

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Housing, Environmental and Economic Development

Planning Committee: 6 February 2013

DC12/185: Erection of Industrial Building at 60 Clyde Street, Clydebank by ETI Scotland Ltd

1. REASON FOR REPORT

- 1.1 This report relates to an application which is subject to an objection from the Health and Safety Executive, but which it is recommended be approved. Under the terms of the approved Scheme of Delegation it is therefore required to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1 That the Committee indicate that it is **Minded to Grant** full planning permission subject to the conditions set out in Section 9, and subject to the completion of notification of the Scottish Ministers in accordance with statutory requirements.

3. DEVELOPMENT DETAILS

- 3.1 The application relates to a small industrial yard within the Clyde Street Industrial Estate. The site is within a row of similar small yards along the south side of Clyde Street. All of the yards are fronted by a patterned brick wall with high palisade railings on top, and whilst several contain containers and portacabin type buildings, none of them contain permanent buildings. On the opposite (north) side of Clyde Street are the backs of a terrace of small industrial units which are accessed from South Elgin Place. The yards back onto the NuStar oil terminal at Rothesay Dock. Apart from a church located beyond South Bank Street to the north west, the surrounding area is entirely industrial in nature. The site currently contains a portacabin positioned on top of a large metal container, and also other various other smaller containers used for storing equipment, and works vehicles are also stored within the yard.
- 3.2 Full planning permission is sought for the erection of a new industrial building. This would measure 22.165m by 9.695m, with a height of 7.53m. Three quarters of the building would be used as a double-height storage area, whilst the section closest to the street would be used as a staff mess room and toilets with office space in a mezzanine above. This building would be a standard steel-framed industrial building with a shallow gabled roof, and would be finished in composite profiled panels and roofing, the colours of which would require to be agreed. The new building would replace all of the existing containers and portacabin, which would be removed from the site.

- 3.3** The applicant is an electrical contracting firm which has clients all over Scotland, including major companies such as Alexander Dennis, Tennents and Morrison Bowmore Distillers. The firm employs nine people, and most of its work is carried out on clients' premises. The site is used as a central office and store, and only one of the employees actually works there, four mornings a week. The other staff call at the office intermittently to collect equipment and for administrative purposes, and it is rare for more than four people to be on the site at any one time. The present buildings are not really adequate for the firm's needs as the use of multiple small containers for storage is not satisfactory, and the buildings are temporary structures which are not of a high quality. The proposal is to replace these existing substandard buildings. The applicant does hope that the firm will continue to expand, but the current plans are simply to improve the buildings and no immediate change to staff numbers is intended.

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Roads, Estates and Environmental Health Services and BAA Safeguarding all have no objections to the proposal, subject to various minor conditions.
- 4.2** The Health and Safety Executive (HSE) is a statutory consultee due to the site being within the consultation distance of the oil terminal, which is classified as a major hazard installation due to the storage of large quantities of petrol. *"HSE's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case"*. This is the main issue in the consideration of this application, and is discussed further in Section 7 below.

5. REPRESENTATIONS

- 5.1** None.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Local Plan 2010

- 6.1** The site is within an area designated as an Industrial and Business Use Sites. The corresponding Policy LE1 states that there shall be presumption in favour of development which positively extends the permanent employment potential of such sites. The proposal involves improvement to the industrial premises and is therefore consistent with this policy.
- 6.2** The site is also within the notification zone for the adjacent oil terminal, and Policy DC5 indicates that in such circumstances the Council will seek advice from HSE and take such advice into account in determining the application.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

Principle and Design

- 7.1** The site is located within an established industrial area of Clydebank which comprises of a mixture of different business types, and also various sizes and styles of building. The application site is one of a row of yard properties, none of which currently contains permanent buildings, but the introduction of such a building would not create any adverse impact upon the neighbouring yards. In terms of design, the proposed building would be of a modern industrial character, and would be functional rather than attractive, but it would be keeping with its surroundings as these already contain a variety of different industrial buildings. The retention of the patterned brick wall and railings at the front of the site is to be welcomed as this is a continuous feature along the south side of Clyde Street and it provides screening of these sites whilst being reasonably attractive in its own right. Whilst the proposed building would be 7.5m high this height would not be excessive, especially in the context of the large oil storage tanks immediately behind the site. The proposed development would improve the appearance of the site relative to the existing portacabin and collection of containers, and would be entirely in keeping with the site's industrial designation in the local plan. Apart from the HSE's comments (q.v.) there are no significant technical issues.

Proximity to Oil Terminal

- 7.2** The main issue in the consideration of this application is the proximity of the site to the NuStar oil terminal at Rothesay Dock, and the advice received from the HSE that this relationship does not comply with current safety guidance. The oil terminal at Rothesay Dock was originally built in the 1960s, and expanded in the early 1990s, and whilst it complied with contemporary safety standards at the time of these permissions, its relationship with surrounding development does not accord with current standards for separation distances. The application site immediately abuts the oil terminal, and the closest part of the proposed building would be about 42m from the nearest petrol storage tank. This is within the defined 'Development Proximity Zone' (DPZ) for the oil terminal, which is the area within 150m of the bund around the petrol storage tanks (i.e. the easternmost group of tanks, as others in the terminal are used for storing diesel which is less hazardous). The DPZ for the Rothesay Dock terminal takes in all of the properties on South Elgin Place and South Elgin Street, as well as those on Clyde Street east of South Bank Street.
- 7.3** Within the DPZ, HSE recommends that no development should take place other than that which is 'not normally occupied'. This is defined in HSE guidance as including storage facilities, where no more than 3 workers would be present at any one time, and where the total time that people would be present on the site does not exceed 2 hours in any 24 hour period. The proposal would not meet these requirements as there would be more than 3 members of staff on site, and it would be occupied throughout normal working hours. Accordingly, HSE consider that the risk to persons on the site in the event of a major incident at the oil terminal would be sufficient to recommend against allowing the development.
- 7.4** These concerns would apply equally to the existing use of the application site, and also the numerous other existing industrial buildings within the vicinity. Officers have discussed this matter with HSE officials, drawing attention to the

fact that the proposal does not involve any intensification of the existing use of the site. HSE confirmed that this fact does not have a bearing on their recommendation. It is HSE's policy not to take the existing or permitted use of such sites into account when providing land use planning advice in relation to the residual risks posed by major hazard sites. HSE considers that its advice should be based on current standards, and that existing use is one of the factors which planning authorities are responsible for taking into account when considering HSE's advice and any other material considerations in deciding whether or not to grant planning permission.

- 7.5** The issue of public safety is obviously one of great importance. Whilst the risk of a major incident occurring at the oil terminal is extremely small, should such an incident occur it would pose a risk to persons on the application site and other nearby industrial units because of their proximity to the petrol tanks. However, whilst that situation is undoubtedly less than ideal and it would certainly be reasonable to prevent intensification of uses within the DPZ, it seems disproportionate to prevent the various local businesses within that area from carrying out any development regardless of whether or not it actually impacts upon the safety risk. The immediate area is an important employment area containing many small businesses, and it is not desirable that it be sterilised by preventing any new development. In this case the proposed development would simply replace some temporary buildings and containers with a proper permanent building, and the number and duration of staff visits to the site would not be altered. On this basis, the proposed development would not cause any increase in the safety risk. It is therefore considered that, on balance, the circumstances of this proposal do not justify refusal of the application. Conditions can be attached limiting the use of the building to storage and ancillary office space, in order to prevent it from changing to another type of use which might increase the risk.

8. CONCLUSION

- 8.1** The proposal involves the erection of a permanent building to replace the various temporary structures/containers used by a small electrical contracting business. This is an appropriate form of development for this industrial location, and the only significant issue is the proximity of the site to the oil terminal and the resultant advice from HSE. Whilst the existing relationship between the oil terminal and the nearby industrial premises does not comply with current safety standards, this proposal would not actually make this problem any worse, and accordingly it is considered that the proposed development would be acceptable despite its proximity to the oil tanks. As approval of the application would be against the advice of the HSE as a statutory consultee, such a decision would require to be notified to the Scottish Ministers before permission could be granted.

9. CONDITIONS

- 1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the Town and Country Planning (General Permitted Development) (Scotland) Order 1992**

(as amended), and any subsequent Orders amending, revoking or re-enacting these Orders, the building shall be used only for storage purposes and for ancillary office accommodation, and shall not be used for the carrying out of any industrial process, research or for general office purposes without a specific grant of planning permission.

2. Further to condition 1 above, any ancillary office accommodation shall be restricted to those parts of the building marked for such purpose on the approved plans. No other part of the building may be used as office accommodation, and no additional mezzanine floorspace shall be installed, without a specific grant of planning permission.
3. Exact details and specifications of all proposed external materials shall be submitted for the further written approval of the Planning Authority prior to any work commencing on site and shall be implemented as approved.
4. Prior to the commencement of works, full details of all hard surfaces shall be submitted for the further written approval of the Planning Authority and implemented as approved.
5. The presence of any previously unsuspected or unencountered contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority within one week. At this stage, if requested, a comprehensive contaminated land investigation shall be carried out.
6. During the period of construction, all works and ancillary operations which are audible at the site boundary, or at such other places that may be agreed by the Planning Authority shall be carried out between 8am and 6pm Mondays to Saturdays and not at all on Sundays or Public Holidays.
7. Any external lighting schemes required during construction and for the completed development shall be of flat glass, full cut off design, mounted horizontally, and shall ensure that there is no light spill above the horizontal.

Informatives

1. The drawings referred to in this consent are drg no:CSC/P01 and drg no:CSC/P02 rev B.
2. The applicant is advised that under the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development hereby approved must commence within a period of 3 years from the date of this decision notice.

3. The applicant is advised that under the terms of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, the developer is required to submit to the Planning Authority in writing upon the forms specified for the purpose and attached to this decision notice:
 - a) A Notice of Commencement of Development as soon as practicable once it is decided to commence the development hereby approved (which shall be prior to the development commencing);
 - b) A Notice of Completion of Development as soon as practicable once the development has been completed
4. A grant of planning permission does not authorise works under the Building (Scotland) Acts. A separate Building Warrant may be required.
5. The site is close to the flight path of Glasgow Airport. Should it be intended to use a high crane during construction, attention is drawn to the Air Operators Association Advice Note 4 'Cranes and Other Construction Issues', available at www.aoa.org.uk/policy-safeguarding.htm

Elaine Melrose
Executive Director of Housing, Environmental
and Economic Development
Date: 18 January 2013

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Appendix: None.

Background Papers:

1. Application forms and plans;
2. Consultation responses; and
3. West Dunbartonshire Local Plan 2010

Wards affected: Ward 6 (Clydebank Waterfront)