

Planning Committee
8 March 2017

Irvine, 8 March 2017 - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

Present

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

In Attendance

J. Miller, Senior Manager (Planning), Paul Brennan, Specialist Environmental Health Officer (Noise), (Economy and Communities); J. Law, Solicitor (Contracts and Licensing) (Legal Services), A. Little, Committee Services Officer and E. Gray, Committee Services Support Officer (Chief Executive's).

Also In Attendance

Rita Holmes (Chair - Fairlie Community Council), Sarah Bowden (Fairlie Community Council), Denise Dunn (Local Resident), Darren Hendley (Arcus Consultancy), Sean Kelly (SSE Generation Limited) and Peter Jackson (Spectrum Acoustic Consultants).

Chair

Councillor Brown in the Chair.

Apologies for Absence

Robert Barr and Joe Cullinane

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 meetings of the Committee held on 8 February 2017 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 17/00034/PPM: Hunterston Construction Yard, Fairlie

SSE Generation Limited have applied for the variation of planning condition No. 1 of a Planning Permission (ref. 14/00164/PPM) to extend the operational time period of the National Offshore Wind Turbine Testing Facility until 14th October 2019.

On 14 February 2012, the Planning Committee granted conditional planning permission (ref.11/00679/PPM) for a test facility for up to three off-shore wind turbines with a maximum blade tip height of 198.5 metres at the Marine Construction Yard, Hunterston. On 23 April 2014, the Planning Committee agreed to a variation of this planning permission to i) revise the wording of condition 7 to enable assessment of compliance with noise limits and condition 9 to revise the timescale for dealing with complaints about noise nuisance; and ii) to revise condition 10 to identify measures to reduce turbine noise where agreed levels have been exceeded (ref. 14/00164/PPM).

To date one Siemens and one Mitsubishi wind turbine have been erected. Condition 1 was imposed in order to restrict the overall timescale in which the development could remain on site on the basis of the temporary consent for the test turbines. The applicants original application proposed a 5 year time limit from the date of commissioning of the first turbine. Condition 1 states:

'That the site shall be used as a facility for the testing of a maximum of 3 off-shore wind turbines at any given time for a period of 5 years from the date of operation of the first turbine, prior notification of which commencement date of operation of the first turbine shall be submitted in writing to North Ayrshire Council as Planning Authority; at the expiry of the 5 year period or 14th October, 2017 whichever is the earlier, the wind turbines and associated infrastructure shall be removed and the land restored to its former condition within 6 months, in accordance with a Decommissioning Method Statement to be agreed in writing with North Ayrshire Council as Planning Authority prior to the commencement of the development. If planning permission for the proposed multi-fuel power station at Hunterston is granted, the wind turbine test facility shall not be operational at the same time as the testing or operational phases of the multi-fuel power station.'

Ms Holmes and Ms Bowden, Fairlie Community Council, and Ms Dunn, Fairlie resident, addressed the Committee in support of the objections.

Ms Holmes referenced statements made by the applicant during the original application that a combination of energy sector jobs and a future manufacturing facility would lead to improvements in the economy of North Ayrshire and Scotland as whole. However it has since transpired that turbines are produced in England leading local residents to conclude that the economic benefits were exaggerated. Concerns were raised between the levels of low frequency noise which are emitted from the Mitsubishi turbine and the links to adverse impacts on the health of local residents. Further concerns were expressed about the fact that the turbines sited at Hunterston are designed to sit off shore and are much larger and more powerful than turbines designed to be situated close to residential areas. Therefore Ms Holmes believes it would be irresponsible to assume it is safe to test these turbines in this location and members should not approve the application unless they are willing to state publically that there are no health risks to the public. Finally, Ms Holmes stated that the original planning permission was for a temporary period of five years and allowed for the testing of three turbines. She questioned why the testing could not have been completed in five years and why the third turbine had not been erected in this period.

Ms Dunn detailed her personal health problems that have arisen since the testing began, including nausea, dizziness and drowsiness, which she believes is caused by the low frequency noise generated from the turbines. She hoped the Council would reject the planning permission to allow her to feel healthy again.

Ms Bowden gave details of her career in the music industry and knowledge of the damage that can be caused by long term exposure to sound including sounds which are inaudible to the human ear.

Mr Hendley, Arcus Consultancy Services Ltd, Mr Jackson, Spectrum Acoustics, and Mr Kelly, SSE Generation Limited, then addressed the Committee in response to the objectors.

Mr Hendley explained to the Committee that testing on the site did not begin until two years after the original planning permission was granted, therefore the extension would not lead to any further testing than was initially permitted. He also stated that sites for testing this type of turbine are very rare and the current site supports 55 jobs. The Main Issues Report associated with the Local Development Plan 2 was referenced as stating that Hunterson is an important resource for the whole of Scotland. Mr Hendley also informed the Committee that a six week background noise survey was carried out, the results of which received no complaints from Environmental Health.

Mr Jackson spoke about the results of a low frequency noise measurements investigation which found that the noise produced by the turbines did not exceed the levels agreed in the original planning permission. Mr Jackson did acknowledge that the level of background noise may have changed in this time and stated that the applicant would be willing to carry out further tests to determine a new level which would be used as a target which should not be exceeded.

Mr Kelly addressed the objections relating to the lack of economic growth which the site generates by providing information on investment which SSE have made in the Moray Firth and figures to support the benefits to the local and Scottish economy.

The Senior Manager (Planning) informed the Committee that an offer had been received from the applicant to remeasure background noise and re-evaluate noise limits as part of an upcoming operational noise survey for the Mitsubishi turbine.

Councillor Brown, seconded by Councillor Ferguson, moved to continue the application to a future meeting to allow a further background noise survey to be carried out by the applicant.

As an amendment, Councillor Marshall, seconded by Councillor Bruce, moved that the application be considered at this meeting.

On a division, there voted for the amendment 4 and for the motion 4 and, on the casting vote of the Chair, the motion was declared carried.

Accordingly, the Committee agreed to continue the application to a future meeting to allow a further background noise survey to be carried out by the applicant.

4. 16/00793/PP: Site To North Of Knowes Farm, Beith

Smith Skip Limited submitted a draft Code of Practice for vehicle movement to and from the site to the North of Knowes Farm as set out in Condition 22 of Planning Permission 16/00793/PP which was approved by the Committee on 7 December 2016. Condition 22 states:

'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 the 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.'

The Code of Practice submitted by the applicant addressed the following areas:

- traffic management relating to haulage vehicles travelling to and from the landfill site;
- the establishment of a Liaison Committee to allow information to be circulated and queries answered;
- improvements to the site access road and the provision of wheel cleaning for vehicles using the site;
- consideration taken for large funeral services carried out a Beith Cemetery
- traffic routing to minimise the use of Kings Road where possible; and
- the establishment of a complaints procedure relating to issues with the condition of the public road.

The Senior Manager (Planning) then outlined the terms of the report, which recommended the Code of Practice in accordance with Condition 22 of Planning Permission 16/00793/PP be approved.

The Committee agreed to approve the Code of Practice in accordance with Condition 22 of Planning Permission 16/00793/PP.

5. The Town and Country Planning (Miscellaneous Amendments and Transitional Saving Provision) (Scotland) Order 2016

Submitted report by the Executive Director (Economy and Communities) on the amendments to the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 for betting operators and pay day lenders (PDL).

The report stated the effect of the Amendment Order is to amend the Town and Country Planning (Use Classes) (Scotland) Order 1997 to remove betting offices from class 2 (financial, professional and other services) and to add both betting offices and PDL shops to the list of uses excluded from the various use classes (sui-generis). Any material change of use of premises to such offices or shops would require planning permission.

The Committee agreed to note the report.

6. Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: 148 Main Street, Largs, KA30 8JN

Submitted report by the Executive Director (Economy and Communities) on the erection of a flagpole from the front elevation of a property at first floor level, 148 Main Street, Largs, KA30 8JN.

The flagpole, which is used to facilitate the display of a national flag, is understood to have been erected in connection with one of the flats in the upper floors. The site is located within an area identified as part of the settlement of Largs by the Adopted North Ayrshire Local Plan and, by way of its prominent location at high level on a residential property sited on the main southern access road to Largs Town Centre, is held to harm amenity.

The flagpole is therefore held to be contrary to criterion (a) Siting, Design and External Appearance of the General Policy of the LDP.

In the interest of the visual amenity of the area, the report recommended that Committee approves the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 to require the removal of the flagpole from first floor level of the building.

Councillor Marshall, seconded by Councillor Bruce, moved that (a) no notice is served, (b) the property owner is asked to submit an application for planning permission for the erection of a flagpole and (c) the Senior Manager (Planning) report to a future meeting of the Committee if no application is received.

As an amendment, Councillor Ferguson, seconded by Councillor Brown, moved that the recommendation of the report is agreed.

On a division, there voted for the amendment 2 and for the motion 6 and the motion was declared carried.

The Committee agreed that (a) no notice is served, (b) the property owner is asked to submit an application for planning permission for the erection of a flagpole and (c) the Senior Manager (Planning) report to a future meeting of the Committee if no application for planning permission is received.

7. Notice under Regulation 24 of the Town & Country Planning (Control of Advertisements) (Scotland) Regulations 1984: 116 Main Street, Largs, KA30 8JN

Submitted report by the Executive Director (Economy and Communities) on an unauthorised advertisement situated at 116 Main Street, Largs, KA30 8JN.

Advertisement consent was sought in 2016 for the installation of a Piaggio Ape three wheeled light commercial vehicle on flat roof with 'Deli il Cardo,' the name of the delicatessen, written on the sides and rear. This application was refused on 21 September 2016 (ref: 16/00679/ADC). The reason for refusal was that the proposal by way of its sitting, design and illumination it was held to have an adverse impact on road safety with the potential to cause unnecessary distraction to drivers on the trunk road, at a roundabout junction where there would be an intensification of turning manoeuvres. This decision followed a consultation response from Transport Scotland, as Trunk Road Authority, that the application should be refused on the grounds of road safety.

A Notice under Regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 ("Advertisement Enforcement Notice") allows the Council, as Planning Authority, to serve on the owner, lessee and occupier of land and any other person known to the Planning Authority to be displaying the unauthorised advertisement, a notice requiring the removal of an unauthorised advertisement.

In the interest of the public safety of the area, the report recommended that Committee approves the service of a Notice under Regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 to require the removal of the advertisement comprising a Piaggio Ape vehicle from the roof of the building.

The Committee agreed to grant authority for the service of a Notice under Regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 to require the removal of the advertisement comprising a Piaggio Ape vehicle from the roof of the building.

8. Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: Site to South of River Cottage, Montgreenan, Kilwinning

Submitted report by the Executive Director (Economy and Communities) on a log cabin which has been erected to the south of River Cottage, Montgreenan, Kilwinning.

The log cabin is not considered to be necessary non-residential development associated with agriculture, forestry operations or other established rural business. It is also held to have an adverse visual impact on the surrounding area due to its incongruous design and suburban character. An application for planning permission to retain the log cabin was refused on 30th May 2016 (ref: 16/00290/PP). The refusal was confirmed on appeal to the Local Review Body ("LRB") 25th November 2016.

In the interest of the visual amenity of the area and the character and amenity of the countryside, the report recommended that Committee approves the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 to require the removal of the log cabin and return of the land to its condition prior to the erection of the log cabin.

The Committee agreed to grant authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 to require the removal of the log cabin and return of the land to its condition prior to the erection of the log cabin.

9. Tree Preservation Order: Castlewalk Plantation, Fairlie

Submitted report by the Executive Director (Economy and Communities) on a proposed Tree Preservation Order on an area to the east of Fairlie.

In 2014, planning permission was granted for the renewal of an unexpired planning permission for the restoration and extension of Fairlie Castle to form a single dwelling house including double garage (Ref. 14/00199/PP). This proposal has been implemented and construction works are ongoing. In September 2015, planning permission was granted for the formation of a new access road and erection of 36 flats and 26 detached dwelling houses at a site to the North of Fairlie Primary School (Ref. 12/00159/PPM). The developer of the site, Dawn Homes, has commenced works and phase 1 of the development is due to complete in Autumn 2017. Dawn Homes has commenced a 12 week statutory, pre-application consultation on a proposed planning application for the development of approximately 100 dwelling houses to south of the site and to east of Castlepark Gardens, Fairlie (Ref. 16/01079/PREAPP).

In December 2016, a request was received from a member of the public that consideration be given to the imposition of a Tree Preservation Order on an area to the east of Fairlie, comprising of Castlewalk Plantation, Fairlie Plantation and Fairlie Glen, and two smaller groupings at Glaisdale Burn (Appendix 2 to the report).

The Senior Manager (Planning) provided the committee with details of the historic and cultural significance associated with the trees located in Castlewalk Plantation (Appendix 2, Area A). The other areas covered in the request were determined not to be under significant threat from future development (Fairlie Plantation and Fairlie Glen (Appendix 2, Areas B and C)) or to offer limited amenity value (Two groupings at Glaisdale Burn (Appendix 2 Area D)).

The TPO would be effective from the date of service and would continue to be enforced until the end of six months or until the order is confirmed. There will also be a statutory period for consultation, during which representations on the TPO can be made.

The report recommended that (a) a Tree Preservation Order is served on the site owners in respect of all the trees and woodland within the boundary of Castlewalk Plantation (outlined in Appendix 1 to the report) in order to protect existing trees and woodland both in the interests of amenity and their historic or cultural significance and (b) Dawn Homes as the developer for new housing development, which is located close to the Castlewalk Plantation, are notified.

The Committee agreed to (a) serve a Tree Preservation Order on the site owners in respect of all the trees and woodland within the boundary of Castlewalk Plantation (outlined in Appendix 1 to the report) in order to protect existing trees and woodland both in the interests of amenity and their historic or cultural significance and (b) notify Dawn Homes as the developer for new housing development, which is located close to the Castlewalk Plantation.

10. Scottish Government Consultation on the High Hedges (Scotland) Act 2013

Submitted report by the Executive Director (Economy and Communities) on the Call for Evidence by the Scottish Ministers on the operation of the High Hedges Act.

The High Hedges (Scotland) Act 2013 came into force in April 2014 and aimed to provide a solution to the problem of high hedges which adversely affect an occupant's reasonable enjoyment of domestic property. The Consultation invites written responses to allow the Local Government and Communities Committee to review experiences thus far and consider any suggestions on how the Operation of the Act may be improved before a final report is published.

A response based on previous applications and enquiries has been prepared (detailed in Appendix 1 to the report). It was recommended that this response be submitted to the Scottish Government as the Council's response to the Call for Written Evidence.

The Committee agreed to submit the response as detailed in Appendix 1 to the report.

11. Scottish Government Consultation Papers: Unconventional Oil and Gas, and Fees for Monitoring Surface Coal Mine

Submitted report by the Executive Director (Economy and Communities) on two Scottish Government consultation papers: Unconventional Oil and Gas, and Fees for Monitoring Surface Coal Mines.

The consultation on Unconventional Oil and Gas identifies the most likely areas for extraction of unconventional oil and gas in Scotland. The report highlighted that North Ayrshire has not been identified by the British Geological Survey as having geological potential for unconventional gas and oil extraction. The report recommended that the Committee note the consultation.

The consultation on Fees for Monitoring Surface Coal Mines seeks views on the Scottish Government's proposal to enable planning authorities to charge operators for undertaking monitoring of surface coal mining permissions, including planning conditions; legal agreements and restoration financial guarantees. The report recommends that the consultation on Fees for Monitoring Surface Coal Mines be noted and that the Council, as Planning Authority, respond broadly supporting the proposals and requesting that consideration be given to the introduction of similar monitoring fees for other mineral sites.

The Committee agreed to (a) note the consultation papers and (b) (i) support the introduction of fees for monitoring surface coal mines and (ii) request the introduction of such fees for other mineral sites.

12. Local Development Plan 2 - Progress Update

Submitted report by the Executive Director (Economy and Communities) on the Development Plan Scheme.

The Development Plan Scheme (DPS) has a crucial role in coordinating public involvement on LDP2 and ensuring the plan-making process is project managed. It is a statutory document outlining the key stages in preparing LDP2 and when people can get involved. The document was first published in 2015, and with revisions made in 2016. Appendix 1 to the report provided the proposed third edition of the DPS.

The report recommended that the Committee (a) note recent progress on preparation of the North Ayrshire Local Development Plan 2; and (b) authorise publication of Development Plan Scheme.

The Committee agreed to (a) note recent progress on preparation of North Ayrshire Local Development Plan 2; and (b) authorise publication of the Development Plan Scheme as detailed in Appendix 1 to the report.

The meeting ended at 3.05 p.m.