

REGULATORY PANEL.

Minutes of meeting held remotely
on 3 February 2022 at 10.00 a.m.

Present

Remotely: Councillors Brian Connolly (Chair), Ian Cavana, Alec Clark, Ian Fitzsimmons, Mary Kilpatrick, Brian McGinley, Craig Mackay and Margaret Toner.

Apology: Councillor Iain Campbell.

Attending

Remotely: K. Briggs, Service Lead – Legal and Licensing; C. Iles, Service Lead – Planning and Building Standards; A. Edgar, Supervisory Planner; R. Lee, Supervisory Planner; K. Braidwood, Ayrshire Roads Alliance; A. Gibson, Committee Services Officer; and E. Moore, Clerical Assistant.

Also

Attending

Remotely: Agent to address the Panel.

1. Declarations of Interest.

There were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

2. Minutes of previous meetings.

The minutes of 3 December (Site Visit) and 8 December 2021 (issued) were submitted and approved.

3. Traffic Regulation Order.

There was submitted a report (issued) of 13 December 2021 by the Director – Place seeking approval to make the following Order under the under the Road Traffic Regulation Act 1984, namely:-

- (1) "South Ayrshire Council (Various Roads, Monkton) (20mph and 30mph Speed Limit) (Amendments and Revocations) Order 2021".

Following discussion, the Panel

Decided: to approve the making of the above Order.

4. **Consultation under Section 36 of the Electricity Act 1989 - Application under S36 of the Electricity Act 1989 (as amended) for the construction and operation of Craigmoddie Windfarm comprising 14 wind turbines (generating capacity >50 mw) and proposed energy storage facility and associated infrastructure (Ref 21/00069/DEEM).**

There was submitted a report (issued) of January 2022 by the Director – Place advising

- (1) that this Council had been consulted by the Scottish Government, under section 36 of the Electricity Act 1989, on an application by “EnergieKontor” for the erection of a windfarm and associated ancillary development at Craigmoddie 4km South West of Barr, South Ayrshire;
- (2) that the Council was not the determining authority for this proposal;
- (3) of the proposed response to the Scottish Government’s consultation which was issued on 21 January 2021;
- (4) that the Planning Service currently had delegated authority to respond to these consultations, but typically chooses not to do so without first referring the matter to this Panel due to the large scale of the proposals and the community interest; and
- (5) that the applicant had agreed to a time extension to 5 February 2022 for the Council to make its response and that it was imperative that the Council responded within the agreed time period or its statutory rights would be affected.

Decided:

- (a) to submit this report to the Scottish Government as an objection to the proposed wind farm; and
- (b) to approve delegated authority to the Director of Place to conclude planning conditions with the Energy Consents Unit should the Scottish Government be minded to grant consent.

5. **Planning Application Report – 45 Taybank Drive, Ayr - Erection of Garage (Ref 21/00224/APP).**

With reference to previous approval of a planning application for 45 Taybank Drive, Ayr, there was submitted a further report (issued) of January 2022 by the Director – Place.

Decided: to agree

- (1) the proposed finishing materials and that condition 3 of planning permission 21/00224/APP was discharged; and
- (2) that thereafter, the development would be completed in accordance with the details agreed under the terms of this condition.

6. Application for Planning Permission.

There were submitted reports (issued) of January 2022 by the Director - Place on a planning application for determination.

The Panel decided as follows:-

- (1) **21/01114/PPP – AYR – 5 Green Street** – Planning Permission in Principle for the erection of a Residential Development.

Decided: to grant delegated powers to approve this application for planning permission in principle subject to the following conditions:-

- (1) that no development shall commence until such time as approval of the detailed design of the residential development (hereinafter called “Approval of Matters Specified in Conditions”) has been granted by the Planning Authority. Any application for approval of matters specified in conditions shall be submitted before the expiration of three years from the date of this planning permission in principle and shall include:-
- a) The overall site layout/internal layout of the development;
 - b) The orientation, size, height, design and external appearance and finishing materials of residential buildings;
 - c) The means of drainage and sewage;
 - d) Details of the full vehicular and pedestrian access arrangements;
 - e) Provisions for car parking;
 - f) Boundary walls/fences to be erected and/or retained;
 - g) Existing and proposed site levels and floor levels;
 - h) Hard and soft landscaping arrangements; and
 - i) Public and private open space;
- (2) that this permission in principle, subject to the specified planning conditions, relates to the plans listed below unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority. For the avoidance of any doubt, the requirements of the conditions of this permission will necessitate an amendment to some of the plans listed below including the ‘Site Plan as Proposed’ (Drawing No. AL (00)03)), Proposed Sketch Perspectives (Drawing No. AL-XX-01) and the associated Design Statement (Denham Benn, November 2021);

- (3) that the indicative design and layout of the residential flatted blocks shown on drawings; 'Site Plan as Proposed' (Drawing No. AL (00)03)), Proposed Sketch Perspectives (Drawing No. AL-XX-01) and the associated Design Statement (Denham Benn, November 2021) are hereby not approved. The Approval of Matters Specified in Conditions application required by Condition 1 shall include a revised building design, massing, appearance and layout which seeks to deliver a high quality, placemaking approach that effectively responds to the urban, close to town centre and harbour/marina fronting location of the application site. In addition to this, the revised design shall also be fully compatible with neighbouring and surrounding properties and details shall be included to demonstrate that the proposed residential buildings will not unduly impact existing neighbouring and surrounding properties by way of overshadowing or overlooking. The revised design of the development will demonstrate compliance with the requirements of the Local Development Plans and government policy including 'Creating Places' and 'Designing Streets' together with the Council's Guidance on 'Open Space and Designing New Residential Development' and 'New Housing Developments and Affordable Housing';
- (4) that all residential units proposed on site and subject to Approval of Matters Specified in Conditions applications shall constitute affordable housing provision in line with the approved 'Addendum Planning Statement' (McInally Associates, December 2021). The affordable housing shall meet the definition of 'affordable housing' (namely housing of a reasonable quality that is affordable to people on modest incomes) in the Scottish Government's 2014 'Scottish Planning Policy' or any future government policy that replaces it;
- (5) that further to Condition 1 part c) above, the Approval of Matters Specified in Conditions application shall include full details of a suitable Sustainable Urban Drainage System designed and constructed in accordance with SUDS Manual CIRIA C735 and other relevant guidance to serve the development. The Sustainable Urban Drainage System should be designed to ensure that infrastructure and buildings are generally free from surface water flooding in rainfall events and full details of the methods to be employed, following discussions with SEPA, and including where appropriate calculations, along with details of how these measures will be maintained in perpetuity, if the chosen Sustainable Urban Drainage System solution requires discharge to an open water course then this discharge rate shall be agreed with the Flood Risk Management Authority;
- (6) that further to Condition 1 part e) above, the Approval of Matters Specified in Conditions application shall provide off road parking spaces provided within the existing site boundary in accordance with the Council's Roads Development Guide. In each case, parking bays shall be a minimum 5.5 metres x 2.9 metres with minimum aisle widths of 6m and provision should also be made for both disabled parking bays and electric car charging points parking bays within the proposed parking layout;

- (7) that further to Condition 1 part i) above, the Approval of Matters Specified in Conditions application shall include detailed supporting information illustrating compliance with the Council's planning guidance in relation to 'Open Space and Designing New Residential Developments' and/or any subsequent document prepared by the Council in relation to the provision of open space for residential areas. As part of this, such details shall include annotated plans showing the exact locations and volumes of open space including their appearance, make-up and associated features (including street furniture) alongside a supporting documentation/statement which provides understanding of the nature, function and role of the areas of open space(s) proposed;
- (8) that further to Condition 1 part h), the Approval of Matters Specified in Conditions application shall include a detailed landscape scheme comprising of a full planting schedule and ongoing maintenance arrangements for the development;
- (9) that the presence of any previously unsuspected or un-counteracted contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority within one week, and work on site shall cease. At this stage, if requested by the Planning Authority, a comprehensive contaminated land investigation shall be carried out and shall be submitted to for the formal prior written approval of the Council as Planning Authority. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution 'The investigation of potentially contaminated sites-Code of Practice' BS 10175: 2001, or as may be amended). The report shall include a site-specific risk assessment of all relevant pollutant linkages, as required in Scottish Government Planning Advice Note 33 (or as may be amended). Any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, shall be the subject of a detailed remediation strategy which shall be submitted for the formal prior written approval of the Council as planning authority. Remediation of the site shall be carried out in accordance with the approved remediation plan prior to the occupation of any residential property as part of the development. Any amendments to the approved remediation plan shall not be implemented unless approved in writing by the Planning Authority;

- (10) the Approval of matters specified in conditions application shall include, a Noise Impact Assessment prepared by a suitably qualified person. The Noise Impact Assessment shall be carried out in accordance with the principles outlined in Technical Advice Note (TAN) Assessment of Noise and shall identify all noise sensitive receptors located within the application site in the high and medium category (Table 2.1 TAN) and the level of significance determined. The maximum target noise levels within the noise sensitive receptor to be used in the assessment shall be:
- | | | | |
|------------|------|-------------|---------------------------|
| LAEQ 16hrs | 35dB | (0700-2300) | internal noise level; |
| LAEQ 8hrs | 30dB | (2300-0700) | internal noise level; |
| LAMAX | 45dB | (2300-0700) | internal noise level; and |
| LAEQ 16hrs | 50dB | (0700-2300) | outside amenity space. |
- Where a potential for noise disturbance is identified in relation to the receptors above, proposals for the attenuation of that noise shall be included as part of assessment to ensure internal and external noise levels can be achieved. Any such approved noise attenuation scheme shall be implemented prior to the occupation of any of the residential properties within the site and shall thereafter be retained in accordance with the approved scheme unless otherwise agreed in writing by the Planning Authority;
- (11) further to Condition 10 above, prior to the occupation of any of the residential flatted buildings or properties identified as noise sensitive receptors in the Noise Impact Assessment approved, a Verification Report, prepared by a suitably qualified professional shall be submitted to and approved in writing by the Planning Authority. This verification report shall demonstrating compliance and validation of the maximum noise projections and effectiveness of the noise attenuation measures detailed within the approved 'Noise Impact Assessment' Report (approved through Condition 11). These levels and measures as agreed and validated within the approved Verification Report shall be maintained for the lifetime of the development thereafter unless otherwise agreed in writing by the Planning Authority;
- (12) the final design of the layout of the residential development and finished site and floor levels approved as part of subsequent Approval of Matters Specified in Conditions applications shall be undertaken in accordance with the approved Flood Risk Assessment (Environcentre, January 2021) including the mitigation measures contained within;
- (13) prior to the commencement of development on site, details of an effective vehicle wheel washing facility shall be submitted to and approved by the Planning Authority. Thereafter, the approved wheel washing facility shall be installed prior to any construction work associated with the development commencing. It shall remain in place for the duration of the construction activity until the development is complete unless otherwise agreed in writing by the Planning Authority;

- (14) during the period of construction, all works and ancillary operations which are audible at the site boundary (or at such other place(s) as may first be agreed in writing with the Planning Authority), shall be carried out between the following hours unless otherwise approved in writing by the Planning Authority:
- Mondays to Fridays: 0700-1800;
 - Saturdays: 0700-1200; and
 - Sundays and public holidays: No working;
- (15) unless otherwise agreed in writing, no development shall commencement on site until a Travel Plan is submitted and approved in writing by the Planning Authority (in consultation with the Roads Authority). The Travel Plan shall include information and details on the following:
- Identify, walking, cycling and public transport facilities, services and opportunities within the vicinity of the development site, including journey times by sustainable modes of transport to key local destinations;
 - Identify measures to promote sustainable travel to and from the site and measures and actions to reduce private car dependence;
 - An information pack which will be provided to future occupants of the development to ensure that they are aware of the public transport and active travel options available within the area; and
 - A system of management, monitoring, review, reporting the effectiveness of the Travel Plan and the measures proposed;
- Thereafter, the approved Travel Plan including any measures identified shall be implemented in a timescale to be agreed in writing by the Planning Authority and shall thereafter remain in place for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
- (16) prior to the commencement of development on site, details and specifications as to how the discharge of water onto the public road carriageway shall be prevented by drainage or other means shall be submitted to and approved in writing by the Planning Authority (in consultation with the Roads Authority). Thereafter, the approved drainage or other measures and features shall be installed prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority;
- (17) prior to the commencement of development on site, details and specifications of the surfacing works to the private access to the site shall be submitted to and approved in writing by the Planning Authority. Such details shall ensure that the private access is surfaced for a minimum of 10 metres as measured from the rear of the public footway. The approved surfacing details and arrangements shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority;

- (18) prior to the commencement of development on site, details and specifications showing the design and specification of a turning area capable of allowing service vehicles to turn within the site boundaries whilst accessing the proposed bin storage area shall be submitted to and approved in writing by the Planning Authority. The turning area proposed shall be in accordance with the Council's Roads Development Guide. The approved turning area and arrangements shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
- (19) prior to the commencement of development on site, details and arrangements for the location of bin collection points and the design of bin store and refuse facilities shall be submitted to and approved in writing by the Planning Authority. As part of this, such details shall show bin collection points to be located a maximum of 15 metres from the public carriageway. The approved bin collection points and bin store/refuse facility details shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority;
- (20) prior to the commencement of development on site, details of the design and location of on-site cycle storage and cycle parking provision shall be submitted to and approved in writing by the Planning Authority. Such details shall include for the provision of a lockable and covered cycle stand accommodating a minimum of 1 no. cycle per dwelling within the site boundaries. The approved cycle storage and parking provision shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority;
- (21) that junction access visibility sightline splays of 2.4 metres by 45 metres shall be maintained in both directions at the junction with the public road. There shall be no obstacle greater than 1.05 metre in height within the visibility sightline splays;
- (22) unless otherwise agreed in writing, prior to the occupation of any residential property within the site, the proposed access shall be constructed in accordance with the specification in the Council's Roads Development Guide, and to be a minimum of 5.5 metres wide over its initial 10 metres, as measured from the rear of the public footway;
- (23) unless otherwise agreed in writing, prior to the occupation of any residential property within the site, the existing footway crossing shall be removed and the footway reinstated in accordance with the specifications in the Council's Roads Development Guide; and
- (24) any gates proposed as part of the development shall be set back a minimum distance of 6 metres from the rear of the public footway and open inwards away from the public roadway.

Reasons:

- (1) to be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by section 20 of the Planning etc. (Scotland) Act 2006. In order to retain proper control over the development proposal;
- (2) to clarify the extent of the planning permission and to be in compliance with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by section 20 of the Planning etc. (Scotland) Act 2006;
- (3) in the interest of proper planning and placemaking of the area and to ensure the design and layout of the residential development maximises the sites potential and complies with the requirements of the Local Development Plan and government policy including 'Creating Places' and 'Designing Streets' together with the Council's Guidance on 'Open Space and Designing New Residential Development' and 'New Housing Developments and Affordable Housing';
- (4) to ensure that the future residential development is progressed and delivered in line with the proposals and justification presented at planning permission in principle stage and to ensure that the flexibility afforded to the development in terms of developer contributions remains justified;
- (5) to ensure the site is drained in an acceptably sustainable manner and the drainage infrastructure is properly maintained.
- (6) in the interest of road safety and to ensure adequate off-street parking provision which is sufficient for manoeuvring and turning;
- (7) to comply with the Council's supplementary planning policy guidance in relation to open space and in the interests of the proper planning of the area;
- (8) in the interests of visual amenity and to ensure that adequate hard and soft landscaping is in place for the site;
- (9) to ensure all contamination within the site is dealt with;
- (10) to prevent road, business and industrial noise nuisance in the interest of residential amenity;
- (11) to prevent road, business and industrial noise nuisance in the interest of residential amenity;
- (12) in order to ensure no increased flood risk within and out with the development site;
- (13) in the interest of road safety and to ensure no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which will cause a nuisance or hazard to the road system in the locality;
- (14) in the interests of the amenity of residential properties in the vicinity;
- (15) to encourage sustainable means of travel and to ensure the development maximises and facilities opportunities for sustainable travel;
- (16) in the interest of road safety and avoid the discharge of water on to the public road;
- (17) in the interests of road safety and to ensure an acceptable standard of construction;
- (18) to enable service vehicles to enter and leave the site in forward gear and in the interests of road safety;
- (19) in the interest of road safety and to ensure that adequate provision is made for pedestrians.
- (20) to ensure adequate provision of cycle storage and cycle parking on site and to encourage sustainable means of travel;
- (21) in the interest of road safety and to ensure acceptable visibility at road junctions;
- (22) in the interest of road safety and to ensure an acceptable standard of construction';

- (23) in the interest of road safety and to ensure an acceptable standard of construction; and
 (24) in the interest of road safety.

Advisory Notes:

The Coal Authority

- The Coal Authority is satisfied with the conclusions of the Coal Mining Risk Assessment (November 2021) informed by the site investigation works, based on the professional opinion provided by Mason Evans Partnership Limited; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, the Coal Authority does not object to the proposed development and no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues. Notwithstanding this, in the interests of public safety, we request the following as an Informative Note:
- The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority (0345 762 6848). Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

Scottish Water

- All proposed developments require to submit a Pre-Development Enquiry (PDE) to be submitted directly to Scottish Water via our Customer Portal prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals. Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer which Scottish Water can contribute towards through Reasonable Cost Contribution regulations. As network upgrades will be required to support this development, it is recommended that a PDE is submitted at your earliest convenience.
- The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.
- For reasons of sustainability and to protect our customers from potential future sewer flooding. Scottish Water will not accept any surface water connections into our combined sewer system. There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges. In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.
- Scottish Water asset plans can be obtained from our appointed asset plan providers: Site Investigation Services (UK) Ltd, Tel – 0333 123 1223, Email – sw@sisplan.co.uk, www.sisplan.co.uk

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

Ayrshire Roads Alliance

- Road Opening Permit – This shall be applied for, and obtained from the Council as Road Authority, for any works within the public road limits, prior to works commencing on site.
- Roads (Scotland) Act – The Council as Roads Authority advises that all works on the carriageway to be carried out in accordance with the requirements of the Transport (Scotland) Act 2005, and the Roads (Scotland) Act 1984.
- New Roads and Street Works Act 1991 – In order to comply with the requirements of the New Roads and Street Works Act 1991, all works carried out in association with the development on the public road network, including those involving the connection of any utility to the site, must be co-ordinated so as to minimise their disruptive impact. This co-ordination shall be undertaken by the developer and his contractors in liaison with the local roads authority and the relevant utility companies.
- Cost of Street Furniture – The Council as Roads Authority advises that any costs associated with the relocation of any street furniture shall require to be borne by the applicant/developer.
- Fire Exits – Any fire exit to the public road shall be maintained free of obstruction at all times.

List of Determined Plans:

Location Plan (Drawing No. AL-00-01);
 Existing Site Plan (Drawing No. AL-00-02);
 Proposed Site Plan (Drawing No. AL-00-03);
 Proposed Sketch Perspectives (Drawing No. AL-XX-01);
 Site Layout and Photographs (Drawing No. D/001);
 Design Statement (Denham Benn, November 2021);
 Planning Statement (McInally Associates Ltd, November 2021);
 Addendum Planning Statement (McInally Associates Ltd, December 2021);
 Flood Risk Assessment (Environcentre, January 2021);
 Market Appraisal Report (North Property Advisors, November 2021);
 Historic Marketing Information and Evidence;

Supporting Technical Statement (Clancy Consulting, November 2021);
Site Investigation Report (Mason Evans, January 2021);
Coal Mining Risk Assessment (Mason Evans, November 2021);

The meeting ended at 11.35 a.m.