

# Planning Development Management Committee

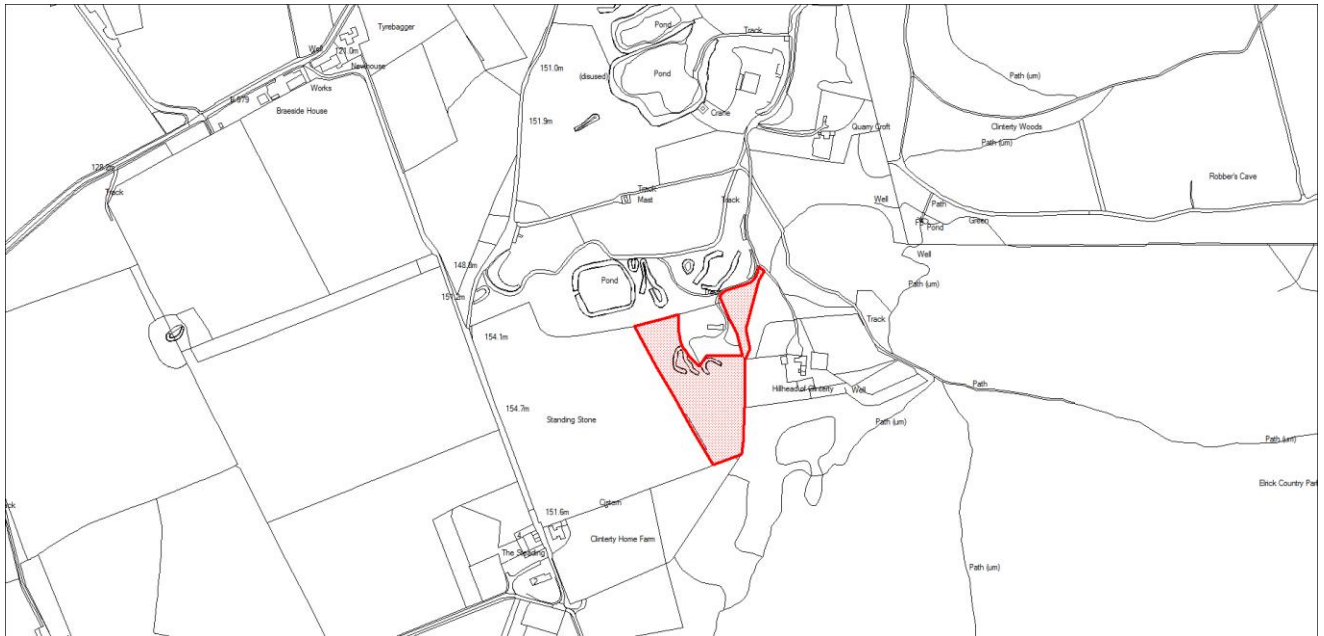
HILLHEAD OF CLINTERTY, TYREBAGGER  
ROAD, KIRKTON OF SKENE

PROPOSED EXPLOSIVES STORAGE FACILITY  
COMPRISING 6 BUILDINGS, ACCESS ROAD,  
BUNDS AND LIGHTING TOWERS

For: Mr Simon Alexander Mackay

Application Type : Detailed Planning Permission  
Application Ref. : P130918  
Application Date: 02/07/2013  
Officer: Matthew Easton  
Ward : Dyce/Bucksburn/Danestone(B Crockett/G  
Lawrence/N MacGregor/G Samarai)

Advert: Dev. Plan Departure  
Advertised on: 17/07/2013  
Committee Date: 28 May 2014  
Community Council : Objection



## RECOMMENDATION:

**Approve subject to conditions**

## **DESCRIPTION**

The application site is located at Hillhead of Clinterty, approximately 7.5 miles from Aberdeen city centre and 2 miles west of the Dyce Drive roundabout on the A96. The site is accessed via a private access road leading from the B979 (A96 at Tyrebagger to Kirkton of Skene road), close to the public car park at Tyrebagger forest walks

It comprises rough former agricultural land enclosed by stone rubble walls, is irregular in shape and extends to c.1.20 hectares, including the proposed access track. .

The land to the north raises up to a former quarry, beyond which is a further disused quarry (Tyrebagger) which is used by Sparrows Offshore Services Ltd. as an offshore crane training centre.

The eastern boundary of the site is defined by Clinterty Wood which rises up towards the A96 and Kirkhill Forest. Hillhead of Clinterty is adjacent to the site, with the house being approximately 65m away and set within a clearing.

The landform rises south towards the more open Elrick Hill, which features a scheduled monument located 30m to the south east of the southern most part of the site. This scheduled monument is of national importance and is the remains of a hut circle of late Bronze-Age or Iron-Age date, visible as a low heath and gorse covered ring-shaped bank. The hut circle measures 6m in diameter within a stony bank up to 5m in thickness and up to 0.6m in height.

To the west the land falls away across open fields. The former Hillhead Home Farm, now converted to six residential properties is approximately 180m to the south west.

The site is within the Three Hills Local Nature Conservation Site (LNCS) which includes Brimmond Hill, Elrick Hill and the Gough Burn.

## **RELEVANT HISTORY**

Planning permission (A8/1805) for the erection of an explosives store with associated access road, parking and turning area on part of the site was approved by delegated powers in August 2009.

The proposal comprised one magazine building (8m x 3m and 2.5m high) and two annexe buildings (4m x 3m and 2.5m high). The three buildings were to be surrounded on three sides by grass mounds (2.5m high). Overall the buildings and mounds would cover an area 19m x 31m.

An access road approximately 300m long provided access to an existing private road which then gave access to the farm at Hillhead of Clinterty.

Development commenced in October 2009 when ground works were undertaken for the access road and storage buildings. Since 2009 no further work appears to

have taken place, however as there is no time limit within which a development must be completed, and as such work could recommence at any time to complete the development and implement the approved use.

## **PROPOSAL**

Detailed planning permission is now sought for the erection of an explosives storage facility, which would feature a total of six buildings, grass mounds and an access road.

Five of the buildings would be located within a secure area enclosed by a 2.4m high green weld-mesh fence. The buildings would be arranged roughly from north to south along the western boundary and comprise –

- A storage building which would be located in the northern part of the site which would be 15.4m long, 4.2m wide. It would have a mono-pitched roof a maximum of 3m high and be finished in timber.
- Three explosives magazine buildings, each building would be 8m long, 3m wide and 2.5m tall. They would be metal and painted dark green.
- A second storage building located in the south end of the site which would 15.38m long, 9.14m wide and have a 10° pitched roof achieving a height of 5.87m.

Each of the buildings would be surrounded by grass covered earth mounds.

Out-with the secure area would be a storage building which would sit alongside the access junction to the north-east corner of the site. It would be 18.3m long, 18.3m wide and have a dual pitched (10°) roof achieving a height of 5.87m high at its apex. It would be finished in green box profile sheeting and feature a roller shutter door.

The access road which has been partially constructed, under the 2009 planning permission, would be completed and connected to the existing road to Hillhead of Clinterty, which then leads to the B979.

Landscaping is proposed in the form of tree planting along the south, east and northern boundaries. Species are native and would include: Scots pine, blackthorn, beech, silver birch, willow and rowan. Shrubs would also be planted as ground cover around the trees.

Along the western boundary is an existing stone boundary wall, some 1.1m high, within this wall would be a 2.4m high mesh fence, providing enclosure to the 'secure area'.

The applicant has been in discussions with Hunting PLC, an energy services provider, who are interested in implementing any resultant permission. Their facility would primarily be used for the storage of explosives associated with the

offshore oil and gas industry, such as perforating guns, which are used to create holes in the casing of an oil or gas well to connect it to a reservoir. At the site, the creation of the loaded perforating gun would entail removing an empty gun body from the storage unit located out-with the secure area and transferring this to the smaller of the buildings within the secure compound. Here it would be inspected and loaded with charges and detonating cord taken from one of the three magazine storage units, before finally being stored within the second secure building for transfer off-site. The applicant advises that all of the preparation activities would be carried out manually by hand, no machine tools would be required and no manufacturing of explosives would occur.

The facility and activities taking place would be licensed by the Health and Safety Executive under the “*Manufacture and Storage of Explosives Regulations 2005*”. The proposed layout, with separation distance of 31m between the storage units, would permit a maximum of 3500kg of explosives.

### **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council’s website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=130918>. On accepting the disclaimer enter the application reference quoted on the first page of this report.

### **REASON FOR REFERRAL TO COMMITTEE**

The application has been referred to the Planning Development Management Committee because Dyce and Stoneywood Community Council have objected. Accordingly, the application falls out with the scope of the Council’s Scheme of Delegation.

### **CONSULTATIONS**

**Roads Projects Team** – In accordance with the current parking standard, the applicant should provide 1 parking space per 100m<sup>2</sup> gross floor area (GFA) of the proposed development. The applicant is required to provide a maximum of 6 car parking spaces for this proposal. There is an adequate area for parking within the site. The new access road is required to be treated in line with SUDS principles and therefore drainage strategy which takes account of SUDS principles should be submitted.

**Environmental Health** – If the explosives proposed to be stored are listed in Schedule 1 of the Control of Explosives Regulations 1991 (as amended) and the net explosive mass quantity is less than 2000 kg then a Manufacture and Storage of Explosives Regulations 2005 Registration or Licence will be required from the Council’s Trading Standards Service.

If the explosives proposed to be stored are not listed in Schedule 1 of the Control of Explosives Regulations 1991 (as amended) and the net explosive mass

quantity is less than 2000 kg then a Manufacture and Storage of Explosives Regulations (2005) Registration or Licence will be required from Police Scotland.

If manufacturing activities are involved and/or more than 2000 kg net mass of explosives are kept a Manufacture and Storage of Explosives Regulations 2005 licence from the Health and Safety Executive.

**Enterprise, Planning & Infrastructure (Flooding)** – No observations.

**Education, Culture & Sport (Archaeology)** – A condition should be attached which requires a the applicant to secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The programme of archaeological work will include all necessary post-excavation and publication work.

**Dyce and Stoneywood Community Council** – Object due to (i) the unacceptable effect on amenity at Elrick Hill Country Park and (ii) the unacceptable traffic (lorries with dangerous cargo) on country lanes in the vicinity, especially at the Tyrebagger junction with the A96. The 20m neighbour notification rule is inappropriate in this case, which means that nearby residents in this rural area were not notified of the application.

## **REPRESENTATIONS**

Two letters of representation have been received within the prescribed time, one which objects and one which is in support of the application. The points of objection raised relate to the following matters –

- The site is designated as Green Space Network in the Aberdeen Local Development Plan and therefore the proposed development is inappropriate. The policy allows for free public access which would necessarily be denied by this type of storage facility.
- The site is adjacent to Elrick Country Park and would have a high visual impact on the ambience of the park and surrounding landscape.
- The inclusion of a loaded gun store beside an area used by the public is highly sinister and very worrying.
- The security lighting would have a high visual impact in a predominately rural and elevated area.

The letter of support considers that the proposed facility would be important for the oil and gas sector, that the site is well hidden, and would be suitable due to the existing industrial uses in the area. Therefore the proposals would have no detriment to the area.

One late objection was received and the planning service were copied into a number of emails from concerned constituents to Councillors and the MSP and MP for the area, which included a petition against the development signed by 46 visitors to Tyrebagger Forest on 30<sup>th</sup> August 2013. The matters raised in the emails have been considered in this report.

## **PLANNING POLICY**

### **National Policy and Guidance**

#### Scottish Planning Policy

Green Belts – Certain types and scales of development may be appropriate within a green belt, particularly where it will support diversification of the rural economy. These may include:

- development associated with agriculture, including the re-use of historic agricultural buildings,
- woodland and forestry, including community woodlands,
- horticulture, including market gardening and directly connected retailing,
- recreational uses that are compatible with an agricultural or natural setting, and
- essential infrastructure such as electronic communications infrastructure and electricity grid connections.

Where a proposal would not normally be consistent with green belt policy, it may still be considered appropriate, either as a national priority or to meet an established need if no other suitable site is available. Development in a designated green belt should be of a high design quality and of a suitable scale and form. Intensification of established uses may be appropriate subject to new development being of a suitable scale and form. Many uses will only be appropriate at a low intensity and where any built elements are ancillary to the main use. Public transport and access by walking and cycling will be required for uses that will attract a significant number of visitors. The cumulative erosion of a green belt's integrity through the granting of individual planning permissions should be avoided.

### **Aberdeen Local Development Plan**

Policy NE1 (Green Space Network) – The City Council will protect, promote and enhance the wildlife, recreational, landscape and access value of the Green Space Network. Proposals for development that are likely to destroy or erode the character or function of the Green Space Network will not be permitted. Development which has any impact on existing wildlife habitats, or connections between them, or other features of value to natural heritage, open space, landscape and recreation must be mitigated through enhancement of Green Space Network.

Policy NE2 (Green Belt) – No development will be permitted in the green belt for purposes other than those essential for agriculture, woodland and forestry, recreational uses compatible with an agricultural or natural setting, mineral extraction or restoration or landscape renewal. The following exceptions apply to this policy:

Proposals for development associated with existing activities in the green belt will be permitted but only if all of the following criteria are met:

- the development is within the boundary of the existing activity.

- the development is small-scale.
- the intensity of activity is not significantly increased.
- any proposed built construction is ancillary to what exists.

Policy NE8 (Natural Heritage) – Development that, taking into account any proposed mitigation measures, has an adverse effect on a protected species or an area designated because of its natural heritage value will only be permitted where it addresses the criteria set out in Scottish Planning Policy. These are International Designations, National Designations, Local Designations and European Protected Species and Species protected under the Wildlife and Countryside Act 1981.

In all cases of development at any location: -

- An ecological assessment will be required on a designated site or where there is evidence to suggest that a habitat or species of importance (including those identified in the UK and Local Biodiversity Action Plans) exists on the site.
- No development will be permitted unless steps are taken to mitigate negative development impacts.
- Natural heritage beyond the confines of designated sites should be protected and enhanced.
- Where feasible, steps to prevent further fragmentation or isolation of habitats must be sought and opportunities to restore links which have been broken will be taken.
- Measures will be taken, in proportion to the opportunities available, to enhance biodiversity through the creation and restoration of habitats and, where possible, incorporating existing habitats.

Policy D6 (Landscape) – Development will not be acceptable unless it avoids:

- adversely affecting landscape character and elements which contribute to, or provide, a distinct 'sense of place' which point to being either in or around Aberdeen or a particular part of it;
- obstructing views of the City's townscape, landmarks and features when seen from publicly accessible vantage points such as roads, railways, recreation areas and pathways and particularly from the main city approaches;
- disturbance, loss or damage to recognised recreation, wildlife or woodland resources or to the physical links between them;
- sprawling onto green spaces or buffers between places or communities with individual identities, and those which can provide opportunities for countryside activities.

Development should avoid significant adverse impacts upon existing landscape elements, including linear and boundary features or other components, which contribute to local amenity, and provide opportunities for conserving, restoring or enhancing them.

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

### **Principle of Development**

Planning permission was granted in 2009 for an explosives store at the site and work has since commenced, resulting in a live planning permission which could in future be completed and become operational.

Under the *Manufacture and Storage of Explosives Regulations 2005*, in order to store a particular quantity of explosives, a corresponding separation zone is required within which there must be no building, place of public resort or major road. Due to the close proximity of buildings to each other within the urban area this becomes problematic as a substantially sized site would be required. It appeared at the time of the 2009 applications consideration, and still does, that there would be no suitable sites for such activity within the urban area.

Facilities for the storage of explosives are essential to the smooth running of offshore operations and therefore regard should be had to the specific requirements of such facilities.

The principle of an explosives store at this site has been established by the 2009 permission. Therefore although the proposal would be contrary to Policy NE2 (Green Belt), the planning history and material considerations indicate that in order to support specific requirements of explosive storage, that a departure from the plan would be appropriate. The main considerations, with respect to this application, are therefore the ability of a larger storage site to be accommodated within the landscape and any additional impact which may be generated by the increased scale.

### **Site Layout and Design**

The site is approximately 0.8 of a hectare larger than that of the extant 2009 permission. Much of this additional land, rather than being developed would be undeveloped. Within the secure area of the site the built structures (except the access road) would be limited to the western boundary, providing maximum separation from the closest property at Hillhead of Clinterty.

Views of the site other than from close proximity are only likely to be obtained from the west and even so would be limited other than from the area surrounding Clinterty Home Farm, some 180m south-west of the site and set at a lower elevation.

The four northern most buildings, within the secure area would be surrounded by grass covered bunds, with only the elevation which faces into the site (east)



open, other than the southern building which is open to the south. The bunds would be the same height as the buildings themselves (with the exception of the loaded gun store where the height part of the pitched roof would extend 1.35m above the bund) and would result in it being unlikely that the buildings themselves would be seen from the west. The proposed buildings are relatively small when compared to other structures found within the green belt, such as agricultural sheds. The largest and northern most building is likely to be the least visible due to the surrounding topography and existing trees. Each building would be painted dark green to assist their integration into the landscape.

The north and east sides of the site are currently screened by substantial areas of woodland and the topography of the landscape.

The applicant has agreed to the planting of trees along the northern, western and southern boundaries to help screen the structures within the site. A condition has been attached requiring the agreed landscaping plan to be implemented. The proposed palisade fence would be painted green and be of an acceptable height.

The southern most building would see its mounding open to the south-east, towards Elrick Hill. Whilst this would limit the visual enclosure, had it faced north, so that the mounding provided more screening from outwith the site, the proposed trees should provide a sufficient buffer to minimise any visual impacts.

The proposed pole mounted lighting has been removed from the proposals and any lighting would be positioned at a low level. A condition has been attached requiring a scheme of any external lighting to be submitted.

In summary it is concluded that the development could be satisfactorily integrated into its surroundings and would have minimal impact the landscape setting of the area.

## **Public Safety**

Public safety can be a material planning consideration; however matters which are governed by other legislation generally are not. For the quantity of explosives proposed to be stored at Hillhead of Clinterty, the applicant must apply to the Health and Safety Executive (HSE) for a license under the *Manufacture and Storage of Explosives Regulations 2005*.

In addition to an explosives license, hazardous substances consent (HSC), which is granted by the planning authority, can apply to the storage of explosives. In order for the hazardous substances consent regulations to apply, the quantity of explosive material present at a site must be 10 tonnes or more. At Hillhead of Clinterty it is proposed to store 3.5 tonnes of explosives, well below the threshold which would trigger an HSC application. Therefore, whilst it is acknowledged that explosives are dangerous materials and require tight control, it can reasonably be concluded that the potential risk in this instance is low enough that the provisions of the explosives regulations and licensing regime overseen by HSE, are sufficient to manage any potential risk.

The inclusion of a loaded gun store beside an area has been highlighted as a matter of concern. However as described earlier in the report, '*loaded gun*' is a common term for perforating guns used by the off-shore oil and gas industry and in this instance does not refer to guns in terms of firearms.

Security and safety in relation to the storage of explosives is controlled under explosives legislation and therefore there is no requirement for additional controls to be applied in this respect via the planning process. The HSE have the power to revoke a license should the site be considered unsuitable or the license holder becomes unfit, whether or not planning permission exists.

## **Transportation**

Access would be via the private road from the B979 which leads to the Sparrows training centre and Hillhead of Clinterty. A loop-road within the site would allow vehicles to enter and exit in a forward gear and a lay-by would be provided for vehicles waiting to enter the secure area. It is anticipated that there would be no more than 40 vehicle movements involving dangerous goods within a calendar month i.e. 1 or 2 per day. Such vehicles would be subject to The European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) which all haulage contractors involved in such activities must adhere to.

The Council's Roads Projects Team has raised no objections to the application and it is considered that proposal is in accordance with Policy T2 (Managing the Transport Impact of Development).

## **Designated Areas**

The site is within the Three Hills Local Nature Conservation Area. In this regard Elrick Hill is the closest area of interest and supports a range of habitats with dry heathland and acid grassland on the top of the hill, bracken and colonising birch/rowan trees around the margins, and more established woodland at the base of the slopes. Occasional wet flushes are present on the hillside.

The application site, as former agricultural land, would not result in the loss of any of these habitats. The proposed tree planting would be comprised of native species which are present in the immediate area and would help to support the existing habitats.

The scheduled monument is located 30m to the south east of the southern most part of the site. A suitable buffer would be provided by trees and other vegetation such that its setting would not be adversely affected.

None of the paths or walking routes throughout the area would be affected by the proposed development, maintaining the integrity of the green space network. The impact upon the character of the green space network would be minimal as already discussed in the siting layout and design section of the report.

## **Other Matters Raised in Representations**

There is no provision in planning legislation for different neighbour notification procedures for sites in rural areas. The site was however advertised as a departure from the development plan, in the Citizen newspaper, as per the relevant regulations.

## **RECOMMENDATION**

**Approve subject to conditions**

## **REASONS FOR RECOMMENDATION**

The principle of an explosives store at this site has been established through the previous grant of planning permission when it was determined that it would be difficult to accommodate an explosives storage facility within the urban area, due to the close proximity of buildings. Such facilities require sizeable separation distances from other uses and therefore a green belt location is considered the only suitable location within the city. Therefore although the proposal would be contrary to Policy NE2 (Green Belt), the planning history and material considerations indicate that in order to support specific requirements of explosive storage, that a departure from the plan would be appropriate in this instance.

Grass bunds and tree planting around the perimeter of the site would assist in satisfactorily integrating the development into the surrounding landscape. Due to the topography of the surrounding area it is unlikely that the development would appear as a prominent feature in the landscape or adversely impact on visual amenity. Due regard has been had to Policy D6 (Landscape).

The application site as former agricultural land would not result in the loss of any of any habitats of special interest. The proposed tree planting would be comprised of native species which are present in the immediate area and would help to support existing habitats in line with Policy NE8 (Natural Heritage).

A suitable buffer would be provided by trees and other vegetation between the scheduled monument to the south east, such that its setting would not be adversely affected.

The Council's Roads Projects Team has raised no objections to the application, in terms of access, and it is considered that proposal is in accordance with Policy T2 (Managing the Transport Impact of Development).

Security and safety in relation to the storage of explosives is controlled under explosives legislation and therefore there is no requirement for additional controls to be applied in this respect via the planning process. Whilst it is acknowledged that explosives are dangerous materials and require tight control, as the requirement for hazardous substances consent has not been triggered, it can reasonably be concluded that the potential risk in this instance is low enough that the provisions of the explosives regulations and licensing regime overseen by HSE are sufficient to manage any potential risk.

## **CONDITIONS**

**it is recommended that approval is granted subject to the following conditions:-**

(1) that no development shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work which shall include post-excavation and publication work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority - in the interests of protecting items of historical importance as may exist within the application site.

(2) that no development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Planning Authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme - in order to safeguard water quality and to ensure that the development can be adequately drained.

(3) that no development shall take place unless a scheme of all external lighting (including type, lux level and position of all lights) has been submitted to and approved in writing by the planning authority. Thereafter any lighting installed shall be in accordance with the approved scheme.

(4) that all planting, seeding and turfing comprised in the approved scheme of landscaping (drawing 130918-01 and planting list 130918-02) shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority - in the interests of integrating the development into the area.

(5) that notwithstanding the provisions of Part 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1992 (as amended) the land and buildings which are subject of this planning permission shall be used for no purpose other than (i) the storage of explosives (including fuses, charges, detonators etc.), (ii) the storage of ancillary equipment used for the day to day operation of the facility; and (iii) the assembly of perforating guns - in order to ensure that the site is not used for any purpose which could not justify a green belt location.

(6) that should the approved use as an explosives store cease and facilities become redundant, all buildings and other structures shall be removed from the site and the land restored to its former condition (allowing retention of landscaping) to the satisfaction of the planning authority within 6 months - in order to maintain the amenity and landscape quality of the green belt.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.