

**Planning Committee  
29 June 2022**

**Irvine, 29 June 2022** - At a Special Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Robert Foster, Timothy Billings, Scott Davidson, Stewart Ferguson, Cameron Inglis, Jim Montgomerie, Ian Murdoch and Chloé Robertson.

**In Attendance**

A. Craig, Head of Democratic Services and R. Lynch, Senior Manager (Legal Services; J. Miller, Chief Planning Officer (Planning) P. Brennan, Environmental Health Officer, Protective Services (Place) and A. Little and D. McCaw, Committee Services Officers (Chief Executive's Service).

**Also In Attendance**

J. Bailey, RPS Group, D. Kelly and A. Mathers, (XLCC); R. Holmes, Dr. J Pearson and L. Grainey (representing Fairlie and Cumbrae Community Councils); and Councillor Alan Hill.

**Apologies**

Amanda Kerr and Davina McTiernan.

**Chair**

Councillor Foster in the Chair.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

**2. 22/00133/PPPM Former Coal Terminal Hunterston West Kilbride**

XLCC have applied for 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, at the former coal termination, Hunterston, West Kilbride. Five objections and two representations in support of the application were received. Following the applicant holding public meetings, in May, Fairlie Community Council (FCC) provided 21 more objections from members of the public, all of which were summarised in the report.

The Chair advised that he had accepted a request from Fairlie Community Council to address the Committee in terms of their objections to the application. Fairlie Community Council were represented by Rita Holmes (Chairwoman) and Dr. Jackie Pearson, accompanied by Linda Grainey. Cumbrae Community Council had requested that Ms Holmes also represent them at the Committee. XLCC, as the applicant, had been invited to respond to the objections raised. Alan Mathers and David Kelly (XLCC) and Jim Bailey (RPS Group) were in attendance.

Ms Holmes addressed the Committee in support of the Community Council's objections and circulated three documents in support of the oral submission: illustrations of the scale of the tower, a number of questions by local residents and a statement by Ms Grainey who had researched both WHO and ECHR issues. Ms Holmes expressed the view that the development and its 24/7 operation posed a potential and serious threat to local residents' health and wellbeing. She raised concerns that the applicants had failed to prove their assertion that ships using the jetty for loading cables would be noise-free. Community consultation undertaken had not been meaningful or effective, the objections raised by Fairlie Community Council had not been adequately represented in the report to the Planning Committee and the application was being rushed through.

Ms Holmes considered the images provided by the applicant to be misleading and that they did not accurately reflect the true visual impact of the structures. Illustrations, circulated by Fairlie Community Council at the meeting, depicted Fairlie Community Council's assessment of the scale of the proposed tower in relation to a person standing in front of it and one showing the extrusion tower at Karlskrona in Sweden alongside the proposed tower. She continued that the location of the main jetty was only 900m from Fairlie and the development and operation of the facility would destroy the amenity of the village and surrounding area.

Ms Holmes stated that XLCC was a new company with no experience or track record and she questioned the piecemeal nature of the applications for the whole development. She cast doubt on the claim that 900 jobs would be created and the demographics of a suitably skilled workforce in the area. On behalf of both Fairlie and Cumbrae Community Councils, Ms Holmes requested the application be deferred or rejected until a noise monitoring assessment had been undertaken.

Mr Kelly, of XLCC, then addressed the Committee on behalf of the applicants in response to the objections raised. He provided background information on the site selection that included the connectivity of the site, availability of staff, availability of land and the deep draft of the port required for the development.

Mr Bailey, RPS Group, acknowledged there would be some temporary noise during construction; however, once the factory was operational the level of noise would be minor. He stated that Environmental Health had agreed with these findings and had also agreed with the findings that the manufacturing process would not result in any significant emissions.

Mr Bailey noted that, in terms of the visual impact, the Landscape and Visual Impact Assessment (LVIA) accepted the tower would be prominent in some views. Whilst difficult to mitigate, visually breaking up the scale and mass of the tower by the use of various colours and textures would be agreed with the Council prior to the start of the development. There would be a low risk of flooding and SEPA has no objection to the project. Construction and HGV traffic would be required to use roads to the south of the project site to avoid going through Fairlie as detailed in the Traffic Management Plan and use of rail and sea transport to the facility would be encouraged.

Mr Alan Mathers, XLCC, provided technical information on the cable manufacturing process that required the tower to be 185m high. The hybrid cable laying vessel, powered by methanol with an upgrade path to hydrogen, would be the most advanced in the world. It would run on electric power when coming in and out of port to minimise noise. The ship would come into Hunterston for a 7 day period, 8 times a year. The two carousels for the cable will be located under the deck of the ship to minimise noise and it is aimed to load the cable in 3 days. He advised that the facility would create 900 full time jobs and approximately 2,500 – 3,000 jobs throughout the wider supply chain across Scotland. Around 200 apprenticeship and 150 graduate placements will be available every year and materials have been provided to North Ayrshire colleges to help train the future workforce.

Members then asked questions of the objectors and applicant's representatives and received further information on the following:-

- The application for planning permission in principle for the whole proposal, that also included detailed permission for the construction of the extrusion tower;
- The design process that is underway and construction that would commence at the end of 2022;
- The provision of digital models showing the facility, rather than 3d models;
- Photo montages that illustrated the options for different finishes for the tower and would be prescribed by conditions;
- The process for waste, including waste from lead that is returned to the lead supplier;
- On-site power generation via rooftop solar panel on the west and east elevations;
- 900 jobs that will be created, on a shift basis to allow for 24/7 operation of the facility;
- A Noise Impact Assessment that had been submitted to the Council and demonstrated the facility could operate within the appropriate legislative noise levels and that noise levels would be subject to planning condition;
- The commissioning of a ship that would enable the use of electric motors, when docking at the jetty, thereby reducing noise;
- The transmission of the cables along an on-shore carousel of Teflon rollers to the ship, to protect the cables and also minimise noise;
- That the tower would be constructed from concrete and the foundations on bedrock;
- The tower would not be illuminated but given the height and position of the tower, there is a requirement for omni-direction red aviation warning lightings in accordance with the Civil Aviation Authority Air Navigation Order 2016;

- A Construction Management Plan that would stipulate the route of construction and facility related traffic; and
- A range of community engagement that XLCC undertaken, including online sessions during the Covid restrictions, public meetings held in the local area and written responses provided to supplementary questions submitted.

The Chief Planning Officer then outlined the terms of the planning report.

He advised of a letter from Katy Clark, MSP in which she stated “ XLCC is also willing to make a commitment to a carbon offset scheme to reduce the carbon footprint that the factory will generate, this is likely to be by tree planting rather than other programmes.”

He referred to a representation from Councillor Hill and Collier that requested a delay in consideration of the controversial and complex application until after the summer recess.

He further advised that an objection in respect of the visual impact of the proposal had been withdrawn following the provision of further landscape visual impact appraisals provided by the applicant.

Members had the opportunity to ask further questions and received clarification on the following:-

- ongoing noise monitoring that would be considered in further applications;
- the submission by the applicant of noise management data to Environmental Health for the first 12 months of operation of the facility, to demonstrate the plant was operating within the required measures;
- independent noise monitoring that could be undertaken by Environmental Health if required;
- loading/unloading of the ship on 8 separate weeks a year and normal activities at the port at all other times;
- a condition of planning permission in respect of the finish of the tower;
- a Visual Impact Assessment that had been undertaken;
- pre- application notice that had been lodged in August 2021 and consultation that followed thereafter;
- the option for the applicant to take the application to the Scottish Government for determination if the Council, as Planning Authority, failed to determine it within the statutory 4 month period;
- on-site power generation by rooftop solar panels only;
- the impact on tourism that had been assessed and considered to be negligible; and
- details of a financial bond to be secured with the landowner for the removal of the tower in the event of redundancy.

At the invitation of the Chair, Councillor Hill addressed the Committee on his, and Councillor Collier’s concerns relating to the application, in terms of the lack of detail within the application in relation to the operations within the tower, noise and emissions on the site and the manufacturing process. He considered that these details were already known to the applicant and should have been included in a full

application to Committee. A continuation of the application would allow further time for this information to be provided. In the event the Committee were minded to support the application, he recommended that the detailed planning permission for the construction of the high extrusion tower be granted, but that the In Principle application be refused, with the applicant making a detailed application for the rest of the site, buildings, factories and all processes within.

The Chief Planning Officer advised that the Committee was being asked to approve the principle of industrial development on the site. This had already been established through the Local Development Plan and Development Framework and the planning officer's recommendation was that the application accorded with both plans. All of the details would be subject to separate application and would ordinarily be delegated to officers for determination. However, given the interest and concerns raised, further applications could come before the Committee for consideration.

Councillor Inglis, seconded by Councillor Foster, moved that the application be granted, subject to the conditions outlined in the report and an additional condition, recognising the special justification for the tower and to retain control over the site and re-assess the need for the tower in the event of a different operation.

Councillor Murdoch, seconded by Councillor Davidson, moved that the application be deferred for a site visit and to allow for a range of further information to be provided, including total emissions research, comprehensive noise monitoring undertaken and the rest of the application has been lodged in detail.

On a division, there voted for the amendment 3 and for the motion 5, and the motion was declared carried.

Accordingly, the Committee agreed (a) to grant the application, subject to the following conditions:-

1. That the permission is for 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 only and planning permission would be required for any other use within Class 5 of the Town and Country Planning (General Permitted Development) (Scotland) Order, as amended.
2. 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.
3. 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.
4. 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 route network.

5. 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.
6. 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
7. 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
8. 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 and include details of a monitoring scheme for the first 12 months of operation of the facility.
9. 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

10. 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.
11. 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
12. 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.
13. 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.
14. 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.
15. 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 rout network.
16. 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.

17. 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.
18. 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

19. 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
20. 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.
21. 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;

and (b) that future applications relating to the site are presented to Committee for determination.



### **3. 22/00417/PP Site To North Of Albann Ltd, Third Avenue, Heatherhouse Industrial Estate, Irvine**

Mr Daniel McKay applied for under Section 42 application to remove condition 1 of Planning Permission 14/00473/PP to remove control over the beneficiary of Planning Permission 22/00417/PP at the site to the north of Albann Ltd, Third Avenue, Heatherhouse Industrial Estate, Irvine.

The Committee unanimously agreed to grant the application, subject to the following 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.

### **4. 22/00325/PP Units 1-5 Shewalton Sand Quarry Shewalton Road, Riverside Business Park, Irvine**

Enva Scotland Ltd, applied 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, at Units 1-5, Shewalton Sand Quarry, Shewalton Road, Riverside Business Park, Irvine. Two objections were received and summarised in the report.

The Committee unanimously agreed to grant the application, subject to the following conditions:-

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.

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.

**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.

The site was last used as a residential school but has been largely vacant since 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 had collapsed. 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.

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. Since September 2020, the condition of the site has deteriorated. The owner has been requested to address these issues but has not done so to the satisfaction of the Planning Department.

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.

The Committee unanimously agreed to grant 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, requiring (i) the removal of all litter and refuse, including skips and containers, from the site; (ii) the blocking all open ground floor windows and door openings in Seafield House with breeze block or similar; (iii) boarding all open windows and door openings on the first floor in Seafield House 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; (iv) boarding of all open windows and door openings in Seafield Stables with exterior grade plywood or similar; and (v) re-instatement of 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.

The meeting ended at 4.50 p.m.