

## THE HIGHLAND COUNCIL

### CAITHNESS, SUTHERLAND AND EASTER ROSS PLANNING APPLICATIONS AND REVIEW COMMITTEE

21 APRIL 2009

Agenda Item	7
Report No	20/09

### CONSTRUCTION OF FACILITIES FOR THE DISPOSAL OF LOW LEVEL WASTE, COMPRISING OF UP TO 6 SHALLOW SUB-SURFACE VAULTS AND ANCILLARY INFRASTRUCTURE ON LAND TO THE EAST OF THE EXISTING DOUNREAY NUCLEAR FACILITY, THURSO, CAITHNESS. 06/00373/FULCA

#### Report by Head of Planning and Building Standards

#### SUMMARY

The Caithness, Sutherland and Easter Ross Planning Application and Review Committee agreed to grant planning permission for proposals to construct up to six shallow sub-surface vaults for the disposal of low level waste (LLW) with associated development on land to the north-east of the existing Dounreay licensed site, subject to conditions and the need for prior notification to Scottish Ministers.

Delegated authority was given to the Head of Planning and Building Standards, in consultation with the Chair, to amend the final wording of the conditions contained within the report to Committee since it had not been possible to agree the final wording of these with consultees, particularly SEPA and SNH, prior to the meeting. This authority to amend conditions was therefore quite limited.

Having been notified Scottish Ministers have indicated to the Council that it can deal with the application as it thinks fit. However, and unusually, Scottish Ministers have requested that the Council considers applying a condition to the permission regarding a community development fund.

Committee is asked to agree to the inclusion of such a condition within the decision notice along with the other conditions contained within the Annex A to this report.

**Ward 4:** Landward Caithness

#### 1.0 BACKGROUND

1.1 At its meeting on 13 January 2009, the Caithness, Sutherland and Easter Ross Planning Application and Review Committee were minded to grant planning permission for this development subject to conditions and the need to refer the application to Ministers as it was Environmental Impact Assessment (EIA) development.

1.2 Under the authority of the Committee minor amendments to conditions were made and a copy of the application and finalised conditions referred to Ministers on 10 February 2009. On 10 March 2009 Scottish Ministers advised the Council that they did not wish to intervene in this application by either issuing a direction restricting the granting of planning permission or by calling the application in for their own determination. However, a request was made for the Council to add a condition regarding provision of a community development fund. A copy of this letter is contained within Annex B.

1.3 It is considered that the current delegated authority given to the Head of Planning and Building Standards would not extend to inclusion of such a request.

## **2.0 CONDITION ON COMMUNITY BENEFIT**

2.1 As indicated above, only minor changes to the conditions set out within the previous report to Committee have been made. These have been made as a result of further consultation with SEPA and are overall minor in nature, providing further clarification rather than control.

2.2 It is unusual for Scottish Ministers to request the imposition of conditions when responding to a notification. It is also unusual for conditions to be used to secure community benefit.

2.3 In this case, Dounreay Site Restoration Limited (DSRL) has already indicated a willingness to establish a community benefit fund. Discussion on the extent of this is already underway with the site stakeholder group taking a lead. As DSRL, which is Government funded through the Nuclear Decommissioning Authority (NDA), has made this commitment it is not considered necessary to secure a benefit fund by condition, merely to ensure that commitment to a community benefit package and a mechanism for its delivery is in place.

### **RECOMMENDATION**

That Committee:

- A.** Agree to the inclusion of the following condition within the decision notice on the planning permission for the Dounreay LLW:

*Prior to the commencement of work on site, confirmation that a community benefit package and mechanism to deliver it is in place shall be provided to the Council. No emplacement of waste into the proposed facility shall be permitted until such time that an appropriate body to administer the said community benefit fund has been established.*

**Reason:** *To comply with the Policy G4 of the Highland Structure Plan.*

And,

**B.** Note the amended conditions attached in Annex A.

Signature:

Designation: pp Head of Planning and Building Standards

Author: David Mudie, Team Leader – Development Management (HQ)

Date: 17 April 2009

Conditions for LLW facility at Dounreay – 06/00373/FULCA

1. The development hereby permitted shall commence no later than five years from the date of this consent.

**Reason:** Statutory requirement.

2. Except as otherwise provided for and amended by the terms of this approval, the operator shall construct and operate the development in accordance with the approved plans and the Environmental Statement (as revised by the Addenda to the Environmental Statement).

**Reason:** In order to clarify the terms of permission.

3. For the avoidance of doubt the facilities hereby granted are for low level waste (LLW) at or originating from Dounreay and HMS Vulcan only. Upon completion of the development, or each Phase if no further Phase is required, all vaults shall be backfilled and capped, buildings and ancillary equipment dismantled and removed from the site, and the ground restored to the satisfaction of the Council.

**Reason:** In order to clarify the terms of permission and to ensure restoration of the site.

4. Prior to the commencement of work on site, an environmental management plan (EMP) shall be submitted to and agreed in writing by the Council in consultation with the SEPA and SNH as appropriate. The environmental management plan shall detail contractor arrangements for the following:

- Foul and surface water during construction;
- Management of any drill cuttings and related fluids;
- Removal and placement of soils and rocks;
- Transport of materials to the site;
- Handling and pouring of concrete;
- Refuelling of plant;
- Storage of fuels and chemicals;
- Potential leachates from excavated materials;
- Use of biodegradable hydraulic oils for site pant;
- Measures to prevent accidental leakage of concrete mix washings and stored chemicals;
- Rapid establishment of vegetation on excavated material to reduce run-off of suspended soils;
- Ensuring that adverse impacts of construction on operational parts of the site are avoided;
- Mitigation measures to protect European protected species, particularly otter and bat; and,
- Transplantation and construction methodology for the removal of those turfs, where required, containing Scottish primrose and small adder's tongue; and
- Monitoring and audit programs to ensure best practice is being followed during the construction process.

The agreed plan shall be implemented and not modified without the prior written

approval of the Council, in consultation with SEPA and SNH as appropriate.

**Reason:** In order to ensure satisfactory construction arrangements and any necessary mitigation.

5. Prior to the commencement of work on site, a site waste management plan detailing measures to reduce waste arisings from the construction of the development shall be submitted to and agreed in writing by the Council in consultation with SEPA. This plan shall include, but not be limited to, the following measures:
- How minimisation of waste shall be achieved and how the waste hierarchy will be followed;
  - Details of how the construction process for the vaults links with the construction and commissioning of the processing and material storage facility outlined with Chapter 11 of the ES;
  - Procedures for transferring materials between the construction site and reprocessing facility;
  - Proposals for the management of waste during construction;
  - How contaminated soils identified prior to construction will be managed, treated and disposed of.
  - Monitoring and audit programs to ensure best practice is being followed during the construction process.

The agreed plan shall be implemented and not modified without the prior written approval of the Council, in consultation with SEPA.

**Reason:** In order to reduce waste and encourage recycling.

6. Prior to the commencement of work on site, details of the type and colour of walling and roofing material to be used on the buildings shall be submitted to and agreed in writing by the Council. Only the agreed materials shall be used.

**Reason:** In the interest of visual amenity.

7. Prior to the commencement of work on site, arrangements for liaison between the applicant, nominated contractor and the local community during construction shall be submitted to and agreed in writing by the Council. The arrangements shall include the establishment of a Local Liaison Group, nomination of a single point of contact for the community, and regular reporting arrangements. The approved arrangements shall be implemented for the duration of construction of the whole development to the satisfaction of the Council.

**Reason:** In order to provide for effective community liaison and engagement in the interest of protecting as far as possible the amenity of near residents.

8. Prior to the commencement of work on site, a scheme of investigation and assessment of ground and surface water shall be submitted to and agreed by the Council in consultation with SEPA. The scheme shall include:
- The scale and type of dewatering measures and associated down gradient collection, transfer, settlement and treatment facilities required at various phases of the project, including capacity for seasonality effects;
  - The impacts relative to both active and post dewatering phases and, with

regard to the latter, the long term effects imposed by the low permeability structures that will effectively dam and divert groundwater flows as they move through the facility footprint; and

- The qualitative characteristics of groundwater, both up gradient and down gradient of the proposed facilities, including seasonality effects.

The agreed scheme shall be implemented and not modified without the prior written approval of the Council, in consultation with SEPA.

**Reason:** In order to ensure protection of the water environment.

9. Prior to the commencement of work on site, a scheme to deal with potential non-radiological contamination on this site shall be submitted to and agreed in writing by the Council, in consultation with SEPA. The scheme shall include the following details:

- The nature, extent and type of contamination on site, identification of pollutant linkages and assessment of risk (i.e. contaminated land risk assessment and remediation plan) the scope and method for which is to be agreed in advance by the Council and undertaken in accordance with PAN33 (2000) and BS10175:2001. Particular attention needs to be given to distinguishing any polluting impacts from the site itself, which is known to have been occupied at least in part by a former operational airfield, from any polluting impacts arising from adjacent potentially contaminative land-uses which include Landfill 42 and Dounreay decommissioning plant and its former operations;
- Remedial strategy (if required) to treat/remove contamination to ensure that the site is fit for the uses proposed (this shall include a method statement, programme of works, and proposed verification plan);
- Submission of a validation report (should remedial action be required) by the competent person employed by the applicant who will validate and verify the completion of works to a satisfactory standard as agreed by the Council;
- Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as considered appropriate by the Council.

The agreed scheme shall be implemented and not modified without the prior written approval of the Council, in consultation with SEPA.

**Reason:** In order to ensure that the proposed site is suitable for use and will have no significant adverse impact upon the water environment.

10. Prior to the commencement of any construction works, the following archaeological mitigation work shall be undertaken:

- Full excavation and recording of Site No. 36 (mound);
- Measures to protect the scheduled monument (Site 1) from both construction and operational impacts;
- A programme of geophysical survey of the entire development area; and
- A programme of archaeological evaluation on a minimum of 5% of the area proposed for development.

Dependent upon the results of the geophysical survey and/or archaeological evaluation full archaeological excavation of identified features and/or a watching brief may be recommended. A written scheme of investigation (WSI) from the appointed

archaeological contractor shall be submitted to and agreed in writing by the Council Archaeology Unit prior to the commencement of any archaeological investigation.

**Reason:** In order to protect any features of archaeological importance.

11. Prior to the commencement of Phase I a specific waste management strategy that details measures to reduce, reuse and recycle material intended for disposal to the development shall be submitted to and agreed in writing by the Council, in consultation with SEPA. This strategy shall be updated on an annual basis and implemented to the satisfaction of the Council.

**Reason:** In order to ensure that the facility is operating in accordance with best practice and the Council's waste hierarchy.

12. Within six months of the date of this permission, proposals for an up to date site monitoring network shall be submitted to and agreed in writing by the Council, in consultation with SEPA. The proposals shall include:

- Provision of groundwater level monitoring array targeted at the excavation scale horizon not currently monitored, namely at greater than 5m depth and up to 25m in depth; and
- Provision of groundwater quality monitoring array, for the purpose of groundwater sampling and chemical analysis, of sufficient spatial distribution and appropriate siting to inform baseline groundwater conditions up gradient and down gradient of the proposed facilities at a variety of depths inclusive of excavation scale monitoring.

The agreed proposal shall be implemented and shall not be modified without the prior written approval of the Council, in consultation with SEPA.

**Reason:** In order to ensure satisfactory construction arrangements and any necessary mitigation.

13. Unless otherwise agreed in writing by the Council, no blasting operations shall be carried out.

**Reason:** In the interest of amenity.

14. Construction hours shall be restricted to 0700 to 1700 on Mondays to Fridays and from 0700 to 1200 on Saturdays with no work permitted on Sundays or on Bank Holidays. Any work on site outwith these times shall only take place with the prior written approval of the Planning Authority, with such approval not unreasonably being withheld. Except in the case of an emergency, written notification shall be submitted at least 4 weeks prior to such works commencing.

**Reason:**

15. During permitted construction hours of operation, the free-field equivalent continuous noise level ( $L_{Aeq,1hr}$ ) shall not exceed 45 dB(A) at the nearest noise sensitive premises unless during soil stripping operations in which case the free-field equivalent continuous noise level ( $L_{Aeq,1hr}$ ) shall not exceed 55 dB(A). In the event of complaint, noise monitoring shall be carried out in accordance with BS4142:1997 and BS5228:1997 by independent specialist consultants acting jointly with the Council. Results of all noise monitoring shall be supplied to the Council. The appointed contractor shall adopt "Best

Practical Means” in controlling noise levels and shall follow guidance contained within BS5228 Part 1 –1997 – Noise and Vibration Control on Construction and Open Sites.

**Reason:** In the interest of amenity and in order to minimise noise nuisance.

16. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer’s specification at all times, and shall be fitted with and use effective silencers.

**Reason:** In the interest of amenity.

17. The perimeter of the site shall be enclosed by a stock proof fence which shall be maintained in good condition until the completion of restoration.

**Reason:** In order to protect livestock.

18. No development shall commence in any Phase until all soils in that Phase have been stripped. Soils shall be stripped to full available depth from all operational areas within the site except areas designated for soil storage. Topsoil and subsoil stripping shall only be carried out when the site and soil are in a dry condition. The stripping of soils from each successive Phase shall not take place more than 6 months prior to the completion of extraction operations in the previous Phase.

**Reason:** In the interest of amenity and conserving the soil for restoration.

19. All soil storage mounds shall be evenly graded, shaped and drained to prevent water ponding on or around them and they shall be seeded with a suitable low maintenance grass seed mixture. Soil storage mounds shall not exceed 5 metres in height.

**Reason:** In the interest of amenity and in order to prevent pollution of the water environment.

20. Throughout the period of work, restoration and aftercare the applicant shall protect and maintain or divert any ditch, stream, watercourse or culvert passing through the site so as not to impair the flow nor render less effective drainage on to and from adjoining land.

**Reason:** In order to prevent pollution of the water environment.

21. No infill material, other than topsoils and subsoils as exempted under the provisions of the Waste Management Licensing Regulations 1994 (as amended), shall be brought onto the site without benefit of the requisite planning permission and Waste Management Licence and only in accordance with a scheme of restoration and in locations approved in writing by the Council.

**Reason:** In order to control the deposition of waste.

22. Prior to the commencement of development, a dust management strategy shall be submitted to and approved in writing by the Council, in consultation with SEPA. This shall assess potential dust arisings and appropriate mitigation measures. The agreed strategy shall thereafter be implemented.

**Reason:** In the interest of amenity and in order to minimise dust nuisance.

23. Twelve months prior to closure and restoration of the site, a detailed restoration plan for the site shall be submitted to and agreed in writing by the Council, in consultation with Scottish Natural Heritage and the Scottish Environment Protection Agency. The restoration plan shall include details of all final levels and earthworks on site and adjacent to the site. Details provided in connection with each phase of the restoration programme shall include contoured site plans; details of the quantities and origins of soil and soil making materials to be incorporated into each phase; and details of the timescales and methodology of seeding and planting of all species. All planting shall be permanent and temporary planting will not be considered unless adequately justified.

**Reason:** In order to allow the Council retain effective control over the restoration of the site.

24. Following restoration works, the site shall be subject to a monitoring and aftercare scheme for a period of five years, the method statement and specification for which shall be submitted for the prior written approval of the Council. The agreed measures shall thereafter be implemented.

**Reason:** In order to allow the Council retain effective control over the restoration of the site.

25. Controlled waste, namely soils, rock and other materials produced as a result of construction works or excavation or other operations on site, shall be disposed of only at a licensed facility or reused strictly in accordance with an activity exempt waste management licensing controls, as specified within the Waste Management Licensing Regulations 1994, and pre-registered with SEPA.

**Reason:** In order to ensure satisfactory construction arrangements.

26. The applicant shall undertake all works within the terms of "Guidelines for Preventing Pollution from Civil Engineering Contracts" published by SEPA and shall ensure that there are safeguards against pollution of groundwater or any watercourse from all construction activities and ongoing operational activities.

**Reason:** In order to ensure satisfactory construction arrangements.

ANNEX B

Directorate for the Built Environment  
Planning Decisions Division

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H. C. PLANNING AND DEVELOPMENT SERVICE		
12 MAR 2009		
TO	INITIALS	DATE
RH		
DM		
FILE REF:		



Your ref: 06/00373/FULCA DM/CC  
Our ref: NA/HLD/064  
10 March 2009

Dear Mr Mudie

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)  
(SCOTLAND) DIRECTION 2007  
CONSTRUCTION OF FACILITIES FOR THE DISPOSAL OF LOW LEVEL WASTE  
COMPRISING OF UP TO 6 SHALLOW SUB-SURFACE VAULTS AND ANCILLARY  
INFRASTRUCTURE ON LAND TO THE EAST OF THE EXISTING DOUNREAY NUCLEAR  
FACILITY, THURSO, CAITHNESS**

I refer to your Council's letter of 10 February 2009 with which a copy of the planning application relating to the above development was notified to the Scottish Ministers in accordance with the above mentioned Direction.

It is not the Scottish Ministers' intention to intervene in this application by either issuing a direction restricting the granting of planning permission or by calling in the application for their own determination. Accordingly, your Council are hereby authorised to deal with the application in the manner it thinks fit.

In reaching this decision Scottish Ministers consider that a condition should be added to any consent granted to reflect the applicant's agreed commitment to the provision of a community development fund. The addition of such a condition would help to satisfy the representations received in respect of community benefit.

Yours sincerely

**J E SWANNEY**

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