

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE

**MINUTES OF SPECIAL MEETING HELD ON MONDAY 27 JANUARY 1997 AT
0935 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON
ROAD, KILMARNOCK**

PRESENT: Councillors George Turnbull, Drew McIntyre, Irene Reeves, Douglas Reid, Wilma Doyle, John Knapp, Daniel Coffey, Eric Ross, David Sneller, Jimmy Boyd and George Smith.

ATTENDING: David Montgomery, Chief Executive; Fiona Lees, Depute Chief Executive; William Stafford, Director of Community Services; Stephen Chorley, Director of Development Services; Kate McVey, Head of Legal Services; Alan Neish, Head of Planning; David Morris, Development Promotion Manager; Bill Walkinshaw, Principal Administrative Officer; Hugh Melvin, Development Promotion Officer; and Alex Hewetson, Administrative Officer.

APOLOGIES: Councillors Ronald Brailsford, David Fulton, Robert McDill, and Tommy Farrell.

CHAIR: Councillor George Turnbull, Chair.

1. PLANNING APPLICATION NO 96/0386/FL - ELTIMATE LIMITED (Item 16.1, Page 1399)

1.1 Declaration of Interest

Councillor Sneller declared a non pecuniary interest in terms of the National Code of Local Government conduct.

1.2 Formal Planning Hearing

The Chair welcomed all present to the Special Meeting of the Committee which was being held to hear the objectors, applicant and interested parties and thereafter to determine the planning application for full planning permission for proposed preparation works and erection of chipboard manufacturing plant with storage, offices, staff amenities, roads and parking, perimeter fencing, landscaping and log storage at the former Barony Colliery Site, Barony Road, Auchinleck.

There was submitted in respect of the application, a report dated 13 January 1997 (circulated) summarising all information in relation to the application and a supplementary report dated 23 January 1997 (circulated) by the Director of Development Services advising and commenting on further representations received in respect of the application.

There was also submitted note of procedure (circulated) to be followed at the Hearing.

The Administrative Officer explained the procedure to be followed at the Hearing.

The Development Promotion Manager reported:-

- (i) that 252 letters and several petitions (407 signatories) of objection and 11 letters in support of the application had been received; details of which were contained within both reports;

- (ii) that no further letters of objection, comments or other representation had been received from noon, 23 January up to midnight, 24 January 1997 being the end of the statutory consultation period; and
- (iii) the details of the application and recommended that the application should be approved subject to the conditions and for the reasons detailed in the report and that the decision notice should be issued only following the satisfactory signing of a Section 50 Agreement, and the subsequent recording in the Register of Sasines in respect of:-
 - (a) an off site air quality monitoring programme;
 - (b) a noise monitoring programme both on and off site;
 - (c) off site road improvements and the definition of HGV routes;
 - (d) the establishment of a Community Liaison Committee; and
 - (e) off site landscaping measures.

Recommendation by Head of Planning and Building Control: (i) Approval subject to the following conditions, viz:- (1) The development to which this permission relates must be begun within five years from the date of this permission; (2) Prior to the installation of pollution abatement and Environmental control equipment, the developer shall submit to and have had approved by the Planning Authority, sufficient details with respect to the specification and design of such equipment and sufficient data to demonstrate that under normal operating conditions such emissions will not exceed those levels which the developer's Environmental Statement has set as design maxima. In the event of plant maintenance, report or other incident, the details shall be such that airborne emissions from the plant will not exceed the maxima specified in the Department of the Environment Process Guidance Note PG 6/4 (95); (3) Any proposal to alter the height of the 48m high main discharge stack shall be the subject of a submission to East Ayrshire Council. This submission shall be supported by accompanying data, and calculations including revised pollution prediction maps, to the satisfaction of East Ayrshire Council; (4) The company shall liaise with Strathclyde Fire Brigade to ensure that suitable comprehensive precautions and procedures are established in respect of fire prevention measures and also to deal with any fire emergency. Details shall be to the satisfaction of East Ayrshire Council; (5) The company shall ensure that no offensive odours from the process operation shall arise outwith the site boundary; (6) The company shall monitor the pollutants at stack-top level to an agreed regime with East Ayrshire Council and SEPA and shall provide to East Ayrshire Council the results of all emission monitoring undertaken within the factory site. This information shall be forwarded to East Ayrshire Council monthly or at such other intervals as may be agreed by East Ayrshire Council. Any monitoring information obtained by East Ayrshire Council and the company will be made freely available by East Ayrshire for public scrutiny; (7) Prior to commencement of any site works, the company or their contractor, shall prepare a Code of Construction Practice to address environmental concerns during the construction phase of the factory. This shall be submitted to East Ayrshire Council for discussion and agreement of relevant factors, including noise levels and hours of operation. In this respect therefore the company shall make application to East Ayrshire Council in terms of Section 61 of the Control of Pollution Act 1974 for agreement in respect of noise levels during the construction of the factory; (8) The company shall take all practicable measures to minimise HGV

traffic at weekends and evenings. In normal circumstances no HGV road movements shall take place between 10 pm and 6 am and none on Sundays; (9) The company shall ensure that any necessary site vehicle/plant movements between the hours of 10 pm and 6 am are kept to a minimum and that, in any event, no noise nuisance is created. Where appropriate, site vehicles/plant shall utilise low frequency reversing alarms, the details of which shall be submitted for approval of the Planning Authority prior to works commencing on site; (10) Suitable precautions shall be taken by the company and their contractor to minimise and control any dust arisings during the site preparation and construction phases; (11) The company shall provide to East Ayrshire Council details of the control measures which shall be implemented to the eventuality of any plant breakdown or malfunction. Details proposed shall be sufficiently comprehensive as to ensure immediate cessation of any aspect of the process operation which may result in abnormal emissions. Any failure of emission control equipment shall be notified immediately to the appropriate Officer of East Ayrshire Council and to SEPA; (12) No pollutant emission from the factory shall exceed any limits specified in the Secretary of State's Guidance Note PG 6/4 (95) or any such limits as may in the future be set by the Secretary of State; (13) The company shall ensure that satisfactory measures are put in place for the control of pests and vermin within the site; (14) Any effluent discharge from the plant shall require to be to the satisfaction of SEPA and East Ayrshire Council; (15) The company shall ensure that site lighting within the factory complex is so designed and installed as not to present a nuisance or hazard to properties or vehicles outwith the site; (16) The company and their contractors shall take suitable precautions to prevent windblown litter and other materials from being carried off site during site preparation, factory construction and subsequent process operation; (17) All waste materials shall be removed from the site by a licensed waste carrier and deposited at a licensed refuse disposal facility unless the waste is going to another facility for recycling or further processing; (18) Prior to the commencement of construction works on the site, the developer shall submit details of the proposed drainage requirements for the site which shall be to the complete satisfaction of SEPA and the Planning Authority; (19) Any alterations to statutory undertakers apparatus shall be carried out to the requirements and complete satisfaction of the respective statutory undertakers, at the expense of the developer; (20) Within six months of the issue of the planning consent, the developer shall submit details of the proposed landscaping works to be undertaken within the development site for the approval of the Planning Authority. Such details should list the numbers, varieties and sizes of trees and shrubs which are to be planted; (21) Within six months of the development being completed the scheme of landscaping for which the permission of the Planning Authority has been obtained shall be completed in accordance with the approved scheme and thereafter all trees and shrubs provided shall be maintained and replaced where necessary to the satisfaction of the Planning Authority; (22) The developer shall provide a right turn lane on the B7036 road in accordance with the approved plan A2331 (R)/22 to the complete satisfaction of the Roads Authority and the Planning Authority; (23) Sightline visibility splay areas of 4.5 metres by 215 metres shall be provided at the site junction with the public road B7036 with no object greater than 1 metre in height within these areas; (24) The developer shall provide a footway along the frontage of the site onto the public road B7036 which shall connect to the existing public footway system in Barony Road; (25) The developer shall provide bus lay-bys on both sides of the B7036 public road adjacent to the development site, the locations of which shall be to the satisfaction of the

Roads Authority and the Planning Authority; (26) No surface water from the site shall be discharged into the existing road drainage system or onto the public road B7036; (27) Except where necessary for the construction of the plant, for road widening works or for compliance with visibility splay requirements, no trees within the site shall be lopped or topped or felled without the prior written consent of the Planning Authority; (28) During site preparations works, the conduct of operations shall be such that no damage occurs to the Category B Listed 'A' Frame headgear which lies within the application site; and (29) Notwithstanding the provisions of Part 8 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, any future alterations or extensions to the proposed plant, including the installation of additional or replacement plant or machinery and the formation of hard standing areas, shall require the formal approval of the Planning Authority; Condition (1) being imposed to comply with Section 38 of the Town and Country Planning (Scotland) Act 1972; Conditions (2) and (3) to ensure that the proposed plant meets the emission standards set out in the Environmental Statement which accompanies the planning application; Conditions (4), (11) and (12) in the interests of public safety; Condition (5) to prevent any public nuisance; Condition (6) to ensure effective monitoring of the process in the interests of public safety; Condition (7) to ensure that disturbance caused during construction works is minimised; Conditions (8) and (9) in the interests of the amenity of residential properties located in proximity to the proposed plant; Conditions (10), (15), (16) and (17) in the interests of amenity; Conditions (11) and (12) in the interests of public safety; Condition (13) to prevent any public health nuisance; Condition (14) to prevent any pollution of watercourses; Condition (18) to ensure proper drainage of the site and to prevent pollution of watercourses; Condition (19) to protect statutory undertakers apparatus; Condition (20) to ensure adequate landscaping works are carried out on site; Condition (21) to ensure that landscaping works are implemented within a reasonable timescale; Conditions (22), (23), (24), (25) and (26) in the interests of public road safety; Condition (27) in the interests of visual amenity; Condition (28) to protect the Category B Listed Building; and Condition (29) in order to retain effective planning control over the proposed development in the interest of amenity and environmental protection; and (ii) that the decision notice should be issued only following the satisfactory signing of the Section 50 Agreement, and the subsequent recording of the Agreement in the Register of Sasines.

The objectors and their Agents were then heard in support of their objections.

Members of the Committee then put questions to the objectors or their Agents for clarification of certain points.

ADJOURNMENT

- 1.3** Following motion by the Chair, it was agreed to adjourn the meeting at 1123 hours for approximately 5 minutes before proceeding to hear the Applicant, in terms of the Hearing Procedure as circulated.

RECONVENTION

- 1.4 The Committee re-convened at 1130 hours with the same Members and Officials present and in attendance.

SUBMISSION BY AGENT FOR OBJECTORS

- 1.5 Agent for the objectors intimated that the Council had failed in accordance with the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 and the Environmental Assessment (Scotland) Regulations 1988 (as amended 1994), to carry out formal notification with a statutory consultee namely; the River Ayr District Salmon Fisheries Board in terms of the Salmon Act of 1864 as modified by the Salmon Act of 1986. He requested that the Committee continue the application to allow formal consultation to take place with that body, as it would be ultra vires to proceed to determine the application in the absence of such consultation and therefore challengeable by Judicial Review.

ADJOURNMENT

- 1.6 Following motion by the Chair, it was agreed to further adjourn at 1134 hours for approximately 5 minutes to take advice on the submission.

RECONVENTION

- 1.7 The Committee re-convened at 1141 hours with the same Members and Officials present and in attendance.

CONTINUATION OF FORMAL PLANNING HEARING

- 1.8 The Head of Legal Services reported that the legislation referred to by the Agent for the objectors would be checked and advised that the Hearing process could continue and that the Committee would be advised of the position prior to determining the application.

The applicants' representatives were then heard in support of the application.

Members of the Committee then put questions to the applicants' representatives for clarification of certain points.

An interested party was then heard in support of the application.

The objectors and their Agents responded to issues raised by the applicants' representations.

The applicants' representatives responded to new issues raised by the objectors or their Agents.

The Chair then closed the Hearing.

- 1.9 The Head of Legal Services confirmed that following investigation of the Salmon Acts and the planning legislation referred to by the Agent for the objectors, no authority could be found that provided for the River Ayr District Salmon Fisheries Board to be considered as a statutory consultee in respect of this application. The Head of Legal Services suggested that in order to allow Agent for the objectors to provide authority for the position he had taken, the Committee may wish to allow a short adjournment.

ADJOURNMENT

1.10 Following motion by the Chair, it was agreed to adjourn the meeting at 1257 hours for approximately 10 minutes.

RECONVENTION

1.11 The Committee reconvened at 1310 hours with the same Members and Officials present and in attendance.

Agent for the objectors intimated that he had had insufficient time to confirm his earlier submission in respect of the procedural impropriety of the Committee and requested that he be allowed considerable more time.

ADJOURNMENT

1.12 At the request of Councillor Coffey, it was agreed to adjourn the meeting at 1317 hours for approximately 5 minutes.

RECONVENTION

1.13 The Committee re-convened at 1333 hours with the same Members and Officials present and in attendance.

1.14 Determination of Application

Councillor Sneller, seconded by Councillor McIntyre, moved that the Committee proceed to determine the application.

Councillor Coffey, seconded by Councillor Reid, moved as an amendment that consideration be continued for 48 hours to another meeting of the Committee to allow further clarification on the position with regard to the requirement for consultation with the River Ayr District Salmon Fisheries Board on this application.

On a division by a show of hands, the motion was carried by 9 votes to 2.

The Development Promotion Manager reported on the planning issues which had been raised during the Hearing.

Councillor Ross, seconded by Councillor Boyd, moved:-

- (i) to grant the application subject to the conditions and for the reasons detailed; and
- (ii) that the decision notice should be issued following conclusion of the Section 50 Agreement in the terms outlined in the report and subject to an addition in Clause 1 of the proposed Section 50 Agreement as indicated in the report dated 13 January 1997 by the Director of Development Services, to site an air monitoring station at Meikle Heateth Farm, Auchinleck.

Councillor Coffey, seconded by Councillor Reid, moved that the application be refused on the grounds that it would cause a detrimental impact on the environment of the area.

On a division by a show of hands the motion was carried by 9 votes to 2.

The meeting terminated at 1403 hours.