

EAST AYRSHIRE COUNCIL**DEVELOPMENT SERVICES COMMITTEE****MINUTES OF SPECIAL MEETING HELD ON WEDNESDAY 16 DECEMBER 1998
AT 1305 HOURS AND ON THURSDAY 17 DECEMBER 1998 AT 1100 HOURS IN
THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD,
KILMARNOCK**

PRESENT: Councillors Eric Ross, Kathleen Hall, John Knapp, Robert McDill, Jim Kelly, David Sneller and Jimmy Boyd.

ALSO PRESENT: Councillor Eric Jackson.

ATTENDING: Stephen Chorley, Director of Development Services; Alan Neish, Head of Planning and Building Control; John Crawford, Head of Protective Services; Bill Walkinshaw, Principal Administrative Officer; David Mitchell, Principal Solicitor; John Bryson, Area Engineer; Karen Macleod, Solicitor; Hugh Melvin, Technical Planning Officer; and Alex Hewetson, Administrative Officer.

APOLOGIES: Councillors Drew McIntyre, Ronald Brailsford, Provost Robert Stirling and Councillors Daniel Coffey, David Fulton, Kim Nicoll, George Turnbull, George Smith, Jimmy Carmichael, Robert Taylor and Tommy Farrell.

CHAIR: Councillor Eric Ross, Vice-Chair.

CHAIR'S REMARKS

1. The Chair, at his discretion and in terms of Standing Order 15.1 agreed to alter the order of business and consider Item 1.1 on the Agenda after consideration of Item 1.2.

PLANNING APPLICATIONS**2.1 APPLICATION NO 98/0301/FL: WILLIAM SKINNER AND SON****2.1.1 PLANNING HEARING**

The Hearing was being held to hear the objectors and representatives of the applicant in respect of full planning application no 98/0301/FL for change of use of bing railway siding to waste transfer station, builder's yard, tipping shed and associated offices at Mauchline Colliery, off A76(T) Mauchline-Kilmarnock Road, Mauchline.

There was submitted in respect of the application a report dated 3 December 1998 (circulated) by the Director of Development Services summarising all information in relation to 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 Head of Planning and Building Control reported:-

- (i) that South Ayrshire Council had further commented, viz:- `that in travelling to the land-fill site at Lendalfoot they would expect site traffic to be routed away

from Tarbolton, Mossblown and Coylton and thus to use Trunk or A Class Roads’;

- (ii) that the phrase; ‘which will not fall within the definition of controlled waste’ had been deleted from Paragraph 3, Page 15, of the report;
- (iii) that the Scottish Environmental Protection Agency had further commented, viz:- ‘that there are no other such businesses (Waste Transfer Stations) in Ayrshire other than the applicant’s existing business in Ayr’; and
- (iv) an additional Planning Condition (24), viz:- ‘This permission hereby granted shall be restricted to the reception, transfer and recycling of building and demolition material, contracted excavation material, general commercial and industrial wastes, garden and landscape wastes and excludes toxic, hazardous domestic or pretrescible waste. No landfill operations shall take place within the development site and all extraneous wastes shall be removed from the site and disposed of in a licensed waste disposal facility; imposed to ensure domestic wastes are not introduced into the site and that no landfill operations take place within the development site, in the interests of safeguarding Glasgow Prestwick Airport’.

The Head of Planning and Building Control summarised the planning considerations in respect of the application and recommended: (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) That the applicant shall give notice to the Planning Authority, in writing, of the commencement of operations on site, one month prior to their commencement; (3) That prior to the commencement of works on the site, the applicant shall satisfy himself as to the suitability of the site for construction purposes; (4) The junction of the C51 Dykefield Road with the site access road shall be kerbed and bituminously surfaced for a distance of 20 metres from the edge of the road with kerbing also provided opposite the site access; (5) Junction visibility splays of 2.4 metres by 120 metres shall be formed at the junction of the site access and the C51 Dykefield Road with no obstruction to visibility greater than one metre in height being permitted within these areas; (6) No surface water must be allowed to discharge onto the C51 public road; (7) Measures to prevent mud, dirt, dust or stones being carried onto the highway shall be agreed with the Planning Authority prior to the commencement of development and that such steps shall include the provision and use of hardstanding and wheel/vehicle washing facilities as necessary for the cleaning of all lorries and other heavy vehicles leaving the site; (8) The public road adjacent to the site shall be kept clear of mud or other deposited material at all times; (9) That prior to any road vehicle loaded with recyclates or extraneous waste leaving the site, the load shall be suitably covered with a tarpaulin to ensure there is no escape of materials; (10) That prior to any site preparation works commencing on site statutory undertakers’ apparatus shall be protected and diverted as required, to the satisfaction of the respective statutory undertakers and at the expense of the developer; (11) That the approval of the detailed layout of the site service area and of the proposed portacabin buildings shall be obtained from the Planning Authority before any buildings, plant or machinery are erected on site; (12) That prior to works commencing on site, a detailed landscaping scheme, including maintenance details, for the service area shall be submitted to and approved by the Planning Authority and that the scheme shall require to be implemented and maintained to the satisfaction of the Planning Authority. Where

possible existing trees and shrubs within the site shall be retained to assist in the screening of the site service area; (13) The application site shall be fully enclosed by appropriate fencing to prevent access by livestock, the details of which shall be submitted to and approved by the Planning Authority prior to works commencing on site; (14) Details of the external finishes for all site buildings including portacabins shall be submitted to and approved by the Planning Authority prior to works commencing on site; (15) That precautions shall be taken to prevent the discharge of oil from fueling, oil, storage plant maintenance and vehicle wash areas within the site; (16) That any fuel, oil or other chemical storage tanks on the site shall be sited on impervious bases and surrounded by oil tank bund walls and the bunded areas shall be capable of containing 110% of the tank's volume and shall enclose all fill and draw pipes; (17) That all foul drainage from sanitary facilities, canteens etc, shall be treated prior to discharge to a soakaway system. In the event that percolation tests indicate that the ground is not suitable for discharge to soakaway system then additional treatment will be necessary in order to discharge sewage effluent to any watercourse; (18) The working hours of the site shall be confined to between 0800 and 1800 hours Mondays to Fridays and between 0800 and 1300 hours on a Saturday. With the exception of maintenance work, no working shall take place on Sundays; (19) Prior to works commencing on site, the applicant shall submit and have received approval from the Planning Authority for details of floodlighting provision for the site; (20) Prior to any works commencing on site, the applicant shall submit details of the proposed measures for the management and treatment of surface water on the site; (21) Stockpiles of recyclates shall be so formed as to have minimal visual intrusion on the surrounding landscape. The management of recyclate stockpiling on site shall be such that any recyclate material shall be stored no longer than 3 months. After this period the recyclate shall be removed from the site and disposed of in a licensed waste disposal facility; (22) No works shall be undertaken on site which could lead to encroachment on the Cessnock Water Listed Wildlife site; (23) On cessation of activities associated with the transfer and recycling of waste, the site shall be cleared of all waste materials and recyclates contained within the site and disposed of in a licensed waste disposal site to the satisfaction of the Planning Authority; and (24) This permission hereby granted shall be restricted to the reception, transfer and recycling of building and demolition material, contracted excavation material, general commercial and industrial wastes, garden and landscape wastes and excludes toxic, hazardous domestic or pretrescible waste. No landfill operations shall take place within the development site and all extraneous wastes shall be removed from the site and disposed of in a licensed waste disposal facility; Condition (1) being imposed to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997; Condition (2) to ensure that the development is undertaken in accordance with the submitted plans and conditions, in the interests of visual and residential amenity; Conditions (3), (10), (11), (16) and (17) in the interest of public safety; Condition (4) to prevent any overcarry of loose material onto the C51 road; Conditions (5) and (6) in the interests of public road safety; Conditions (7) and (8) in the interest of road safety; Condition (9) in the interests of road safety and visual amenity; Conditions (12) and (14) in the interest of visual amenity; Condition (13) in the interests of animal safety; Condition (15) to prevent any collusion of watercourses; Conditions (18) and (19) to safeguard the amenity of the site; Condition (20) to ensure that the site is properly drained to prevent pollution of watercourses; Condition (21) in the interests of visual amenity and also to prevent excessive stockpiling of recyclates in the interests of clearing storage bays and hard

standings; Condition (22) to protect the listed wildlife site; Condition (23) in the interests of amenity; and Condition (24) imposed to ensure domestic wastes are not introduced into the site and that no landfill operations take place within the development site in the interests of safeguarding Glasgow Prestwick Airport; and (ii) that the issue of the Decision Notice be withheld until the appropriate Section 75 Agreement, in the terms outlined in Paragraph 8.9 of the report, has been concluded.

The Administrative Officer advised the order in which objectors would be heard in supplement to their written objections.

The Committee then heard Mrs Gordon, representative of Mining and Environment Group, Ayrshire; Mrs Roberts, representative of Mauchline Colliery Action Group; Mr Clark, representative of Mauchline Community Council; Mr Dalling, representative of Tarbolton Community Council; Mr McMillan, Mr Ramsay, Mrs Wisener, Mr Kidd, Mr Hogarth, Mr Marr, Mrs Bishop, Mr Bone, Mr McClue, representative of Mr Goldie, Mr Agnew and Mr Aitkenhead, in support of their objections and Mr Malcolm, Mrs Day and Mr Lamont, representatives of the applicant, in support of the application.

Members asked questions of the applicant. The representatives of the applicant responded to issues raised by the objectors, all in accordance with the Hearing procedure.

The Chair closed the Hearing.

2.1.2 DETERMINATION OF APPLICATION NO 98/0301/FL

The Head of Planning and Building Control reported on the planning issues which had been raised during the Hearing and recommended further alterations to the conditions as undernoted:-

- (i) Condition 20 after "three months" add, viz:- 'except for composting recyclate which can be stored for no longer than 6 months' and
- (ii) Condition 23 - to add, viz:- 'except for the latter insofar as it is required specifically for composting'.

Having heard the local Member in terms of Standing Order 45(i), it was agreed to refuse the application on the grounds, viz:-

- (i) in terms of the Finalised Cumnock and Doon Valley District Wide Local Plan, the proposed development was contrary to Policy TOUR 22 as environmental improvement of the Mauchline Colliery site is not evident in the proposals;
- (ii) in terms of the adopted Mauchline/Drongan/Ochiltree Local Plan, the proposed development was contrary to Policy IND 7 as the development would not be of benefit to the local rural economy;
- (iii) the proposed development would have an adverse impact on local tourism and would therefore be detrimental to the local economy of the area;
- (iv) in terms of the Draft East Ayrshire Local Plan, the proposed development was contrary to Policy IND 4(i), it not being fully justified in terms of locational need, economic benefit, environmental impact and transportation and infrastructure implications;
- (v) in terms of the Draft Ayrshire Joint Structure Plan, SPR 39, the proposed development would contravene the principle of self-sufficiency in waste disposal promoted within the Plan; and

- (vi) in the absence of a definitive view on Waste Transfer and treatment sites within the Draft Ayrshire Joint Structure Plan, the application was considered to be premature.

2.2 APPLICATION NO 98/0677/FL: MRS JANE CLARK (Item 1.5, Page 3923)

There was submitted a report dated 16 November 1998 (circulated) by the Director of Support Services on the decision of the Northern Area Local Planning Committee held on 13 November 1998, to refer consideration of this planning application to this Committee with a recommendation, that on the basis that the provisions of the Local Plan Policy, the danger of the precedent that might be set and the degree of loss of amenity would be outweighed, on this occasion, by the benefit to the area of the re-use of the shop, that permission be granted and a report dated 3 November 1998 (circulated) by the Head of Planning and Building Control on this full planning application for proposed change of use to hot food takeaway and erection of flue at 90A West Main Street, Darvel.

There was also submitted Note of Procedure (circulated) to be followed at the Hearing.

The Head of Planning and Building Control reported that 13 letters of objection, with 16 signatories, a petition with 70 signatories in support of the application, submitted by the applicant and in addition a letter in response to the objections by the applicant, had been received, details of which were contained within the report; summarised the planning considerations in respect of the application, and recommended: Refusal for the following reasons, viz:- (1) The proposed development would be contrary to Policy C1 of the Finalised Kilmarnock and Loudoun District Plan which only permits hot food uses in town centre locations, shopping premises and traditional shopping areas; (2) The proposed development would set an undesirable precedent for hot food uses outwith town centres to the detriment of policies trying to encourage new development to locate there; and (3) The proposed development would be detrimental to residential amenity, by virtue of noise and disturbance, particularly during hours where other sources of noise and disturbance have diminished.

2.2.1 PLANNING HEARING

The Committee then heard Mrs Roberts, representative of Mrs Rennie, in support of her objections and the applicant, Mrs Clark and Mr Clark, representative of the applicant, in support of the application. Members asked questions of the representative of the objector and the applicant and representative of the applicant. The representative of the objector and the applicant and the representative of the applicant responded to issues raised, all in accordance with the Hearing procedure.

The Chair closed the Hearing.

2.2.2 DETERMINATION OF APPLICATION NO 98/0677/FL

The Head of Planning and Building Control reported on the planning issues which had been raised during the Hearing.

It was agreed, on the basis that the provisions of the Local Plan Policy, the danger of the precedent that might be set and the degree of loss of amenity would be outweighed on this occasion by the benefit to the area of the re-use of the shop, that the application be granted and that it be remitted to the Head of Planning and

Building Control to determine appropriate conditions in relation to this planning application, to include, viz:- 'the business shall operate only between the hours of 0900 hours and 2400 hours; being imposed to prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interests of residential amenity'.

CHAIR'S REMARKS

3. The Chair, at his discretion, and in terms of Standing Order 15.1, agreed to alter the order of business and consider Item 4 on the Agenda.

NEWMILNS TOWNSCAPE HERITAGE INITIATIVE - CONSERVATION AREA MANAGEMENT PLAN

4. There was submitted a report dated 4 December 1998 (circulated) by the Director of Development Services on certain essential requirements set out by the Heritage Lottery Fund as a basis for the implementation of a Conservation Area Management Plan which will be an integral part of the Newmilns Townscape Heritage Initiative.

It was agreed:-

- (i) to note the work currently being done to meet the requirements outlined by the Heritage Lottery Fund in its Stage 2 guidance;
- (ii) to note in particular the relevant existing policy background and the proposals contained within the new Draft East Ayrshire Local Plan;
- (iii) to approve in principle, the Council's commitment to the long-term protection of the investment to the Townscape Heritage Initiative in the Newmilns Outstanding Conservation Area in the event that the Stage 2 bid for Heritage Lottery Funding was successful;
- (iv) in the light of (iii) above, to approve in principle the introduction of an Article 4 Direction in the Newmilns Outstanding Conservation Area subject to a further detailed report to a future meeting of this Committee;
- (v) to approve the inclusion of recommendations (i) to (iv), inclusive, in the Stage 2 Heritage Lottery Fund bid; and
- (vi) otherwise, to note the contents of the report.

EXCLUSION OF PRESS AND PUBLIC

5. The Committee resolved that under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the meeting to hear opinion of Counsel as defined in Paragraph 12 of Schedule 7A of the Act.

ADJOURNMENT

6. Following motion by the Chair, it was agreed to adjourn the meeting at 1640 hours until close of Council on Thursday 17 December 1998.

RE-CONVENTION

7. The Committee re-convened on Thursday 17 December 1998, at 1100 hours in the same location with the undernoted Members and Officials present and in attendance:

PRESENT: Councillors Douglas Reid, Kathleen Hall, Daniel Coffey, Robert McDill, Eric Ross, Jim Kelly, Jimmy Boyd, George Smith, Jimmy Carmichael and Tommy Farrell.

ATTENDING: Stephen Chorley, Director of Development Services; Alan Neish, Head of Planning and Building Control; Bill Walkinshaw, Principal Administrative Officer; David Mitchell, Principal Solicitor; and Alex Hewetson, Administrative Officer.

APOLOGIES: Councillors Drew McIntyre, Ronald Brailsford, Provost Robert Stirling and Councillors John Knapp, David Fulton, Kim Nicoll, George Turnbull and Robert Taylor.

CHAIR: Councillor Eric Ross, (Vice-Chair).

8. **PLANNING APPLICATION NO 98/0694/FL: ATH RESOURCES**

There was submitted a report dated 6 December 1998 (circulated) by the Director of Development Services on a full planning application for proposed temporary access to Skares Road Opencast Coal Site via Ward Farm access road for site employees, Skares Road, Skares, near Cumnock.

The Head of Planning and Building Control reported that no letters of objection and 3 letters of support for the proposal had been received, from residents in Skares, details of which were contained within the report; summarised the planning considerations in respect of the application and recommended: 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) Permission is granted for a limited period to expire on 30 November 1998 and the use of the Ward Farm access to site operations shall be discounted to the satisfaction of the Planning Authority at the expiration of the consent unless a further permission is granted; (3) The Ward Farm access shall be used solely for site employees to gain access to the operational coaling Areas C and E of the Skares Road Opencast Coal Site, except where access is also required for the management of the farmlands not affected by site operations and access by emergency vehicles; (4) Prior to the access coming into operation, the applicant shall submit details of the physical restriction to be erected on the access road to prevent use by heavy plant and machinery to the Planning Authority for approval; (5) The junction of the B7046 with the Ward Farm access shall be bituminously surfaced for a distance of 20 metres from the edge of the public road; (6) The site access shall be kerbed on either side to a radius of 10 metres and widened to 5.5 metres over the first 15 metres; (7) Visibility sightline splay areas of 2.5 metres by 160 metres shall be formed and maintained at the site access with no obstruction to visibility greater than 1 metre in height allowed within these areas; (8) Access and egress to the site shall be taken in forward gear; (9) No surface water shall be allowed to discharge onto the public road B7046; (10) The public road B7046 shall be kept clean and free from mud and dirt associated with the use of the Ward Farm access at all times; and (11) The management of surface water run-off from the road shall be to the requirements of the Scottish Environmental Protection Agency and to the satisfaction of the Planning Authority; Condition (1) being imposed to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997; Condition (2) the use of the Ward Farm access road is required for a temporary period only; Condition (3) in the interests of amenity; Condition (4) as stated in the Condition; Condition (5) to prevent any overcarry of loose material onto the public road in the interests of public road safety; Condition (6) to avoid over-

running of the corners and to allow two vehicles to pass each other outwith the public road in the interests of public road safety; Conditions (7), (8), (9) and (10) in the interests of public road safety; and Condition (11) to prevent pollution of watercourses.

It was agreed to grant the application subject to the conditions and for the reasons detailed.

PLANNING APPLICATION NO 98/0129/FL: PROPOSED EXTRACTION OF COAL AND FIRECLAY AT DYKES FARM, RIGG ROAD, AUCHINLECK - LAW MINING LIMITED

9.1 NOTIFICATION OF A PLANNING APPEAL BY LAW MINING LIMITED

There was submitted a report dated 9 December 1998 (circulated) by the Director of Development Services on a Planning Appeal by LAW Mining Limited on planning application no 98/0129/FL for proposed opencast extraction of coal and fireclay at Dykes Farm, Rigg Road, Auchinleck; providing a background to the planning application and thereafter the appeal by the applicant to the Secretary of State for Scotland on the grounds of non-determination of the application; and requesting that the Committee consider a report on the planning application for Dykes Farm with the purpose of formulating a view on the merits of the proposed development for intimation to The Scottish Office Enquiry Reporters.

It was agreed:-

- (i) to consider the appended report on the planning application for Dykes Farm with the purpose of formulating a view on the merits of the proposed development for intimation to The Scottish Office Enquiry Reporters; and
- (ii) otherwise, to note the contents of the report.

9.2 PLANNING APPLICATION NO 98/0129/FL - LAW MINING LIMITED

There was submitted a report dated 7 December 1998 (circulated) by the Director of Development Services on a full planning application for proposed opencast extraction of coal and fireclay at Dykes Farm, Rigg Road, Auchinleck, for consideration by this Committee as it is now the subject of an appeal by the applicant to the Secretary of State for Scotland against non-determination of the application; and seeking a view on the merits of the proposed development.

The Head of Planning and Building Control reported that 393 letters of representation comprising 27 individual letters of objection and 366 pro-forma letters of objection had been received, together with objections from consultees: Auchinleck and Ochiltree Community Councils and the Scottish Wildlife Trust, details of which were contained within the report; summarised the planning considerations in respect of the application; and recommended that the development should not proceed for the following reasons, viz:- (1) The proposed development site at Dykes Farm in the main falls outwith a Potential Coal Extraction Area and the proposal is therefore contrary to Policy MIN 6 of the Finalised East Ayrshire Opencast Coal Subject Plan which states that all future opencast developments will be directed towards and limited to the Potential Coal Extraction Areas as identified in the Subject Plan. The proposal breaches the principal underlying the definition of such areas which is that settlements require a buffer zone around them to safeguard their amenity; (2) The boundary of the proposed Dykes Farm site encroaches within 100 metres of

residential properties with a significant number of residential properties lying within 600 metres of the boundary. The proposed development is therefore contrary to Policy MIN21 of the Finalised East Ayrshire Opencast Subject Plan which states that, in particular, opencast proposals will not be supported where a development has site boundaries which encroach within 600 metres of any settlement, group of dwellings or individual dwellings not in the ownership of the developer. The proposal will accordingly adversely affect the amenity of such residential property; (3) The boundary of the limit of excavation of the proposed Dykes Farm site encroaches within 190 metres of residential property and the proposed development is therefore contrary to Policy MIN10 of the Finalised Cumnock and Doon Valley District Wide Local Plan which states that planning permission will not be granted for any quarrying or opencast coal applications whose area of extraction is within 200 metres of any existing dwellinghouse. The proximity of the proposed site to existing residential property in the locality will have an adverse impact on the amenity and enjoyment of the dwellings; (4) The boundary of the proposed Dykes Farm site encroaches within 100 metres of residential properties with a significant number of residential properties lying within 500 metres of the boundary. The proposed development is therefore contrary to the principles contained within NPPG 4 : Annex A (draft) which indicates that opencast coal proposals are unlikely to be acceptable where they are too close to communities (i.e. working faces within 500 metres); (5) The proposed development will result in a significant impact on visual amenity particularly in the locality of Rigg Road and will consequently have a detrimental impact on the amenity and enjoyment of a substantial number of dwellings within this locality; (6) The proposed development is contrary to the provisions of Policy MIN6 of the Strathclyde Structure Plan 1995 and relative policies in the emerging Finalised Ayrshire Structure Plan as there will be significant environmental impact on residential properties and communities lying in close proximity to the site, particularly in relation to visual impact and the transportation of coal by road; and (7) The proposed development will result in coal haulage traffic travelling directly through the community of Auchinleck prior to accessing the A class and Trunk roads network. It is considered that this will have an adverse impact on the community through increased HGV movements with associated traffic noise, and the impact on residential properties on the haulage route. The proposed development is also contrary to the principles contained within NPPG 4 : Annex A (draft) which indicates that opencast coal proposals are unlikely to be acceptable where they rely on road haulage which passes directly through communities.

It was agreed:-

- (i) to endorse the view of the Director of Development Services that, having regard to the merits of the application, the development should not proceed; and
- (ii) to authorise the Head of Planning and Building Control to represent the Council's position in the forthcoming appeal to the Secretary of State for Scotland.

The meeting terminated at 1110 hours.