

**Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 10/01977/PP

**Planning Hierarchy:** Local

**Applicant:** Scottish Water

**Proposal:** Re-profiling of ground and re-alignment of handrail to accommodate buried pumping station chambers, formation of lay-by and installation of rock armouring and retaining wall

**Site Address:** Land Opposite 8 Marine Place, Ardbeg, Rothesay, Isle of Bute

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**DECISION ROUTE**

- (i) Local Government (Scotland) Act 1973
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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Re-profiling of ground including installation of rock armouring and retaining wall to accommodate a pumping station (wet well and valve chamber);
- Removal of existing handrails and rebuilding around the perimeter of the pumping station;
- Formation of lay-by

**(ii) Other specified operations**

- Erection of control cabinet.
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**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions, reasons and informative notes at the end of this report.

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**(C) HISTORY:**

Application for Planning Permission (ref: 05/00093/DET) submitted in January 2005 for the raising of existing ground levels to accommodate buried pumping station chambers,

re-alignment of existing railings, access alterations and ancillary development (including a control kiosk) at the subject site. As a result of a design change to the scheme, this application was withdrawn on 5<sup>th</sup> April 2005.

Application for Planning Permission (ref: 05/00671/DET) submitted in March 2005 for the raising of existing ground levels to accommodate buried pumping station chambers, re-alignment of existing railings and ancillary development at the subject site. As the overall project was put on hold, this application was withdrawn on 20<sup>th</sup> May 2005.

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**(D) CONSULTATIONS:**

Environmental Health Officer (memo dated 22<sup>nd</sup> December 2010)- No objections subject to conditions.

SEPA - no comments received at the time of writing. Any comments received subsequently will be reported at the meeting.

Area Roads Manager - no comments received at the time of writing. Any comments received subsequently will be reported at the meeting.

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**E) PUBLICITY:**

Article 9 neighbour notification procedure (closing date 23<sup>rd</sup> December 2010) and Conservation Area Advert (closing date 24<sup>th</sup> December 2010).

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**(F) REPRESENTATIONS:**

One representation has been received from Colin and Elizabeth Spear, 9 Marine Place, Ardbeg (letter dated 20<sup>th</sup> December 2010).

The points raised can be summarised as follows:

- i. The profile of the proposed reinforced concrete retaining wall to the pumping station does not match the profile of the existing sea wall to which it will adjoin. As a consequence it will not blend into the fabric of the existing streetscape, as its design and appearance are completely different than the existing sea wall. This will be obvious to all pedestrian traffic promenading along the foreshore pavement and to the same extent by all yachts and pleasure steamers occupants who will traverse the site by sea.

*Comment: The visual impact of the proposal will be assessed in Annex A section below.*

- ii. The material being proposed for the rock armouring will not match any rock currently found on the seashore. The quantity proposed, its angular placement at approximately 30-45 degrees on three sides of the pumping station, will again impact detrimentally to the natural environment. If the profile of the wall matched those used so successfully by our forefathers, then there would be no need for the rock armouring, as waves would be dissipated and automatically repelled

seaward, as is the case today. There would also be significant cost savings should rock-armoring not be used.

*Comment: The visual impact of the proposal is assessed in Annex A section below. Scottish Water has advised (letter dated 11<sup>th</sup> November 2010) that the rock armoring is being "employed to protect the site". Such an approach has been approved and has been implemented at other Scottish Water coastal pumping stations.*

- iii. The location of the pumping station is above the high water mark, on a raised portion of the beach that contains shingle and grass and it is also highlighted that protection from storms is not required in this way.

*Comment: This is essentially an operational matter for Scottish Water and does not have a material bearing upon the planning aspects of the case.*

- iv. The rock armoring will allow for the accumulation of rubbish and to the creation of a perfect habitat for rats, as has been the case with similar development adjacent to the former Albert pier in Battery Place, Rothesay.

*Comment: These issues do not have a bearing upon the planning aspects of the case. Such an approach has been approved and has been implemented at other Scottish Water coastal pumping stations.*

- v. The Council should protect against the possibility of the "lay-by" being used for car parking, by ensuring that removable bollards and/or benches, to allow routine servicing of the pumping station chamber, are installed as part of these works.

*Comment: The responsibility for controlling access to the lay-by rests with Scottish Water and does not have a bearing upon the planning aspects of the case.*

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## **(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** No
- (iv) Supporting Information**

Scottish Water (letter dated 11<sup>th</sup> November 2010) has advised of the following:

The objective of the Ardbeg and Port Bannatyne Sewerage Scheme is to intercept the numerous foul gravity outfalls to the sea within the area and convey the flows to the existing sewerage system in Rothesay. Pumping stations will be provided at locations accessible from the coast road, together with lengths of intercepting sewer and rising main. The majority of pipework, including on-line storage, will be located in the roadway. Each pumping station will be equipped with pumps, associated pipework, ancillary development and control kiosk.

This particular new pumping station will be located off Marine Place with vehicular access to the site to be provided by the installation of a new lay-by. The land will be raised and built-out to accommodate the new pumping station chambers with rock armouring employed to protect the site. As the pumping station chambers will be below the finished ground level, pedestrians will have access across the finished site and the new handrails will integrate with the existing handrails at the shore side of Marine Place.

The new kiosk is the sole above ground structure. Although this aspect of the works is considered to be '*permitted development*' and not, therefore part of the planning application, the kiosk shall be constructed from glass reinforced plastic but completed with a stone finish in order to minimise visual impact.

- (v) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
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**(H) PLANNING OBLIGATIONS**

- (i) **Is a Section 75 agreement required:** No
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- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
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**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) **List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements  
STRAT DC 9 – Historic Environment and Development Control

Argyll & Bute Local Plan 2009

LP ENV 10 seeks to resist development within Areas of Panoramic Quality where its scale, location or design will have a significant adverse effect on the character of the landscape.

LP ENV 14 presumes against development that does not preserve or enhance the character or appearance of an existing Conservation Area.

LP ENV 19 '*Development Layout, Setting & Design*' requires developers to execute a high standard of setting, layout and design where new developments are proposed.

LP CST 1 advances support for coastal development where certain criteria can be met.

LP BAD 1 seeks to ensure that developments do not have an unacceptable adverse effect on the amenity of neighbouring residents and that they include appropriate measures to reduce the impact on amenity.

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Not applicable

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- (K) **Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No
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- (L) **Has the application been the subject of statutory pre-application consultation (PAC):** No
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- (M) **Has a sustainability check list been submitted:** No
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- (N) **Does the Council have an interest in the site:** Yes
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- (O) **Requirement for a hearing (PAN41 or other):** No
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- (P) **Assessment and summary of determining issues and material considerations**

This proposal is one of a number of sites for pumping stations that Scottish Water has identified in order to meet the appropriate project drivers under the Quality and Standards (Q&S3) investment programme and to comply with the Urban Waste Water Treatment Directive. The overall scheme seeks to address the problem of untreated sewage being discharged into the waters surrounding Port Bannatyne and Ardbeg.

The nearest residential property is the opposite side of Marine Place, in the region of 15 metres to the residential curtilage and around 40 metres to the front face of the dwelling. The Environmental Health Service has raised no objections and suitable planning conditions can be imposed to protect residential amenity (whilst other powers are also at the Council's disposal under the Control of Pollution Act 1974 and the Environment Protection Act 1990 should nuisance arise).

Whilst within the Rothesay Conservation Area, the design of the scheme together with other conditions relative to its visual appearance would result in a development that would have a '*neutral*' effect upon the overall character of this shoreline environment. The development therefore maintains the character and appearance of the conservation area.

The main outstanding issue relates to the impact of the proposal on road and pedestrian safety and it is understood that this has been the subject of discussions between the Area Roads Department and the applicant. The formal comments of the Area Roads Manager are awaited in this regard and will be reported verbally at the meeting.

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**(Q) Is the proposal consistent with the Development Plan: Yes**

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

The proposal accords with policies STRAT DC 1 and STRAT DC 9 of the 'Argyll and Bute Structure Plan' 2002 and policies LP ENV 10, LP ENV 14, LP ENV 19, LP CST 1 and LP BAD 1 of the 'Argyll and Bute Local Plan' (2009) and the proposal raises no other material consideration which would justify refusal of permission.

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**(S) Reasoned justification for a departure from the provisions of the Development Plan**

Not applicable

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**(T) Need for notification to Scottish Ministers or Historic Scotland: No**

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**Author of Report: Steven Gove**

**Date: 30/12/2010**

**Reviewing Officer: Richard Kerr**

**Date: 30/12/2010**

**Angus Gilmour  
Head of Planning**

## CONDITIONS AND REASONS RELATIVE TO APPLICATION 10/01977/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

*Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997*

2. The development shall be implemented in accordance with the details specified on the approved drawings numbers: Drawing No. 400114-0000-20-DRG-9920; Drawing No. 400114-0000-20-DRG-9921; Drawing No. 400114-0000-20-DRG-9922; and Drawing No. 400114-0000-20-DRG-9923 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*

3. Notwithstanding the provisions of Article 3 and Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no works shall be carried out within the development site in respect of the erection of the control kiosk until details of its design and external finishes have been submitted to and approved in writing by the Planning Authority. Such details shall show the erection of a kiosk that shall be clad in stone and be no higher than 2.0 metres above the level of the carriageway as it adjoins the frontage of the site. The kiosk shall be erected in accordance with such details as may be approved, unless the prior written consent of the Planning Authority is obtained for any variation thereof.

*Reason: In order to safeguard the visual amenity of the Rothesay Conservation Area from the unsympathetic siting and design of sewerage infrastructure normally carried out without Planning Permission under Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.*

4. Prior to the commencement of any development, details shall be submitted of the composition of rock armour including, source and size of material. Only such material, as may be approved by the Planning Authority in consultation with SEPA, shall be used in the implementation of the approved development.

*Reason: In order to integrate the development along the shore and in the interests of health and amenity to ensure that there is no potential for flooding either within or outwith the site.*

5. No lighting units shall be installed unless the prior written consent of the Planning Authority is obtained in consultation with the Public Protection Service. Any lighting units that are approved shall be operated, positioned and angled to prevent any glare or light spillage outwith the boundary of the site, having regard to the Institute of Lighting Engineers Guidance.

*Reason: In order to avoid the potential of light pollution.*

6. The calculated noise levels, arising from the operation of the pumping station, shall not increase pre-determined ambient background noise levels (LA90), as agreed with the Planning Authority, by more than 3dBA at the nearest noise sensitive property. All measurements shall be taken in accordance with BS 4142:1997.

*Reason: In the interests of public health and amenity and in accordance with Policy LP BAD 1 of the Argyll and Local Plan 2009.*

7. No part of the development shall take place until a detailed scheme of odour control measures for the works has been submitted to, and approved in writing by the Planning Authority. Details shall include the design of plant, operational procedures and maintenance arrangements with particular reference to odour control. The scheme shall include details of the best practicable means of odour suppression and procedures to be followed in the event of an emergency.

*Reason: In the interests of public health and amenity and in accordance with Policy LP BAD 1 of the Argyll and Bute Local Plan 2009.*

8. The pumping station and all associated plant shall be maintained in accordance with the manufacturer's recommendations and a system for keeping records of maintenance and monitoring of plant performance, including response to complaints, shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development.

*Reason: In the interests of public health and amenity and in accordance with Policy LP BAD 1 of the Argyll and Bute Local Plan 2009.*

## **NOTES TO APPLICANT**

1. In order to comply with Section 27A(1) of the Town & Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
2. In order to comply with Section 27B(1) of the Town & Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was complete.
3. Public Protection Service has powers under the Environmental Protection Act 1990 to remedy any environmental nuisance. It is strongly recommended that prior to any works taking place agreement on the implementation and operation of the development is reached with Jo Rains, Area Environmental Health Manager, Argyll and Bute Council, Hill Street, Dunoon (telephone Number 01369 707124).
4. It is strongly recommended that prior to any works taking place agreement is reached relative to the method to suppress dust for the construction of the pumping station. You are advised to contact Jo Rains, Area Environmental Health Manager, Argyll and Bute Council, Hill Street, Dunoon (telephone Number 01369 707124).
5. A 'Road Opening Permit' will be required in connection with the proposed works.
6. A system of surface water drainage is required to prevent water running of the road in accordance with Section 99 of the Roads (Scotland) Act 1984 that states that:

*"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."*



## **ANNEX A – RELATIVE TO APPLICATION NUMBER 10/01977/PP**

### **PLANNING LAND USE AND POLICY ASSESSMENT**

#### **A. Settlement Strategy**

This new pumping station will be located opposite 8 Marine Place, Ardbeg with vehicular access to the site to be provided by the installation of a new lay-by. The land will be raised and built-out to accommodate the new pumping station chambers (wet well and valve chamber) with rock armouring employed to protect the site.

A control cabinet is also to be erected but, due to the proposed dimensions, this would normally constitute '*permitted development*' under Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. However due to external cladding requirements discussed below this will take the volume of the cabinet beyond '*permitted development*' tolerances.

The site is located within the 'settlement' of Rothesay, and the proposal is considered to accord with policy STRAT DC 1 of the Structure Plan.

#### **B. Location, Nature and Design of Proposed Development (Including Impact upon Built Environment)**

The proposed development is one of several new pumping stations as part of the Ardbeg and Port Bannatyne Sewerage Scheme. The majority of the pumping stations will have a coastal location in order to intercept the existing foul gravity outfalls to the sea and to convey the flows (via new underground pipework) to the existing sewerage treatment works in Rothesay.

Based upon this justification, there is a clear need for the development and its coastal location.

In terms of visual impact, the site would be an extension outwards of the existing seawall and would be open to view from pedestrians utilising the adjacent footpath.

The most discernable feature will be the alteration to the seawall by the re-profiling of the ground to include an embankment of rock armour. Consideration requires to be given as to how to minimise its impact. The extension of the existing seawall will require carefully grading, suitable choice of rock including size, shape, composition and source and the overall appearance of the rock armour will play an important role in marrying the proposed development with the existing foreshore. In this regard, it is recommended that a planning condition (Condition 4) be imposed to address this matter.

A control cabinet is to be erected to provide above ground equipment to serve the underground pumping station. Such control cabinets are normally designed and sized so that they fall within '*permitted development*' tolerances under Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. In terms of the design, some of the cabinets installed at other Scottish Water sites within the Cowal area have been stone faced in order to improve their appearance where they have been sited in prominent or sensitive locations (e.g. Kames, Tighnabruaich and Strachur). Such exterior cladding takes their volume beyond that which constitutes '*permitted*

*development*'. Given that this particular site is located within the Rothesay Conservation Area, it is considered reasonable to require the subject kiosk to be faced in a suitable material (in this case stone) rather than the standard olive green kiosk. Scottish Water have agreed to this course of action and are willing to accept a condition to that effect.

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### **C. Potential odour and noise LP BAD 1 '*Bad Neighbour*'**

No letters of representation have been received relative to anticipated odour or noise issues. However there is a requirement for the application to be considered against LP BAD 1 of the 'Argyll and Bute Local Plan' 2009 which seeks to resist '*bad neighbour*' uses where it is considered that they would have an adverse effect upon the amenity of residential property.

The nearest residential property is the opposite side of Marine Place in the region of 15 metres to the residential curtilage and around 40 metres to the front face of the dwelling. The Environmental Health Service is aware from its experience in other locations that odour arising from the operation of pumping stations can give rise to nuisance to the detriment of the area. Likewise, plant, equipment and vehicle movements all have the potential to give rise to noise nuisance at the nearest receptors, particularly as in this case where background levels are generally low. In this instance, the pumping station would be contained underground, but it is essential that its operation does not give rise to offensive odours or noise nuisance and the Environmental Health Service has recommended appropriate conditions to avoid this.

Planning conditions should not be imposed on aspects of any part of the development that benefits from '*permitted development*' rights (notably, in the case of sewerage authorities – below ground development). In this instance, however, the pumping station would be inserted within made up ground, i.e. that area of the site which is to be raised in height to form a platform. As such, given that this part of the development would not constitute '*permitted development*' the imposition of a planning condition relative to the design and management of the plant would meet the 'six tests' for the imposition of planning conditions set out in of Circular 4/1996 '*The use of conditions in planning permissions*'. Accordingly, in order to safeguard amenity, a suitable planning condition can and should be imposed in relation to the design and management of the plant in this case.

In terms of potential noise during the construction phase, it is not necessary to impose any planning condition as this would merely duplicate controls since powers are available to the Environmental Health Service under the Environmental Protection Act 1990 and the Control of Pollution Act 1974, should excessive noise nuisance occur. This aspect is addressed as a '*note to the applicant*' encouraging early dialogue between Scottish Water its contractor and Public Protection.

On the basis of the foregoing, and subject to the recommended safeguarding conditions, the proposal is considered to accord with policy LP BAD 1 of the Local Plan.

### **D. Road Safety**

The main outstanding issue relates to the impact of the proposal on road and pedestrian safety and it is understood that this has been the subject of discussions between the Area Roads Department and the applicant. The formal comments of the Area Roads Manager are awaited in this regard and will be reported verbally at the meeting..