

Cunninghame House,
Irvine.

1 December 2016

Planning Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 7 DECEMBER 2016** at **14.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

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 (Page 5)

The accuracy of the Minutes of meetings of the Committee held on 16 November 2016 and will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3. Garnock Valley

Submit reports on the following application:

16/00793/PP: Site To North Of Knowes Farm, Beith (Page 7)

Variation of condition 2 of permission ref. N/99/00036/PP to enable operations to continue for a further 10 years (copy enclosed).

4. Call In Request: Brodick, Isle of Arran (Page 31)

Submit report by the Chief Executive on a call in request, in accordance with the approved call in procedure, in relation to an application for planning permission which would otherwise be determined by Officers under delegated powers (copy enclosed).

Planning Committee

Sederunt: Matthew Brown (Chair)
John Ferguson (Vice-Chair)
Robert Barr
John Bell
John Bruce
Ian Clarkson
Joe Cullinane
Ronnie McNicol
Tom Marshall
Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Planning Committee
16 November 2016

Irvine, 16 November 2016 - At a Meeting of the Planning Committee of North Ayrshire Council at 10.00 a.m.

Present

Matthew Brown, John Ferguson, Robert Bar, John Bruce, Ian Clarkson, Ronnie McNicol, Tom Marshall.

In Attendance

J. Miller, Senior Manager (Planning) (Economy and Communities); A. Craig, Team Manager (Litigation) (Legal Services) and A. Little, Committee Services Officer (Chief Executive's).

Chair

Councillor Brown in the Chair.

Apologies for Absence

John Bell, Joe Cullinane and Robert Steel.

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 accuracy of the Minutes of meetings of the Committee held on 26 October 2016 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Consultation on proposed removal of various Public Call Boxes

Submitted report by Executive Director (Economy and Communities) on an update in relation to the ongoing consultation on the proposed removal of various Public Call Boxes by British Telecom.

At its meeting on 26 October 2016, the Committee considered the report on the proposed removal of various Public Call Boxes. The Committee agreed to continue consideration to seek further information from BT on the location of alternative call boxes within 800m of those proposed to be removed, which could absorb the volume of calls had in the last 12 months in the event of removal.

Appendix 1 to the report provided a list of the proposed call box removals. Guidance from the UK's communications regulator (Ofcom) on the removal of a phone box was provided at Appendix 2 to the report. Appendix 3 detailed the consultation letter that had been circulated to Elected Members. BT supplied further information on the location of 8 call boxes within 800m of those proposed to be removed and this was appended to the report at Appendix 4. Further information is awaited on remaining call boxes and this will be forwarded to Members as soon as it becomes available.

The Committee was advised that consultation had taken place with Members and the relevant Community Councils and the Area Housing Managers for Beith/Dalry, Irvine, Kilwinning, Kilbirnie, Largs and the Three Towns.

The Committee agreed to the removals in principle with the exception of the first eight call boxes detailed in Appendix 4 to the report.

4. Control of Advertisements Policy

Submitted report by Executive Director (Economy and Communities) on proposed revisions to the North Ayrshire Control of Advertisements Policy, approved by Committee on 27 April 2016. Appendix 1 to the report provided details of the revised Policy which seeks to ensure the continued provision of appropriate guidance on specific types of advertisements which require express consent, including hoardings (both panels and free-standing), advance signs, and free-standing illuminated signs.

The Committee agreed to (a) adopt the North Ayrshire Control of Advertisements Policy (Appendix 1); and (b) delegate authority to Executive Director (Economy and Communities) to make non-significant editorial changes to the guidance from time to time.

The meeting ended at 10.10 a.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

Planning Committee

7 December 2016

Locality

Garnock Valley

Reference

16/00793/PP

Application

17th August 2016

Registered

Decision Due

9th December 2016

Ward

Kilbirnie and Beith

Recommendation **Grant with Conditions contained in Appendix 2**

Location

Site To North Of Knowes Farm
Beith
Ayrshire

Applicant

Smith Skip Limited

Proposal

Variation of condition 2 of permission ref.
N/99/00036/PP to enable operations to continue
for a further 10 years

1. Description

1.1 This application seeks to vary Condition 2 of planning permission dated 20th August 2001 (ref: 99/00036/PP) to enable waste disposal operations to continue until 20th August 2026. Condition 2 initially limited the operations to within 10 years of commencement of the permission. The operations commenced August 2006 and therefore Condition 2 required operations to cease by 20th August 2016. The original conditions are attached as Appendix 1.

1.2 The area around Knowes Farm was used for the open cast extraction of clay and shale in the 1960s. Following those works, the site was abandoned and there was no restoration of the excavated areas. The site has the following planning history in respect of in-filling at the site;

Phase I - 29th May 1979 - Depositing of calcium sulphate (ref: CH/79/167).

Phase II - 19 December 1984 - Extension of Phase I site to allow further depositing (ref: CH/84/0148).
Phase III - 28th April 1988 - Extend the site and allow materials other than calcium sulphate (ref: CH/87/480).
Phase I - 28th March 1989 - Allow the works to continue until 1996 (ref: CH/88/0734).
Phase III - 21st December 1993 - Amended the finished levels (ref: CH/93/0369).
Phase I - 9th October 1995 - Continuation of depositing including additional types of waste (ref: 95/00047/PP)
Phase IV - 8th September 1998 - Land raising by in-fill (ref: N/01/98/0195).
Phase IV - 20th August 2001 - Extension of existing waste disposal, Phase IV, site (ref: 99/00036/PP).
Phase IV - 28th February 2002 - Allow original portion of Phase IV to be operated until 31st August 2006 (ref: 01/00597/PP)
Phase IV - 28th August 2007 - Allow original portion of Phase IV to be operated until August 2011(ref: 06/00874/PP) - Refused as held that simultaneous operation of both parts of Phase IV would cause harm to character and amenity of countryside.

Phases I, II and III have been completed and restored.

- 1.3 The site which is currently in operation is the extended part of Phase IV. The site is some 6.15 hectares in area and is being in-filled as 3 distinct cells. To date most of Cell 1 and Cell 2 has been filled and restored. The southern portion of Cells 1 and 2 are currently being worked. Cell 3 has not been filled. It has been prepared for filling by the laying of lining. However, it currently sits open.
- 1.4 The site is bordered to the north and east by agricultural land and to the west by the Glasgow/Ayr railway line. To the south is a former area of land fill at Knowes Farm and access to the site from Kerse Road. To the north-east is an area of permitted clay extraction (ref: 04/00501/DCMS). Clay from the site is used to cap the in-fill material.
- 1.5 In terms of the adopted North Ayrshire Local Development Plan (LDP), the application site is located within the countryside. Policy PL7 relates to waste management. Policy ENV1 relates to non-residential development in the countryside. All proposals require to be considered in terms of the General Policy. Scottish Government's 'Zero Waste Plan,' sets out the framework for reducing waste in Scotland.

2. Consultations and Representations

The application has been subject to the standard neighbour notification procedures and was advertised in the local press on the 24th August 2016. Ninety-one objections and two representations were received. The objections/representations and the applicant's response, where appropriate, are summarised as follows:

- i. **Determination of application** - This is a not a change of conditions but in effect a new application and should be treated as such. There is precedence for this with a Scottish Government's Reporter's decision re: Kilbarchan Quarry.

Response: S. 42 of the Town and Country Planning (Scotland) Act 1997 allows applications for planning permission for the development of land without complying with conditions subject to which a previous permission was granted. The Act states that the Council, as Planning Authority, shall only consider the question of the conditions subject to which planning permission should be granted. The principle of the development itself can not be considered in such applications. The Council is determining this application in accordance with the requirements of S.42.

There was an appeal in respect of Kilbarchan Quarry in 2013 (ref: PPA-350-2010). This appeal followed refusal of an application to remove a condition of a previous planning permission which restricted landfilling at the quarry until 1st January 2010. The Scottish Government's Reporter allowed the appeal and varied the planning conditions. In that case landfilling was permitted until 1st January 2030.

- ii. **Transportation** - Trucks travelling to the site along residential streets have negative impact on surroundings. The trucks are too big to be sharing space with parked cars and pedestrians. They damage the road, adjacent properties and are a danger to those crossing the road. The trucks smell due to the transported waste? Dirt and stones are cast from the vehicles onto the road and properties. Carbon emissions from the vehicles also have a detrimental environmental impact. The trucks are noisy and often drive over the speed restrictions. There will be an increase in the number of vehicles travelling to and from the site. A temporary road should be constructed to serve the site, bypassing the town. Photographs of some of the typical vehicles which access the site through Beith have been provided.

Response: NAC Transportation has offered no objection to the proposal. The site already has permission to carry out waste disposal operations and it is not considered that permitting an extension of time would necessarily increase the amount of traffic accessing the site. Given the area permitted to be in-filled and the potential rate of deposit, it is possible that traffic would decrease. If permission was granted a condition could require the operator to ensure no loose material is carried onto the public road. It is not considered necessary or desirable, in terms of potential visual and environmental impact, to require construction of a temporary road, which in addition may not be viable. SEPA regulate the waste types allowed on site.

The applicant has stated that a condition could be attached to any permission requiring submission of a 'Code of Practice for Haulage,' for the approval of the planning authority. The proposed contents of such a Code are attached as Appendix 3. In summary this Code could include exclusion of drivers from the site who persistently breach the Code and the examination of routing to minimise use of Kings Road.

The applicant has also offered to establish a Liaison Committee, if desired by local interest, to allow information to be shared between the operator and residents and for legitimate concerns to be addressed. Such a commitment would be a matter for the operator and local residents.

- iii. **Need and source of waste** - The landfill site is of no planning or economic benefit to the area. There is no need for this facility in this area. The bulk of the material is from Inverclyde or further. The 2001 permission did not commence until 2006 and after 10 years less than half the capacity has been filled. The operator wants an extension based on site capacity, which has been created through excavation, and not on the amount allowed by SEPA. There needs to be a reduction in unnecessary and non-recyclable waste.

Response: Planning permissions granted in 2001 was valid for a period of 5 years. As such the developer was entitled to postpone commencement until 2006. The applicant states that the delay in commencing the permission relates to factors including changing legislation. The delay in filling has been caused by similar factors and the recent voluntary restriction of certain waste materials.

The applicant has stated that the majority of the waste is residual material arising from local waste management facilities in North Ayrshire, Renfrewshire and Glasgow. They state that the loss of the facility would result in increased costs to local businesses. The capacity of the site is addressed in the response to point xi.

- iv. **Visual and environmental impact** - The site is an eyesore and has a negative visual impact on the area. The site is on the boundary of the Clyde Muirshiel Regional Park and is close to Barr Loch which is a Site of Special Scientific Interest (SSSI). Neither Clyde Muirshiel nor Scottish Natural Heritage appear to have been consulted. Negative impacts on wildlife. Enlarging the site would exacerbate the visual impact. The site has drastically changed the profile of the land and is no longer a landfill but a hill is being created. The area is a popular route for walkers.

Response: As stated above applications for planning permission under S.42 of the Act can only consider the question of the conditions subject to which planning permission should be granted. When originally determined, SNH offered no objection subject to conditions requiring leachate be tested for toxicity and an assessment made of future risks; that a landscape impact assessment is carried out and that the site is adequately screened. Such conditions were imposed and it is not proposed to remove these conditions. If permitted, the conditions could be updated to require an updated assessment of volume and toxicity of leachate and an assessment of risk. It is not considered necessary to consult the Park Authority on this application.

It is agreed that the operation of the site could have a negative visual impact. Conditions could be attached to any permission requiring updated mitigation and landscape screening details to be submitted. Restoration of the site would also be required and updated details of proposals for restoration could be required by condition. Progressive restoration of the site could be secured through such a condition to ensure mitigation of the visual impact. The Council has investigated the site in the last year and it is currently being worked in accordance with approved restoration levels. The actual area of permitted in-fill would not increase.

- v. **Smell** - The smell from the site is a nuisance, which has affected the whole of Beith and the wider area, and has been referred to SEPA many times. It is understood that when permission was first granted organic material was not permitted to be placed here.

Response: SEPA has acknowledged receiving occasional nuisance complaints, primarily associated with landfill gas odour. The Council notes that the number of objections suggests more than occasional. SEPA is the regulatory body responsible for that aspect of the site and offers no objection. The SEPA detailed comments are summarised below.

There are no planning restrictions on the type of material which can be tipped at the site. The original permission for Knowes Farm in 1979 restricted the use to calcium sulphate. However, this restriction was removed in a subsequent 1988 permission. The applicant has provided a list of the types of material currently permitted by SEPA to be received at site, which is listed in Appendix 3. The applicant currently voluntarily restricts residual domestic waste from the site. A planning condition, restricting the types of waste to match SEPA requirements, could be attached to any permission.

- vi. **Noise** - There has been noise disturbance from the site, particularly from 'gas guns' being used to scare seagulls and other vermin. Noise also during the night from vehicles accessing the site.

Response: The applicant and SEPA have confirmed that 'gas guns' have not been used at the site in over 3 years. The applicant also states that vehicles have been fitted with white noise reversing systems to allow removal of noisy 'bleeping' systems. Noise nuisance is a matter for SEPA.

There is currently no restriction on hours of operation of the site. The applicants state that they do operate at night. However, they have agreed to the possible use of planning conditions restricting hours of operation and waste delivery. A condition could be attached to any permission restricting the hours of waste delivery to Monday to Friday 0700 - 1800 and Saturday 0700 - 1400 and hours of operation to Monday to Saturday 07.00 to 19.00 and Sunday 08.00-16.00

- vii. **Pollution** - The site could pollute the local area and contaminate the land. Gasses from the site could cause health issues. The site is known to SEPA. SEPA has required operations to be suspended at least once due to non-conformity. The site adversely affects local wildlife.

Response: SEPA acknowledged the requirement to suspend operations in 2014. However, SEPA stated that operations have improved to allow works to continue. SEPA has stated that there is no evidence of contamination, wildlife harm and leaving the site uncompleted poses a greater environmental risk. See their detailed comments below.

- viii. **Lifespan** - The operator is likely to ask for another 10 or 20 years of use on top of any permitted extension. People have tolerated the site until now as they thought it would have a limited lifespan. The site should be closed within 6 months and current levels re-profiled.

Response: There is no current indication that the operator would ask for a further extension. In terms of this application, the Council can only consider the proposal applied for. The Scottish Government guidance highlights that time extensions can be expected given legislative changes affecting the waste sector. Re-profiling of the current waste deposited on site may cause greater environmental impact. See SEPA's comments below.

- ix. **Current operations** - The operator never had any intention of completing the development within 10 years and this is in breach of the planning conditions. The site is not well managed. The previous planning permission fell short of protecting the interests of the public.

Response: This application allows the Council to consider the conditions attached to the planning permission. Conditions can be changed/added where considered to be necessary with respect to the proper planning of the site. The applicants have stated that the infrastructure improvements and operational changes they have made has, in their opinion, ensured the site is well managed. SEPA is satisfied that compliance with their permit is sustainable.

- x. **Restoration** - What is the 10 year period based upon and will there be ongoing restoration? Will the site be managed post-restoration and has a risk assessment been carried out in terms of restoration following cessation of revenue streams. Who will be responsible for the site following completion of dumping?

Response: The applicant states that the 10 year period is based on changes to legislation, government guidance and the phased approach which enables progressive restoration.

A condition requiring an updated restoration and aftercare scheme could be added to any permission, which would include details of post-restoration management. The site is subject of a S.75 legal agreement and a bond has been lodged with the Council. If the site is not returned to a condition suitable for agricultural grazing the bond can be called and the Council could carry out the works itself. The applicant has also lodged a financial guarantee of £158,000 with SEPA in respect of the ongoing works. Should the site cease, SEPA could call upon this money with respect to any environmental works required. The owner of the land would be responsible for the site following completion of in-fill.

One representation raised the following points;

- xi. The site has an original capacity of 450,000 tonnes. There is only approx. 152,308 tonnes left, based on applicant and SEPA figures. It is not clear why it would take 10 years to in-fill 150,000 tonnes when 300,000 tonnes were in-filled in the first 10 years. The remaining capacity could be used up within 3 years. The applicant also states that one of the 10 years would be for 'Final Restoration.' The current planning condition gives six months for restoration.

Response: In planning terms, the operator would be entitled to in-fill the site to achieve the permitted restoration levels. Tonnage would be a matter between the operator and SEPA.

The applicants state that there remains in excess of 200,000 tonnes of in-fill capacity at the site, primarily due to waste densities. The waste densities have changed over the years due to the change in type of waste. 12 months is a more realistic time period for restoration as it takes into account weather. 6 months may be achievable but is dependent on operations being undertaken March to September.

- xii. The applicants data does not match with SEPA data. The SEPA data suggest more in-fill has taken place and that there is a greater demand for such sites and therefore 10 years is not necessary.

Response: The applicants have stated that this matter could be due to a discrepancy in reporting (financial year as opposed to calendar year). They have resolved to further review the figures to identify any anomalies.

- xiii. It is not clear if the planning conditions relating to planting and landscaping, contained in the 2001 permission, have been complied with.

Response: Details relating to planting and landscaping were submitted following the grant of the previous permission. However, if this application is granted, updated planting and landscaping schemes would be required to be submitted.

- xiv. Agree in principle to the completion and restoration of the site but 10 years would appear unnecessary.

Response: Noted. The applicants reasons for the time period are given above.

The other representation can be summarised as follows;

- xv. Malcolm Construction Services support the application. They supply plant and labour to assist in the operation of the site. They have been main contractor to the site for the last 3 years. In that time they have undertaken a programme of capital investment. This investment has been done to improve environmental performance and operational control, which is an ongoing process. Works include replacement fencing, landscaping and restrictions on the type of waste received.

Response: Noted

Consultations

NAC Environmental Health - No objections. The above site is regulated by SEPA via a Pollution Prevention and Control Permit (PPC) covering matters such as odour, noise, dust etc..

Response: Noted.

NAC Regeneration (Transportation) - No objections.

Response: Noted

Scottish Environmental Protection Agency (SEPA) - No objection in principle, and confirm that the operation of the site is authorised by SEPA under a Pollution Prevention Control (PPC) Permit, which is subject of periodic review. The current PPC permit allows disposal of non-hazardous waste which includes organic material. The Zero Waste Scotland and the Waste (Scotland) Regulations require that by 2025 only 5% of waste to be disposed of to landfill. This change may mean that current timescales being proposed are unrealistic and/or there could be insufficient volumes of waste to meet agreed volumes. Aftercare activities e.g. leachate and gas management are likely to extend beyond the next 10 years. Details of restoration will have to be agreed with SEPA as well as the Planning Authority and would ask for further details of the 'Aftercare Scheme.' The PPC permit requires Financial Provision for the operation, which is currently £158,000.

The applicant refers to being rated as excellent in SEPA's compliance assessment scheme. It is advised that 'excellent' essentially means that the minimum levels of permit compliance have been met. The site has been subject to occasional nuisance complaints, primarily associated with landfill gas odour.

Following public comments regarding nuisance from the site, SEPA has provided further representations. SEPA has received ten odour complaints in 2016. None of these complaints has been substantiated by their authorised officers. There were significant odour problems in early 2014 caused by operational issues. In the first quarter of 2014 over 500 complaints were received. The operator made significant infrastructure investment, voluntarily restricted waste types and made changes to management control. Since that time odour impact from the site has reduced significantly. There have been no complaints regarding noise in recent years.

All landfills authorised by PPC Permits are engineered to European Directive standards. The construction of infrastructure must be overseen by an independent qualified engineer. SEPA and the operator independently monitor potential pollution emission points. There is currently no evidence of unacceptable ongoing pollution of land, air or water or impact on local wildlife. It should be noted that failure to complete the landfill is likely to pose a greater environmental risk. Current in-fill contours would not support adequate restoration.

It is SEPA's position that the site is unlikely to be completed within the current planning permission time frame. Failure to complete the site to an appropriate standard and landscape poses an increased environmental, amenity and nuisance risk. It is not possible for SEPA to draw a conclusion on the length of time necessary for site completion given commercial and legislative influences on input rates.

Response: Noted. The applicant is aware of SEPA's comments regarding aftercare and restoration.

Renfrewshire Council - No objections.

Response: Noted.

3. Analysis

- 3.1 The Scottish Government's 'Zero Waste Plan,' introduces a long term target of 70% recycling for all waste by 2025. It also states that legislative changes will be made to ensure no resources with a value for reuse or recycling are sent to landfill by 2020. By 2020 no more than 1.26 million tonnes of biodegradable municipal waste shall be sent to landfill. By 2025 the target is that no more than 5% of all waste will be sent to landfill.
- 3.2 It is clear therefore that the type and amount of waste which can potentially be sent to landfill will decrease. However, it is also clear that there will remain a need for landfill particularly up to 2025 . This proposal seeks to operate landfill for 9 years with 1 year to complete restoration. The extension of the use until 2026 years would therefore appear to accord with Scottish Government advice for the years up to 2025.
- 3.3 The site is already in use as a waste disposal site and as such the principle of the use has been established. This application considers the conditions to which the operation should be allowed to continue. The applicant has sought to vary Condition 2 to allow a further 10 years of operation. Following negotiation with Planning Officers, other additions/changes to conditions have been proposed. 23 conditions are proposed, of which 3 are completely new. A copy of the proposed amended conditions are attached as Appendix 2.
- 3.4. As noted above, the relevant polices of the LDP are PL7, ENV1 and the General Policy. The site is operational and therefore the principle of the development has been established. The relevant parts of the policies are therefore considered to be; PL7 Waste Management - 1(a), the proposal accords with the principles of the Zero Waste Plan; 1(d) the proposal provides a sufficient landscape buffer and screening, where appropriate; 1(f) the proposal demonstrates satisfactory mitigation measures for any unacceptable impact arising from the development with respect to air emissions, noise, odour, dust, litter, vermin, insects, birds, visual impact, traffic, natural or built heritage, leachate, operational hours, proximity to water sources or cumulative impacts; PL7 3(a) the proposal will positively contribute to meeting waste management targets set by EU Directive and/or the Scottish Government; 3(b) the proposal complies with any restrictions on the amount of waste treated by recovery and disposal as may be nationally prescribed; 3(e) the proposal includes, where appropriate, an agreed after care and restoration plan of at least five years duration, with a restoration bond if necessary, to secure beneficial reinstatement. In terms of ENV1 New Development in the Countryside (Excluding Housing) the relevant criterion is considered to be (c) the development is essential public infrastructure that has a site specific operational need to be located on site where a range of alternative sites have been

examined within settlements and no suitable site can be made reasonably available. In terms of the General Policy (b) amenity, (c) landscape character and (d) access are considered to be relevant.

- 3.5. With respect to PL7, it is considered that; 1(a) the proposal accords with the principles of the Zero Waste Plan as outlined in para 3.2 above; 1(d) conditions can be added to any permission to ensure there is a sufficient landscape buffer and screening; 1(f) the list of potential impacts can be mitigated by the imposition of updated conditions attached to any permission, where appropriate; 3(a) as stated above the proposal is held to accord with the Scottish Government's Zero Waste Plan; 3(b) the types and tonnage of waste are restricted by SEPA and a condition could be added to any permission requiring the Council to be notified of permitted waste types; 3(e) an updated after care and restoration plan can be required by condition attached to any permission and bonds for the site exist with both the Council and SEPA. With respect to ENV1 it is considered that, given the Scottish Government's advice, landfill sites will be essential public infrastructure up to at least 2025. As the site is operational the locational need has been established. However, it is not considered that a location within a settlement for such a use would be desirable. With respect to the General Policy, it is again considered that updated conditions could be attached to any permission to ensure the proposal does not cause adverse impact on amenity, landscape character or access.
- 3.6 **Condition 1** is a re-iteration of the original condition and requires the development to be carried out in accordance with the submitted and approved plans.
- 3.7 **Condition 2** would be amended to permit the development to continue until 20th August 2016. Analysis of this is given from paragraph 3.20 onwards.
- 3.8 **Condition 3** would require the site to be restored in the event that the development ceased prior to the 20th August 2016. The condition sets out what would be required should any voids not have been filled and what would constitute premature cessation, and would be considered to be an improvement on the previous similar condition and accords with policies PL7 3(e) and criterion (c) of the General Policy.
- 3.9 **Condition 4** is a new condition which would restrict hours of deliveries of waste to the site and hours of operation. This condition would limit any disturbance from deliveries with a restriction to day time hours Monday to Friday and the morning up to 14.00 on Saturday. The overall operating hours of the site would be restricted to day time hours, with shorter hours on a Sunday. The operation of the site is currently unrestricted and it is considered that this condition represents an improvement on the previous permission. The condition is held to accord with Policy PL7 1(f) and criterion (b) of the General Policy.

- 3.10 **Condition 5** is a re-iteration of a previous condition, which would require re-submission of details of the phasing plan for the in-filling of the site. **Condition 6** is also a re-iteration of a previous condition, which would require re-submission of details of the financial bond secured with SEPA. These conditions are held to accord with Policy PL7 1(f) and 3(e).
- 3.11 **Condition 7** is a re-iteration of the previous condition, which would require details of topsoil stockpiles to be submitted to the Council. **Conditions 8** and **9** relate to the storage of topsoil and soil forming materials. These conditions are the same as the previous permission. It is held that these conditions accord with Policy PL7 1(f) and criterion (c) of the General Policy.
- 3.12 **Condition 10** is a re-iteration of a previous condition, which would require details of measures to prevent and control the emission of dust from the site to be submitted to the Council for approval. **Condition 11** is the same as the previous permission and requires measures to be taken in the event of nuisance from dust arising from operations. It is held that these conditions accord with Policy PL7 1(f) and criterion (b) of the General Policy.
- 3.13 **Condition 12** is the same as a previous condition. It requires all leachate to be constrained within the site and treated in accordance with SEPA's requirements. **Condition 13** is a re-iteration of a previous condition and requires an assessment of leachate volumes and toxicity to be submitted to the Council including a demonstration that water treatment proposals are adequate. **Condition 14** requires all necessary measures to be taken to control vermin and **Condition 15** prohibits burning on site. These conditions are the same as those on the previous permission. It is held that these conditions accord with Policy PL7 1(f) and criterion (b) of the General Policy.
- 3.14 **Conditions 16** and **17** are re-iterations of previous conditions, which would require an updated landscape impact assessment with details of a programme of mitigation and screening to be submitted to the Council for approval. Any further planting identified in the landscape impact assessment would then have to be carried out to the satisfaction of the Council. These conditions are held to accord with Policy PL7 1(d), 1(f) and criterion (c) of the General Policy.
- 3.15 **Condition 18** is the same as a previous condition, which would require the operator to ensure no loose material is carried from the site onto the road. Any material which is brought on to the road shall be removed to the Council's satisfaction. It is held that this condition accords with PL7 1(f).
- 3.16 **Condition 19** is a re-iteration of a previous condition, which would require confirmation of the works to separate surface drainage from the drainage of the operational area. It is held that this condition accords with PL7 1(f) and criterion (b) of the General Policy.

- 3.17 **Conditions 20 and 21** are re-iterations of previous conditions, which require an updated scheme for the restoration of the site, including details of backfilling and topsoil replacement, construction of drains, ponds, footways and details of all planting to be submitted for the approval of the Council. The restoration scheme is to be accompanied by a detailed aftercare management plan for five years following restoration. Any scheme approved will be carried out in accordance with the permitted details. These conditions are held to accord with Policy PL7 1(f), 3(e) and criteria (b) and (c) of the General Policy.
- 3.18 **Condition 22** is a new condition, which would require the operator to submit a Code of Practice for vehicle movements to and from the site. The Code would include details of how vehicles would be covered to ensure materials are not deposited on the road; road cleaning; servicing to ensure vehicles are operated in an efficient manner and minimise emissions; driver conduct; a complaints procedure for members of the public; details of disciplinary measures for driver/contractors not adhering to the code and an examination of routing of vehicles to minimise use of Kings Road. This condition is in recognition of the objections received on the grounds of vehicle movements to/from the site. If this application is to be refused, vehicle movements would continue due to the requirement to restore the site, notwithstanding SEPA's concerns that restoration of the site in its current form could pose an environmental risk. The introduction of this condition would place a requirement on the operator to ensure all vehicle movements were carried out in accordance with a scheme agreed with the Council, to which they could be held accountable. It is considered that the condition accords with PL7(f) and criterion (d) of the General Policy.
- 3.19 **Condition 23** is a new condition, which would restrict the types of waste permitted to be deposited on site, to reflect the types of waste permitted by SEPA. The condition is in recognition of the concerns of objectors regarding the types of waste on site. The operator would be required to inform the Council of any changes to the types of waste. The Council would then have the power to take action against any unauthorised waste, in addition to any powers available to SEPA. The condition is held to accord with Policy PL7 3(b).
- 3.20 In light of the conditions above, it is considered that a continuation of the site could be permitted with conditions to ensure any impacts from the operation are mitigated. SEPA has stated concern about the potential environmental impact from an uncompleted in-fill site. The Scottish Government's advice states that whilst waste to land fill should decrease, there will remain a requirement for such sites to 2025 and beyond. It can be held therefore that landfill sites are essential public infrastructure.

3.21 Permitting the continuation of the site to 2026 would allow in-fill operations to continue to August 2025 with a year for the restoration of the site. Granting permission presents the opportunity to improve the planning conditions under which the site operates and as such provide the Council with greater control over the site. The continuation will allow further in-fill, which properly controlled, should reduce the possibility of environmental impact from an uncompleted site. The additional planning conditions will introduce controls over hours of operation, vehicle movements and waste types, helping to mitigate potential amenity impacts. The re-submission of details relating to working methods, dust management, leachate, drainage, planting and restoration will allow updated information to be provided and provide improved schemes for mitigating environmental and amenity impacts.

3.22 The proposal to amend Condition 2, and the associated amendments/additions to the other conditions, is held to accord with the relevant policies of the LDP namely; Policy PL7 1(a), 1(d), 1(f), PL7 3(a), 3(b), 3(e), ENV1 (c) and criteria (b), (c) and (d) of the General Policy.

4. Full Recommendation

See Appendix 2



KAREN YEOMANS
Executive Director (Economy and Communities)

Cunninghame House, Irvine
23 September 2016

For further information please contact Iain Davies , on 01294 324 320

Appendix I

Existing Conditions

1. That the landfill operations at the application site shall at all times be carried out in accordance with the working method statement, drawings and supporting information hereby approved, and there shall be no change in the operation or working method without the written approval of North Ayrshire Council, as Planning Authority.
2. That within 10 years of the commencement of work on site, the operations hereby approved shall cease and the site shall be restored to the satisfaction of North Ayrshire Council, as Planning Authority.
3. That in the event of operations ceasing on the site prior to the predicted 10 year life span of the proposed operations, within six months of the cessation of operations all buildings ancillary to the landfill operations shall be removed and the entire site restored to the satisfaction of North Ayrshire Council, as Planning Authority.
4. That no less than 7 days written prior notice shall be given to North Ayrshire Council as Planning Authority of the commencement of works hereby approved.
5. That prior to works commencing on site detailed drawings of the phasing operations for tipping in the six areas referred to in the submitted information as “sectors” shall be submitted to, and approved in writing by, North Ayrshire Council as Planning Authority.
6. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council, as Planning Authority, details of a financial bond secured with SEPA to ensure the restoration of the site to agricultural use in the event that the applicant is unable to implement the restoration works approved under Condition 3 above.
7. That prior to works commencing on site, a plan and drawings showing the location and size of the topsoil stockpile shall be submitted to, and approved in writing by North Ayrshire Council, as Planning Authority.
8. That all topsoil and soil forming material to be removed shall be stored within the land shown on the approved drawings as being in the applicant’s ownership and shall not be taken off site without the written consent of North Ayrshire Council, as Planning Authority.
9. That the topsoil and soil forming material stockpiles shall be kept free of weeds and shall be seeded to the satisfaction of North Ayrshire Council, as Planning Authority.
10. That prior to work commencing on site, details of measures to prevent and control the emission of dust from the site shall be submitted to, and approved in writing by, North Ayrshire Council, as Planning Authority
11. That in the event of dust produced by the tipping operations hereby approved or by vehicles passing to and from the site constituting nuisance, measures will be taken by the operator to control the dust emissions to the satisfaction of North Ayrshire Council, as Planning Authority.

12. That all leachate shall be constrained within the site and treated in accordance with the requirements of the Scottish Environmental Protection Agency to the satisfaction of North Ayrshire Council as Planning Authority.

13. That prior to works commencing on site, an assessment of the volume and toxicity of the leachate generated by the current operations at the existing landfill, including an assessment of the risk this may present to natural systems, including a worst case scenario should the containment system fail, shall be submitted to North Ayrshire Council, as Planning Authority for their written approval, which report shall demonstrate that the water treatment proposals are adequate to eliminate any pollution risk.

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

15. That there shall be no burning of material on the site at any time.

16. That prior to the work commencing on site, a landscape impact assessment supported by a costed programme of mitigation and screening shall be submitted to North Ayrshire Council, as Planning Authority, for their written approval.

17. That all planting comprised in the approved details submitted under Condition 16 above shall be carried out in the first planting season following the commencement of the development and any trees which, within a period of five years from their planting 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.

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

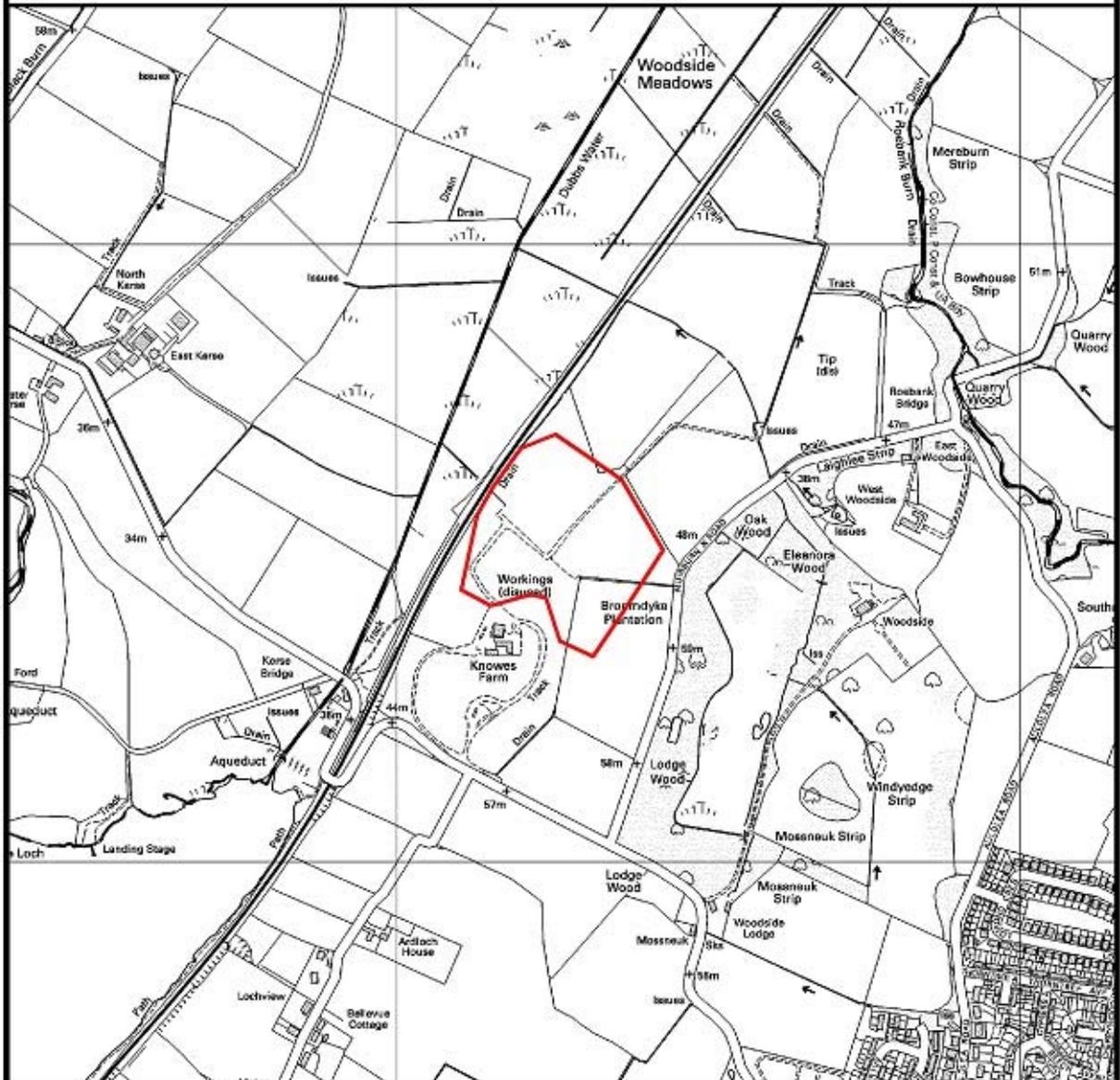
19. That prior to work commencing on site, a scheme for the separation of the surrounding surface drainage from that draining the operational area which includes a method of interception and diversion of the existing surface water drainage which currently flows across the site, shall be submitted to, and approved in writing by North Ayrshire Council, as Planning Authority.

20. That prior to work commencing on site, a scheme for the restoration of the site which fully details the backfilling and topsoil replacement operations, the construction of drains, ponds, footways and details of all plant species including their planting density, shall be submitted to and approved in writing by North Ayrshire Council, as Planning Authority. This restoration scheme shall be accompanied by a detailed aftercare management plan which shall set out a five year programme of works to ensure the successful implementation of the restoration scheme.

21. That the restoration scheme and aftercare programme submitted under Condition 20 shall be implemented to the satisfaction of North Ayrshire Council as Planning Authority in accordance with the approved documents.

Committee Plans

16/00793/PP



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

"This map is reproduced from the OS map by North Ayrshire Council with the permission of the Controller of Her Majesty's Stationery Office, © Crown copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence Number: 100023393."



APPENDIX II

RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00793/PP

Grant subject to the following conditions:-

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

Reason: To ensure the operations are only carried out as approved, in the interest of amenity.

2. That by the 20th August 2026 the operations hereby approved shall cease and the site shall be restored to the satisfaction of North Ayrshire Council, as Planning Authority.

Reason: To secure the proper completion of the development in the interest of amenity.

3. That in the event of operations ceasing on the site prior to the date specified in Condition 2, within six months of the cessation of operations all buildings ancillary to the landfill operations shall be removed and the entire site restored to the satisfaction of North Ayrshire Council, as Planning Authority. Operations will be held to have ceased in the event of no in-fill operations being carried out for 6 months. For the avoidance of doubt, any voids not completed shall be covered over with top soil and grass seeded.

Reason: To ensure restoration of the site in the event of in-filling ceasing prematurely, in the interest of amenity.

4. Deliveries to the site shall be made only within the hours of 07.00 to 18.00 Monday to Friday and 07.00 and 14.00 Saturday. The operation of the site shall take place only within the hours of 07.00 to 19.00 Monday to Saturday and 08.00 to 16.00 Sundays, except in the case of emergencies to be agreed as soon as practicable with North Ayrshire Council, as Planning Authority.

Reason: To prevent late night and early morning working or Sunday deliveries from causing disturbance to nearby properties and properties on delivery routes, in the interest of neighbouring residential properties.

5. That within 3 months of the date of the decision, detailed site drawings of the phasing operations for in-fill in the remaining cell areas shall be submitted to North Ayrshire Council, as Planning Authority, for approval. Thereafter operations shall be carried out in accordance with the approved details.

Reason: To ensure a detailed phasing scheme for which the in-fill operations will be carried out.

6. That within 3 months of the date of the decision the applicant shall submit for the written approval of North Ayrshire Council, as Planning Authority, details of a financial bond secured with SEPA to ensure the restoration of the site to agricultural use in the event that the applicant is unable to implement the restoration works approved under Condition 3 above.

Reason: To ensure adequate funds for restoration in the event of the cessation of works on site.

7. That within 3 months of the date of the decision, confirmation of the location and size of the topsoil stockpile shall be submitted to, and approved in writing by North Ayrshire Council, as Planning Authority.

Reason: To ensure appropriate positioning of the topsoil stockpile in the interest of visual amenity.

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

Reason: To ensure adequate topsoil and soil forming materials are retained on site in the interest of proper restoration.

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

Reason: To avoid the development site falling into an unsatisfactory condition in the interest of visual amenity.

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

Reason: To prevent unacceptable emission of dust from the site in the interest of amenity of the area.

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

Reason: To prevent unacceptable emission of dust from the site in the interest of amenity of the area.

12. That all leachate shall be constrained within the site and treated in accordance with the requirements of the Scottish Environmental Protection Agency to the satisfaction of North Ayrshire Council as Planning Authority.

Reason: To prevent pollution of watercourses.

13. That within 3 months of the date of the decision, an assessment of the volume and toxicity of the leachate generated by the current operations at the existing landfill, including an assessment of the risk this may present to natural systems, including a worst case scenario should the containment system fail, shall be submitted to North Ayrshire Council, as Planning Authority for their written approval, which report shall demonstrate that the water treatment proposals are adequate to eliminate any pollution risk.

Reason: To prevent pollution from leachate at the site.

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

Reason: To reduce any vermin risk from the site in the interest of amenity.

15. That there shall be no burning of material on the site at any time.

Reason: To prevent smoke or odour harm to amenity from burning.

16. That within 3 months of a date of the decision, an updated landscape impact assessment supported by a costed programme of mitigation and screening shall be submitted to North Ayrshire Council, as Planning Authority, for their written approval.

Reason: To ensure adequate screening of the in-filling operations in the interest of visual amenity.

17. That any further planting comprised in the approved details submitted under Condition 16 above shall be carried out in the first planting season following the commencement of the development and any trees which, within the lifetime of the operations, 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.

Reason: To ensure adequate screening of the in-filling operations in the interest of visual amenity.

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

Reason: To prevent material being deposited on the road in the interest of road safety.

19. That within 3 months of the date of the decision, confirmation of the separation of the surrounding surface drainage from that draining the operational area, which includes a method of interception and diversion of the existing surface water drainage, shall be submitted to, and approved in writing by North Ayrshire Council, as Planning Authority.

Reason: To prevent pollution of watercourses.

20. That within 3 months of the date of the decision, an updated scheme for the restoration of the site which fully details the backfilling and topsoil replacement operations, the construction of drains, ponds, footways and details of all plant species including their planting density, shall be submitted to and approved in writing by North Ayrshire Council, as Planning Authority. This restoration scheme shall be accompanied by a detailed aftercare management plan which shall set out a five year programme of works to ensure the successful implementation of the restoration scheme.

Reason: To ensure the restoration of the site following completion of in-fill operations in the interest of amenity.

21. That the restoration scheme and aftercare programme submitted under Condition 20 shall be implemented to the satisfaction of North Ayrshire Council, as Planning Authority, in accordance with the approved documents.

Reason: To ensure the restoration of the site following completion of in-fill operations in the interest of amenity.

22. That within 3 months of the date of the decision, a draft Code of Practice for vehicle movements will be submitted for approval of North Ayrshire Council, as Planning Authority. The draft Code of Practice will include issues listed on page 4 of the letter dated 14th November 2016, submitted by the AED Planning and Development on behalf of the applicant as part of this application. The development will thereafter be carried out in accordance with any Code of Practice agreed by the Council.

Reason: To establish a code of practice for vehicle movements to and from the site to mitigate any impact on other road users.

23. The types of waste permitted to be deposited on site will be restricted to those permitted by SEPA in the Pollution Prevention Control permit for the site, or any future regulatory permit by the authorised environmental protection body. Any changes to the types of waste permitted by SEPA will be forwarded to North Ayrshire Council, as Planning Authority, within 7 days of the change being agreed by SEPA.

Reason: To provide clarity over the waste types to be deposited on site in the interest of the amenity of the area.

Table 1. Types of Waste Currently Permitted by SEPA's PPC Permit

<u>European Waste Catalogue Code</u>	<u>Description</u>
15 00 00	Waste Packaging
17 00 00	Construction & Demolition Waste
19 00 00	Waste from Waste Management Facilities. Off-site Waste Water Treatment & Water Treatment
20 00 00	Municipal Waste & similar Commercial & Industrial Waste

Table 2. Possible Content for Haulage Code of Practice

Instruction for compliance with permitted hours of haulage
Examination of routing of vehicles to, where practicable, minimise the use of Kings Road
Instruction to ensure all loaded vehicles are sheeted
Instruction for vehicles to be driven at a speed appropriate to the conditions of the road
Instruction for the avoidance of adverse braking
Requirement of vehicles to be driven with utmost courtesy to all other road users
Instruction to be prepared to stop and give way to other road users
Instruction to slow down considerably when cyclists and pedestrians are on the road
Instruction to keep vehicles off road verges
Requirement for regular servicing of vehicles
Information on required road cleaning procedures
Requirement for all hauliers to be issued with copy of Code
Disciplinary action, including possible barring from site, of hauliers not complying with Code

NORTH AYRSHIRE COUNCIL

Agenda Item 4

7 December 2016

Planning Committee

Title: Call In Request: Brodick, Isle of Arran

Purpose: To advise the Planning Committee of a call in request in relation to an application for planning permission which would otherwise be determined by officers under delegated powers.

Recommendation: That the Planning Committee consider whether it wishes to determine the application which would otherwise be determined by officers under delegated powers.

1. Executive Summary

- 1.1 In terms of Section 43(A) of the Town and Country Planning Scotland Act 1997, which was inserted under the 2006 Act, Members may request that an application, which would ordinarily be determined by an Officer under the Scheme of Delegation, shall be referred to the Planning Committee for determination.

2. Background

- 2.1 A request has been made by Councillors Bruce, Barr and Gurney that an application for the erection of detached dwellinghouse should be determined by the Planning Committee and not by Officers under delegated powers.
- 2.2 The planning application was registered on 31 October 2016 and the call in request has been submitted within the 3 week deadline in accordance with the approved procedure (Appendix 1).
- 2.3 The stated reason for the call in request is as follows:-

"Sufficient public interest has been generated at this stage over the re-design of the build."

3. Proposals

- 3.1 The Planning Committee is invited to consider whether it wishes to determine the application which would otherwise be determined by Officers under delegated powers.

4. Implications

Financial:	None.
Human Resources:	None.
Legal:	4.3 Section 43(A) of the Town and Country Planning (Scotland) Act 1997, inserted under the 2006 Act, provided for applications to be "called in" for determination by the Planning Committee rather than by Officers under delegated powers.
Equality:	None.
Environmental & Sustainability:	None.
Key Priorities:	None.
Community Benefits:	None.

5. Consultation

5.1 No consultations were required.



ELMA MURRAY
Chief Executive

Reference :

For further information please contact Euan Gray on 01294 32 4130

Background Papers

0

Appendix 1

Call In Procedure by the Planning Committee under Section 43A(6) of the Town and Country Planning (Scotland) Act 1997

In terms of Section 43A(6) of the 1997 Act, “the planning authority may, if they think fit, decide themselves to determine an application which would otherwise be determined by a person so appointed” (under a Scheme of Delegation).

Members are entitled to exercise this right in the following manner.

1. At least 3 Members must submit in writing or electronic format a formal request that a particular application should be remitted to the Planning Committee for determination. The request should be sent to the Corporate Director (Development and Environment).
2. The formal request must be received no later than 3 weeks after the application is registered. (Note - all registered planning applications are accessible on the Council’s website).
3. The Corporate Director (Development and Environment) will immediately refer the reference to the Chair of the Planning Committee who will be required to call a meeting of the Planning Committee within five working days of notification by the Corporate Director (Development and Environment).
4. At least one of the Members who has requested the call in will be asked to attend the Planning Committee to explain the request. If none of the Members attend the Planning Committee, the Committee may determine not to call in the application.
5. The Members requesting the call in must give reasons for the call in and, if these are so accepted by the Planning Committee, those reasons shall be communicated to the applicant (Section 43A(7)).
6. Reasons for calling in have to be fair, relative and proportionate to the proposed development.

Example might include the following:-

- determination would raise issues of perceived controversial architectural design
- raises significant public interest
- has implications as to the interpretation of Local Plan policies

These might not be the only reasons which Members may feel relevant.

7. Once the Planning Committee has determined the call in request should be agreed to, the application will be determined by the Planning Committee in the normal way, irrespective of the fact that it is a local development and would otherwise be dealt with under the Scheme of Delegation.