

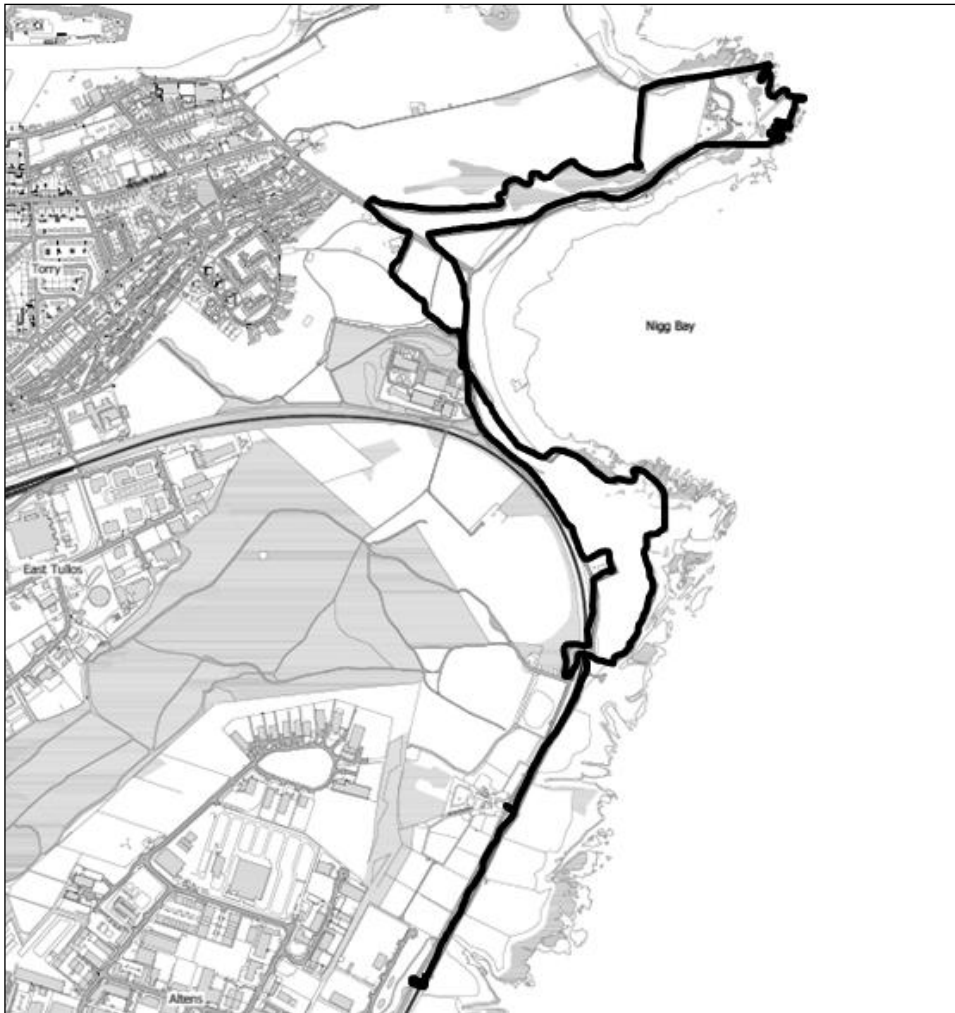
Aberdeen City Council: Meeting of Full Council – 11 May 2016

LAND AT BAY OF NIGG, COAST ROAD / GREYHOPE ROAD, TORRY

NATIONAL DEVELOPMENT COMPRISING CONSTRUCTION OF NEW INFRASTRUCTURE TO FACILITATE THE CREATION OF A NEW DEEP WATER HARBOUR, INCLUDING NEW ROADS, PARKING AND MEANS OF ACCESS, TEMPORARY CONSTRUCTION AND FABRICATION AREAS AND OTHER ASSOCIATED DEVELOPMENT WHICH MAY INCLUDE PUBLIC REALM AREAS, PATHS, LIGHTING AND SIGNAGE.

For: Aberdeen Harbour Board

Application Type:	Planning Permission in Principle	Advert : Section 34 -Proj. Pub. Concern
Application Ref.:	P151742	Advertised on: 04 November 2015
Application Date:	04/11/2015	Council Date: 11 May 2016
Officer :	Gareth Allison	Community Council : No observations
Ward:	Torry/Ferryhill	
(Y Allan/A Donnelly/J Kiddie/G Dickson)		



RECOMMENDATION:

Approve subject to conditions ensuring restoration and reinstatement of all temporary working / manufacturing areas; and requiring submission of precise details relating to all aspects of road design, realignment and off-road cycle path improvements.

DESCRIPTION

The site comprises a 30ha linear stretch of inland coastline at Bay of Nigg, running from the Girdleness to Gregness headlands, and to the east of the railway line heading southwards.

RELEVANT HISTORY

The Harbour Revision Order & Marine Licences: Aberdeen City Council confirmed its support, as a statutory consultee, of the Harbour Revision Order (HRO) and Marine Licences (ML) on 31 March 2016. These are the formal consenting procedures for physical construction of the harbour, administered by Transport Scotland and Marine Scotland respectively on behalf of Scottish Ministers.

Pre-Determination Hearing (including Site Visit), 16 April 2016: Members heard from officers; the agents acting on behalf of Aberdeen Harbour Board; and 3 members of the public that had registered objections to the proposals; the points of which are fully considered in the Evaluation section of this report.

PROPOSAL

This application for Planning Permission in Principle (PPiP) seeks consent solely for construction of the inland infrastructure components required to facilitate the creation and provision of the harbour, as follows:

Roads Realignment: Coast Road, Greyhope Road & St Fittick's junction – to enable new and safe access to the site, and to accommodate the physical construction of the harbour. The Coast Road to St Fittick's Road corridor would be realigned and widened over a distance of approximately 280m, with potential for resurfacing and verge works to facilitate road improvements. Greyhope Road would be repositioned and realigned over a distance of approximately 310m, north of its current alignment, with the Coast Road / St Fittick's Road / Greyhope Road junction repositioned approximately 150m north-west from its current location.

Potential Temporary Construction/Site Establishment Areas: 3 areas proposed at St Fitticks, Girdleness, and Gregness – to enable preparation / production of materials used in the formation of the breakwaters, quays and piers etc.

Off-road Cycle Path Improvements: to provide new off-road section of cycle path east of the railway line between Hareness Road and the railway bridge.

ENVIRONMENTAL STATEMENT

The proposal was subject to an Environmental Impact Assessment (EIA) under Schedule 2 of the Environmental Impact Assessment (Scotland) Regulations 2011. An Environmental Statement (ES) was submitted in support of the application, although it does not form part of the application itself. However, provided it serves a planning purpose, any information from the EIA process may be material and considered alongside the provisions of the development plan. The ES identifies the likely environmental effects of the wider harbour development through the study and analysis of individual issues, predicting and assessing the projected impacts and proposing measures to mitigate the effects.

Supporting Documents: All details relating to this application, including the ES, can be viewed at: <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=151742>

PRE-APPLICATION CONSULTATION

The proposed development was subject to pre-application consultation between the applicant and the local community; a requirement for applications falling within the category of national developments as defined in the 'Hierarchy of Development' Regulations. The applicants fulfilled all obligations to the expected standard.

REASON FOR REFERRAL TO FULL COUNCIL

Planning legislation requires applications for national development to be determined by the Full Council.

CONSULTATIONS

The following bodies have confirmed 'no objections in principle subject to conditions':

- Roads Development Management(RDM)
- Environmental Health (EH)
- Flooding (FL)
- Scottish Environment Protection Agency (SEPA)
- Scottish Natural Heritage (SNH)
- Network Rail (NR)
- Scottish Water (SW)

The following bodies have confirmed 'no objections/observations':

- Community Councils
- Historic Environment Scotland (HES)

REPRESENTATIONS

17 no. objections and 1 no. representation of support have been received. 8 no. additional representations referred to the physical construction / impact of the harbour and thus are not material to the consideration of this PPiP. The concerns noted in those that are relevant are considered in full below.

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.

Evaluation of this PPiP is restricted specifically to the impact of the proposed works, and does not consider the physical construction / impact of the harbour itself. Furthermore it is focussed solely on the principle of the proposals; it is acknowledged that specific details are not yet known due to the nature of the design and build process. The planning system ensures the Council retains suitable control over such details through the subsequent submission and evaluation of Matters Specified in Conditions (MSC) applications. In this regard, the proposal is assessed under the following considerations and policies.

Environmental Statement: assessment of this application must consider the information contained in the ES to be satisfied on its adequacy. This information should be of reasonable relevance to assess the effects of the project, with the emphasis being on the 'main' or 'significant' environmental effects to which the development is likely to give rise. When considering the ES alongside the specific works proposed within this PPiP,

the Council is satisfied that the main environmental effects have been sufficiently considered, thus meeting the requirements of the Regulations.

National Planning Framework 3 (NPF3), 2014: identifies construction of a harbour at Bay of Nigg as the preferred development option to expand and directly respond to capacity constraints of the existing harbour, to the benefit of the city region and Scotland as a whole. The principle of the proposal is therefore established at the top tier of the planning hierarchy.

Aberdeen City & Shire Strategic Development Plan (SDP), 2014: supports the principle of the development by identifying the harbour in the National Renewables Infrastructure Plan, as a key port which can enable growth and diversification of the regional economy.

Aberdeen Harbour Revision Order & Marine Licences: The Council has confirmed its formal support of both.

Aberdeen Local Development Plan (ALDP), 2012: With principle endorsement at both national and strategic level, it follows that the local development plan would seek to facilitate and support the development; promoting a general presumption in favour of major and essential infrastructure projects where they can be suitably accommodated. Furthermore;

- ALDP: Policy NE1 – Green Space Network (GSN): The proposals form part of a major infrastructure development that necessitates crossing the GSN. Through MSC applications, the Council can ensure, and will require, that the final design details take into account the coherence of the network, and include suitable measures to respect wildlife, access and outdoor recreation objectives.
- ALDP: Policy NE2 – Green Belt: Exceptions to green belt restrictions are applicable as this is essential infrastructure which cannot be accommodated elsewhere. As noted above, subsequent MSC applications will consider the specific details and ensure that these are both appropriate and suitable for their context and setting.

Proposed Aberdeen Local Development Plan (PALDP), 2016: recognises the significant pressures for expansion which cannot be met within the existing harbour, and identifies the Bay of Nigg site as an opportunity site (OP62) for a new harbour development. Policy NE1 'Green Space Network' and Policy NE2 'Green Belt' substantially reiterate the principle support of the current ALDP.

Detailed Proposals: it is acknowledged that the proposed works are required to facilitate the wider harbour project, and thus the principle of each aspect is considered appropriate and reasonable. Nonetheless the duty of Planning Authority remains to ensure that the impact of such works can be accommodated without adverse impact on the surrounding area. Given the nature of the design and build process, it is reasonable that the applicants can submit the necessary details through conditions of this PPIp, as MSC applications. Such applications would include direct consultation with all statutory ACC services and external bodies, thereby ensuring a fully informed and detailed evaluation in all respects. ACC officers are satisfied that the details of each element can be sufficiently assessed through this process, and relevant conditions are therefore attached in respect of each. Formal directions are included to allow extended timescales for submission to reflect the nature of the proposal within the overall project.

MATTERS RAISED IN REPRESENTATIONS

Loss of open space / land for road alterations & temporary construction areas:

The land required to accommodate the road alterations will ensure suitable levels of both road standard and safety, and will improve an existing junction in terms of forward visibility and access. All remaining land that would be lost would only be used for a temporary period, following which it would be fully reinstated to its previous condition. Through the separate HRO / ML process the applicant is also committed to providing new areas of planting to enhance remaining areas and compensate for those that are lost, thus ensuring a sufficient overall level of green space provision remains within the area. On balance the proposed loss of land is acceptable subject to reinstatement via condition, and approval of specific details via MSC applications.

Direct and consequential impact on local business: The proposal includes the temporary use of land currently in use by a local business. Whilst land ownership is a private legal matter between respective parties, it is noted that the proposed area would be used on a temporary basis, and is considered essential for production purposes to construct, and subsequently secure the viability of, the physical harbour itself. As such, and with no permanent loss, the short-term impact would be considered acceptable subject to reinstatement via condition, and approval of specific details via MSC applications.

Road safety, hazard, risk, and impact on existing road network: The change to the existing road network is minor and would secure suitable standards and safety levels, whilst improving the existing junction. Officers consider the proposals acceptable subject to approval of specific details via MSC applications.

Visual, noise, light and air quality impact: Any impacts would be confined to, and result from works and plant located within the proposed temporary areas, thus are considered both manageable and reversible. MSC applications will ensure the Council retains adequate control over siting and placement of components; and through the utilisation of relevant environmental regulations to control noise, lighting levels and impact on air quality, minimise the impact on surroundings and residential amenity. Further conditions will ensure reinstatement of the land to its previous condition.

General impact on local environment, natural habitat: The wider, cumulative environmental impact deriving from the harbour project as a whole has been considered under the HRO and ML processes, with the applicant agreeing a suitable package of mitigation and compensation measures. This includes traffic generation and road condition / capacity etc. For the purpose of this evaluation the impact should be considered directly on the basis of the proposed works, i.e. the roads realignment, temporary construction / laydown areas and cycle path improvements. Given their nature and scale, such works will result only in minor impacts, the majority of which will be temporary and to localised areas, which can be suitably assessed and controlled through approval of MSC applications and reinstatement of land to its previous condition.

Incompatibility with existing uses: The works which relate directly to the existing public highway / cycle track will maintain this use, whilst also providing improvements and enhanced surface treatments, and thus are considered compatible. The areas proposed as construction / laydown areas will undoubtedly change the use, but on a temporary basis. With long term reinstatement secured through condition, and the overall benefits of the temporary use to facilitate the wider harbour project; the interim impact will not adversely affect the long-term use of the land and is therefore considered acceptable on balance.

RECOMMENDATION

Approve subject to conditions ensuring restoration and reinstatement of all temporary working / manufacturing areas; and requiring submission of precise details relating to all aspects of road design, realignment and off-road cycle path improvements (full details in appendix).

REASON FOR RECOMMENDATION

The principle of the proposed development is fully recognised in planning policy at both national (NPF3) and strategic level (the Aberdeen City & Shire SDP); insofar as it would provide essential infrastructure to facilitate an identified national development that has the potential to deliver economic and social regeneration, and long-term economic prosperity within the north east and the wider Scottish economy. Likewise it is supported at local level via policies of both the current ALDP and the proposed ALDP, with a clear acceptance of the need to expand the current harbour at this site and to enable provision of the essential infrastructure to do so; on the proviso that all works are designed to prevent and minimise adverse impact. The Council is satisfied that this can be achieved successfully through conditions and submission of MSC applications; and in doing so will substantially address the concerns raised in representations. On this basis, and with there being no material considerations that would outweigh the above policy position, the Council recommends that the application be approved subject to conditions.

Aberdeen City Council: Meeting of Full Council – 11 May 2016

Planning Application in Principle: Ref P151742

APPENDIX

The recommendation to approve the application is subject to the following conditions, directions and informatives:

CONDITIONS

(1) MSC SUBMISSION – ROAD WORKS / DRAINAGE

That, no development associated with the road and drainage works pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority, within 2 years of the date of this planning permission in principle hereby approved, for approval of the matters specified in this condition and such approval has been granted; these matters being details of:

- i. All proposed road works; including location; alignment; and typical cross-section details; and
- ii. All proposed drainage provision, including a Detailed Surface Water Drainage Plan; showing full details of drainage that is to be tied into the existing drainage system, or alternative arrangements to the satisfaction of the Planning Authority.

– in the interests of road safety, the free flow of traffic, sustainable drainage, and flood risk prevention and protection.

(2) TEMPORARY AREAS

That, no development associated with the temporary construction areas pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority for approval of the matters specified in this condition and such approval has been granted; these matters being details of all proposed works within the temporary construction and fabrication areas identified on drawing no 'Acad 01/4a'. Such details shall include location; layout; materials; siting, nature and specification of equipment; means of access; boundary treatments, parking and lighting – in order to safeguard local amenity.

(3) REINSTATEMENT OF TEMPORARY AREAS

That, no development associated with the reinstatement of the temporary construction and fabrication areas as referred to in condition 2 above, pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority, within 2 years from the date of the planning permission in principle hereby approved, for approval of the matters specified in this condition and such approval has been granted; these matters being a proposed scheme of restoration and reinstatement of the temporary construction and fabrication areas as referred to in Condition 2 of this consent. Thereafter all reinstatement works shall be implemented in accordance with the details therein, and completed within 6 months of the cessation of such use – in order to minimise the level of visual intrusion and ensure the reinstatement of the site to a satisfactory condition.

(4) ADDITIONAL WORKS

That, no development connected with any individual works referred to in the description of the development pursuant to the planning permission in principle hereby approved,

and not otherwise addressed through respective conditions, shall be carried out until such time as a further application has been made to the Planning Authority, within 4 years from the date of the planning permission in principle hereby approved, for approval of the matters specified in this condition and such approval has been granted; these matters being full details of any additional, associated development that is required within and directly abutting the application site and as identified within the description of the development, including full details of any footpaths and cycle paths – in order to safeguard local amenity.

(5) COASTAL – TOPOGRAPHICAL SURVEY

That, no development associated with the road and drainage works pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority for approval of the matters specified in this condition and such approval has been granted; these matters being a pre-works Topographical Survey and a programme for submission of a post-works Topographical Survey. The surveys shall demonstrate that the works proposed under this application will not have any additional detrimental effect on the supporting coast line on Grey Hope Road and the Coast Road as a result of the proposed development, and thereafter all approved works shall be implemented in accordance with the details therein – in the interests of road safety.

(6) COASTAL – MONITORING PLAN

That, no development associated with the road and drainage works pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority, within 2 years from the date of the planning permission in principle hereby approved, for approval of the matters specified in this condition and such approval has been granted; these matters being a Monitoring Plan. The plan shall demonstrate that the works proposed under this application will not have a detrimental effect on the existing coastal edge on Grey Hope Road and the Coast Road, and shall include relevant measures to ensure they are not put at risk as a result of the proposed development. Thereafter all approved works shall be implemented in accordance with the details therein – in the interests of road safety.

(7) SEPA – CEMP

That, no development pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority for approval of the matters specified in this condition and such approval has been granted in direct consultation with SEPA; these matters being a Construction Environmental Management Plan relating specifically to the works proposed within this application. Thereafter all approved works shall be implemented and carried out in accordance with the details therein – in order to minimise the impacts of necessary construction works on the environment.

(8) SEPA – CULVERTS

That, no development associated with works that would impact the existing culvert capacity pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority, within 1 year of the date of the planning permission in principle hereby approved, for approval of the matters specified in this condition and such approval has been granted in direct consultation with SEPA; these matters being a scheme demonstrating that the capacity of existing culverts will not be reduced as a result of the proposed development – in order to minimise the impacts of necessary construction works on the environment.

(9) SNH – ENGINEERING ASSESSMENT

That, no development associated with infrastructure works on the land above Nigg Bay SSSI pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the Planning Authority, within 2 years from the date of the planning permission in principle hereby approved, for approval of the matters specified in this condition and such approval has been granted in direct consultation with SNH; these matters being an Engineering Assessment. The assessment shall demonstrate that there would be no adverse impact on the Nigg Bay SSSI as a direct result of the construction and operation of any infrastructure works, whether temporary or permanent, proposed within this application. Thereafter all approved works shall only be implemented where the assessment has demonstrated no adverse effect, and shall be carried out in accordance with the details therein – in order to protect the interests of Nigg Bay SSSI.

DIRECTIONS

(1) DIRECTION UNDER SECTION 59 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997:

That the subsection (2)(a)(i) of section 59 shall apply as respects the permission with the substitution for the period of 3 years referred to in that subsection of 5 years, as is considered appropriate by the planning authority in this instance on the basis of the scale of the allocation. The provisions of section 59(2) shall therefore be read as follows; that this planning permission in principle shall lapse unless a further application or applications for approval of the matters specified in all conditions attached to this grant of planning permission in principle across the entire site has been made before whichever is the latest of the following;

- i. The expiration of 5 years from the date of this grant of planning permission in principle;
- ii. The expiration of 6 months from the date on which an earlier application for the requisite approval of matters specified in conditions was refused;
- iii. The expiration of 6 months from the date on which an appeal against such refusal was dismissed;

– pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

(2) DIRECTION UNDER SECTION 59 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997:

That the subsection (2)(b)(ii) of section 59 shall apply as respects the permission with the substitution for the period of 2 years referred to in that subsection of 4 years, as is considered appropriate by the planning authority in this instance on the basis of the scale of the allocation. The provisions of section 59(2) shall therefore be read as follows; that, this planning permission in principle shall lapse on the expiration of 4 years from the approval of matters specified in conditions being obtained (or, in the case of approval of different matters on different dates, from the requisite approval for the last such matter being obtained) unless the development to which the permission relates is begun before that expiration – pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

INFORMATIVES

(1) ACCESS RIGHTS TO RAILWAY BRIDGES

Additional servitude rights of access/bridge agreements in respect of the two southern bridges (133/385 and 133/386) would have to be secured from Network Rail for the creation of any proposed pedestrian links – in order to control impacts on railway and user safety.

(2) DRAINAGE ADJACENT TO RAILWAY LINE

All surface or foul water arising from the development must be collected and diverted away from Network Rail Property. Any Sustainable Urban Drainage Scheme should not be sited within 10 metres of railway infrastructure and should be designed with long term maintenance plans which meet the needs of the development – in order to control drainage impact on the rail network

(3) ACCESS RESTRICTION

If not already in place, the applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Network Rail recommends a 1.8 metre high 'rivet-less palisade' or 'expanded mesh' fence. Network Rail's existing boundary measure must not be removed without prior permission – in order to prevent unauthorised and unsafe access to the railway.

(4) PROXIMITY TO RAILWAY LINE

Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks - in order to ensure that construction works are undertaken in a safe manner which does not disturb the operation of the neighbouring railway.

(5) NETWORK RAIL CONTACT

The developer must contact Network Rail's Asset Protection Engineers regarding the above matters:

Network Rail Asset Protection Engineer
151 St. Vincent Street
Glasgow
G2 5NW
Tel: 0141 555 4087
E-mail: AssetProtectionScotland@networkrail.co.uk