

EAST AYRSHIRE COUNCIL**PLANNING COMMITTEE****MINUTES OF MEETING HELD ON FRIDAY 30 JANUARY 2015 AT 1001 HOURS
IN THE COUNCIL CHAMBERS, COUNCIL HEADQUARTERS, LONDON ROAD,
KILMARNOCK**

PRESENT: Councillors Jim Roberts, Bobby McDill, Helen Coffey, Tom Cook, John Campbell, John Knapp, George Mair, David Shaw, Billy Crawford and Moira Pirie.

ATTENDING: David McDowall, Acting Head of Planning and Economic Development; Craig Iles, Acting Operations Manager - Building Standards and Development Management; Craig Young, Team Leader (Litigation and Advice); Kerr Chalmers, Traffic and Road Safety Manager - Ayrshire Roads Alliance; Melanie Barbour, Assistant Team Leader (Litigation and Advice) (Item 1 only); Marion Fergusson, Senior Planning Officer (Items 1-2); Chris Johnson, Contaminated Land Officer (Items 1-6); and Lynn Young, Democratic Services Officer.

ALSO ATTENDING: Dave Russell, Dalgleish Associates (Items 6-8).

APOLOGY: Councillor Stephanie Primrose.

CHAIR: Councillor Jim Roberts, Chair.

CONSIDERATION OF APPLICATIONS**1. APPLICATION NO 14/0569/PP: REG WINDPOWER LIMITED: KNOCKSHINNOCH FARM, NEAR PATNA (Item 2, Page 1091, 12/17)****1.1 Preliminary Matter**

The Democratic Services Officer confirmed that only those Members who were involved in the Hearing in respect of the application at the Planning Committee of 24 October 2014 should participate in determination of the application, namely: Councillors Jim Roberts, Bobby McDill, Tom Cook, John Knapp, George Mair, David Shaw, Billy Crawford and Moira Pirie.

1.2 Continuation of Item

There was submitted an executive summary sheet and supplementary report dated 22 January 2015 (both circulated) by the Acting Head of Planning and Economic Development on an application for planning permission for the construction of two wind turbines and associated access track and infrastructure and key ancillary developments including sub-station, temporary construction compound, site entrance, hardstanding and a network of underground cables at Knockshinnoch Farm, South of B730, East Ayrshire by REG Windpower Ltd.

The Acting Operations Manager reported that 28 letters of objection and 47 letters of support had been received in respect of the application; summarised the planning considerations in respect of the application; summarised the supplementary information in respect of discussions between the applicant and Glasgow Prestwick International Airport in relation to the latter's original objection to the proposed development, which had now been removed; and gave the recommendation of the Acting Head of Planning and Economic Development: Refusal, for the reasons detailed in the supplementary report.

1.3 Determination of Application

Councillor Tom Cook, seconded by Councillor Bobby McDill, moved to refuse the application for the reasons detailed in the supplementary report.

Councillor Moira Pirie, seconded by Councillor George Mair, moved as an amendment that whilst acknowledging the adverse impacts of the proposed development these were outweighed by the economic impact of the proposal on communities. Accordingly, the application be approved and that it be remitted to the Acting Head of Planning and Economic Development to prepare appropriate planning conditions and that the Decision Notice be withheld until the Council had satisfactorily concluded a Section 75 Legal Agreement with the applicant in relation to the requirement and provision of a financial bond or guarantee for the decommissioning of restoration and aftercare of the site and the provision of an independent Planning Monitoring Officer at the sole expense of the applicant.

On a division by a show of hands, the amendment was carried by 5 votes to 3.

Councillor Helen Coffey joined the meeting following determination of the above item.

2. APPLICATION NO 14/0582/AMCPPP: BELLWAY HOMES (SCOTLAND) LIMITED: PROPOSED RESIDENTIAL DEVELOPMENT, IRVINE ROAD, KILMARNOCK (Item 2, Page 1180, 12/17)

2.1 Preliminary Matter

The Democratic Services Officer confirmed that only those Members who were involved in the Hearing in respect of the application at the Planning Committee of 28 November 2014 should participate in determination of the application, namely: Councillors Jim Roberts, Bobby McDill, Helen Coffey, Tom Cook, John Knapp, George Mair, Stephanie Primrose, David Shaw, Billy Crawford and Moira Pirie.

2.2 Continuation of Item

There was submitted an executive summary sheet and supplementary report dated 22 January 2015 (both circulated) by the Acting Head of Planning and Economic Development on an application for planning permission for the development of 96 houses with associated roads, sewers, parking etc, in the first phase of housing development at proposed residential development, Irvine Road, Kilmarnock, by Bellway Homes (Scotland) Ltd.

The Senior Planning Officer reported that 44 letters of objection had been received in respect of the application; summarised the planning considerations in respect of the application; provided an update in terms of the communications which had taken place between the applicant and owners of neighbouring properties with regard to the mineshaft located outwith the boundary of the application site; and gave the recommendation of the Acting Head of Planning and Economic Development: Approval, subject to the conditions and for the reasons detailed in the supplementary report.

2.3 Determination of Application

It was agreed to approve the application, subject to the conditions, and for the reasons detailed in the supplementary report; and subject to an amendment to Condition 7 as follows, viz:- (7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by the Town

and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (Or Any Order Revoking and Re-enacting that Order), all developments following within Part 1: Classes 1 to 3 (inclusive) (covering development within the curtilage of a dwellinghouse) of Schedule 1 of that Order shall be the subject of a formal planning application for planning permission for the landscape area to the southern part of Plots 40 to 48, as shown on drawing 52.121.01b, and for the avoidance of doubt, the householder permitted development rights are hereby withdrawn for that landscaped area. REASON: In order to safeguard the properties noted and to allow a sufficient no build zone over the landscaped area in terms of the stand-off distance to the mineshaft at the former grounds of 181 Irvine Road.

Councillor John Campbell joined the meeting following determination of the above item.

HEARING PROCEDURE

3. The Democratic Services Officer confirmed that the Hearing Procedure (circulated) was understood by all participants.

4. **APPLICATION NO 14/0229/PP: MR ANDREW WOODBURN: LINBURN FARM, ADJACENT TO B743, MUIRKIRK**

- 4.1 **Consideration of Item**

There was submitted an executive summary sheet and report dated 22 January 2015 (both circulated) by the Acting Head of Planning and Economic Development on an application for planning permission for the erection of two 40m wind turbines (67m to blade tip, 54m rotor diameter) and associated infrastructure at Linburn Farm, adjacent to B743, Muirkirk, by Mr Andrew Woodburn.

The Acting Operations Manager reported that 21 letters of objection and 119 letters of support had been received in respect of the application, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the Acting Head of Planning and Economic Development: Refusal, for the reasons detailed in the report.

- 4.2 **Planning Hearing**

The Committee heard Mr A Gray, in respect of his own objection.

Members asked questions of the objector.

The Committee then heard Mr Andrew Woodburn, applicant, and Mr Dave Anderson, applicant's representative, in support of the application.

Members asked questions of the applicant and his representative.

The Chair closed the Hearing.

- 4.3 **Determination of Application**

Councillor David Shaw, seconded by Councillor Moira Pirie, moved that whilst acknowledging the adverse impacts of the proposed development, these were outweighed by the potential economic impact of the proposal and further, with the contribution to the alleviation of global warming as a result of the removal of diesel generators due to the proposal replacing 2 existing turbines, the application be approved and that it be remitted to the Acting Head of Planning and Economic

Development to prepare appropriate planning conditions and that the issue of the Decision Notice be withheld until the conclusion of a Section 75 Legal Agreement in terms of Paragraph 77 of the report.

Councillor Bobby McDill, seconded by Councillor Tom Cook, moved as an amendment to refuse the application for the reasons detailed in the report.

On a division by a show of hands, there were 5 votes for the amendment and 5 votes for the motion.

There being an equality of votes, the Chair exercised his casting vote in favour of the amendment which became the decision of the meeting.

ADJOURNMENT/RECONVENTION

5. The meeting adjourned at 1118 hours and reconvened at 1124 hours with the same Members and Officers present and in attendance with the exception of Councillor John Knapp.

6. **APPLICATION NO 14/0621/PP: OCCW (DUNCANZIEMERE) LIMITED: DUNCANZIEMERE SURFACE COAL MINE, LUGAR**

6.1 Consideration of Item

There was submitted an executive summary sheet and report dated 23 January 2015 (both circulated) by the Acting Head of Planning and Economic Development on an application for planning permission for the extraction of approximately 400,000 tonnes of coal from the East Extension Area, which measures 67.2 hectares, over a period of approximately 21 months, with an additional 12 month required to complete the site restoration works within the complex followed by 5 years aftercare at Duncanziemere Surface Coal Mine, Lugar, Cumnock, by OCCW (Duncanziemere) Ltd.

The Acting Operations Manager reported that 12 letters of objection and 55 letters of support had been received in respect of the application; summarised responses received from RSPB and Lugar and Logan Community Council; advised of an amendment to Condition (15) to read: (15) Except in the case of emergency and with the prior agreement of the Planning Authority, the hours of operation for Duncanziemere Complex Development Site shall be confined between 0700 and 1200 hours Monday through Saturday inclusive (24 hours working). No works shall take place outwith these hours or on Sundays or recognised public holidays with the exception of essential site maintenance works. REASON: In the interest of residential amenity; reported two additional conditions, namely:- (31) Prior to the commencement of the development, appropriate noise charts reflecting the night time operational activities during the restoration phase of development shall be provided to the Planning Authority for approval. REASON: To ensure that night time operation during the restoration phase can be carried out in accordance with the noise limits set out within this planning permission; and (32) Prior to the commencement of the development, proposals shall be submitted to and approved by the Planning Authority detailing the mitigation and monitoring works proposed for the Low Moss area. Site mitigation works shall be implemented in accordance with the schedule set out within the document. REASON: To ensure that the appropriate compensatory works are being carried out to mitigate the loss of habitat within the application site; summarised the planning considerations in respect of the application; and gave the recommendation of the Acting Head of Planning and Economic Development:

Approval, subject to (i) the conditions, and for the reasons detailed within the report; (ii) the amendment to Condition 15 and additional Conditions (31) and (32) as detailed above; and (iii) that the issuing of the Decision Notice be withheld until the conclusion of the Section 75 and Section 69 legal agreements in terms of paragraph 167 of the report.

6.2 Planning Hearing

The Committee heard Greta Roberts, in respect of her own objections and those of Richard Roberts and MEGA; and Mrs Linda Howie, in respect of her own objections.

Members asked questions of the objectors.

The Committee then heard Lee Weatherall and Steve McQuarry, applicant's representative, in support of the application.

Members asked questions of the applicant's representative.

The Chair closed the Hearing.

6.3 Determination of Application

It was agreed to approve the application, subject to (i) the conditions, and for the reasons detailed in the report; (ii) the amendment to Condition 15 as follows:- (15) Except in the case of emergency and with the prior agreement of the Planning Authority, the hours of operation for Duncanziemere Complex Development Site shall be confined between 0700 and 1200 hours Monday through Saturday inclusive (24 hours working). No works shall take place outwith these hours or on Sundays or recognised public holidays with the exception of essential site maintenance works. REASON: In the interest of residential amenity; (iii) the two additional conditions, namely:- (31) Prior to the commencement of the development, appropriate noise charts reflecting the night time operational activities during the restoration phase of development shall be provided to the Planning Authority for approval. REASON: To ensure that night time operation during the restoration phase can be carried out in accordance with the noise limits set out within this planning permission; and (32) Prior to the commencement of the development, proposals shall be submitted to and approved by the Planning Authority detailing the mitigation and monitoring works proposed for the Low Moss area. Site mitigation works shall be implemented in accordance with the schedule set out within the document. REASON: To ensure that the appropriate compensatory works are being carried out to mitigate the loss of habitat within the application site; and (iv) that the issuing of the Decision Notice be withheld until the conclusion of the Section 75 and Section 69 legal agreements in terms of Paragraph 167 of the report.

ADJOURNMENT/RECONVENTION

7. The meeting adjourned at 1258 hours and reconvened at 1330 hours with the same Members and Officers present and in attendance with the exception of Councillors Helen Coffey and Tom Cook.

8. APPLICATION NO 14/0555/AMCPPP: MR THOMAS HOGG: BROOMHILL FARM, RANKINSTON

There was submitted an executive summary sheet and report dated 22 January 2015 (both circulated) by the Acting Head of Planning and Economic Development on an application to request formal discharge of Conditions 42 and 44 (Land restored and landscaped to original condition) of planning consent CD/95/0187/MIN at Broomhill Farm, Rankinston, by Mr Thomas Hogg.

The Acting Operations Manager reported that no letters of objection had been received in respect of the application; summarised the planning considerations in respect of the application; and gave the recommendation of the Acting Head of Planning and Economic Development: Approval of submission of details pursuant to Conditions 42 and 44 of planning permission CD/95/0187/MIN.

It was agreed to the approval of submission of details pursuant to Conditions 42 and 44 of planning permission CD/95/0187/MIN.

9. APPLICATION NO 10/0001/S36VAR: GALAWHISTLE WIND FARM LIMITED: GALAWHISTLE WIND FARM, C38 GLENBUCK OFF A70, GLENBUCK, EAST AYRSHIRE

There was submitted an executive summary sheet and supplementary report dated 22 January 2015 (both circulated) by the Acting Head of Planning and Economic Development which presented for consideration, an application made under Section 36 of the Electricity Act 1989 to vary a number of elements of the existing consent, namely:- (i) the use of a 45m blade length, which would remain within the consented turbine blade to tip height limit; (ii) amendment to the overall capacity of the site from 55 MW to 66 MW; (iii) amendment of the locations of 2 electrical substations and associated infrastructure, and to provide an additional construction compound; (iv) remove the consented construction compound and laydown area located on the Spireslack open cast coal complex; (v) amendment of the access track layouts, chiefly to replace tracks to turbines which were previously consented to run through Spireslack open cast coal complex; (vi) realignment of borrow pits 2 and 3 to accommodate the revised track layout, and to include working area next to all the borrow pits; and (vii) overall amendment of the existing Section 36 consent and conditions so that the consent and conditions reflect the above changes all at Galawhistle Wind Farm, C38 Glenbuck, off A70, Glenbuck, East Ayrshire, by Galawhistle Wind Farm.

Following a short summary of the development by the Acting Operations Manager, it was agreed that the Council does not formally object to the proposed development and that a copy of this report be forwarded to the Scottish Ministers as the Council's formal response to the consultation on the Section 36 variation application for the Galawhistle Wind Farm development in terms of the Electricity Act 1989.

COMPLIANCE MONITORING UPDATE OF MAJOR DEVELOPMENTS IN EAST AYRSHIRE

- 10.** There was submitted a report dated 26 January 2015 (copy enclosed) by the Acting Head of Planning and Economic Development which provided an update in respect of compliance monitoring activity relating to environmental projects which were subject to planning consents and comprise the following development types:- opencast coal,

quarries, landfill, onshore windfarms and the electrical interconnector, between the period October and December 2014.

It was agreed:-

- (i) to note the progress reports and status of each of the Environmental Projects detailed in Appendices 1 to 5;
- (ii) to note the number of Technical Working Groups and Community Liaison Committees and Compliance Monitoring visits which had taken place during the period October to December 2014;
- (iii) to note that discussions were continuing between the Scottish Government and the European Commission in relation to the potential breach of the Habitats Directive and the potential legal and financial implications of the Infraction proceedings thereof; and
- (iv) otherwise, to note the terms of the report.

The meeting terminated at 1357 hours.