



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Committee

A Special Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 29 June 2022 at 14:00** to consider the undernoted business.

- 1 Declarations of Interest**
Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.
- 2 22/00133/PPPM Former Coal Terminal Hunterston West Kilbride**
Planning permission in principle for the erection of a high voltage cable manufacturing facility, including detailed planning permission for the construction of a 185m high extrusion tower with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system
- 3 22/00417/PP Site To North Of Albann Ltd, Third Avenue, Heatherhouse Industrial Estate, Irvine**
Section 42 application to remove condition 1 of Planning Permission 14/00473/PP to remove control over the beneficiary of Planning Permission
- 4 22/00325/PP Units 1-5 Shewalton Sand Quarry Shewalton Road, Riverside Business Park, Irvine**
Application under Section 42 to modify condition 5 of planning permission 10/00228/PP to allow the acceptance of general waste and glass (for waste transfer only), to increase the total quantity of waste permitted on site at any one time from 600 tonnes to 2000 tonnes and to increase operational hours to include Sundays from 08:00 - 16:00 hours

5 Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: former Seafield School, Eglinton Road, Ardrossan

To seek approval to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proposed maintenance of the land for the abatement of the adverse impact on the local area.

6 Urgent Items

Any other items which the Chair considers to be urgent.

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Planning Committee Sederunt

Robert Foster (Chair)
Timothy Billings (Vice-Chair)
Scott Davidson
Stewart Ferguson
Cameron Inglis
Amanda Kerr
Davina McTiernan
Jim Montgomerie
Ian Murdoch
Chloe Robertson

Chair:

Apologies:

Attending:

NORTH AYRSHIRE COUNCIL

29th June 2022

Planning Committee

Locality	North Coast and Cumbraes
Reference	22/00133/PPPM
Application Registered	25th February 2022
Decision Due	25th June 2022
Ward	North Coast

Recommendation	Approved subject to Conditions
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Location	Former Coal Terminal Hunterston West Kilbride Ayrshire
Applicant	XLCC Fao Mr David Kelly
Proposal	Planning permission in principle for the erection of a high voltage cable manufacturing facility, including detailed planning permission for the construction of a 185m high extrusion tower with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system

1. Description

Planning permission in principle is sought for the erection of a high voltage cable manufacturing facility, with associated factories, research and testing laboratories, offices with associated stores, transport, access, parking and landscaping with on-site generation and electrical infrastructure and cable delivery system. Detailed planning permission is sought for the construction of a 185m high extrusion tower.

The site is some 51ha in area, including existing access roads and jetty. The site is a former coal yard, which has been vacant since 2016. The development would make use of an existing access and the existing jetty and port. The site is identified in the Local Development Plan (LDP) as part of the Hunterston Strategic Development Area and suitable for business and industrial development. The Southannan Sands Site of Special Scientific Interest ("the SSSI") is some 85m to the west. The Hunterston House Tree Preservation Order ("the TPO") runs along the eastern boundary of the site.

A masterplan has been submitted which indicates that the main factory buildings, including the tower, would be sited in the southernmost portion of the site comprising some 30ha in area. The tower would be some 1450sqm in area. It would be sited some 440m north of the southern boundary of the site and 75m west of the eastern boundary of the site. The tower would be some 185m in height. It would be 25m wide, west to east, and 58m in length, north to south. It would be approx. 1km south of the settlement of Fairlie, as identified by the LDP.

The application falls within the category of "major" development, in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. A pre-application consultation (PAC) was required, and a PAC notice was received on 9th July 2021 (ref: 21/00702/PREAPM).

The proposal was scoped in accordance with the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 on 17th December 2021 (ref: 21/01094/EIA).

An EIA has been submitted and includes consideration of the following:

Alternative Sites and Design

The EIA states that it is anticipated there will be demand for two such facilities within the UK. A significant area of land is required for such a site, adjacent to a deep-water access for the cable laying vessels. The site must be near to a c.40MW power source. Road and rail access and proximity to a highly skilled workforce are also important factors. As such there are a very small number of sites in the UK which meet these needs, Hunterston being one.

This site provides opportunity to access the existing port for cable export. It is considered the site has good connectivity through other means including active travel. The site allows for a layout to optimise production. The existing woodland could be retained to provide visual screening. The site also has the opportunity for the creation of a suitable drainage network. Constraints of the site are identified as the existing common road and railway tracks, other commercial interest in adjoining plots and the lack of infrastructure for the approx. 900 FTE jobs it is considered the development would provide.

The size of the site has meant there has only been 3 iterations of the proposed layout. Only the siting of the tower would be determined through this application.

Ecology and Nature Conservation

The EIA assesses the habitats both within the site and designated sites in the wider area. In terms of the site itself, the majority of the site was found to be bare ground and any habitats identified were held to be of low conservation value. The habitats outwith the application site were held to have some opportunities for protected species. However, other than a few otter and badger footprints no evidence of usage of the site by protected species was found. The site has low potential for foraging or habitation by protected species.

Mitigation is proposed to minimise any impacts on habitats and protected species. Any exterior lighting scheme would minimise light spill and designed to be activated only when required. Pre-construction checks would take place for protected species. Further surveys would be undertaken if commencement of works was delayed. During construction a 50m

buffer zone with water courses and ditches would be maintained where possible. Best practice techniques would be employed and Ecological Clerk of Works employees to oversee works. It is considered the proposal would have no significant impact on habitats, the SSSI or protected species.

Historic Environment

The effect on historic environment assets has been assessed. The assets assessed include Listed Buildings at Hunterston Castle and Hunterston House, the Listed Building and Scheduled Monuments at Old Lighthouse, Little Cumbrae and Fairlie Castle, the Scheduled Monument at Little Cumbrae Castle, the Kelburn Castle Designed Landscape and Millport Conservation Area ("the CA").

It is concluded that there would be no significant effect on any of the assets except for the CA, because the tower would be visible in locations throughout the CA, and the sea front in particular. It is considered that the impact on the CA will be moderate.

Landscape and Visual Effects

The EIA assesses the local landscape and visual impact of the proposal. It finds that the impact on the immediate landscape would be moderate adverse during the day. It would have a significant major adverse effect on the seascape in the short term. The effect on the North Arran and Watershead Moor Wild Land Areas is found to be negligible to moderate and not significant, as is the effect on the North Arran National Scenic Area, Kyles of Bute National Scenic Area and Loch Lomond National Park. There would be a moderate impact on the Clyde Muirshiel Special Landscape Area, but this would not be significant.

In terms of residential viewpoints, it is considered occupiers of Glenside and Southannan Mains would experience major adverse impact in the short term. Other nearby residences would experience less of an impact due to screening and orientation. From Fairlie the construction of the tower would result in a moderate adverse impact temporarily which is not considered to be significant. It is considered to be same at points in Millport and Largs.

Users of the Ayrshire Coastal Path would experience a minor to moderate impact depending on the location. Other recreational routes on Arran and Bute would experience a negligible to minor impact. Views for travellers on the road, and rail would experience a negligible to minor impact. Sea based travellers would experience a major adverse impact, at close to medium distance, during the day. The impact on views from the Largs to Cumbrae ferry is considered to be moderate and not significant.

Hydrology and Flood Risk

The report states that with appropriate embedded mitigation measures the construction of the development would have a minor adverse impact on water quality. The proposal would not result in a loss of floodplain storage or alter fluvial flow paths. Mitigation measures can reduce the risk of groundwater flooding. The proposal would not result in an increase of surface water runoff.

Hydrogeology, Geology and Ground Conditions

The report states that the development should have no significant impacts in terms of contamination. Mitigation measures would be undertaken to prevent additional sediment from the site entering the SSSI and other water courses. Further investigation and remediation where required could be controlled through the planning process.

Traffic and Transport

This assessment concludes that once operational there would be long-term adverse effects in terms of traffic, simply by virtue of increased vehicle movements. On the A78 this would be negligible. Conditions such as traffic delay and pedestrian amenity would not change. During construction, roads specifically identified as unsuitable for construction traffic would not be used.

Noise and Vibration

The EIA considered noise from both the construction and operational phases. It is concluded that any noise/vibration from construction could be mitigated by adopting best practice as set out in British Standards. Such measures would be implemented through a Code of Construction Practice (CoCP), which would include notification to those nearby, who may be affected; construction hours of 7am to 7pm Monday to Friday, 8am to 1pm Saturday and not at all on Sundays or Bank Holidays; and siting works away from noise sensitive receptors.

During operation of the development, it is considered that a reasonable acoustic environment is attainable at the nearest noise sensitive receptors. Most of the noise generating plant would be within buildings. External plant could be fitted with silencers. With suitable mitigation it is considered the noise from construction and operation would have negligible to minor adverse impact. There is not considered to be any impact from vibration.

Climate Change

The potential impacts of the proposal on climate change were assessed. The greenhouse gas emissions from the construction phase are predicted to be between some 107,400 tCO₂e and 127,700 tCO₂e. It is considered that this could be mitigated through the detailed design phases, and procurement and supply chain practices.

The operational phase of the development is considered to have greenhouse gas emissions of approx. 53,200 tCO₂e. The majority of this is from electricity consumption. This amounts to a approx. 0.0137% of the UK annual carbon budget to 2027. An assessment of the Tyndall Centre for Climate Change Research (2022) suggests this would be about 15% of North Ayrshire's carbon budget. This proportion of North Ayrshire's budget should be seen in the context of a lack of manufacturing industry employment opportunities. This would provide approx. 900 full time equivalent jobs. The proposal is also considered to be in line with the Scottish Government's key principle of supporting the change to a low carbon economy as it will manufacture transmission cable to facilitate increased deployment of renewable and low carbon energy generation.

Air Quality

The potential impacts of air quality were assessed. During construction, the main impact was considered to be dust. No odour, gaseous or particulate emissions would be emitted

during operational phase and the impact on air quality would be negligible. A Dust Management Plan could be developed and implemented to control emissions during construction. This could include site management, monitoring, and maintenance. Subject to such mitigation if it is considered the risk from construction dust in terms of air quality would be negligible.

Social and Economic Impact Assessment

This Assessment states that the proposal would have a minor beneficial short-term effect on the economy of North Ayrshire during construction. It is assessed that the construction period would create the equivalent of 70 jobs in North Ayrshire. The benefits of construction are assessed as negligible for the wider Scottish and UK economies.

For the operational phase of the development, it is assessed the benefit to North Ayrshire would be major and long term. It is considered there would be a £60 million GVA and 1,010 job benefit impact for the area. The benefits during operation for Scotland and the UK are assessed as £92 million GVA, 1,600 jobs and £183 million, 3,610 jobs respectively. These benefits are considered to be negligible but are seen as long-term effects.

The assessment considers the impact of the development on tourism. The assessment considers the development will not impact directly on the features which make the tourism destinations of Great Cumbrae, the Isle of Bute, Largs, Fairlie, Ardrossan and the Clyde Muirshiel Regional Park attractive. It is considered the impact on those areas will be negligible.

Nearby walking routes, including the coastal path and walks within the Regional Park, and marine receptors are assessed. It is considered that the impact on these areas would be minor and not significant in terms of tourism. The landscape and visual impact are assessed in the Landscape and Visual Effects section. Overall, it is considered there would be no significant effect on tourism to the area.

In addition to the EIA, the following documents have been submitted in support of the application:

PAC report

The PAC report notes the publicity measures undertaken and the public events held. An online public exhibition was held from 23rd August to 3rd September 2021 with a live web chat on 25th August 2021. The procedure was carried out in accordance the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020.

The online exhibitions received 266 unique visits. 11 comments were received. Comments ranged from questions regarding building height, job creation, funding of the development, the developer's background, noise as well as expressions of support.

The applicant held public meetings in the week beginning 9th May 2022. These meetings were not a requirement of the PAC process or this application process.

Transport Assessment

This assesses the existing transport infrastructure. It concludes that the existing active travel network offers a means of securing improved access by foot and bicycle from the local catchment subject to minor upgrading of infrastructure. The introduction of bus stops would encourage the use of sustainable transport among employees. The existing vehicle access is capable of accommodating increased traffic flows. Restrictions on movements of HGVs can be implemented through a Construction Management Plan (CMP) and Travel Plan.

Planning Statement

The planning statement describes the proposed development, summarises the planning background, and policy context.

The Town and Country Planning (Scotland) Act 1997 states that when determining planning applications regard shall have to the provisions of the development plan, so far as material to the application, and to any other material considerations.

The relevant policies of the Local Development Plan adopted November 2019 (LDP) are Strategic Policy 1: The Coast Objective; Strategic Policy 2: Placemaking; Strategic Policy 3: Hunterston Strategic Development Area; Policy 7: Business and Industry Employment Locations; Policy 15: Landscape and Seascape; Policy 16: Protection of our Designated Sites; Policy 17: Clyde Muirshiel Regional Park ("CMRP"); Policy 23: Flood Risk Management; Policy 27: Sustainable Transport and Active Travel; Policy 29: Energy Infrastructure Development; and Policy 31: Future Proofing for Heat Networks.

The Hunterston Development Framework was approved by the Planning Committee on 1st December 2021.

The Scottish Government's National Planning Framework 4 (NPPF4) is currently in draft. The consultation period on the draft NPF4 ended 31st March 2022. Hunterston is identified in the draft NPPF4 as a National Development. Certain development at Hunterston, which would otherwise have been of a scale or type that is classified as 'major,' would be designated as a national development should NPPF4 be adopted in its current form. The classes of development proposed are those which support the redevelopment and reuse of existing strategic assets and land, contributing to a net zero economy. They include infrastructure to support a multi-modal deep-water harbour; land and buildings for industrial, commercial, research and development, and training uses; and infrastructure for the generation and storage of electricity from renewables of or exceeding 50 megawatts.

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.

SP3 Strategic Development Area 1: Hunt Strategic Development Area 1: Hunterston

Hunterston

We recognise the strategic national importance of Hunterston as an energy hub and deep-water port. We strongly support the inclusion of Hunterston in the National Planning Framework 4. In particular we will support the following uses:

Hunterston Deep Water Port

- o Renewables generation, manufacture, maintenance, research and development, testing and training (including support for a renewables skills academy)
- o Strategic grid connections recognising its importance as a landfall to support the offshore renewable energy sector
- o Maritime construction and decommissioning (including oil and gas structures)
- o Bulk handling facilities for importing, processing and distributing all dry and bulk liquid cargoes
- o Local scale Bio-mass energy generation developments as per Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009
- o Other storage, processing and distribution uses and general light industrial activities where they would not undermine the strategic importance of, and unique assets of Hunterston as a deep-water port.

Hunterston Nuclear

- o Appropriate development to support the operational life of the existing facility
- o Nuclear decommissioning and radioactive waste management from within the site
- o Other facilities for large and small scale power generation

Energy Sector & Nuclear Facilities

Hunterston provides a unique combination of energy generation, infrastructure and network accessibility.

The decommissioning of Hunterston A is ongoing and will be followed at some point after 2023 by the decommissioning of Hunterston B. We want to support the retention of the high value jobs in the energy industry at Hunterston. Hunterston is an area where co-ordinated action and a masterplanned approach is required. We would expect all development to take account of the special environmental and safety constraints of Hunterston including detailed transport studies to identify options for enhancing port/rail/road accessibility, and management of impact of uses on nearby communities and the natural and built heritage assets in the area.

Detailed Policy 7-B&I Employment Location 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.

Detailed Policy 15-Landscape & Seascape Policy 15:

Landscape and 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.

Detailed Policy 16- Protection of our Designated Sites

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.

Detailed Policy 17 - CMRP

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

Detailed Policy 23-Flood Risk Management

Policy 23:

Flood Risk Management

We will support development that demonstrates accordance with the Flood Risk Framework as defined in Scottish Planning Policy and shown in schedule 7, relevant flood risk management strategies and local flood risk management plans. We will also support schemes to manage flood risk, for instance through natural flood management, managed coastal realignment, wetland or green infrastructure creation.

Generally, development should avoid locations of flood risk and should not lead to a significant increase in the flood risk elsewhere. Land raising and elevated buildings will only be supported in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area.

Development proposals should:

- o Clearly set out measures to protect against, and manage, flood risk.
- o Include sustainable urban drainage systems (SuDS) where surface water is proposed to be discharged to the water environment, in accordance with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 as amended.
- o Include provision of temporary/construction phase SuDS.
- o include appropriate long-term maintenance arrangements.
- o Be supported by an appropriate flood risk assessment where at risk of flooding from any source in medium to high risk areas and for developments in low to medium risk areas identified in the risk framework (schedule 7).
- o Take account of SEPA's flood risk and land use vulnerability guidance (2018) and any relevant updates to, or replacements of this guidance.

Detailed Policy 27

Sustainable Transport and Active Travel

We will support development that:

contributes to an integrated transport network that supports long term sustainability

- o reduces inequality by improving the accessibility and connectivity of employment opportunities and local amenities
- o provides safe and convenient sustainable transport options and supports modal shift to sustainable transport and active travel.
- o reduces the need to travel or appropriately mitigates adverse impacts of significant traffic generation, road safety and air quality, including taking into account the cumulative impact.

- o takes a design-led, collaborative approach to street design to provide safe and convenient opportunities for integrated sustainable travel in the following order of priority: pedestrians, people on cycles, people using collective transport (buses, trains etc.) and people using private transport.
- o considers the potential requirements of other infrastructure providers, including designing for the potential development of district heat networks by for example incorporating access points into the transport network to allow for future pipe development or creating channels underneath the road/infrastructure to enable pipe development with minimal disruption to the networks.
- o enables the integration of transport modes and facilitates movement of freight by rail or water (in preference to road). This would include, for example, the provision of infrastructure necessary to support positive change in transport technologies, such as charging points for electric vehicles and the safeguarding of disused railway lines with the reasonable prospect of being used as rail, tram, bus rapid transit or active travel routes.
- o considers the impact on, and seeks to reduce risk to level crossings, including those located within Ardrossan, Stevenston and Gales.

Proposals are expected to include an indication of how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.

We will take account of:

- o the implications of development proposals on traffic, patterns of travel and road safety.
- o Significant traffic generating uses should be sited at locations that are well served by public transport, subject to parking restraint policies, and supported by measures to promote the availability of high-quality public transport services. Where this is not achievable, we may seek the provision of subsidised services until a sustainable service is achievable.
- o the potential vehicle speeds and level of infrastructure provided for the expected numbers of trips by all modes.
- o the relationship between land use and transport and particularly the capacity of the existing transport network, environmental and operational constraints, and proposed or committed transport projects.
- o committed and proposed projects for the enhancement of North Ayrshire's transport infrastructure, including improved park and ride provision.
- o specific locational needs of rural communities. We recognise that in rural areas we need to be realistic about the likely viability of public transport services and innovative solutions such as demand-responsive public transport and small scale park and ride facilities at nodes on rural bus corridors will be considered.
- o The Council's adopted Local Transport Strategy, Core Paths Plan, Town Centre Parking Strategy and parking requirements.
- o The need to mitigate and adapt to climate change with regard to the Climate Change (Scotland) Act 2009.
- o The provision of new and improved links to existing and proposed active travel routes which are integrated with the wider strategic network, including the National Walking and Cycling Network, core paths and the Ayrshire Coastal Path.

Developments likely to generate significant additional journeys will be required to be accompanied by a Transport Assessment, Air Quality Assessment and a Travel Plan. A Transport Statement will be required for smaller scale developments that will not have a major impact on the transport network, but are still likely to have an impact at a local level on the immediate transport network.

National Development:

The National Walking and Cycling Network (NWCN) was designated as a national development within the National Planning Framework (NPF3). This is an ambitious project which aims to grow Scotland's network of paths from 6,000 to 8,000 km by 2035. Key routes in North Ayrshire which will contribute to this network are detailed below. These are being developed in partnership with Sustrans and Scottish Natural Heritage as lead organisations for the delivery of the NWCN.

These include the development of an off-road alignment for:

- o National Cycle Network (NCN) Route 73 (North) between Brodick and Corrie on the Isle of Arran
- o NCN Route 753 between Skelmorlie and Ardrossan
- o While not explicitly referenced in NPF3, support will be given to development of an off-road alignment for NCN Route 7 between Kilwinning and Kilbirnie.

Detailed Policy 29 - Energy Infrastructure

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.

Detailed Policy 31 - Future Proofing for 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 where 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).

We will seek to identify and safeguard existing and future heat network generation and distribution infrastructure, including piperuns and pipework within, and to the curtilage of, new developments.

Proposals for development that constitute a significant heat source or substantial development* which would not result in the creation or enhancement of district heat networks should include:

- i) provision for on-site heat recovery and re-use infrastructure; or
- ii) a heat network generation and distribution infrastructure plan (a district heating plan), taking into account the potential to connect to future heat demand sites; or
- iii) demonstrable evidence that district heating or other forms of renewable generation storage have been explored but are not feasible for technical (proximity, geography, safety etc) or economic reasons.

* 'Substantial' developments consist of urban extensions, large regeneration areas or large development sites subject to master planning or large mixed use developments and major sites (50 residential units and above). There is, however, an element of judgment that will need to be applied here and it might be that some other locations offer significant potential for heat networks due to their local context, support from the local authority, and 'buy in' from developers.

2. Consultations and Representations

Neighbour notification was carried out and the application was advertised and in response there have been 5 objections and 2 representations in support. Following the applicant holding public meetings during the w/c 9th May, Fairlie Community Council provided 21 more objections from members of the public (see below). The objections can be summarised as follows:

1. Noise. Noise and vibration must be assessed. Noise from operation will disturb Fairlie particularly as continuous operation is sought. Loading the cable onto ships should not be allowed. Previous shipping at the dock, including cable ships, have impacted on residents. An assessment of the noise from moving cable along the jetty and then onto ships should be undertaken. The noise from construction will disturb residents.

Response: NAC Environmental Health was consulted and has offered no objections. The applicant has provided information that the operation of the factory and external plant, can be carried out so as not to exceed the rated background noise level. This could be controlled by condition and adherence to this condition would ensure no statutory noise nuisance even with continuous operation. The port is a lawful existing use and the loading or unloading of ships could be undertaken regardless of any permission for the rest of the site. Construction could be controlled through a Construction Management Plan and Environmental Health has powers to take action against statutory noise nuisance.

2. Height and Visual Impact. The tower would dominate the landscape for miles around and adversely affect the area. It is suggested a balloon be flown at the height of the building to allow locals to understand the proposal. There are no comparable structures in the area. It is not considered that the LVIA has assessed enough locations within Fairlie to properly assess impact. The LVIA is considered to be deficient, and no determination should be made until further viewpoints are assessed. The village would be overshadowed

Response: The visual impact is considered further below. The LVIA is considered sufficient to assess the application. Given the position of the tower and distance to Fairlie, it is not considered the village would be overshadowed. An assessment of shading is considered more fully below.

3. Flooding. There are issues with surface water and flooding at the site. Coastal erosion could make the site further at risk.

Response: The application site is not at risk of flooding except for small areas of potential surface water flooding. NAC Flooding and SEPA both have no objection and details of drainage to deal with surface water could be required by condition if permission is granted.

4. Decommissioning. A bond should be required to ensure proper decommissioning should the use cease.

Response: Noted. A condition requiring details of finance for the removal of the tower should it become obsolete could be added to any permission.

5. Fire safety. It is questioned whether the Fire Service would be able to respond to a fire, particularly with respect to the height of the tower which will be one of the tallest in Scotland.

Response: This is not a material planning consideration. The tower would have to meet the requirements of the Building Regulations in terms of fire safety.

6. Environment. The adjacent SSSI will be affected as will the Clyde Muirshiel Regional Park. The operation of the site will adversely affect local wildlife. Air pollution will be caused by the operation of the site. This will harm residents and wildlife. Light pollution will affect villagers. The biodiversity of the site will be lost. The jetty should not be used as ship movements will have an adverse impact on the environment.

Response: NatureScot was consulted and is satisfied the SSSI will not be affected. The impact on CMRP is considered to be minimal. No protected species or habitats have been found in the site which is a former coal yard. A condition could be added to any permission requiring further habitat/species surveys as required. The jetty is part of an existing lawful port and ship movements cannot be restricted by the Council, as Planning Authority.

7. Traffic. No construction vehicles or other deliveries should be allowed through Fairlie. Increased traffic due to the operation of the development would be detrimental to the village.

Response: The relevant roads authorities have been consulted and their responses are below. Construction traffic can be controlled through a plan required by condition of any permission including avoidance of Fairlie.

The representations of support can be summarised as follows:

1. The area needs sustainable employment. The shutdown of the nuclear power stations means a loss of high paid and high skilled jobs. This is a development which can aid low carbon electricity. Regular use of the jetty will decrease the likelihood of ships with nowhere else to go docking and causing disturbance. The wider benefits for the local area and whole country outweigh any potential inconveniences. The proposal should not prevent further development at the site.

2. The principle of the application should be warmly welcomed as part of a plan for the continued economic development of the area, as well as for tackling the climate emergency. Given the power station decommissioning, the need for a just transition and local job creation has taken on a new urgency, and it is welcome that the proposals in this application will support the renewable energy sector and have an overall positive impact on the fight against climate change. The site has a long history of heavy industry. It is acknowledged that the visual impact is not ideal in this location. However, there are many advantages in revitalising an existing industrial site with appropriate infrastructure links such as this.

3. Any development should not commence unless NatureScot is content regarding mitigation of impact on the SSSI. There should be obligations for the remediation of the site. The mitigation measures recommended in the climate section of the Environmental Impact Assessment should also be accepted by the applicants.

Response: The above support is noted. NatureScot was consulted and the response is noted below. A condition could be imposed in respect of restoration of the tower if the development ceases and other conditions could be imposed with respect to the permission in principle being sought.

EDF, as operator of the nearby Hunterston B Power Station, has made a representation. EDF is supportive of the proposal provided it does not impact on the Hunterston B operational use of the railway, jetty and approaches to the A78. Hunterston B is being defueled and use of the transport network, including rail, is likely to increase.

Any electricity supply cables from the substation to the south of Hunterston B should not prejudice EDF's landholding and early engagement with EDF should be undertaken. The Towns Water Main supply to Hunterston B should also not be impacted. EDF expect the applicant to cooperate with any aspect of the day-to-day running of Hunterston B or its safety. The applicant should ensure its proposal has measures to ensure the proper emergency planning of the area. The use of the railhead by EDF should be actively protected by any permission.

Response: Noted. The applicant has been passed EDFs comments and advised to engage directly. The railhead will remain extant, and any construction management plans could address the needs of decommissioning Hunterston B.

Consultations

NatureScot (SNH) - The implementation of the mitigation measures detailed in the application will mean there is no impact on the SSSI. This will also protect Priority Marine Features. A Habitat Management Plan (HMP) should be developed for the site. Advice is given as to what this should include. Low light splay LED lighting, triggered by motion sensors can help reduce light pollution.

A natural capital assessment is being undertaken on behalf of the landowners, NAC and NS for the wider area, which is welcomed by NS and consider this will give opportunity to enhance the SSSI.

From the North Arran National Scenic Area (NSA) the site is viewed in the context of existing industrial and wind farm development. The proposed use of different cladding to break up the solid mass would form a more prominent visual feature in this context. New lighting would be noticeable. However, this would again be viewed in the context of lighting for existing industrial and coastal settlements. Views towards the Arran NSA from the mainland would be altered, mainly from the west facing slopes of the CMRP. Many of these views are already gained in the context of the existing industry and post-industrial land of the coastal edge. Overall, it is not considered the development would significantly affect the special quality of the Arran NSA.

The Kyles of Bute NSA has a special quality of ever-changing vistas. There will be limited visibility throughout this NSA, and it would be seen at distances of 25-30km. However, it is not considered it would significantly impact on the Kyles of Bute NSA.

The development would be visible on the western fringes of the Clyde Muirshiel Regional Park. Given relative proximity there would be significant localised adverse impacts from those locations, whilst the majority of the CMRP would be unaffected. The development would further increase cumulative human influence throughout the CMRP and lead to a reduction in opportunities for quiet enjoyment. Notwithstanding, the Waterhead Moor-Muirshiel Wild Land Area (WLA), which sits within the CMRP, would not be significantly affected.

The North Arran WLA sits some 20km to the south-west. The development would be visible from some of the high tops of the WLA. However, it is again considered its qualities would not be significantly affected.

It is not considered that the proposed aviation safeguarding lighting would be unduly incongruous within the local context, where it would be seen in combination with existing lighting. It would not give rise to significant night-time impacts.

It is considered difficult to mitigate a development of this scale. However, the measures set out in Section 7. 1.182 of the EIAR are welcome. Green roofs should be explored as should mitigation such as curvature of buildings to sharpen soft edges. Any new planting should be robust and should consider drought tolerant native species.

Several conditions are recommended for any permission including the appointment of an Ecological Clerk of Works (ECoW) to review and formulate the CMP and Habitat and Species Plan and oversee construction. The finalised drainage scheme and construction methods should be part of the CMP and there should be a Code of Construction Practice (CoCP) agreed with NAC and SEPA. No ground clearance should be undertaken during the bird breeding season of March to August inclusive. If this is not possible then nesting surveys should be undertaken. Pre-construction checks for protected species should also be undertaken. With measures to protect mobile species be undertaken. It is recommended that construction works should be carried out in daylight wherever possible.

Response: Noted. The suggested conditions could be attached to any permission if permission is granted.

Transport Scotland - No objections. Any permission should be subject to a condition requiring a Construction Traffic Management Plan to be agreed with the Council through consultation with Transport Scotland.

NAC Active Travel and Transportation (Roads) - No objections. It is known that there are other proposals for Hunterston. Specific roads (C26 and local unclassified roads, the B780/B781, and the A78 through Fairlie) are unsuitable for construction traffic. This should be stipulated in any Construction Management Plan. Further details of active travel modes and protection of users of the cycle network during construction should be provided. Improvements to the footway/cycleway links between the site and Fairlie railway station should be provided, including upgrading of the cycle crossing for the entrance of the site, and provision of a cycle shelter at the main entrance.

Response: The responses of the Roads Authorities are noted. A condition requiring a Construction Management Plan with the requirements of both authorities could be attached to any permission.

NAC Flooding - No objections. The principle of the surface water flood risk mitigation, i.e., avoiding the risk area and installation of a surface water drainage system together with ground reprofiling, is acceptable. Conditions for any permission are suggested, including confirmation of any scheme being in accordance with the principles of SuDS, details of ground levels and FFLs, and overland flows demonstrating that people and property would not be put at risk during a storm event.

Response: Noted. Conditions could be attached to any permission requiring such relevant details to be submitted or considered through further applications.

SEPA - No objections. Satisfied with the assessment on flood risk. The assessment has informed the design of the site and development will be limited to land which is unlikely to be at risk of fluvial or coastal flooding. A conceptual surface water drainage strategy has been produced and the applicant should liaise with NAC on this matter. Discussions between SEPA, Scottish Water and the applicant on the matter of foul drainage are ongoing. A Construction Management Plan (CMP) should be submitted in order to mitigate risk of pollution. There will be no engineering in the water environment and 8m easement between development and the nearest burn. A Phase 2 site investigation is planned for the presence of contamination. The planned mitigation measures and further site investigation will ensure risk to groundwater is acceptable.

Scottish Water - No objections. There is current sufficient capacity at the local water treatment works. Advice is given on what any developer must do to meet Scottish Water's requirements. The applicant is advised to engage with Scottish Water.

Response: The lack of flood risk is noted as are the ongoing discussions between Scottish Water, SEPA and the applicant over foul drainage. The other details required by SEPA could be governed by conditions.

Office for Nuclear Regulation (ONR) - The scale and location are such the ONR do not advise against the application unless the emergency planners responsible for the Hunterston B off-site emergency plan state the proposed development cannot be accommodated within those plans. The applicant should liaise directly with the operators of the nuclear power stations.

Response: Noted. The applicant has been provided EDF's comments and advised to contact them to discuss these issues.

NAC Environmental Health - No objections subject to conditions. Prior to development commencing the applicant should implement the mitigation measures detailed in Chapter 9 (Hydrogeology, Geology and Ground Conditions) and Chapter 13 (Air Quality) of the EIA. 3. The rated noise level, as defined in `BS4142:2014+A1:2019, from the operation of the facility must not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application. The applicant has submitted a noise impact assessment which demonstrates that this can be complied with. However, the applicant must ensure the facility and all external plant is selected, designed and installed in such a manner that takes into account the noise assumptions contained within the report.

Response: Noted. The suggested conditions could be added to any permission if granted.

Argyll & Bute Council - No objection. The submitted LVIA has taken account of the Kyles of Bute National Scenic Area and the West Island Way long distance footpath on Bute. None of the levels of effect on these areas is considered significant. There is no significant impact on the 5 specific viewpoints assessed in Argyll & Bute. It is requested that Community Council's in Argyll & Bute be consulted.

Response: Noted. The Argyll & Bute Community Councils were consulted. However, no response was received.

South Ayrshire Council and Loch Lomond & The Trossachs National Park were also consulted but have not provided a response.

NATS Safeguarding - The proposal does not conflict with their safeguarding criteria.

Prestwick Airport - No objection. Given the height and position of the tower, there is a requirement for omni-direction red warning lights to be fitted to the tower, because the area is used to route Search & Rescue helicopters to the north of the aerodrome on an emergency response. Any cranes required during construction should be notified to Prestwick Airport Air Traffic Control.

Glasgow Airport - The development does not conflict with safeguarding criteria. Advice is given on the use of cranes.

Ministry of Defence (MOD) - No safeguarding concerns. The tower should be fitted with aviation warning lighting in accordance with the Civil Aviation Authority Air Navigation Order 2016. Notification must be given of details including the precise location of the tower and date of commencement so that mapping information can be updated.

Response: The responses from the bodies concerned with aviation safety are noted. The applicant has been made aware of the specific requirements of each body. Conditions could be attached to any permission to ensure the necessary aviation lighting and notification of the MOD.

Historic Environment Scotland - No objections. The proposal does not raise any historic environment issues in the national interest.

Response: Noted.

Fairlie Community Council (FCC) - FCC do not consider that there have been serious attempts to engage with local community. FCC has sought paper copies of the documents from the applicant, but the request was rejected. A NAC report on the future of Hunterston following the closure of Hunterston B has not been published.

There is no guarantee that jobs can be guaranteed for local residents. The likelihood of contracts for the cable appears uncertain to the FCC. There should be a bond to secure restoration of the site. The public should be made aware of any public funding which would be needed for the project. FCC do not consider the project to be financially viable. FCC do not want any more public money spent on this part of Hunterston.

The proposal is a serious threat to the amenity of Fairlie. There is no mention in the application of fumes or toxic air and sea discharges. There is no mention of dangerous or hazardous material to be used. How will a fire in the tower be dealt with? FCC considers there will be a smell from the site despite the assurances of the applicant. Noise will impact on the residents of Fairlie.

The industrial tower will dominate the scenic area. FCC does not consider anything can be done to mitigate this impact. Use of the existing jetty already causes noise disturbance. The increased road traffic will be a danger to the roads. The A78 in Fairlie is too narrow. The railway is single track and not considered much use. If used, diesel engines will cause noise disturbance. FCC is concerned there is no information regarding onsite energy generation. The water run-off from the site into the SSSI. The site is at risk of flooding. This is on the closest part of the site to Fairlie.

FCC extremely concerned that the site is to be developed but also have infrastructure on the jetty to load ships. Loading of cable at this jetty in the past has caused noise disturbance. The owners of the jetty consider they can do whatever they want at that site. Any environmental benefits of the cable, in transferring electricity, will be offset by the carbon footprint of constructing the development.

Following a public meeting with the applicant in the week beginning 9th May 2022, FCC provided more comments from members of the public. These comments include a further 21 objections from members of the public, on the grounds of viability, the proposal only providing low-skilled jobs/jobs for those outwith the area, restoration, noise, visual impact, including on tourism, impact on wildlife, flooding, pollution, safety and traffic.

Response: NAC is not currently preparing a report on the future of Hunterston. However, the report mentioned by FCC is a report by NAC Growth & Investment outlining the socio-economic analysis of the impact of the decommissioning of Hunterston B. A final draft has been provided to FCC. It should be noted that the report is not a material planning consideration in the determination of this planning application.

The application was subject to the statutory Pre-application Consultation by the applicant. The steps taken by the applicant are sufficient to meet the requirements of the regulations.

There are no toxic air or sea discharges proposed by the development. The effect on air quality has been considered. The applicant has confirmed that no odours etc will be emitted by the site when in operation. NAC Environmental Health has been consulted and has no objections. Noise and other potential amenity impacts are considered further below. Fire

safety would be a matter for the operator and the fire brigade. Access and transport are considered further below.

NatureScot has been consulted and has no objections. The visual impact is considered further below. However, it is noted this is an allocated industrial site and large industrial towers have a history in this part of the Clyde, including the 236m at the former Inverkip power station. There are no works in the marine environment proposed and subject to suitable mitigation the SSSI should not be adversely affected.

The further public comments which FCC provided after 9th May repeat issues raised by Community Councils or during the public consultation period and have been addressed above. The proposal is likely to give rise to a wide range of job types including highly skilled. The economic impact on the area is considered further below.

The applicants have also provided a response to FCC's comments. In summary, they reiterate their position that noise impact would be negligible and that conditions could be imposed to mitigate any noise issues; they have gathered feedback on colour and material for the tower at their meetings which were held w/b 9th May, this could be dealt with through condition; they are also preparing further photos of the site from Fairlie as requested at the meetings; there are no objections from SPEA in terms of flooding and issues of drainage can be mitigated by conditions; they will be happy to provide a bond for decommissioning if required by condition; all building will be built to comply with fire safety regulations; air quality effects will not be significant and there would be no toxic discharges; traffic can be dealt with through a management plan and they are looking at rail and sea as delivery routes; there will be a wide range of jobs created, from unskilled to highly skilled, and they intend to partner with local colleges; they consider the project to be a boost to the renewables industry in Scotland, the facility will produce the most up-to-date cable and it is projected to operate for at least 25 years. They consider that most of the issues raised can be dealt with at the matters specified by conditions stage, as the majority of the site would be receiving permission in principle only.

West Kilbride Community Council (WKCC) - WKCC acknowledge that the site is a Strategic Asset, and the principle of the proposed development is within the definition of potential uses of the site. WKCC also acknowledges the economic benefits the proposal could bring to the local economy.

WKCC comment that there does not appear to have been significant investigation of ground conditions. The 185m high tower should be disguised to blend in in both landward and seaward views. There are concerns over increased traffic through West Kilbride. Materials should be accessed by rail and sea. The A78 south of West Kilbride is at risk of closure due to flooding. More information is required on the infrastructure benefits the development would invest in. There is also no indication of the quantities of material required for the construction.

Largs Community Council (LCC) - LCC is concerned that there appears to be a lack of awareness about the proposal in the area. LCC considers the tower will be a dominant feature. It should be clad green/grey to match the surrounding landscape with top parts, seen against the sky, to be light grey. There should be prohibition on heavy traffic through Fairlie.

Light pollution should be minimised given the proposed 24hour operation. It is suggested loading of ships only takes place during the day. The economic impacts are noted. However, consideration should be given to negative impacts on tourism. The developer should assess the courses on offer at local colleges, in order to ensure school leavers of the near future can benefit from jobs and the employment opportunities can be filled locally.

Cumbrae Community Council was also consulted but no comments have been received.

Response: The concerns of the Community Councils are noted as is the acknowledgement of the strategic importance of the site. The external finish of the tower could be governed by condition so that it is recessive in order to mitigate visual impact. The Roads Authorities have been consulted and have no objection in terms of traffic. A Construction Management Plan could be required if permission is granted. Most of the development is sought in principle only and further applications would be required for elements other than the tower. The port is a lawful existing use and the Council, as Planning Authority, has no control over its operations including loading of ships.

3. Analysis

All planning application require to be assessed against the relevant policies of the North Ayrshire Local Development Plan (LDP) adopted November 2019 and all other material considerations.

Although in draft NPF4 may also be considered to be a material consideration. The re-purposing of the port as a strategic location for the port and energy sectors is supported by NPF4. The NPF4 draft further states that new development in the area will need to work within the capacity of the transport network, including active travel lines and be compatible with the adjacent nuclear uses. Designated biodiversity sites will require protection and enhancement where possible, and sustainable flood risk solutions will be required. Investment in this area will support a wellbeing economy by opening up opportunities for employment and training for local people. Whilst the NPF4 identification of Hunterston is a broad allocation, it is considered that this allocation aligns with the Strategic policies of the LDP and Strategic Policy 1 and Strategic Policy 3 in particular.

Strategic Policy 1 of the LDP states that the Council wants to direct the right development to the right place. The Coastal Objective states that a range of uses will be supported in principle, including development that assists to develop and strengthen North Ayrshire's coastal economy and marketability and provide jobs to North Ayrshire communities.

Strategic Policy 3 of the LDP identified the site as part of the Hunterston Strategic Development Area. It states that support will be given in principle to uses including renewables generation, manufacture, maintenance research and development, testing, and training; maritime construction and decommissioning; bulk handling facilities; and other storage, processing, and distribution uses. The Council wants to support the retention of high value jobs in the energy industry at Hunterston. Hunterston is an area where co-ordinated action and a master planned approach is required.

In terms of the co-ordination required by Strategic Policy 3, the Hunterston Development Framework ("the Framework") was approved by the Planning Committee on the 1st of December 2021. The Framework is a material consideration for any planning application in the area covered by the Framework. The Framework identifies the application site as

suitable for industrial development. It acknowledges the existing lawful port use and the transport connections which the site offers. The application site is identified as an area for buildings of varying height with potential for isolated taller process structures.

The Framework states that proposals should undertake an assessment on the potential sensitive receptor of Fairlie. Any proposal should minimise its impact in terms of noise, dust, odour, and traffic. Noise should be considered through the planning application process. The design and layout of any proposal should create a nice place to work. Visual impact should be assessed through scale, massing, and siting as part of the planning process. Proposals for drainage should align with the Council's requirements. Contaminated land should be considered through planning applications.

Policy 7 of the LDP states that support will be given in principle to development of sites identified for business and industry. The site is part of an area identified for business and industry. The proposal is for an industrial development which will develop the coastal economy and provide jobs. The applicants advise that those jobs would include high value jobs similar to the nuclear power plants. The industry will comprise of manufacture to support energy sector, namely cables for transport of electricity. The proposal therefore accords with Strategic Policy 1 and Policy 7 of the LDP as well as the principles of Strategic Policy 3 and the draft NPF. The specific areas highlighted by the draft NPF4, and the requirements of the Framework are assessed as part of the other LDP policies below.

Strategic Policy 2 of the LDP sets out the six qualities of a successful place. The qualities are 'distinctive' where a proposal draws on the positive characteristics of the surrounding area and creates places with a sense of identity; 'safe and pleasant,' where a proposal respects the amenity of existing and future users; 'resource efficient' where a proposal maximises the efficient use of resources; 'welcoming,' where a proposal helps users find their way around and creates safe places; 'adaptable,' where the future users of a site are considered; and 'easy to move around and beyond,' where the development considers the connectedness of a site.

Visual

Policy 15 of the LDP states that support will be given to development which protects and/or enhances landscape/seascape character avoiding unacceptable adverse impacts on designated and non-designated landscape areas. For development affecting a National Scenic Area (NSA), this will only be supported where the objectives and overall integrity of the NSA will not be compromised. For Special Landscape Areas, development will only be supported where it would not have an unacceptable impact on their character, qualities and setting. For Wild Land Areas, development will only be supported within such areas where any significant effects can be overcome by mitigation. Development should also take account of local landscape features including settlements, transport routes and natural features of interest.

Policy 17 of the LDP states that proposals that affect CMRP must have regard to the Park's statutory purpose of providing recreational access to the countryside.

Part of the proposal is for permission in principle for manufacturing facility, with associated factories, research and testing laboratories, offices, stores etc. A masterplan has been provided which suggests likely siting of such buildings and indicative heights of between 20m and 45m. The exact details of any such buildings are not yet known. However, they

would be industrial in appearance and scale. The site is identified for industrial use and such types of buildings would be acceptable in principle. The site is largely screened from the nearby A78 by mature woodland, much of it protected by a Tree Preservation Order. The exact details of such buildings could be governed by condition and determined through subsequent detailed applications. Therefore, this part of the development is acceptable in principle and the proposal accords with the 'adaptable' quality of Strategic Policy 2.

Detailed planning permission is sought for the construction of a 185m high extrusion tower. A Landscape and Visual Impact Assessment (LVIA) has been provided as part of the application. The site is not itself within any special designated landscape. However, the LVIA assess the impact of the tower on such areas. The LVIA finds any effect on the North Arran and Watershead Moor Wild Land Areas would be negligible to moderate and not significant. This is also the same for any effect on the North Arran National Scenic Area, Kyles of Bute National Scenic Area and Loch Lomond National Park. There would be a moderate impact on the CMRP and Special Landscape Area, but this would not be significant.

NS was consulted and did not object on visual impact grounds. NS considers that from the North Arran NSA the site is viewed in the context of existing industrial and wind farm development. Views of the North Arran NSA from the CMRP and Special Landscape Area would be altered but those views are already taken in the context of the existing industry and post-industrial land of the coastal edge. NS does not consider the North Arran NSA, or the Kyles of Bute NSA would be significantly impacted.

The development would be visible on the western fringes of the CMRP. Given relative proximity there would be significant localised adverse impacts from those locations, whilst the majority of the CMRP would be unaffected. The development would further increase cumulative human influence throughout the CMRP and lead to a reduction in opportunities for quiet enjoyment. Notwithstanding, the Waterhead Moor-Muirshiel Wild Land Area (WLA), which sits within the CMRP, would not be significantly affected.

NS's comments are noted, and it is agreed that there would be no significant impacts on nationally important designated landscapes. Parts of the CMRP and Special Landscape Area would be impacted by the intrusion of the tower. It is considered that the tower would be viewed in an industrial context, although it would be significantly higher than existing buildings and the others likely associated with this development. The CMRP is approx. 28000ha in area and the Special Landscape Area comprising some 16250ha. The tower would be visible in the very western fringes of the CMRP and Special Landscape Area and therefore any impact would be limited. Similarly, the tower and factory would be visible from the Great Cumbrae Special Landscape Area. This view would be primarily from the eastern side of the Island, where the view towards the development is already dominated by development including the industrial developments at Hunterston. The purpose of the CMRP for providing recreational access to the countryside would not be impacted by the proposal.

The tower would be visible from some parts of nearby settlements, mainly on Millport and in Fairlie. From Millport the development would be highly visible from the town centre and western end of the town, which includes part of Millport Conservation Area. Similar to the Great Cumbrae Special Landscape Area, views towards the mainland from those areas are already dominated by development and the industrial land of Hunterston. In this context, it is not considered the setting of Millport Conservation Area would be significantly harmed by

the proposed development. The visual impact when viewed from parts of Millport would be adverse during construction but this will lessen over time following completion.

The tower would be visible from most of the village of Fairlie. Objections have been made at the inclusion of only one viewpoint from Fairlie. However, this viewpoint is considered representative as the tower would be visible from all but a few areas near the burn, near the primary school and at the northern end of the village. The majority of houses in Fairlie are aligned to the coast, i.e., to the west. The proposed development sits to the south or south-south-west of the village which would limit any visual impact. However, it is considered the visual impact when viewed from most of Fairlie would also be adverse during construction but, again, this impact would lessen over time following completion. There will be a similar impact on parts of Largs to the north but at a greater distance.

Individual residences outwith the settlements would also experience adverse visual impact. Some of these would be within a few hundred metres of the tower but existing landscaping and mature woodland would lessen these impacts. In order to lessen the long-term visual impact a condition could be attached to any permission requiring the tower to be removed should the site become disused. As the landowner would be ultimately responsible for any conditions, details of financial considerations for removal could also be required by condition.

In summary it is not considered that there would be any significant impacts on any designated landscapes or landscape characters. There would be impact upon landscape features including settlements. There will notably be visual impact when viewed from Fairlie and Millport. The initial impact of the tower is considered to be significant. It will be highly visible and will have a major visual impact particularly during construction. However, it is considered that the impact would lessen over time and the tower would mainly be viewed in the context of the industrial landscape. It is noted, in context, that the former Inverkip Power Station, which was some 16km to the north, and demolished in 2013, had a 236m high chimney. The visual impact of the tower is considered the context of other material considerations set out below.

Subject to conditions, the proposal is considered to accord with the 'distinctive' and 'welcoming' qualities of Strategic Policy 2, Policy 15, and Policy 17 of the LDP.

Natural Environment/Flooding/Drainage

Policy 16 of the LDP states that support will be given to development which would not have an unacceptable adverse effect on our natural environment. Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the site would not be compromised.

Policy 23 of the LDP states that support will be given to development which is in accordance with relevant flood risk strategies. Development should avoid locations of flood risk and should not lead to a significant risk of flooding elsewhere.

The site is adjacent to the Southannan Sands SSSI. This area was first notified as a SSSI in 1971 and re-notified in 2013 with a reduced area. The SSSI is notified for its intertidal marine habitats and saline lagoons: sandflats. The sandflats extend for over 4km of coast, divided into three areas by the Hunterston Construction Yard and the jetty of the former coal terminal.

The site is not identified as being at risk of coastal or river flooding on SEPA's flood maps. Parts of the site are at risk of surface water flooding.

NS was consulted and has no objections in terms of the natural environment. NS states that the mitigation measures detailed in the application would mean there is no impact on the SSSI which would also protect the Priority Marine Features. A Habitat Management Plan (HMP) should be developed for the site. SEPA was consulted and also has no objection to the development. SEPA note that the development would be limited to land which is unlikely to be at risk of fluvial or coastal flooding. A Construction Management Plan (CMP) should be submitted in order to mitigate risk of pollution. NAC Flooding states that the principle of the surface water flood risk mitigation is acceptable.

The EIA has discovered no evidence of protected species within the site and as further details would be required, a requirement for updated habitat surveys, as necessary, could be added to any permission. Conditions could also be added to any permission to require a CMP, including a Code of Construction Practice and appointment of an Ecological Clerk of Works (ECoW) to oversee those elements. Details of drainage for the site could also be secured by condition.

Subject to appropriate conditions, it is considered that the proposal would not have an unacceptable impact on the natural environment including the adjacent SSSI. The site is not at risk of coastal or river flooding and drainage and surface water can be dealt with by condition whilst not adversely impacting on the environment. The proposal therefore accords with Policy 16 and Policy 23 of the LDP.

Traffic/travel

Policy 27 of the LDP states that development will be supported which provides safe and convenient sustainable transport options; reduces the need to travel or appropriately mitigates adverse impacts of significant traffic generation; enables the integration of transport modes and facilitates movement of freight by rail or water.

The EIA states that from the operation of the development there would be long-term adverse effects in terms of traffic, simply by virtue of increased vehicle movements. However, the impact on the A78 would be negligible. This is noted, as is the location of the site on the core path and cycle network. The site is some 1km from Fairlie Train Station and is on bus routes. Both Transport Scotland and NAC Active Travel and Transportation (Roads) have no objections.

Within the site is the railhead which would allow the use of the rail network for the construction and/or operation of the proposal. The ongoing requirements of the EDF whilst Hunterston B is being decommissioned are also noted. The applicant is aware of those needs. However, the railhead means the possibility of integration of transport modes with the road network and the existing port. The applicant states that the site has been specifically chosen due to the proximity of the existing port. The proposal would seek to use the port as a primary means of exporting cable manufactured on site. Details of any equipment required to achieve this aspect could be addressed through any further detailed permissions. However, it is noted the port is a lawful existing use and the Council, as Planning Authority, has no control over the use of the port for the docking of ships or the loading or unloading of ships.

Conditions could be attached to any permission requiring details of improvements to active travel access and ways to mitigate impact on the cycle/core path network during construction. Any permission could also be subject to a condition requiring a Construction Traffic Management Plan including specific roads to be prohibited to construction traffic.

Subject to such conditions the proposal is considered provide safe and sustainable transport options, mitigates against impact on the road network and enables integration of transport modes. The connectedness of the site has been considered, and the opportunities to minimise road use. The proposal therefore accords with Policy 27 of the LDP and the 'easy to move around and beyond' quality of Strategic Policy 2.

The proposed factory would not when in operation emit odour, gaseous or particulate emissions. During construction there could be impacts from dust although the EIA considers these to be negligible in terms of air quality. NAC Environmental Health was consulted and has no objections. A dust management plan could be required by condition of any permission.

The applicant has provided an assessment of noise from the proposed development. NAC Environmental Health is satisfied with this assessment and has suggested a condition to control the rated noise at background level at noise sensitive receptors. Such a condition could be attached to any permission if granted. NAC Environmental Health also has powers to control statutory noise nuisance should this occur during the construction period. However, an appropriate Construction Management Plan could also mitigate noise during that phase.

The applicant has provided a shadow calculation for the tower at the summer and winter equinox. The calculation confirms that the closest residential property, some 100m distant, would be slightly to the south and therefore unaffected by the shadow. The shadow from the tower would also fall short of Fairlie and the houses at Southannan. The only residential property which could potentially be affected by the shadow would be Southannan South Cottage, some 500m north-east of the proposed tower. The shadow from the tower may fall on that property for periods either side of the winter equinox, however, it is likely to only be for short periods in the late afternoon and in certain weather conditions. There are mature trees between the site, both in the Hunterston TPO and in the fields and railway, and at Southannan South Cottage. The property also sits to the east, and therefore behind, the railway embankment. Given this, it is not considered that any shading caused by the tower would lead to a significant impact on any sensitive property.

The proposed tower has also been considered in terms of air traffic safety. All relevant bodies concerned with aviation safety were consulted and no objections raised. The specific requirements in respect of aviation lighting could be controlled by condition. It is not considered that such lighting would in itself have a significant impact on visual amenity.

Given all of the above, and subject to suitable conditions, the proposal is considered to respect the amenity of existing and future users. The proposal therefore accords with the 'safe and pleasant' quality of Strategic Policy 2.

Policy 29 of the LDP states that support will be given to energy infrastructure developments where they contribute positively to a low carbon economy. 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 technologies. This will not apply to building which will not be heated or cooled.

Policy 31 of the LDP states that proposals for development that constitute substantial development should include provision for on-site heat recovery or a heat network plan or demonstrable evidence that district heating has been explored but is not feasible for technical or economic reasons.

The proposal is not for energy generation, but it is noted that the cable produced would be for the transmission of electricity including from renewable sources. The EIA assesses the potential impact of the proposal on climate change. The operational phase of the development would have greenhouse gas emissions equivalent to approx. 15% of North Ayrshire's carbon budget. This would be in the context of providing approx. 900 full time equivalent jobs at the site and in the wider North Ayrshire economy.

As stated above only detailed permission is sought for the tower. The other buildings would require to be subject to further detailed permissions. Conditions could be attached to any permission which required the details set out in Policies 29 and 31.

Given all the above, and subject to suitable conditions it is considered the proposal accords with Policies 29 and 31 of the LDP and meets the 'resource efficient' quality of Strategic Policy 2.

The benefits to the local economy including the potential for approx. 900 full time equivalent jobs are welcomed. There are concerns that the development could impact on the local tourism economy by way of visual impact. There would be a notable visual impact when viewed from Fairlie and Millport. However, this would lessen overtime and the visual impact in the wider area and from designated landscapes is not considered to be significant. It is not considered that the tourist economy would be significantly affected. The proposal would produce high value jobs and be a net benefit to the local economy.

Given all of the above, and that the proposal accords with Strategic Policy 2 and the other relevant policies of the LDP, the proposal is also considered to accord with the Framework for Hunterston and therefore Strategic Policy 3. In so far as it has weight, the proposal is also considered to accord with draft NPF4.

The proposal is held to accord with the relevant policies of the LDP. Accordingly, the application should be approved subject to the conditions referred to in this report.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the approval of North Ayrshire Council, as Planning Authority, with regard to the siting, design and external appearance of all building and external plant or machinery, including landscaping, means of access, internal roads, external lighting, sustainable travel plan and low and zero carbon technology, shall be obtained before the development permitted in principle is commenced.

Reason

In order that these matters can be considered in detail.

Condition

2. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of on-site heat recovery and re-use, or a heat network infrastructure plan, or demonstrable evidence that such schemes have been explored but are not feasible for technical or economic reasons.

Reason

In order that the future proofing of the site for heat networks is properly considered as required by Policy 31 of the LDP.

Condition

3. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle rout network.

Reason

To ensure proper management of the construction process, including impact on the road network.

Condition

4. That further application(s) for approval under the terms of Condition 1 shall be accompanied by details of an appointed Ecological Clerk of Works (ECoW). The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved.

Reason

To ensure appropriate oversight of the construction of the development

Condition

5. Prior to development commencing the applicant shall implement the measures detailed under Mitigation Measures Adopted as Part of the Project in Chapter 9 Hydrogeology, Geology and Ground Conditions of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council, as Planning Authority.

Reason

To ensure proper consideration is given to ground conditions and ground water.

Condition

6. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a Dust Management Plan. This shall include the measures detailed under

Mitigation Measures Adopted as Part of the Project in Chapter 13 Air Quality of the submitted EIA report dated February 2022. All documentation be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To ensure proper management of dust throughout the construction period.

Condition

7. That further application(s) for approval under the terms of Condition 1 shall be accompanied by an assessment of the details in terms of the rated noise level, as defined in 'BS4142:2014+A1:2019, from the operation of the facility. The assessment must demonstrate that the noise from the operation of the facility will not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application.

Reason

To ensure proper consideration of potential noise from the development.

Condition

8. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a scheme to treat surface water arising from the or otherwise affecting the site, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded. In accordance with the recommendations of the submitted FRA, finished floor levels shall be set a minimum of 6m AOD, threshold levels shall be raised a minimum of 150mm above external ground levels and all key external infrastructure shall be elevated by at least 150mm or protected by bunds

Reason

To ensure proper consideration of surface water drainage.

Condition

9. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a habitat survey dated not more than 1 year prior to the date of the submission of the application.

Reason

To ensure habitat and protected species considerations are of an appropriate date.

Condition

10. Prior to commencement of the development of the tower, details of a financial bond to be secured with the landowner for the removal of the tower in the event of redundancy

shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Any such bond shall be retained through the life of the development with confirmation to be provided to North Ayrshire Council, as Planning Authority, on a yearly basis following completion of the tower.

Reason

To ensure steps are in place to remove the tower should the site become redundant, in the interest of visual amenity, and in recognition of the landowner being ultimately responsible for compliance with any conditions.

Condition

11. Should the tower become redundant, it shall be removed within 6 months of redundancy. For the avoidance of doubt, redundancy means the factory not becoming operational within 3 years of construction of the tower or the factory ceasing to operate for a period of more than 1 year after first becoming operational.

Reason

To ensure the timely removal of the tower should the site become redundant, in the interest of visual amenity.

Condition

12. The prior to commencement of the development of the tower, details of the external finish shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. The development will thereafter be undertaken in accordance with any details as may be approved and the tower maintained with those details unless otherwise agreed in writing with the Planning Authority.

Reason

To ensure an appropriate external finish for the tower in the interest of visual amenity.

Condition

13. The prior to the commencement of the development of the tower, a Dust Management Plan for the control of dust from the construction of the tower shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter the development shall be undertaken in accordance with any Plan as may be approved.

Reason

To ensure proper management of dust throughout the construction period.

Condition

14. That prior to the commencement of the development of the tower, a Construction Management Plan and Code of Practice, including details for monitoring and action against non-compliance shall be submitted to North Ayrshire Council, as Planning Authority, for approval. Thereafter the construction shall be carried out only as approved by the Plan and Code of Practice. For the avoidance of doubt this shall include an assessment of use of the rail and port connections as a first principle and the prohibition of the use of the A78 through Fairlie, the B780/B781, the C26 and all local non-classified roads by construction vehicles and details of management of impact on the core path and cycle route network.

Reason

To ensure proper management of the construction process, including impact on the road network

Condition

15. That prior to the commencement of the development of the tower, details of an appointed Ecological Clerk of Works (ECoW) shall be submitted to North Ayrshire Council, as Planning Authority, for approval. The details shall include contact details, the scope and responsibilities of the ECoW as well as confirmation of their power to halt or otherwise stop works which are not in accordance with the mitigation measures identified in the EIA or others, as may be approved. The development will thereafter be undertaken only with the oversight of the appointed ECoW.

Reason

To ensure proper oversight of the construction of the tower.

Condition

16. The rated noise level, as defined in `BS4142:2014+A1:2019, from the operation of the tower must not exceed the background noise level at the curtilage of any existing or consented noise sensitive property at the time of application.

Reason

To ensure the operation of the tower does not cause undue noise disturbance or sterilise the wider area for further development.

Condition

17. The prior to the commencement of the development of the tower, that a scheme to treat surface water arising from the or otherwise affecting the site of the tower, prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C7453, published November 2015) and the requirements of The Water Environment (Controlled Activities) (Scotland) Regulations 2011, and certified by a suitably qualified person, shall be submitted to North Ayrshire Council, as Planning Authority, for written approval. Thereafter, the certified scheme shall be implemented prior to the completion of the development of the tower and maintained thereafter to the satisfaction of North Ayrshire Council, as Planning Authority.

Any scheme approved shall include details of proposed ground levels, finished floor levels, and pre & post development overland flows that shall demonstrate that people and property would not be put at flood risk during the designed storm event (1 in 200 return period plus an allowance for climate change and urban creep) when the capacity of the proposed infrastructure is exceeded. In accordance with the recommendations of the submitted FRA, finished floor levels shall be set a minimum of 6m AOD, threshold levels shall be raised a minimum of 150mm above external ground levels and all key external infrastructure shall be elevated by at least 150mm or protected by bunds

Reason

To ensure the proper treatment of surface water.

Condition

18. Prior to the commencement of the tower, confirmation that the basement proposals are sufficiently flood resilient/resistant, including an accompanying certified flood management plan suitably addresses residual flood risk at the site from all sources of

flooding, certified by a suitable qualified person, shall be submitted in writing for the written approval of North Ayrshire Council, as Planning Authority.

Reason

To ensure the risk of flooding to basement level proposal is suitable addressed.

Condition

19. In the event that the works to commence the tower are not undertaken within 1 year of the date of this permission, an updated habitat survey dated not more than 1 year prior to the date of commencement shall be submitted to North Ayrshire Council, as Planning Authority, for written approval prior to the commencement.

Reason

To ensure habitat and protected species considerations are of an appropriate date.

Condition

20. Prior to the commencement of the development, details of omni-directional red aviation warning lights to be fitted to the tower shall be submitted to North Ayrshire Council, as Planning Authority, for approval in consultation with Prestwick Airport, Air Traffic Control and the Ministry of Defence. The lighting will thereafter be fitted and retained thereafter in accordance with any details as may be approved.

Reason

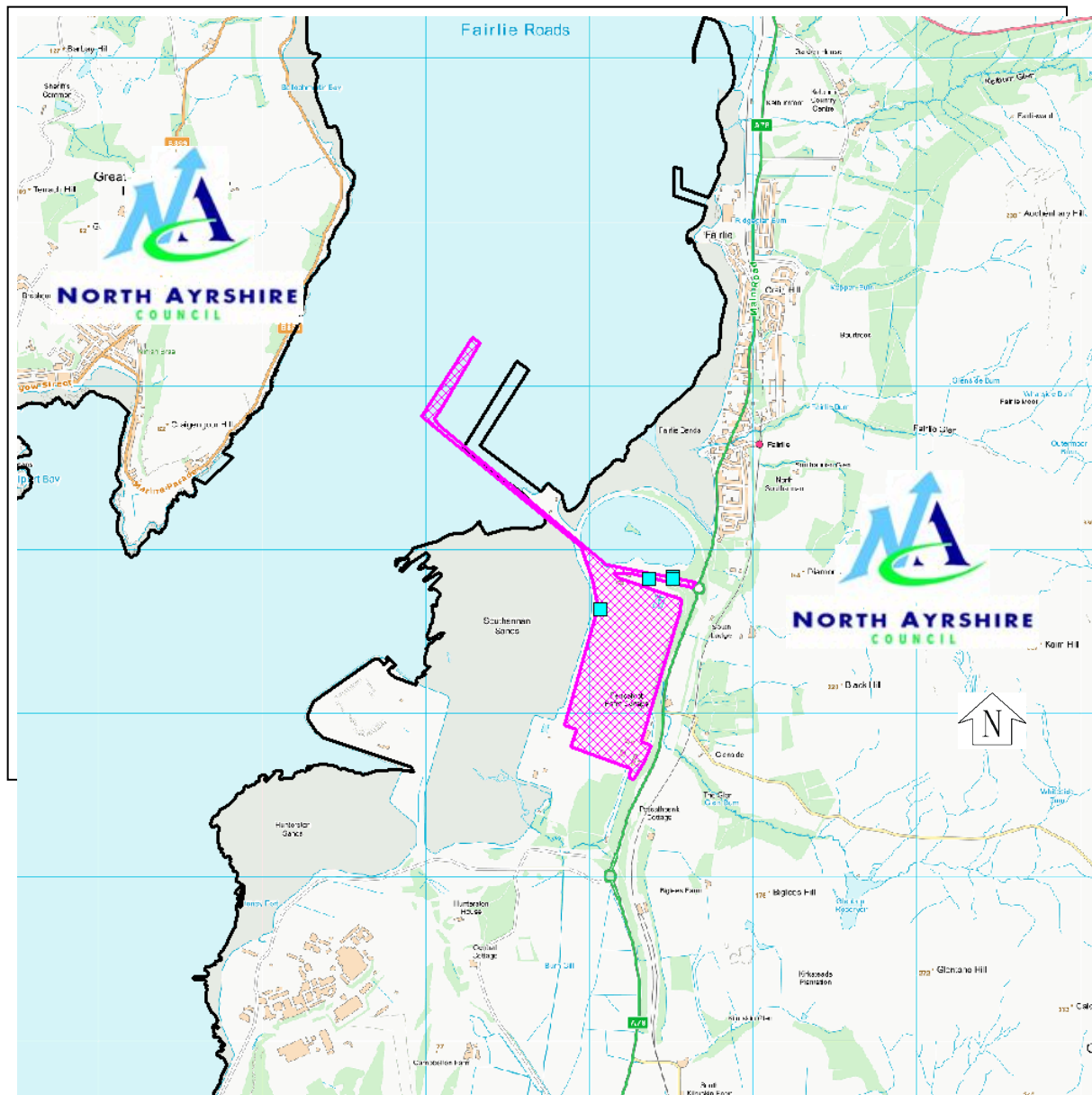
To meet the requirements of the relevant Air Authorities.

James Miller
Chief Planning Officer

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

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

Planning Committee

Locality	Irvine
Reference	22/00417/PP
Application Registered	7th June 2022
Decision Due	7th August 2022
Ward	Irvine South

Recommendation	Approve subject to conditions, that no substantive objections are received after the 29 th June 2022.
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Location	Site To North Of Albann Ltd Third Avenue Heatherhouse Industrial Estate Irvine Ayrshire
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Applicant	Mr Daniel McKay
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Proposal	Section 42 application to remove condition 1 of Planning Permission 14/00473/PP to remove control over the beneficiary of Planning Permission
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1. Description

The application site contains a mobile snack van which is permanently sited on the roadside at Third Avenue, Irvine, to the north of the Merck factory and to the south of the Tesco car park. The character of the surrounding area is that of an industrial estate and retail park.

The snack van, known as 'Dandan's Diner', was initially refused planning permission to be sited at this location at a Planning Committee in November 2011 (11/00650/PP). The reasons for refusal were on the grounds of road safety due to the siting of the van on the public road. The applicant appealed this decision, and in May 2012, the Scottish Government reporter allowed the appeal subject to the conditions that:

1. This permission is personal to the applicant (Mr Daniel McKay),
2. The permission shall enure for a period of two years from the start of the operation, and
3. The mobile snack bar, and all materials, waste etc. associated with the business shall be removed from the site at the end of the day.

Following this, in 2014, the applicant applied for the siting of the snack van on a permanent basis (14/00473/PP). This was granted at Planning committee in September 2014, subject to the following conditions:

1. That the planning permission hereby granted shall enure not for the benefit of the land to which it relates but for the benefit of the applicant only, and
2. That the mobile snack bar, and all materials, waste etc. associated with the business shall be removed from the site at the end of each day.

In June 2022, the applicant applied under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, to modify Condition 1 of Planning Permission ref. 14/00473/PP to change the beneficiary of the Planning Permission from Mr Daniel McKay to Mr John Brannigan. Following Officer discussions with the applicant, it was agreed that there is no longer any need for the Council to exercise control over the beneficiary of this Planning Permission. This application is therefore to remove condition 1 of Planning Permission ref. 14/00473/PP entirety.

In the adopted North Ayrshire Local Development Plan (LDP) the site lies within a Business and Industry allocation. The relevant policy of the LPD which this proposal shall be assessed in terms of is Strategic Policy 2: Placemaking.

Relevant Development Plan Policies

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.

2. Consultations and Representations

The statutory neighbour notification process was undertaken and there was no requirement to advertise the application. The deadline for public comments is the 29th June 2022. No comments have been received to date. No consultations were required out as part of this application.

3. Analysis

Strategic Policy 2 states that all applications for planning permission should meet the qualities of successful places. The reason for the personal condition attached to the original planning permission granted by the Reporter, who was appointed by Scottish Ministers to determine an appeal in 2012 following refusal by the Council's Planning Committee, was to avoid the possibility of other traders trying to use the permission during an initial trial period of two years. When the applicant applied to make the siting of the snack van permanent in 2014, this condition was reworded, but was essentially re-applied.

Given that the reason that the permission was initially made personal was in recognition of the temporary trial nature of the original permission and given that permission was granted for the permanent siting of a snack van on this site in September 2014, it is not considered necessary for the Council to continue to exercise control over the beneficiary of the planning permission for the snack van. It is therefore considered acceptable that condition 1 of planning permission ref. 14/00473/PP be removed in its entirety, and that the permission for the snack van should relate to the land that it is sited on. The only remaining condition that would be reapplied relates to the removal of the snack bar and waste from the site at the end of each day. Subject to this condition, the proposal would meet the qualities of successful places and would accord with Strategic Policy 2: Placemaking.

There are no other material considerations. Given that the proposal is in accordance with the relevant policies of the LDP, it is considered that planning permission can be granted.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the mobile snack bar, and all materials, waste etc. associated with the business shall be removed from the site at the end of each day.

Reason

In order to keep the site tidy. In the interest of amenity.

James Miller
Chief Planning Officer

For further information please contact Mr John Mack on 01294 324794.

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

29th June 2022

Planning Committee

Locality	Irvine
Reference	22/00325/PP
Application Registered	4th May 2022
Decision Due	4th July 2022
Ward	Irvine South

Recommendation	Approved subject to Conditions
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Location	Units 1-5 Shewalton Sand Quarry Shewalton Road Riverside Business Park Irvine Ayrshire KA11 5AA
Applicant	Enva Scotland Ltd Fao Ms Karen Miller
Proposal	Application under Section 42 to modify condition 5 of planning permission 10/00228/PP to allow the acceptance of general waste and glass (for waste transfer only), to increase the total quantity of waste permitted on site at any one time from 600 tonnes to 2000 tonnes and to increase operational hours to include Sundays from 08:00 - 16:00 hours

1. Description

This application relates to the existing waste transfer station at Shewalton Road, Irvine operated by Enva Scotland (formerly trading as William Tracey Ltd), under Section 42 of the Town and Country Planning (Scotland) Act 1997.

The application seeks to modify condition 5 of planning permission (ref. 10/00228/PP) to increase general waste quantities and to accept glass (for waste transfer only), to increase the total quantity of waste permitted on site at any one time from 600 tonnes to 2000 tonnes and to increase operational hours to include Sundays from 08:00 - 16:00 hours.

The site is an existing waste management facility which has been operational since 2001. Within the site, dry waste (predominately originating from North Ayrshire) is sorted and stored temporarily for onward bulk transfer to the applicant's main waste recycling facility at Linwood for further treatment, sorting and recycling. All wastes on site are stored in designated storage bays.

The waste types which are handled by the site are primarily regulated by SEPA under a Waste Management Licence (WML) WML/W/20175. The waste types (with capacity limits) stored in each bay are as follows:

- Glass (130.20 tonnes)
- Soil and Stones (376.20 tonnes)
- Construction & Demolition (888.37 tonnes)
- General Waste (201.60 tonnes)
- Dry mixed recycling (114 6 tonnes)
- Cardboard (438)
- Timber (85.9 tonnes)

However, the planning condition attached to planning permission ref. 10/00228/PP does not permit the storage of glass nor general waste (other than that from civic amenity sites) at Shewalton. The waste types which are permitted under the planning condition are as follows:

- mixed residual civic amenity site waste;
- wood/biomass wood;
- waste electrical and electronic equipment (WEEE);
- paper;
- demolition/building materials, discarded packaging wood;
- bailed cardboard;
- high and low density plastics;
- used animal bedding and
- green waste (for composting only).

The applicants advise that the circumstances relating to the application are as follows:

The closure of a landfill site during 2021 in a neighbouring local authority area (East Ayrshire) has had a significant impact on collection and transport operations of Enva's commercial trade waste and local authority household waste contracts in North Ayrshire.

Before the closure of the landfill site, the applicant collected general commercial waste from various commercial locations around North Ayrshire which was then transported directly to landfill for disposal. However, landfill disposal of such waste meant that none of the waste was being recovered or recycled. By adding general waste (from sources other than civic amenity sites, which is already permitted) as well as glass, the long-established facility at Shewalton would support progress towards zero waste objectives. The transfer station would facilitate more forms of recycling as well as providing the opportunity to handle a greater quantity of non-recyclable general waste for onward processing into Refuse Derived Fuel (RDF) at Linwood following sorting and bulking-up.

In summary, the proposal seeks to:

- increase in the quantities of general waste and glass (for waste transfer only);

- to increase the total quantity of waste (as governed by the WML, not the planning permission) on site at any one time from 600 tonnes to 2000 tonnes per year;
- to change the operational hours to include Sunday working hours during the time period of 08:00 - 16:00 (again, as governed by the WML, not the planning permission).

The application therefore seeks to harmonise the planning permission for the site to reflect the terms of the proposed amendment to the WML, where appropriate. Condition 1 of the original planning permission stipulates that 80% of the waste for the facility shall come from North Ayrshire. The applicant is aware of this condition, and has advised that until recently, the general waste streams being handled at the site from North Ayrshire would have been transported directly to a landfill site in East Ayrshire, which has now closed. They advise further that the 80% figure is still applicable to their operations and would seek a further amendment to the planning permission in the event that this figure would be exceeded by the proposed changes to the WML. This report addresses only matters arising from the proposed change to condition 5.

Arising from the proposed amendment to the WML, SEPA has directed the applicant to enclose and cover the general waste bay and carry out some additional drainage works. To this end, the applicant has indicated that it is their intention to form a new general waste bay on an area of concrete hardstanding currently used for storing soil and skips. They advise that the new general waste bay would measure approximately 12m x 17m on plan, which would be constructed of large concrete blocks formed around three sides with sliding doors at the front and fully covered with a curved polycarbonate roof. The indicative height would be comparable with the existing general waste bay at the site. The drainage works would be in the form of new gullies leading to an interceptor connected to an underground tank. Wastewater would be removed by tanker. Whilst some indicative siting and design details have been submitted for information purposes, it is not within the scope of the current Section 42 application to consider the proposed new storage bay and drainage scheme. Depending on the outcome of the current Section 42 application, a further planning application would be required in order to address and finalise these details. The applicant has also advised that the existing general waste bay would be re-purposed for the storage of cardboard.

In terms of the adopted Local Development Plan (LDP), the site and surrounding area is within the countryside. However, despite the 'countryside' allocation, the site and surrounding area to the north and south is already developed with yards and workshop buildings. The area to the west is a large construction waste reprocessing facility operated by W H Malcolm at a former sand and gravel quarry. To the east is the A78 Irvine Bypass. Further south is the closed landfill site which was operated by NAC. The site is accessed from Shewalton Road, which leads east from Ayr Road. From Ayr Road, there is a direct connection with the A78 trunk road at the Newhouse Interchange.

The relevant LDP policy in this case is Waste Management Facilities (Policy 30). All applications require to be assessed against Strategic Policy 2. The relevant criteria in respect of this application are 'Safe and Pleasant', 'Resource Efficient', and 'Easy to move Around'.

Relevant Development Plan Policies

Detailed 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.

SP1 - The Countryside Objective 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).

Detailed Policy 2 - Regen Opportunities

Policy 2:

Regeneration Opportunities

In principle, we will support and promote development of brownfield land (including vacant and derelict land) within our settlements, where the development aligns with the placemaking policy. In particular, we support the re-use of sites shown in schedule 4 for a range of urban uses which would contribute to the placemaking agenda, subject to their impact on the surrounding established amenity, assessment against the Placemaking Policy and in particular their impact on utility and service capacity.

Note that proposals for significant footfall generating uses considered against this policy should accord with the Town Centre First Principle and must not undermine the vitality or viability of town centres or the delivery of the effective housing and industrial land supplies except where they would support the principle of sustainable development.

We will support development of the regeneration opportunities for a range of integrated urban uses including:

- o Residential.
- o Local-scale community and leisure uses.
- o Other local employment uses like shops, banks, cafes, workshops, garages, and small offices (including working from home).

We will also support alternative solutions which would improve the amenity or economic outlook of the surrounding area such as

- o Greening (Woodland planting, allotments etc.)
- o Renewable Energy Generation
- o Protection and enhancement of green and blue networks

There may also be instances in the plan period where new regeneration sites are identified. In principle we will support proposals which are innovative, contribute to our placemaking agenda and align with our vacant and derelict land strategy.

2. Consultations and Representations

Neighbour notification was undertaken in accordance with statutory procedures. In addition, the application was advertised in a local newspaper with an expiry date for public comments of 8th June 2022. Two letters of representation, objecting to the proposals, were received.

Grounds of Objection

1. The boundary map of the application site outlined in red is considered to be incorrect. It is claimed that the applicant has incorporated part of the access road which does not belong to them. It is also claimed that the previous gates and shared access road were formed without planning permission. The applicant has not moved the gates back to their original position thus blocking access to bordering premises as per title deeds.

Response: It is not considered that the matters raised are directly relevant to the consideration of the Section 42 application, and no breach of any planning control has been identified. However, the applicant was asked to comment on the issue and advised that "the site plan used within our current planning application is the same map that was utilised in the application for 99/00329/PP in 2000 and incorporates the same footprint as that on our WML licence. Enva Scotland do not own the land and rent the property. Our rental agreement encompasses the area highlighted in the plan. We are unaware of any access being blocked at the entrance gates due to our operations." Examination of previously granted planning permissions indicate that the site area has not been altered.

2. The increased amount of waste proposed is very concerning as Enva do not have enclosed bays to store the waste as per SEPA's comments. There are constant pungent odours coming from their site which enters our warehouse and office. Employees have raised concerns regarding the overpowering smells which is extremely unpleasant in a working environment. The fencing and netting on the boundary are broken and the netting torn which allows their waste to fly into neighbouring premises causing littering which we then have to clear up. The bays in which the waste is stored are constantly overflowing and well above the height of the bay walls and between the boundary. There has been a marked increase in vermin, and this indicates to us that their vermin control policy is not fit for purpose. We have pictures, videos and invoices to support the above.

Response: In order to meet SEPA's requirements for odour control in relation to the handling of general waste, an enclosed storage bay would be the subject of a separate application as discussed previously in this report. The applicant has confirmed, in response to the objection, that "an enclosed bay will be implemented as per SEPA's requirements." The applicant has advised that "waste on site is moved daily as the site is a waste transfer station. Stock levels are kept to a minimum as per our WML licence." They advise further that "litter netting to the west of the site was unfortunately torn in high winds. This has now been replaced and fully functioning." An unannounced site visit by the planning officer confirmed that repairs had recently been undertaken. Furthermore, no odours were detected during the officer site visit.

3. With regard to approaching the access road from Shewalton Road the two junctions are confusing and dangerous in their layout. When indicating left approaching the junction vehicles from the WH Malcom site automatically think you are entering their site and proceed to exit onto the Shewalton Road and cause daily near misses and actual accidents. More consultation is needed for the increase volume of HGV Vehicles and cars accessing this area. There is no traffic management whatsoever which is dangerous. The access road surface has a temporary surface which is used daily by a high volume of HGV vehicles and

with prolonged standing water in the winter and dust clouds in summer more consultation is needed to come up with a solution to this problem.

Response: It should be noted that the roads within the site and approaches from Shewalton Road are private access roads. The applicant advises that "a traffic management system is in place on Enva's yard that has been implemented by suitably qualified health and safety advisors and approved by external auditing bodies such as BSi." With regard to the condition of the public roads in the area, it is noted that traffic volumes on Shewalton Road appear to have decreased significantly since the closure of the landfill sites. The road condition was observed to be maintained to a high standard and there is also a pedestrian footway. On Ayr Road itself, parts of the public footway have recently been widened to accommodate cyclists and pedestrians. Notwithstanding the above improvements, a condition could also be attached in relation to potential traffic impacts as recommended by the Council's Transportation officers (see below).

4. Access and exit is a problem with Enva's site as there is no one way system in place. Lorries have often to reverse out of their site as their access is blocked by their own vehicle which are already in the site. They also park on the access road waiting to gain entry to the site which becomes an obstruction for other vehicles.

Response: Noted. The applicant advises that "if permitted, traffic movement will only increase to one extra vehicle movement per day. Trade waste vehicles are already based at the Irvine site and hence there will be no further increase in vehicle movements apart from the additional one stated." However, as noted above, a condition is recommended by the Council's Transportation officers (see below).

5. There has been a marked increase in vermin requiring the use of bait boxes and other measures. This indicates the vermin control is not adequate just now, so increased waste would need lots more.

Response: The control of vermin is not a material planning consideration. However, the applicant advises that "all site operations are carried out as to minimise the presence of vermin including minimising stock and the regular cleaning of the waste storage bays. Pest control is monitored and regulated on a regular basis by Terminix. This is carried out twice monthly. All reports show no evidence of vermin on Enva's land."

Consultations

NAC Environmental Health - no objections in principle, however in the absence of any assessment having been carried out for noise, there are concerns about potential noise impact that allowing Sunday working may have on nearby noise sensitive properties.

Response: There was no evidence of any significant noise generation from operations at the site during the officer site visit. There are various other industrial sites nearby as well as the A78 Irvine Bypass, which is a source of traffic noise. The hours of operation are not in fact governed by the existing planning permission. These are matters covered in the WML and regulated by SEPA. In the event of any noise nuisance occurring whether on Sundays or on any other day of the week, the Council has powers under other legislation to investigate and seek appropriate remedial action.

NAC Active Travel and Transportation - no transport related objections. It is advised that, with an increased number of HGV movements likely, a junction analysis may be required. A Transport Statement should be submitted to assess if a junction analysis is required. This matter should be addressed by condition.

Response: Noted. Whilst there is currently no planning condition that limits the number of vehicle movements using Shewalton Road to access the site, it would be appropriate to attach the recommended condition. It should be noted that Shewalton Road is also used by other commercial goods vehicles going to the W H Malcolm site as well as several workshops and other business premises. Traffic movements on Shewalton Road at the time of the officer site visit were observed to be very limited and infrequent, with HGV activity at the site even less so.

Transport Scotland - No objections and do not advise against the granting of permission.

Response: Noted.

SEPA - No objection. Advise that the waste permitting team within SEPA have been in discussion with the applicant and are now satisfied with the proposals. In SEPA's initial response, some concerns were raised in respect of compliance with SEPA's odour guidance and the discharge of water from the site. Following the submission of additional information by the applicant, SEPA's waste permitting team have confirmed that the proposals will include the construction of a building for the storage of the general waste. The applicant is also going to implement a drainage system to ensure all drainage from the building (for household waste) and the waste bays utilised for the acceptance of plastic and glass will be collected via a drainage system and stored in a 2000 ltr underground storage tanks and disposed of to a licensed facility as and when required.

Response: Noted. The physical works outlined above would require to be the subject of a further planning application, the submission of which would depend on the outcome of the current Section 42 application.

3. Analysis

Section 42 of the Town and Country Planning (Scotland) Act 1997 applies where planning permission is sought for the development of land without complying with conditions subject to which a previous planning permission was granted. The original permission remains unaltered by any decision on a Section 42 application.

In terms of guidance for considering such applications, Circular 4/1998 sets out a series of tests for planning conditions, as follows:

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

Circular 4/1998 also makes it clear that planning conditions should not duplicate other regulatory controls such as the licensing of waste management by SEPA.

The facility at Shewalton is long established. The proposed changes reflect the ongoing policy shift away from waste disposal by landfill towards the creation of a circular economy, where materials are salvaged and recycled, with the aim of reaching Zero Waste as set by Scotland-wide targets. There are limits on the current planning condition which reflected circumstances at the time.

The relevant policy of the adopted North Ayrshire Local Development Plan (LDP) is Policy 30 (Waste Management Facilities), which states that proposals which align with Scotland's Zero Waste Plan and the Council's Waste Management Strategy will be supported provided adequate mitigation measures are in place to protect the environment and site surroundings.

The proposal would facilitate the recycling of waste types currently restricted by the planning condition but already permitted under the WML regime regulated by SEPA. Proposed changes to the WML are underway and are being considered by SEPA. Where there is an overlap, it would be appropriate to ensure the planning conditions align with the WML licence, where it is relevant to do so. Not all matters covered by the WML are covered by planning controls. As noted above, Circular 4/1998 makes it clear that other consenting processes should not be duplicated under the planning system.

In this regard, whilst noting that it is proposed that the site would also open on a Sunday between the hours of 8am and 4pm, there is not presently a control on the hours of operation set by any historic planning permission for the facility, which is therefore a matter for the WML and will be considered by SEPA. As such, there is no requirement to duplicate the hours of operation within a condition of planning permission for the site. In this regard, it should be noted that the WML for the neighbouring W H Malcolm's recycling site, which processes inert construction waste, already permits Sunday working between the hours of 8am and 4pm, which is identical to the proposed hours for the Enva site.

A similar approach would also apply in relation to the annual tonnage of waste which can be stored at the site. Again, there is not a planning control over annual tonnage limits, which would also be matter covered by the WML and would be more appropriately regulated by SEPA, as at present.

The present condition 5 states as follows:

That the planning permission hereby granted shall permit the storage and sorting for recycling of mixed residual civic amenity site waste, wood/biomass wood, waste electrical and electronic equipment (WEEE) and paper in addition to the materials specified in condition (1) attached to planning permission ref. no. 99/00329/PP.

Reason: To restrict the development to the terms of its justification/special need.

In response to the matters raised, and taking account issues which would be more appropriately dealt with by SEPA, it is proposed that the amended condition would read as follows:

That the planning permission hereby granted shall permit the following categories of waste at the site for temporary storage, sorting and onward transfer for reprocessing off-site:

- mixed residual civic amenity site waste;
- wood, biomass wood and discarded packaging wood;
- waste electrical and electronic equipment (WEEE);
- paper;
- demolition/building materials
- bailed cardboard;
- high and low density plastics;
- used animal bedding;
- green waste;
- glass;
- soil and stones;
- construction and demolition materials;
- general waste;
- dry mixed recycling.

Reason: To restrict the development to the terms of its justification/special need.

It is considered that the proposed amendment to Condition No. 5 can be granted, taking account of matters that would be outwith the scope of the planning process. As discussed above, a further condition is recommended in respect of potential impacts arising from any additional HGV traffic movements, with a transport statement to be produced by the applicants prior to the operation of the facility for handling the additional waste streams. This requirement would help to address concerns expressed by objectors in respect of road safety and enable further consideration to be given to potential traffic impacts on Shewalton Road.

All applications require to be assessed against Strategic Policy 2. The relevant criteria in respect of this application are 'Safe and Pleasant', 'Resource Efficient', and 'Easy to move Around'. For the reasons given above, and subject to the proposed condition in respect of traffic movements, it is considered that the proposal satisfies Strategic Policy 2.

There are no other material considerations. The outcome of the proposed changes would enable more categories of waste to be accepted at the site for reprocessing and recycling elsewhere, together with an associated reduction in waste going to landfill. This approach would accord with LDP Policy 30 in respect of Scotland's Zero Waste Plan by supporting the circular economy.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the planning permission hereby granted shall permit the following categories of waste at the site for temporary storage, sorting and onward transfer for reprocessing off-site:

- mixed residual civic amenity site waste;
- wood, biomass wood and discarded packaging wood;

- waste electrical and electronic equipment (WEEE);
- paper;
- demolition/building materials
- bailed cardboard;
- high and low density plastics;
- used animal bedding;
- green waste;
- glass;
- soil and stones;
- construction and demolition materials;
- general waste;
- dry mixed recycling.

Reason

To restrict the development to the terms of its justification/special need.

Condition

2. That, prior to the implementation of the amended condition governing the scope of waste types as hereby approved, a transport statement shall be submitted for the consideration of North Ayrshire Council as Planning Authority to establish if a junction analysis is required. The transport statement shall include a forecast of the increased number of HGV movements arising from the proposed increase of waste and additional opening hours at the waste transfer station together with recommendations to ensure the safe and efficient movement of traffic to/from the site. Thereafter, the site shall be operated only in accordance with the outcome of the assessment of the transport statement by North Ayrshire Council as Planning Authority, including the implementation of any mitigation measures as may be identified during a timescale to be agreed.

Reason

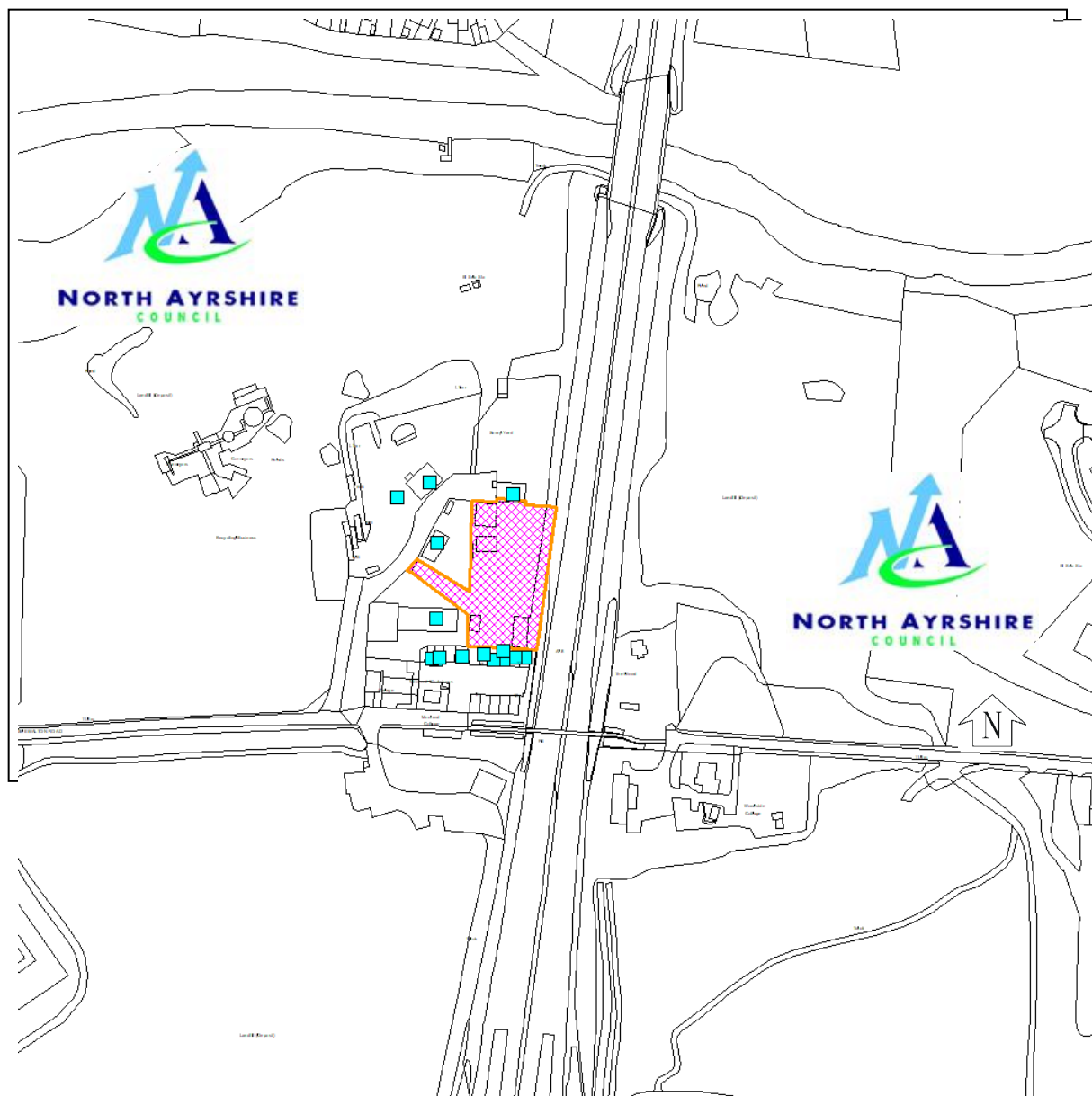
In the interest of road safety.

James Miller
Chief Planning Officer

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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Insert the date of the Committee in the following format:
29th June 2022

Planning Committee

Title: Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: former Seafield School, Eglinton Road, Ardrossan

Purpose: To seek approval to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proposed maintenance of the land for the abatement of the adverse impact on the local area.

Recommendation: That the Committee grants authority for the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 to abate the adverse impact on the land on the local area.

1. Executive Summary

- 1.1 This report recommends the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 ("Amenity Notice") in relation to the land at the former Seafield School, also known as Seafield House, Eglinton Road, Ardrossan. The site includes two Category B Listed Buildings known as Seafield House and Seafield Stables. An Amenity Notice allows the Council as Planning Authority to serve on the owner, lessee and occupier of the land, which is adversely affecting the amenity of any part of the area, a notice requiring steps to be taken to abate the adverse effect of the condition of the land.
- 1.2 The site was last used as a residential school but has been largely vacant since approx. June 2015. The main building, Seafield House, was the subject of a fire in 2017. This fire was largely contained in the eastern wing of the building. However, the roof of that section of the building has collapsed.
- 1.3 The condition of the site has been causing concern to local residents with complaints being received since 2016. The site has previously been subject of an Amenity Notice.
- 1.4 Both Seafield House and Seafield Stables have been subject to vandalism and unauthorised entry. The windows in both properties have been smashed. A fence has been broken and the site has been dumped on including skips and containers. The condition of the land is considered to have an adverse impact on amenity.

2. Background

- 2.1 The site is a vacant former school site with vacant buildings within it. The two most prominent buildings within the site are Category B Listed Buildings. Primary access to the site is from Eglinton Road to the south. The land is identified in the Local Development Plan as part of the settlement of Ardrossan.

- 2.2 The site comprises an area of approximately 3.44 hectares. There are four buildings within the site. In the centre, the Category B Listed Building known as Seafield House. On the western edge of the site, the Category B Listed Building known as Seafield Stables. On the eastern edge of the site, a modern gymnasium building. In the northern corner is a building known as Seafield Cottage which was formerly the kennels of Seafield House.
- 2.3 The site was last used as a school but has been vacant since approximately June 2015. The gymnasium was granted planning permission in 2016 to be used as a health and fitness centre, separate from the wider site, and is currently in use as such. The site is within the settlement of Ardrossan in a prominent location on the western access to the town. The southern end of the site, between Seafield House and Eglinton Road is relatively flat, with the site rising to the north from behind Seafield House. There are residential properties to the east and west of the site.
- 2.4 The Council, as Planning Authority, has received several complaints regarding the site and has been monitoring the site since first receiving complaints in summer 2016. At its meeting of 4th September 2019, the Planning Committee granted authority for the issue of an Amenity Notice in respect of the site.
- 2.5 An Amenity Notice was issued 24th September 2019 and required the removal of all litter and refuse from the site, the boarding of all windows and doors in the Seafield House and Seafield Stables buildings and the movement of demolition rubble to a site north of the stable building. The works were eventually completed circa. September 2020 and that Amenity Notice ceased to have effect.
- 2.6 Since September 2020 the condition of the site has deteriorated. Some boarding has been removed from the openings of Seafield House and Seafield Stables. A fence, which was erected to improve the safety of users of the nearby gymnasium, has been broken and further dumping including skips and containers has occurred on site. The owner has been requested to address these issues but has not done so.
- 2.7 Given the above, it is considered that the owner has been given adequate opportunity to alleviate the harm caused by the condition of the land. The required works have not been undertaken and the condition of the land continues to cause harm to local amenity.

3. Proposals

- 3.1 The condition of the land is having a significant adverse impact upon the amenity of the area. The site is within a residential area and on a prominent main road in Ardrossan.
- 3.2 In the interest of the amenity of the area, it is recommended that Committee approves the serving of a Notice under Section 179 of the Town and Country planning (Scotland) Act 1997 requiring the following;
- (i) Remove all litter and refuse, including skips and containers, from the site.
 - (ii) Board all windows and door openings in Seafield House and Seafield Stables, except for those openings on the first floor of the eastern wing of Seafield House. All openings to be boarded with exterior grade plywood or similar.
 - (iii) Re-instate the timber fence to the front (south-west) of Seafield House and across the access to the western part of the playground from the Eglinton Road entrance immediately in front of Seafield House.

- 3.3 It is proposed that the owner would be given 6 weeks from the date of any Notice taking effect in which to carry out the requirements.

4. Implications/Socio-economic Duty

Financial

- 4.1 Should any requirement of the Notice not be complied with following expiry of the compliance period, the Council as planning authority may enter the land and carry out such steps in order to achieve compliance with the requirements of the Notice. The Council may then seek to recover from the person(s) who was the then the owner or lessee any expenses reasonably incurred during the carrying out of these works. Cleansing has been made aware of the condition of the land and the possibility of the Council carrying out the works itself. The estimated cost of any works is to be advised.

Human Resources

- 4.2 None

Legal

- 4.3 The proposed Amenity Notice is in accordance with Statutory Regulations.

Equality/Socio-economic

- 4.4 None

Climate Change and Carbon

- 4.5 None

Key Priorities

- 4.6 The proposed Amenity Notice supports the Council Plan priority - "Vibrant, welcoming and attractive places,"

Community Wealth Building

- 4.7 Any direct action taken under the Planning Acts can support progressive procurement.

5. Consultation

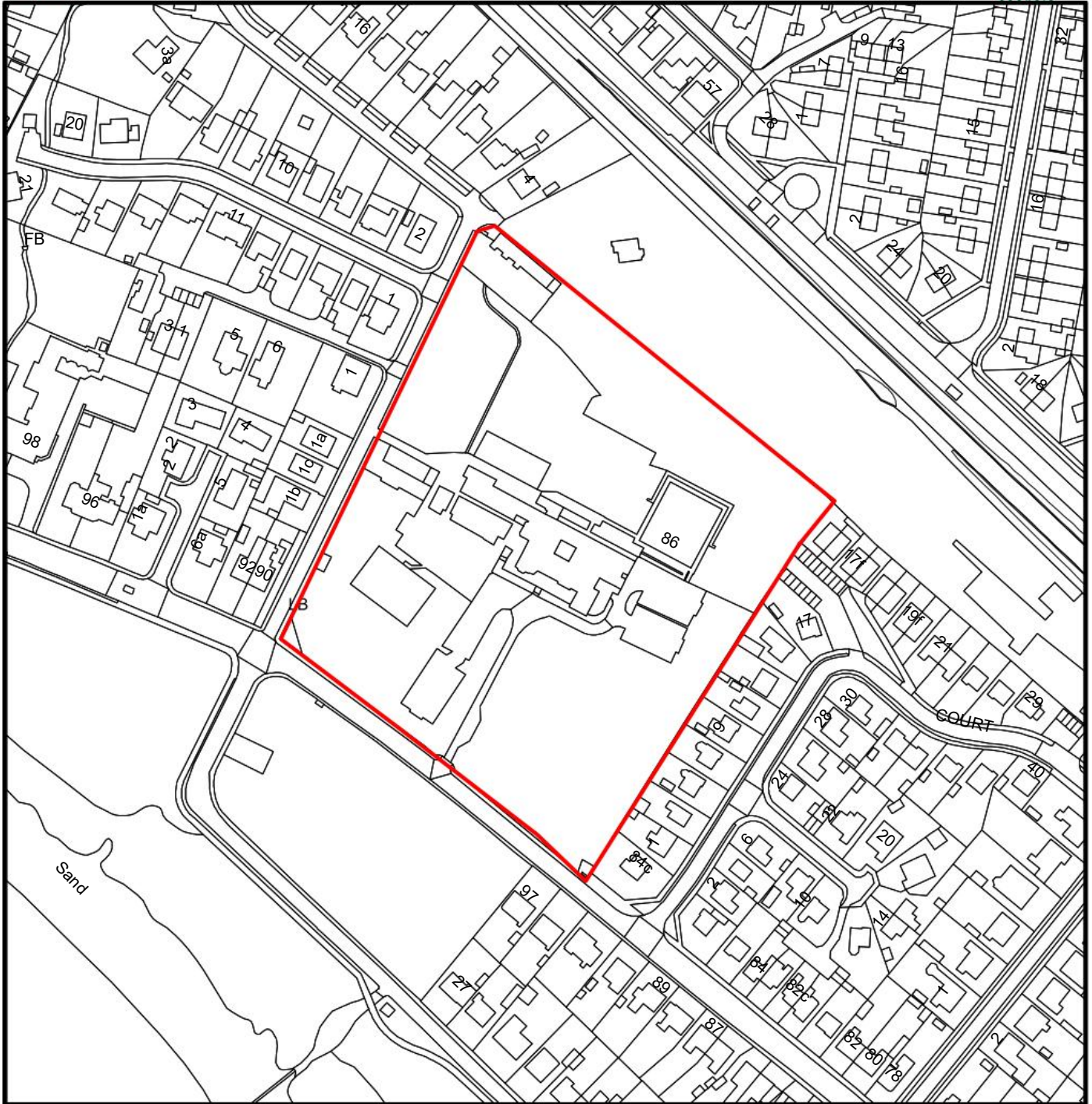
- 5.1 Finance has been advised of the report in terms of its budgetary provision.

James Miller
Chief Planning Officer

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

Background Papers

0



1:2,500

0 30 60 120 Metres

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