



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Committee

A meeting of the **Planning Committee** of North Ayrshire Council will be held remotely on **Wednesday, 24 March 2021** at **14:00** to consider the undernoted business.

Arrangements in Terms of COVID-19

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

1 Declarations of Interest

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

2 Minutes

The accuracy of the Minutes of meeting of the Committee held on 25 February 2021 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3 Isle of Arran

Submit reports on the following applications:

3.1 19/00609/PPM: Site To East Of Millstone Point Lochranza Brodick Isle Of Arran

Installation and operation of an Atlantic Salmon Fish Farm comprising 12 x 120m circumference fish pens and an accompanying feed barge (copy enclosed).

4 North Coast and Cumbraes

Submit reports on the following applications:

4.1 20/00942/PP: Site To South West Of Hunterston Coal Yard Fairlie Largs

Installation of a synchronous compensator and ancillary infrastructure (copy enclosed).

4.2 21/00054/PP: 9 Brisbane Street Largs KA30 8QW

Demolition of existing hotel building and erection of new building comprising 14 flatted dwellings with associated landscaping, car parking, cycle parking and bin/recycling store (copy enclosed).

5 Garnock Valley

Submit reports on the following applications:

5.1 21/00036/PP: SSE Anaerobic Digestion Plant Dalry Ayrshire KA24 4JJ

Section 42 application to remove condition 1 of planning permission 09/00444/PPM (copy enclosed).

6 Planning Enforcement Charter

Submit a report by the Executive Director (Place) on the updated Planning Enforcement Charter (copy enclosed).

7 Policy Guidance Note: Housing in the Countryside

Submit a report by the Executive Director (Place) on the draft Policy Guidance Note on Housing in the Countryside System (copy enclosed).

8 Urgent Items

Any other items which the Chair considers to be urgent.

Webcasting - Virtual Meeting

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

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Planning Committee Sederunt

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

Chair:

Apologies:

Attending:

**Planning Committee
25 February 2021**

Agenda Item 2

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

Present

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

Also Present

Todd Ferguson

In Attendance

J. Miller, Chief Planning Officer, A. Hume, Senior Development Management Officer, I. Davies, Senior Development Management Officer, L. Dempster, Technician (Planning); A. Craig, Senior Manager (Legal Services); and A. Little and H. Clancy, Committee Services Officers (Chief Executive's Service).

Chair

Councillor Marshall in the Chair.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the meeting of the Planning Committee held on 27 January 2021 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Call In request: SSE Anaerobic Digestion Plan, Dalry

Submitted a report by the Chief Executive on a call in request, in accordance with the approved call in procedure, in relation to an application for planning permission which would otherwise be determined by an officer under the Council's Scheme of Delegation to Officers.

A request has been made by Councillors Ferguson, Gallagher and Glover that a Section 42 application to remove Condition 1 of planning permission 09/004444/PPM should be determined by the Planning Committee and not by an officer under the Council's Scheme of Delegation to Officers.

The stated reason for the call in request was detailed in the call in request dated 5 February 2021 and summarised as follows: -

- Increase in noise from both the HGVs and the machinery used to pump out contents;

- Increase in road traffic on a C Class road which is already very degraded;
- Light pollution due to an increase in operating hours during the hours of darkness; and
- Increase in noise levels from the machinery used and from workers at the facility.

Councillor Ferguson was in attendance and addressed the committee in support of the call in request.

Councillor Barr, seconded by Councillor McNicol, moved to call in the application and that it should be determined by the Planning Committee.

Councillor Reid, seconded by Councillor Foster, moved not to call in the application and that it should be determined by an officer under the Council's Scheme of Delegation to Officers.

On a division and a roll call vote, there voted for the amendment, Councillors Foster, McMaster and Reid (3) and for the motion, Councillors Barr, Billings, Clarkson, Larsen, Macauley, Marshall and McNicol (7), and the motion was declared carried.

Accordingly, the Committee agreed to call in the application to be determined by the Planning Committee.

4.1 21/00005/PP: Hunterston Construction Yard, Fairlie, Largs

Clydeport Operations Ltd has applied for planning permission for the variation of Condition 4 of Permission Reference N/17/01273/PP at Hunterston Construction Yard, Fairlie.

The Chief Planning Officer advised that further information was required to allow the Planning Committee to proceed with the determination of this application.

The Committee agreed to continue consideration of the planning application to its next meeting.

5.1 20/00710/PP: Sannox Sand Quarry, Sannox, Brodick, Isle Of Arran, KA27 8JD

Arran Aggregates Ltd has applied for planning permission for the continuation and extension of existing quarry for extraction of sand and gravel at Sannox Sand Quarry, Isle of Arran, KA27 8JD. One objection was received and summarised in the report.

Councillor Marshall, seconded by Councillor McNicol, moved to grant the application subject to conditions.

There being no amendment the motion was declared carried.

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

1. That, prior to the commencement of any works on the western extension of the quarry area hereby approved: (i) the developer shall provide documentary evidence that a bond or financial provision for £50,000 or such other amount as may otherwise be agreed by the planning authority in writing, including appropriate inflationary provisions to cover all decommissioning and site restoration costs required on the completion of the quarrying operations, is in place. No works shall commence until written confirmation has been received that the proposed arrangements in relation to financial provision for restoration of the site are to the satisfaction of the planning authority; (ii) that the developer shall thereafter ensure that the approved bond or other financial provision is maintained throughout the duration of the development hereby approved and provide confirmation on request from the planning authority, all to the satisfaction of North Ayrshire Council as planning authority; and (iii) that the terms of the bond or financial provisions specified in condition 1(i) hereof shall be reviewed periodically in intervals of not less than four years from the date of commencement of operations hereby approved and shall be reviewed at 4 yearly intervals thereafter. The Council, acting reasonably shall be entitled to seek an increase in the amount of financial provision made by the developer in the event that the audit referred to in Condition 2 hereof indicates that restoration of quarrying operations is likely to require funding in excess of that provided for in the bond or financial provision in place at the time of review.
2. That, from the commencement of the planning permission hereby approved, the operator shall submit to the planning authority by the end of each four year period, a statement and plans illustrating the extent of quarry working and projected quarrying operations during the next forthcoming four year period, to allow an audit of operations and progressive site restoration. This statement shall include an audit of compliance with the conditions of the planning permission hereby approved.
3. That unless the planning Authority gives written consent to any variation, no permanent machinery shall be introduced to the site and all stockpiling of materials shall be confined to the areas indicated on the proposed site plan accompanying the Extractive Waste Management Plan dated April 2020, submitted in support of the application, all to the satisfaction of North Ayrshire Council as Planning Authority.
4. That the use hereby permitted shall operate only between the hours of 8.00am and 6.00pm Mondays to Fridays, 8.00am to 12 noon Saturdays and at no time on Sundays or public holidays.
5. That site noise levels when measured at least 3.5m in front of a façade facing the quarry of any dwellinghouse shall not exceed 55 dbLAeq (1 hour) during the working hours specified above, to the satisfaction of North Ayrshire Council as Planning Authority.
6. That any introduction of plant or working methods likely to increase the negative noise impact on nearby dwellinghouses, shall be agreed in writing with North Ayrshire Council as Planning Authority prior to being implemented.

7. That within one month of the date of this permission, details of measures to be taken to minimise the emission of dust and wind-blown sand from the site including screening of equipment from wind and wetting of stock piles, shall be submitted for the written approval of North Ayrshire Council as Planning Authority and implemented thereafter throughout the working life of the quarry
8. That no work on the face of the quarry shall take place between April and July inclusive to avoid the bird nesting season and stockpiling of material shall take place prior to this period so that the stockpiled material can be extracted during these months so as not to affect the operation of the site.
9. That no soil material shall be deposited either permanently or temporarily on any flood plain and no excavated areas shall be reinstated to a ground level above the pre excavation ground level which could affect the operation of a flood plain unless a flood risk assessment is submitted demonstrating that the operation will not increase flood risk to surrounding properties, to the satisfaction of North Ayrshire Council as Planning Authority.
10. That throughout the duration of the development hereby approved: (i) adequate wheel washing facilities shall be provided and wheel washing undertaken as necessary; and (ii) open vehicles carrying materials shall be sheeted before leaving the site, to ensure that deleterious material is not deposited on public roads, all to the satisfaction of North Ayrshire Council as Planning Authority.
11. That unless North Ayrshire Council as Planning Authority gives written consent to any variation, the number of wagon loads of sand extracted from the quarry shall not exceed 71 per annum as indicated in the Transport Statement submitted in support of the application.
12. That, prior to the commencement of any works on the western quarry extension hereby approved, the developer shall secure the implementation of a programme of archaeological works, to be carried out by an archaeological organisation acceptable to North Ayrshire Council as Planning Authority, during any soil stripping. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the programme of works shall be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by North Ayrshire Council as Planning Authority, prior to the commencement. The name of the archaeological organisation retained by the developer shall be given to North Ayrshire Council as Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development.

6 Consultation Paper: Guidance on the Promotion and Use of Mediation in the Scottish Planning System

Submitted report by the Executive Director (Place) on the draft guidance produced on the Promotion and Use of Mediation in the Scottish Planning System, with the response to the consultation set out at Appendix 1 to the report.

The Chief Planning Officer highlighted the use of mediation in Planning was to be promoted during the early stages of the planning process to help reduce conflict, improve community engagement and build public trust.

The Committee agreed to (a) note the detail of the proposed guidance relating to the use of mediation in the Scottish planning system; and (b) approve the submission of the response to the consultation set out in Appendix 1 to the report.

The meeting ended at 2.50 p.m.

NORTH AYRSHIRE COUNCIL

24th March 2021

Planning Committee

Locality	Isle of Arran
Reference	19/00609/PPM
Application Registered	16th August 2019
Decision Due	16th December 2019
Ward	Ardrossan And Arran

Recommendation Refused

Location	Site To East Of Millstone Point Lochranza Brodick Isle Of Arran
Applicant	The Scottish Salmon Company
Proposal	Installation and operation of an Atlantic Salmon Fish Farm comprising 12 x 120m circumference fish pens and an accompanying feed barge.

1. Description

Planning permission is sought for a marine fish farm to be operated at a site to the east of Millstone Point, Isle of Arran. The site is approx. 5.5km east of Lochranza and 4.5km north-west of Sannox. The nearest residential property is Laggan approx. 2km to the north-west of the site.

The site location is some 100 hectares in area, although the development itself would occupy an area of some 12.8hectares. This includes barge moorings and 12 pens of 120m in circumference. The pens would be arranged in two groups of 6. Each group would have two rows of 3 pens. The pens would be dark grey or black in colour. The fish farm would produce Atlantic salmon. The original application sought 20 pens but was reduced by an amendment to the original application to 12 pens.

The site is the sea some 80m, at its closest point, off the north coast of Arran. The coast closest to the site is identified in the Local Development Plan (LDP), adopted November 2019, as being Isolated Coast. It is a Special Landscape Area, as it comprises part of the North Arran National Scenic Area. It forms part of the Countryside, as identified by the LDP, and has a Core Path running north-west/south-east between Lochranza and Sannox. There is a Scheduled Monument, the Laggantuin deserted settlement, on the coast near to the

proposed development. The Laggan Site of Special Scientific Interest (SSSI) is approx. 500m to the west. The Laggan to Scriodan, Cock of Arran Local Nature Conservation Site (LNCS) is approx. 1km to the north-west and the Fallen Rocks Local Nature Conservation Site approx. 900m to the south.

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 6th March 2019 (ref: 19/00181/PREAPM).

The proposal was screened and scoped in accordance with the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 on the 1st May 2015 (ref: 19/00182/EIA). It was determined that an Environmental Impact Assessment (EIA) would be required and details of the scope was given.

An EIA has been submitted. The EIA was updated in September 2020 when the number of pens was reduced. The EIA includes consideration of the following:

Alternative Sites and Design

The EIA states that the site is in southern Scotland where there is a large market for supply, and it is close to the applicant's existing processing facilities at Cairndow, Loch Fyne. It is also close to the applicant's existing harvesting site at Ardyne, Cowal, reducing boat passage time and fuel usage between the sites. The site would allow stock generation to be balanced to maintain supply. The site is not located in any known wild salmon migratory route.

Alternative sites considered were: Cock of Arran (2-3km north-west of site), discounted because of landscape and visual impact; Skipness, Argyll (9-10km north-west of site), discounted because of visual impact and potential linking of Disease Management Areas (DMA) with sites in Loch Fyne; Straad, Bute (13km north-north-east of site), discounted due to visual impact concerns and impact on tourism at Ettrick Bay; Skelmorlie (24km north-east of site), discounted as water current speed not suitable for required production; Lamlash (19km south-east of site), extension of existing facility discounted as could not produce required production growth area.

The design is considered to incorporate scope for innovative measures which it is claimed will reduce the use of medicinal treatments by implementing alternative sea lice control techniques; enhance safety; minimise seal interactions and the use of Acoustic Deterrent Devices (ADD); and improve access to the pens for the safer containment and transportation of fish.

Benthic Habitats

The EIA assesses the potential effects of the proposed development on benthic habitats i.e. the ecological layer around the seabed including the lowest layer of water, the sediment surface, and the immediate sub-surface layer. It considered potential significant impacts are limited to the disturbance during installation, deposition of operational organic waste and medicinal chemicals.

The benthic habitat at the site, where the pens would be sited, is recorded as being muddy sand with patches of gravel and rocks at the northern end and sand and gravel with some muddy sand in deeper areas to the south. The most common species recorded, aside from fish, were the squat lobster, Turritella snails, Sea Squirrels, Norway lobster, common urchin, crab, and seven-armed Starfish. The habitats and fauna are not protected by nature conservation legislation and assessed in the EIA as being of less than local importance.

There was a low abundance of the Priority Marine Feature (PMF) 'Northern sea fan,' and the site is not considered to be a significant example of that community. The EIA sets out steps which could be carried out to mitigate impact on Northern Sea Fan and it is not considered there would be significant impact. It was also considered that the PMF 'Burrowed Mud,' was absent from the site.

Water Column

The site has a steep sloping seabed, from less than 10m depth to more than 100m depth in a few hundred metres. It has a low tidal current speed of generally less than 0.1ms⁻¹ and the average direction is towards the south-east. Given the speeds near the seabed, the EIA concludes that some resuspension (stirring of the benthic habitat) would occur with export of released solids. The report sets out ways in which the operation of the site would mitigate against waste and considers that with such measures, any effect would not be significant.

Interactions with Predators

The report identifies 8 potential predators having been recorded within 5km of site in the last five years. These are gull species, grey heron, shag, gannet, cormorant, great northern diver, otter, red throated diver, American mink, and grey seal. The report identifies seal species, otter, and diver species of being of regional importance in conservation terms whilst the other species are of less than local importance.

The report identifies effective fish farm management and netting to be the primary method of deterring predation. Husbandry practices to be carried out including steps to reduce entanglement risk are listed. ADDs would also be used to deter seals. The use of such methods is considered to ensure that any impacts on predators would not be significant. The requirements of the Animals and Wildlife (Scotland) Act 2020 will be met.

Interactions with Wild Salmonids

The waters of Arran are known to support populations of wild Atlantic salmon and sea trout. The closest river known historically to support salmon is the Sannox Burn, some 5km to the south. However, there is no record of salmon currently being supported in the river, with the Glenrosa, Iorsa and Machrie Waters being the only designated rivers (where catch returns are recorded) on Arran. The closest to the site is the Glenrosa, approx. 13km to the south. The EIA notes that catch numbers of salmon and sea trout are low suggesting limited population in the area, although it is acknowledged that catch data could be limited due to fishing restrictions. The report states that interaction between salmon farms and wild salmonids are believed to be limited to sea lice interactions and farmed fish escape events.

In terms of lice, it is recognised that farms can increase the number of sea lice in the environment. This can affect sea trout and post-smolt (year old) salmon during migration. Sea lice can also be distributed on the tide, with studies suggesting up to 12km. Where

there are weak currents, sea lice aggregations are more likely to occur. Scottish studies have shown farms contribute 95% of sea lice to the mid-west coast. However, the magnitude of impact on mortality levels in wild salmonids in Scotland is not known. Studies elsewhere suggest potential impacts of 12-29% on wild salmon. Other factors such as climate change and overfishing are considered to have a greater impact on wild salmonid populations. Fish farm escapes can impact on wild salmon due to genetic dilution. Interbreeding is possible although the report considers that escapes are rare.

The EIA identifies wild Atlantic salmon as being of regional importance and sets out measures to mitigate impact on the species. These include lice management plans and assessment of production cycles and tides to minimise aggregations. This also includes an Escape Contingency Plan to prevent and contain escapes. The development would be operated in accordance with a submitted Environmental Management Plan. The report concludes that subject to such measures, the development would not have significant impact on wild salmonids.

Species of Habitats of Conservation Importance

The report identifies 5 protected marine species having been recorded within 5km of site in the last eight years. These are basking shark, bottle-nosed dolphin, common dolphin, harbour porpoise and minke whale. The report identifies the species as being of regional importance in conservation terms.

The report states that most construction and assembly would be carried out off site and any impact from this stage would be negligible. Potential impacts on the protected marine species are considered to be entanglement, removal of prey species, contaminants affecting water quality, underwater noise, and collision.

The report identifies effective fish farm management to be the primary method of mitigating impacts. Husbandry practices to be carried out including steps to reduce entanglement and contamination risk are listed. ADDs, to deter seals, would be low frequency to minimise impact on the species. The report acknowledges lower frequency noise is within the hearing range of minke whale but considers the temporary infrequent use of ADDs would not lead to any significant impact. Given this and the measures set out in the submitted Predator Control Plan and ADD Plan, the EIA concludes impact on such species would not be significant.

Habitat Regulations Assessment

This Assessment concludes that there would be no likely significant effect on any Special Protection Area or Special Area of Conservation. The applicant has provided further information in relation to this matter, following concerns from NatureScot (SNH). This information states that the locations relative to each other and factors such as sea lice dispersal distance and likely salmon migration routes meant there is no connectivity which would cause any likely significant effect. A Shadow Appropriate Assessment of likely effects has been submitted.

Navigation, Anchorage, Commercial Fisheries, and other Non-Recreational Maritime Uses

The EIA considered maritime activity within a 2 nautical mile (nm) buffer of the site. It considered that there is a low volume of traffic through the proposed mooring area with

almost 90% being either fishing or recreational vessels. Given the volumes, the EIA does not consider there would be any significant effects during the installation period or on commercial fisheries or recreational vessels.

Seascape Landscape and Visual Impact Assessment (SLVIA)

The report states that the North Arran National Scenic Area and the North Arran Special Landscape Area are highly sensitive to visual impacts. However, the EIA assesses that any impacts would largely be negligible in magnitude and moderate or minor in significance. The EIA assesses that impact on landscape character would be moderate in magnitude due to its position in relation to Isolated Coast and would have a major/moderate effect. The effect on the Coastal Headlands Landscape Character Type is considered to be major/moderate with effect being adverse due to the addition of man-made features.

The report states that there would be receptors with high sensitivity to visual impacts in all directions, including recreational users of the core path and nearby summits as well as users of the boats in the Sound of Bute. Users of the core path would experience a substantial magnitude of change which would be considered to be up to major significance. Water users would experience a substantial magnitude of change which would be considered to be of major/moderate significance. Specific viewpoints are assessed.

Social and Economic Impact Assessment

This Assessment states that the site would have a positive impact across Scotland's aquaculture supply chain. It is projected the proposal would support 37 jobs in the sector and wider economy. The report also states the proposal would support Arran's economic diversity. The report states that the degree of social and economic benefit to Arran depends on the affordability of housing stock, its effect on available labour and effective addressing of this. As long as the development is managed in accordance with best practice, it does not consider that there would be any effect on the natural capital of the island.

Farm Management

The EIA states the development will be managed in accordance with Integrated Pest Management and the National Treatment Strategy

Noise Assessment

This Assessment gives details of potential noise receptors, estimated noise levels, and the potential impact. This concludes that due to factors including lack of residential receptors in the area, there is no reasonable prospect of significant noise impact.

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. The report notes the large attendances. It summarises that the vast majority of feedback was opposed to the proposal. The reasons for opposition are summarised with environmental, visual impact and fish welfare being the largest areas of concern. The report concludes that

the process has allowed the applicants to better understand concerns and they have, where possible, provided further information or engagement to try and address concerns.

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 be had 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; Policy 8: Business Development on Arran and Cumbrae; Policy 15: Landscape and Seascape; Policy 16: Protection of our Designated Sites; Policy 22: Water Environment Quality; Policy 24: Alignment with Marine Planning and Policy 25: Supporting Aquaculture. The draft Clyde Marine Plan and Scottish Planning Policy are also considered relevant.

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.

Detailed Policy 8 - Develop on Islands
Policy 8:

Business Development on Arran and Cumbrae

We will support developments that will have a positive impact on the vitality, vibrancy and viability of the island and avoid unacceptable adverse impacts on the environment, amenity or the tourism offer of the area.

We will promote as a preference, the existing settlement pattern in providing the best-placed locations because these are likely to have access to utilities and services and to ensure the greatest range of employees can access new businesses.

Proposals will be supported where they have demonstrated a sequential approach to site selection in the following order of preference:

- o Within or adjacent to established industrial and business locations
- o Within settlements
- o Edge of settlements
- o Within existing countryside buildings
- o Rural locations that are, or can be made, easily accessible by a choice of transport modes

We will be flexible and realistic in applying the sequential approach, in particular where key sector and employment uses are proposed to ensure the island can capitalise on major inward investment opportunities.

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 22 - Water Environment Quality

Policy 22:

Water Environment Quality

Proposals for additional cemetery provision to meet identified needs within our locality areas of Irvine, Kilwinning, Arran, North Coast, Three Towns and Garnock Valley will be supported where unacceptable environmental and amenity impacts are avoided. Groundwater assessments may be required to support proposals with mitigation measures identified and agreed where necessary.

We will support development that helps achieve the objectives of the Water Framework Directive and the River Basin Management Plan for Scotland. Generally, development which would lead to the deterioration of the water environment will be resisted unless it would deliver significant social, environmental or economic benefits.

Development will be required to ensure no unacceptable adverse impact on the water environment by:

- a) Protecting and enhancing the ecological status and riparian habitat, natural heritage, landscape values and physical characteristics of water bodies (including biodiversity and geodiversity);
- b) Protecting and enhancing existing flood plains; protecting opportunities for public access to and recreation and enjoyment on and around lochs, rivers, burns, wetlands and the coastal marine area; and
- c) Having regard to any designated Bathing Waters. Where engineering works are required in or near water bodies, there will be a presumption in favour of soft engineering

techniques and against the culverting of watercourses, unless there is no suitable alternative. Proposals for culverting of watercourses for land gain may only be justified if the applicant can demonstrate that:

- o No other practical option exists that would allow the watercourse to remain open; and
- o The proposed development is of over-riding public interest.

We support connection to public sewerage systems in the first instance but recognise that wastewater solutions must be affordable and delivered at the most appropriate scale and that in many cases septic tank systems can be the most sensible solution for a household or small community (this also might be bespoke for our island communities). We will consider the cumulative impact of such solutions and support a preference for community solutions.

Development should ensure that appropriately sized buffer strips are maintained between the built and water environments.

Indicative Width of watercourse (top of bank)	Indicative Width of buffer strip (either side)
Less than 1m	6m
1-5m	6-12m
15-15m	12-20m
15m+	20m+

Detailed Policy 24 - Marine Planning Policy 24:

Alignment with Marine Planning

We will, in principle, support developments with a marine component or implication (such as marinas, ports, harbours, marine tourism and recreation, fish farming, and land based development associated with offshore energy projects and defence establishments) where they are within a recognised developed coastal location and provided they are consistent with Scotland's National Marine Plan and the emerging Regional Marine Plan for Clyde Marine Region.

All marine proposals should identify environmental impacts and mitigate against these to ensure there are not any unacceptable adverse impacts.

Developments on coastal areas with significant constraints will be supported, in principle, only where they would also contribute to the economic regeneration or well-being of communities whose livelihood is dependent on marine or coastal activities.

Developments on undeveloped sections of coast which possess special environmental or cultural qualities, such as wild land will generally be resisted unless there would be a significant economic value of the development and that environmental impact issues can be satisfactorily addressed.

Generally, development requiring new defences against coastal erosion or coastal flooding will not be supported except where there is a clear justification for a departure from the general policy to avoid development in areas at risk or where a scheme has already been identified in the Spatial Strategy or the current Ayrshire Shoreline Management Plan.

Detailed Policy 25- Supporting Aquaculture

Policy 25:

Supporting Aquaculture

We will, in principle, support aquaculture development where it accords with Marine Scotland's locational guidelines (updated quarterly by the Scottish Government) for aquaculture and would result in economic and social benefits for local communities and the ongoing sustainable development of the aquaculture industry. Proposals for new development will be supported where there are no unacceptable adverse impacts (including cumulatively) on the following:

- o landscape, seascape and visual amenity.
- o biological carrying capacity of land and water bodies, including the sea, lochs and river systems.
- o the protection and enhancement of the wider physical environment and amenity.
- o coastal and marine species (including wild salmonids) and habitats (including Wild land).
- o the historic environment and the seabed.
- o other users of the marine environment (including commercial fisheries, Ministry of Defence, navigational routes (including commercial and recreational routes), ports and harbours, anchorages, tourism, recreational and leisure activities (including coastal access networks and links golf courses, in terms of the impact of coastal processes and in particular coastal erosion).
- o The strategic transport network.

2. Consultations and Representations

Neighbour notification was carried out and the application was advertised. There have been 436 objections and 19 support comments received.

The following bodies have objected to the proposal: Salmon & Trout Conservation Scotland; Scottish Salmon Watch; Ayrshire Rivers Trust; the River Stinchar District Salmon Fishery Board; Loch Lomond Fisheries Trust; Fisheries Management Scotland which is the representative body for Scotland's District Salmon Fishery Boards, Rivers and Fisheries Trusts; Loch Lomond Angling Improvement Association; The National Trust for Scotland; Bute Community Council; Friends of the Sound of Jura; the Clyde Fishermen's Association; the Scottish Creel Fishermen's Federation; the Arran Access Trust; Arran Civic Trust; Arran Eco Savvy; and Community of Arran Seabed Trust (COAST).

The **objections** can be summarised as follows:

1. Policy. The proposal is contrary to Scottish Government Planning Policy and the North Ayrshire Council Local Development Plan. This is particularly with regard the designation of the area as 'isolated' coast. The Council's policy to support aquaculture is only where there is no unacceptable impact. The application is contrary to several other LDP policies. The application is also contrary to Scottish Parliament committee reports into marine fish farming which found the industry to be deficient in regulation, fish health and environmental impact.

Response: An assessment of the proposal against the relevant policies is given below.

2. EIA Information. The EIA is considered to be flawed and there is information missing. The assessment of alternative locations is inadequate. The cumulative impact of the development and similar others has not been adequately addressed. The EIA does not meet the requirements of the Scoping Opinion and methodologies used are out of date.

Response: It is considered the information submitted is sufficient for the purposes of this application.

3. Pollution. Fish farms pollute the marine environment through excrement, toxic chemicals, and detritus. The proposed chemicals should not be permitted. This will destroy wildlife and habitats including the seabed and shellfish. There is also a danger to human health, including through potential parasites. The environment of the Clyde is fragile and already in a poor condition. The sea must be allowed time to recover from over-fishing, dredging and sewage sludge dumping. Sludge dumping has not taken place for 20 years. However, the sea environment has not recovered. The pollution from the fish farm would be similar to a recommencement of sludge dumping. The area has relatively little tide or current and as such effluent etc will disperse slowly. Poor food production has an impact on all health.

The modelling of the impact on the seabed is flawed and the impact on Priority Marine Features is downplayed. The PMF Northern Sea Fan is present, which is its most southerly location, but there is not enough information as to how it will be protected. Any Northern Sea Fan within the waste footprint will be destroyed. Environmental problems will be exacerbated by the potential for algae blooms. The surveys carried out will not have captured any species living within the sediment.

Although the number of pens has been reduced, the possibility to increase back to 20 remains. The originally proposed new technology has been removed from the proposal and this is just a standard fish farm development. The development could also lead to increased marine debris and plastic.

Response: An assessment of the impact on the development is given below. This application is for 12 pens. Should permission be granted, further permission would have to be sought for any increase in pens.

4. Impact on Wild Salmonids. Fish farms have a negative impact on wild salmonid populations. Interactions through sealice and fish stock escape will harm the wild populations. The escapees from fish farms have caused genetic mutations in wild populations. Many rivers in Ayrshire and beyond are suffering huge reductions in wild salmon and sea trout. Proposed controls of the farm are inadequate. The impact is on the wild fish themselves and on the angling community whose efforts to repopulate rivers is undermined by the impacts from the farms. No permission should be granted until a full study on the impacts of escaped fish is undertaken.

Scottish Government Committee reports have identified that urgent and meaningful action is required to address regulatory deficiencies in impact on fish health. The proposed site is an area where wild salmonids have a high sensitivity to interactions with farmed fish. It is likely on a migratory path for wild salmon. The applicant has not provided any information as to where wild salmon migration takes place around Arran. The current regulatory system

does not sufficiently protect wild fish. Recent history of escapes offers no assurance of containment. No work to inform an Appropriate Assessment has been done.

Response: An Appropriate Assessment of the development has been carried out in relation to impact on Atlantic salmon. It is not considered there would be any significant effects on Atlantic salmon or other salmonids.

5. Endrick Water SAC. The proposal will impact on the Endrick Water Special Area of Conservation (SAC) for Atlantic salmon. There should be a precautionary approach to impact on the SAC and the applicant's submitted information is insufficient to rule out any impacts. Further surveys to identify the migratory routes of salmon in the Clyde should be undertaken. The proposal will also impact on the Lagan Site of Special Scientific Interest and Wild Land.

Response: As above Appropriate Assessment of the development has been carried out in relation to the SAC.

6. Impact on Other Animals. There will be a negative impact on seals, whales, dolphin, porpoises, otters, basking sharks etc. These are iconic animals which are important to Arran's tourism. The area is the most southerly part of the Hebridean Whale Trail. Measures to repel predators, including acoustic deterrent devices (ADD), will scare these creatures from the surrounding waters. There is no effective way of ensuring ADDs would be used sparingly. There is a large colony of seals within 5km of the site at Sannox and Corrie and the information used in the applicant's EIA is inadequate. Such species are often spotted in this location. There are more substantial records of these animals in the area which have not been used by the applicant. The applicant would shoot any seals not scared away. Shore breeding birds and sea birds would be negatively affected. There are Arran Brown butterflies in the area. Causing harm or disturbance to protected species is illegal.

Response: The proposal has the potential to displace sea creatures which may otherwise have been witnessed in the area. If permission was granted the Predator Control Plan and other environmental management measures could be governed by condition.

7. Cumulative. There will be cumulative impact from this proposal and proposed fish farm developments at the south-east of Bute and at the Cumbraes. Cumulative impacts will effectively cut off the Clyde to wild salmonids.

Response: The AAs consider the cumulative impact on the wider area. The proposals for sites off Bute and the Cumbraes have not, to date, resulted in any planning applications.

8. Visual Impact. The visual impact from the development is unacceptable. This is acknowledged in the EIA. This area has a special character. The development will be an industrial installation on a section of unspoilt, isolated coast. The site is in the North Arran National Scenic Area and is one of the most remote stretches of coast in the Firth of Clyde. The landscape has not changed for hundreds of years. The size and scale of the site is huge and out of character with the area. It would be visible for a considerable period of time for walkers of both the coastal path and paths in the hills above. Detritus from the development would wash up on the shore. Views of the island from Bute and the West Island Way, which is an Area of Panoramic Quality, will be adversely affected. The barge itself would have prominence. The mock-ups submitted by the applicant omit pieces of equipment, such as

walkways and workboats, which would be visible and are considered to be misleading. Bute Community Council object to the proposal.

Response: Noted. NS has objected on visual grounds and this assessed further below.

9. Land Based Facilities. It is not clear where the land based service area will be. The use of the North Sannox slipway as a land base for the site would cause additional disturbance. This is a well-used area by those less able to walk on more difficult paths. There would be further visual impact from other land based infrastructure.

Response: The applicant has indicated the site would be serviced from the existing service area in Lamlash Bay, although it is noted that the site is close to the applicants operations in Loch Fyne and Planning cannot control where the site is to be serviced from.

10. Navigation. Sea navigation routes, particularly for kayaks, will be obstructed. Safe anchorages will also be lost.

Response: The Northern Lighthouse Board has no objection subject to suitable conditions. The impact on recreational use of the area is considered below.

11. Noise and Light. The development would create noise and light disturbance in an otherwise quiet area. The area can be completely quiet except for natural sounds. Light pollution will prevent the area being used for stargazing. The noise from workboats should be quantified.

Response: NAC Environmental Health (EH) offers no objection. It is not considered that the proposal would lead to noise nuisance. However, should any statutory nuisance occur, EH can take action under the relevant powers. The visual impact of the development is considered more fully below.

12. Tourism. There will be a negative impact on tourism on Arran. This impact will discourage visitors through visual impacts, loss of wild animals and loss of sense of place. The site is near popular walking, kayaking and sailing routes. The site is on the North Arran geological walk and would harm the Arran Geopark. The site is adjacent to part of the Arran Coastal Way. The Coastal Way is an important amenity for residents and visitors. Guesthouses in the area rely on holiday makers using the path. Tourism is the main industry on Arran.

Arran has a global reputation for marine conservation, including the Marine Protection Area and no-take zone, and this would make a mockery of the reputation. The sense of remoteness of the place and the image of the island is the main tourist draw. Arran and North Ayrshire should not market itself as a destination for green tourism.

Response: The potential impact on tourism for this development is considered further below.

13. Economic. Any jobs created would be short term as the industry is not sustainable. It is noted that the promised 10 direct jobs have fallen to 6. The Clyde Marine Plan regional assessment of 2017 notes that aquaculture jobs in the area are in decline. The automation of the industry will lead to a further decline in jobs regardless of how many are initially created. The proposal would impact on the fishing of traditional boats. It would also impact

on fisheries further up the Clyde. There has been a loss of fishing and sea angling jobs due to impacts from fish farms. The Clyde Fishermen's Association, representing approx. 50 boats, object on the grounds of the loss of a fishing area, including a sheltered site. The Association considers that the environmental impacts would also adversely affect businesses. The Scottish Creel Fishermen's Federation also object on similar grounds. The development would be an opportunity cost to inshore marine employment in the Clyde. The net economic impact from the proposal would be negative given the impacts on tourism and other fishing. The alleged economic benefits are based on assumptions with no evidence to support them. The site could be serviced from Tarbert.

The economic benefits for Scotland would be slight as the applicant is foreign owned. Any economic benefit would be negligible compared to the potential harm to the environment and tourist economy which has a greater contribution to the local and national economies. There is no guarantee that locals would benefit from any jobs created. The farm could be serviced from elsewhere and this appears likely given its location.

Response: The potential economic impact of this development in terms of business development is given below. However, it is also noted that there is no guarantee that any jobs created would be on Arran. The site could be serviced from other locations and Planning cannot require jobs to be provided from certain places.

14. Historic Environment. The site is adjacent to the Laggantuin deserted settlement which is a scheduled monument. There are other non-designated archaeological sites in the area. These would be adversely affected as the farm would be in their setting.

Response: Historic Environment Scotland was consulted at the EIA Scoping stage and considered that the historic environment could be scoped out. It is not considered that the proposal would have any significant adverse impacts on the historic environment.

15. Restoration. North Ayrshire Council would be left to clean-up of the site should the applicant cease operations, if fish farming is no longer be viable, and the operator goes bust. There is no scope to require removal once the use has commenced.

Response: A condition could be attached to any permission requiring decommissioning should the use cease. Responsibility for complying with a condition, where an operator no longer exists, is normally with the landowner. In this instance that would be the Scottish Government or agencies. The adaptability of the proposal for other uses is considered as part of a wider assessment below.

16. Nature Conservation Act. The proposal is contrary to the Nature Conservation (Scotland) Act 2004 which requires the Council to further the conservation of biodiversity so far is consistent with the proper exercise of its functions. A precautionary principle should be taken with respect to any development which could impact negatively on the environment.

Response: The functions of the Council, as Planning Authority, are consistent with the Nature Conservation (Scotland) Act 2004.

17. Welfare. The method of farming raises animal welfare issues. The fish are overcrowded, adversely affected by sealice and there are high levels of mortality. Use of cleaner fish impacts on the populations of those fish, such as wild wrasse, are wasted when the salmon is harvested. The use of wild caught cleaner fish has environmental impacts. There are no

sustainable sources of such fish at present. The amount of energy used to produce the fish means the industry is unsustainable in the long term. Creation of the feed from industrial fished sources causes harm. The EIA is flawed in that the mortality plan does not identify Environmental Harm Hazard associated with a mass mortality or offer mitigation. The applicant's track record of animal welfare is questionable. The untested husbandry practices proposed should be tried out on existing sites.

Response: Marine Scotland Science (MSS) offers no objection. The husbandry methods of the development could be controlled through planning condition, if granted. The operation would also have to comply with any license requirements.

18. Other Methods of Production. Fish farms should be contained within closed tanks on land due to environmental damage done by open cages in the marine environment. Onshore fish farming would be supported. Other countries have banned open cage farming and are incentivising onshore methods.

Response: The proposal is for an open cage development in the marine environment and the application has to be considered on that basis.

19. Smell. Removing the dead and diseased fish from the island following a mortality event will have a negative impact due to the heavy traffic and smells. This issue occurred in Brodick and Lochranza in relation to the existing farm in Lamlash Bay.

Response: Removal of any dead or diseased fish would be a matter for the applicant. Should the dead or diseased fish, or their smell, cause a nuisance this could be a matter for SEPA, MSS and/or Environmental Health. It is not considered that any road traffic generated by the proposal would cause unacceptable impacts on the road network.

20. Radiation. Concern regarding radioactive levels in the area. The site is opposite Hunterston Nuclear Power Station and this area of Arran received large amounts of fallout from Chernobyl. Any fish farm in this area could become contaminated.

Response: It is not considered the location gives any rise to significant concern about radiation.

21. Information. There are unsupported assumptions, contradictions and inaccuracies in the information submitted by the applicant.

Response: Comments regarding the robustness or otherwise of the information submitted are noted. However, it is considered there is sufficient information for the purposes of determining this application.

22. Consultation process. The consultation process, particularly prior to the submission of the application, was insufficient. The public events were tightly controlled and there was little scope for the public to make meaningful contributions. It is considered the level of public objection to the proposal has been downplayed by the applicant. The pre-application events were akin to lobbying with public concerns dismissed. The information the applicant has provided in the PAC Report is disputed. Claims of community engagement with the Holy Isle and other community groups are misleading.

Response: Comments regarding the public meetings carried out by the applicant as part of the pre-application processes is noted. It is also noted that information within the PAC Report is disputed. However, it is considered that the pre-application processes were sufficient in terms of the submission of this application.

The **support** comments can be summarised as follows;

1. Economic. The proposal will have a positive impact on the economy of Arran. Local businesses engaged in the supply of the fish farming industry will benefit. 5 local jobs have been created in a business providing boats for the industry and 10 jobs created by the business will be welcomed. The jobs would be year-round, be of good quality and handy for those living on the north of the island. The proposal will have a positive impact on the wider Scottish economy due to the importance of the industry. The proposal supports an area of growth in farming.

Response: The potential economic impact of this development in terms of business development is given below. However, it is also noted that there is no guarantee that any jobs created would be on Arran. The site could be serviced from other locations and Planning cannot require jobs to be provided from certain places.

2. Welfare. Any concerns over the impact of production can be mitigated through proper management. Planning should rely on the regulatory bodies for the control of the development. The waste from the farm is nothing like human sewage. Any accumulation of waste below the pens will be absorbed into the ecosystem in time. The mortality rate in fish farming is equivalent with other types of farming.

Response: If permission was granted, planning conditions could be imposed where appropriate and where the conditions meet the tests set out in Scottish Government guidance. Other regulatory bodies could take action as their powers allow and as they see fit.

3. Tourism. The development would not deter tourists. The site is in a remote location. The site could become a tourist attraction. Other locations with fish farms have not seen a reduction in tourism and the growth in fish farming matches the growth in tourism. The Lamlash fish farm has not affected tourism.

Response: The Lamlash fish farm and the proposed fish farm are of such different scales and locations that it is not considered a meaningful comparison. It is noted there are differences in opinion as to the potential impact on tourism for this development.

4. Visual Impacts. Any visual impacts would be minimal. The site can be viewed in the context of the industrial development at Hunterston. It is not a natural area.

Response: The visual impact of the proposal is assessed below.

5. Other animals. Predator populations are not affected by fish farming and there are many other reasons for the decline in wild salmonid populations. Such populations were in decline prior to the introduction of fish farms. Fish farms have less environmental impact than other types of farming. The fish farm may be beneficial to some species.

Response: The potential impact on other animals is assessed.

The applicant submitted a response to the comments received that: the submitted reports conclude there would be no significant impact on benthic habitats and open water; the landscape has the capacity to absorb the development; the management of the farm would overcome concerns regarding fish mortality and sea lice spread; the development would not impact on tourism; the socio-economic impact would be positive; there would be no significant noise impact; the reasons for decline in wild salmon is complex and cannot be attributed aquaculture; there would be no significant impact on boating; any equipment would be in accordance with best practice; and finally discussions are ongoing with licensing bodies regarding pollutants.

Consultations

Marine Scotland Science (MSS):

Benthic Impacts - The revised proposal with a biomass of 2300tonnes represents a reduction from the original application. SEPA is the regulator and will make the final decision in respect of biomass.

Water Column Impacts - The proposed site sits within an area currently not included in the Locational Guidelines. The applicant has included a nutrient assessment which indicates that the degree of enhancement likely to result from the proposed biomass should not be unacceptable. It has been indicated that no cumulative assessment has been included due to the development being in open water and the large distance between the proposal and the nearest developments.

Site Location - There are currently no sites registered with Marine Scotland Science within 1000m of the proposed new site. However, there are several other proposed sites in the area which could impact this site if they were developed, see 'Disease Management Area' for further information.

Site Access - The location appears to be relatively exposed to the east. The site will be serviced by work boat from the applicant's Lamlash shore base. Remote monitoring equipment is proposed for use on the site, including cameras below the surface to remotely monitor fish behaviour and above the surface to monitor feed operations and environmental conditions, with this information being relayed to the shore base. The applicant states experience of operating other remote sites successfully with this technology.

Authorisation - The Scottish Salmon Company already possess authorisation from Marine Scotland to farm at their existing sites. An amendment to this authorisation must be sought to include any newly approved or acquired site, prior to the commencement of farming operations.

Disease Management Area - The proposed location of the site is outwith current disease management area (DMA) boundaries as currently defined in Marine Scotland DMA maps. However, there are several other proposed new sites in the vicinity, currently in the screening and scoping process, that could further impact the designation of DMAs and their boundaries should these applications be progressed.

The order in which proposed sites are developed will also have bearing on the advice given as the applications progress, as The National Marine Plan states new aquaculture sites

should not bridge DMAs, therefore locations which join DMAs would not be supported by MSS. The nearest proposed site to the East of Millstone Point site is positioned south east of the Island of Bute, East of Hawk's Nib, and would result in separation distances from these sites overlapping and therefore the joining of DMAs. Both sites cannot exist concurrently as they would lead to joining of DMAs. This would be particularly substantial as it potentially also involves DMAs at the proposed sites at the Cumbraes. Operation of some or all of those sites, and this proposal, could lead to the effective 'closing' of the Firth of Clyde north of West Kilbride as the DMAs would overlap between the mainland, the Cumbraes, Bute and Arran.

Stocking Density - The operation of the sites would be at an acceptable stocking density level of below 22kg/m³.

Husbandry - The frequency of removal of dead fish should be confirmed. The Fish Mortality Plan and Farm Management Statement provided still refer to use of the seaspine system for transporting mortalities which the applicant is no longer proposing. These should be updated to reflect the current proposals.

Sea Lice - The site is located outwith currently designated farm management areas (FMA) as defined in the CoGP. The nearest FMA's are located ~14-15km north (M-42), west (M-47) and south (M-48) of the proposed development. The applicant proposes that a new FMA is formed for this site. Other proposed sites may influence this, however these have yet to be developed so cannot be considered at this time.

Information on strategies proposed for management of sea lice is provided in the submitted Environmental Management Plan (EMP). Monitoring is to be undertaken via weekly counts in each pen. Where the 'treatment threshold' is met, the Sea Lice Management Plan will be followed with intervention method chosen according to the health status of the fish.

The applicant lists biological control with cleaner fish as a proactive step to managing sea lice and actively reduce the use of medicinal products on site. It is planned that cleaner fish will be stocked on site during the first grading (approximately 12 months post stocking). The applicant states that 90% of the cleanerfish used are now from farmed sources; details of sources are provided by the applicant.

The applicant also has a freshwater storage facility at Ardyne, and this will also service Arran. Freshwater will be carried in wellboats to the site where freshwater baths will occur at the cage edge. This is beneficial to gill health and lice control. Cleanerfish welfare appears to have been considered following previous concerns. Physical removal of lice is also proposed.

Containment - The proposed contingency plan for dealing with an escape or suspected escape event is satisfactory. The information provided on equipment and strategies in place to minimise predator interactions at the site in question is satisfactory as far as can reasonably be foreseen.

Wild Fisheries - The Isle of Arran is known to have fisheries for salmon and sea trout.

Scientific evidence from Norway and Ireland indicates a detrimental effect of sea lice on sea trout and salmon populations. Salmon aquaculture results in elevated numbers of sea lice in open water and hence is likely to have an adverse effect on populations of wild salmonids in

some circumstances. The magnitude of any such impact in relation to overall mortality levels is not known. Information from the west coast of Scotland suggests lice from fish farming can cause a risk to local salmon and sea trout. This information can be used to give an idea of the relative risk to salmon and sea trout which is governed, and can be mitigated, by a number of factors, in particular the siting of the farm and its ability to effectively control sea lice. The greater the number of lice on the farm the greater the risk to wild salmon and sea trout. While it is not possible to accurately predict the future lice levels on a farm the performance of existing farms within the area could act as a guide for future performance.

This development has the potential to increase the risks to wild salmonids.

The applicant appears to be aware of the potential impacts on salmon and sea trout and has indicated the intention to manage the site as part of a new management area. The applicant should undertake to follow the practices recommended in the industry CoGP regarding containment and sea lice control. However, the applicant adopts lower treatment levels than the CoGP, with treatment being considered at 0.2 adult female lice in the spring and 0.5 adult female lice in the rest of the year. The applicant has outlined various methods of lice control within the attached EMP, such control methods include medicinal control, biological control as well as mechanical control.

It should be noted that sea trout are present in these inshore waters all year round. MSS suggests that strict control of sea lice should be practiced throughout the year. Additionally, it should be noted that adherence to the suggested criteria for treatment of sea lice stipulated in the industry CoGP may not necessarily prevent release of substantial numbers of lice from aquaculture installations.

The applicant has supplied an Environmental Management Plan (EMP) outlining how potential interactions of sea lice arising from the proposed development will be assessed with respect to wild salmonids. Marine Scotland expects that as a minimum any monitoring scheme will be able to report on the level of lice released into the environment (i.e. both farmed fish numbers and adult female lice numbers); identify the likely area(s) of sea lice dispersal from the farm; details how and what monitoring data will be collected to assess potential interaction with wild fish; and details how this monitoring information will feed back to management practice. This plan should also include a regular review process to ensure that it remains fit for purpose. The submitted EMP includes all the above criteria.

MSS requires confirmation and suitable evidence of the quantities of chemotherapeutants predicted to be available for use at the site as a result of any revision of the submitted modelling, information on mortality removal frequency, moorings attestation.

Response: The comments regarding DMAs are noted. The Council has received two EIA Scoping requests for sites at the Cumbraes and is aware of one for the south-east of Bute (Argyll & Bute). However, no planning applications have been submitted to date. The husbandry practices etc, including the details of mortality removal, could potentially be governed by condition, if permission was granted, and where it would not duplicate another regime. It is noted that husbandry practices relating to animal health require authorisation by the Fish Health Inspectorate. It is noted that SEPA is the consenting body in respect of Controlled Activity Regulations.

SEPA - Originally objected on the grounds of lack of information regarding benthic impact modelling. However, SEPA now confirms satisfaction with the information submitted to them.

Response: Noted.

NatureScot (SNH) - Object. This proposal will have significant adverse effects on the special qualities of the North Arran National Scenic Area (NSA). The objectives of the designation and overall integrity of the area would be compromised. It is not considered that this could be mitigated.

The LVIA submitted by the applicant is considered to lack clear analysis and justification. NS agrees with the Clyde Marine Planning Partnership's 'Seascape/Landscape assessment of the Firth of Clyde,' which states that development of this area should be avoided, and the isolated coast protected. The fish farm would compromise the views and setting of the NSA. The Planning (Scotland) Act 2006 states that special attention is to be paid to the desirability of safeguarding and enhancing the character or appearance of an NSA. It is considered this proposal compromises the North Arran NSA designation.

It is also considered that the proposal would erode some of the special qualities of the Arran Special Landscape Area in the locality.

NS also objects due to potential impact on the Endrick Water SAC and the Ailsa Craig SPA. However, if permission is granted subject to conditions which mitigate the impacts on those sites then the objections would be overcome. Details of the required mitigation is provided.

Response: Noted. The visual impact and impact on the SAC and SPA are considered below and in the Appropriate Assessment. If permission was granted conditions could be added which require the detailed mitigation measures to be undertaken.

The applicant submitted a response to NatureScot's objection. In terms of the potential impact on the SAC and SPA, the applicant would be amenable to further discussions with NatureScot and suitably worded planning conditions. In terms of visual impact, the applicant stands by the conclusion of the LVIA that the overall visual effects are not significant and consider the area to be a busy seaway.

Arran Community Council (ACC) - Do not support the proposal. On balance, ACC considers the environmental and visual impacts outweigh any economic benefits. The proposal poses a risk to the marine environment. The proposal will have an adverse impact on the land and sea scape which is adjacent to the National Scenic Area. This could have a negative impact on tourism. The potential economic benefits of the proposal can be viewed as aspirational with no guarantees to the island that these benefits would outweigh the negative impacts. The proposal does not meet the policies of the LDP.

Response: Noted. An assessment of the proposal against the LDP is given below.

The applicant submitted a response letter in respect of ACC's comments in which the applicant considers all of the concerns are addressed in the information submitted. A full assessment of the information submitted by the applicant, in terms of the ACC concerns and the other relevant concerns raised, is given below.

Scottish Wildlife Trust - Object to the proposal. The use of open sea cages on a farm of this size would lead to significant fish faeces, food and chemical waste being released into the environment. The concentration of salmon would lead to infestations of sea lice with implications for wild salmonids in the area. The proposed site is near salmonid migration routes with an increased risk for disease and parasite transmission. There is no scientifically valid year-round data to show the patterns of wild salmonid migration around Arran. The use of ADDs for repelling seals would likely drive out the Harbour Porpoise, dolphins and Minke Whales known to use the area. The information relating to the impact on the benthic environment is considered inadequate. This area is believed to be the most southerly record of the Priority Marine Feature, Northern Sea Fan and as such it is questioned if describing as any effects on it as 'not significant,' is adequate.

Response: Noted. SEPA, MSS and SNH have also provided comments in relation to wild salmonids, the benthic environment, impact on cetaceans and PMFs which are summarised above.

Argyll District Salmon Fishery Board - Object. The Board has a remit to protect and improve migratory salmon and trout populations. This proposal presents a further challenge to migratory salmonid fish natal to numerous rivers in the Firth of Clyde. Many of the salmon populations already have insufficient spawning fish. It is not considered there is enough information to conclude operations will not interfere with migrating salmon smolts. The major concern is the impact from sea lice. It is not possible to effectively regulate the impact on migrating salmonids.

Response: Noted

NAC Environmental Health - No objections.

Response: Noted.

Northern Lighthouse Board - No objections. Recommendation of lighting positions and management of such equipment in order to aid navigation. Such lighting etc would require to be covered by a Marine Licence granted by the Scottish Government.

Response: Noted.

3. Analysis

Scotland's National Marine Plan sets out the Scottish Government's vision for the marine environment as clean, healthy, safe, productive, and diverse seas; managed to meet the long-term needs of nature and people. There is a presumption in favour of sustainable development, and it sets out specific objectives and policies, which planning policy and decisions should consider. The National Marine Plan states that aquaculture developments should avoid and/or mitigate adverse impacts upon the seascape, landscape, and visual amenity of an area, following NS guidance on the siting and design of aquaculture. The relevant policies of the LDP are considered to accord with the National Marine Plan.

The Clyde Marine Plan is currently in draft. Part of the preparation of the draft Clyde Marine Plan was a strategic assessment of the coastal landscape and seascape of the Firth of Clyde. The site is within the Sound of Bute as identified by that assessment. The

assessment states that the area is a threshold between more sheltered inland waters and the expansive lower Firth. It states that the shapely peaks of northern Arran are an iconic feature highly visible throughout the area. The views to these mountains, and the wider sea setting of the island are key scenic attributes. The isolated coast of Arran is sensitive to any development which may detract from this quality. This area is identified as a relatively rare quality for the whole of the Firth of Clyde. It is noted there is no offshore marine development located in this seascape area.

Strategic Policy 1 of the LDP states that the Council wants to direct the right development to the right place. The Coast Objective of Strategic Policy 1 states that development should avoid damage to our coastline, particularly undeveloped or isolated coastal areas, unless economic benefits arising from the proposal outweigh the environmental impacts.

Proposals that meet certain criteria will be supported in principle. The relevant criteria of Strategic Policy 1: Coast Objectives are considered to be; a) consistent with Policy 24; b) assist to develop and strengthen North Ayrshire's coastal economy and marketability; e) enhance existing strategic coastal marine assets and infrastructure - particularly where the development would address a qualitative deficiency in North Ayrshire's coastal tourism infrastructure; and g) provide jobs to North Ayrshire communities.

Policy 24: Alignment with Marine Planning states that developments with a marine component will be supported in principle where they are within a recognised developed coastal location and provided, they are consistent with Scotland's National Marine Plan and the emerging Clyde Regional Marine Plan. Developments on coastal areas with significant constraints will be supported only where they would also contribute to the economic regeneration or well-being of communities whose livelihood is dependent on marine or coastal activities. Development on undeveloped sections of coast which have special environmental or cultural qualities will generally be resisted unless there would be significant economic value of the development and the environmental impact issues can be satisfactorily addressed.

The proposal is not within a recognised developed coastal location. It is in an area identified in the LDP as Isolated Coast. It is a Special Landscape Area, as it comprises part of the North Arran National Scenic Area. As such the key consideration for Policy 24 and therefore Strategic Policy 1 is whether the environmental impact issues can be satisfactorily addressed and there would be significant economic value of the development.

Policy 25: Supporting Aquaculture states that in principle support will be given to aquaculture development where it accords with Marine Scotland's locational guidelines for aquaculture and would result in economic and social benefits for local communities and the ongoing sustainable development of the aquaculture industry. There should be no unacceptable impacts on a number of criteria including landscape/seascape and visual amenity; biological carrying capacity of water bodies, protection and enhancement of the wider physical environment and amenity; species and habitats; the historic environment and sea bed; other users of the marine environment and the strategic transport network.

It is not considered there would be any impact on the historic environment, as there are no historic assets within or near the site which would be impacted. HES advised that such considerations could be scoped out of the EIA. It is also not considered that there would be unacceptable impacts on the strategic transport network. The Northern Lighthouse Board

has not objected subject to conditions relating to navigation, which could be added to any permission if granted. The other parts of Policy 25 are considered below.

Visual Impact

Policy 15 of the LDP states that support will be given to development which protects or enhances landscape/seascape character, avoiding unacceptable adverse impacts on designated and non-designated landscape features. In terms of the Special Landscape and National Scenic Area, development that affects such areas will only be supported where the objectives of the designation and the overall integrity of the area will not be compromised. Development should not have an unacceptable impact on their special character, qualities or setting. Development which does adversely affect the National Scenic Area can only be supported if this is clearly outweighed by social, environmental, or economic benefits of national importance.

The Arran National Scenic Area (NSA) was last designated in 2010. There has been no development in this part of the NSA since that time. The special qualities of the NSA considered relevant to this application are: i) a mountain presence that dominates the Firth of Clyde ii) that it has a contrast between the wild highland interior and the populated coastal strip; iii) that it has a distinctive coastline with a rich variety of forms; iv) it comprises the historical landscape in miniature; v) it is exceptional for outdoor recreation; and vi) the experience that highland and island wildlife is close at hand.

The proposed development would be industrial in nature with a utilitarian appearance. It would sit at the bottom of the mountain presence and be viewed against that backdrop. This view would be particularly the case when viewed from the Sound of Bute by recreational users of that area. The development would be highly prominent to users of the coastal path on the north coast of Arran, which is part of Scotland's National trails. It would also be visible to recreational users of some of the upper slopes above the coastal path, the west coast of Bute and the area around Skipness on Kintyre.

Although the NSA has a contrast between the interior and the coast, this contrast is primarily from Sannox to the south on the east coast and Lochranza to the south on the west coast, where the coast is identified as Undeveloped in the LDP. The area in between those settlements is Isolated and the contrast between the wild interior and the coast is much less stark. The difference between the areas is part of the rich variety of the coastline. The introduction of this development would diminish the contrast between the variety of coastline. Whilst the impact on wildlife in terms of specific designations is considered in this report, the development would also likely diminish the experience that wildlife is close at hand. The proposal has the potential to displace sea creatures which may otherwise have been witnessed in the area. The presence of an industrial development may make the potential for experiencing other wildlife more difficult. The insertion of such development into the NSA would be at variance to the historic landscape of the NSA, although it is not considered that the proposal has any impacts on specific historic designations.

The site is identified as Isolated coast. It is noted from the EIA that sites at the Cock of Arran, Skipness and Straad, Bute were all rejected due to issues including visual impact. These sites are identified in the draft Clyde Marine Plan assessment as 'isolated,' 'secluded,' and 'remote' respectively. The Cock of Arran is identified in the LDP as Isolated coast and it is considered that the visual impact issues of a site at the Cock of Arran approx. 2-3km to the north-west would be very similar to those at this site.

NS has objected to the proposal on the grounds that the special qualities of the NSA will be affected. It is agreed that the proposal would undermine the Special Qualities of the NSA, especially given the prominence of the development against the isolated coast and mountainous backdrop, the prominence of the development to recreational users, with impact on the exceptional quality of the area for recreation and the impact on the area in terms of experiencing wildlife. The visual impact also has an unacceptable impact on the Special Landscape Area and visual amenity more generally. As such the development is considered to be contrary to Policy 15, unless these effects are outweighed by social, environmental, or economic benefits of national importance. The proposal is also considered to be contrary to criteria of Policy 25 relating to landscape, seascape and visual quality and other users of the marine environment.

Strategic Policy 2 of the LDP sets out the qualities of a successful place. It is accepted that there would be no statutory noise impacts, or other impact on sensitive properties given the distance to such properties. Whilst it is accepted that the design and appearance of the development is dictated by its nature, it is considered that that it would comprise an incongruous addition to the area, as outlined above. The wider amenity impact is also considered above. In terms of design and visual impact, the proposal is considered to be contrary to Strategic Policy 2 and criteria of Policy 25 relating to amenity

Environmental Impacts

Policy 16 of the LDP states the Council will support development which would not have an unacceptable adverse effect on the natural environment. 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 Nature Network is protected. Development will be supported if it is not likely to have an unacceptable adverse effect on protected species.

Policy 22 states that development will be required to ensure no unacceptable adverse impact on the water environment by protecting factors including the ecological status, landscape values and physical characteristics of water bodies.

The impact on the Endrick Water SAC and the Ailsa Craig SPA requires to be assessed. Appropriate Assessments (AAs), as required by Habitat Regulations, have been carried out and are appended to this report. The AAs conclude that the development, with identified mitigation, would not have a significant impact on the qualifying interests of the SAC and SPA. These qualifying interests include Atlantic salmon, including smolts, and sea birds.

The closest SSSI (Lagan) relates to geology. The closest LNCS (Fallen Rock) relates to the terrestrial rock formations whilst the next nearest (Cock of Arran) is some 1km to the north-west. As such it is not considered that there would be any significant adverse impacts on SSSIs or LNCS.

As above it is not considered the development, with appropriate mitigation, would have an adverse impact on protected Atlantic salmon or protected sea birds. It is also not considered there would be any significant adverse impact on other protected species or non-protected species. However, the development may result in certain species, such as cetaceans or

seals, being displaced from the area. Whilst this would not necessarily be contrary to Policy 16, it could impact on the NSA as outlined above.

MSS does not object to the proposal. MSS notes the measures the applicant has listed in mitigation and these could be secured by condition. SEPA has confirmed satisfaction with the benthic impact modelling information has not been received. The operation of any fish farm would also require a license and SEPA would retain control over the development in that respect.

The development, subject to mitigation which could be secured through planning conditions, is not considered to have an unacceptable adverse impact on designated sites or protected species, in themselves. As such the development is considered to accord with Policy 16 and criteria of Policy 25 relating to species and habitats. However, the impact on the landscape, means the development is also contrary to Policy 22 in terms of protecting and enhancing landscape values and the criteria of Policy 25 relating to the biological carrying capacity of the water body and protection and enhancement of the wider physical environment.

Economic

Policy 8 of the LDP states that support will be given to business development that will have a positive impact on the vitality, vibrancy, and viability of Arran. A preference is for development within the existing settlement pattern.

The applicant claims that 31 jobs will be created in the sector and a further 6 in the wider economy.

The applicant claims that the economic value of the development to the Scottish economy would be £5.9million, and that the development would add to the economic resilience of the island. The application makes recommendations as to how the developer could further support the Arran economy by supporting such as infrastructure development and access to housing. The application acknowledges that any jobs may be filled outwith Arran but that this would benefit other communities.

It is accepted that the development has specific locational needs and a site within a settlement may not be possible. The wider impact of this specific location is outlined above. Arran has an existing fish farm within Lamlash bay, operated by the applicant. It is accepted that this proposal would add to that offer. However, it is also noted that there is no guarantee that any jobs created would directly benefit Arran. It is noted that one reason given in the EIA for selecting this site was its proximity to the applicant's operations in Loch Fyne and the site could be serviced from those sites as easily, if not more, than from Arran. The recommendations made in terms of supporting the Island are not planning issues relating to this application and could not be controlled by condition.

In opposition to the application, it has been claimed that the proposal would have an adverse impact on the economy of Arran. This includes claims that the development would have an adverse impact on tourism. The applicant has submitted a Tourism Report which claims that the fish farm development has no negative impact on tourism in Scotland. This is based on 2009 research. The Report also highlights a VisitScotland survey from 2015/16 which stated that 68% of visitors to Ayrshire & Arran listed 'scenery and landscape' as the top reason to visit. The percentage rose to 84% of visitors for Argyll & The Isles. It can be

seen from this Report that scenery and landscape are very important reasons for tourists to visit the area.

The content of that Report is noted. It is noted the percentage of visitors for whom landscape and scenery is the top reason to visit. It is also noted that this for the whole of Ayrshire. The percentage is even higher for 'Argyll & The Isles,' which the site is directly adjacent too and would be visible from. The development would be highly visible from the adjacent Arran Coastal Path. This could discourage use of this part of the path, although it is noted it would only be visible from a small part of the path. It is also noted that an alternative site on the other side of the Sound of Bute was discounted in the EIA because of concerns over impact on that part of the Isle of Bute. The impact on the wider NSA has been discussed above including the impact on the recreational users, the exceptional quality of the area for recreation and the impact on the area in terms of experiencing wildlife.

There have also been objections from the Clyde Fisherman's Association and The Scottish Creel Fishermen's Federation on the impact on their members' businesses through loss of a fishing area.

Given all of the above, it is considered on balance that the development would not have a significant adverse impact on the economy of the island. However, whilst the potential benefit to the wider economy is noted, it is also not considered that on balance the development would have a significant positive impact that outweighs the visual impact including the adverse impact on the NSA.

In summary the proposal accords with Policies 8 and 16 of the LDP. However, the visual impact of the development would adversely affect the National Scenic Area. The economic benefits of the proposal are not considered to outweigh this impact. The proposal does not align with Scotland's National Marine Plan or the emerging Clyde Marine Plan which identifies the site as Isolated Coast. The proposal is contrary to Policy 15, Policy 24, Policy 25 and therefore Strategic Policy 1 of the LDP.

This visual impact would also adversely affect the landscape quality of the water environment and the wider area. The proposal is therefore also contrary to Policy 22 and Strategic Policy 2. There are no material considerations to the contrary.

It is therefore recommended that the application be refused for the following reasons:

The visual impact of the development would adversely affect the visual amenity of the area, the landscape quality of the water environment and the special qualities of the National Scenic Area. The proposal does not align with Scotland's National Marine Plan or the emerging Clyde Marine Plan. Any economic value is not considered significant to overcome the adverse effect. The proposal is therefore contrary to Strategic Policy 1, Policy 15, Policy 22, Policy 24, Policy 25, and Strategic Policy 2 of the LDP.

4. Full Recommendation

Refused

Reason for Refusal

Reason

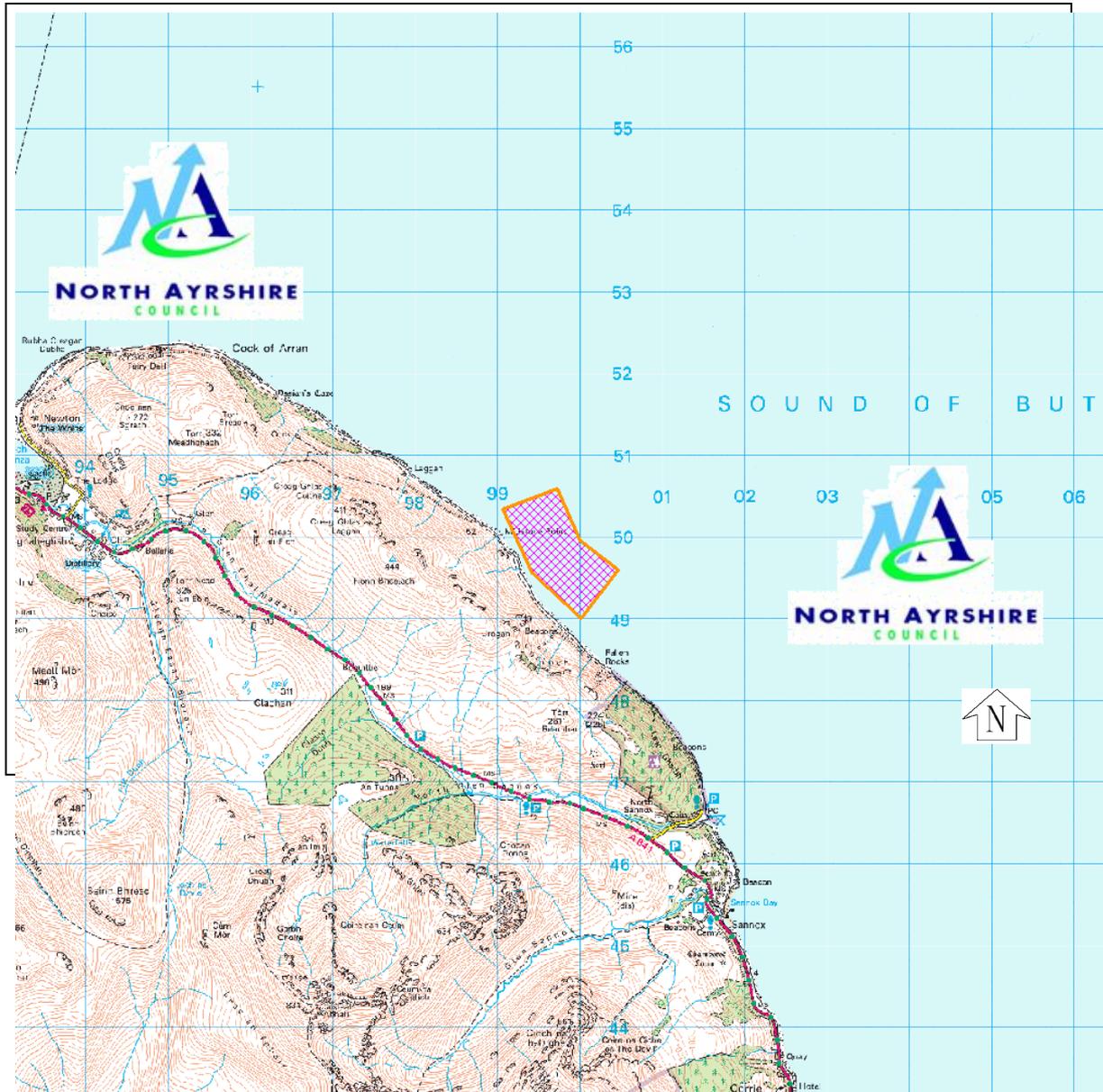
1. The visual impact of the development would adversely affect the visual amenity of the area, the landscape quality of the water environment and the special qualities of the National Scenic Area. The proposal does not align with Scotland's National Marine Plan or the emerging Clyde Marine Plan. Any economic value is not considered significant to overcome the adverse effect. The proposal is therefore contrary to Strategic Policy 1, Policy 15, Policy 22, Policy 24, Policy 25, and Strategic Policy 2 of the LDP.

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan

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HABITATS REGULATIONS 'APPROPRIATE ASSESSMENT'

HABITAT DIRECTIVE 92-43-EEC THE CONSERVATION (NATURAL HABITATS AND C.) REGULATIONS 1994 AS AMENDED

Ailsa Craig Special Protection Area

Purpose of the designation

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status. The Ailsa Craig Special Protection Area (SPA) was classified 25th April 1990 and extended 25th September 2009. It covers the Ailsa Craig island and approximately 2km into the marine environment, including the seabed, water column and surface. It has a qualifying interest by regularly supporting populations of migratory species namely; northern gannet (*Morus bassanus*) and lesser black-backed gull (*Larus fuscus*). It also has a qualifying interest as it regularly supports in excess of 20,000 individual seabirds including common guillemot (*Uria aalge*), black-legged kittiwake (*Rissa tridactyla*) and herring gull (*Larus argentatus*).

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained:

- Population of the species as a viable component of the site;
- Distribution of the species within site;
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species;
- No significant disturbance of the species.

Consequences of the designation

In circumstances where European Protected Species could be subject to significant effects as a consequence of development proposals, the competent authority, in considering whether development should be consented, is required to undertake an 'appropriate assessment' to inform its decision-making process, on the basis that where unacceptable effects are identified, or in cases of 'reasonable scientific doubt', then permission ought not to be granted.

An 'appropriate assessment' is required to be undertaken in cases where any plan or project which:

- (a) Either alone or in combination with other plans or projects would be likely to have a significant effect on a European site designated for nature conservation; and
- (b) Is not directly connected with the management of the site.

It is considered by NatureScot (NS) that the development proposed by means of planning application (ref: 19/00609/PPM) could affect the qualifying interests, except for kittiwake, of Ailsa Craig SPA. The proposed site lies approximately 50km to the north of the boundary of the SPA. However, this is within the mean maximum foraging range for birds identified as the qualifying interest of the SPA. As a consequence, North Ayrshire Council has conducted an 'appropriate assessment', as per the Conservation (Habitats and C.) Regulations 1994 (as amended), having regard to the anticipated effects of development and the conservation objectives for the site's qualifying interests. This assessment is detailed below.

Characteristics of the development

The proposal is for the equipment and operation of a marine fish farm with farmed fish to be contained in 12 pens, comprising nets supported from flotation rings secured to a mooring grid with associated service barge.

The nets which are used to contain the farmed fish have the potential to cause injury and mortality to the qualifying bird species of the SPA by way of entanglement. The development may have the potential to cause damage or displacement to foraging areas used by the qualifying species. There are 16 existing or proposed (current planning applications) within approx. 90km to the north of the SPA.

The applicant has produced a Predator Control Plan (PCP). This sets out the management actions that would be undertaken to reduce the risk of predators targeting the site, including diving birds. It states that 300mm diameter mesh top nets in conjunction with bird net supports in accordance with RSPB recommendations, to reduce the risk of bird entanglement, would be installed. Top nets would be inspected and re-tensioned on a daily basis. Maintenance would be carried out as required to further reduce risk of bird entanglement. No fish feed would be left available to attract predators. Sub-surface nets could be deployed to deter seals.

Assessment

The assessment considers the impact of the proposals on the birds identified as the qualifying interest and has regard to the applicant's submitted information in support of the planning application, and to consultation advice provided by NS.

NS has raised concerns about the submitted proposal on the basis that the operation of the farm, as envisaged by the applicants, could in the view of NS affect the qualifying interests of the SPA. NS objects to the proposal due to the potential impact on the SPA unless it was subject to conditions requiring operations strictly in accordance with the proposed mitigation measures.

The site is some 50km from the SPA and will have no direct impact on the boundaries of the SPA. However, it could impact on the qualifying interest of the birds which would forage within the area.

The pens would have top nets which are proposed to have a mesh of 300mm diameter. Birds could become entangled in such nets and also potentially in smaller meshes in the side panels.

NS does not consider kittiwake to be at risk of a Likely Significant Effect so no further assessment in respect of kittiwake is carried out.

Gannets have a mean foraging range of 120.4km. Lesser black-backed gull have a mean foraging range of 43.2km (+18.4km standard deviation). The majority of guillemot foraging is carried out within 50km of nest sites. Herring gull have a mean foraging range of 58km. All of these species could therefore forage in the area of the proposed development.

Gannets are known to have been entrapped at sites with 200mm or more top net mesh size. NS advises that sites with top and side net of 100mm or under are less likely to pose risk. NS considers the risk would be removed by the use of 50mm mesh top nets and a floating support.

In terms of the gull species, they could also become entrapped particularly with larger size meshes. NS again advises the use of smaller net mesh could mitigate impact. 50mm mesh top nets and a floating support could minimise risk. NS also advises that gulls foraging in the area are unlikely to come exclusively from the SPA.

With regards guillemot, NS advises that these are most likely to be susceptible to entanglement in sub-surface nets. Such nets could be employed as part of the PCP. However, also NS considers that if such nets are deployed happens, it is unlikely to have an adverse effect on the integrity of the SPA.

In terms of cumulative impact, there are 16 (operational or with planning applications) sites in the Firth of Clyde/Loch Fyne. All of them are within gannet mean foraging range, whilst 4 are within lesser black back gull range. Given the relatively limited area of such development in the wider foraging area and the potential mitigation set out below, it is not considered there would be any cumulative impact.

NS considers the proposal could be mitigated with reduced top net ceiling mesh, particularly of 100mm or under, and with appropriate monitoring and notification of significant incidents.

Recommended mitigation to be secured by planning condition, should permission be granted.

- a) Confirmation of the proposed net mesh and how the top net will be secured. If a pole mounted system is proposed the top net mesh will not be more than 100mm. If a floating support is proposed, the top net mesh will not be more than 50mm.
- b) The applicant will provide, for the agreement of the Council and NatureScot (SNH), details of monitoring of the nets and a system for reporting incidents. The nets will not be erected until such details have been agreed.
- c) The operation of the development will be carried out only in accordance with any details approved.

Conclusion

The potential impacts of the development in relation to the conservation objectives cited in the SPA designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the impacts arising from the operation of the development as proposed, in combination with the operation of other farms nearby will not, with identified mitigation in place, have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.

HABITATS REGULATIONS 'APPROPRIATE ASSESSMENT'

HABITAT DIRECTIVE 92-43-EEC THE CONSERVATION (NATURAL HABITATS AND C.) REGULATIONS 1994 AS AMENDED

Endrick Water Special Area of Conservation

Purpose of the designation

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status. The Endrick Water Special Area of Conservation (SAC) was designated in March 2005. It follows the course of the Endrick Water from approx. 2 miles east of Fintry, Stirlingshire to where it meets Loch Lomond. It was designated in respect of river lamprey (*Lampetra fluviatilis*), brook lamprey (*Lampetra planeri*), and atlantic salmon (*Salmo salar*).

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and to ensure for the qualifying species that the following are maintained in the long term:

Population of the species, including range of genetic types for salmon, as a viable component of the site;

Distribution of the species within site

Distribution and extent of habitats supporting the species;

Structure, function and supporting processes of habitats supporting the species;

No significant disturbance of the species.

Consequences of the designation

In circumstances where European Protected Species could be subject to significant effects as a consequence of development proposals, the competent authority, in considering whether development should be consented, is required to undertake an 'appropriate assessment' to inform its decision-making process, on the basis that where unacceptable effects are identified, or in cases of 'reasonable scientific doubt', then permission ought not to be granted.

An 'appropriate assessment' is required to be undertaken in cases where any plan or project which:

- (a) Either alone or in combination with other plans or projects would be likely to have a significant effect on a European site designated for nature conservation; and
- (b) Is not directly connected with the management of the site.

It is considered by NatureScot (NS) that the development proposed by means of planning application (ref: 19/00609/PPM) could affect the qualifying interests of Endrick Water SAC. The proposed site lies approximately 58km to the south-west of the boundary of the SAC. However, wild salmonids and Atlantic salmon smolts emigrate through the Firth of Clyde. As a consequence, North Ayrshire Council has conducted an 'appropriate assessment', as per the Conservation (Habitats and C.) Regulations 1994 (as amended), having regard to the anticipated effects of development and the conservation objectives for the site's qualifying interests. This assessment is detailed below.

Characteristics of the development

The proposal is for the equipment and operation of a marine fish farm with farmed fish to be contained in 12 pens, comprising nets supported from flotation rings secured to a mooring grid with associated service barge. Loss of containment of farmed fish would present a risk to the health of wild salmonids, including Atlantic salmon. The generation of sea lice from the site could impact on Atlantic salmon, including smolts, emigrating through the area.

The applicant has produced a draft Environmental Management Plan (EMP). The EMP sets out the management actions that would be taken at the site in terms of lice management. The applicant has also produced an Escapes Prevention and Contingency Plan (EPCP). The EPCP sets out the action to be taken in the event of an escape or suspected escape of farmed fish.

Assessment

Given the distance to the boundary of the SAC, it is not considered that there would be any impact on the brook or river lamprey interest of the SAC from the development.

The assessment considers the impact of the proposals on Atlantic salmon and has regard to the applicant's submitted information in support of the planning application, and to consultation advice provided by NS.

NS has raised concerns about the submitted proposal on the basis that the operation of the farm, as envisaged by the applicants, could in the view of NS affect the qualifying interests, namely Atlantic salmon, of the SAC. NS objects to the proposal due to the potential impact on the SAC unless it was subject to conditions requiring operation strictly in accordance with the proposed mitigation measures.

The site is some 58km from the SAC and will have no direct impact on the boundaries of the SAC. However, it could impact on the qualifying interest of the Atlantic salmon, including smolts, as they travel through the Firth of Clyde.

The site will generate sea lice which would disperse in the wider Firth of Clyde. The greater the level of lice, the greater the potential impact on the qualifying interests within the Firth of Clyde. An escape of farmed fish has the potential for interaction with wild salmonids within the Firth of Clyde.

The EMP states that its aim is to ensure the farm activity does not result in negative impacts to the local salmon and sea trout populations. This aim will be achieved through meeting objectives on: the reporting of the level of lice released into the environment; identifying the likely area(s) of sea lice dispersal from the farm; providing details of the monitoring data that will be collected to assess potential interaction with wild fish; and providing details of how this information will feed back to management practice. Prescriptive actions to meet those objectives are set out including potential enforcement actions for Marine Scotland and/or the Planning Authority.

Increased monitoring will take place should sea lice reach set levels. This monitoring would then result in corrective action should higher levels be reached. Failure of corrective measures to reduce levels within set periods would result in warnings with further failure to reduce levels resulting in enforcement action by Marine Scotland. Details of how the monitoring would occur, management, corrective measures and feedback are set out.

The EPCP sets out the precautionary measures to be put in place to prevent escapes. Loss of containment of farmed fish would not be in the interests of production at the site. The preventive measures include physical features, such as netting and mooring, training for staff, and inspection and maintenance schedules. Linked to the EPCP is a predator risk assessment and control plan. Details of actions in respect of an escape, notifications to be made and recapture are set out.

NS considers the submitted information provides North Ayrshire Council, as Planning Authority, with an enforcement framework to ensure that any elevated risk to the SAC can be identified and mitigated, to ensure any adverse effect on the integrity of the SAC will be avoided.

Recommended mitigation to be secured by planning condition, should permission be granted.

- a) All aquaculture equipment will adhere to the Scottish Technical Standard for aquaculture equipment to reduce risk of failure and therefore escape
- b) The EMP will be finalised in consultation with the relevant parties identified in the draft EMP. The EMP will include a requirement to a mid-cycle and end of cycle review process and the site will not be restocked until the review has been agreed by all parties.
- c) The applicant will carry out sea lice dispersion modelling which will guide the monitoring strategy
- d) The monitoring strategy will be agreed within the relevant parties and the site will not be stocked until this has been agreed.

Conclusion

The potential impacts of the development in relation to the conservation objectives cited in the SAC designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the impacts arising from the operation of the development as proposed, in combination with the operation of other farms nearby will not, with

identified mitigation in place, have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.

NORTH AYRSHIRE COUNCIL

24th March 2021

Planning Committee

Locality	North Coast and Cumbraes
Reference	20/00942/PP
Application Registered	5th January 2021
Decision Due	5th March 2021
Ward	North Coast And Cumbraes

Recommendation Approved subject to Conditions

Location Site To South West Of Hunterston Coal Yard Fairlie
Largs Ayrshire

Applicant ESB Asset Development (UK) Ltd Fao Mr Thomas
Walker

Proposal Installation of a synchronous compensator and
ancillary infrastructure

1. Description

Planning permission is sought for the installation of a synchronous compensator and associated infrastructure on a vacant yard. The site is to the immediate south-west of the former Hunterston Coal Yard and was last used for the siting of concrete batching plant and associated infrastructure (ref: 14/00443/PP).

A synchronous compensator is plant that can facilitate efficient and stable operation of electricity in a network. The applicant has provided a statement that the purpose of this plant would be to help create stability in the National Grid, reacting when extra power is needed and providing more control over voltage. This development would allow for increased renewable energy generation connecting onto the National Grid. This site has been selected as it has the ability to connect to the National Grid through a substation with the requisite transmission capacity.

The site is approx. 1.145ha in area with the existing access from the south-east being utilised. The plant would be on the western portion of the site, the existing hardstanding, some 3200sqm in area. The eastern portion of the site would remain as a landscaped area. The plant would comprise a generator and flywheel building, high-voltage switchgear, a transformer, electrical containers, and coolers. The building would be some 420sqm in area

and 15m in height with eaves of 14m. The exact details of the external finishes have not been confirmed but would be metal cladding. The other plant would be between 2.8m and 8m in height. The whole plant and access road would be enclosed by a 3m high chain-link fence.

The proposal was subject to EIA Screening under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, on the 12th August 2020 and found not to require an EIA. However, any application was to be accompanied by; a Noise Report, Tree Report, Traffic Management Plan, Surface Water Management Details, and a Phase 1 Habitat Survey. These have been submitted and can be summarised as follows:

The Noise Report stated that an assessment has been carried out and determined that for all nearest receptors, the rating level does not exceed background level. It is not considered the development would have an adverse noise impact.

The Tree Report sets out the findings of a survey of the trees within the application site. The main interest is the woodland area on the eastern portion of the site that includes several moderate quality mature trees and one mature tree of high quality. The report concludes that the utilisation of the existing hardstanding means no loss of mature trees in anticipated. Some pruning of young specimens which have colonised the access road verge would be required.

Traffic and drainage issues are dealt with in a wider Environmental Report. In terms of traffic it states an average of 20 people are expected on site during construction. This would mean an average of 2.5 vehicle movements per hour during construction. This equates to an approximate 0.9% increase in traffic on the A78. Traffic would be managed through a Construction Management Plan. Drainage would be addressed by construction of a swale along the southern boundary. A temporary silt fence would be installed during the construction period. The Environmental Report also addresses issues including visual impact. It concludes that given the dense vegetation outwith the site, it would not be readily visible. Any visibility would be read in the context of the other adjacent industrial and energy developments.

The Extended Phase 1 Habitat survey found that the principle habitats were the plantation woodland and hardstanding. Breeding birds, bats, otter, badger, reptiles, invertebrates, and hedgehog were found to be using the site or adjacent land. As works are primarily to the hardstanding, the impact on habitats is limited. Recommendations are made to minimise any impacts on protected species during construction.

The application site is identified by the Local Development Plan adopted 2019 ("the LDP") as part of the Hunterston Peninsula Business and Industry Location. It is also part of the wider Hunterston Development Area. It is within the Hunterston House Tree Preservation Order. It is considered that the relevant policies of the LDP are Strategic Policy 2: Placemaking, Strategic Policy 3: Hunterston Strategic Development Area, Policy 18: Forestry, Woodland, Trees and Hedgerows and Policy 29: Energy Infrastructure Development

2. Consultations and Representations

The application was subject to statutory neighbour notification procedures. There has been one representation received which can be summarised as follows:

1. It is requested that all construction traffic be routed to the site from the south only.

Response: Details submitted with the application state that during construction there would be an increase of approx. 0.9% in traffic on the A78. As such it is not considered that there would be any significant impact from the construction of the development. Once complete the site will not generate significant traffic movements. Notwithstanding, a condition could be added to any permission to agree a Construction Management Plan with the Council.

2. Whilst energy infrastructure accords with the designation within the LDP, Hunterston should be redeveloped to help solve employment and social difficulties.

Response: Noted. This is energy infrastructure development which in principle accords with the LDP. The site is approx. 1% of the wider Hunterston area which is recognised as a Strategic Development Area. The potential of the wider site is to be subject to a master planned approach.

Office for Nuclear Regulation - no comment

Response: Noted

West Kilbride Community Council - acknowledge that the proposal is energy related, and make representations that the disturbance to wildfowl should be kept to a minimum, there should be planting on the southern side of the site and major items should be delivered by sea.

Response: As a condition of any permission, the developer could be required to adhere to the recommendations of the submitted Phase 1 Habitat survey which includes provision for minimising impact on birds. The site is screened to the south by trees which are part of the TPO. As such it is not considered further planting is required to screen the site. An assessment of visual impact is given below. It is not considered that there would be any significant traffic impact from the construction of the development. Notwithstanding, a condition could be added to any permission to agree a Construction Management Plan with the Council which could address any potential abnormal loads.

Fairlie Community Council - Question the methodology of the noise report.

Response: The submitted noise information has been assessed by NAC Environmental Health who offer no objections.

NAC Environmental Health - No objections to the principle of the development. Any permission should be subject to a condition that the noise level should not exceed background noise level at the curtilage of any noise sensitive premises existing or consented at the date of any permission.

Response: Noted. Such a condition would also prevent the development from potentially sterilising the rest of the Strategic Development Area from future development. The applicant has advised that the plant will be able to operate at that level and has agreed to the condition.

NAC Active Travel and Transportation - No objections and suggest Transport Scotland should be consulted given the access is from the Trunk Road.

Response: The access is some 265m from the Trunk Road and is already in existence. Transport Scotland is only consulted in certain circumstances including when development is within 67m of the Trunk Road. The proposal does not meet any of the circumstances in which Transport Scotland would require consultation.

3. Analysis

Strategic Policy 3, in respect of Hunterston, recognises the strategic national importance of Hunterston as an energy hub, and sets out the type of development which will be supported, which includes energy sector development. The Policy advises that "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". To date a masterplan has not been approved by the Council. The proposal could therefore be considered as potentially contrary to this advice contained within Strategic Policy 3.

The proposal site is some 1.145ha in area which equates to roughly 1% of the Strategic Development Area, not including the areas identified as Hunterston Nuclear or Marketable Employment Land in the LDP. The proposal is for installation of plant, relating to the energy sector, on an existing standalone hardstanding. The development can be operated, and controlled by condition, at background noise level when measured at the nearest receptors. Therefore, despite the lack of a masterplan, it is considered the proposal accords with the identified suitable uses for the area and would not interfere with any wider redevelopment proposals.

Policy 29 of the LDP states that support will be given to energy infrastructure development where it will contribute to the transition to a low carbon economy and have no unacceptable adverse environmental impacts. The relevant factors in this instance are considered to be impacts on residential amenity by way of noise, landscape and impact on trees and habitats. The proposal supports the provisions of a low carbon economy.

Policy 18 of the LDP states that development will only be supported when it would not result in the loss or deterioration of long-established plantation or semi-natural woodland.

Strategic Policy 2 of the LDP sets out the qualities of a successful place including the visual and amenity considerations for a development. The plant would be used to facilitate efficient provision of electricity to the National Grid and as such it is considered it would contribute to a low carbon economy. The development would utilise an existing hardstanding and would have minimal impact on the adjacent woodland and the wider Hunterston Tree Preservation Order Area. It would not result in any loss or deterioration of the woodland. The Council would retain control over any trees in the site. It is not considered there would be any significant impacts on habitats. Any permission could be conditioned to ensure construction is carried out in accordance with the relevant recommendations of the submitted Habitat Survey.

In terms of residential amenity, the nearest residential property is approx. 400m to the east. The settlement of Fairlie is some 2km to the north-east. The applicant has submitted a Noise Report which states the development would not operate above background noise level. Environmental Health has no objection to the proposal and a condition could be added to any permission controlling the noise levels. Environmental Health also has powers to control any statutory noise nuisance. A condition could also be added to any permission to agree a Construction Management Plan to minimise potential disruption during the construction period.

The development would have a utilitarian appearance, as may be expected in an industrial area. A condition could be attached to any permission to confirm the external finish of the building. The site is screened by mature trees to the west, south and east. Beyond the plantation woodland on the eastern portion of the site is the former coal yard with further woodland between that and the A78. To the north of the site is the rest of the former coal yard which extends for some 1.65km. The development would be largely screened from public viewpoints. Any parts which may be visible would be viewed in the context of the industrial land and as such it is not considered there would be any adverse visual impact from the developments.

The development is for energy infrastructure development. It is not considered that the development would have any unacceptable environmental impacts. The proposal therefore accords with Strategic Policy 2, Policy 18 and Policy 29 of the LDP. The proposal also accords with the aims of Strategic Policy 3 for the development of Hunterston.

The absence of an approved masterplan for the wider site means that the proposal could be considered potentially contrary to Strategic Policy 3. However, given the other material considerations noted above, including compliance with other policies, the ability to control potential noise emissions and therefore prevent neutralisation of the wider site for development and the planning history, it is recommended that planning permission can be granted subject to conditions.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That prior to the commencement of the development, details of the external finishes for the generator and flywheel building shall be submitted to the Council, as Planning Authority, for written approval. The development will thereafter proceed in accordance with any details as may be approved.

Reason

To ensure an appropriate external appearance for the building in the interests of visual amenity

Condition

2. That prior to the commencement of the development, a Construction Management Plan, including details of routing of any abnormal loads, shall be submitted to the Council, as Planning Authority, for written approval. The development will thereafter proceed in accordance with any Plan as may be approved.

Reason

To ensure the construction of the development is carried out in an appropriate manner with particular regard to road safety.

Condition

3. The development will be undertaken in accordance with the recommendations set out in Section 4.5 of the Extended Phase 1 Habitat Survey, prepared by Nevis Environmental dated September 2020, and submitted with this application.

Reason

In the interest of local habitat

Condition

4. That the Rating Noise level, as defined in BS 4142:2014+A1:2019, from the operation of the synchronous compensator and ancillary fixed plant must not exceed the background noise level at the curtilage of any noise sensitive premises existing or consented as of the date of the permission.

Reason

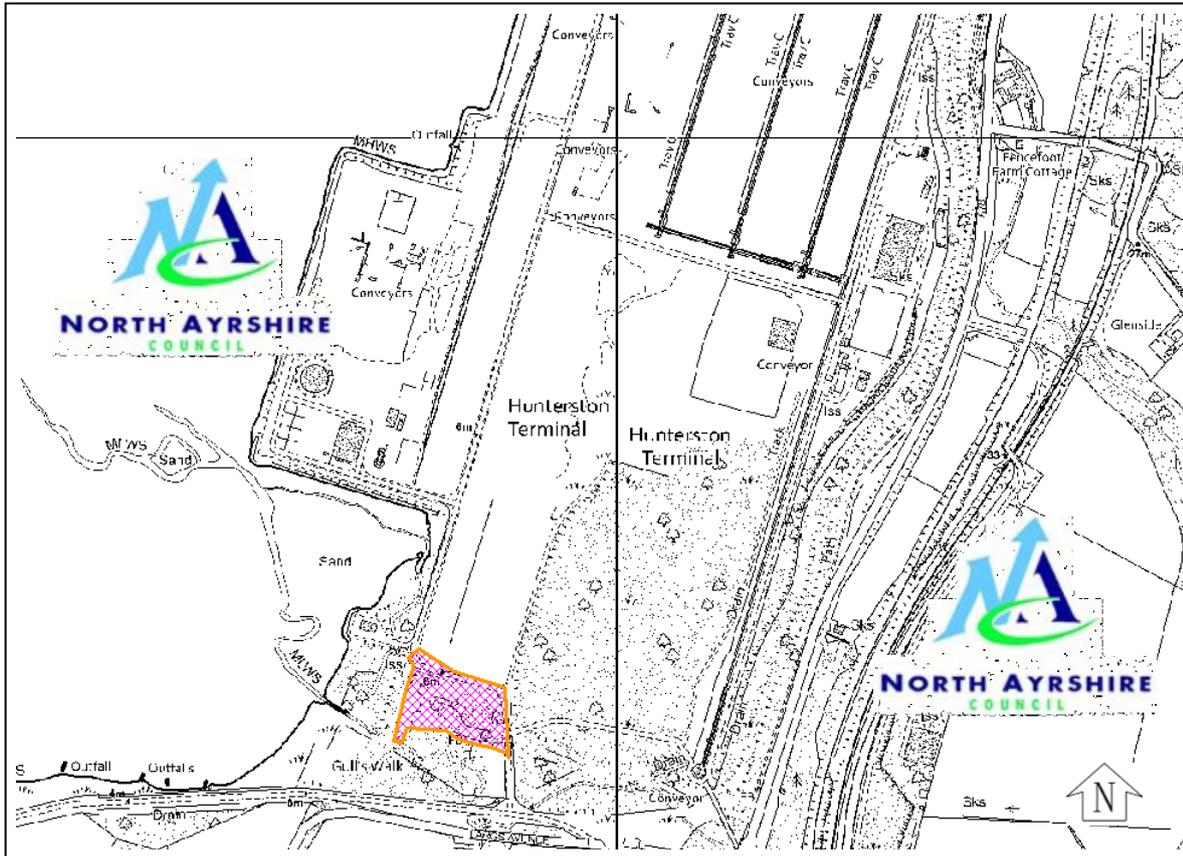
To ensure the development is operated at an appropriate noise level in the interests of amenity and the potential development of the wider area.

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

24th March 2021

Planning Committee

Locality	North Coast and Cumbraes
Reference	21/00054/PP
Application Registered	1st February 2021
Decision Due	1st April 2021
Ward	North Coast and Cumbraes

Recommendation Approved subject to Conditions

Location 9 Brisbane Street Largs Ayrshire KA30 8QW

Applicant MPB Structures Ltd Fao Mr Simon Machen

Proposal Demolition of existing hotel building and erection of new building comprising 14 flatted dwellings with associated landscaping, car parking, cycle parking and bin/recycling store

1. Description

Planning Permission is sought for the demolition of an existing two and a half storey hotel and the erection of a new four storey building containing fourteen flats. The building would have a three-storey base and a recessed fourth 'roof' storey. Four two-bedroom flats would be sited on each of the first three floors and two three-bedroom flats would be located on the top storey.

The proposed building would have a hipped roof finished in standing seam metal measuring approx. 13.5m high to the ridge. The first three floors would measure approx. 400sqm in area and the fourth floor would measure approx. 310sqm in area. The walls of the first three floors would be finished in a smooth off-white render while the upper floor would be finished in 'Champaign/bronze' aluminium rainscreen cladding. The aluminium cladding would also be used as a secondary material on the lower levels. The design features bay windows on all four elevations and features two balconies on the first, second and third storeys on the front (west) façade.

The building would be located in the eastern portion of the site. To the front of the proposed building would be a car park comprising of 29 spaces accessed via Brisbane Street. The

existing access on the corner of Brisbane Street and Greenock Road would be closed off. A bin store would also be located to the front of the building and would be formed from a 1.8m high stone wall. A cycle store would be located to the rear of the building and would be formed from a 1.5m high rendered wall with a slate coping. There would also be a sprinkler tank with a 2m high rendered screen wall to the rear of the building.

In the adopted Local Development Plan (LDP) the site lies within a General Urban Area allocation. The relevant policies of the LDP and therefore requires to be assessed against The Towns and Villages Objective of Strategic Policy 1: Spatial Strategy. All development proposals require to be assessed in terms of Strategic Policy 2: Placemaking. Finally, the proposal must be assessed against Policy 29: Energy Infrastructure Development. In addition, the Largs Seafront Development Brief and Coastal Design Guidance are of relevance as supplementary guidance.

On the 2nd of November 2004, Planning Permission was granted for the demolition of the hotel and the erection of a four-storey flatted residential block comprising of twelve units (ref. 03/00150/PP). The consent expired on the 2nd of November 2009.

On the 4th of December 2006, Planning Permission was granted to extend the front of the hotel to provide enlarged dining, function, and bar facilities on the ground floor. The proposed extension would project by some 10m from the front of the main façade of the building and 5.5m forward of the existing entrance porch (ref. 06/00921/PP). This expired on the 4th of December 2011.

An application (ref. 10/00332/PP) for the erection of twelve flatted dwellings on the site was withdrawn on the 1st of October 2010 following intimation to the developers of concern regarding the scale, design and positioning of the building.

On the 19th of April 2011, Planning Permission was refused by the Planning Committee for the demolition of the hotel and erection of a four-storey flatted residential block comprising of twelve units (ref. 10/00796/PP) on the basis that the height, position, massing and design of the proposed development would be harmful to the setting, character and appearance of Largs seafront. This decision was overturned on appeal to Scottish Ministers and Planning Permission was granted subject to conditions on the 16th of August 2011. This consent expired of the 16th of August 2014.

A Planning Application to demolish the existing hotel and erect a new four storey building containing fourteen flats was approved in October 2018 (18/00845/PP). This application has not yet expired, however, in November 2020 the agent sought advice regarding a revised design and was advised that a new application would be required in order to assess the proposed changes (20/01017/PREAPP).

This scheme would occupy approx. the same footprint as the approved scheme and has the same number of flats. The proposed changes between the approved and proposed are summarised below:

- Change to the design of the car park (no change in the number of parking spaces);
- The bin store has been moved;
- The addition of a cycle store to the rear;

- Change the building from a three and a half storey building to a four-storey building with a step back on the upper storey with an associated increase in roof height from approx. 12.8m to approx. 13.5m;
- Increase in the size of the upper storey roof terrace;
- Changes to the design including changes to the roof design, fenestration and finishing materials.

The application is supported by a Design Statement.

Given the Covid-19 restrictions, a site visit was not undertaken. However, it is considered there is sufficient information to determine the application including that available through aerial photographs and streetview resources.

Relevant Development Plan Policies

SP1 - Towns and Villages Objective Towns and Villages Objective

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

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

- a) Support the social and economic functions of our town centres by adopting a town centre first principle that directs major new development and investment to town centre locations as a priority including supporting town centre living.
- b) Provide the right new homes in the right places by working alongside the Local Housing Strategy to deliver choice and variety in the housing stock, protecting land for housing development to ensure we address housing need and demand within North Ayrshire and by supporting innovative approaches to improving the volume and speed of housing delivery.
- c) Generate new employment opportunities by identifying a flexible range of business, commercial and industrial areas to meet market demands including those that would support key sector development at Hunterston and i3, Irvine.
- d) Recognise the value of our built and natural environment by embedding placemaking into our decision-making.
- e) Prioritise the re-use of brownfield land over greenfield land by supporting a range of strategic developments that will deliver:
 - o regeneration of vacant and derelict land through its sustainable and productive re-use, particularly at Ardrossan North Shore, harbour and marina areas, Montgomerie Park (Irvine) and Lochshore (Kilbirnie).

- o regeneration and conservation benefits, including securing the productive re-use of Stoneyholm Mill (Kilbirnie) and supporting the Millport Conservation Area Regeneration Scheme.
- f) Support the delivery of regional partnerships such as the Ayrshire Growth Deal in unlocking the economic potential of the Ayrshire region.

Strategic Policy 2

Placemaking

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

Six qualities of a successful place

Distinctive

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

Welcoming

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

Safe and Pleasant

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

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

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

Adaptable

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

Resource Efficient

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

Easy to Move Around and Beyond

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

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.

2. Consultations and Representations

The standard neighbour notification was undertaken, and the application was advertised in the local press. Five letters of objection, one neutral letter and three letters of support were received, the points raised in which are summarised below:

Objection

1. The proposed building is taller than the existing building, and this would negatively affect the levels of daylight received by nearby flatted properties.

Response: The approved scheme (18/00845/PP) is three and a half storeys high which is higher than the existing building which is two and a half storeys. The proposed building would be four storeys, although it would only be approx. 0.7m higher than the approved. An assessment of the height of the proposed building and of the potential for overshadowing is included in the analysis section below.

2. The proposed building is not on the same footprint as the existing building. The proposed building is further forward than the existing building and this would negatively affect the levels of daylight received by nearby flatted properties.

Response: The proposed building has approximately the same footprint as the approved scheme (18/00845/PP) and there have been several approved Planning Permissions which do not occupy the same footprint as the existing building. The approved scheme fully assessed the siting and found that it was acceptable. The proposed development would not have a significant impact on the levels of daylight of nearby flats; see analysis.

3. The proposal would negatively affect the views from nearby flatted properties.

Response: Views from neighbouring properties are not a material Planning issue.

4. The proposal does not accord with the Largs Seafront Design Framework due to it not adhering to the established building lines.

Response: The proposed building has approximately the same footprint as the approved scheme (18/00845/PP). The Report of Handling for the previously approved scheme fully assessed the building lines as established by the Largs Seafront Design Framework. It was found that while the proposed building did not accord with the building lines as established by the Largs Seafront Design Framework, the building would be set further back than previously approved Planning Permissions (06/00921/PP and 10/00796/PP), and therefore the building line, prescribed within the brief, was considered to be of little weight. There have been no material changes since the previous permission to alter that assessment.

5. The proposals would adversely affect rental values of adjacent properties.

Response: Rental values of neighbouring properties are not a material Planning issue.

6. The bin store should not be located to the front of the building.

Response: The bin store would consist of an approx. 1.8m high stone wall and it is not considered that this would detract from the appearance of the area. The bin store has been located to the front of the building for ease of access and to protect the amenity of the neighbour to the rear.

Neutral

1. The demolition was already halfway complete when neighbour notifications arrived.

Response: Planning Permission is not required to demolish the existing building. Notwithstanding, there is an existing active Planning Permission which included the demolition of the existing building in its description (18/00845/PP).

2. Concerns that the construction of the proposed building will damage neighbouring buildings.

Response: This is not a material Planning issue.

Support

1. The proposed building looks attractive, is in a great location and would have great views.

Response: Noted.

Consultations:

North Ayrshire Council (NAC) Active Travel and Transportation: No objections subject to conditions.

Response: Noted.

3. Analysis

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that decisions by Planning Authorities shall be taken in accordance with the development plan unless material considerations indicate otherwise. The existing Planning Permission (18/00845/PP) and previous permissions established that the principle of demolishing the hotel and erecting a building containing fourteen flatted dwellinghouses was accepted.

The existing Planning Permission was assessed in terms of the previous Local Development Plan (adopted 2014) and since then a new Local Development Plan has been adopted in November 2019. There is no change in the policies of the new LDP which would affect the previous decision that the principle of the development is acceptable. As the proposed development is acceptable in principle under the Towns and Villages Objective of Strategic Policy 1, the application only requires to be assessed in terms of Strategic Policy 2: Placemaking, and Policy 29: Energy Infrastructure Development. The Coastal Design Guidance is also relevant, which aims to guide the design of new development to ensure that it will enhance and build upon existing good quality local character and contribute to the areas regeneration.

In terms of siting, the proposed building would be based upon the same footprint as the approved building. It would be located approx. 7m forwards of the front building line of the building to the north (Hutton Park care home) and 4.5m back from the front building line of the building to the south (Millennium Court residential flats). The Report of Handling for the approved scheme stated that due to previous Planning Permissions which broke the building line established by the Largs Seafront Development Brief, the building line carried little weight. It concluded that the position of the proposed building would act as a transition between the care home to the north and Millennium Court to the south, whilst ensuring the proposed building would be a sufficient distance from the residential properties to the rear. This report agrees with the previous assessment and the siting of the proposed scheme is considered to be acceptable in terms of the townscape of Largs seafront.

In terms of scale the approved scheme would have a ground floor area of approx. 395sqm whereas the proposed scheme would measure 400sqm. This marginal increase in area is not considered to have any noticeable effect on the overall scale of the building. The proposed scheme would be for a four-storey building whereas the approved was three and a half, resulting in an approx. 0.7m increase in height from the approved plans. The increased roof height would be offset in that the majority of the upper level would be set back from the eaves line of the first three levels. The ridge height of the proposed building would be equivalent to that of the care home to the north and would be lower than Millennium Court to the south. Millennium Court is also four storeys and the height of the proposed building is considered to be acceptable with regards to its context.

In terms of design, the applicant's Design Statement describes the inspiration for the design as being Art Deco, which is a common design style for buildings at seaside resorts, such as Largs. Most notably, Nardini's which is located nearby, is designed in an Art Deco style. The proposed design makes use of a higher level of glazing than the approved, particularly on the front seaward facing elevation, making the most of the views out to Cumbraes and beyond. The design treatment would be of the same quality on all four elevations, which would mean that the building would look attractive when viewed from any angle. It is proposed to finish the building in smooth silicone render with champagne/bronze anodised aluminium secondary detailing. These high-quality finishing materials are appropriately robust for the exposed seafront location. The roof would be finished in standing seam cladding as opposed to slate which was required by condition on the approved scheme. It is accepted that natural slate would not be the right choice for the modern design which is proposed and given that the proposed roof is significantly less in mass terms than the approved roof, standing seam cladding is considered an appropriate choice. Further finalised details of the roof cladding and wall finishes could be ensured via condition.

Given the above, it is considered that the design of the proposed flatted building is appropriate within its context and would indeed be an improvement on the consented scheme in terms of its suitability for a seafront location. The proposed design accords with the Coastal Design Guidance.

With regards to amenity, the proposal includes windows on all four elevations, including balconies on the first, second and third storeys of the front elevation. The windows on the front would have an outlook over the front curtilage of the site and towards Cumbraes and the Firth of Clyde and would not look on to any neighbouring properties. The windows to the north elevation face onto the side elevation of the adjacent care home at a distance of 3.8-5m. The majority of the windows on this elevation are angled bay windows, with the window panel facing the care home being obscure glazed, while the window panel facing the sea would be clear. The rear (east) facing windows would face onto the neighbouring property to the east at a distance of approx. 11m. These windows would allow for a degree of overlooking of the side facing windows of the neighbouring property to the east, however, they would not lead to a significant increase in overlooking when compared to the windows of the existing hotel building. The south facing windows would be located approx. 13.5m from Millennium Court to the south. As on the north elevation, the majority of the windows on this elevation are angled bay windows, with the window panel facing Millennium Court being obscure glazed, while the window panel facing the sea would be clear. The only windows on the south elevation where direct overlooking would be possible would be on the most western windows on the lower three floors. There is presently a degree of mutual overlooking between the side facing windows of the hotel and Millennium Court and it is not considered that the proposed building would lead to a significant increase in overlooking of Millennium Court. The balconies and roof terraces would be located on the front of the building and would have a primary outlook towards the sea. Where lateral views to the south would be possible these would be screened by vertical shading.

With regards to overshadowing, the proposed building has the same footprint as the consented design, and whilst being slightly higher, the upper level is largely set back, minimising any additional impact. There would be no overshadowing of the neighbouring flatted block to the south due to its southern position in relation to the proposed building. It is not considered that there would be a significant loss of light for these flats as they are located on the opposite side of Brisbane Street, approx. 13.5m from the proposed building. Any overshadowing to the rear would be contained within the application site.

Overshadowing to the north would be onto the side elevation of the care home and would not significantly impact more than the existing overshadowing caused by the hotel.

In terms of access, the proposed development has very similar arrangements to the approved, and it is therefore considered appropriate to attach a similar condition. In summary the issues to be covered by the access condition are:

- The aisle width of the parking area is to be a minimum of 6m;
- No surface water is to be issued from the site onto the public road;
- Vehicular access to the site is to be provided in the form of a minor commercial access footway crossing as detailed in sections 5.2 & 10.8 (and Fig 10.18) of the Roads Development Guidelines (single minor commercial access or car park up to 50 spaces footway crossing)
- Visibility splays of 2.5metres by 20 metres, in both directions, must be provided and maintained at the junction with the public road. No item with a height greater than 1.05 metre above adjacent carriageway level must be located within these sightline triangles.
- No pedestrian or vehicular access shall be taken onto the trunk road.

In addition, an informative could inform the applicant that a road opening permit may be required to stop up the existing access/exit.

The bin store being relocated to the front of the building will have a minor impact on the appearance of the seafront at Largs. The bin store is to be finished in stone which will improve its appearance. A condition could be used to ensure that the bin store and cycle store are provided prior to the first occupation of the flats. The applicant has provided a full landscape plan and a maintenance schedule. Soft landscaping would be kept to a minimum in the front curtilage to retain the open character and views of Largs seafront. Hard landscaping and boundary treatments would be of high quality and primarily finished in stone. A condition could ensure that the landscaping is carried out and maintained in accordance with the plans provided. The proposed development meets the qualities of successful places as highlighted above, and therefore it complies with Strategic Policy 2: Placemaking.

Policy 29: Energy Infrastructure Development, states that all proposals for new buildings will be required to demonstrate at least 10% of the current carbon emissions reductions set by Scottish Building Standards through the use of low or zero carbon generating technologies. The proposed development would meet these standards through improved air tightness, improved low-e glass with high thermal performance and improved insulation performance to external walls. The proposal accords with Policy 29.

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 prior to the commencement of the development hereby approved, full details of the proposed finishing external materials shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The development shall then progress in accordance with such details as may be approved.

Reason

In order to ensure that the final appearance of the finishing materials would be acceptable, in order to protect the visual amenity of the area.

Condition

2. That prior to the commencement of the development hereby approved, full details of the proposed access and parking layout shall be submitted for the written approval of North Ayrshire Council as Planning Authority. These details shall include confirmation that:

- i) The aisle width of the parking area is to be a minimum of 6m;
- ii) Visibility splays of 2.5metres by 20 metres, in both directions, are provided and maintained at the junction with the public road. No item with a height greater than 1.05 metre above adjacent carriageway level must be located within these sightline triangles;
- iii) No surface water is to be issued from the site onto the public road;
- iv) Vehicular access to the site to is be provided in the form of a minor commercial access footway crossing as detailed in sections 5.2 & 10.8 (and Fig 10.18) of the Roads Development Guidelines (single minor commercial access or car park up to 50 spaces footway crossing)

Thereafter, the proposed access and parking arrangements, which may be approved, shall be completed to the satisfaction of North Ayrshire Council as Planning Authority. For the avoidance of doubt there shall be no means of direct access from the site to the trunk road either pedestrian or vehicular.

Reason

In the interest of road safety.

Condition

3. That prior to the first occupation of the flatted dwellinghouses, hereby approved, the landscaping shall be carried out in accordance with the approved landscaping plans. Thereafter, the landscaping shall be maintained in accordance with the Landscape Management Plan hereby approved to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

In order to ensure that the proposed landscaping scheme is carried out and maintained; in the interest of the amenity of the area.

Condition

4. That prior to the first occupation of the flatted dwellinghouses, hereby approved, the bin store and cycle store shall be provided in accordance with the approved plans to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

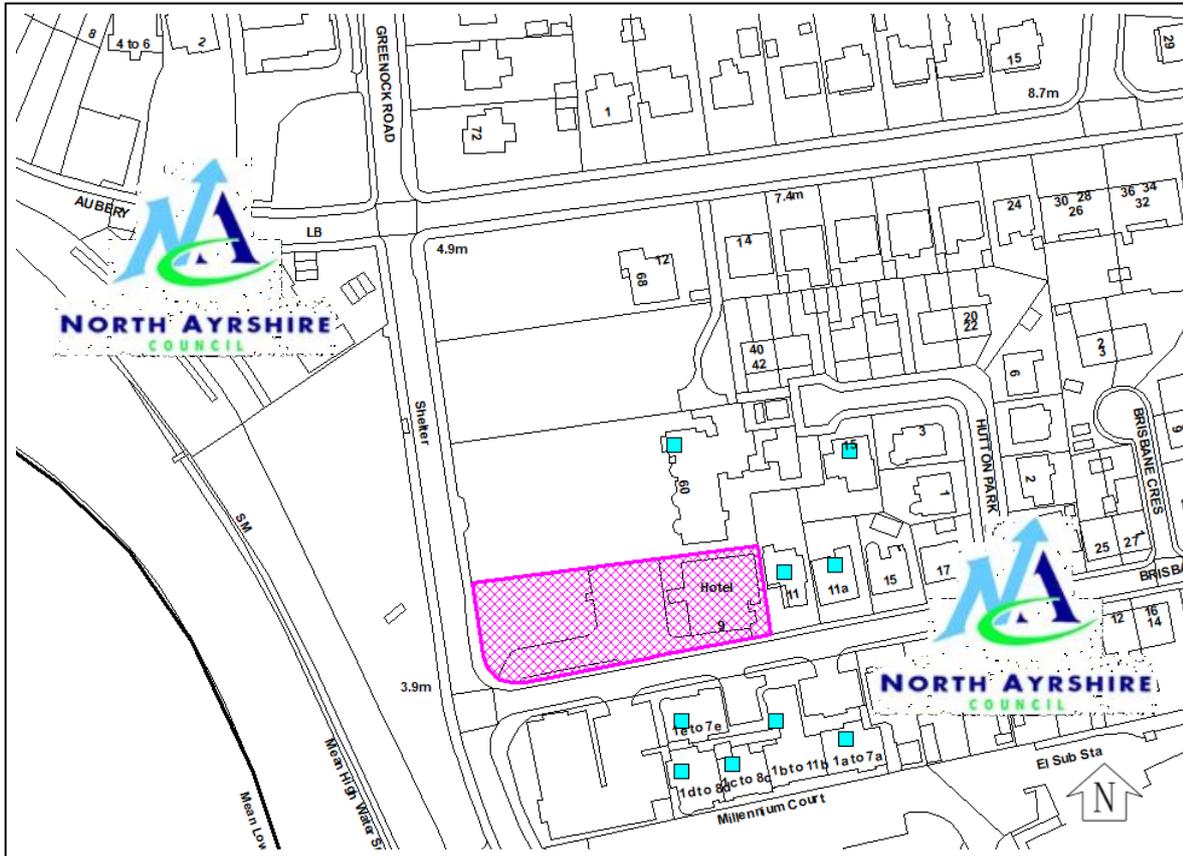
In order to ensure that the bin and cycle store are erected prior the flats being occupied. In the interest of the amenity of the future residents.

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

24th March 2021

Planning Committee

Locality	
Reference	21/00036/PP
Application Registered	21st January 2021
Decision Due	21st March 2021
Ward	Dalry And West Kilbride

Recommendation	Approved with no Conditions
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Location	SSE Anaerobic Digestion Plant Dalry Ayrshire KA24 4JJ
Applicant	Barkip Biogas Ltd Fao Mr Paul Riley
Proposal	Section 42 application to remove condition 1 of planning permission ref. 09/00444/PPM

1. Description

At the meeting on 25th February 2021, the Planning Committee agreed to a call-in request of the above planning application, which would otherwise have been determined under the Scheme of Delegation to officers. The application seeks consent, under Section 42 of the Town and Country Planning (Scotland) Act 1997, for the removal of condition 1 of a Planning Permission (ref. 09/00444/PPM).

Planning Permission (ref. 09/00444/PPM) was granted for the development of an anaerobic digestion (AD) plant at the former Barkip Landfill Site, subject to conditions, on 15th October 2009.

Condition 1 of the permission reads as follows:

"Heavy Goods Vehicles (HGVs) shall not enter or leave the site outwith the hours of 07.30 - 18.30 Monday to Friday; 08.00 - 15.00 on a Saturday; and at no time on a Sunday or local Public Holiday, unless otherwise agreed in writing by North Ayrshire Council as Planning Authority."

Although not subject of the current application, there were a range of other conditions attached to the planning permission for the AD plant, which addressed the following matters:

1. HGV access times
2. Details of external colour scheme
3. Blast Design Statement
4. Routing Agreement (for HGVs) - requiring that all HGVs to/from the site use only the C19 (east), the B706 and A737.
5. Provision of wheel washing facilities
6. Widening of C19 public road to 6m within 30m to west of the site access
7. Provision of passing places
8. Noise limits (from all sources) not to exceed 45dB (1 hour average) from 7am - 11pm and not to exceed 42dB (5 minute average) from 11pm to 7am
9. Plant to be designed so that electricity can be exported to the national grid
10. Details of Site Waste Management Plan
11. Details of foul drainage
12. Details of flood risk and protection measures
13. Requirement to remove and dismantle plant if it becomes "redundant" (i.e. disused for a continuous period of 6 months)
14. Details of landscaping

Many of the above conditions relate to the construction phase of the development (e.g. 2, 3, 6, 7, 9, 10, 11, 12 and 14), all of which were complied with at the appropriate time. Other conditions, such as 1, 4, 5, 8 and 13, are ongoing and require to be complied with by the site operator for the duration of the working life of the AD plant.

Anaerobic Digestion (AD) is a natural process where plant and animal materials (biomass) are broken down by micro-organisms in the absence of air. The AD process begins when biomass is put inside a sealed tank or digester. Naturally occurring micro-organisms digest the biomass, which releases a methane-rich gas (biogas) that can be used to generate renewable heat and power; this helps cut fossil fuel use and reduce greenhouse gas emissions. The remaining material (digestate) is rich in nutrients, so it can be used as a fertiliser.

Barkip was selected by the company Zebec Biogas Ltd for the development of an AD plant due to the closed landfill site located alongside. The Barkip landfill site, covering some 12.5ha, was granted planning permission in December 1995 (ref. 01/95/0346) and was operated by William Tracey Ltd during the period from 1996 to around 2006, after which the ground was capped and restored as rough grazing land. Barkip was used for the disposal of domestic, industrial, and commercial waste originating from North Ayrshire, Renfrewshire and Inverclyde areas. Prior to the landfill site coming into operation, the ground consisted of rough pastureland and a coal bing.

Landfill gas (methane and CO₂) are among the by-products of landfill. Gas was vented out of the site and/or burned, representing a wasted resource. The opportunity to capture landfill methane and supplement it from the anaerobic digestion of biomass from other sources transported by road was identified by Zebec Biogas, providing the rationale for the development of an AD plant to the southwest of the Barkip landfill site. Between the AD plant and the landfill site are several leachate treatment lagoons. Leachate is rainwater which has passed through the landfill site. It is collected in a system of underground pipes

and fed into settlement lagoons to prevent it from contaminating the groundwater. Some of the leachate is used by the AD plant, and the remainder is removed by road tankers. Leachate collects throughout the year and its removal is required on an ongoing basis.

The Barkip AD plant consists of reception facilities, processing facilities, a combined heat and power (CHP) plant and storage areas. There is a connection to the national grid and the plant can produce around 2MW of electrical power. The site is approximately 2 hectares in size and located approximately 2.5 to 3 miles from Dalry, Beith and Kilbirnie. Since its development around 10 years ago, an extensive area of broadleaved and coniferous woodland has been planted on the land to the west and northeast of the AD plant. This planting partially screens the site and its access road from the surrounding area.

In support of their application, the applicant has advised that:

- the plant already operates 24 hours per day;
- The average number of HGV movements per week, between March 2020 and February 2021 (inclusive) was 76;
- Over a 5-day working week, this averages about 15 HGV movements per day (or 30 vehicle movements on the C19 once the inbound and outbound trips are combined);
- when the planning condition was attached, there was an uncertainty about how site traffic may impact on the local amenity value of the area;
- over 11 years on, HGV vehicular movements to/from the site have not impacted on the local amenity value of the area;
- it is company policy to ensure that drivers accessing the site are inducted to adhere to the Routing Agreement and this is reinforced with appropriate site signage;
- In December 2020, several loads had to be routed elsewhere as a result of the current time restriction for vehicular access;
- Equivalent anaerobic digestion facilities across Scotland do not have restrictions on delivery times/vehicular access (there are currently 12 AD plants in Scotland);
- the facility's SEPA-regulated PPC permit by offers no restrictions on HGV movements to/from the site;
- the removal of condition 1 would enable the facility to operate without commercial disadvantage to its competitor sites and to increase the renewable energy output;
- Barkip Biogas has appointed four additional staff members (since December 2020) and has capacity to increase its throughputs (and hence its creation of renewable energy) under its PPC permit;
- The proposal would not result in any increase in the weekly number of movements of HGVs nor the amount of waste processed by the plant.

The nearest residential properties to the AD plant site are Glenlora Cottage (approx. 200m north of the site boundary) and the three houses at Little Barkip (approx. 280m to the northeast). However, the houses closest to the AD plant access road are Barkip Cottage, Whitehill and Barkip Farm, which vary in distance from 23m to 70m. In addition, Whitehill and Barkip Farm share part of the concrete site access road leading to the AD plant, all sharing a common junction with the C19 public road. In total, there are seven houses relatively close to the AD plant and its access road leading from the C19 public road.

The site of the AD plant is located within a rural area of North Ayrshire where Strategic Policy 1 (the Countryside Objective) of the Local Development Plan applies. Other relevant policies include Strategic Policy 2 (Placemaking), and Policy 7 (Business and Industry Employment Locations).

Relevant Development Plan Policies

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).

Strategic Policy 2 Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places.

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

Six qualities of a successful place

Distinctive

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

Welcoming

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

Safe and Pleasant

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

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

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

Adaptable

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

Resource Efficient

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

Easy to Move Around and Beyond

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

Detailed Policy 7-B&I Employment Locations 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.

2. Consultations and Representations

The application was subject to the statutory neighbour notification procedures. Six objections have been received from members of the public. The points raised can be summarised as follows:

1. An increase in traffic would be detrimental to the road in terms of degradation and safety concerns for other road users.

Response: There is no evidence to suggest the proposal would result in an increase in traffic. The maintenance of the road is a Council responsibility and there are no objections to the proposal from the Roads Authority (see below).

2. Additional risk of accidents on the road, which is of an inadequate standard for the HGV traffic.

Response: There are no objections from the Roads Authority (see below). See also Analysis section.

3. Additional noise pollution and exhaust emissions.

Response: The applicant has advised that "this proposal would not result in any increase in the weekly number of movements of HGVs or the amount of waste processed." As such, there is no evidence to suggest the proposal would result in an increase in HGV traffic nor any increase in emissions or noise above existing levels - the applicant is seeking flexibility in terms of the time periods available to receive materials for processing at the AD plant, which already operates continuously.

4. Adverse impacts on wildlife and ecology.

Response: It is not agreed that the proposed removal of condition 1 would have an adverse impact on wildlife and ecology in the locality. There would be no loss of trees, hedgerows, or open land as a result of the proposed removal of condition 1.

5. Adverse impacts on enjoyment of the rural landscape including local walks.

Response: As noted above, it is not proposed nor is there any compelling evidence to suggest that the number of HGV movements would materially increase - what could change is that the times of vehicle movements would be more dispersed, leading to weekend deliveries and potentially earlier in the morning, or later at night. The C19 is a lightly trafficked route and this is not anticipated to change as a result of the current proposal.

6. Adverse impacts on residential amenity including privacy impacts, noise disturbance affecting sleep patterns and mental health/well-being.

Response: The applicant advises that "the vast majority of HGV movements would remain within the current operating hours" and that "Barkip Biogas is simply seeking flexibility to enable the acceptance of loads of waste without time restriction." At the site itself, there are signs already in place to advise hauliers of the need to drive at speeds of less than 5 mph and that it is a "quiet area." It is considered that the site is taking reasonable steps to reduce vehicle noise, and that liaison with the site could address any ongoing or future concerns.

7. Additional odour nuisance;

Response: There is no evidence to support this claim.

8. Lack of consultation with locals.

Response: There is no statutory requirement for pre-application consultation. However, neighbouring householders were notified about the proposal. This has enabled public comments to be made in response to the application.

9. Lack of any supporting survey information to justify the proposal.

Response: There is no requirement to provide a survey for submitting an application of this type.

10. Lack of enforcement of existing prohibited section of the road, leading to the concern that more unauthorised traffic would use the prohibited section if the condition was removed.

Response: Noted. See Analysis.

Consultations

Beith Community Council - object to the proposal on the following grounds:

1. With reference to DSM Nutritional Products facility and the MOD in the applicant's supporting information being allowed access with unlimited hours, we would ask how often do they have HGV entering these sites before 07:30 and after 18:30 Monday to Friday; before 08:00 and after 15:00 on Saturday and on Sunday and Public Holidays. It is our view that access during these times is rare.

Response: Noted. See Analysis.

2. The applicant has stated that "In December 2020, several loads had to be routed elsewhere as a result of the current time restriction for vehicular access" - this would suggest to us that there would be an increase of HGV traffic which may be a concern to the wider community and local residents. It is noted that this is a rural community and will impact on increased traffic noise for residents.

Response: The applicant has advised that it is not intended to increase the average number of weekly vehicle movements, and has highlighted that taking materials further away is counter-productive in terms of environmental sustainability, given that waste management is meant to operate on the basis of the "proximity principle."

3. The Beith A737 Project continues to go through statutory processes and that no date for commencement has been agreed. These works are some years away from completion therefore the flow of traffic will continue to be a concern until the works are completed.

Response: It is understood, from the Council's Locality Partnership, that the upgrading of the A737 Beith Bypass has now reached the procurement stage following the completion of the statutory procedures during 2020. This information has been provided by Transport Scotland.

NAC Active Travel and Transport - no transport related objection to this proposal.

Response: Noted. A discussion also took place with NAC Roads regarding any weight restrictions on the former railway overbridge on the C19 at Defence Munitions. This confirmed that there are no restrictions in place.

Dalry Community Council - no comments.

3. Analysis

Any application to consider whether a condition remains valid must be assessed in terms of the following principles, as set out in Circular 4/1998:

"Conditions imposed on a grant of planning permission can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. While the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable, and practicable. Planning conditions should only be imposed where they are:

- necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise
- reasonable in all other respects."

At the time the planning application was considered in 2009, it was noted that the plant had been designed to process up to 75 thousand tonnes of biomass per annum. Condition 1 currently states that HGVs "cannot enter or leave the site" outwith the hours of 07.30 - 18.30 on Mondays to Fridays and 08.00 - 15.00 on a Saturday; and at no time on a Sunday or local Public Holiday. This restriction does not apply to other traffic, nor does it apply to leachate tankers attending the landfill site, which use the same access road. The condition does not restrict what HGVs actually do within the site, nor the times they can operate within the site. Whilst the above condition does not define what a Heavy Goods Vehicle actually is, it can be taken that the standard definition as used throughout Europe would apply, which is a vehicle of greater mass than 3.5 tonnes.

The applicant advises that, on average, there are currently 15 HGV vehicle movements into the site per day (which equates to 30 two-way trips on the C19). As noted above, the Routing Agreement requires that HGVs arrive from the C19 east of the site and depart using the same route. HGVs are not permitted to travel from the west on the C19, nor leave westbound on the C19. There is signage in place to remind drivers of this requirement.

Condition 1 does not prohibit other traffic to and from the site during the restricted periods, such as light goods vehicles, vans, and cars. Furthermore, there are no conditions which require the plant to be non-operational during night-time periods, nor during weekend periods when HGV deliveries are not permitted to access or leave the site.

Condition 1 also needs to be understood within the context of the other conditions, especially in relation to the Routing Agreement (which is governed by condition 4), Wheel Washing (condition 5), Road Improvements (conditions 6 and 7) and the Noise Limits (condition 8).

The Routing Agreement for the AD plant was approved in April 2010. It is explicitly designed for HGV vehicles and their operators. It states that the 'average' size of a vehicle delivering to the site would be 10 tonnes. The average vehicle size exporting liquid would be 25 tonnes and 15 tonnes for fibres. It is not proposed to amend any aspect of the Routing Agreement.

An hours of operation and routing condition was attached to the 1995 planning permission for the landfill site, requiring all access for landfill traffic to be taken from the road between the B706 leading past Defence Munitions. It is understood that this condition remains extant for transporting leachate from the landfill site, which at one time, was up to 15 vehicle movements per day according to NAC planning archives. Whilst there was an hours of

operation condition for landfill operations, there was no equivalent condition restricting the times of HGV traffic movements.

The reason for attaching an HGV routing condition, on road safety grounds, is evident. The standard of the C19 west of the junction with the site access is single track and has restricted forward visibility due to a series of tight bends and undulations. There are no passing places. In addition, there are five houses with a frontage onto the road west of the site access junction, and another with its access leading off it. More distant from the site (and further west) are other houses that are sited close to the C19 road, leading to either Highfield or The Den.

In comparison, the standard of the C19 east of the site access junction provides for two-way traffic, with reasonably good forward visibility for the most part. The only exception is at a former railway overbridge, where there is a 'give and take' arrangement in place due to restricted road width and forward visibility caused by a 'blind summit'. This section of the C19 leads past the Defence Munitions site onto the B706 near the Marshlands Playing Fields on the outskirts of Beith. Much of its sub-base was substantially reconstructed during the late 1990s due to increased use by HGVs accessing the Barkip Landfill Site. There is evidence of some settlement in places, but for the most part, the surface is intact. The road standard progressively improves towards Defence Munitions and the junction with the B706.

The proposed removal of condition 1 would still not permit HGV traffic to use the narrow section of the C19 west of the site access. Condition 4, which governs HGV routing, would remain extant and unaltered.

The Analysis of the 2009 planning application stated that "subject to a condition controlling the hours and days which HGVs may enter and leave the site, it is not considered that there would be unacceptable disturbance by reason of vehicular traffic."

Given that the applicant does not anticipate any increase in the average number of HGV movements to/from the AD plant, the main difference would be the timing and distribution of trips on the public road network. In addition, the capacity of the plant would not be increased by the proposed change to the time periods when HGV deliveries could take place.

Turning to the six tests for planning conditions - and bearing mind that conditions should only be attached where it would otherwise have been necessary to refuse an application for planning permission - a review of condition 1 requires to take place:

- necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise
- reasonable in all other respects.

Whilst it is considered that condition 1 satisfied some of the above tests at the time the application was granted in 2009, this may have been in anticipation of a greater number of HGV movements than has actually transpired over the years since. The C19 is a lightly trafficked rural road, and it is not considered by the Roads Authority to be unsuitable for the

anticipated number of HGV movements which use the route between the B706 and the AD plant. It is also the case that other HGV traffic using the route (e.g. going the landfill site for leachate removal) remains permissible at any time. There are no objections to the proposal from the Council's Roads officers.

However, there are several concerns regarding other aspects of the condition. Its wording is imprecise, since it does not define the scope of "HGV", nor does it limit HGV operations once inside the site, leaving it open to challenge. This makes the condition difficult to enforce, given that the C19 can be used by other HGV vehicles at any time and for any purpose. There are no weight restrictions or prohibitions on the C19 under the Roads (Scotland) Act 1984, which includes the bridge over the former railway within the Defence Munitions site.

As such, it is still necessary to have a vehicle routing agreement in place, both in the interests of road safety and also to protect the amenity of residents whose homes front onto the C19 west of the site access. As noted above, the site operator already has in place signage to remind drivers to drive at a maximum speed of 5mph on the concrete road leading into the site, and that it is a "quiet area."

To summarise, in terms of the relevant tests for the use of planning conditions, it is considered that the condition does not meet the tests for conditions.

Turning to Strategic Policy 1 (The Countryside Objective), it is stated that the Council will support proposals outwith towns and villages for expansions to existing rural businesses and developments with a demonstrable specific locational need. In this case, it is not proposed to expand the Barkip AD plant - which has a specific locational need due to the methane being released from the landfill site. It is proposed to remove a planning condition that the applicants claim is making Barkip less competitive than other sites in the country. There is no evidence to suggest that the removal of condition 1 would lead to additional HGV traffic (nor indeed other forms of traffic) on the C19 to and from the site, and it is not proposed that the sub-standard section of the C19 to the west of the access is used by HGVs. It is also considered that there is a significant ongoing need to support employment in the area, especially within a sector of the economy which plays an important role in harnessing energy from waste materials and will continue to do so. As such, it is considered that the application can be supported in terms of Strategic Policy 1.

With respect to Strategic Policy 2 (Placemaking), it is considered that the two qualities that are of most relevance to this proposal are 'Safe and Pleasant' and 'Easy to Move Around and Beyond.'

In terms of the Safe and Pleasant quality, the representations submitted by local residents have made it clear that the proposal is unwelcome to them, and that it would harm the quiet character and the environment of this rural area. Many of the points expressed are based on the assumption that the proposal would automatically lead to a greater number of HGV vehicle movements than has been the case in the past and that vehicle movements would take place during the night, possibly causing disturbance to sleep patterns when the area would otherwise have virtually no through traffic.

Whilst these concerns are understandable, there is a need to ensure that planning conditions meets the six tests. The existing condition was attached to a planning permission as a precautionary, safeguarding measure in advance of the development, and was not

evidence-based. Now that the site has operated for around a decade, and whilst noting that there have been instances where, it is alleged, HGVs may have not travelled to the site using the agreed route, it is also evident that the Barkip AD plant has not proved to be a major trip generator in the locality. Notably, there are no objections to the proposal from the Roads Authority.

The actual process which takes place within the site itself when HGV vehicles arrive is not dissimilar to a road tanker attending a filling station and re-filling the fuel tanks. The condition does not specify when vehicles can unload only when they "enter and leave the site." Given the measures already in place to mitigate the impacts on nearby residents, it is not considered that the retention of condition 1 can be justified.

With regard to the Easy to Move Around and Beyond quality, the applicants have reaffirmed their commitment to the previously approved Routing Agreement and will continue to work with drivers and hauliers to ensure this condition is adhered to. Whilst noting that significant upgrading works are planned to take place on the Beith bypass in the coming years, it is not considered that this would have any adverse impact on the Routing Agreement nor increase the risk of displacing traffic onto other routes. In the wider area, the completion of The Den Realignment in 2019 has reduced the attractiveness of the link road from the C19 to The Den now that the A737 bypasses that settlement.

Regarding Policy 7 (Business and Industry Employment Locations), the applicants note that there are no restrictions on the HGV delivery times for other business locations in the area, such as DSM. Whilst references to business locations within built up areas are not directly comparable to the Barkip AD plant, Policy 7 recognises that there are circumstances where business and industry can be supported outwith the range of sites and locations that are identified in the LDP. In this regard, the Barkip AD plant has a site-specific locational requirement due to the nearby landfill site which provides a source of methane gas for use in the production of electricity. It has been established for over 10 years. Due to its rural location, the site may not otherwise have been granted planning permission for an AD plant and a suite of conditions were attached to reflect this and protect the amenity of the area and its environment. However, it is not considered that the proposed removal of condition 1 would conflict with Policy 7, nor undermine the protections afforded by the other planning conditions, given that its removal is unlikely to lead to additional traffic on the C19 leading to the site. As such, the proposal can be supported in terms of Policy 7.

There are no other material considerations. It is therefore recommended that planning permission is granted for the removal of condition 1 of planning permission 09/00444/PPM. The other conditions attached to the permission would continue to have effect. **4. Full**

Recommendation

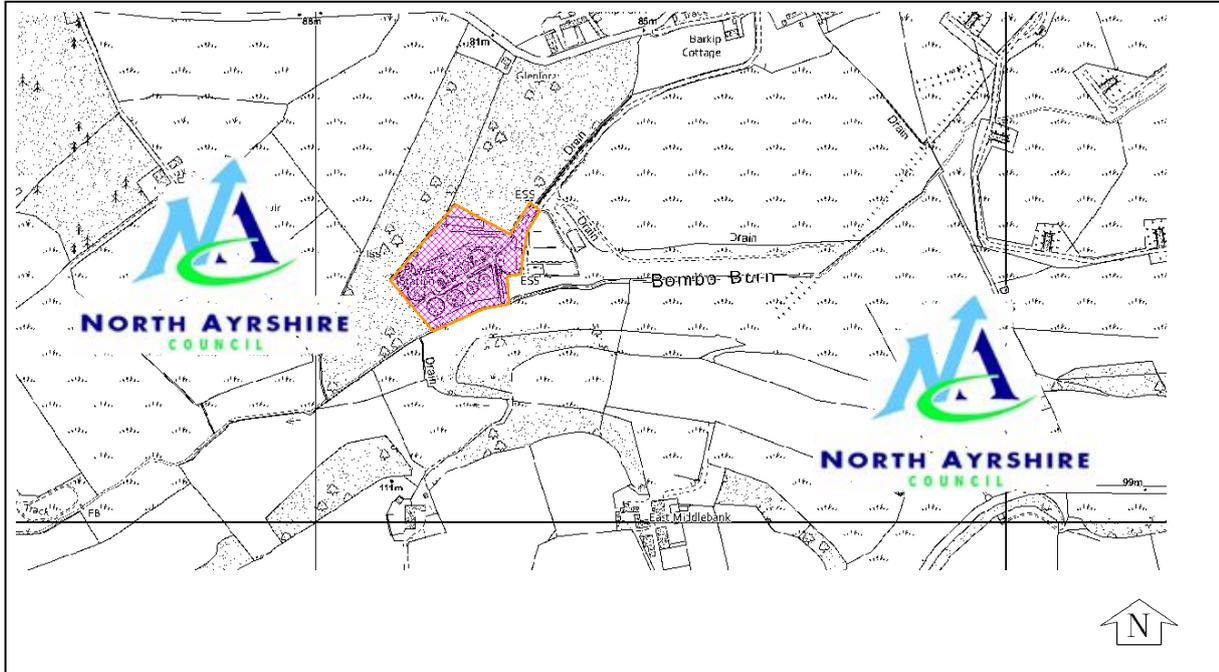
Approved with no Conditions

Russell McCutcheon
Executive Director (Place)

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

Appendix 1 – Location Plan

DO NOT SCALE Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office
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NORTH AYRSHIRE COUNCIL
24th March 2021
Planning Committee

Title:	Planning Enforcement Charter
Purpose:	To seek approval for the updated Planning Enforcement Charter
Recommendation:	That the Committee approves the updated Planning Enforcement Charter.

1. Executive Summary

- 1.1 This report seeks approval of the reviewed and updated Planning Enforcement Charter dated March 2021.

2. Background

- 2.1 S.158A of the Town and Country Planning (Scotland) Act 1997 (as amended) requires a planning authority to prepare and publish an enforcement charter, which will set out a statement of the authority's policies as regards taking enforcement action for the purposes of the Act. The charter will also set out how members of the public are to bring a breach of planning control to the attention of the authority, an account of how any complaint as regards taking enforcement action is to be made and of the procedures for dealing with such a complaint.
- 2.2 A planning authority must keep the enforcement charter under review and must update and republish it every 2 years. North Ayrshire Council's planning enforcement charter was last reviewed and republished May 2019.
- 2.3 The enforcement charter has been reviewed. There are no significant changes proposed. The contact details and links within the charter have been updated and reviewed. References to fine levels have been updated in light of the Planning (Scotland) Act 2019. The charter contains the Council's policies in regard of enforcement action, details of how to report breaches, make complaints and the procedure for dealing with them. The charter also contains service standards for dealing with reports and details the powers available to the planning authority.

3. Proposals

- 3.1 It is recommended that the Planning Enforcement Charter be approved and republished in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 (as amended).

4. Implications/Socio-economic Duty

Financial

4.1 None

Human Resources

4.2 None

Legal

4.3 The Enforcement Charter is in accordance with Statutory Regulations.

Equality/Socio-economic

4.4 None

Environmental and Sustainability

4.5 None

Key Priorities

4.6 The Enforcement Charter supports the Council Plan priority - "Vibrant, welcoming and attractive places.

Community Wealth Building

4.7 None

5. Consultation

5.1 None

RUSSELL McCUTCHEON
Executive Director (Place)

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

Background Papers

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North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Enforcement Charter

A Guide to Enforcing Planning Controls in North Ayrshire

Contents

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9. Enforcement contacts (page 16)
10. Summary of the Planning Enforcement Charter (page 17)

1. Introduction

The Scottish Government places a strong emphasis on the role of planning enforcement in delivering key policy objectives and maintaining public confidence in the planning system. The Planning etc. (Scotland) Act 2006 introduced the requirement for Councils to produce enforcement charters, as a means of clarifying the purpose, powers and raising the overall profile of planning enforcement.

This Charter, which was revised in 2021, explains what enforcement means, what the Council can and cannot do, the service standards and what happens at each stage of what can be a lengthy process.

Planning permission is required for most development that takes place in Scotland, with the exception of a wide range of “permitted developments” including some changes of use.

Sometimes, development is undertaken without the necessary consents or without complying with conditions of a permission which has been granted. In such cases, the Council has powers to take action in order to remedy the issues which can occur.

There is a key role for members of the public to alert the Council to any potential breaches of planning control they become aware of, whether large or small. The Council can also monitor high profile and other developments of public interest, where resources allow, to ensure planning regulations and conditions are being adhered to.

It should be noted that enforcement action is a discretionary power: even when a breach of planning control has occurred, it may be determined by the Council that it would not be in the public interest to take formal action. The planning system does not exist to protect the interests of private individuals against each other but must work in the public interest.

The Council, as Planning Authority, has to consider each case on its merits and decide the most appropriate response. The Council is unlikely to take formal action, for example over developments, which in planning terms, are seen to be acceptable.

Enforcement is one of the most complex parts of the planning system. The aim of this Charter is to ensure that the adopted procedures are applied fairly and reasonably, and that interested parties are kept informed and are made aware of the process.

It is understood that planning enforcement is an issue that interests many people and it is hoped that this Charter is useful. It should also be noted that we regularly review the Charter and that comments on its content are welcomed.

This Charter sets out the current powers available to Planning Authorities. These powers are set out in the Town and Country Planning (Scotland) Act 1997 as amended.

2. Key points on planning enforcement

- A breach of planning control is **not** of itself a criminal offence
- A breach of listed building control can be a criminal offence

It is important to remember that the primary purpose of planning enforcement is to remedy any breach which has occurred, rather than to apply punitive measures to those responsible. In addition, any action taken must be appropriate to the breach. The Council has statutory powers to:

- investigate alleged breaches of planning (such as unauthorised developments and changes of use);
- investigate alleged unauthorised works to listed buildings;
- investigate alleged displays of unauthorised advertisements;
- investigate alleged unauthorised treeworks;
- investigate the conditions attached to permissions/consents;
- initiate formal action where a satisfactory outcome cannot be achieved by negotiation.

The Council is not required to take any particular action on a specific breach, and indeed can decide that no action is necessary.

Fuller information on the use of enforcement powers can be found in the Scottish Governments Planning Circular 10/2009: *Planning Enforcement* which can be viewed online at <http://www.gov.scot/Publications/2009/09/16092848/0>

SERVICE STANDARD

By publishing our standards and targets, we aim to improve our enforcement service and make it responsive to the needs of our customers. We will monitor the contents of this Charter to ensure that standards and targets are being met.

The Charter will be made available on the Council's website and by appointment at Planning Services, Cunninghame House, Irvine KA12 8EE.

3. Identifying possible breaches of planning control

Planning enforcement has two main issues –

1. To establish whether a breach has taken place, and
2. Whether it is expedient or appropriate to take enforcement action.

The decision to take enforcement action is at the sole discretion of the Council.

Possible breaches of planning and listed building control can include:

- Development being undertaken without planning permission;
- Alterations to or demolition of a listed building without listed building consent;
- the change of use of a building or land without planning permission;
- the failure of a developer, owner or occupier of land/buildings to comply with conditions attached to planning permission or listed building consent; and
- departures from approved plans or consents.

Members of the public have a vital role in reporting breaches of control. Any concern should be raised with the Council either via a local councillor or directly to Planning Services (see below). You can make preliminary enquiries by telephone or in person at the Council offices, but these must be followed up in writing or email in order for an alleged breach to be investigated.

For preliminary enquiries, Planning Services can be contacted by the following methods:

By telephone:

01294 324320 (24 hour voicemail facility available)

Please see the Council's website for further telephone numbers

<https://www.north-ayrshire.gov.uk/planning-and-building-standards/do-i-need-planning-permission.aspx>

By email:

epanning@north-ayrshire.gov.uk

In person:

Planning Services

North Ayrshire Council

Cunninghame House, Irvine KA12 8EE

Please make an appointment to see an Officer prior to coming to Cunninghame House

Suspected planning breaches should be reported to the Council as follows:

Using the North Ayrshire Council website:

https://www.online.north-ayrshire.gov.uk/OnlineServices/ReportOnline/RO_PlanningBreach.aspx

By post:
Planning Services
North Ayrshire Council
Cunninghame House, Irvine KA12 8EE

The following information is essential when reporting a suspected breach:

- Details of the alleged breach, with times and dates if relevant;
- The address or location of the breach;
- Your name, telephone number, postal and email address;
- Whether the enquiry is to be treated confidentially.

Failure to provide the above information may result in no investigation taking place.

The Council is subject to the requirements of the Freedom of Information (Scotland) Act 2002. Requests for total confidentiality may limit the ability of the Council to take formal action and cannot be guaranteed if the case leads to court proceedings.

In relation to development with planning permission, monitoring is undertaken by the Council's Planning Services. It is not a statutory requirement that the Council monitors all planning conditions at all times. Public involvement is therefore invaluable in providing information where it is believed that conditions attached to consents are not being complied with or have not been discharged in a satisfactory way.

Information received by Planning Services is checked to ensure that it involves a possible breach of control and includes all the details required for a possible investigation. After preliminary checking and compliance with the requirements for investigation, the complaint will be registered. Once registered, and where contact details have been provided, a written or email acknowledgment will be sent to the person who has made the complaint.

Some complaints, such as neighbour disputes over boundaries, relate to matters over which the Planning Service has no control and cannot therefore be pursued.

SERVICE STANDARD

If preliminary checking of a complaint suggests a breach of planning control, the complaint will be registered. Once registered, an acknowledgement will be sent out within 5 working days if a postal address or email address has been provided. The acknowledgement will include a reference number and contact details for the Planning Officer.

4. Investigating alleged breaches of planning control

A priority system is used for investigating complaints based on matters such as the significance of the harm of the alleged breach on amenity or other relevant planning considerations.

SERVICE STANDARD

Priority will be given to significant alleged breaches of planning control including, but not limited to:

- Significant detrimental impact on amenity;
- Alleged breaches of condition for major developments;
- Irreversible damage to listed buildings; and
- Unauthorised felling or other works affecting trees protected by Tree Preservation Orders

An investigation normally begins with the Planning Officer visiting the site. Following this visit, the individual who has made the complaint will be informed of what action, if any, is proposed.

In some cases, additional investigation may be needed. A record will be maintained of all contact, both verbal and written.

SERVICE STANDARD

Where contact details have been provided, a person who provides information by letter or email to Planning Services will receive a formal response within 20 working days of receipt. The person will also be advised of the proposed action to be taken. The action may include the need for additional investigation prior to deciding on the course of action. The person will be advised if the matter does not involve a breach of planning control.

The length of time required to resolve the case or take action can be affected by a number of factors. Progress can be delayed by the gathering of further evidence, to allow negotiations to take place or for formal procedures to be concluded. Similarly, an application to remedy the alleged breach or an appeal against a decision of the Council can also delay resolution of the case.

The Council can also grant planning permission retrospectively. Conditions may be attached to planning permission in order to remedy a breach.

The Council recognises that delays can be a source of considerable frustration to persons submitting information, particularly if they consider their amenity is affected by the alleged breach. Consequently, interested parties may wish to contact the Planning Officer for more regular updates.

5. Acting on alleged breaches of planning control

The Council has to consider each case on its merits and decide on the most appropriate solution.

In the first instance, an investigation will be undertaken by the Planning Officer to establish whether or not a breach has occurred and decide on whether to take any further action.

In some cases, enforcement action may not be considered appropriate, even although planning regulations may have been breached. Enforcement action will only be taken when it is in the wider public interest which is at the Council's discretion.

The Council is unlikely to take formal enforcement action over developments which, in planning terms, are considered acceptable had an application been made beforehand. In such cases, a retrospective planning application is normally sought. In granting planning permission retrospectively, the Council can impose conditions to regulate a wide range of planning matters in order to make a retrospective development acceptable. It is not always necessary to impose conditions.

Only a relatively small number of cases lead to formal enforcement action. Where formal action is required, a report may be prepared for consideration by the Council's Planning Committee. Formal enforcement action can include the issue of a Notice to the land owner or developer. Various options are available, including a Notice requiring a retrospective planning application to be made, an Enforcement Notice, or a Breach of Condition Notice.

The Council also has the power to serve an Amenity Notice, the purpose of which is to require improvements to land or buildings which have become detrimental to the amenity of an area.

Enforcement Notices served by the Council are placed on the Enforcement Register. You can view the Register by appointment at Planning Services, Cunninghame House, Irvine between 9am and 4.45pm Monday – Thursday (9am and 4pm on Fridays). The post 2015 Register is available to view online <https://www.north-ayrshire.gov.uk/planning-and-building-standards/report-planning-breach.aspx>

Enforcement Notices and Breach of Condition Notices include the following information:

- A description of the breach of control that has taken place;
- The steps that should be taken to remedy the breach;
- The timescale for taking these steps;
- The consequences of failure to comply with the Notice; and
- Where appropriate, any rights of appeal the recipient has and how to lodge such an appeal.

Appeals against Enforcement Notices and Amenity Notices are considered by Scottish Ministers and dealt with by a Scottish Government's Directorate for Planning and Environmental Appeals (DPEA).

There is no right of appeal against a Breach of Condition Notice.

SERVICE STANDARD

Where a planning breach cannot be resolved and action is justified, formal enforcement action will be taken. Authorisation from the Planning Committee is required for the service of a Notice, or to take any other formal action that is appropriate to the breach. The Notice will explain to the recipients what is required, the timescales involved and the available options to resolve the issue.

Failure to comply with a Notice may result in the Planning Authority taking further action. There are a range of possible options, such as:

- Referring the case to the Procurator Fiscal for possible prosecution;
- The Council may carry out work and charge the person for the costs involved;
- Seeking a court interdict to stop or prevent a breach of planning control.

For more details, see the Enforcement Powers section at page 11.

SERVICE STANDARD

Where the terms of any formal Notice are not complied with, every effort will be made to resolve the case to the satisfaction of the Council. Options include:

- In the case of an Enforcement Notice, direct action by the Council;
- For either an Enforcement Notice or a Breach of Condition Notice, the matter being referred to the Procurator Fiscal for possible prosecution or alternatively offering the opportunity to pay a fixed penalty (issue of a Fixed Penalty Notice).

The Council has powers to enter land to:

- Establish if there has been a breach of planning regulations;
- Check if there has been compliance with a formal Notice; and
- Check if a breach has been satisfactorily resolved.

Powers of entry apply to any land and may also involve officials entering land adjacent to the site of the alleged breach.

Enforcement Action has to be taken within strict time limits:

A four year limit applies to “unauthorised operational development” (the carrying out of building, engineering, mining or other operations in, on, over or under land) and the change of use of a building to a dwellinghouse. After 4 years, such developments become lawful for planning purposes, and enforcement action cannot be taken.

A ten year limit applies to all other development including change of use (other than to a single dwellinghouse) and breaches of condition. After 10 years the development becomes lawful if no enforcement action has begun; and

There is no time limit for breaches of listed building control.

Breaches of listed building control can be a criminal offence. Persons responsible can be reported to the Procurator Fiscal without the prior issue of a Listed Building enforcement notice.

6. Making a suggestion or complaint

The Council makes every effort to deliver a satisfactory planning enforcement service. However, if you have any suggestions, concerns or difficulties, we want to hear from you.

The Council is committed to improving our Planning service. We will consider all complaints about the way an Enforcement Inquiry has been dealt with.

Dissatisfaction with the outcome of an investigation is not sufficient grounds for complaint.

In the first instance, complaints should be discussed with the member of staff involved. If you are still dissatisfied, please request a discussion with the Senior Planning Officer (see list of contacts). If they are unable to help, you will be given the name of a more Senior Manager who will investigate the matter.

Written complaints will be acknowledged within 10 working days and then fully and promptly investigated. The complainant will be given a written response explaining the outcome of the investigation and any action that the Council proposes to take. If no action is proposed, the reasons for this will be explained.

SERVICE STANDARD

Where contact details are provided, we will get in touch with you within 5 working days of receiving a complaint or suggestion to let you know what is happening. We will monitor all complaints and suggestions made and use them to review and improve the service we provide.

If you are not happy with the level of service provided (but not the decision reached on planning merits), you can make a complaint. You can submit the details via the Council's Complaints and Feedback section on the website:

<https://www.north-ayrshire.gov.uk/contact-us/complaints-and-feedback/complaints-and-feedback.aspx>

The various stages of the complaint procedure are set out on the complaints form and on the website.

Lastly, if you are dissatisfied with the Council's complaints process, you have the right to take your complaint to the Scottish Public Services Ombudsman, at:

FREEPOST SPSO, EDINBURGH

Telephone: **0800 377 7330**

Email: ask@spsso.org.uk

Generally, you must contact the Ombudsman within 12 months following the conclusion of the Council's complaints procedures.

7. Enforcement Powers

The planning enforcement powers available to the Council are set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006. Listed Building Enforcement Notices are covered by the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The Planning Acts can be viewed on line at www.legislation.gov.uk

Scottish Government policy on planning enforcement is set out in planning Circular 10/2009: *Planning Enforcement*. The Circular is published on the Scottish Government website - <http://www.gov.scot/Publications/2009/09/16092848/0>

Types of Notice

Breach of Condition Notice (BCN) – used to enforce the conditions applied to any planning permission. It comes into effect 28 days after being served. It may be used as an alternative to an Enforcement Notice (see below) and is served on any person carrying out the development and/or any person having control of the land. There is no right of appeal. Contravening a BCN can result in the Council deciding to prosecute. On conviction, a fine of up to £51,000 can be imposed.

Enforcement Notice (EN) – generally used to deal with unauthorised development. There are similar notices and powers to deal with listed buildings (see below), and advertisements. An EN will specify a time period to take effect (a minimum of 28 days – but see section below on advertisements); the steps that must be taken to remedy the breach and the time for this to be completed. There is a right of appeal to Scottish Ministers against an EN. In the event of an appeal, the terms of the EN are suspended until a decision is reached.

Failure to comply with an EN within the time specified is an offence. On conviction, this can result in a fine of up to £50,000. Failure to comply may also result in the Council taking direct action to remedy the breach (see other powers below). The Council will then seek to recover costs from the owner of the building or land.

Listed Building Enforcement Notice (LBEN) – in the event of unauthorised works to a listed building, including demolition, an LBEN can be served on the owner, occupier and anyone else with an interest in the property. The procedures are similar to those outlined above. The LBEN must specify the steps to be taken to remedy the breach and a date for compliance. Failure to meet the terms of an LBEN by the specified date is an offence. There is the right of appeal to Scottish Ministers against the LBEN.

Breaches of listed building control are considered a serious matter. The legislation makes it clear that it is a criminal offence to undertake works to demolish, significantly alter, or extend a listed building without the proper authorisation from the Council and, in some circumstances, Historic Scotland. On conviction, this can lead either to an unlimited fine or imprisonment.

Stop Notice – used in urgent or serious cases where unauthorised activity must be stopped, usually on grounds of public safety. When a Stop Notice is served, the

planning authority must also issue an Enforcement Notice. There is no right of appeal against a Stop Notice and failure to comply is an offence. An appeal can be made against the accompanying Enforcement Notice. If a Stop Notice is served without an adequate reason, or an appeal against the Enforcement Notice is successful, the Stop Notice may be quashed, and the Council may face claims for compensation.

The use of Stop Notices therefore needs to be carefully assessed by the Council.

Temporary Stop Notice (TSN) – used to require the *immediate* halt of an activity which breaches planning control. There is an exception that a Temporary Stop Notice cannot prohibit the use of building or a caravan as a dwellinghouse. Temporary Stop Notices are enforceable for 28 days, after which time they expire. They may, however, be followed by further enforcement action such as an Enforcement Notice and Stop Notice. There is no provision to appeal against a Temporary Stop Notice.

Fixed Penalty Notice (FPN) – used to address situations where a person has failed to comply with the requirements of an Enforcement Notice (EN) or a Breach of Condition Notice (BCN). By paying the penalty imposed by the Fixed Penalty Notice, the person will discharge any liability for prosecution for the offence. It will not, however, discharge the obligation to comply with the terms of the Enforcement Notice or Breach of Condition Notice and the planning authority will retain the power to take direct action to remedy the breach and recover the costs of such work from that person. The Council is not required to offer the option of paying a fixed penalty. Any decision to do so would depend on specific considerations, such as the scale of the breach and its impact on local amenity.

Notice Requiring Application for Planning Permission for Development

Already Carried Out – where the Council considers that a development which does not have planning permission may be acceptable they may issue a Notice requiring the land owner or development to submit a retrospective planning application. Such an application would be considered on its planning merits and handled in the same way as any other planning application. Issuing such a Notice does **not** guarantee that permission will be granted – the Council may decide instead to refuse permission, or to grant permission subject to conditions or amendments to make the development acceptable.

Other Powers

Planning Contravention Notice (PCN) - used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier, or a person with any other interest on the land or who is carrying out operations on the land. Such a notice may be a precursor to further investigation. Failure to comply with a PCN is an offence and, on conviction, can result in a fine.

Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 – S.179 allows planning authorities to serve a Notice on the owner, lessee or occupier of land which is adversely affecting the amenity of the area. This is also known as an “Amenity Notice” and sets out the action that needs to be taken to

improve the condition of the land or building within a specified period. There is a right of appeal against a Section 179 notice. Whilst non-compliance cannot result in prosecution, the Council may undertake the specified work at its expense and re-charge the owner, occupier or lessee, as appropriate, to recover the costs.

Notice under Section 272 of the Town and Country Planning (Scotland) Act 1997 – S.272 provides limited powers to obtain information on interests on land and the use of land. Failure to provide the information required is an offence.

Interdict and Interim Interdict – an interdict is imposed by the courts and is used to stop or prevent a breach of planning control. Court proceedings can prove costly and Councils normally only seek Interdicts in serious cases or where Enforcement Notices have been ignored in the past. However, a Council can seek an interdict in relation to any breach without having to use other powers first. Breaching an interdict is treated as a contempt of court and carries heavy penalties.

Direct Action – failure to comply with the terms of an Enforcement Notice within the time specified can result in the Council carrying out the specified work. The Council may recover any costs it incurs from the land owner.

Notification of Initiation of Development (NID); Notification of Completion of Development (NCD) and Display of Notices while Development is Carried Out – while not in themselves planning enforcement powers, these Notices are intended to improve delivery the monitoring of planning enforcement by requiring confirmation that development has commenced and been completed. For example, this enables planning conditions to be checked for compliance. Site Notices, which apply to major developments, may help to raise awareness of developments in a locality.

Starting a development without submitting an NID is a breach of planning control and the Council may consider enforcement action. The NCD requires a developer to submit a further Notice after development has been completed.

Site notices contain basic information about the site and the development. Notices also provide contact details where members of the public may find out more information or report alleged breaches of planning control. It is a breach of planning control to fail to display a site notice when required to do so.

Certificates of Lawful Use or Development (CLUD) – may determine whether any enforcement action could be taken by providing a mechanism for establishing the planning status of land i.e. whether an existing or proposed use or development is considered lawful for planning purposes. In addition, the procedure provides a mechanism for obtaining from the Council (or the Scottish Ministers on appeal) a statutory document certifying the lawfulness, for planning purposes, of existing operational development or use as a single dwellinghouse. Anyone can apply to the Council for a decision on whether a specified existing use, operational development, or failure to comply with a planning condition or limitation is lawful for planning purposes.

There are similar provisions for establishing whether a proposed use or operational development would be lawful for planning purposes. In both cases, the onus of proof lies with the applicant. Certificates can be revoked if it subsequently appears that false or misleading information has been submitted with an application.

It should be noted that a CLUD does not mean that planning permission has been granted, but that the use or development is lawful and immune from enforcement action.

8. Enforcement and advertising

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements (Scotland) Regulations 1984 (as amended). Many advertisements are displayed with what is called “deemed consent” which means they do not require advertisement consent from the Council if they meet the criteria and conditions set out in the Regulations.

One of these conditions is that the land owner has given permission for the advertisement to be displayed on their land.

Displaying an advertisement in contravention of the Regulations is an offence. On conviction, an offender can be fined. The Court can impose further fines for each day the breach of the Regulations continues.

The Council also has the power to serve an Enforcement Notice against unauthorised advertisements, requiring their removal. Such a notice specifies the time period (normally 28 days) for compliance. However, the compliance period can be reduced to seven days if the Council believes there is an urgent need for the advertisement to be removed or altered in the interests of public safety, or if the advertisement can be removed without any other work being required.

An Enforcement Notice can also require that a particular piece of land should not be used to display advertisements. A notice remains in force even once the original advertisement is removed. Any subsequent advertising on this site would amount to a breach of the Notice.

The Council can also take action against advertising being displayed with “deemed consent” where it is held that the advert is either a danger to public safety or substantially injures local amenity.

A Discontinuance Notice, requiring removal of an advert, can be served on the owner or occupier of the land as well as the person who displays the advertisement.

There is a right of appeal against both an Enforcement Notice and Discontinuance Notice.

The Council also has powers to remove or destroy placards and posters that do not benefit from either advertisement consent or deemed consent. If the person or company who put up the poster can be suitably identified, they can be given at least two days’ notice that the Council intends to take the poster down. If the person or company cannot readily be identified, then the advert can be removed immediately.

If necessary, Council planning officers can enter unoccupied land to remove an advertisement. However, planning officers have no powers to remove advertisement displays within a building to which there is no public access.

9. Enforcement contacts

There are various ways to contact Planning Services do this:

Using the North Ayrshire Council website:

https://www.online.north-ayrshire.gov.uk/OnlineServices/ReportOnline/RO_PlanningBreach.aspx

By telephone:

01294 324320 (24 hour voicemail facility available)
or 01294 310000

<https://www.north-ayrshire.gov.uk/planning-and-building-standards/do-i-need-planning-permission.aspx>

By email:

epanning@north-ayrshire.gov.uk

By post or in person:

Planning Services
North Ayrshire Council
Cunninghame House, Irvine KA12 8EE
Please make an appointment prior to attending Cunninghame House

If the initial complaint has not been resolved to your satisfaction, you may report the matter to the Senior Development Management Officers on either 01294 324318 (East Team) or 01294 324320 (West Team). Both numbers have voicemail should you be unable to speak directly to the person.

General enquiries on planning issues in North Ayrshire should be made either by phone to 01294 310000 or email to epanning@north-ayrshire.gov.uk

The postal address for making a complaint regarding the handling of a planning enforcement matter is:

Customer Complaint Team
Cunninghame House
Irvine
KA12 8EE

For enquiries about the Planning and Enforcement system in Scotland, please contact the Scottish Government Planning Helpline on 0300 244 4000 (Monday – Friday, 9.00 am to 5.00 pm) or write to The Scottish Government at Victoria Quay, Edinburgh EH6 6QQ. The Scottish Government website also has an extensive planning section at <http://www.gov.scot/Topics/Built-Environment/planning>

Free, impartial and professional planning advice can be obtained from Planning Aid Scotland on 0300 323 7602 and via <http://pas.org.uk>

Complaints regarding the **content** of advertisements should be made to the Advertising Standards Authority via its website <https://www.asa.org.uk/>

10. Summary of the Planning Enforcement Charter

This Charter does not comprise an authoritative interpretation of the Planning Acts in Scotland.

- It is important to remember that the primary purpose of planning enforcement is to remedy any breach which has occurred rather than to apply punitive measures to those responsible
- The Council is not required to take any particular action on a specific breach, and indeed can decide that no action is necessary
- A priority system is used for investigating complaints based on matters such as the significance of the alleged breach on amenity or other relevant planning considerations
- The Council routinely monitors high profile and other developments of public interest to ensure planning regulations and conditions are being adhered to
- There is a role for members of the public to alert the Council to any potential breaches of planning control they become aware of, whether large or small
- Some complaints, such as neighbour disputes over boundaries, relate to matters over which the Planning Service has no control and cannot therefore be pursued
- The planning system does not exist to protect the interests of private individuals against each other, but must work in the public interest
- The resolution of enforcement cases can be lengthy
- The Council can also grant planning permission retrospectively. Conditions may be attached to planning permission in order to remedy a breach

Planning legislation is complex, and if you are in receipt of any correspondence or formal notice from the Council relating to planning enforcement, you are advised to seek legal or independent professional planning advice.

Updated March 2021

NORTH AYRSHIRE COUNCIL**24th March 2021****Planning Committee**

Title: **Policy Guidance Note: Housing in the Countryside****Purpose:** To inform Members of the preparation of a Draft Policy Guidance Note on Housing in the Countryside and seek approval to consult on guidance.**Recommendation:** It is recommended that the Planning Committee:

1. Notes the detail of the proposed guidance relating to Housing in the Countryside, and
2. Approves the Draft Housing in the Countryside policy guidance note, provided in Appendix 1, for consultation

1. Executive Summary

- 1.1 The need for up-to-date planning guidance on matters relating to new housing in the countryside has been identified. It is intended that this Policy Guidance Note will be a public facing document made available through the Council's website.
- 1.2 The document provides guidance to developers and applicants on the relevant Local Development Plan policies and matters that should be considered when approaching an application for the development of one or more houses in the countryside. The guidance note may be referenced by Planning Officers when assessing the merit of an application for housing in the countryside and will be a material consideration in decision making.
- 1.3 Reference is made to new Permitted Development Rights for agricultural and forestry buildings which come into force on 1st April 2021. These rights permit buildings which were in agricultural or forestry use on 4th November 2019 to be converted into a dwelling house under permitted development rights, under specific circumstances.
- 1.4 Subject to Member approval, consultation on the Draft Policy Guidance Note will be undertaken to inform the final guidance.

2. Background

- 2.1 The need to produce guidance on Housing in the Countryside has been identified as part of a wider review of the Council's existing Planning Guidance following to ensure all policies and decision-making is in line with Local Development Plan (LDP) following adoption in November 2019.
- 2.2 Existing planning guidance 'Rural Design Guidance' and 'Design Guidance for Single Houses in Rural Areas', is not referred to within LDP and as such its weight and relevance as a material consideration has been reduced as we move forwards with utilising the Placemaking Policy within decision making.
- 2.3 The importance of applicants and developers engaging with planning officers in pre-application discussions is emphasised throughout the new guidance note. These discussions will aid in determining both the viability of the proposed housing development and the correct application route that should be taken. It is noted that Planning Applications in Principle (PPP) will not be supported as they do not provide the level of detail or information required to assess the appropriateness of the proposal.
- 2.4 The policy guidance note is in alignment with national and local planning context, namely; Scottish Planning Policy, Planning Advice Note (PAN72): Housing in the Countryside and Local Development Plan 2 (LDP 2).
- 2.5 Key LDP policies; Strategic Policy 1: Spatial Strategy – The Countryside Objective, Strategic Policy 2: Placemaking and Detailed Policies 15, 16, 17, 18, 22 and 19, are expanded on in detail within the guidance note to define how these policies should be applied to Housing in the Countryside applications.
- 2.6 Should applications accord with the policy context set out within the guidance note, core design principles are provided. These principles outline how proposed Housing in the Countryside developments should respond to their setting, siting and layout and the general approach to take when considering housing in the countryside developments. A checklist of criteria, which proposals are expected to meet is provided:
 - Thorough site analysis should be undertaken and evidenced.
 - The proposal should have a positive impact on the setting.
 - The character of the local area is not compromised.
 - The proposal does not negatively impact the existing landscape.
 - The proposed palette of materials and colours should relate to the character of the landscape.
- 2.7 Definitions for key terminology throughout the guidance note are provided alongside scenarios and clarifications depicted by diagrams. Elements that are defined include:
 - Gap Sites
 - Expansion of Groupings
 - Clusters and Settlements
 - Defensible Boundary
 - Houses of Exceptional Design Quality

- Proximity
- Visually Identifiable Group
- Common Feature

2.8 Links to all the policy documents referred to within the guidance note are provided as further reading for the applicant or developer.

2.9 It should be noted that subject to approval by Members, the formatting of the guidance note, and illustrations may change once an agreed graphic style for all updated Planning Guidance has been determined.

3. Proposals

3.1 It is recommended that the Committee notes the detail of the proposed guidance relating to Housing in the Countryside and approves the Housing in the Countryside policy guidance note, provided in Appendix 1, for consultation.

4. Implications / Socio-economic Duty

Financial

4.1 None

Human Resources

4.2 The consultation and the implementation of the Guidance will be addressed within existing staff resources.

Legal

4.3 The Policy Guidance Note will be material consideration in decisions on planning applications for Housing in the Countryside. The policy guidance note expands on existing policies outlined within Scottish Planning Policy, Planning Advice Note (PAN72): Housing in the Countryside and North Ayrshire's Local Development Plan 2.

Equality/Socio-economic

4.4 None

Environmental and Sustainability

4.5 The guidance note aligns with the Council's net zero carbon policy, encouraging applicants/developers to utilise innovative and sustainable technologies that deliver low carbon homes.

4.6 Preference will be placed on renovation of existing structures rather than replacement.

4.7 The guidance note acknowledges that due to the nature of Housing in the Countryside, there are more significant challenges linking in with sustainable transport as these locations typically have poorer public transport links. Notwithstanding this, utilising available funding to install Electric Vehicle charging points for electric or hybrid cars is encouraged.

Key Priorities

- 4.8 The guidance note aligns with many the Council's key priorities as set out in the Council Plan, including a sustainable environment; affordable, modern and well-designed homes; vibrant, welcoming and attractive places; and new homes constructed.

Community Wealth Building

- 4.9 New Housing in the Countryside can provide rural housing solutions and support rural communities, including through the creation of local employment opportunities in support of Community Wealth Building aspirations. The guidance will assist applicants, developers and the Local Authority in facilitating pre-application discussions on potential Housing in the Countryside.

5. Consultation

- 5.1 Subject to Member approval, the draft Policy Guidance Note will be made available on the Council's website and consultation undertaken with Elected Members and planning stakeholders, including Community Councils before finalising the guidance.

RUSSELL McCUTCHEON
Executive Director – Place

For further information please contact **Rowan Carmichael, Assistant Planning Officer** on rowancarmichael@north-ayrshire.gov.uk.

Background Papers

None

Appendix 1

Housing in the Countryside – Policy Guidance Note
North Ayrshire Council

Housing in the Countryside

Policy Guidance Note

1.0 Introduction

2.0 Application Advice

- 2.1 Pre-application Advice
- 2.2 Supporting Information

3.0 Policy Context

- 3.1 National Planning Context
- 3.2 Local Planning Context

4.0 Design Principles

- 4.1 Setting
- 4.2 Sitting and Layout
- 4.3 Key Design Principles

5.0 Definitions

- 5.1 Gap Sites
- 5.2 Expansion of Groupings
- 5.3 Clusters and Settlements
- 5.4 Defensible Boundary
- 5.5 Houses of Exceptional Design Quality
- 5.6 Close Proximity
- 5.7 Visually Identifiable Group
- 5.8 Common Feature

6.0 Further Reading

1.0 Introduction

- 1.1. This document provides guidance to developers and applicants on matters that should be considered when approaching an application for the development of one or more houses in the countryside.
- 1.2. North Ayrshire Council supports the sustainable development of rural housing, in accordance with the Local Development Plan, which empowers the local economy and communities while protecting our countryside. This guidance will inform decision making when assessing applications for dwelling houses in the countryside against the Local Development Plan (LDP2) and specifically the Countryside Objective.

2.0 Application Advice

2.1 Pre-application advice

- 2.1. It is recommended that in the first instance, developers/applicants engage in pre-application discussions to establish suitability prior to submitting an application. All applications must be supported by the criteria outlined within [Section 3](#) of this guidance document however **every application will be determined on its own merit.**
- 2.2. The difference between different application routes are listed below;
 - i. **Full Planning Permission:** a decision is granted based on the detailed proposal of how the site would be developed. Planning permission can be granted in full or subject to conditions set out by Planning Officers.
 - ii. **Planning Permission in Principle:** an alternative way of obtaining planning permission which separates the consideration of matters of principle for proposed development from the technical detail of the development.
 - iii. **Prior Notification:** Where a proposal falls under Permitted Development Rights. the applicant/developer must notify the Planning Authority before works can proceed. Approval for specified elements of the development may be required.

Please Note: Planning Permission in Principle (PPP) applications will not be supported. This is because PPP does not provide the level of detail or information required to assess the appropriateness of the proposal.

- 2.3. Should the developer/applicant believe their development falls under Permitted Development Rights, this should be clarified with Planning Officers prior to commencing works.
- 2.4. Agriculture or forestry buildings which have been in use since 4th November 2019 may be converted to a dwelling house under permitted development rights providing;
 - the building footprint does not extend beyond the existing external dimensions
 - the building is not listed
 - the residential floor space does not exceed 150 sqm
 - the number of separate residential units developed does not exceed 5 units

The developer must not commence with works until the relevant criteria of any permitted development, including the grant of any necessary prior approval has been met. Detailed information on Permitted Development Rights can be accessed in [Section 6.0](#) of this guidance note.

- 2.5. To establish whether either Prior Approval (for a development under Permitted Development) or Planning Permission in full is required, early discussions should be undertaken with North Ayrshire Council to determine the appropriate application route.

- 2.6. The relevant bodies within North Ayrshire Council to contact for application advice are listed below;

Development Planning | For policy advice

Planning Services | Economic Development & Regeneration | Place
North Ayrshire Council, Cunninghame House, Irvine, KA12 8EE

Email | ldp@north-ayrshire.gov.uk

Development Management | For pre-application enquiries

Planning Services | Economic Development & Regeneration | Place
North Ayrshire Council, Cunninghame House, Irvine, KA12 8EE

Email | eplanning@north-ayrshire.gov.uk

2.2 Supporting Information

- 2.7. Where applicable, applications should be accompanied by the relevant supporting information. Pre-application discussions with Planning Officers will establish the range of information required.
- 2.8. The below table sets out by development type what supporting information may be requested by North Ayrshire Council. The list is not exhaustive and supporting information will be determined on a case by case basis.

	Design Statement	Structural Condition Report	Ecological Survey	Site Condition and History Report
Retention, Renovation or Replacement of Existing house	✓	✓	✓	
Conversion of existing structure	✓	✓	✓	
Redevelopment of Brownfield Site	✓		✓	✓

3.0 Policy Context

- 3.1. Links to all policies referenced can be found in [Section 6.0](#) of this guidance note.

3.1 National planning context

- 3.2. National policy for rural development is set out in the [Scottish Planning Policy](#) with additional guidance provided in the [Planning Advice Note \(PAN72\): Housing in the Countryside](#).
- 3.3. Housing in the Countryside requires a multifaceted approach. The quality of the development will be influenced by numerous factors, namely; location, siting, design and infrastructure. To achieve quality rural development, dwellings should be design-led and respond sensitively to both landscape considerations and the wider context that the house sits within to avoid looking like it has been 'placed down' on a plot rather than carefully incorporated into its setting. The appearance of the dwelling should be at an appropriate scale for its location and details should be well proportioned with careful consideration given to materials. In addition to this, services required for the dwelling should not impact on resources for the area and renewable technologies should be used where possible.

3.1.1 Scottish Planning Policy

- 3.4. The Scottish Government have a clear stance on the need to deliver quality housing within the countryside with importance placed on setting and sustainable development. Rural development should promote a pattern of development that is appropriate to the character of the area, ensure rural communities are sustained and growth is supported while protecting the existing natural environmental quality.
- 3.5. Accommodation which supports rural businesses and/or repopulates and sustains rural areas to stimulate rural economic growth and sustainability will be encouraged. Support will be provided to developments that proactively rebuild the resilience of rural communities and economies by enabling well designed, sustainable development.
- 3.5. Proposed developments that enable the development of essential infrastructure for rural areas including affordable housing will be supported.

3.1.2 PAN72 Housing in the Countryside 2005

- 3.6. The advice note cites six key design principles; incorporation within the landscape, well considered site layout, appropriate site access, the scale of the proposed building, materials used and detailing. These key considerations should be carefully thought through when approaching housing in the countryside.
- 3.7. Planning Officers will assess applications against the principles outlined within PAN72. Developers / applicants are encouraged to review this guidance prior to contacting North Ayrshire Council for pre-application advice.

3.2 Local planning context

3.2.1 Key LDP Policies

3.8. **Strategic Policy 1: Spatial Strategy - The Countryside Objective**

The Spatial Strategy is based on the principle that we want to direct the right development to the right place. To ensure rural communities can grow and thrive, the Countryside Objective sets out principles for development which promote a sustainable pattern of development that empowers the rural economy and communities to develop while protecting our countryside areas as a valuable asset. In principle, the LDP supports proposals (including new dwelling houses) outwith identified towns and villages for:

3.9. **b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.**

- i. The applicant should provide a robust business case or justification that highlights the need for the housing and the benefit it will serve.
- ii. The dwelling must be solely occupied by workers.
- iii. The ancillary development should support the rural economy and support local employment.
- iv. The proposed development should not cause loss of prime agricultural or forestry land nor should the development impact on any land or features of environmental or ecological interest.

3.10. **f) Sensitive infilling of gap sites consolidating existing developments where it would define/ provide a defensible boundary for further expansion.**

- i. **'Gap site'** - a site within an established developed area, for example where a house/building once stood or where two houses or other permanent buildings of equivalent residential size, occupying separate and discrete plots, front a road or access lane. A gap site is not a site between a property and a settlement boundary. This is to protect the settlement boundary.
- ii. **'Defensible Boundary'** - existing, well-established topographical, natural, or landscape features which provide a 'stop' and well-defined boundary help stop further expansion into sensitive areas or the wider countryside. A development which infills a gap and strengthens a defensible boundary may be acceptable subject to compliance with the Placemaking Policy; proposals that would protrude out with a natural building grouping or landscape feature should be discouraged to avoid encroachment into the countryside.

3.11. **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 in that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.**

- i. Affordable housing aimed at locals (developed, for example by the Council, a Registered Social Landlord or community body) or led by local businesses for employee accommodation.
- ii. Local housing supply will be assessed against the Housing Land Audit to ensure the proposal addresses a deficiency of housing within the proposed area.

- 3.12. h) New housing in the countryside where it is a replacement or converted building; or it is a house of exceptional design quality.**
- i. In relation to **'replacement or converted building'** the main consideration is the impact of the proposed building both relative to the one being replaced / converted and as a building within the setting in its own right i.e. is it suitable for the location and local context and character. This is where assessment against the Placemaking Policy would be used at this point to help determine this.
 - ii. The visual impact of the proposal must not be any more detrimental than what is currently on the site. When assessing proposed replacement building(s), scale and massing are key considerations. Building footprint and ridge height should not be dissimilar to existing conditions.
 - iii. Preference will be placed on renovation of existing structures rather than replacement.
 - iv. In relation to **'a house of exceptional design quality'** the development will be expected to demonstrate all six qualities of a successful place as set out within the placemaking policy. See [Section 5.5](#) for further detail.
- 3.13. Sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversion) 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 in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).**
- i. **'well-defined nucleated groups'** – when exploring the expansion of groupings, the infill of gap-sites to consolidate groupings should always be considered in the first instance. Where this is not possible the council may consider the expansion of a grouping of four or more houses at the end of a cluster. Additions are limited to 50% of dwellings in that group.
 - ii. **'close proximity'** – close to established rural settlement or group. Compact form as opposed to dispersed development.
 - iii. **'visually identifiable group'**- proposed and existing buildings relate to one another visually not just in terms of proximity. For example, buildings that sit well together and relate to one another in terms of proportions, massing, orientation, architectural style, relationship to the road, materials or boundary treatments, settlement pattern and not separated by a clear defensible boundary
 - iv. **'common feature'** – shared access, boundary, landscape features, courtyard

3.14. **Strategic Policy 2: Placemaking**

Where new housing could be supported in principle by criteria b) and f) to i) of the **Countryside Objective** the **Placemaking Policy** should be applied to assess whether the detailed design of the development is acceptable i.e. the right development in the right place.

To safeguard and enhance the environmental quality, proposals should achieve the six qualities of a successful place; Distinctive, Welcoming, Safe and Pleasant, Resource Efficient, Adaptable, Easy to Move Around and Beyond.

Quality	Clarification	Example
Distinctive	<ul style="list-style-type: none"> Proposals must consider what is locally 'distinctive' ie. the scale and building typologies in the surrounding area; The proposed plot sizes must relate proportionally to neighbouring plots. 	Coldrach Farmhouse - Moxon Architects
Welcoming	<ul style="list-style-type: none"> Proposals must enhance their environments and not detract from the landscape or local landmarks in any way. 	Fir Chlis, Harris - Icosis
Safe and Pleasant	<ul style="list-style-type: none"> Proposals must create a positive sense of place that clearly distinguishes between public and private space. Where applicable, proposals must consider passive surveillance. 	Strone of Glenbanchor – Loader Monteith
Resource Efficient	<ul style="list-style-type: none"> Proposals must not detrimentally impact on existing infrastructure. Providing resource solutions that have the potential to benefit the wider community and utilise renewable energy will be favoured. Proposals should align with the Council's net zero carbon policy, utilising innovative and sustainable technologies to deliver low carbon homes. 	Old Orchard Development, Kirkton of Craig – Garry Adam Architects
Adaptable	<ul style="list-style-type: none"> Proposals must be adaptable for alternative future use. The site must be capable of adapting changes of use, density, and typologies. 	House in Colbost, Skye - Dualchas
Easy to Move Around and Beyond	<ul style="list-style-type: none"> Proposals should ensure that site layouts consider key desire lines, routes through. Due to the nature of Housing in the Countryside there are more significant challenges lining in with sustainable transport as these locations typically have poorer public transport links. Notwithstanding this, utilising available funding to install Electric Vehicle charging points for electric or hybrid cars is encouraged. Larger developments should improve active travel links to local amenities. Developments shouldn't impact on existing walking routes and where possible should seek to enhance core paths and rights of way. 	Nedd, Loch Nedd– Mary Arnold-Foster Architects

3.15. Other relevant LDP policies

Should proposals be supported by Strategic Policy 1 and Strategic Policy 2, proposals will need to accord with detailed policies within the Local Development Plan, namely but not limited to;

- Policy 15 – Landscape and Seascape
- Policy 16 – Protection of our Designated Sites
- Policy 17 – Clyde Muirshiel Regional Park
- Policy 18 – Forestry, Woodland, Trees and Hegerows
- Policy 22 – Water Environment Quality
- Policy 29 – Energy Infrastructure Development

3.2.2 Rural Design Guidance & Design Guidance for Single Houses in Rural Areas

- 3.16. This guidance is not referred to within LDP2. As such the weight of this guidance, as a material consideration, has reduced from LDP 1 as we move towards utilising the Placemaking Policy within decision making.
- 3.17. Notwithstanding the above, much of the content within each document is still relevant and can be used for guidance to aid officers assessing developments against the Placemaking Policy and as a reference document when liaising with developers/applicants during design and pre-app discussions.
- 3.18. In particular, the Rural Design Guidance addresses the Distinctive and Welcoming criteria in terms of siting, infill, materials and issues around character and what is locally 'distinctive'. Design Guidance for Single Houses in Rural Areas cites examples of Houses of Exceptional Design Quality and outlines the key steps that should be followed to achieve a house of this standard.

4.0 Design Principles

4.1 Setting

- 4.1. The proposed location of the dwelling must be carefully considered and positioned strategically within the wider landscape. Initial things to consider are;
- How will the site be accessed? Will this have a negative impact on the setting?
 - Is the site in a sensitive area of the countryside?
 - How close is the proposed site to an existing building or group of buildings?
 - Would the proposed location have a negative impact on existing rural community infrastructure?

4.2 Sitting and Layout

- 4.2. The positioning of the new dwelling within the boundary of the proposed site is crucial. Proposals should;
- Be optimally located on site following careful site analysis assessing the best position for maximising shelter and solar gain
 - Responding to topography
 - Safeguard our landscapes
 - New developments should respect existing settlement patterns
 - The size and layout of the building should reflect surrounding typologies
 - Maximise the use of land on site and/or allowing for future development.

4.3 Key Design Principles

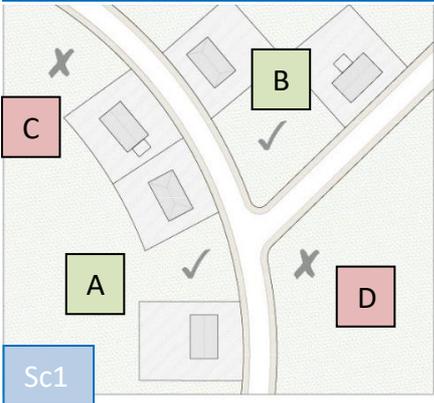
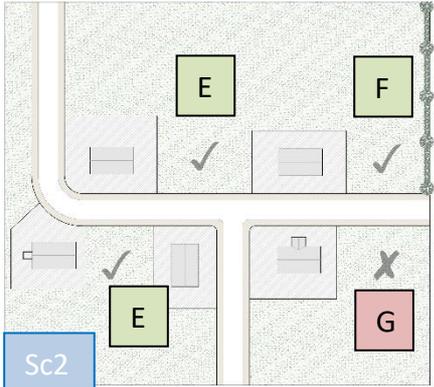
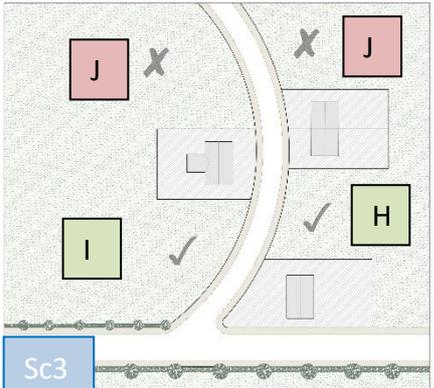
- 4.3. Consideration should be given to the natural constraints of the site, including topography, shelter, and solar gain, as well as the proximity to local services and employment opportunities. Houses in the countryside are **expected** to meet the following criteria:

Design Principles Checklist	Achieved (✓)
Thorough site analysis should be undertaken and evidenced. The proposal must sensitively address and respond to key constraints eg. topography, natural and built heritage, trees and woodland. Developers / applicants should evidence this analysis within their Design Statement.	
The proposal should have a positive impact on the setting. Developers / applicants should evidence the impact the proposed dwelling will have on the surroundings.	
The character of the local area is not compromised. Developers / applicants should evidence how the size and shape of the proposed dwelling relates to surrounding traditional buildings.	
The proposal does not negatively impact the existing landscape. Developers / applicants should evidence how the design responds to the site's landform, climatic conditions, and existing access routes / infrastructure.	
The proposed palette of materials and colours should relate to the character of the landscape. Developers / applicants should evidence that quality, durable materials have been selected. Samples of proposed materials may be requested by Planning Officers.	

5.0 Definitions

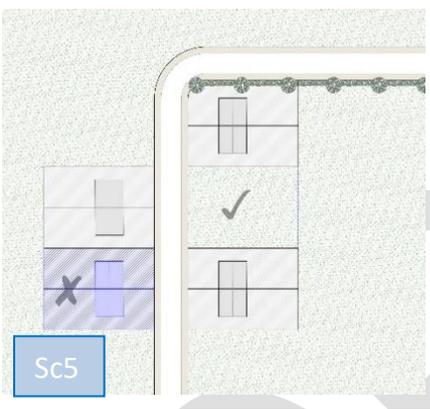
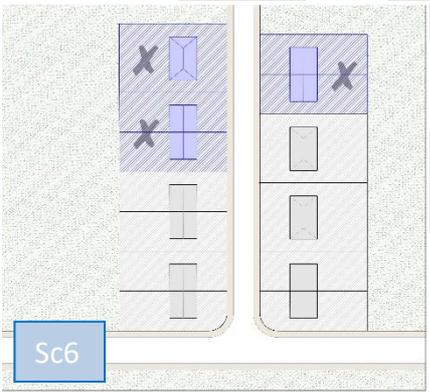
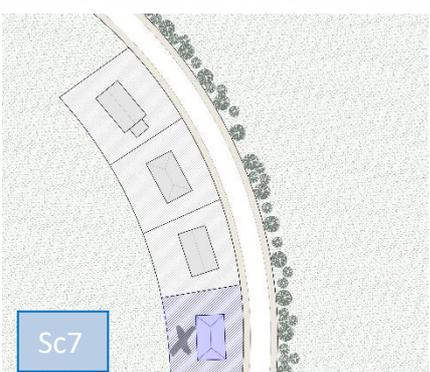
5.1 Gap sites

‘Gap site’ - a site within an established developed area, for example where a house/building once stood or where two houses or other permanent buildings of equivalent residential size, occupying separate and discrete plots, front a road or access lane.

Scenario	Clarification
 <p>Sc1</p>	<p>Sc1. Presumption in Favour</p> <p>A. Gap site between two existing dwelling houses. Development on this site would infill an existing gap and consolidate an existing small cluster.</p> <p>B. Corner plot bound by two existing dwellings.</p> <p>Sc1. Presumption Against</p> <p>C. Plot ignores the development opportunity presented by gap site A. Preference should always be to develop within a gap site situated between existing dwellings.</p> <p>D. Undeveloped greenfield site is not considered to be a gap site.</p>
 <p>Sc2</p>	<p>Sc2. Presumption in Favour</p> <p>E. Development on both plots utilises a gap site located between two existing dwelling houses.</p> <p>F. The plot is bound by a defensible boundary preventing a sprawl of dwelling houses from occurring.</p> <p>Sc2. Presumption Against</p> <p>G. Plot is not bound by a defensible boundary or existing dwelling houses. Developing on this land sets precedent for sprawl to occur rather than filling in existing gaps.</p>
 <p>Sc3</p>	<p>Sc3. Presumption in Favour</p> <p>H. Development on both plots utilises a gap site located between two existing dwelling houses.</p> <p>I. The plot is bound by a defensible boundary preventing a sprawl of dwelling houses from occurring.</p> <p>Sc3. Presumption Against</p> <p>J. Plots ignore the opportunities to develop presented by sites H and I. The sites are not bound by a defensible boundary or existing dwelling house preventing a sprawl of new dwellings from occurring.</p>

5.2 Expansion of Groupings

When exploring the ‘**expansion of groupings**’, the infill of gap-sites to consolidate groupings should always be considered in the first instance. Where this is not possible the council may consider the expansion of a grouping of four or more houses at the end of a cluster. Additions are limited to 50% of dwellings in that group.

Scenario	Clarification
 <p>Sc4</p>	<p>Sc4. Presumption in Favour</p> <p>Infill is not possible and existing grouping is of four or more houses. Proposal to expand grouping by two dwellings, increasing the grouping by 50% complies with policy.</p>
 <p>Sc5</p>	<p>Sc5. Presumption Against</p> <p>Proposed expansion of grouping does not utilise an available gap site in the first instance. Only once all available gap sites are utilised can an expansion of grouping be considered.</p>
 <p>Sc6</p>	<p>Sc6. Presumption Against</p> <p>Proposed expansion is increasing grouping by over 50% and would therefore not be deemed acceptable.</p>
 <p>Sc7</p>	<p>Sc7. Presumption Against</p> <p>As there are less than four dwellings in the existing grouping, expansion would not be acceptable. Should there be available gap sites, these could be explored as viable alternatives.</p>

5.3 Clusters and Settlements

Scenario	Clarification
	<p>Sc8. Settlements Settlements are defined within the Local Development Plan.</p> <p>More detailed mapping showing settlement boundaries is provided within our online proposals map. A link to this can be found at www.north-ayrshire.gov.uk/ldp.</p>
<p>Sc9</p>	<p>Sc9. Well-defined Nucleated Groups Groups of four or more houses with shared and defining infrastructure are classed as well-defined nucleated groups. When considering an expansion of grouping, it should be a well-defined nucleated group.</p>
<p>Sc10</p>	<p>Sc10. Rural Clusters Random rural clusters can be found scattered across the rural landscape. Typically, these clusters are agricultural holdings.</p>
<p>Sc11</p>	<p>Sc11. Rural Villages Rural villages are more established than random clusters but are not defined as settlements within the LDP. They exist as well-defined nucleated groups.</p>
<p>Sc12</p>	<p>Sc12. Small Holding Cluster A dispersed group of rural clusters across a landscape does not constitute being classed as a rural grouping. This is due to two contributing factors;</p> <ol style="list-style-type: none"> 1. There is no shared and defining infrastructure as would be found in a rural village or settlement 2. The group of clusters is not defined as a settlement within the LDP <p>These groups of rural clusters would be defined as small holding clusters not well-defined nucleated groups.</p>

5.4 Defensible Boundary

‘Defensible Boundary’ - existing, well-established topographical, natural, or landscape features which provide a ‘stop’ and well-defined boundary help stop further expansion into sensitive areas or the wider countryside. A development which infills a gap and strengthens a defensible boundary may be acceptable subject to compliance with the Placemaking Policy; proposals that would protrude out with a natural building grouping or landscape feature should be discouraged to avoid encroachment into the countryside.

Scenario	Clarification
Sc13	<p>Sc13. Natural and Landscape Boundaries</p> <p>The diagram highlights three situations which are classed as defensible boundaries; two natural and one landscape form. The small forest to the rear of the plot and the hedge acting as the boundary between the plot of land and the pavement are both natural defensible boundaries. The agricultural wall dividing the plot is a landscape defensible boundary.</p>
Sc14	<p>Sc14. Topographical Boundaries</p> <p>The hill illustrated in the diagram acts as a topographical defensible boundary between two housing plots.</p>
Sc15	<p>Sc15. Strengthening Boundaries : Favourable</p> <p>Developments that infill a gap and strengthen an existing defensible boundary may be deemed acceptable.</p>
Sc15	<p>Sc15. Strengthening Boundaries : Unfavourable</p> <p>Proposed boundaries that protrude out with a natural grouping or landscape feature will be discouraged to avoid encroachment into the countryside.</p>
Sc16	<p>Sc16. New boundaries</p> <p>Proposed boundary treatments should integrate the dwelling into the landscape. Designs should take cognisance of defensible boundaries in the surrounding area to determine the most appropriate approach for the site.</p>

5.5 House of Exceptional Design Quality

In relation to **‘a house of exceptional design quality’** the development will be expected to demonstrate all six qualities of a successful place as set out within the placemaking policy. In addition to achieving SP2 Placemaking Policy outlined in [Section 3.2.1](#), Houses of Exceptional Design Quality should display the following criteria;

Scenario	Clarification
Sc17	Sc17. Presumption in Favour <ul style="list-style-type: none"> ○ A design led approach that achieves bespoke, one-off homes which embrace contemporary architecture whilst being identifiable within an Ayrshire and Scottish context, potentially referencing the history and cultural setting of the site or its locality in the design. ○ High quality materials utilised throughout the proposal. ○ Site specific access, where possible formed from existing entrance points. ○ Sensitive boundary treatment which blends with existing landscape features. ○ Keep widow and door openings consistent.
	Sc17. Presumption Against <ul style="list-style-type: none"> ○ Avoid contemporary design that ‘could be anywhere’ – the intention of the policy is to produce exceptional design quality that is appropriate for a North Ayrshire context, whether coastal, rural or island. ○ Avoid over complicated facades, avoid excess decoration.

5.6 Close Proximity

‘close proximity’ – close to established rural settlement or group. Compact form as opposed to dispersed development.

Scenario	Clarification
Sc18	Sc18. Presumption in Favour Proposed development is compact in form and follows existing rural development patterns close to an established settlement or group.
Sc19	Sc19. Presumption Against Proposed development is dispersed and appears as a separate rural cluster – not an extension of the existing well-defined nucleated group.

5.7 Visually Identifiable Group

‘visually identifiable group’ - proposed and existing buildings relate to one another visually not just in terms of proximity. For example, buildings that sit well together and relate to one another in terms of proportions, massing, orientation, architectural style, relationship to the road, materials or boundary treatments, settlement pattern and not separated by a clear defensible boundary

Scenario	Clarification
Sc20	<p>Sc20. Presumption in Favour Proposed dwelling and existing buildings sit well together and relate to one another in terms of proportions, massing, orientation, architectural style, relationship to the road, materials or boundary treatments, settlement pattern.</p>
Sc21	<p>Sc21. Presumption Against Proposed dwelling and existing buildings are separated by a clear defensible boundary and do not relate to one another. The proposal is unsympathetic to the existing buildings.</p>

5.8 Common Feature

‘common feature’ – shared access, boundary, landscape features, courtyard

Scenario	Clarification
Sc22	<p>Sc22. Presumption in Favour Proposed development integrates features such as shared access, boundary, landscape features and a courtyard to coherently integrate the existing grouping and the proposal.</p>
Sc23	<p>Sc23. Presumption Against Proposed development does not share common features with existing grouping.</p>

6.0 Further Reading

Links to all the policy documents referred to within this guidance note are listed below;

- [Permitted Development](#) – Amendment Order 2020
- [Scottish Planning Policy](#)
- [PAN 72](#) – Housing in the Countryside
- North Ayrshire Council [LDP2](#)
- [Rural Design Guidance](#)
- [Design Guidance for Single Houses in Rural Areas](#)

Ends.

DRAFT