

REGULATORY PANEL.

Minutes of meeting in County Buildings, Wellington Square, Ayr,
on 6th December 2012 at 10.00 a.m.

For Items 1 and 2:

- Present: Councillors Peter Convery (Chair), Andy Campbell, Ian Douglas, Ann Galbraith, Sandra Goldie, Hugh Hunter, Nan McFarlane and Rita Miller.
- Attending: C. Cox, Planning Manager; W. Carlaw, Legal and Democratic Manager; C. Parish, Priority Projects Team Leader; A. Cooke, Supervisory Planner; and A. Gibson, Committee Services Officer.
- Also Attending: R. MacLean, Roderick MacLean Associates Ltd. (in attendance for items 2 (1) and (2) only).

For Items 3 and 4:

- Present: Councillors Peter Convery (Chair), Ian Douglas, Ann Galbraith, Sandra Goldie, Hugh Hunter, Nan McFarlane and Rita Miller.
- Apology: Councillor Andy Campbell.
- Attending: M. Douglas, Solicitor (Licensing); R. Howe, Fleet Manager; D. Woodward, Fleet Inspector; D. Scobie, Licensing Monitoring Officer; and J. McClure, Committee Services Officer.
- Also Attending: Inspector W. Ramsay and Acting Inspector D. McMurdo, Strathclyde Police.

1. Retail Applications and the Scheme of Delegation.

There was submitted a report (issued) of 22nd November 2012 by the Executive Director – Development and Environment advising that, taking into account the unique set of circumstances relative to planning applications from Tesco Stores Ltd. and the Co-operative Group as detailed at items 2 (1) and (2) below, the Planning Service was of the view that although the application from the Co-operative Group could be considered under delegated powers, there were a number of reasons, as outlined in the report, why this application should be considered and determined by Regulatory Panel in tandem with the Tesco application.

Decided:

- (1) to determine the Co-op application (Ref: 12/01184/APP) as detailed at (2) (1) below, rather than it being determined by the appointed person, as delegated officer in the Council's Scheme of Delegation; and

- (2) that procedural arrangements be modified to hear from the applicants, interested parties and any local Member in relation to the planning applications from both the Co-operative Group and Tesco Stores Ltd.

2. Applications for Planning Permission.

There were submitted reports (issued) of November 2012 by the Executive Director - Development and Environment on current applications for determination.

Declaration of Interest.

Councillor Miller declared an interest in the planning applications detailed at 2 (1) and (2) below as she was a member of the Co-operative Party and withdrew from the meeting during consideration of these planning applications.

In relation to the planning applications detailed at 2 (1) and (2) below, the Panel heard from the relevant parties, including a Local Member, namely Councillor Connolly (in attendance for these items only).

Adjournment.

The time being 11.25 a.m., it was agreed to adjourn for ten minutes.

Resumption of meeting.

The meeting resumed at 11.35 a.m.

The Panel then moved to the determination stage of these two planning applications as follows:-

- (1) 12/00292/APP – MAYBOLE – 8 Cassillis Road** – Erection of supermarket with associated works, access, car parking and landscaping.

Councillor Goldie, seconded by Councillor Galbraith, moved that the application be continued to allow a site visit to be conducted.

By way of an Amendment, Councillor McFarlane, seconded by Councillor Hunter moved that there be no site visit and that the application should now be determined.

On a vote being taken by a show of hands, four members voted for the Amendment and three for the Motion. The Amendment was accordingly declared to be carried.

Adjournment.

The time being 12.10 p.m., it was agreed to adjourn for five minutes to allow the Legal and Democratic Manager to confirm a procedural matter that had arisen.

Resumption of meeting.

The meeting resumed at 12.15 p.m.

Councillor McFarlane, seconded by Councillor Galbraith, moved that the application be approved subject to the conditions as detailed on the report.

By way of an Amendment, Councillor Hunter, seconded by Councillor Goldie moved that the application be refused on the grounds stated.

On a vote being taken by a show of hands, three members voted for the Amendment and four for the Motion, which was accordingly declared to be carried.

Decided: to approve the application, subject to the following conditions:-

- (a) that the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority;
- (b) that prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority;
- (c) that prior to the commencement of development, details of the location, height and materials of all new and replacement boundary walls, fences, gates, other means of enclosure and retaining structures shall be submitted to the Planning Authority for written approval. For the avoidance of doubt, the existing stone boundary wall (including stone coping) to the Cassillis Road frontage shall be realigned, retained, repaired and extended in to the site on either side of the proposed access steps, the brick pillar to the right hand side of the substation entrance shall be rebuilt to match the left hand side pillar, and the front boundary treatment shall be designed to screen the substation;

- (d) that before any works start on site, a scheme of landscaping indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earthmounding, shall be submitted for the prior written approval of the Planning Authority. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is the sooner. The open space/landscaped area shall be retained as open space and to this approved standard. For the avoidance of doubt the required landscaping scheme shall incorporate tree planting with some shrub areas along the site boundaries and within the car park area. A detailed landscape plan shall be provided indicating the proposed genus, species and varieties of the proposed plant material, details of planting densities and the sizes of plant material;
- (e) that before any works start on site, details of the future management and aftercare of the proposed landscaping and planting shall be submitted for approval in writing by this Planning Authority. Thereafter, the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details;
- (f) that the sale of non food goods shall not exceed 10% of the gross floorspace of the store (i.e. 133sqm) and details of how this requirement is to be complied with shall be submitted for the prior written approval of the Planning Authority before the use commences. Furthermore, there shall be no subdivision of the proposed retail unit without the submission and approval of a further planning application;
- (g) that prior to commencement of any site works, a comprehensive contaminated land investigation shall be submitted for the formal prior written approval of the Council as Planning Authority. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution 'The investigation of potentially contaminated sites- Code of Practice' (BS 10175: 2001). The report shall include a site-specific risk assessment of all relevant pollutant linkages, as required in Scottish Government Planning Advice Note 33;
- (h) that where the risk assessment identifies any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation strategy shall be submitted for the formal prior written approval of the Council as planning authority. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the Planning Authority;
- (i) remediation of the site shall be carried out in accordance with the approved remediation plan. Any amendments to the approved remediation plan shall not be implemented unless approved in writing by the Planning Authority;

- (j) that before any work commences on site precise details and specifications of a new ghost island right turn priority junction with the A77(T), including visibility splays, pedestrian crossing provision and waiting and loading restrictions shall be submitted for the prior written approval of the Planning Authority. No part of the development shall be constructed before the approved ghost island right turn priority junction with the A77(T), including visibility splays, pedestrian crossing provision and waiting and loading restrictions has been completed to the satisfaction of the Planning Authority, after consultation with Transport Scotland. Visibility splays shall be maintained and kept clear of all landscaping and features. For the avoidance of doubt the required road layout and management arrangements shall generally be as indicated on Waterman Boreham Drawing TRN/SA/95/02;
- (k) that the existing bus stop and Bus Shelter located in the vicinity of the new vehicular access shall be relocated to a position outwith the visibility splays of the new ghost island right turn priority junction with the A77(T);
- (l) that a barrier of a type approved by the Planning Authority, after consultation with Transport Scotland, shall be provided and maintained by the developer or subsequent owner of the land along the boundary of the site with the trunk road;
- (m) details of lighting within the site shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland;
- (n) there shall be no drainage connections to the trunk road drainage system;
- (o) that no part of the development shall be occupied until a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car has been submitted and approved in writing by the planning authority, in consultation with Transport Scotland TRBO. In particular this Travel Plan shall include details of the appointed travel plan coordinator and identify measures to be implemented, the system of management, monitoring, review, reporting and the duration of the plan;
- (p) that a lockable and covered cycle stand accommodating a minimum of 6 cycles shall be provided within the site boundaries. Precise details of the siting and specifications of the required cycle stand shall be submitted for the formal prior written approval of the Planning Authority before any work commences on site;
- (q) surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems (SUDS) Manual published by CIRIA in March 2007. Full details of the methods to be employed, including where appropriate calculations, along with details of how these measures will be maintained in perpetuity, shall be submitted for approval in writing by this Planning Authority prior to the commencement of any works on site;
- (r) that the proposed car park shall be made available for 'linked trips' to the proposed foodstore and/or to the town centre. Before any work commences on site, the provisions for, and management of, this 'linked trips' arrangement shall be submitted for the prior written approval of the Planning Authority; and

- (s) that the non-food goods floorspace shall not exceed 10% of the gross floorspace of the proposed store. Precise details of how this restriction is to be managed shall be submitted for the prior written approval of the Planning Authority before any work commences on site.

Reasons:

- (a) to ensure that the development is carried out in accordance with the approved plans unless otherwise agreed;
- (b) in the interests of visual amenity;
- (c) in the interests of visual and residential amenity;
- (d) in the interests of visual amenity and to ensure a satisfactory standard of local environmental quality;
- (e) in the interests of visual amenity and to ensure that adequate measures are put in place to protect the landscaping and planting in the long term;
- (f) to ensure the development is used for the purpose intended in the retail impact assessment and to protect the vitality of Maybole town centre, in order to retain full control over the development and to comply with the policy provisions of the adopted South Ayrshire Local Plan;
- (g) to ensure potential risks arising from previous site uses have been fully assessed;
- (h) to ensure the proposed remediation plan is suitable;
- (i) to ensure remedial works are carried out to the agreed protocol;
- (j) to ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road and to be consistent with the requirements of Transport Scotland Departure Determination dated July 2012 and to ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not be diminished;
- (k) to ensure that existing public transport provision is maintained;
- (l) to minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents;
- (m) to ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished;
- (n) to ensure that the efficiency of the existing drainage network is not affected;
- (o) to be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport and to encourage sustainable means of travel;
- (p) to ensure adequate provision of lockable and covered cycle storage on site and to encourage sustainable means of travel;
- (q) to ensure the site is drained in an acceptably sustainable manner and the drainage infrastructure is properly maintained;
- (r) in order to support the town centre through provision for 'linked trips', to encourage sustainable development and in the interests of the proper planning of the area; and
- (s) to ensure that the proposed development remains as originally intended and approved and to protect the vitality and viability of the town centre.

Advisory Notes:

- the Council as Roads Authority advises that any costs associated with the relocation of any street furniture will require to be borne by the applicant/developer;
- the Council as Roads Authority advises that the Council will not adopt the road on its completion;
- the Council as Roads Authority advises that the Council will not be liable to adopt the drainage system as it is wholly contained within private ownership.
- Strathclyde Passenger Transport (SPT) notes that the existing bus stop on the northbound side of Cassillis Road will require to be relocated due to the location of the proposed access to the development. The relocation requires consultation with appropriate departments in south Ayrshire Council, Transport Scotland, Strathclyde Police and SPT. All costs incurred are the responsibility of the applicant. If additional information is required from SPT, the contact is Elizabeth MacKay on 0141 333 3744.

List of Determined Plans:

Drawing - Reference No (or Description): 1728 301 Location Plan;
 Drawing - Reference No (or Description): 1728 302 Existing Site Sections;
 Drawing - Reference No (or Description): 1728 303 Proposed Location Plan;
 Drawing - Reference No (or Description): 1728 304 Proposed Site Plan;
 Drawing - Reference No (or Description): 1728 305 Contextual Elevations;
 Drawing - Reference No (or Description): 1728 306 Proposed Elevations;
 Drawing - Reference No (or Description): 1728 307 Proposed Roof Plan;
 Drawing - Reference No (or Description): 1728 308 Proposed Sections;
 Drawing - Reference No (or Description): 1728 311 Proposed Trolley Bays;
 Drawing - Reference No (or Description): 1728 312 Cycle Rack Details;
 Other - Reference No (or Description): DRAINAGE STRATEGY;
 Other - Reference No (or Description): ENVIRONMENTAL REPORT;
 Other - Reference No (or Description): FLOOD RISK ASSESSMENT;
 Other - Reference No (or Description): PLANNING AND RETAIL IMPACT; and
 Other - Reference No (or Description): TRANSPORT ASSESSMENT.

Reason for Decision:

The siting and design of the development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

- (2) **12/01184/APP – MAYBOLE – Derelict Land, Ladyland Road** – Erection of supermarket with associated access, parking and landscaping.

Councillor Hunter, seconded by Councillor McFarlane, moved that the application be refused on the grounds as detailed in the report.

By way of an Amendment, Councillor Goldie, seconded by Councillor Douglas, moved that the application be approved subject to appropriate conditions.

On a vote being taken by a show of hands, two Members voted for the Amendment and five for the Motion, which was accordingly declared to be carried.

Decided: to refuse the application on the following grounds:-

- (a) that the proposed development, by virtue of its substandard design, large scale, relationship to its surroundings and its potentially prejudicial nature with regard to the achievement of a suitably integrated development of the wider local plan Ladyland Road/Faulds H4/OPP1 site is contrary to South Ayrshire Local Plan policy RET2 which requires that the standard of design of large scale retail developments, including scale and relationship to its surroundings, provide lasting benefits and contribute positively to the overall quality of the urban area and where there is scope for integration with, and the enhancement of, other uses;
- (b) that the proposed development, by virtue of its scale, design, siting, layout, height, massing, proportions, character, materials and the location of windows and doors is not sensitive to the character of the area within which it is to be located and does not respect the local vernacular building and townscape character to the extent that it is considered to be contrary to South Ayrshire Local Plan policies STRAT5 and BE1 which set out the detailed performance criteria that new developments are expected to achieve to ensure a consistent high standard of development and environmental quality within the plan area;
- (c) that the development proposal by virtue of its; inadequate consideration of context and the qualities of successful places, lack of vision and its focus on 'building' rather than 'place' is contrary to Government policy as expressed in 'Designing Places' and consequently would have an over-riding detrimental effect on environmental quality of the locality, the proper planning of the area and the satisfactory redevelopment of the wider Ladyland Road / Faulds opportunity site; and
- (d) that the proposed development is contrary to South Ayrshire Local Plan policy RET2(b) as it would have a cumulative adverse affect on the vitality, viability and character of the existing Maybole town centre.

List of Determined Plans:

Drawing - Reference No (or Description): 9069/2-01 Location Plan;
 Drawing - Reference No (or Description): 9069/2-02 REV A Context Location Plan;
 Drawing - Reference No (or Description): 9069-2-03 REV A Proposed site plan (A);
 Drawing - Reference No (or Description): 9069/1-01 Proposed Plan;
 Drawing - Reference No (or Description): 9069/1-50 Proposed Elevations;
 Drawing - Reference No (or Description): 9069/2-04 Proposed Site Sections;
 Drawing - Reference No (or Description): 9069/9-01 Existing Site Plan;
 Drawing - Reference No (or Description): 9069/9-02 REV A Existing Site Sections;
 Other - Reference No (or Description): DESIGN STATEMENT;
 Other - Reference No (or Description): RETAIL IMPACT ASSESSMENT; and
 Other - Reference No (or Description): TRANSPORT ASSESSMENT.

At this point, Councillor Miller rejoined the meeting.

- (3) 12/00761/APP – CRAIGIE – Lochlea Farm** – Erection of wind turbine and foundation, formation of hard standing and site access track and installation of transformer and underground cabling.

Councillor McFarlane, seconded by Councillor Campbell, moved that the application be refused on the grounds as detailed in the report.

By way of an Amendment, Councillor Goldie, seconded by Councillor Douglas, moved that the application be approved on the grounds stated.

On a vote being taken by a show of hands, three members voted for the Amendment and five for the Motion which was accordingly declared to be carried

Decided: to refuse the application on the following grounds:-

- (a) that the proposed development is contrary to policy STRAT1 of the Ayrshire Joint Structure Plan by reason of it not respecting the landscape character of the area, by reason of it
 - not safeguarding cultural heritage resources;
 - having potential damage to priority species; and
 - resulting in visual damage or intrusion,
 all due to its size and position;
- (b) that the proposed development is contrary to policy ECON6 of the Ayrshire Joint Structure Plan by reason of it having a significant adverse impact on landscape character, biodiversity and cultural heritage;
- (c) that the proposed development is contrary to policy ECON7 of the Ayrshire Joint Structure Plan by reason of there being unacceptable impacts on landscape character, the historic environment and ecology, all due to its size and position;

- (d) that the proposed development is contrary to policy ECON14 of the Ayrshire Joint Structure Plan by reason of the proposal not comprising small scale development that supports the wider principles of rural diversification;
- (e) that the proposed development is contrary to policy ENV1 of the Ayrshire Joint Structure Plan by reason of it not maintaining or enhancing the quality of the landscape and its local characteristics due to its size and position;
- (f) that the proposed development is contrary to policy ENV 6 of the Ayrshire Joint Structure Plan and policy BE2 of the South Ayrshire local Plan by reason of it having an adverse effect on the Category B listed Lochlea Farm;
- (g) that the proposed development is contrary to policy STRAT5 of the South Ayrshire Local Plan by reason of it not being appropriate in terms of scale, siting and setting, by reason of it
 - being visually intrusive in relation to its surroundings;
 - not safeguarding the amenity of nearby dwellings;
 - not respecting built heritage and
 - not respecting natural heritage resources,
 all due to its size and position;
- (h) that the proposed development is contrary to policy SERV3 of the South Ayrshire Local Plan by reason of it not being acceptable in terms of environmental and community impacts due to its size and position;
- (i) that the proposed development is contrary to Scottish Planning Policy by reason of it not being appropriate in terms of landscape and visual impacts and by reasons of the impacts on the setting of the Category B listed Lochlea Farm; and
- (j) that the proposed development is contrary to the Scottish Historic Environmental Policy by reason of the impacts on the setting of the Category B listed Lochlea Farm.

List of Determined Plans:

Drawing - Reference No: LOC061 Location Plan;
 Drawing - Reference No: LOC062 Site layout;
 Drawing - Reference No: LOC063 Block Plan; and
 Drawing - Reference No: LOC055 Elevations.

At this point, the time being 1.10 p.m., it was noted that the Panel would resume at 2.00 p.m. to consider the Licensing Applications.

3. **Resumption of Meeting.**

The meeting resumed at 2.00 p.m.

4. **Civic Government (Scotland) Act 1982 - Licences.**

(a) **Taxi Drivers.**

- (i) Reference was made to the Minutes of 4th October 2012 (Page 477, paragraph 4(a)(i)) when this matter had been continued for the outcome of the pending trial to be known and the Panel then heard an objection from Strathclyde Police who advised that, as a result of the trial, the applicant had been disqualified from driving for six months. The applicant, Sean C. Dempsey, was in attendance but advised the Panel that he had nothing to say.

Decided: to refuse this application on the grounds that, in terms of paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982, in their opinion, the applicant was not a fit and proper person to be the holder of the licence.

- (ii) The Panel heard an observation from Strathclyde Police and the applicant, Robert Madgwick, in response.

Decided: to approve this application for one year, subject to standard conditions as previously agreed.

- (iii) The Panel heard an observation from Strathclyde Police and the applicant, Patrick Gary Welsh, in response.

Decided: to approve this application for three years, subject to standard conditions as previously agreed.

- (iv) The Panel heard an observation from Strathclyde Police and the applicant, Alan Chivas, in response.

Decided: to approve this application for three years, subject to standard conditions as previously agreed.

- (v) The Panel heard an observation from Strathclyde Police and the applicant, Jamie Richmond Murray, in response.

Decided: to approve this application for one year, subject to standard conditions as previously agreed.

- (vi) The Panel heard an observation from Strathclyde Police and the applicant, Duncan Swanson Paul, in response.

Decided: to approve this application for one year, subject to standard conditions as previously agreed.

- (vii) The Panel considered the application from Daniel R. McCracken for exemption from wheelchair work.

Decided: in the absence of the applicant,

- (A) to approve the request from Daniel R. McCracken for exemption from wheelchair work for the remaining term of his licence; and
- (B) to note that the Licensing Section would supply the licence holder with a letter outlining this exemption for the perusal of wheelchair using passengers.

(b) Taxi Vehicles.

The Panel heard from the Licensing Monitoring Officer, the Fleet Manager and from the licence holder, John Grigor, in response and considered the proposed suspension of four licences held by him (10/00289/HCVL, 11/00846/HCVL, 11/00847/HCVL and 12/00411/HCVL).

Councillor Hunter, seconded by Councillor McFarlane, moved that the licences not be suspended but that the licences should be varied so that the vehicles are to be tested every four months.

By way of Amendment, Councillor Goldie moved that the four licences be suspended with immediate effect but failed to find a seconder and subsequently requested that her dissent be recorded.

Decided: that the licences not be suspended but that the licences should be varied so that the vehicles are to be tested every four months.

(c) Private Hire Car Vehicle.

The Panel considered the proposed suspension of the licence currently held by Leona McDonald as she had failed to present the car for Annual Inspection in terms of Condition 3 of the Private Hire Vehicle Licence.

Decided: in the absence of the applicant, to suspend the licence currently held by Leona McDonald with immediate effect for its unexpired portion as she had failed to present the car for Annual Inspection.

(d) **Late Hours Catering – Application for Variation.**

Amjad Sultan Chadhar for “Lazat”, 109 Main Street, Prestwick.

The Panel heard from the applicant in relation to this application.

Decided: to approve this application, the approved hours being every Friday and Saturday from 11.00 p.m. to 3.30 a.m., subject to standard conditions as previously agreed.

The meeting ended at 2.55 p.m.