introduce a Code of Practice for vehicle movements to/from the site and introduce controls in respect of dust and vermin. The proposed conditions are listed below.

The area around Knowes Farm was used for the open cast extraction of clay and shale in the 1960s. Subsequently, the area has been used for landfilling with several planning permissions granted since 1979. The area to the south of this application site is currently being operated as a landfill. Planning permission for that use was granted on 20th August 2001 and effectively re-granted 7th December 2016 under planning permission 16/00793/PP. That permission allows infilling of the land to the south of the application site until 26th August 2026.

When the planning conditions were last reviewed in 2006, the clay extraction operations were prohibited from commencing unless and until the landfill operations to the south had commenced. The applicant is seeking to extend the life of the clay extraction as the mineral is used for capping the landfill and will assist in the restoration of that site.

The site is bordered to the north and west by agricultural land with the Glasgow/Ayr railway line beyond to the west. To the east and south-east is Muirburn Road with woodland beyond. The woodland forms part of the Woodside Local Nature Conservation Site. To the south and south-west are the landfilling operations and the access from Kerse Road.

In terms of the adopted North Ayrshire Council Local Development Plan (LDP), the application site is located within the countryside. Policy ENV10 relates to proposals for mineral extraction. Policy ENV9 relates to nature conservation including Local Nature Conservation Sites. All proposals require to be considered in terms of the General Policy. The use for mineral extraction is permitted and the policies are relevant only to the proposed review of the associated conditions. Scottish Government advice should also be taken into account.

## **Relevant Development Plan Policies**

### **General Policy**

All development proposals will be determined against general criteria, as relevant, and the following General Policy sets out the framework for this assessment. These detailed criteria are not repeated in individual policies in the LDP. They will apply, as appropriate, to all development. Policy A1 (Section 10) gives details on the considerations for proposals not covered by any other policy within the Plan.

### **ENV10**

Proposals for opencast coal extraction; development which would sterilise the opportunity for opencast working of the deposits associated with the northern outcrop of Ayrshire Bauxitic Clay or the limestone deposits around Beith; shall not accord with the LDP.

Proposals for extraction of other minerals, including the removal of sand and gravel, shall not accord with the LDP unless it can be clearly demonstrated that:

- (a) a needs assessment is submitted which demonstrates a justifiable need for the mineral which cannot be met from existing worked deposits, renewable, recycled or secondary sources; AND
- (b) the proposals are in accordance with nature conservation, landscape and other

environmental policies contained in the Natural Environment and Historic Environment sections of the LDP; AND

(c) there are likely to be no unacceptable impacts on the amenity of nearby dwellings or communities or on groundwater, watercourses and water supplies, either during operations or in the longer term; AND

(d) there are restoration and aftercare plans in place which shall identify a positive end use such as habitat creation or recreation at the earliest opportunity and which include progressive restoration over the life of the operation. Plans should also include long term proposals for preventing water pollution once operations cease; AND

(e) when considered in association with existing sites with planning permission, or engaged in any Environmental Assessment process, there are no unacceptable adverse cumulative impacts arising from development proposals; AND

(f) In the case of commercial peat extraction, the proposals relate to areas of degraded peat land which have been significantly damaged by human activity and where the conservation value is low and restoration is not possible, or are not of any value as carbon stores; AND

(g) proposals for mineral extraction on the Isle of Arran shall be limited to meet local island needs and required to demonstrate to the satisfaction of the Council that the type and quality of material cannot be reasonably obtained by other means. Development will only be permitted where it is demonstrated to the Council's satisfaction that extraction will not adversely affect the integrity of the Arran Moors SPA.

Note:

The Council will require a bond to secure restoration and aftercare.

A Waste Management Plan must be submitted as part of any application for planning permission.

## ENV9

### POLICY ENV 9: NATURE CONSERVATION

#### 1. International Designations.

Proposals for development likely to have a significant effect on Natura 2000 sites, as identified on the LDP Maps, will be subject to an Appropriate Assessment of the implications for the site's conservation objectives. Proposals shall not accord with the LDP unless the Appropriate Assessment indicates that:

- (a) they will not adversely affect the integrity of the site; or
- (b) there is no alternative solution; and there are imperative reasons of over-riding public interest including those of a social or economic nature; and subject to any necessary compensatory measures being provided to ensure that the overall coherency of the Natura 2000 network is protected.

#### 2. National Designations.

Proposals for development which would affect national designations such as Sites of Special Scientific Interest, as identified on the LDP Maps, shall not accord with the LDP unless:

- (a) the objectives of designation and the overall integrity of the area will not be compromised; or
- (b) any unacceptable impacts on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

#### 3. Local Designations.

Proposals for development which could affect Local Nature Conservation Sites (LNCS), as listed in Supporting Information Paper 3, and sites of local importance as wildlife habitats or wildlife corridors, will be assessed:

(a) to ensure that appropriate measures are proposed to conserve, as far as possible, the site's wildlife or habitat interest including the retention of open watercourses and provide for replacement of habitats or features where damage is unavoidable;

(b) to determine their effect on the management of features of the landscape which are of importance for wildlife, for wild flora and fauna; and (c) with a view to complementing the ecological coherence of the Natura 2000 network.

Proposals for development affecting a site covered by the provisions of this policy are likely to require an Environmental Statement.

Where development is permitted, the Council may apply specific conditions or a Section 75 or other agreement to secure the protection of wildlife habitats.

For the avoidance of doubt, where Policy ENV9 applies to a development proposal it shall have primacy over the other policies of the Plan.

## **2. Consultations and Representations**

The application was advertised in the local press. There have been no objections or representations received.

Consultation was carried out and the following responses were received;

Scottish Environmental Protection Agency (SEPA) - No objection subject to an additional condition being imposed. The condition should require that any standing water to be pumped from the site shall not be discharged to a watercourse unless prior written approval is obtained from North Ayrshire Council. This was a previously imposed condition and whilst SEPA acknowledge that it is not anticipated to encounter ground water during operations, they would take a precautionary approach to this matter. They also note that some soils are shown on the plans as being stored outside the red line site boundary. They would expect all aspects of the activity to be carried out within the site boundary.

Response: Noted. A condition relating to discharge of standing water has been re-imposed and agreed by the applicant (see proposed Condition 21). The soils are stored on land within the ownership of the applicant. Proposed Conditions 11, 12 and 13 will require the soils to be stored in these locations and managed in an appropriate fashion. Details of amended locations of the soils will be required to be approved prior to the commencement of the 'Future Works Section,' identified on the submitted drawings.

Scottish Natural Heritage (SNH) - No comment. The proposal does not meet the criteria upon which they will respond to a consultation.

Response: Noted.

NAC Environmental Health - No objection.

Response: Noted

NAC Regeneration (Transportation) - No objection. It is noted the first 10 metres of the access road is hard surfaced.

Response: Noted. A condition has been added to require the first 10 metres of the access road to be hard surfaced.

### 3. Analysis

As noted above, the application requires to be considered in terms of the relevant provisions of the adopted Local Development Plan, in particular Policies ENV10, ENV9 and the General Policy. Consideration of the application requires to take into account Scottish Government advice on ROMP, in particular Circular 34/1996 and Planning Advice Note 50: Controlling the Environmental Effects of Surface Mineral Workings (PAN 50).

The site is operational and therefore the provisions of Policy ENV10 are only relevant insofar as they relate to the proposed conditions. The relevant criteria are (b), (c), (d) and (e). Criterion (b) states that proposals should be in accordance with nature conservation policies within the LDP. Criterion (c) states that there should be no unacceptable impacts on the amenity of nearby dwellings or communities or on groundwater, watercourses and water supplies. Criterion (d) states that there should be restoration and aftercare plans which shall identify a positive end use and which include progressive restoration over the life of the operation. Criterion (e) when considered in association with existing sites with planning permission there are no unacceptable adverse cumulative impacts arising from the development proposals.

The relevant part of Policy ENV9, which links to criterion (b) of ENV10, is part 3 for Local Designations. This states that proposals for development which could affect Local Nature Conservation Sites (LNCS) will be assessed in relation to specific criteria. The specific relevant criteria are (a) to ensure that appropriate measures are proposed to conserve, as far as possible, the site's wildlife or habitat interest including the retention of open watercourses and provide for replacement features where damage is unavoidable; and (b) to determine the effect on the management of features of the landscape which are of importance for wildlife, for wild flora and fauna. Again the site is operational and this is only relevant insofar as it relates to the proposed conditions.

The relevant parts of the General Policy are (b) Amenity, (c) Landscape Character and (d) Access. Criterion (b) Amenity states that regard should be given to the impact of the development on amenity by way of factors including noise and dust. Development should also avoid significant impact on biodiversity and upon natural heritage resources and should also have regard to their potential to contribute to national and local green network objectives. Criterion (c) Landscape Character states that development should seek to protect landscape character from insensitive development. Criterion (d) Access states that development should have regard to the Council's guidelines.

Proposed condition 1 is a re-iteration of an original condition attached to the 2006 permission and requires the development to be carried out in accordance with the submitted approved plans.

Proposed conditions 2-5 (duration/restoration) would require cessation of permitted operations and the restoration of the site by 30th November 2027. The site would be restored by the covering of excavated areas with topsoil which would be grass seeded. The north-west and south-east boundaries would be planted with shrubs to provide screening. All buildings, plant and machinery associated with the use would be required to be removed.

Details of an updated scheme of restoration and a schedule of restoration costs would have to be submitted within 3 months of the date of any permission. In the event of operations ceasing prior to 30th November 2027, the restoration would be required to be carried out within six months of any earlier date.

These are new conditions and considered to represent an improvement from the current 2006 permission. The conditions would make provision for restoration works being undertaken in the event of the works ceasing on site prior to the date specified. They are considered to provide clarity as to what restoration works would be carried out as well as details of aftercare for a five year period following restoration. The operator would be required to provide updated details of restoration costs.

The proposed conditions 2-5 are considered to be in accordance with criteria (b) and (d) of Policy ENV10, part 3 of Policy ENV9 and criteria (b) and (c) of the General Policy.

Proposed conditions 6-10 (Access/Hours of Operation) would require that the site be accessed only by the existing access from Kerse Road (the C25) and through the landfill site to the south. The first 10metres of the access road would be retained as hard surface. The operator would be required to ensure no loose material is carried onto the C25 from the site. Vehicle movements associated with the use would only be undertaken in accordance with the submitted Code of Practice. Clay extraction would only be permitted between 7am and 6pm Monday to Friday and not at all on Saturday, Sunday and public holidays, except in exceptional circumstances to be agreed in writing by the Council, as Planning Authority.

The conditions relating to means of access, loose material and hours of operation are reiterations of conditions currently in place. The conditions relating to the hard surface and Code of Practice are new. The Code of Practice was introduced by the planning permission relating to the adjacent landfill site (ref: 16/00793/PP) approved by the Planning Committee. The Code of Practice sets out how the operator's hauliers/drivers will be expected to behave in respect of accessing the site and on the public highway. Measures for training, signage and vehicle servicing are included as are disciplinary measures for those persistently breaching the Code. There is a complaints procedure and matters could be raised at the Liaison Committee. The Liaison Committee has been created by the operator in respect of the landfill site. This is a forum which currently meets approximately every 6 months and comprises the operator, local residents and a local councillor. Members of the public can raise any concerns they have in respect of the landfill site at this forum.

The new conditions are considered to represent an improvement from the current 2006 permission. The requirement to retain the hard surface would also help prevent loose material being deposited on the public road, thus improving road safety. The Code of Practice addressed concerns relating to vehicle movements to and from the landfill site and it is appropriate to extend this to the clay extraction site as they share an access. The Liaison Committee will provide a forum for members of the public to bring concerns about the clay extraction site to the operator's attention, as they can do for the landfill site.

The proposed Conditions 6-10 are considered to be in accordance with criteria (c) and (e) of Policy ENV10 and criteria (b) and (d) of the General Policy.

Proposed Conditions 11-14 (Operations) set out how the clay extraction should take place. Topsoil and soil forming material is required to be stored on the site on land within the applicant's ownership and kept free of weeds. The subsoil and topsoil is required to be

stored separately and details of the storage as works progress be submitted to the Council, as Planning Authority, for approval. No stockpiling of excavated material would be permitted without prior written approval.

The condition relating to stockpiling is a reiteration of that already imposed. The other conditions relating to the soil are new. The new conditions are considered to represent an improvement from the current 2006 permission. The retention of the topsoil, soil forming material and subsoil will assist in the restoration of the site when operations have ceased. Keeping the material free of weeds and in appropriate locations as works progress will help mitigate any visual impact, as will the restriction of stockpiles of clay on the site.

The proposed conditions 11-14 are considered to be in accordance with criteria (c) and (d) of Policy ENV10 and criterion (c) of the General Policy.

Proposed conditions 15-18 (dust/contamination/vermin) set out how potential environmental impacts should be controlled. Details of prevention and control of dust emission would be required to be submitted to the Council, as Planning Authority, for approval. Steps to control dust produced which constitutes a nuisance would be required to be taken. Significant unsuspected contamination which becomes evident during the development would have to be brought to the Council's attention together with suitable remediation proposals. The operator would be required to take all necessary measures to control vermin at the site.

The condition relating to unsuspected contamination is a reiteration of that already imposed. The conditions relating to dust and vermin are new. The prevention and control of dust is considered to help mitigate any potential impacts on amenity, including of material onto the public road. Control of vermin, should any exist, will also help mitigate any potential impact on amenity and any cumulative impact from the adjacent landfill site.

The proposed conditions 15-18 are considered to be in accordance with criteria (c) and (e) of Policy ENV10 and criterion (b) of the General Policy.

Proposed conditions 19-21 (drainage/surface water run-off) require any damaged drains to be made good and steps taken to prevent contamination of existing water courses, including from any temporary storage of clay. If standing water requires to be pumped from the site, this shall not be discharged into a water course unless the prior written approval of the Council, as Planning Authority, has been granted.

These conditions are reiterations of existing conditions. The condition relating to pumping of water is requested by SEPA. It is considered that proposed conditions are in accordance with criterion (c) of Policy ENV10.

Overall, the proposed conditions are considered to be an improvement on the current 2006 permission. It is considered that the restoration conditions, which are the primary focus of ROMP procedures, would be improved. Provision for restoration in the event of the works ceasing on site prior to the date specified would be made. Clarity of the works to be carried out is provided and a duty for aftercare of the site for a period of 5 years would be imposed. Although the imposition of new conditions which do not relate to restoration can, under the ROMP procedures, lead to compensation from the Planning Authority to the applicant, the Council has negotiated improvements to the operation of the site, particularly in respect of access and egress. The operator has accepted these conditions.

The proposal complies with the relevant provisions of the Local Development Plan and there are no other material considerations that indicate otherwise. Therefore it is recommended the ROMP application is approved subject to the conditions listed over.

#### **4. Full Recommendation**

Approved subject to Conditions

##### **Reasons for Decision**

###### **Condition**

1. That the mineral extraction operations at the application site shall at all times be carried out in accordance with the working method statement, drawings and supporting information hereby approved, and there shall be no change in the operation or working method without the written approval of North Ayrshire Council, as Planning Authority.

###### **Reason**

To define the limit of permitted works

###### **Condition**

2. That by the 30th November 2027 the operations hereby approved shall cease and the site shall be restored to the satisfaction of North Ayrshire Council, as Planning Authority. For the avoidance of doubt any excavated areas shall be covered over with top soil and grass seeded. The north-west and south-east boundaries will be planted with shrub mix in accordance with drawing Final Restoration Plan 5505-104 and any details approved in accordance with Condition 4.

###### **Reason**

In recognition of the projected lifespan of the extraction and to ensure proper restoration of the site.

###### **Condition**

3. That in the event of the operations ceasing on the site prior to the date specified in Condition 2, within six months of the cessation of operations all buildings, plant and machinery ancillary to the mineral extraction operations shall be removed and the entire site restored to the satisfaction of North Ayrshire Council, as Planning Authority. For the avoidance of doubt any excavated areas shall be covered over with top soil and grass seeded. The north-west and south-east boundaries will be planted with shrub mix in accordance with drawing Final Restoration Plan 5505-104 and any details approved in accordance with Condition 4.

###### **Reason**

To ensure the site is properly restored in the event of works ceasing prior to the permitted time period

###### **Condition**

4. That within 3 months of the date of this decision, an updated scheme for the restoration of the site which fully details the subsoil and topsoil replacement operations, site drainage and details of all plant species including their planting density, shall be submitted to and approved in writing by North Ayrshire Council, as Planning Authority. This restoration

scheme shall be accompanied by a detailed aftercare management plan which shall set out a five year programme of works to ensure the successful implementation of the restoration scheme.

**Reason**

To ensure proper restoration of the site.

**Condition**

5. That within 3 months of the date of the decision the applicant shall submit for the written approval of North Ayrshire Council, as Planning Authority, a schedule of restorations costs.

**Reason**

To review the cost of restoration in the event of the cessation of works on site.

**Condition**

6. That access to the site shall only be by way of the existing access to the landfill site to the south from Kerse Road (C25).

**Reason**

To control the vehicular access to and from the site.

**Condition**

7. That the first 10 metres of the access road shall be retained as hard surfaced.

**Reason**

To prevent loose material from the access surface being brought onto the public road.

**Condition**

8. That the operator shall seek to ensure that no loose material is carried out onto the C25 public road and any which is deposited shall be removed to the satisfaction of North Ayrshire Council, as Roads Authority.

**Reason**

To prevent loose material from the sites surface being brought onto the public road and to ensure any brought on is removed.

**Condition**

9. That vehicles movements associated with the development shall be undertaken only in accordance with the Code of Practice, originally approved in relation to Condition 22 of planning permission 16/00793/PP.

**Reason**

To mitigate any impact on other road users.

**Condition**

10. That clay extraction shall only be permitted between the hours of 7am to 6pm Mondays to Fridays and at no time on Saturdays, Sundays or public holidays unless, in exceptional circumstances, North Ayrshire Council, as Planning Authority, gives prior written approval for clay extraction outwith these times.

**Reason**

To prevent late night, early morning or weekend and public holiday extraction works from causing disturbance to nearby properties, in the interest of neighbouring residential properties.

**Condition**

11. That all topsoil and soil forming material to be stripped shall be stored within the land shown on the approved drawings as being in the applicant's ownership and shall not be taken off site without the written consent of North Ayrshire Council, as Planning Authority.

**Reason**

To ensure a supply of on site soil for the restoration works

**Condition**

12. That all topsoil and soil forming material stockpiles shall be kept free of weeds and shall be seeded to the satisfaction of North Ayrshire Council, as Planning Authority.

**Reason**

To ensure the soil is fit for the purpose of restoration and in the interest of visual amenity.

**Condition**

13. That subsoil and topsoil shall be stored separately from the excavated materials and in the area shown on plans hereby approved to the satisfaction of North Ayrshire Council. Prior to the commencement of the 'Future Works Sector' as identified in drawing Method of Working 5505-103, details of the proposed relocation of the subsoil stockpile will be submitted to North Ayrshire Council, as Planning Authority, for written approval. Works on the 'Future Works Sector' will not commence until such details have been approved and then works will be carried out in accordance with any such details.

**Reason**

To ensure the supply of on site soil is stored in appropriate locations as works progress in the interest of visual amenity.

**Condition**

14. That there shall be no stockpiling of excavated material without the prior written approval of North Ayrshire Council, as Planning Authority.

**Reason**

To prevent stockpiling of extracted clay in the interest of visual amenity.

**Condition**

15. That within 3 months of the date of this decision, details of measures to prevent and control the emission of dust from the site shall be submitted to, and approved in writing by North Ayrshire Council, as Planning Authority.

**Reason**

To ensure adequate procedures to prevent dust emission in the interest of amenity.

**Condition**

16. That in the event of dust produced by the mineral extraction operations hereby approved or by vehicles passing to and from the site constituting nuisance, measures will be taken by the operator to control the dust emissions to the satisfaction of North Ayrshire Council, as Planning Authority.

**Reason**

To ensure dust emission is controlled in the interest of amenity.

**Condition**

17. That any significant unsuspected contamination which becomes evident during the development shall be brought to the attention of North Ayrshire Council, as Planning Authority, together with suitable remediation proposals prior any further works taking place.

**Reason**

To ensure any unknown contamination is reported to North Ayrshire Council and any required remediation carried out in the interests of the local environment and to meet the requirements of Environmental Health.

**Condition**

18. That the operator shall take all necessary measures to control vermin at the site of the operations hereby approved, to the satisfaction of North Ayrshire Council, as Planning Authority.

**Reason**

To prevent accumulative impact from vermin in respect of the adjacent landfill site

**Condition**

19. That any field drainage disturbed or damaged during extraction of the clay shall be made good on completion of the works and all necessary precautions shall be undertaken during the operations to prevent contamination of existing watercourses.

**Reason**

To ensure that any field drains are made good on completion of operations.

**Condition**

20. That any temporary storage of clay shall be located to ensure that any contaminated run-off arising from the stored material does not cause pollution.

**Reason**

To ensure water run off from the site does not cause pollution in the interest of the local environment.

**Condition**

21. That if during the extraction process any standing water requires to be pumped from the void, it shall not be discharged to a water course, unless the prior written approval is obtained from North Ayrshire Council, as Planning Authority.

**Reason**

To ensure any standing water pumped from the site does not cause pollution to water courses in the interest of the local environment.



Karen Yeomans  
Executive Director  
Economy & Communities

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

## Appendix 1 – Location Plan

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