



Agenda Item 3

Minutes

Draft

FALKIRK COUNCIL

Minute of special meeting of Falkirk Council held in the Municipal Buildings, Falkirk on Friday 15 September 2017 at 2.30 p.m.

Councillors: David Aitchison Fiona Collie John McLuckie
David Alexander Jim Flynn Cecil Meiklejohn
David Balfour Paul Garner Lynn Munro
Lorna Binnie Dennis Goldie Laura Murtagh
Robert Bissett David Grant Malcolm Nicol
Allyson Black Nigel Harris Alan Nimmo
Jim Blackwood Gordon Hughes Pat Reid
Gary Bouse James Kerr Depute Provost Ann Ritchie
Billy Buchanan Adanna McCue Robert Spears
Provost Tom Coleman

Officers: Kevin Collins, Transport Planning Co-ordinator
Chris Cox, Sustainable Transport Co-ordinator
Ian Dryden, Development Manager
Rhona Geisler, Director of Development Services
Iain Henderson, Legal Services Manager
Colin Moodie, Chief Governance Officer
Brian Pirie, Democratic Services Manager
Kenneth Short, Transport Planning Manager
Bernard Whittle, Development Management Co-ordinator

FC25. Sederunt

The sederunt was taken by way of a roll call. Apologies were intimated on behalf of Councillors Coombes and Patrick.

FC26. Declarations of Interest

Councillor Nicol declared a financial interest in items FC27 and FC28 as his wife is the owner of a business in Grangemouth and took no part in the discussion or decision making on these items, having had regard to the objective test in the Code of Conduct.

Councillor Aitchison declared a non-financial interest in items FC27 and FC28 by virtue of him having publicly stated his position against the planning application and took no part in the discussion or decision making on these items, having had regard to the objective test in the Code of Conduct.

In accordance with their declarations of interest, Councillors Aitchison and Nicol left the meeting prior to consideration of the following items.

FC27. Minute

Decision

The minute of the meeting of the Planning Committee (comprising all members of the Council) held on 13 March 2017 was approved.

FC28. Works Adjacent to and Within the Confines of Bo'ness Road, Grangemouth Comprising the Construction of a Security Management Centre, 2 Security Gatehouses, Security Fencing and 5 No Pipe Bridges With Supporting Infrastructure at Ineos, Bo'ness Road, Grangemouth, FK3 9XH, for Ineos Chemicals Grangemouth Ltd – P/17/0041/FUL

The Council considered a report by the Director of Development Services seeking Council's response, as the Planning Authority, to the Scottish Government Planning and Environmental Appeals Division (DPEA) in regard to an appeal against a deemed refusal of a planning application.

An application had been made, by Ineos Chemicals Grangemouth Ltd, for full planning permission for works adjacent to and within the confines of the A904 Bo'ness Road, Grangemouth comprising the construction of a security management centre, two security gatehouses, security fencing and five pipe bridges with supporting infrastructure at Ineos, Bo'ness Road, Grangemouth. The application would require the permanent closure of a section of the A904 Bo'ness Road between the Inchyra roundabout and the River Avon road bridge.

The application had not been determined by the Council as the planning authority within the statutory timescale and was therefore deemed to have been refused. The applicant had appealed to the Scottish Ministers. In terms of regulation 4(2) of the Town and Country Planning (Appeals) (Scotland) Regulations 2013, the Council, as planning authority, was required to send the following to the Scottish Ministers and appellant:-

- (a) a note of the matters which the planning authority consider require to be taken into account in determining the appeal and by what, if any, procedure (or combination of procedures) the planning authority wish the appeal to be conducted;
- (b) a copy of documents which were before the planning authority and which were taken into account in reaching their decision;
- (c) a copy of any Report on Handling prepared in respect of the application; and
- (d) conditions (if any) which the planning authority presently consider should be imposed in the event that the Scottish Ministers decide that permission be granted.

The report set out officers' proposed responses to the grounds of the appeal made by the applicant together with officers' suggested conditions in accordance with (d) above.

Councillor Alexander, seconded by Councillor Meiklejohn, moved that Council:-

- (1) agrees that the appellant has not demonstrated that the need for the closure of Bo'ness Road is sufficiently established. As a consequence, the proposed closure is not justified to allow the improved security measures proposed at the site or for the future development aspirations of the wider Ineos site to be met. The proposal is not therefore in accordance with National Planning Framework 3 (NPF3) and Policy BUS 02 – Core Business Areas and economic development proposal ED16 which do not identify the requirement for the closure of Bo'ness Road;
- (2) agrees that the mitigation measures offered by the appellants in respect of the planning application now before Scottish Ministers are not adequate and the application is not sufficiently in accordance with the Falkirk Local Development Plan;
- (3) agrees there are no material considerations in the application which can justify support for the current proposal (the permanent closure of part of the A904 Bo'ness Road with inadequate mitigation measures);
- (4) instructs the Director of Development Services to advise the Scottish Government Planning and Environmental Appeals Division (DPEA) that this report, its appendices and minutes of Council meetings held to consider the proposal, constitutes the Council's note of matters which the planning authority considers require to be taken into account in determining the appeal. In the event the decision taken is different to the officer recommendations in the report, the minute of 15 September is also included;
- (5) instructs the Director of Development Services to notify the DPEA that the Council wishes the appeal to be conducted by the method that provides for maximum opportunity for public engagement ie a public hearing;
- (6) agrees that the planning conditions and informatives as outlined in appendix 4 of the report submitted to the DPEA as part of the Council's appeal submission should Scottish Ministers / the Reporter be minded to grant planning permission.

As an amendment, Councillor Black, seconded by Councillor Goldie, moved, in substitution for the motion that Council:-

- (1) notes that the closure of Bo'ness Road is not a requirement of Proposal ED 16 or Policy BUS 2 or a requirement contained within the NPF. The appellant has not demonstrated the need for the closure of the road. Closure of the Road would:
 - reduce the resilience of the road network;

- be a loss of an important road, footway and cycle route;
- have a detrimental impact on the Transport Scotland High Load Road; and
- cause significant inconvenience by extending travel times to car drivers, taxi users, bus users and cyclists travelling between Grangemouth and Bo'ness.

Accordingly, the closure of the road is unacceptable and the application should be refused;

- (2) without prejudice to (1) above, the mitigation measures offered by the appellants in respect of the planning application now before Scottish Ministers are not adequate and the application is not sufficiently in accordance with the Falkirk Local Development Plan;
- (3) that there are no material considerations in the application which can justify support for the current proposal (the permanent closure of part of the A904, Bo'ness Road with inadequate mitigation measures);
- (4) to instruct the Director of Development Services to advise the DPEA that Falkirk Council's position is as set out in 1) – 3) above and appoints any consultants and legal representatives to represent the Council;
- (5) to instruct the Director of Development Services to notify the DPEA that the Council wishes the appeal to be conducted by means of an Inquiry session considering both the policy matters and the extent of mitigation;
- (6) that the planning conditions and informatives as outlined in appendix 4 of the report be submitted to the DPEA as part of the Council's appeal submission should Scottish Ministers / the Reporter be minded to grant planning permission, and
- (7) to instruct the Chief Executive to write to the Minister of Housing and Local Government to request that the final decision be taken by Scottish Ministers.

Council adjourned at 3.20 p.m. to allow the movers and seconders to consider their respective positions having now heard the terms of both the motion and the amendment.

Council reconvened at 3.40 p.m. with all members present as per the sederunt, with the exception of Councillors Aitchison and Nicol who had left the meeting.

With the consent of the Provost, and Councillor Goldie, as her seconder, Councillor Black withdrew her amendment.

With the consent of the Provost, and Councillor Meiklejohn, as his seconder, Councillor Alexander adjusted the terms of clauses (1) and (3) of his motion to read:-

- (1) agrees that the appellant has not demonstrated that the need for the closure of Bo'ness Road is established. As a consequence, the proposed closure is not justified to allow the improved security measures proposed at the site or for the future development aspirations of the wider Ineos site to be met. The proposal is not therefore in accordance with National Planning Framework 3 (NPF3) and Policy BUS 02 – Core Business Areas and economic development proposal ED16 which do not identify the requirement for the closure of Bo'ness Road. The closure of the road would:-
- reduce the resilience of the road network;
 - be a loss of an important road, footway and cycle route;
 - have a detrimental impact on the Transport Scotland High Load Road; and
 - cause significant inconvenience by extending travel times to car drivers, taxi users, bus users and cyclists travelling between Grangemouth and Bo'ness.
- (3) agrees that no material considerations in the application which can justify support for the current proposal the permanent closure of part of the A904 Bo'ness Road with inadequate mitigation measures. Accordingly the application should be refused.

Decision

Council agreed:-

- (1) **that the appellant has not demonstrated that the need for the closure of Bo'ness Road is established. As a consequence, the proposed closure is not justified to allow the improved security measures proposed at the site or for the future development aspirations of the wider Ineos site to be met. The proposal is not therefore in accordance with National Planning Framework 3 (NPF3) and Policy BUS 02 – Core Business Areas and economic development proposal ED16 which do not identify the requirement for the closure of Bo'ness Road. The closure of the road would:-**
- **reduce the resilience of the road network**
 - **be a loss of an important road, footway and cycle route**
 - **have a detrimental impact on the Transport Scotland High Load Road**
 - **cause significant inconvenience by extending travel times to car drivers, taxi users, bus users and cyclists travelling between Grangemouth and Bo'ness;**

- (2) that the mitigation measures offered by the appellants in respect of the planning application now before Scottish Ministers are not adequate and the application is not sufficiently in accordance with the Falkirk Local Development Plan;**
- (3) that no material considerations in the application which can justify support for the current proposal (the permanent closure of part of the A904 Bo'ness Road with inadequate mitigation measures). Accordingly the application should be refused;**
- (4) to instruct the Director of Development Services to advise the Scottish Government Planning and Environmental Appeals Division (DPEA) that this report, its appendices and minutes of Council meetings held to consider the proposal constitutes the Council's note of matters which the planning authority considers require to be taken into account in determining the appeal. As the decision is different to the officer recommendations in the report, the minute of this meeting will also be included;**
- (5) to instruct the Director of Development Services to notify the DPEA that the Council wishes the appeal to be conducted by the method that provides for maximum opportunity for public engagement ie a public hearing; and**
- (6) that the planning conditions and informatives as outlined in Appendix 4 of the report submitted to the DPEA as part of the Council's appeal submission should Scottish Ministers / the reporter be minded to grant planning permission.**