

**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:** 11/00689/PPP

**Planning Hierarchy:** Local

**Applicant:** National Grid Property

**Proposal:** Site for the erection of retail store (Class 1) with associated development including access, car parking and landscaping.

**Site Address:** Land at former Gas Works Argyll Street/Hamilton Street, Dunoon, Argyll

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## **SUPPLEMENTARY REPORT 1**

### **1.0 Summary**

1.1 The purpose of this supplementary report is to confirm the receipt of a revised response received from Flood Risk Management, email from the agent, email and attachment from Dougal Baillie, letter from Colliers, emails from applicant and emails from CWP/Kaya regarding potential flooding issues.

### **2.0 Additional Consultee Response**

2.1 The revised response from Flood Risk Management (dated 13<sup>th</sup> September 2011) is a direct result of a series of emails received from Kaya Consulting on behalf of CWP who have questioned the methodology and outcomes of the flood risk assessment carried out by Dougal Baillie Associates on behalf of National Grid Property.

The response from Flood Risk Management incorporates findings in the Carl Bro report and comments made by SEPA in their responses dated 25<sup>th</sup> July and 23<sup>rd</sup> August 2011. The Flood Risk Management team considers that the scheme is acceptable in principle at this stage but the full extent of training walls and compensatory flood storage will require to be fully designed at the detailed stage using the Carl Bro report, Dougal Baillie report and SEPA'S requirements.

A condition in the original planning report will however require to be amended to reflect the nature of discussions between Kaya, Dougal Baillie and SEPA. This suspensive condition is imposed on the basis that the flood risk details submitted are considered to be acceptable at this stage.

### **3.0 Additional Representations**

3.1 James Barr submitted a letter from Colliers (dated 1<sup>st</sup> September 2011) that questions the geotechnical and environmental status of the site in respect of costs to effect development on the site. Colliers comment that the site is not included in the DTZ September brochure (*note: the site currently has for sale boards on site by DTZ*). Colliers state that they are making arrangements to relocate the existing Walkers business on an alternative site to enable the business to expand. Stress that the CWP site is the only site that would be attractive to the main retailers.

3.2 An email dated 13<sup>th</sup> September 2011 has been received from the agents Montagu Evans in response to the letter from Colliers dated 1<sup>st</sup> September 2011. Montagu Evans expresses surprise that Colliers have commented on the geotechnical and environmental status of the site, given the consultee responses. Also query the relocation of Walker's Garden Centre and why CWP have not submitted a parallel application for such a relocation proposal. Montagu Evans notes that CWP previously approached National Grid in relation to relocating Walkers Garden Centre.

3.3 Email from Kaya Consulting (dated 10<sup>th</sup> September 2011) highlights issue of differences in the predicted peak water levels between the Carl Bro (CB) model and Dougal Baillie (DB) model and potential effect of overland flow paths in case of culvert blockage. Kaya consider that the proposal contravenes SPP where the extent of the compensatory flood storage is unknown at this stage and that the standard precautionary approach has not been adopted by the Council.

3.4 In respect of issues raised by Kaya Consulting, Dougal Baillie Associates (DBA) contacted the Council's Flood Risk Management (emails dated 12/13 September 2011) to confirm that their Flood Risk and Drainage Assessment April 2011 addresses culvert blockage and Appendix E includes Drawing No. 11027(49)03 which details the flood compensatory area within the site.

DBA also confirm that there are overland flow paths provided to ensure that, should the Argyll Street or Hamilton Street bridges block, there will be no risk of flood waters reaching the store. Any overland flooding, as a result of blockage to the culverts, will be limited to the north-west corner of the car park or the service yard, which could flood to a maximum depth of 250mm. DBA confirm that this should not significantly affect the operation of the store, however the flow paths could be refined during the detailed design stage.

3.5 Emails (dated 12/14/15 September from CWP challenges the Council's '*in principle*' acceptance of the findings of SEPA and Flood Risk Management Team. CWP consider that the extent of the functional flood plain affected and amount of compensatory flood storage provided to satisfy SPP have not been determined.

CWP question whether the Council have the detailed information at this stage to enable confirmation whether a store of the size proposed on the National Grid site can be accommodated and will not contravene SPP and be acceptable to SEPA.

## 4.0 ASSESSMENT

4.1 Whilst CWP and their flooding consultants Kaya challenge the approach taken by the Council, it is acknowledged that the Carl Bro report is a much more in depth and detailed assessment than the DBA report. Whilst the two reports do not explicitly conclude the exact same measurements it is the Council's view that they do dovetail sufficiently in terms of their being a technical solution available to allow development on the National Grid. SEPA have also noted the concerns of CWP/Kaya on the flooding matter and suggested what they consider to be an acceptable condition which is understood to be more stringent than would usually be applied in terms of an increased blockage scenario.

4.2 DBA did not have a copy of the CB report prior to their submission but now have a copy whose figures would be expected to be used for a Flood Risk Assessment for a detailed scheme. SEPA require compensatory storage for the 0.5% AEP event. However SEPA also require in this particular instance the storage of flood waters when the culvert itself is 50% blocked, which is more stringent. However, the figure of 50% suggested by SEPA may be capable of being reduced if the designer can convince SEPA of any mitigating factors i.e. extent of training walls, design of overland flow path and additional compensatory storage.

The major factor from the Council's flood assessment is that according to the CB model, the building of a training wall and diversion of overland flood waters at Hamilton St bridge back into the burn stops the entire gas works site flooding at 0.5% AEP plus CC (climate change) allowance. Furthermore, the model identifies no further increase in water level due to 0.5% AEP plus CC allowance after the building of the training wall.

4.3 A compensatory storage area has been identified by DBA, and considered by the Council's Flood Risk Management as suitable for any minor loss of flood storage area due to the building of the training wall. However, DBA could design a scheme to accommodate the 50% blockage scenario (based on CB's figures) which is still to be calculated, or try to negotiate a lower blockage rate with SEPA.

## **5.0 CONCLUSION**

5.1 Despite SEPA and the Council's acceptance of the submitted information on flood risk of the site, CWP/Kaya remain unconvinced that the proposal has been properly considered and potential flooding of the site and other land has not been resolved. The applicant's agents have however at this stage satisfied both SEPA and the Council that the site can accommodate development on a scale which is proposed but there remain various options which require to be fully explored at the detailed design stage to allow refinement of the submitted flood risk measures. The revised condition suggested by SEPA and the Council's Flood Risk Management takes on board comments made by Kaya and considered to be appropriate to allow this application for Planning Permission in Principle to be recommended for approval.

The applicants agent has confirmed that National Grid will provide additional details at a Hearing where they will be able to present further details on the flood mitigation measures proposed.

## **6.0 RECOMMENDATION**

6.1 It is recommended that planning permission be approved as per the original report subject to the rewording of one of the conditions (new condition 14). Appendix A overleaf includes the revised planning condition list.

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**20<sup>th</sup> September 2011**

## APPENDIX A

### CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/00689/PPP

1. This permission is granted in terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application for planning permission in principle and the further approval of Argyll and Bute Council or of the Scottish Minister on appeal shall be required with respect to the under-mentioned additional matters (to be applied for within an application/s of matters specified in conditions) before any development is commenced.

- a. The siting, design and external appearance of the proposed development.
- b. The landscaping of the site of the proposed development.
- c. Details of the access arrangements.
- d. Details of the proposed water supply and drainage arrangements.

*Reason: To comply with Section 59(1) of the Town and Country Planning (Scotland) Act 1997.*

2. In the case of the additional matters specified in (1) above, an application/s for compliance with this condition, in terms of Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 must be made to Argyll and Bute Council before whichever is the later of the following :

a) the expiration of a period of 3 years from the date of this permission.

b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.

c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b and c above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

*Reason: In accordance with Section 59(1) of the Town and Country Planning (Scotland) Act 1997*

3. In the case of the application for approval of matters specified in condition (1) above, the development to which the permission relates must be begun within 2 years of the date of this approval; or in the case of there being other matters remaining outstanding 2 years from the date of such further approval; or such other period as the planning authority may determine, provided that such a further application can be submitted in accordance with the approved timelines specified in the ongoing planning permission in principle.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.*

4. The development shall be implemented in accordance with the details specified on the application form dated 5<sup>th</sup> May 2011 and the approved drawing reference numbers: 1:1250 Location Plan (PL)001, 1:500 Illustrative Foodstore Layout (PL)002 RevB, 1:250 Proposed Foodstore Illustrative Elevations (SK)004, 1:500 Former Gas Works Site Survey GJ169/CDA/02 Rev0, unless the prior written approval of the Planning Authority is obtained 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.*

5. The net convenience sales area of the development shall not exceed 1448 sq.m. and the net comparison sales area shall not exceed 552 sq.m.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the submitted retail assessment.*

6. The level of noise emanating from the site shall not exceed 40dB(A)  $L_{\text{night, outside}}$  nor 45dB  $LA_{\text{eq}(5 \text{ mins})}$  nor 60 dB  $LA_{\text{max}}$  between 23:00 hours and 07:00 hours and must not exceed 50 dB  $LA_{\text{eq}(1 \text{ hour})}$  at any other time. The level of noise from the site is to be measured at the facade of the nearest noise sensitive receptor for daytime noise.

*Reason: In the interests of public health and amenity.*

7. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from fixed plant and/or machinery has been submitted to and approved in writing by the Planning Authority. The development shall not commence until the measures in the approved noise prevention scheme operate to the satisfaction of Public Protection.

*Reason: In the interests of the amenity of surrounding properties.*

8. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from service yard activity has been submitted to and approved in writing by the Planning Authority. Such a scheme shall provide for an acoustic barrier or other similar noise control measures. The development shall not commence until the acoustic barrier or other measures in the approved noise prevention scheme shall be installed in its approved form prior to the start of any other construction process on site.

*Reason: In the interests of the amenity of residents at McArthur Street.*

9. Prior to any works commencing on site, the applicant shall have regard to the Scottish Executive Guidance Note Controlling Light Pollution and Reducing Light Energy Consumption (March 2007) and follow the lighting design process described in the Guidance Note. The information recorded should be of good standard to enable the lighting submission proposal to be evaluated. All lighting proposals shall be submitted to and approved in writing by the Planning Authority in consultation with Public Protection.

*Reason: In order to avoid the potential of light pollution infringing on surrounding land uses/properties*

10. No development or any works whatsoever shall take place on site until an assessment of the condition of the land has been undertaken and has been approved in writing by the Planning Authority in consultation with the Public Protection Unit. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites. Where such risks are identified then a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be prepared, and is subject to the approval of the Planning Authority in consultation with the Public Protection Unit. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

11. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any development with the exceptions of those actions required to carry out remediation, unless otherwise agreed, in writing, with the Planning Authority, in consultation with the Public Protection Unit. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation shall be produced, and subject to approval in writing of the Planning Authority in consultation with the Public Protection Unit.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

12. In the event that contamination was not previously identified is found at any time when carrying out the approved development it shall be reported in writing immediately to the Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is deemed necessary then a remediation scheme shall be prepared in accordance with the requirements of condition 8 above which is subject to the approval in writing by the Planning Authority. Following completion measures identified in the approved remediation scheme a verification report shall be prepared which is subject to the approval in writing by the Planning Authority in accordance with condition 10 above.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

13. Before development commences, an Environmental Action Plan shall be submitted to and approved in writing by the Planning Authority. This plan shall address issues such as foul drainage, contamination, the potential for dust, mitigation measures to be adopted and the methods of monitoring and recording matters relating to dust control, all to the satisfaction of the Planning Authority in consultation with the Head of Public Protection.

*Reason: In the interests of public health and amenity.*

14. Prior to the commencement of any works, full details of a compensatory flood storage scheme (designed to include the 200 year plus 50% culvert blockage scenario) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA and the Council's Flood Risk Management. The detail design peak water levels shall be based on the 0.5 % annual exceedence probability (AEP) event given in Carl Bro Report December 2006 and in particular, the design shall take heed of the report's recommendations for the gas works site particularly the training wall at Hamilton Street Bridge. The storage requirements for 50% culvert blockage shall also be based upon the Carl Bro report figures. All works shall be carried out in accordance with the approved scheme.

*Reason: In order to maintain the capacity of the floodplain.*

15. No development shall commence until a condition survey of the training walls that are to be retained on site has been carried out and submitted to and approved in writing by the Planning Authority. Such a study shall include full details of any remedial works to be carried out and these works addressed as part of the proposed development.

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

16. Prior to submitting the detailed design, a site investigation including CCTV to locate and identify existing pipe work shall be carried out. Full details including a marked up site plan

identifying any implications to adjacent roads drainage shall be submitted to the Planning Authority in consultation with the Roads Authority for written approval

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

17. The pathway for overland flow during 1:200 AEP at Hamilton Street Bridge shall be designed and submitted to the Planning Authority in consultation with the Roads Authority for written approval. Such information shall show the pathway for overland flow re-entering Milton Burn as close to the bridge as possible. The designer is advised to liaise directly with the Council's Design Services (refer to Advisory Note 6 below).

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

18. Any details pursuant to Condition 1 (d) above shall provide for full drainage details including foul drainage details, and a SuDS scheme with methods to deal with surface water drainage of the site. Prior to the commencement of any works, such a SuDS scheme shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.

*Reason: In order to provide for sustainable development of the site, and to protect existing and proposed development from the effects of potential increased surface water run-off to surrounding areas.*

19. Within a minimum of two months from the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved method statement.

*Reason: To control pollution of air, land and water.*

20. Any details pursuant to Condition 1 (b) above shall provide for a full tree survey, landscaping scheme and boundary treatment incorporating a plan (at a scale of 1:200 or greater) to indicate all trees, shrubs and other features to be retained, felled and replanted. This scheme shall specifically include the age species and location of tree planting as suitable screen planting around the application site (that shall be planted as heavy standards) and method to protect surrounding/overhanging trees during and after construction. No trees shall be felled without prior written approval of the Planning Authority in advance of approval of a tree planting scheme.

*Reason: In order to integrate the proposed development within its surroundings.*

21. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the site foul drainage system can be connected to the public sewerage system.

*Reason: In order to provide for sustainable development of the site, and to avoid any unacceptable adverse impact on the water environment.*

22. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the proposed development can be served with a water supply from the public mains system.

*Reason: In order to ensure that the proposed development can be connected to the public water main.*

23. No works in connection with the development hereby approved shall take place unless a Waste Management Plan for the site has been submitted to and approved in writing by the

Planning Authority in consultation with Protective Services and the Scottish Environment Protection Agency. This plan shall include details of the arrangements for the storage, including the design and location of all bin stores together with the separation and collection points for waste from the site or roadside collection points, including provision for the safe pick up by refuse collection vehicles. The approved Waste Management proposals shall be carried out in accordance with the approved scheme.

*Reason: To ensure the waste from the proposed site is dealt with in a sustainable manner in accordance with the National Waste Strategy for Scotland and the Area Waste Plan for Argyll & Bute.*

24. No development, including any site works, shall commence until a detailed design for the junction between Hamilton Street and Argyll Street has been submitted to and approved in writing by the Planning Authority in consultation with Roads. Such detailed design shall mitigate the reduced junction capacity due to the predicted traffic volumes generated by the development and the base line traffic.

*Reason: In the interests of road safety.*

25. The visibility splays required for the Hamilton Street access shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road. Additionally, a minimum of 25 metres is required as forward visibility from Argyll Street onto Hamilton Street.

*Reason: In the interests of road safety.*

26. The Hamilton Street access shall be a minimum width of 6 metres with radii of 6 metres. The gradient of the access shall not exceed 5% for the first 10 metres or 8% for the remainder. The location of this access is some 35 metres from Argyll Street junction, the access should be moved as far from Argyll Street as the site will permit.

*Reason: In the interests of road safety.*

27. The visibility splays required for the service access on Argyll Street shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road.

*Reason: In the interests of road safety.*

28. The gradient of the service access onto Argyll Street shall not to exceed 5% for the first 10 metres or 8% for the remainder. Provision shall be made within the service bay to ensure that all vehicles must be able to enter and leave in a forward manner.

*Reason: In the interests of road safety.*