

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 21 MAY 2014**

Present: Councillor David Kinniburgh (Chair)

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| Councillor Rory Colville | Councillor Donald MacMillan |
| Councillor Robin Currie | Councillor Alex McNaughton |
| Councillor George Freeman | Councillor James McQueen |
| Councillor Alistair MacDougall | Councillor Sandy Taylor |
| Councillor Robert G MacIntyre | Councillor Richard Trail |

Attending: Patricia O'Neill, Central Governance Manager
Angus Gilmour, Head of Planning and Regulatory Services
Peter Bain, Area Team Leader, Mid Argyll, Kintyre and the Islands

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon and Roderick McCuish.

2. DECLARATIONS OF INTEREST

Councillor David Kinniburgh declared a non financial interest in relation to planning application reference 14/00194/PP as he is employed by a business which undertakes similar activities to the proposed development. He left the room and took no part in the determination of this application which is dealt with an item 5 of this Minute.

3. MINUTES

- (a) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 10.15 am were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 2.00 pm were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 2.20 pm were approved as a correct record.
- (d) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 2.40 pm were approved as a correct record.
- (e) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 April 2014 at 3.00 pm were approved as a correct record.

4. BROXBURN PROPERTIES LIMITED: ERECTION OF BONDED WAREHOUSE (CLASS 6), ASSOCIATED ACCESS AND INSTALLATION OF SEPTIC TANK: LAND NORTH OF AVONVOGIE ABATTOIR, BOWMORE, ISLE OF ISLAY (REF: 13/02649/PP)

The Area Team Leader for Mid Argyll, Kintyre and the Islands spoke to the terms of the report advising that planning permission was sought for the erection of a very large bonded whisky maturation warehouse with a footprint area of just under 10,000 sqm on a site some 1.9 hectares in area, located partly within a defined Rural Opportunity Area but mainly within an area of Sensitive Countryside. Settlement strategy policies STRAT DC 4, STRAT DC 5 and LP BUS 2 would normally offer support only for new business development of up to 'small scale' defined as buildings not exceeding a footprint area of 200 sqm and on sites of not larger than 0.5 hectares. However policies STRAT DC 4 and STRAT DC 5 both allow for the possibility of larger scale development in the countryside development management zones on a 'special case' basis when such development is supported by an ACE. In this case it is considered that sufficient locational need and wider economic benefit has been established to outweigh the generally policy presumption against such large scale development in the rural opportunity/sensitive countryside and a competent ACE has been carried out which demonstrates that the proposed site can support the development proposed without having any materially detrimental impact upon the key landscape characteristics of the identified ACE compartment. The ACE was recommended to Members for approval as a material consideration in the determination of this application and any future applications within the ACE compartment.

The Members agreed to endorse the findings of the ACE accompanying the application and that it be regarded as a material consideration in the determination of this application and any future applications within the ACE compartment.

There have been no objections from consultees or third parties and the proposal satisfied the requirements of relevant Development Plan policies. The proposal was recommended for approval subject to the conclusion of a Section 75 Legal Agreement to secure the provision and implementation of a woodland management plan and subject to the conditions and reasons detailed in the report of handling.

Decision

Agreed to grant planning permission subject to the following Section 75 Legal Agreement and subject to conditions and reasons detailed below which included an amendment to conditions 7 and 8 to ensure consultation takes place with Ward 2 Members prior to the discharge of these conditions:-

Section 75 Legal Agreement

To secure the provision and implementation of a woodland management

plan. The woodland management plan shall seek to ensure the long term retention of an adequate landscape screen to the development, and should, if possible, also secure biodiversity improvements through restructuring of the woodland to include native species within replacement planting proposals.

Conditions and Reasons

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 18th November 2013; and the approved drawings numbered 1 of 6 to 6 of 6; and stamped approved by Argyll and Bute Council.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

2. The building hereby approved shall be used solely as a bonded warehouse store for whisky and other spirit and no other use including any other purpose in Class 6 and Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Furthermore, the building hereby approved shall be used solely for the storage of whisky and other spirit distilled on the island of Islay. A detailed inventory of the contents of the building shall be kept and all reasonable opportunity for the inspection of this inventory shall be afforded, by prior arrangement, to any designated representative of the Council in pursuance of their duties in order to ensure compliance with the provisions of this planning condition.

Reason: In order to ensure compliance with the 'special need' argument that underlies the justification for the development and to enable the Planning Authority to control any subsequent change of use which might otherwise benefit from deemed permission in order to protect the amenity of the locale.

3. No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:
 - i) Existing and proposed ground levels in relation to an identified fixed datum;
 - ii) Existing landscaping features and vegetation to be retained;
 - iii) Location design and materials of proposed walls, fences and gates;
 - iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
 - v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

4. No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:
 - i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
 - ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 "Trees in Relation to Construction".

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of safeguarding the visual amenity of the site and its surroundings.

5. No development shall commence until full details of any external lighting to be used within the site has been submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

No external lighting shall be installed except in accordance with the duly approved scheme.

Reason: In order to avoid light pollution in the interest of amenity.

6. External storage within the planning unit shall only take place on land designated for such purpose and which has the prior written approval of the Planning Authority.

A request for the written approval of the Planning Authority shall include the extent and location of the proposed storage area(s), the types of materials to be stored, maximum stacking heights and details

of any means of enclosure required.

Reason: In order to protect the amenity of the locale.

7. No development shall commence until the developer has obtained written approval from the Planning Authority for a traffic management plan, following consultation with the Roads Authority and Ward 2 Members :
 - i) details of routing of all deliveries and construction traffic;
 - ii) details of all materials, plant, equipment, components and labour required during the construction and operational phases of the development hereby permitted

Such provisions in the duly approved Traffic Management Plan shall be fully implemented unless any subsequent variation thereof is agreed in writing with the Planning Authority.

Reason: To minimise disruption arising as a result of traffic movements and safeguard road safety.

8. No development shall commence until the developer has obtained written approval from the Planning Authority for a detailed Method Statement, following consultation with the Roads Authority and Ward 2 Members. This Method Statement shall include:
 - i) A carriageway strengthening design for the UC 24 Avonvogie Road between the junction of the UC 24 Avonvogie to Cluanach Road with the B8016 Port Ellen Road and the application site. The approved carriageway strengthening works to be fully completed prior to any other works commencing on site;
 - ii) The identification and repair of deteriorated sections of the UC 24 carriageway due to construction traffic involved in the development hereby permitted. Any damage to the public road directly attributable to such construction traffic to be made good by the applicant/developer to the satisfaction of the Planning Authority in consultation with the Roads Authority;
 - iii) Details of the provision and design of additional passing places for an articulated vehicle along the UC 24 Avonvogie Road between the junction of the UC 24 Avonvogie to Cluanach Road with the B8016 Port Ellen Road and the application site. The number and location of such passing places shall be agreed by the Planning Authority in consultation with the Roads Authority and the passing places subsequently agreed shall be fully provided before any other works commence on site;
 - iv) Details of a maintenance agreement for the highway improvement works specified above; the scope and duration of which shall be agreed by the Planning Authority in consultation with the Roads Authority. The maintenance agreement

subsequently approved shall commence within 14 days of the building hereby approved being first brought into use.

Reason: In order to secure an appropriate standard of road capable of conveying traffic associated with this development, to minimise disruption arising as a result of traffic movements and to safeguard road safety.

9. Notwithstanding the provisions of Condition 1, no development shall commence until full details of the layout and surfacing of a parking and turning area to accommodate two 'light goods vehicles' and one 'articulated vehicle' within the application site have been submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers. The duly approved scheme shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

10. Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C697. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

(Reference: Report by Head of Planning and Regulatory Services dated 1 May 2014, submitted)

Having previously declared a non financial interest in respect of the following item Councillor Kinniburgh left the room and took no part in the determination of this application.

Councillor Alex McNaughton Chaired the meeting at this point.

5. MR LORNE THOMSON: CHANGE OF USE FROM PETROL FILLING STATION (SUI GENERIS) TO CAR SALES (SUI GENERIS) - EXTENSION AND ALTERATION OF EXISTING SHOP TO FORM SALES OFFICE, CUSTOMER WAITING AREA AND VALETING AND TYRE BAYS: 112 EAST CLYDE STREET, HELENSBURGH (REF: 14/00194/PP)

The Head of Planning and Regulatory Services spoke to the terms of the report advising that planning permission was sought for the change of use from petrol filling station to car sales. It was also proposed to extend and alter the existing shop/store to form sales office, customer waiting area and valeting and tyre bays. Reference was made to a supplementary report which provided detailed of the consultee response on flooding and

a recommended condition in respect of flooding. Members were also advised of a late objection received by email from Mr Graham Kinder. A total of 38 letters and emails of objection were received from local residents in connection with this application, however, it was not considered that there would be any added value by having a pre determination hearing as the proposal accorded with policy and the key consultees had no objections. The proposed development was considered acceptable at this location and accorded with Policies STRAT DC 9 and STRAT DC 1 of the Structure Plan and Policies LP ENV 1, LP ENV 13a, LP ENV 19, LP BUS 1, LP BAD1, LP TRAN 4, LP TRAN 6 and Appendix A and Appendix C of the Argyll and Bute Local Plan and was recommended for approval subject to conditions and reasons detailed in supplementary planning report number 1.

Decision

Agreed to grant planning permission subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 27.1.14 and the approved drawing reference numbers: D001, D002, D003, D004 and D005 unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. The approved use shall only operate between the following hours

Monday to Saturday 08.30hrs to 18.00hrs
Sunday 10.00hrs to 17.00hrs

Unless otherwise agreed in writing with the Planning Authority

Reason: In the interests of residential amenity.

3. No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided to the Planning Authority for approval before commencement of development.

Reason: To ensure that the development is adequately served by a public water supply.

4. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, details and specifications of an appropriate grease/oil

interceptor and the provision of a Sustainable Urban Drainage System (SuDS). The scheme shall be prepared in accordance with the advice given in Planning Advice Note 61 (PAN 61) 'Planning and Sustainable Urban Drainage Systems' and the 'SuDS Design Manual' (CIRIA C697). The development shall be implemented in accordance with the duly approved surface water drainage system.

Reason: To ensure that an acceptable scheme of surface water drainage is implemented and to prevent pollution.

5. Notwithstanding the effect of Condition 1, no development shall commence until samples of materials to be used in the construction of hard standings have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

6. Prior to the use hereby approved becoming operational, the customer parking shown on the docquetted plans shall be fully implemented and available for use.

Reason: In the interests of road safety.

7. The car sales display area shall be limited to that shown on docquetted plan D005.

Reason: In the interests of road safety.

8. The final floor level of the building as extended hereby approved shall be a minimum of 5.82 metres above ordnance datum (AOD).

Reason: In order to prevent flooding.

(Reference: Report by Head of Planning and Regulatory Services dated 1 May 2014 and supplementary report number 1 dated 19 May 2014, submitted)

Councillor Kinniburgh returned to the meeting and resumed the Chair.

6. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

A report advising of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to planning application reference 12/02150/PP was before Members for consideration. A supplementary report was also presented to Members which advised of a typographical error in the original report and to advise of further correspondence received following publication of the appeals update report.

Following a lengthy debate it was agreed to adjourn consideration of this

item in order to receive the detail of the advice obtained from the Council's legal advisers regarding the prospects of a successful legal challenge in respect of this decision.

7. PROJECT INITIATION DOCUMENT - ROTHESAY WINDOWS PROJECT

Consideration was given to a Project Initiation Document (PID) for the Rothesay Windows Project.

Decision

Endorsed the Project and approved the PID.

(Reference: Report by Head of Planning and Regulatory Services and Rothesay Windows Project PD version 2, submitted)

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 13 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

8. ENFORCEMENT REPORT UPDATE - 11/00107/ENOTH2, 13/00093/ENOTH3 AND 13/00384/ENOTH3

Consideration was given to an update on Enforcement Case references 11/00107/ENOTH2, 13/00093/ENOTH3 and 13/00384/ENOTH3.

Decision

Noted the contents of the report.

(Reference: Report by Head of Planning and Regulatory Services, submitted)

The Chair ruled and the Committee agreed to adjourn the meeting at 1.05 pm in order to await information requested at item 6 above.

The Committee reconvened at 1.20 pm and resumed consideration of the Scottish Government Appeal decision in respect of planning application reference 12/02150/PP previously dealt with at item 6 above.

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

Motion

To note the contents of the report and agree to delegate to the Head of Planning and Regulatory in consultation with the Chair and Vice Chair of the PPSL Committee to write to the Scottish Government Directorate for Planning and Environmental Appeals to express the Committee's disappointment and

concerns in respect of the decision taken by the Reporter to approve planning application reference 12/02159/PP.

Moved by Councillor George Freeman, seconded by Councillor David Kinniburgh

Amendment

To seek a Judicial Review based on the areas of challenge and potential flaws identified within the legal opinion received from the Council's legal advisers.

Moved by Councillor Robin Currie, seconded by Councillor Rory Colville

The Motion was carried by 7 votes to 3 and the Committee resolved accordingly.

Decision

Agreed to note the contents of the report and to delegate to the Head of Planning and Regulatory in consultation with the Chair and Vice Chair of the PPSL Committee to write to the Scottish Government Directorate for Planning and Environmental Appeals to express the Committee's disappointment and concerns in respect of the decision taken by the Reporter to approve planning application reference 12/02159/PP.

(Reference: Report by Head of Planning and Regulatory Services and supplementary report number 1 dated 19 May 2014, submitted)