

PLANNING BOARD – 3 MAY 2023

Planning Board

Wednesday 3 May 2023 at 3pm

Present: Provost McKenzie, Councillors Brennan (for McGuire), Brooks, Clocherty, Crowther, Curley, Daisley, Jackson, McCabe, McVey and Robertson (for Law).

Chair: Councillor McVey.

In attendance:

Stuart Jamieson	Director, Environment & Regeneration
Gordon Leitch	Supervisory Engineer – Roads Design
Jim Kerr	Solicitor (for Head of Legal, Democratic, Digital & Customer Services)
Colin MacDonald	Senior Committee Officer
Lindsay Carrick	Senior Committee Officer
PJ Coulter	Communications Officer (Media Relations) (for Service Manager Communications, Tourism and Health & Safety)

The meeting was held at the Municipal Buildings, Greenock with Councillors Brennan, Daisley, Jackson and McCabe attending by video-conference.

The following paragraphs are submitted for information only, having been dealt with under the powers delegated to the Board.

255 APOLOGIES, SUBSTITUTIONS AND DECLARATIONS OF INTEREST 255

Apologies for absence were intimated on behalf of Councillor McGuire, with Councillor Brennan substituting and Councillor Law, with Councillor Robertson substituting.

No declarations of interest were intimated.

256 PLANNING APPLICATIONS 256

(a) To construct and operate a small scale hydro-electric scheme with storage on the Kip Water Hydro Scheme, Inverkip (18/0290/IC)

There was submitted a report by the Director Environment & Regeneration to construct and operate a small scale hydro-electric scheme with storage on the Kip Water at Kip Water Hydro Scheme, Inverkip (18/0290/IC).

After discussion, Councillor Brooks moved that planning permission be granted subject to the conditions contained in the report.

As an amendment, Councillor Curley moved that planning permission be refused on the grounds of insufficient community benefit.

Following a roll call vote, 2 Members, Councillors Curley and Daisley voted in favour of the amendment and 9 Members, Provost McKenzie, Councillors Brennan, Brooks, Clocherty, Crowther, Jackson, McCabe, McVey and Robertson voted in favour of the motion which was declared carried.

Decided: that planning permission be granted subject to the following conditions:-

(1) that the development to which this permission relates must be begun within 3 years from the date of this permission, to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended);

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(2) that no development shall commence on site until an updated Construction Management Plan (CMP) which sets out how the construction phase of the development will be managed. This shall be submitted to and be approved in writing by the Planning Authority in consultation with NatureScot. The Plan shall include:

- a) Detailed construction methods for all aspects of the scheme (temporary access tracks, permanent tracks, site compounds, intakes, pipeline, tailrace, outfall, powerhouse, culverts);
- b) Schedule of mitigation
- c) Pollution prevention safeguards and sedimentation safeguards;
- d) Storage and disposal of materials;
- e) Construction site facilities including the location of construction site huts, vehicle equipment, materials storage and location of parking area(s) for construction workers;
- f) Duration, timing and phasing of works;
- g) The width of the working corridor that construction works will be confined to (shown on a plan);
- h) Detailed habitat mitigation and restoration targets;
- i) Peat management plan addressing the following:
 - i) Treatment and management of peats and turves;
 - ii) A commitment to all construction activity ceasing immediately if deep peat is discovered;
 - iii) On site storage options to ensure any peat is kept dry;
 - iv) Details of proposed on site and off site use;
 - v) A commitment that SEPA will be contacted to obtain an appropriate level of waste management authorisation as required.
- j) Management and protection proposals for trees inclusive of tree root protection
- k) Core path restoration methods and specification;
- l) Protected species mitigation including inclusive of the provision of Species Protection Plans as required, the provision of temporary ramps in trenches and the capping of pipes at the end of a working day;
- m) Details of toolbox talk for protected species to ensure all personnel are aware of what to do should evidence of species be discovered during construction of the hydro scheme;
- n) Traffic management proposals to minimise any conflict between construction vehicles and other road users; and;
- o) Hours of operation on site.

The CMP shall be implemented as approved unless otherwise agreed in advance in writing by the Planning Authority, to ensure that full detailed information is provided in respect of the construction of the development in the interests of protecting and minimising the impact on the environment and surrounding area;

(3) that prior to the commencement of works on site a Landscape Restoration Plan along the entire route shall be submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot. The Plan shall detail proposals for the reinstatement and management of all areas of the scheme and shall include a turve management plan. The details to be provided shall require the pipeline route to be exposed in short sections only (to be defined and agreed) and turves associated with the construction of the pipeline shall be stored for a maximum of two weeks. The Landscape Restoration Plan shall be implemented as approved within a timescale agreed with the Planning Authority, to ensure that full detailed information is provided in respect of landscape mitigation and restoration in the interests of protecting and minimising the impact on the landscape and surrounding area;

(4) that prior to the commencement of works on site a detailed Aftercare Monitoring and Management Plan shall be submitted to, and approved in writing by, the Planning

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Authority in consultation with NatureScot. The plan shall detail all aspects of the aftercare monitoring and management of the application site for a minimum of five years and shall include provision for an extension to this period should monitoring indicate that habitat recovery is slower than predicated, to ensure appropriate monitoring and management of the aftercare of the site in respect of ensuring the restoration of the landscape and habitat recovery;

(5) that unless otherwise agreed in writing by the Planning Authority, all construction activities shall be completed within a 24 month period taken from the start date provided to the Planning Authority in accordance with the Commencement of Development Form and having regard to any other limitations on work periods set out in any other planning condition, to ensure the development is implemented and constructed in one continuous phase and within an acceptable timescale in the interests of protecting and minimising the impact on the environment and surrounding area;

(6) that no works shall be undertaken on the section of pipeline to be installed between the Daff Reservoir intake and a point level with the upper edge of Leapmoor Forest during the bird breeding season (April to July inclusive). Prior to the commencement of works on site, a plan setting out the extent of the proposed 'no work area' must be submitted and agreed in writing by the Planning Authority in consultation with NatureScot. The plan shall then be followed during the implementation of the development, in the interest of protecting breeding hen harriers;

(7) that development shall not commence until details of a survey for the presence of non-native invasive species shall be submitted to and approved in writing by the Planning Authority and that, for the avoidance of doubt; this shall contain a methodology and treatment statement where any is found. Development shall not proceed until appropriate control measures are implemented. Any significant variation to the treatment methodology shall be submitted for approval, in writing by the Planning Authority prior to implementation, to help arrest the spread of non-native invasive species in the interests of environmental protection;

(8) that development shall not commence until details of a bond or other financial provision to cover the completion of the restoration works together with any failure of the restoration works or in the aftercare arrangements associated with the site restoration and the decommissioning of the above ground infrastructure shall be agreed in writing the Planning Authority. As part of this agreement the applicant shall set out how the approved bond or other financial provision is maintained throughout the duration of this consent and that it will be subject to a five yearly review, to be conducted by a competent independent professional, to ensure that sufficient funds are in place to cover the completion of the restoration works together with any failure of the restoration works or in the aftercare arrangements associated with the site restoration and the decommissioning of the above ground infrastructure in the interests of protecting and minimising the impact on the environment and surrounding area;

(9) that development shall not commence until a detailed Public Access Management Plan shall be submitted to and approved in writing by the Planning Authority. The Plan shall include:

- a) All existing access points, paths, core paths, tracks, rights of way and other routes within and adjacent to the application site;
- b) exact timings, impacts and mitigation for all site vehicle movements and works affecting the Core Path. Works directly affecting the Core Path route shall be programmed to minimise disturbance during peak walking seasons/weekends/days;
- c) Use of banksmen to manage the safe passage of users;
- d) A mitigation communication strategy - local press, businesses and community groups informed of construction operation timetables and likely disturbance to path usage;
- e) Advisory construction warning signage strategy.

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The Public Access Management Plan shall be implemented as approved, in order to safeguard public access both during and after the construction phase of the development;

(10) that development shall not commence until full details of the design, layout, positioning and appearance of the final specification of the pipe bridge shall be submitted to and agreed in writing by the Planning Authority. Works shall then proceed as approved unless otherwise agreed in writing by the Planning Authority, to ensure an appropriate design of pipe bridge in the interests of minimising the impact on landscape and visual amenity;

(11) that development shall not commence until samples of all external materials to the powerhouse and switchroom shall be submitted to and approved in writing by the Planning Authority, to ensure the external materials to be used are appropriate for the proposed buildings, in the interests of visual amenity;

(12) that no works shall commence on the construction of the powerhouse or switchroom until a scheme of hard and soft landscaping works for the site of the powerhouse and switchroom has been submitted to, and approved in writing by the Planning Authority. The approved landscaping scheme shall be implemented in full prior to the development hereby permitted being brought into use. Any trees or plants which die, are removed, damaged or become diseased within five years of completion of the landscaping shall be replaced within the following year with others of a similar size and species, to ensure the provision and retention of appropriate landscaping works around the buildings, in the interests of visual amenity;

(13) that development shall not commence until a scheme of tree planting along the route of the development has been submitted to and approved by the Planning Authority. The details to be submitted shall include the species and locations of the trees as well as details of the phasing. The approved planting shall thereafter take place during the first planting season following completion of the development. Should the planting fail or not become established within 5 years of planting replacement trees shall be planted within the first planting season thereafter and shall be confirmed in writing with the Planning Authority, to ensure tree planting is carried out to lessen the visual impact of the development;

(14) that no trees shall be lopped or felled within or adjacent to the application site unless agreed in advance in writing by the Planning Authority, to ensure the retention and protection of trees in the interests of protecting and minimising the impact on the landscape and protected species;

(15) that development shall not commence until until an independent full time Ecological Clerk of Works (ECoW) has been appointed by the developer, at their expense, to oversee the implementation of the relevant planning conditions and the Construction Management Plan (CMP) during the detailed design, construction, and restoration phases of the development, to ensure that all agreed methodology and mitigation in respect of the construction are implemented in the interests of protecting and minimising the impact on the environment and to ensure compliance with protected species legislation and ecological good practice;

(16) that prior to appointing the ECoW in accordance with Condition 13 above, a 'scope of works' for that person shall be submitted to, and approved in writing by, the Planning Authority. As a minimum, the ECoW shall: be present to oversee all in-stream construction works; give advice on micro-siting project elements to protect trees and avoid important habitats, give Ecological 'toolbox talks' on emergency procedures if protected species are identified within or close to the construction corridor; ensure compliance with all wildlife legislation; undertake pre-construction checks for protected species (mammals, fish and birds); oversee implementation of all ecological mitigation, as detailed in the approved CMP; monitor restoration of the site and ensure that the agreed habitat restoration targets are achieved; and have the authority, on and off-site,

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to halt operations or to alter construction methods if they observe, monitor or otherwise identify that these operations are having adverse impacts on the natural heritage. The Scope of Works shall specify the stages of the process that the ECoW will be present on site for and how regularly they will otherwise inspect the site. All works shall be carried out in accordance with the agreed scope of works to the satisfaction of the Planning Authority, to ensure the agreement of the role and scope of works of the ECoW;

(17) that development shall not commence until detailed species and habitat surveys together with protection plans as required shall be submitted to and approved in writing by the Planning Authority. The surveys and protection plan shall include the following:

- a) Further badger surveys together with the provision of a species protection plan should the presence of badgers or the potential for the presence of badgers be identified;
- b) A reptile survey inclusive of mitigation measures as required;
- c) An ornithology and bird breeding survey together with a bird breeding protection plan. This shall include the following:
 - i) pre-construction surveys and timings;
 - ii) Identification of exclusion zones;
 - iii) method of surveying during construction for signs of disturbance and mitigation if birds are disturbed. For the avoidance of doubt the method of surveying shall include the requirement for a walkover survey to be undertaken by two suitably qualified ornithologists (using a rope) with appropriate nest finding experience within 48 hours of works being undertaken to which for ground nesting birds;
 - iv) detailed ornithological watching brief;
- d) A further assessment in respect of GWDTs by an experienced botanist together with the provision of measures to minimise impacts;
- e) A survey of the fen meadow within the Shielhill Glen SSSI inclusive of likely impacts and mitigation;
- f) An assessment of the impact on other habitats including but not limited to woodland, dry heath, wet heath, blanket bog and acid flush inclusive of mitigation as required.

All recommendations and mitigation identified in the detailed species and habitat surveys together with protection plans shall be followed to the satisfaction of the Planning Authority unless otherwise first agreed in writing by the Planning Authority, to ensure that full detailed information is provided in respect of the impact and potential impact on all ecological matters, species and habitats and to ensure that the construction of the development in the interests of protecting and minimising the impact on the environment and surrounding area;

(18) that development shall not commence until a Compliance Monitoring Officer (CMO) has been appointed by the Planning Authority, at the expense of the developer. The CMO shall visit the site monthly (taken from the start date given in the Commencement of Development Form) and report back directly to the Planning Authority the following:

- a) An update on construction progress;
- b) How the requirements of the Construction Management Plan and all other conditions of the permission are being adhered to on the site;
- c) An update from the ECoW;
- d) Any other issues arising during the construction phase.

in the interests of protecting and minimising the impact on the environment in ensuring effective compliance with all conditions, methodologies and mitigation set out;

(19) that unless otherwise agreed in writing by the Planning Authority, in the event of the scheme not generating electricity for a continuous period of twelve months with no realistic expectation of resumption in the foreseeable future, the site shall be reinstated

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within a period of 12 months in accordance with a scheme to be submitted to, and approved in writing by the Planning Authority, following the expiry of such a period of cessation or within such timescales as agreed in writing by the Planning Authority. Reinstatement shall include a methodology for the removal of the above ground infrastructures and restoration of the ground and restoration of the water regime to normal flows, to ensure that the site is reinstated to the satisfaction of the Planning Authority to remove any unnecessary structures from the landscape within an appropriate timescale;

(20) that no development shall take place within the development site as outlined in red on the approved site plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement within its archaeological advisor, in the interests of the identification and recording of antiquity;

(21) that the development shall not become operational until vehicle wheel cleansing facilities have been installed and brought into operation on the site, the design and siting of which shall be subject to the prior approval of the Planning Authority, after consultation with Transport Scotland as the Trunk Road Authority, to ensure that material from the site is not deposited on the public road network, inclusive of the trunk road, to the detriment of road safety;

(22) that development shall not commence until full details of a method for ensuring that all working site plans and maps show the extent of the adjacent Loch Thom-Overton Water Cut scheduled monument and how all staff and visitors on site are to be briefed to ensure that they are aware that any damage to the monument would be an offence under the Ancient Monuments and Archaeological Areas Act (1979) shall be submitted to, and approved in writing by, the Planning Authority. The approved method shall then be followed at all times to the satisfaction of the Planning Authority, in the interests of the protection of the scheduled monument;

(23) that Development shall not commence until the boundary of the adjacent Loch Thom-Overton Water Cut scheduled monument together with a 10 metre buffer zone shall be clearly marked on the ground to the satisfaction of the Planning Authority and remain in place until such times as the Planning Authority agrees in writing that it can be removed, and that all staff and visitors on site are briefed to ensure that they are aware that any damage to the monument would be an offence under the Ancient Monuments and Archaeological Areas Act (1979), in the interests of the protection of the scheduled monument;

(24) that the eight noise attenuation measures listed in section 4 of the Kip Water Hydro Scheme Noise Survey and Analysis Report No: P783 / Noise Survey and Analysis r0 October 2018 shall be implemented in the construction of the powerhouse building, to protect the amenities of occupiers of premises from unreasonable noise and vibration levels; and

(25) that development shall not commence until a proposed lighting plan for any external lighting and illumination within the site shall be submitted to and approved in writing by the Planning Authority. Works shall then proceed as approved and the plan followed at all times thereafter, unless otherwise agreed in writing by the Planning Authority, to protect the rural character and appearance of the surrounding landscape.

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There was submitted a report by the Director Environment & Regeneration advising that following the decision to refuse listed building consent under delegated powers for a proposed new dormer window arrangement to upper floor flat at Flat 2, 17 Union Street, Greenock, and the subsequent appeal by the applicant to the Scottish Government against the refusal, the Reporter appointed by the Scottish Government had issued his decision which was to dismiss the appeal.

Decided: that the position be noted.