



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Committee

A meeting of the **Planning Committee** of North Ayrshire Council will be held remotely on **Wednesday, 04 November 2020** at **14:00** to consider the undernoted business.

Arrangements in Terms of COVID-19

In light of the current COVID-19 pandemic, this meeting will be held remotely in accordance with the provisions of the Local Government (Scotland) Act 2003. Where possible, the meeting will be live-streamed and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>. In the event that live-streaming is not possible, a recording of the meeting will instead be available to view at this location.

1 **Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2 **Minutes**

The accuracy of the Minutes of meeting of the Committee held on 30 September 2020 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 **Irvine**

Submit reports on the following applications:

3.1 **20/00819/PPM: 16-20 Murdoch Place Oldhall West Industrial Estate Irvine Ayrshire KA11 5DG**

Section 42 planning application to amend condition 1 of planning permission N/19/00539/PPM to facilitate changes to the layout and elevations of the buildings (copy enclosed).

- 4 Kilwinning**
Submit reports on the following applications:
- 4.1 20/00805/PP: Hullerhill Sand Quarry Kilwinning Ayrshire KA13 7QN**
Section 42 planning application to vary condition 1 of planning permission N/19/00542/PP to extend duration of consent (copy enclosed).
- 5 Garnock Valley**
Submit reports on the following applications:
- 5.1 20/00171/PP: Site To North Of Standingstone Hill Kilbirnie Ayrshire**
Formation of access tracks and associated ancillary works for Pundeavon Hydro Electric Scheme (retrospective) (copy enclosed).
- 6 Proposed changes to pre-application consultation (PAC) requirements: consultation by Scottish Government**
Submit a report by the Executive Director (Place) on the Council's response to the consultation on changes to pre-application consultation (copy enclosed).
- 7 The Scottish Government's Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland – Consultation on Phase 1 Proposals**
Submit a report by the Executive Director (Place) on the proposed changes to The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, and (2) seek approval of the response to the consultation on the changes (copy enclosed).
- 8 Urgent Items**
Any other items which the Chair considers to be urgent.

Webcasting - Virtual Meeting

Please note: this meeting may be recorded/live-streamed to the Council's internet site, where it will be capable of repeated viewing. At the start of the meeting, the Provost/Chair will confirm if all or part of the meeting is being recorded/live-streamed.

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If you are participating in this meeting by invitation, you are consenting to being filmed and consenting to the use and storage of those images and sound recordings and any information pertaining to you contained in the them live-streaming/recording or training purposes and for the purpose of keeping historical records and making those records available to the public. If you do not wish to participate in a recording, you should leave the 'virtual meeting'. This will constitute your revocation of consent.

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Planning Committee Sederunt

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

Chair:

Apologies:

Attending:

**Planning Committee
30 September 2020**

Agenda Item 2

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

Present

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

In Attendance

J. Miller, Chief Planning Officer (Planning), A. Craig, Senior Manager, J. Law; Solicitor (Legal Services); S. Paterson, Customer Solutions Technician (ICT); and A. Little and H. Clancy, Committee Services Officers (Chief Executive's Service).

Also In Attendance

A. Gemmell, Strategic Planning Manager, A. Hume, Senior Development Management Officer, I. Davies, Senior Development Management Officer, J. Thompson, Assistant Planning Officer, K. Gee, Technician and L. Dempster, Technician (Planning).

Chair

Councillor Marshall in the Chair.

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

3 20/00676/PP: Site To South And West Of 10 Crompton Way, Irvine

Persimmon Homes have submitted a Section 42 application to amend condition 3 of planning application 19/00908/PPM in respect of the specification for thermal double glazing and acoustic ventilation. No representations were received.

Councillor Marshall seconded by Councillor Foster, moved to approve planning permission to vary a condition under Section 42 of the Town and Country Planning (Scotland) Act 1997 subject to conditions.

There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application subject to the following conditions:

1. That, prior to the commencement of any building operations, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a detailed schedule of the proposed external finishes. Thereafter, the development shall be implemented only in accordance with such details as may be approved, unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.
2. That prior to the commencement of the development hereby approved, the applicant shall submit:
 - Full details of the proposed acoustic barriers,
 - Full details of the proposed noise bund, and
 - A scheme of maintenance for the acoustic barriers and noise bund for the written approval of North Ayrshire as Planning Authority. For the avoidance of doubt the barrier requires to be effective acoustically, such as a close boarded timber fence with a mass per unit of area in excess of 12kg/m² and with no gaps at the joints, or alternatively, a continuous masonry wall. The acoustic barriers shall thereafter be erected in accordance with such details as may be approved and maintained in accordance with such a scheme as may be approved, all to the satisfaction of North Ayrshire Council as Planning Authority.
3. That prior to the commencement of the development hereby approved, the applicant shall provide details of which houses will be provided with thermal double glazing and acoustic ventilation providing sound reduction of a minimum of 29dB_{Rw} for the written approval of North Ayrshire Council as Planning Authority. The applicant shall also provide full details of the proposed thermal double glazing and acoustic ventilation for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the development shall be implemented only in accordance with such details as may be approved, unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.
4. That the rated noise level, as defined in BS4142, from the commercial activities must not exceed the background noise level at the curtilage of any proposed residential property by 5dB(A) or more.
5. That prior to the commencement of the development, hereby approved, the applicant shall undertake a desk study of the application site, (including the review of any previous site investigations) to assess the likelihood of contamination and assist in the design of an appropriate site investigation and subsequent suitable quantitative risk assessment. Remediation proposals shall also be presented in relation to any significant findings.
All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority. Thereafter the presence of any significant unsuspected contamination, which becomes evident during the development of the site, shall be reported to North Ayrshire Council and treated in accordance with an agreed remediation scheme.

The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.

On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted, all to the satisfaction of North Ayrshire Council as Planning Authority.

6. That prior to the commencement of the development the applicant shall assess if a Detailed Air Quality Assessment is required to ensure that the development will not impact ambient air quality at any sensitive receptors and submit the findings to North Ayrshire Council. If required, a Detailed Air Quality Assessment will be submitted to the satisfaction of North Ayrshire Council.
7. That prior to the commencement of the development hereby approved, full details of the drainage arrangements including:
 - post development overland flow paths, attenuation measures and overflow devices,
 - porous paving or linear filter trenches adjacent to car areas/driveways,
 - a maintenance schedule for the proposed drainage assets,
 - a land drainage strategy shall be provided for the written approval of North Ayrshire Council as Planning Authority. The development shall then progress in accordance with such details as may be approved.
8. That, prior to the commencement of the development hereby approved, a scheme of further intrusive site investigations for mine entries and adits shall be undertaken by appropriately qualified persons, the scope of which shall be adequate to fully assess the ground conditions below the site and inform any required remedial works. Thereafter, the applicant or their representative shall prepare and submit a report of findings arising from the intrusive site investigations for the approval of North Ayrshire Council as Planning Authority. Any remediation works which are approved shall then be carried out prior to the commencement of the development.
9. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by North Ayrshire Council as Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.
10. That immediately prior to the commencement of the development hereby approved, a pre-construction badger survey shall be undertaken in order to determine whether any new setts have been established on the site and submitted for the approval of North Ayrshire Council as Planning Authority.

If any setts are discovered, the development shall not progress until a scheme of mitigation has been approved and undertaken, all to the satisfaction of North Ayrshire Council as Planning Authority.

11. That prior to the commencement of the development hereby approved, the applicant shall submit full details of the proposed boundary treatments for the written approval of North Ayrshire as Planning Authority. The development shall then progress in accordance with such details as may be approved to the satisfaction of north Ayrshire Council as Planning Authority.
12. That no development shall take place until there has been submitted to and approved by North Ayrshire Council as Planning Authority a scheme of landscaping, which shall include details of species, planting densities, soil treatment and aftercare and shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of the development.
13. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.
14. That during construction, a 30m buffer shall be established around the four trees identified in the Phase One Habitat Survey (EDI_1952) as being within 30m of the site and having potential for bat roosts. If this cannot be achieved a further tree climbing assessment shall be carried out and If any roosts are discovered, the development shall not progress until a scheme of mitigation has been approved and undertaken, all to the satisfaction of North Ayrshire Council as Planning Authority.

4. The Scottish Planning Policy and Housing – Technical Consultation on Proposed Policy Amendments

Submitted report by Executive Director (Place) on a consultation response on the proposed interim changes to Scottish Planning Policy regarding housing with the response to the consultation set out at Appendix 1 to the report.

The Committee agreed to (a) note the detail of the consultation on proposed policy amendments to Scottish Planning Policy; and (b) approve the consultation response set out at Appendix 1 to the report.

5. Short-term Lets – Consultation a Licensing Scheme and Planning Control Areas in Scotland

Submitted a report by the Executive Director (Place) on proposals for the regulation of short-term lets in Scotland, including through the introduction of planning control areas. Members were advised that the report related to Planning and that the Licensing aspects of the consultation document would be addressed separately.

Members asked questions and were provided with further information in relation to:

- all short-term lets where the host does not normally live will be in the scope of the proposed definition of a short-term let; and
- accommodation requires to be a residential property.

The Committee agreed to add the following to paragraph 2.16 “every short-term let, including those in tenements and flatted accommodation, will be considered on a case-by-case basis as to the requirement for planning permission for change of use”.

The Committee agreed that the observations set out in paragraphs 2.15 to 2.17 of the report form the basis of a response to the Scottish Government on the proposed regulations introducing control areas for short-term lets.

6. Conservation Area Assessments

Submitted report by Executive Director (Place) on the production of 10 Conservation Area Assessments and recommending appropriate actions.

Members asked questions and were provided with further information in relation to:

- the consultation process for the Dreghorn area;
- the inclusion of the old Gate Lodge of Whitehouse within Lamlash Conservation Area; and
- the old police station in Dalry being modern in terms of historic interest and doesn't merit inclusion in the conservation area.

The Committee agreed (a) to note the Assessments and their findings; (b) to approve the recommended alteration of the Conservation Area boundaries at Dalry, Lamlash and Dreghorn; (c) that the Council proceed with the legal process to designate the revised Conservation Areas; and (d) that the Conservation Areas Appraisals be adopted as non-statutory Supplementary Guidance.

The meeting ended at 2.55 p.m.

NORTH AYRSHIRE COUNCIL

4th November 2020

Planning Committee

| | |
|------------------------|---------------------|
| Locality | Irvine |
| Reference | 20/00819/PPM |
| Application Registered | 23rd September 2020 |
| Decision Due | 23rd January 2021 |
| Ward | Irvine South |

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|-----------------------|--------------------------------|
| Recommendation | Approved subject to Conditions |
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|------------------|--|
| Location | 16-20 Murdoch Place Oldhall West Industrial Estate Irvine Ayrshire KA11 5DG |
| Applicant | Doveryard Limited (t/a DY Oldhall Energy Recovery Ltd) |
| Proposal | Section 42 planning application to amend condition 1 of planning permission N/19/00539/PPM to facilitate changes to the layout and elevations of the buildings |

1. Description

At its meeting on 22nd January 2020, the Planning Committee approved planning permission for the development of an energy recovery facility (ERF) on vacant brownfield land at Oldhall West Industrial Estate, Irvine (ref. 19/00539/PPM).

In summary, the development as approved would consist of the clearance of the site (including the demolition of 3 existing industrial buildings) followed by the construction of an industrial facility to sort, separate and process up to 180,000 tonnes of residual commercial and industrial waste as well as municipal solid waste per annum.

The purpose of the development would be the recovery of the energy from waste materials that cannot be recycled, thus avoiding these waste materials going to landfill. Energy recovery would be achieved through incineration. The heat would then be used to produce steam, from which turbines would generate electricity that would both power the plant (3MW) and supply the national grid (12MW). The proposed ERF has also been designed to allow for a "heat offtake" should a suitable end user be identified, most likely be businesses in the surrounding industrial estate and nearby business parks. Heat (either in the form of

steam or hot water) would be exported from the plant using insulated pipes buried underground. In terms of employment, the applicants have estimated that, during the 3-year construction phase, around 200 people would be employed. Once complete, the plant would provide between 25 and 30 jobs.

Following approval of planning permission, further detailed design work has been ongoing in order to prepare for the development, resulting in the need to bring forward some changes to the site layout and the building design. As such, this application has been submitted under s.42 of the Town and Country Planning (Scotland) Act 1997 to amend condition 1, which currently reads as follows:

1. That the development hereby approved shall be implemented in accordance with the details and recommendations contained in the supporting documentation submitted with the planning application unless otherwise indicated below, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason: To secure the implementation of the development in accordance with the supporting information.

In this application, it is not proposed to amend the text of condition 1, but to amend some of "the details contained in the supporting documentation." As such, the application includes details of proposed changes to the layout and building design, which include the following:

Site Layout

The separation between the two main buildings would be closed off. Most smaller elements on the site would remain as previously approved, with some eliminated from the plan altogether. Access arrangements from the public road network would be unchanged, as would the position of the flue stack within the site. The site boundary would remain as previously approved.

As in the previous application, the site would also provide yard areas for vehicle movements and parking. Several additional SuDS ponds, specifically designed to support the local wildlife and ecology, would be located on the eastern part of the site as well as that previously approved to the west.

As previously approved, areas of tree planting would take place near the southeast boundary of the site. Additional planting is now proposed around most of the site boundary. Tree species would be selected to minimise their attraction to birds (for aviation safety reasons).

Materials Recovery Facility (MRF)

This was previously approved as a separate building. It is now proposed to join it to the Energy Recovery Building, resulting in one main building on the site.

Energy Recovery Facility (ERF)

As well as combining the ERF with the MRF to form one single building, there would be an overall height reduction of approximately 8m to a maximum of 40m. The massing of the upper wall areas would be increased in scale along both axes (north-south and east-west). This would result in the building appearing bulkier in scale, although lower in height.

The air condenser plant, previously attached to the ERF, would be separated from the building and occupy a position slightly removed from it. The air condenser plant would be situated to the east and south of part of the main building, thus screening it in views from the north and west. The appearance of the condenser plant has also changed, exposing its structural and functional elements. Previously this had a more 'clad' appearance.

Flue Stack

The 60m high flue stack would previously have been incorporated into the ERF building and would have risen directly out of its northern elevation from a height of approximately 46m.

It is now proposed that the flue stack would be a freestanding structure, sited just to the north of the main building.

No increase is proposed to the previously approved height of 60m, but there would be a significant reduction in its bulk. The stack would now have a cylindrical rather than cuboid form and would rise from ground level. Although the overall height has not increased, the height difference between the top of the building and the top of the flue stack would increase by around 8m. This is due to the proposed reduction in the height of the ERF facility.

The site is around 1.5 hectares in area, and is bounded by Murdoch Place to the north, industrial land to the west and open ground associated with the Oldhall Ponds Wildlife Site to the east and south. The site, which has been levelled, contains three industrial buildings which have been used in the past for waste management purposes. The rest of the site is largely hard surfaced and is clear of vegetation other than several small areas of (unmaintained) amenity grassland. Several spoil heaps, consisting of bricks and rubble, have been tipped around the site.

In addition to various plans and drawings, including 3D visualisations, an Addendum to the Environmental Impact Assessment Report has been submitted. This document describes and explains the proposed changes to the development. It comprises a series of chapters, as follows:

1. Introduction
2. Site description
3. Development proposals
4. Planning policy
5. Landscape and visual impact of the proposed changes
6. Environmental topics not affected by the proposed changes

The application site is located at the southern edge of the Oldhall Industrial Estate to the southeast of Irvine. Oldhall was established during the 1970s by Irvine Development Corporation as a purpose-built location for certain types of incoming industry to Irvine New Town.

There are a variety of industries nearby, including a large recycling plant (Lowmac), a precast concrete block making factory (Hillhouse) and the Council's waste pulverisation plant. Nearby is the large pharmaceutical works of GSK and the UPM paper mill. There are a variety of other small and medium sized businesses in the surrounding area.

The site is accessed from the strategic road network via Moss Drive/Long Drive (B7080) which links to the A78 to the south at Newhouse Interchange and the A71 to the north at Greenwood Interchange.

Oldhall has tended to attract waste processing and yard type business uses. It adjoins a more modern industrial estate to the north, originally known as Riverside and now known as i3. Riverside was designed on 'business park' principles containing office pavilions with parking and high amenity landscaped areas. Oldhall and i3 are separated by mature woodland. It is relatively remote from residential areas.

There is a local nature reserve known as Oldhall Ponds to the south and east of the site. This area covers 13.72 hectares and comprises native woodland with several ponds. There is a pedestrian path around the reserve, the route of which passes relatively close to the southern boundary of the site.

In terms of the adopted Local Development Plan, the site is allocated for business and industry. The following policies are applicable to the consideration of the proposal:

Strategic Policy 1 - The Towns and Villages Objective

Strategic Policy 2 - Placemaking

Policy 7 - Business and Industry Employment Locations Policy 15 - Landscape and Seascape

Policy 16 - Protection of designated sites

Policy 18 - Forestry, Woodland, Trees and Hedgerows Policy 23 - Flood Risk Management

Policy 29 - Energy Infrastructure Development

Policy 30 - Waste Management Facilities

Policy 31 - Future Proofing for Heat Networks

Relevant Development Plan Policies

Strategic Policy 1 (Spatial Strategy) - Towns and Villages Objective

Our towns and villages are where most of our homes, jobs, community facilities, shops and services are located. We want to continue to support our communities, businesses and protect our natural environment by directing new development to our towns and villages as shown in the Spatial Strategy. Within urban areas (within the settlement boundary), the LDP identifies town centre locations, employment locations and areas of open space. Most of the remaining area within settlements is shown as General Urban Area. Within the General Urban Area, proposals for residential development will accord with the development plan in principle, and applications will be assessed against the policies of the LDP. New non-residential proposals will be assessed against policies of this LDP that relate to the proposal.

In principle, we will support development proposals within our towns and villages that:

- a) Support the social and economic functions of our town centres by adopting a town centre first principle that directs major new development and investment to town centre locations as a priority including supporting town centre living.
- b) Provide the right new homes in the right places by working alongside the Local Housing Strategy to deliver choice and variety in the housing stock, protecting land for

housing development to ensure we address housing need and demand within North Ayrshire and by supporting innovative approaches to improving the volume and speed of housing delivery.

c) Generate new employment opportunities by identifying a flexible range of business, commercial and industrial areas to meet market demands including those that would support key sector development at Hunterston and i3, Irvine.

d) Recognise the value of our built and natural environment by embedding placemaking into our decision-making.

e) Prioritise the re-use of brownfield land over greenfield land by supporting a range of strategic developments that will deliver:

- o regeneration of vacant and derelict land through its sustainable and productive re-use, particularly at Ardrossan North Shore, harbour and marina areas, Montgomerie Park (Irvine) and Lochshore (Kilbirnie).

- o regeneration and conservation benefits, including securing the productive re-use of Stoneyholm Mill (Kilbirnie) and supporting the Millport Conservation Area Regeneration Scheme.

f) Support the delivery of regional partnerships such as the Ayrshire Growth Deal in unlocking the economic potential of the Ayrshire region.

Strategic Policy 2 – Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

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

Welcoming

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

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

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

Resource Efficient

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

Easy to Move Around and Beyond

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

Policy 7: Business and Industry Employment Locations

We will, in principle support and promote the development of the locations listed in schedule 5 for business and industry uses. In these locations other employment generating uses may also be supported providing they would not undermine the marketability of the area for business and industry uses. The following are some examples of other employment generating uses that we will consider:

- o General leisure and commercial leisure uses, where there is no sequentially preferable location within town and edge of town centres or commercial centres
 - o Waste recycling and power generation (including renewables)
 - o Non-industrial uses that provide services and amenities for employees in business locations, and that do not undermine the town centre strategy in the LDP (for example nurseries), or the wider function of the industrial areas
 - o A range of other businesses that have difficulties in finding appropriate locations
- For other employment generating uses, including outwith identified employment locations, we will consider the resultant employment density of the proposed development, the impact on the vitality and viability of the area's town centre network, in accordance with Policy 3 Town Centres and Retail, the effect on local transport infrastructure and potential environmental impact.
- We will seek to ensure that infrastructure provision at employment locations is exemplary and will support development which includes superfast broadband provision, heat network connection (or future-readiness), and low carbon technology integration (such as car charging points).

We will monitor the location, size, planning status, existing use, neighbouring land uses and any significant land use issues (e.g. underused, vacant, derelict) within the business land supply.

We will use the appropriate employment densities guide published by the U.K Government to consider potential employment generating uses.

Policy 16 - Protection of our Designated Sites

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

a) Nature Conservation Sites of International Importance

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

b) Nature Conservation Sites of National Importance

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

c) Nature Conservation Sites of Local Importance

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

d) Marine Protected Areas

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

e) Biodiversity Action Plan Habitats and Species

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

f) Protected Species

Development likely to have an unacceptable adverse effect on;

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

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

Policy 18 - Forestry, Woodland, Trees and Hedgerows

Development proposals will only be supported when it would not result in the loss or deterioration of an ancient or long- established plantation or semi-natural woodland unless there are overriding public benefits from the development that outweigh the loss of the woodland habitat.

Where development includes the removal of woodland, the Scottish Government's Control of Woodland Policy and the current Ayrshire and Arran Woodland Strategy including relevant compensatory planting requirements will be taken into account.

Where the loss of trees, hedgerows or woodlands of merit is unavoidable and compensatory planting is required, replacement trees should be of a similar scale and massing to the loss or if smaller there should be additional tree planting committed to ensure a net gain is achieved. We will also expect developers to engage with Forestry Commission Scotland.

We recognise that trees and woodlands are an important yet dynamic part of our landscape. In recognition of this where a tree (or group of trees) is of significant value to public amenity or where they strongly contribute to the character of a Conservation Area, we may consider promoting a formal Tree Preservation Order (TPO). We will normally only do this when there is a clear, pressing and immediate threat to a valuable tree (or group of trees) - not as a matter of course and not in conflict with good arboricultural practice and management. In the case of works to trees covered by a tree preservation order we will support management schemes and maintenance works that adhere to good arboricultural practice.

Generally, we will support proposals for dedicated timber export facilities as well as timber export developments that are combined with other marine based activities on Arran where there are no unacceptable adverse environmental impacts and align with our Placemaking policy. Proposals should also align with Policy 28: Transport as an Economic Driver.

Supplementary Guidance: Trees and Development provides guidance on information required to be submitted as part of planning applications involving tree works as well as matters to consider when designing and constructing development to minimise impacts on trees.

Policy 29 - Energy Infrastructure Development

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

Environmental

- o Communities and individual dwellings - including visual impact, residential amenity, noise and shadow flicker;
- o Water quality;
- o Landscape - including avoiding unacceptable adverse impacts on our landscape designations;
- o Effects on the natural heritage - including birds;
- o Carbon rich soils including peat;

- o Impacts on the historic environment - including scheduled monuments, listed buildings and their settings.

Community

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

Public Safety

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

Proposals should include redundancy plans which will demonstrate how apparatus will be timeously removed as reasonably soon as the approved scheme ceases operation. There may be a requirement for financial bonds to ensure that decommissioning can be achieved. Taking into consideration the above, proposals for wind turbine developments should accord with the Spatial Framework (as mapped) and consider the current Landscape Capacity Study for Wind Farm Development in North Ayrshire. This study will be used as a point of reference for assessing all wind energy proposals including definitions of what small to large scale entails.

Buildings: Low and Zero Carbon Generating Technology

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

This requirement will not apply to:

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

Policy 30 - Waste Management Facilities

Proposals for the development of waste management facilities that align with Scotland's Zero Waste Plan and the Council's Waste Management Strategy, including any ancillary operations, will be supported subject to meeting the following criteria:

- i) Compatibility with surrounding existing and allocated land uses; and
- ii) Satisfactory provision for the mitigation of adverse impacts is secured in relation to the environment, transport, public health and safety; including site restoration, after care plans, buffers of a satisfactory distance between dwellings or other sensitive receptors and screening where appropriate.

Proposals for development that would compromise the operation of waste management facilities would be resisted.

As a general guide, appropriate buffer distances may be:

- o 100m between sensitive receptors and recycling facilities, small-scale thermal treatment or leachate treatment plant;
- o 250m between sensitive receptors and operations such as outdoor composting, anaerobic digestion, mixed waste processing, thermal treatment or landfill gas plant;
- o >250m between sensitive receptors and landfill sites.

Policy 31 - Future Proofing for Heat Networks

We will support proposals for the creation or enhancement of district heat networks in as many locations as possible in North Ayrshire (even when they are initially reliant on carbon-based fuels if there is potential to convert them to run on renewable or low carbon sources of heat in the future.)

2. Consultations and Representations

Neighbour notification was carried out and the application was advertised in a local newspaper in accordance with statutory procedures. No representations have been received. Since the proposal relates only to design changes to the previously approved scheme of development, no consultations were undertaken.

3. Analysis

In accordance with statute, planning applications require to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

Planning Circular 4/1998 states that conditions should only be imposed on planning permissions where they are:

- Necessary,
- Relevant to planning,
- Relevant to the development to be permitted,
- Enforceable,
- Precise, and
- Reasonable in all other aspects.

As noted above, there are ten relevant development plan policies, the first of which is Strategic Policy 1 - The Towns and Villages Objective. This strategic policy states that, in principle, the Council will support development proposals within towns and villages which generate new employment opportunities to meet market demands, with priority given to the re-use of brownfield land. As noted above, the proposed development has the potential to generate around 30 jobs, once the site is operational. The site is also brownfield land, having previously been used for waste management purposes. The proposal is therefore considered to accord with Strategic Policy 1.

The assessment of the proposal against Strategic Policy 2 - Placemaking will take place after consideration of the detailed topic-based policies.

Policy 7 - Business and Industry Employment Locations indicates that proposals for waste recycling and power generation plants are considered to be suitable land uses within the areas of North Ayrshire that have been identified in Schedule 5 of the LDP. The site is within the i3 area of Irvine, which is listed in Schedule 5. Subject to assessment against the other policies below, the proposal would therefore be acceptable in terms of its location within an established industrial site.

In terms of Policy 15 - Landscape and Seascape, the application is supported by a revised landscape and visual impact assessment, which considers the vertical scale of the development and its effects on the surrounding area. The assessment notes the presence of existing industrial buildings and flue stacks nearby, such as UPM and GSK, as well as the relative distance from residential areas. The landscape character type (LCT) of the countryside near the site is defined in the Ayrshire Landscape Character Assessment (1998) as part of the Ayrshire Lowlands. As previously, it is considered that the approach taken in the application to mitigate the apparent height and scale of the buildings through the use of grey coloured banding, and to break-up the massing of the various elements using a series of cuboid shaped 'boxes' is appropriate.

The revised flue design would resemble more closely the existing flue stacks at UPM. In terms of the surrounding land, which is heavily wooded to the immediate south, the proposed buildings and flue would rise above the tops of the trees. However, when viewed from a close distance, such as the nearby footpaths, the trees would filter and obscure direct views of the development. Only when the development is viewed at a greater distance from the site would the true extent of its vertical scale be evident. Nonetheless, the relatively low-lying and flat character of the surrounding landscape would tend to diminish the visual impact of the development, as evidenced by the photomontages which demonstrate that the overall effects of the proposed changes would be localised, with the reduction in building height and change to the flue design not appearing especially significant from many viewpoints. In essence, the development in its revised form would still appear as a relatively small feature within a wide, flat lowland landscape that is already developed with various forms of industry with tall flue stacks and large-scale wind turbines.

The proposal also includes some woodland planting and water features around the site boundary, which would reinforce existing woodland, enhance ecological interests and strengthen the landscaped buffer between the site and the wider countryside beyond the edge of Irvine.

The proposal does not involve development within, nor close to, a national scenic area, special landscape area, wild land area, local landscape feature, conservation area nor would it result in adverse effects on the landscape setting of Irvine. As such, it is considered that the proposal is acceptable in terms of Policy 15.

With regard to Policy 16 - Protection of our Designated Sites, the application site adjoins (but does not directly affect) a local nature conservation site, the Oldhall Ponds, which is managed by Scottish Wildlife Trust

Subject to the implementation of the measures identified in the ecology report and the revised landscaping/pond scheme, it is considered that the proposed development would be acceptable in terms of Policy 16.

Policy 18 relates to Forestry, Woodland, Trees and Hedgerows. The proposals do not involve the clearance of any woodland. Although within close proximity to the woodland at Oldhall Ponds, there is sufficient distance between the site and tree root systems for avoiding any damage to the existing trees. The proposal also involves several areas of new tree planting close to the site boundaries. Taking into account the previous advice from Glasgow Prestwick Airport, the planting design has considered the risk of bird strike to planes flying overhead. As such, trees with berries or fruits would be avoided in the planting scheme, which would most likely be based on similar tree species as found at Oldhall Ponds. Nonetheless, it has been noted that the existing recycling and waste processing facilities nearby attract considerable numbers of birds, especially gulls. In view of this, a condition could be attached in relation to bird control measures for the proposed development (e.g. to reduce the attractiveness of the buildings within the development to birds, rather than the tree planting within the site). The proposal would therefore be acceptable in terms of Policy 18.

Policy 23 relates to Flood Risk Management. The original proposal was supported by a Flood Risk and Drainage Assessment and would feature a SuDS detention basin for the management and treatment of surface water. The proposed design changes would not materially alter the site drainage, and additional SuDS ponds would be introduced on the east side of the site, which would also introduce further ecological benefits as mitigation of environmental impacts. The proposal is therefore acceptable in respect of Policy 23.

Policy 29 addresses the topic of Energy Infrastructure Development and highlights the Council's support for proposals which would contribute positively to our transition to a low carbon economy. No changes are proposed in this respect. As such, the development would meet the requirements of Policy 29.

Policy 30 on Waste Management Facilities requires that proposals align with Scotland's Zero Waste Plan and the Council's Waste Management Strategy. No changes are proposed in this respect. As such, the development would meet the requirements of Policy 30.

Turning to Policy 31 - Future Proofing for Heat Networks, a comprehensive heat plan has been prepared for the proposed development and considered in terms of the previous

application. No changes are proposed in this respect. The proposal can therefore be supported in terms of Policy 31.

Finally, turning to Strategic Policy 2 - Placemaking, the proposal has been assessed in terms of the relevant criteria as follows:

In terms of distinctiveness, the revised design of the proposed building has taken into account its vertical and horizontal scale. It would be broken up into cuboid elements with a colour scheme involving various shades of grey to help reduce its apparent bulk. A similar approach was taken at the UPM paper mill, which is 1km to the south of the application site. The taller buildings at UPM, developed during the late 1980s, are graded in a series of blues, greys and white. Within this flat landscape, where there can be longer views from a variety of visual receptors (such as road and rail corridors, footpaths, open spaces and settlements) this approach has worked successfully. Applying similar principles to the proposed development at Oldhall, which is relatively remote from any housing or residential areas, would offer an appropriate design solution to buildings of this scale.

It is considered that the development would be resource efficient through the use of sustainable water management, recovery of energy from waste materials and the provision of heat and power to nearby industrial sites.

The development is not designed to be adaptable, as it would serve as a dedicated energy generation/waste management use for an estimated 25-year period. However, the site is brownfield in nature and the development would re-use previously developed industrial land in productive manner.

In conclusion, the application to amend the details associated with condition1 is considered to accord with the LDP and the six tests for conditions as set out in Circular 4/1998. Accordingly, the application should be approved subject to the undernoted conditions.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

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

Condition

1. That the development hereby approved shall be implemented in accordance with the details and recommendations contained in the supporting documentation submitted with the planning application unless otherwise indicated below, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To secure the implementation of the development in accordance with the plans and supporting information.

Condition

2. That prior to the commencement of the development, hereby approved, the applicant shall carry out a programme of site investigations at the application site, (including the review of any previous site investigations) to assess the likelihood of contamination and to inform any subsequent suitable quantitative risk assessment as advocated in BS10175: 2011. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to North Ayrshire Council as Planning Authority. Any required remediation measures shall be undertaken, prior to the commencement of the development to the satisfaction of North Ayrshire Council as Planning Authority. Thereafter the presence of any significant unsuspected contamination, which becomes evident during the development of the site, shall be reported to North Ayrshire Council and treated in accordance with an agreed remediation scheme. On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted to the North Ayrshire Council as Planning Authority.

Reason

In the interests of environmental protection.

Condition

3. That, for the avoidance of doubt, surface water arising from the development of the site shall be treated and managed using a SuDS system. Prior to the commencement of the development, hereby approved, confirmation shall be submitted in writing to North Ayrshire Council as Planning Authority and certified by a suitably qualified person that a scheme to treat the surface water arising from the site has been prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C753, published November 2015). Thereafter, the certified scheme shall be implemented prior to the completion of the development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In the interests of securing a sustainable drainage scheme for the development.

Condition

4. That, prior to the commencement of any building operations, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a detailed schedule of the proposed external finishes (inclusive of colour scheme), boundary treatments and ground surface treatments to be used in the development. For the avoidance of doubt, there shall be no natural lighting panels on the external walls of the turbine hall. Thereafter, the development shall be implemented only in accordance with

such details as may be approved, unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

Reason

To mitigate landscape and visual impacts and in the interests of amenity.

Condition

5. That the development shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority in accordance with the details set out in the 'Design Principles Briefing Note - Acoustics' as prepared by SOL Environment Ltd dated 12th November 2019, unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

Reason

To ensure that an appropriate strategy is implemented during the construction of the development for the attenuation of low frequency noise generated by the Energy Recovery Facility.

Condition

6. That, prior to the commencement of any landscaping of the site, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a scheme of tree planting, which shall include details of species, planting densities, soil treatment and aftercare. In addition, the tree species to be selected for the scheme shall be similar to the trees within the adjacent woodland at Oldhall Ponds. Trees which produce berries or fruits attractive to birds shall be excluded from the scheme. Thereafter, the tree planting scheme as may be approved shall be implemented prior the development becoming operational and retained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To mitigate landscape and visual impacts and in the interests of amenity.

Condition

7. That the flue stack shall be fitted within an omni-directional red warning light which requires to be commissioned immediately upon erection of the stack. The warning light shall be operated continuously during hours of darkness and permanently retained in working condition thereafter unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

Reason

In the interests of aviation safety.

Condition

8. That, following the removal of all recyclable materials within the Materials Recovery Facility within the development, the feedstock for the Energy Recovery Facility shall be limited to non-hazardous materials derived from municipal, commercial and industrial sources. The plant shall be designed to operate up to a maximum tonnage of 180,000 tonnes of refuse derived fuel per annum. For the avoidance of doubt, there shall be no food waste, medical waste or hazardous waste accepted at the site.

Reason

To define the terms and limitations of the consent in relation to the scope of the application.

Condition

9. That the development shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority in accordance with the details set out in the 'Design Principles Briefing Note - Efficiency' as prepared by SOL Environment Ltd dated 12th November 2019, unless otherwise agreed in writing with North Ayrshire Council as Planning Authority.

Reason

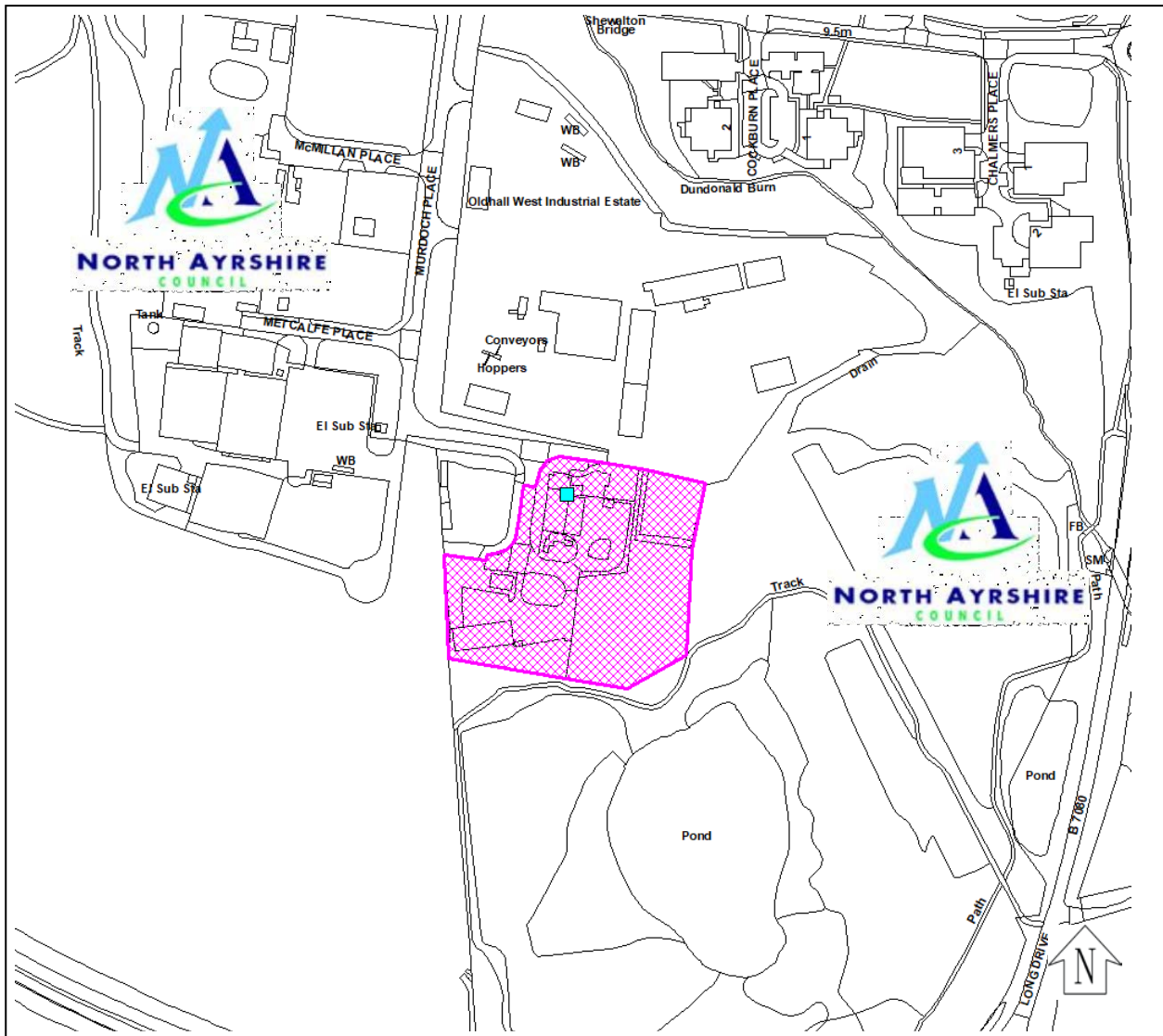
To ensure that an appropriate strategy is implemented for utilising the heat generated by the Energy Recovery Facility.

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

4th November 2020

Planning Committee

| | |
|------------------------|---------------------|
| Locality | Kilwinning |
| Reference | 20/00805/PP |
| Application Registered | 16th September 2020 |
| Decision Due | 16th November 2020 |
| Ward | Kilwinning |

| | |
|-----------------------|--------------------------------|
| Recommendation | Approved subject to Conditions |
|-----------------------|--------------------------------|

| | |
|-----------------|---|
| Location | Hullerhill Sand Quarry Kilwinning Ayrshire KA13 7QN |
|-----------------|---|

| | |
|------------------|-----------------|
| Applicant | Hugh King & Co. |
|------------------|-----------------|

| | |
|-----------------|--|
| Proposal | Section 42 planning application to vary condition 1 of planning permission N/19/00542/PP to extend duration of consent |
|-----------------|--|

1. Description

On 4th December 2019, the Planning Committee granted a temporary (12 month) planning permission for an amendment to condition 8 of the governing planning consent for mineral workings at Hullerhill Quarry (ref. 19/00542/PP). The condition, as approved, reads as follows:

That no extraction, aggregate processing or despatch work shall be undertaken at the site outwith the hours of 0600 to 1900 Monday to Friday and 0600 to 1200 (noon) on Saturdays. The operation of the drying plant and mortar plant is permitted during the hours of 0600 to 2100 Monday to Friday, 0600 to 2000 on Saturdays and 0700 to 2000 on Sundays. Outwith these hours, activities shall be limited to maintenance, emergency works, dust suppression, pumping and testing of plant and equipment, all to the satisfaction of North Ayrshire Council as Planning Authority. This condition shall have effect for a temporary period of 1 year and shall expire on 4th December 2020, unless otherwise agreed in writing.

As the temporary period of 1 year is due to expire within a month, the applicant is seeking planning permission to extend the time period under the terms of this condition until 21st February 2042 in order to align with the expiry date of the governing planning consent for quarry operations at Hullerhill.

It is therefore proposed to substitute the final sentence of the above condition with the following:

This condition shall have effect for a temporary period and shall expire on 21st February 2042, unless otherwise agreed in writing”.

(Note: this date is the current estimate for the planned closure of the quarry, based on projected rates of extraction).

Under the terms of permission ref. 14/00656/DCMS granted under the Review of Old Minerals Permissions (ROMP) process during 2014, Hullerhill Quarry had the right to undertake extraction, processing and despatch work between 0600 hours and 1900 hours on Mondays to Fridays, and 0600 hours to 1200 hours on Saturdays, with no Sunday working other than maintenance, emergency works, dust suppression, pumping and testing.

In 2019, the ownership of the quarry changed, and the new owners applied to make some changes to two of the 2014 planning conditions (ref. 19/00542/PP).

The effect of the changes approved by the Planning Committee on a temporary ‘trial’ basis in December 2019 enabled some types of working at the quarry to take place until 2100 hours on Mondays – Fridays and until 2000 hours on Saturdays. Whilst opening the site at 0600 hours remained in place for Monday – Saturdays, the later start time of 0700 hours was put in place for Sunday working.

The types of working permitted until 2100 hours on Mondays to Fridays is limited to extraction, aggregate processing or despatch work. The time limit for this type of working must cease at 2000 hours on Saturdays. Extraction, processing or despatch work is not permitted on Sundays.

The other types of work permitted under the condition relate to the operation of the drying plant and mortar plant. These facilities can be operated between 0600 hours and 2100 hours during Mondays to Fridays, with reduced hours at weekends (0600 to 2000 on Saturdays and 0700 to 2000 on Sundays).

The extension of working hours was subject to a further condition relating to the control of noise limits. Although the noise limit condition is not the subject of the current application, it was also subject to the expiry date of 4 December 2020. Accordingly, the noise limit condition also requires to be considered at this time in order to ensure proper controls remain in place after 4th December 2020.

A Supporting Statement has been submitted with the application which indicates that the site has operated under the new operating hours since December 2019. The site was temporarily closed due to the COVID-19 lockdown between 24th March and 11th May 2020, after which it re-opened to provide supplies to essential NHS projects. The Supporting Statement notes that, to date, there have been no complaints made to the Council since the revised hours were put in place.

Hullerhill Quarry is located approximately 1.6km northeast of Kilwinning. The mineral resource at Hullerhill is sand for the construction industry, as well as the production of refined sand for use in golf courses and the leisure sector.

In terms of the adopted Local Development Plan (LDP), Hullerhill Quarry is located within the countryside where Strategic Policy 'The Countryside Objective' applies. Consideration of applications relating to mineral extraction is covered under Policy 33 - 'Responsible Extraction of Mineral Resources'. The Placemaking Policy applies to all applications for planning permission.

Relevant Development Plan Policies

SP1 - The Countryside Objective

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes.

We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

We also recognise that, in general, countryside areas are less well suited to unplanned residential and other developments because of their lack of access to services, employment and established communities. We will seek to protect our prime and locally important agricultural land from development except where proposals align with this spatial strategy. In principle, we will support proposals outwith our identified towns and villages for:

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.
- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms.
- d) tourism and leisure uses, where they would promote economic activity, diversification and sustainable development, particularly where they develop our coastal tourism offer/ infrastructure.
- e) developments which result in the reuse or rehabilitation of derelict land or buildings (as recognised by the Vacant and Derelict Land Survey) for uses which contribute to the Green and Blue Network such as habitat creation, new forestry, paths and cycle networks.
- f) sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.
- g) small-scale expansion of settlements on Arran and Cumbrae for community led proposals for housing for people employed on the island, where a delivery plan is included, and infrastructure capacity is sufficient or can be addressed by the development and where the proposal meets an identified deficiency in the housing stock and is required at that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.
- h) new housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.
- i) sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Additions will be limited to 50% of dwellings existing in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).

Strategic Policy 2 - Placemaking

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

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

Six qualities of a successful place

Distinctive

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

Welcoming

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

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

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

Resource Efficient

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

Easy to Move Around and Beyond

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

Detailed Policy 33 - Responsible Extraction of Mineral Resources

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

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

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

2. Consultations and Representations

The application was subject to the statutory neighbour notification procedures, which included the publication of a notice in a local newspaper. One letter of representation has been received. The points raised have been summarised below:

1. The main disturbance is the dramatic increase in noise early in the morning. Sleep is disturbed nearby every working day (six days per week) between 0545 and 0630. There is a significant increase in traffic accessing the quarry from 0540, (up to 13 vehicles have been noted). The plant is then started at 0600 and shortly after a number of lorries exit the quarry.

Response: Noted. However, this matter has already been referred to the quarry operator during September 2020 for their response and action. The current application does not seek to change the time that the quarry can open at in the morning.

2. There has been a steady increase in lorry movements throughout the day, with lorries 'importing' sand from other sites for processing.

Response: Noted. This matter will require to be investigated separately since it is outwith the scope of the current application.

3. It is stated in the supporting information and in the Environmental Health consultation response (below) that no complaints have been made about the temporary change to working hours granted in December 2019. However, a complaint made during September 2020 resulted in the quarry being contacted for a response rather than Environmental Health.

Response: The noise limits recommended by Environmental Health would continue to be the subject of a planning condition, as set out below.

4. Other neighbours to the quarry have a range of complaints including noise and light disturbance, contaminated water run-off and blowing sand.

Response: To date, these matters have not been the subject of complaints and are outwith the scope of the current application.

Consultations

NAC Active Travel & Transport - no objection.

Response: Noted.

NAC Environmental Health - no objections to the proposed time extension to 21st February 2042, subject to continued compliance with the following condition:

1. The rated noise level, as defined in BS 4142:2014+A1:2019, from the operation of the plant and equipment, must not exceed the background noise level by 10dB(A) or more at the curtilage of any noise sensitive property over a reference period of 1 hour during the hours to which this application relates (1900-2100 hours Monday to Friday, 1200-2000 hours on Saturday and 0700-2000 hours on Sunday).

The applicant had previously commissioned an appropriate background noise assessment to be undertaken and its results demonstrate that the above noise limit will be complied with during the proposed hours outlined in the proposed condition. No complaints have been received by Environmental Health.

Response: Noted. The above condition is due to expire on 4th December 2020 and would require to be re-imposed. See Analysis.

3. Analysis

Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with condition(s) subject to which a previous permission was granted. Section 42 of the Act stipulates that in this type of application the "planning authority shall consider only the question of the conditions subject to which permission should be granted."

Circular 4/1998 sets out the tests for planning conditions, as follows:

- Need for a Condition

- Relevance to Planning
- Relevance to the Development to be Permitted
- Ability to Enforce
- Precision
- Reasonableness

The determining issue in this case is whether the proposed modifications to the condition attached to the previous grant of consent would accord with the relevant LDP policies.

In terms of the adopted LDP, the Countryside Objective seeks to "encourage opportunities for our existing rural communities and businesses to grow" whilst protecting the countryside and promoting sustainable development. The proposed variation to two planning conditions which govern the operation of Hullerhill would enable a long-established quarry business to grow and provide certainty over the next two decades, in alignment with the ROMP consent granted by the Council in 2014. As such, the proposal would accord with the Countryside Objective.

Policy 33 'Responsible Extraction of Mineral Resources' supports the conventional extraction of sand, gravel, coal and peat, subject to meeting a range of criteria. As Hullerhill Quarry has been established for the past 100 years or more, there is no requirement to justify the principle of development in this case. There is already a suite of planning conditions in place, approved by the Council in 2014, which provide the basis for the regulation of day to day operations in accordance with modern working practices as well as a site restoration and aftercare plan.

Following a trial period of evening working for much of 2020, during which no complaints were received by the Council, it is considered that the proposed time extension at Hullerhill Quarry be permitted on a more permanent footing.

The Placemaking Policy aims to safeguard, and where possible enhance environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. Whilst the hours of operation would be permanently extended into late evening hours, there would be no working after 2100. Subject to adherence to the previously approved condition on noise limits, unacceptable adverse noise impacts on local residents could be avoided. It is considered that this outcome would result in an appropriate balance between the need to ensure the economic viability of the quarry and the protection of residential amenity in the rural area around Hullerhill.

In applying the Circular 4/1998 tests for conditions to the proposal, it is considered that the proposed variations would meet all six tests.

There are no other material considerations. Accordingly, it is considered that planning permission could be granted for the extended working hours on a permanent basis, subject to the additional condition as required by Environmental Health. Following the expiry of the temporary period in December 2020, this would extend the opportunity to undertake evening working at Hullerhill until 21st February 2042.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

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

development plan, so far as material to the application, and to any other material considerations.

Condition

1. That no extraction, aggregate processing or despatch work shall be undertaken at the site outwith the hours of 06.00 to 19.00 Monday to Friday and 06.00 to 12.00 noon on Saturdays. The operation of the drying plant and mortar plant is permitted during the hours of 06.00 to 21.00 Monday to Friday, 06.00 to 20.00 on Saturdays and 07.00 to 20.00 on Sundays. Outwith these hours, activities shall be limited to maintenance, emergency works, dust suppression, pumping and testing of plant and equipment, all to the satisfaction of North Ayrshire Council as Planning Authority. This condition shall have effect for a temporary period and shall expire on 21st February 2042, unless otherwise agreed in writing.

Reason

To safeguard the amenity of the surrounding area.

Condition

2. That noise from the development during the hours 06.00 to 19.00 Monday to Friday and 06.00 to 16.00 on Saturdays shall not exceed 55dB LAeq, 1hour (free field) at any noise-sensitive premises, except noise from soil stripping or landscape operations. Noise from the development during the hours 19.00 to 21.00 on Mondays to Fridays, 12.00 - 20.00 on Saturdays and 07.00 to 20.00 on Sundays shall not exceed 45dB LAeq, 1hour (free field) at any noise-sensitive premises, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

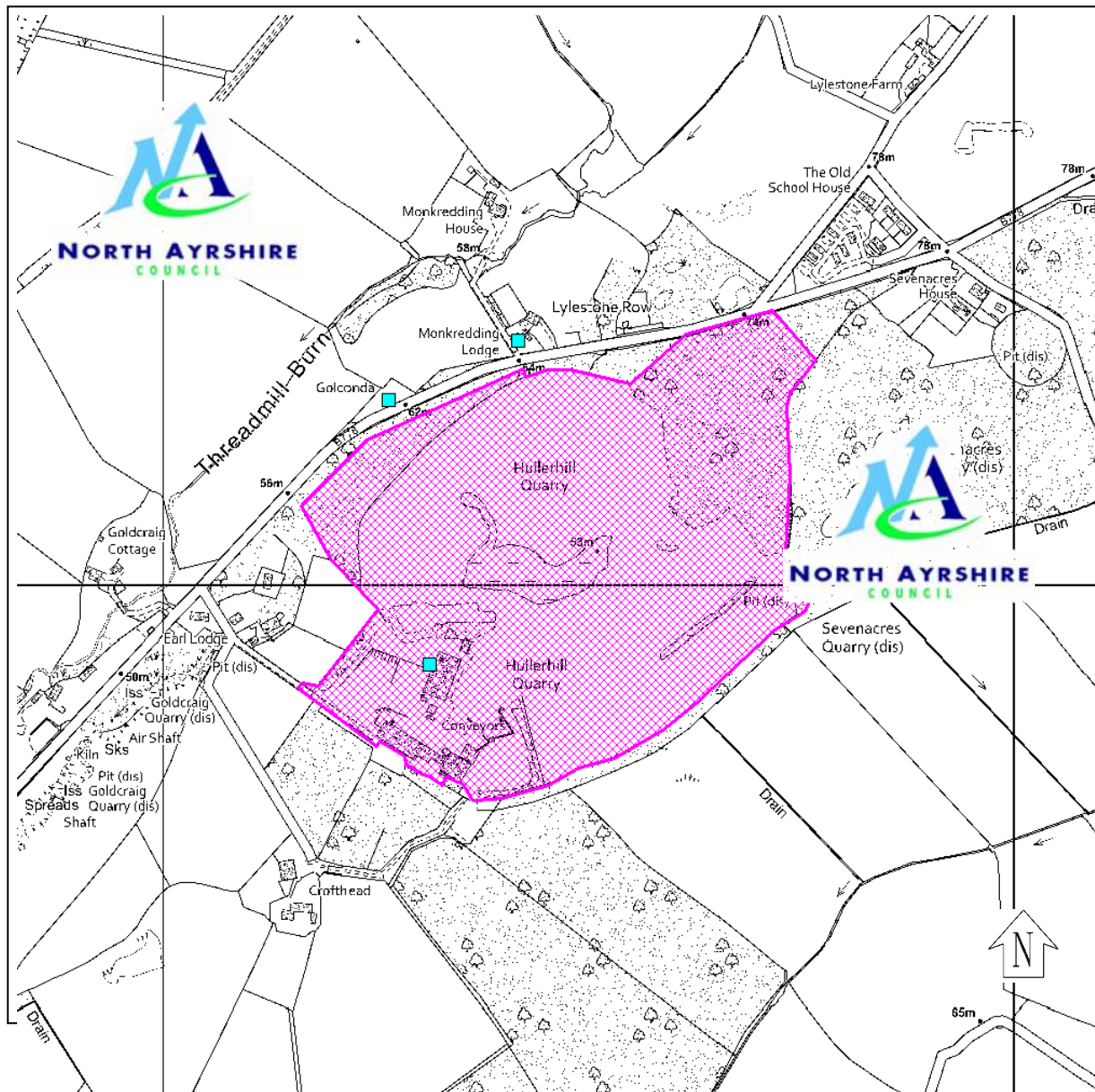
To limit the impact of noise on neighbouring properties.

Russell McCutcheon
Executive Director (Place)

For further information please contact **Mr A Hume Senior Development Management Officer** on **01294 324 318**.

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

4th November 2020

Planning Committee

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

| | |
|-----------------------|--------------------------------|
| Recommendation | Approved subject to Conditions |
|-----------------------|--------------------------------|

| | |
|-----------------|--|
| Location | Site To North Of Standingstone Hill Kilbirnie Ayrshire |
|-----------------|--|

| | |
|------------------|---|
| Applicant | Ashrona Power Systems Limited Fao Mr Austen Brown |
|------------------|---|

| | |
|-----------------|---|
| Proposal | Formation of access tracks and associated ancillary works for Pundeavon Hydro Electric Scheme (retrospective) |
|-----------------|---|

1. Description

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

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

The background to the application is as follows:

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

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

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

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

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

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

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

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

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

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

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

The following detailed policies are also of relevance:

Policy 15 - Landscape and Seascape

Policy 16 - Protection of our Designated Sites

Policy 17 - Clyde Muirshiel Regional Park

Policy 29 - Energy Infrastructure Development

Policy 34 - Protecting Peatland and Deep Carbon Soils

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

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

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

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

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

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

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

Relevant Development Plan Policies

Strategic Policy 1 (Spatial Strategy)

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

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

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

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

Strategic Policy 2 (Placemaking)

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

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

Six qualities of a successful place

Distinctive

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

Welcoming

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

Safe and Pleasant

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

Adaptable

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

Resource Efficient

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

Easy to Move Around and Beyond

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

Policy 15 - Landscape & Seascape

We will support development that protects and/or enhances our landscape/seascape character, avoiding unacceptable adverse impacts on our designated and non-designated landscape areas and features. In particular, we will consider the following:

a) National Scenic Areas

Development that affects the North Arran National Scenic Area including the need to protect existing sport and recreation interests, will only be supported where:

- i) the objectives of the designation and the overall integrity of the area will not be compromised; or
- ii) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

b) Special Landscape Areas

We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting.

c) Wild Land

We will only support development within Wild Land areas where any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

d) Local Landscape Features

Where appropriate, development should take into consideration its individual and cumulative impacts on landscape features, including:

- i) patterns of woodlands, fields, hedgerows and trees;
- ii) lochs, ponds, watercourses, wetlands, the coast and wider seascape;
- iii) settlement setting, including approaches to settlements;
- iv) the setting of green network corridors, such as important transport routes and the cycle and footpath network;
- v) historic, natural and recreational features of interest, skylines and hill features, including important views to, from and within them.

For all development with the potential to have an impact on either Landscape Character or Landscape features (including their setting), appropriate mitigation measures should be considered as part of any planning application. Where there is potential for development to result in significant adverse landscape/visual impact, a landscape and visual impact assessment (LVIA) will be required. The Ayrshire Landscape Character Assessment (SNH, 1998) and North Ayrshire Settlement Development Strategy (Entec, 2008) provide further information on designations such as Local Landscape Character Areas and the Potential Limit of Development Expansion areas as shown on the map on page 81 and on our online proposals map. These landscape assessment documents, and any new or updated landscape assessments, will be key considerations in determining whether development proposals would be acceptable within the landscape.

Policy 16 - Protection of our Designated Sites

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

a) Nature Conservation Sites of International Importance

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

b) Nature Conservation Sites of National Importance

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

c) Nature Conservation Sites of Local Importance

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

d) Marine Protected Areas

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

e) Biodiversity Action Plan Habitats and Species

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

f) Protected Species

Development likely to have an unacceptable adverse effect on;

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

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

Policy 17 - Clyde Muirshiel Regional Park

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

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

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

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

Policy 29 - Energy Infrastructure Development

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

Environmental

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

Community

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

Public Safety

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

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

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

Buildings: Low and Zero Carbon Generating Technology

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

This requirement will not apply to:

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

Policy 34 - Protecting Peatland and Carbon Rich Soils

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

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

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

2. Consultations and Representations

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

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

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

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

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

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

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

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

Objection

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

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

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

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

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

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

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

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

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

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

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

3. Analysis

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

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

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

The following detailed policies require to be considered:

Policy 15 - Landscape and Seascape

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

Part (c) states "we will only support development within Wild Land Areas where any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation."

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

Policy 16 - Protection of our Designated Sites

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

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

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

Policy 17 - Clyde Muirshiel Regional Park

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

Policy 29 - Energy Infrastructure Development

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

Policy 34 - Protecting Peatland and Carbon Rich Soils

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

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

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

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

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

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

Condition

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

Reason

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

Condition

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

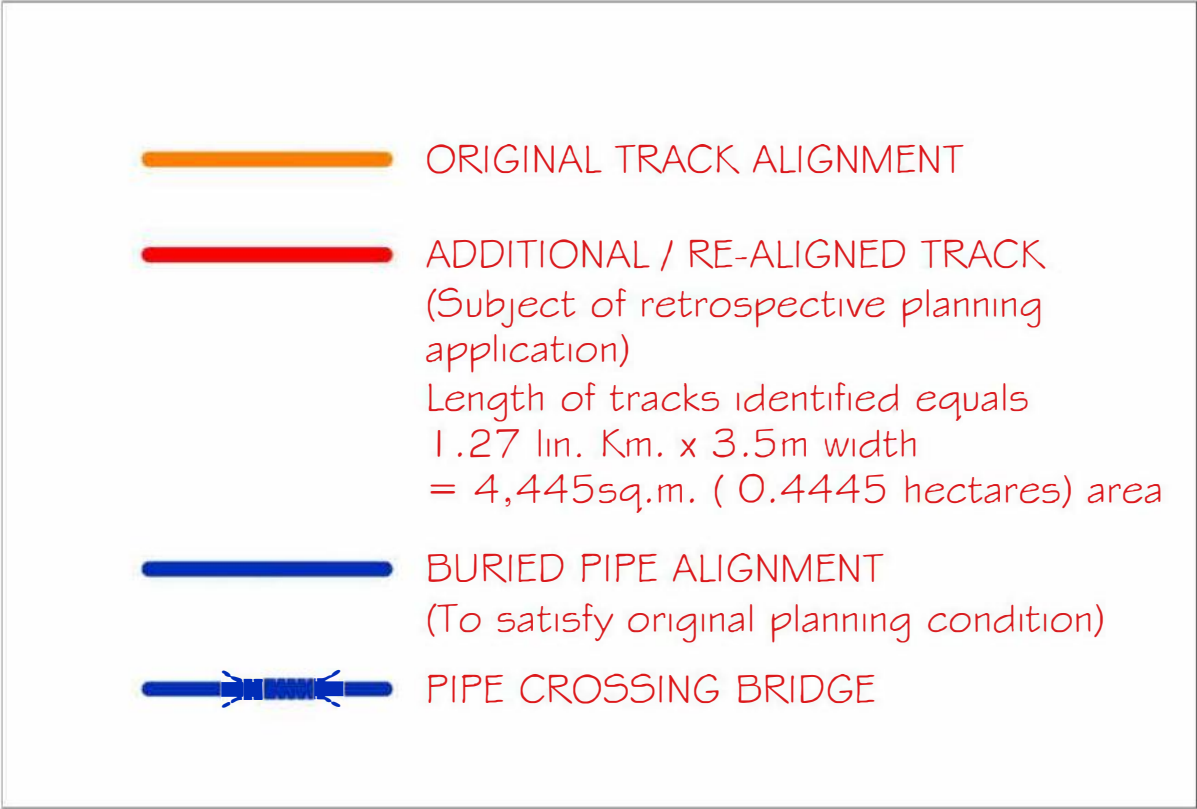
Reason

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

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan



NORTH AYRSHIRE COUNCIL

4 November 2020

Planning Committee

| | |
|------------------------|---|
| Title: | Proposed changes to pre-application consultation (PAC) requirements: consultation by Scottish Government |
| Purpose: | To approve the Council's response to the consultation on changes to pre-application consultation. |
| Recommendation: | That the Planning Committee approves the consultation as per Appendix 1. |

1. Executive Summary

- 1.1 The requirement for Pre-Application Consultation (PAC) was first introduced in 2009 as part of a wide-ranging package of reforms to the Planning System in Scotland. One of the key elements of PAC is the need for prospective applicants to hold at least one public event in the community affected by a major development proposal in advance of the submission of the major category planning application.
- 1.2 A consultation was published by the Scottish Government in August 2020 recommending an additional public event to allow for greater discussion of proposals.
- 1.3 A draft response to the consultation has been prepared and is attached as Appendix 1 to this report.

2. Background

- 2.1 PAC applies to major and national applications. It requires prospective applicants to consult with local communities affected by proposed major developments before submitting their planning applications to the local planning authority. For example, all housing developments over 50 units are categorised under the major applications category. In North Ayrshire, there have been over 80 major planning applications submitted to and considered by the Council under the current arrangements, mostly for housing developments. Over this period, there have been no national developments in North Ayrshire.
- 2.2 The proposed changes to PAC are the first part of a wider package of measures aimed at improving community engagement in planning matters and building public trust.

- 2.3 The proposals for changing PAC follow a report by the Independent Panel which was tasked with reviewing the Scottish Planning system, 'Empowering Planning to Deliver Great Places' (May 2016).
- 2.4 The Empowering Planning report referred to concerns that PAC can be a 'tick box' exercise and that there was a lack of feedback to communities on their views in the pre-application phase – i.e. prior to the finalised application being made. Although they are required to listen and consider the views of communities, prospective applicants are not bound to make changes to their proposals as a result of PAC.
- 2.6 The report recommended an additional public event to allow for greater discussion of proposals. Subsequent consultation indicated a need for clarity and transparency. Accordingly, the current consultation seeks views on the outcome of previous work prior to the Scottish Government taking forward the proposed legislative changes.
- 2.7 The Scottish Government advise that the proposed changes to PAC are the first part of a wider package of measures aimed at improving community engagement in planning matters and building public trust.

3. Proposals

- 3.1 It is proposed that the Council responds to the 20 questions set out in the PAC consultation as per the responses provided in Appendix 1.
- 3.2 In summary, it is recommended that the Planning Committee agrees that a second public event should be held as part of PAC in order to ensure the views of local communities are more fully considered when major and national planning applications are being prepared.

4. Implications/Socio-economic Duty

Financial

- 4.1 None.

Human Resources

- 4.2 None.

Legal

- 4.3 The consultation relates to proposed changes to the planning legislation. If changes are enacted by the Scottish Parliament, the Council would have a duty to ensure their implementation as part of its statutory planning functions.

Equality/Socio-economic

- 4.4 The consultation aims to improve equality in relation to public participation on major and national planning applications.

Environmental and Sustainability

4.5 None directly associated with the consultation.

Key Priorities

4.6 The proposed changes to PAC would support the Council's Priority for Aspiring Communities of 'Active and Strong Communities'.

Community Wealth Building

4.7 None.

5. Consultation

5.1 This committee item reports on and outlines a response to a current Scottish Government consultation. Its purpose is to help the Scottish Government ensure that legislation to be laid at the Scottish Parliament has been subject to public consultation across Scotland.

RUSSELL McCUTCHEON
Executive Director (Place)

For further information please contact **Anthony Hume, Senior Development Management Officer**, on **01294 324 318**.

Background Papers

<https://consult.gov.scot/planning-architecture/pre-application-consultation-requirements/>

Appendix 1

Consultation on Proposed Changes to Pre-Application Consultation Requirements in Planning (Scottish Government, 13th August 2020)

Response by North Ayrshire Council

1. Do you agree with the proposal to require the PAC information, which is to be made available to the public, to be available by both electronic means and in 'hard copy' format?

Response: Yes. However, hard copy formats should be placed in public libraries or other public buildings accessible to the community affected by the proposal, in addition to the Council's Planning office.

2. Please give us details of your experience using online alternatives to public events during the COVID-19 emergency?

Response: North Ayrshire has had no experience of online alternatives to public events since no major applications have been proposed during the COVID-19 emergency, to date.

3. Do you agree with the proposal to make a second physical public event a minimum requirement of PAC?

Response: Yes, and would also consider the need to significantly enhance digital methods including the use of webinars and other forms of online public engagement. The presentation materials typically used in 'drop-in' type public events often do not provide members of the public with an adequate understanding of development proposals. More use of 3D modelling technology, for viewing remotely, would greatly assist. Traditional 2D photos, artist's impressions and architectural drawings can fail to convey essential spatial impacts.

4. Do you agree that a second physical public event required as part of PAC must include feedback to the public on their earlier engagement in PAC?

Response: Yes, as well as a commitment to the concept of 'You Said, We Did' as used by North Ayrshire Council during several of its major school campus projects in recent years.

5. Do you agree with the proposed minimum time period between the required public events in PAC?

Response: Yes we agree that the proposed minimum time period of 7 days is appropriate.

6. Do you agree with the proposed requirement for an additional newspaper notice for the second required public event?

Response: No. Those who participated in the first event should be invited to comment again and other publicity measures to the wider community should be more targeted.

7. Do you agree with the proposed list of required content for PAC reports?

Response: Yes, since this may help to provide a consistency in report format in the interests of legibility, transparency and accountability.

8. Do you agree with the PAC exemption being limited to the same applicant who made the earlier application?

Response: Yes.

9. Do you agree with the circumstances regarding an 'earlier application' (withdrawn, refused, etc.) in which a second application would be able to get exemption from PAC?

Response: Yes. Over-consultation with communities can be a source of fatigue although in situations where there has been significant opposition to a development that was subsequently approved, there may be concerns over this approach.

10. Do you agree with the approach to linking the description of the proposal in the earlier application and that in the second application for the purposes of a PAC exemption?

Response: Yes.

11. Do you agree that the exemption from PAC should be linked to the content of the PAN served in relation to PAC for the earlier application?

Response: Yes as the amendments would not be substantial.

12. Do you agree with the proposed time limit on exemptions from PAC?

Response: Yes (18 months).

13. Do you agree with the proposed transitional arrangements for bringing into force the new PAC requirements, including the time limit for making applications to which PAC requirements apply?

Response: Yes.

14. Please give us your views on the proposed approach to pre-application engagement with disabled people?

Response: The issue of disability has not been fully explored in the consultation other than to note that guidance would be prepared. In considering such guidance, due regard must be had to the wide range of disabilities which may affect the potential of an individual or group to engage with public consultations. Disability is not simply about access and a much wider range of factors which needs to be taken into account in the guidance.

15. Please tell us what issues you think should be covered in guidance for PAC?

Response: First and foremost, guidance should be clear, concise and easy to follow. It should avoid constant use of acronyms and jargon, and should be clear enough for prospective applicants to follow, with flow charts to assist the route they need to pursue. Timelines should be clearly indicated so that a 'step by step' approach is embedded. The guidance should be unambiguous and thus avoid the need for interpretation by planning authorities, to minimise variations in practice between authorities. There should be separate guidance for the public to follow too.

16. Please give us any views you have on the content of these partial BRIA (Business and Regulatory Impact Assessment) and combined EQIA/CRWIA (Combined Equalities and Child's Rights and Welfare Impact Assessment).

Response: No comments.

17. Do you have or can you direct us to any information that would assist us in finalising the BRIA and combined EQIA/CRWIA?

Response: No comments.

18. Please give us your views on the Island Communities Impact Assessment screening paper and our conclusion that a full assessment is not required.

Response: No comments.

19. If you consider that a full Island Communities Impact Assessment is required, please suggest any information sources that could help inform that assessment.

Response: No comments.

20. Please give us any general comments on the PAC proposals or related issues not covered by earlier questions.

Response: No further comments.

NORTH AYRSHIRE COUNCIL

4th November 2020

Planning Committee

| | |
|------------------------|--|
| Title: | The Scottish Government's Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland – Consultation on Phase 1 Proposals |
| Purpose: | To (1) advise of consultation on proposed changes to The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, and (2) seek approval of the response to the consultation on the changes. |
| Recommendation: | It is recommended that Planning Committee: 1) notes the detail of the consultation on proposed policy amendments to The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, 2) approves the submission of the response to the consultation, as set out at Appendix 1. |

1. Executive Summary

- 1.1 Scottish Ministers are consulting on proposed changes and extensions to Permitted Development Rights (PDR). The proposed changes relate to the development types selected as priorities for Phase 1 of their review of PDR. Those development types are:
- Digital telecommunications infrastructure;
Agricultural developments;
Peatland restoration;
Developments relating to active travel
- 1.2 A review of issues such as town centre changes of use, electric vehicle charging, hill tracks and householder developments will be carried out in Phase 2 and beyond, programmed to start in January 2021.
- 1.3 Appendix 1 would represent the response of the Council, as Planning Authority. In summary the response is broadly in agreement with the proposals except in relation to PDR for changes of use for agriculture buildings.

2. Background

- 2.1 The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, ("the GPDO") sets out the types of development that can be undertaken without seeking permission from a Planning Authority. Such development

is known as Permitted Development. And the GPDO sets out the Permitted Development Rights (PDR).

- 2.2 **Digital telecommunications infrastructure** – currently PDR allow works including the installation and alteration of masts, antennae and other associated equipment on and under the ground and on buildings, subject to certain conditions.
- 2.3 The proposed changes mainly seek to increase existing size limits for PDR for digital infrastructure, i.e. new masts, extensions to existing masts, antennae and other equipment on buildings, equipment cabinets on the ground and on buildings, other apparatus, and underground equipment; and extend PDR for some types of digital infrastructure into sensitive areas, subject to lower size/height limits than elsewhere.
- 2.4 For example the current PDR allows installation of a ground-based mast up to 25m in height, outside 'designated areas,' subject to a prior approval process. It is proposed to increase this to 30m whilst retaining the prior approval process. Designated areas are: Conservation Areas; Settings of Category A listed buildings and scheduled monuments; World Heritage Sites (WHS); Historic Gardens and Designed Landscapes; Historic Battlefields; Sites of Special Scientific Interest (SSSI); National Parks; National Scenic Areas; European Sites (e.g. special protection areas and special areas of conservation).
- 2.5 The proposed changes seek to strike a balance between connectivity and visual amenity impacts. The Council's Local Development Plan (LDP) agrees with this approach. Policy 26: Digital Infrastructure and New Communications Equipment states that we will support proposals for such equipment so long as they are sited and designed to keep environmental impacts to a minimum. As such the proposed response is broadly in agreement although it is suggested that increases at the higher scale i.e. increases of existing masts of over 50m by up to 20%, should not be PDR due to the potential significant visual impact. It is also suggested that restrictions should remain on designated areas.
- 2.6 **Agricultural developments** – currently PDR allows erection, extension or alteration of agricultural buildings. This is subject to certain limitations. The proposed changes mainly seek to increase the existing limits for PDR on agricultural buildings. For example, increase the proposed footprint of any building from 465sqm to 1000sqm. However, it is also proposed to give PDR to the conversion of agricultural buildings to residential or shop/café/office/storage/creches/public hall use.
- 2.7 The proposed change seeks to support and protect the rural economy and support the provision of new homes in rural areas. The Council's LDP broadly agrees with this approach. Strategic Policy 1: The Countryside Objective states that we in principle support expansions to existing rural businesses. It goes onto state that new housing in the countryside will be supported only in specific circumstances, including conversions. The Council has a record of supporting new housing in the countryside through this and previous LDPs. However, any such residential conversion must be assessed against Strategic Policy 2: Placemaking. A conversion must be a suitable building which provides an appropriate level of amenity and there are other issues such as drainage, access, parking etc. which should be considered. The proposed changes would seek such issues to be considered through a prior approval process and conditions.

- 2.8 The proposed response is broadly in agreement with the extension of permitted development rights for agricultural buildings. However, it does not agree that PDR for converting such buildings to residences or business use should be given. Such development should remain subject to a full planning application. In terms of business use, the Council supports such uses if ancillary to the existing rural business and often such uses do not require planning permission, for example a farm shop at an existing farm.
- 2.9 **Peatland restoration** – new PDR would be introduced in respect of such works. They would essentially make peatland restoration permitted without the need for planning permission. Access tracks or similar to carry out such works would be permitted on a temporary basis.
- 2.10 The proposed changes are due to the recognition by the Scottish Government of the benefit of peatland restoration to climate change and storing carbon. Chapter 2 of the LDP: A Natural, Resilient North Ayrshire sets out the policies for assessing the environmental impact of development including contribution to climate change. As such the proposed response is in agreement with proposals.
- 2.11 **Development related to active travel** – new PDR would be introduced which specifically permits bicycles storage. This would potentially be in front gardens, at flatted properties, at offices, industrial and storage premises, and on streets.
- 2.12 The proposed changes are to support and retain an increase in active travel, particularly cycling. This is in line with the LDP. Policy 27: Sustainable Transport and Active Travel states that we will support development which contributes to an integrated transport network, supports long term sustainability and provides safe and convenient transport options. As such the proposed response is largely in agreement with the proposals. However, the Council does not agree with proposals for PDR within front gardens and streets in Conservation Areas, which could undermine the character and appearance of such areas and it is recommended that such development be restricted to rear areas.

3. Proposals

- 3.1 It is recommended that Planning Committee notes the detail of the consultation on proposed policy amendments to Scottish Planning Policy and approves the response to the consultation, set out at Appendix 1.

4. Implications/Socio-economic Duty

Financial

- 4.1 None

Human Resources

- 4.2 None

Legal

- 4.3 None

Equality/Socio-economic

4.4 None

Environmental and Sustainability

4.5 None

Key Priorities

4.6 The changes to PDR support the Council Plan's Priorities for 'effective infrastructure and digital connectivity' and 'a sustainable environment'.

Community Wealth Building

4.7 None

5. Consultation

5.1 This committee item reports on and outlines a response to proposed changes to The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. Following the consultation, Scottish Government will take all responses into account, finalise any changes, and adopt and publish it as an amendment to the Order.

RUSSELL McCUTCHEON
Executive Director (Place)

For further information please contact **Iain Davies, Senior Development Management Officer**, on **01294 324 320**.

Background Papers

<https://www.gov.scot/publications/consultation-proposals-changes-permitted-development-rights-phase-1-priority-development-types/pages/13/>

Appendix 1

Digital communication

Q.1 Do you agree with an increase in permitted height for new ground-based masts to 30 metres outside designated areas, subject to the existing prior approval regime on siting and appearance?

A1. Yes.

Q.2 Do you agree that existing ground based masts should be able to be increased in height up to 30 metres (i.e. the same maximum height as for new masts proposed in Q.1 above) and that the increase should be limited to no more than 50% of the height of the original mast (whichever is the lower)?

A2. Yes

Q.3 Do you agree that we should allow existing masts which are above 30 metres in height to be increased to up to 50 metres in height?

A3. No as an increase of such dimensions would be excessive. Given the potential significant visual impact at this scale, it is considered this should remain development requiring a full assessment.

Q.4 Do you agree that we should allow existing masts which are greater than 50 metres in height to be increased by up to 20% of the height of the original mast?

A4. No. Given the potential significant visual impact at this scale, it is considered this should remain development requiring a full assessment.

Q.5 Do you agree that we should allow an increase in the width of existing masts by up to 2 metres or, if greater, one half of the width of the original mast (i.e. the increase is on the widest part of the mast and including any equipment)?

A5. No. Given the potential significant visual impact at this scale, it is considered this should remain development requiring a full assessment.

Q.6 Do you agree that any height or width increase within a designated area should be subject to prior notification/prior approval in order that visual impacts can be assessed?

A6. Yes

Q.7 Do you agree that we should increase the maximum distance that replacement masts may be from their original location from 6m to 10m, outside designated areas?

A7. Yes

Q.8 Do you agree that in the case of replacement masts, in designated areas the current 6m distance from the original location should be retained?

A8. Yes

There are existing requirements on PDR for new masts, or for changes to height or location of existing masts, for the operator to notify the relevant body for a safeguarded area (e.g. the Secretary of State for Defence, airport operator, Met Office, NATS) for their comments to ensure the safe and efficient operation around an aerodrome or technical site.

Q.9 We propose to retain the current approach. Do you agree?

A9. Yes

Q.10 Do you agree that the PDR for antenna systems on buildings outside designated areas should be as set out in Table 3 below?

A10. Yes

Table 3. Proposed limits on PDR for dish antennas and other antenna systems on buildings

Location of Dish Antenna on Building

Up to a height of 15 metres above ground level

Proposal

Class 67 PDR do not apply if:

- It would exceed 1.3 metres;
- the aggregate size of all dishes would exceed 10 metres; and
- for alteration or replacement, the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made

Location of Dish Antenna on Building

Above a height of 15 metres above ground level

Proposal

No change proposed and current threshold remains in place.

Location of Other Antenna on Building

Below a height of 15 metres above ground level

Proposal

Class 67 PDR do not apply if:

- the number of antenna systems would exceed five
- with alteration or replacement, the number of antenna systems, if greater than five would be greater than the number of existing antenna systems on the building before the change was made.

Location of Other Antenna on Building

Above a height of 15 metres above ground level

Proposal

No change proposed and current threshold remains in place.

Q.11 Do you agree with extending PDR for antenna systems on buildings to all or some of the designated areas to which restrictions on PDR for such infrastructure currently applies?

A11. No. It is considered the restrictions should apply to allow the impact on such areas to be fully assessed.

Q.12 What controls should apply in designated areas for antenna systems on buildings and should there be any differentiation between area type (e.g. size and number limits, prior notification/ prior approval or

greater restrictions in designations such as conservation areas and world heritage sites, to avoid any detrimental impact on the built environment in terms of any potential visual clutter etc.)?

A12. It is considered the current restrictions should continue to apply to allow all proposals to be considered on their own merits. Each designated area will have its own merits for designation and proposal should be assessed against them.

Q.13 Do you agree that we should extend PDR to small cell systems on dwellinghouses (rather than just for small antennas)?

A13. Yes, outwith designated areas and on listed buildings.

Q.14 What limitations and restrictions should apply to small cell systems on dwellinghouses (e.g. smaller units, fewer in number than small antennas under PDR)?

A14. Any limitations should be in line with the other dwellinghouse PDR in Part 1 of the GPDO.

Q15 In conservation areas, what limits or requirements should apply to small cell systems on dwellinghouses and other buildings (e.g. prior notification/ prior approval to assess the visual impacts or smaller/lower limits, different provisions for dwellinghouses compared to other buildings)?

A15. It is not considered appropriate to extend PDR for this development until Class 2B of the GPDO, which restricts all other alterations to the appearance of a dwellinghouse in a conservation area.

Q.16 Do you agree that extending PDR for small cell systems as proposed and the proposed changes to PDR for new ground-based cabinets in designated areas would meet the requirements of Article 57 of EU Directive 2018/1972?

A16. No comment.

Q.17 Are there any other potential amendments, comments or observations you wish to make in relation to potential changes to PDR that you consider necessary to be compliant with the requirements of Article 57 of EU Directive 2018/1972?

A17. No comment.

Q.18 Do you agree that we should extend existing PDR in designated areas to allow for new equipment housing up to 2.5 cubic metres volume?

A18. No

Q.19 Should this be subject to prior notification/prior approval on the siting and appearance to mitigate visual impacts?

A19. Yes

Q.20 If this were to be introduced do you agree that we should differentiate between types of designated areas by, for example, having smaller size limits in conservation areas than in National Parks?

A20. Yes

Q.21 Do you agree that we should extend PDR for new equipment housing on buildings in designated areas, with a limit on size of up to 2.5 cubic metres volume?

A21. No

Q.22 Should this be subject to prior notification/ prior approval requirements on the siting and appearance to mitigate visual impacts?

A22. Yes

Q.23 Do you agree that PDR for other apparatus should be extended in designated areas, beyond the basic 'like for like' alteration or replacement that currently applies?

A24. No. It is considered the current restrictions should continue to apply to allow all proposals to be considered on their own merits. Each designated area will have its own merits for designation and proposal should be assessed against them.

Q.24 Should any new PDR for other apparatus in designated areas have specific limits and restrictions regarding size and visual intrusion?

A24. It is considered the current restrictions should continue to apply to allow all proposals to be considered on their own merits. Each designated area will have its own merits for designation and proposal should be assessed against them.

Q.25 Do you agree that PDR for new development of other apparatus on buildings in designated areas should be subject to prior notification/prior approval to mitigate visual impacts?

A25. Yes. If PDR in such locations is granted, then it should be subject to such a process.

Q.26 In which designated areas do you consider that PDR for underground development could be extended?

A.26 It may be possible for some PDR for underground works in Conservation Areas where such works may already take place. However, it does not appear possible for other types of designated areas.

Q.27 In those areas where PDR for underground development could be extended, what limitations, restrictions or requirements should apply (e.g. prior notification/ prior approval, a requirement for an archaeological assessment or specific limitations)?

A27. Prior approval with a need for archaeological assessment should be sought.

Q.28 Do you have any further comments to make which are specifically related to the potential changes to PDR for Digital Communications Infrastructure which have not been addressed in the questions above?

A28. No

Agricultural Developments

Q.29 Do you agree with our proposal to increase the maximum ground area of agricultural buildings that may be constructed under class 18 PDR from 465sqm to 1,000sqm?

A29. Yes, but the proximity limit to classified roads should be revised. The current limit of 25m is too short given the proposed increase

Q.30 Do you agree with our proposal to retain other existing class 18 conditions and limitations?

A30. Yes

Q.31 Do you think that the new 1,000sqm size limit should apply in designated areas (e.g. National Parks and National Scenic Areas)?

A31. No

Q.32 Do you agree with our proposal to increase the scale of extensions or alterations to agricultural (and forestry) buildings that may be carried out without requiring prior approval?

A32. Yes, but not within designated areas.

Q.33 Do you agree with our proposal to discourage developers from erecting new buildings for the sole purpose of converting them by limiting class 18 and 22 PDR where a residential conversion has taken place under PDR on the same farm within the preceding 10 years?

A33. Yes.

Q.34 Do you agree with the proposed new PDR for conversion of agricultural buildings to residential use, including reasonable building operations necessary to convert the building?

A34. No. Such conversions require to be assessed in terms of a whole range of issues. It is not considered appropriate to do this through prior approval.

Q.35 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters?

A.35. No. It is considered this should be a matter for a full planning application.

Q.36 Do you agree with the proposed range of matters that would be the subject of a prior notification/prior approval process?

A36. No. Prior approval is not considered appropriate.

Q.37 Do you agree with the proposed maximum number (5) and size (150sqm) of units that may be developed under this PDR?

A37. No. It is not considered appropriate as each site should be considered on its merits.

Q.38 Do you agree with the proposed protection for listed buildings and scheduled monuments?

A38. Yes

Q.39 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

A39. Yes

Q.40 Do you agree with the proposed new PDR for conversion of agricultural buildings to flexible commercial use, including reasonable building operations necessary to convert the building?

A40. No. Most of the uses proposed, if in connection with the existing farm, would likely not require planning permission where ancillary to the business. Where these are not connected to the existing building, careful assessment should be made of why such a use would be in a rural location. Where farms are in reasonable proximity to settlements it would also appear to undermine the town centre first approach of directing such uses to support town centres. It also undermines active travel aspirations.

Q.41 Do you agree with the proposed cumulative maximum floorspace (500sqm) that may change use?

A41. No. If a shop, for example, was suitable for such a location a floorspace of 500sqm appears excessive.

Q.42 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters where the cumulative floorspace changing use exceeds 150sqm?

A42. No. Do not consider it is appropriate PDR.

Q.43 Do you agree with the proposed range of matters that would be the subject of prior notification/prior approval?

A43. Yes

Q.44 Do you agree with the proposed protection for listed buildings and scheduled monuments?

A44. Yes

Q.45 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

A45. Yes

Q.46 Do you agree that we should take forward separate PDRs for the conversion of forestry buildings to residential and commercial uses?

A46. No, for the reasons outlined in respect of agricultural buildings.

Q.47 Do you agree that the same conditions and limitations proposed in respect of the PDR for the conversion of agricultural buildings should apply to any separate PDR for the conversion of forestry buildings, insofar as relevant?

A47. It is not agreed that the PDR should be implemented.

Q.48 Do you agree with our proposed approach to providing greater clarity as to the planning status of polytunnels?

A48. Yes

Peatland Restoration

Q.49 Do you agree with the general approach to PDR for peatland restoration, (i.e. wide ranging PDR given the likely oversight via Peatland Action and via the Peatland Code)?

A49. Yes

Q.50 Do you agree with the approach to PDR for peatland restoration that relies on a general understanding of what will constitute peatland?

A50. Yes

Q.51 Do you agree with this approach to a blanket PDR for 'peatland restoration'?

A51. Yes

Q.52 Do you agree that as peatland restoration projects will likely be subject to oversight from Peatland Action, or validation under the Peatland Code, there is no need for additional controls on related PDR in designated areas?

A52. Yes

Q.53 Do you think there should be PDR for new temporary access tracks (private ways) which may be necessary to carry out peatland restoration projects?

A53. Yes

Q.54 What sort of time limits and restoration requirements do you consider should apply to any PDR for temporary access tracks (private ways) for peatland restoration projects?

A54. No comment

Q.55 If possible, should any PDR for temporary access tracks (private ways) for peatland restoration only apply to projects which have been approved for funds provided by the Scottish Government, through Peatland Action or other bodies?

A55. No comment

Q56. Do you agree that the peatland restoration PDR should allow for the transfer of peat within the restoration site and for peat to be brought into the restoration site?

A56. No comment

Q57. Do you agree that the peatland restoration PDR should not grant permission for the extraction of peat outside the restoration site or for removal of peat from the restoration site?

A57. Yes

Q.58 Are there any other forms of development which could be granted planning permission by the PDR for peatland restoration as proposed, which should be restricted or controlled?

A58. No comment

Q.59 Do you have any other views or points to make about the proposed PDR for peatland restoration?

A59. No comment

Development related to active travel

Q.60 Do you agree with the proposal to allow the erection of a cycle store in the front or side garden of a house up to a maximum size of 1.2 m height, 2 m width and 1.5 m depth?

A60. Yes

Q.61 Do you agree with the proposal to permit cycle stores up to 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side garden of a house in a conservation area?

A61. No. The front gardens of houses in conservation areas can be very important to the character or appearance of the area. As such this type of permitted development should be limited to the rear garden. This could be added as a separate class to the already permitted outbuilding.

Q.62 Should such an extension to PDR should be subject to a restriction on materials?

A62. Appropriate materials for one Conservation Area may not be so for others.

Q.63 Do you agree with the proposal to increase the floorspace of storage sheds allowed in the rear garden of houses in conservation areas to eight square metres?

A63. No. There is no guarantee that the extra space would be used for this purpose. However, PDR for a bicycle storage shed could be added as a separate class to the already permitted outbuilding.

Q.64 Do you agree with the introduction of PDR for the erection of a cycle store in the private garden area of a flat, including in a conservation area?

A64. Yes, but only subject to being in a rear garden. There should be safeguards about proximity to neighbouring windows.

Q.65 Do you agree with the proposal to allow cycle stores sufficient to accommodate up to two bikes per flat to the rear of larger blocks of flats, including in conservation areas?

A65. Yes

Q.66 Do you agree with the introduction of PDR to allow the erection of cycle stores for buildings of class 4, 5 and 6 uses?

A66. Yes. However, such uses have some PDR already that could include such stores.

Q.67 Do you agree with the introduction of PDR to allow the erection of cycle stores on-streets?

A67. Yes

Q.68 If such PDR is introduced, do you agree with the proposed maximum size for the cycle stores, and the proposed restriction on the number allowed in a particular street or block?

A68. Yes

If you disagree please explain why.

Q.69 If such PDR is introduced, do you think it should it be allowed in conservation areas and, if so, should it be subject to any other limitations on size, materials etc?

A69. No. As per front gardens the streetscape is likely to be important in terms of the character or appearance of the area.

Q.70 Is there any other amendment to the General Permitted Development Order that you think we should consider in order to encourage active travel further?

A70. No