

Scottish Water Review of all Relevant Planning Process Matters for the Ardersier Project

Section 1: Overview

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1 Introduction

This review seeks to understand the circumstances behind a breach of planning consent notified to SW on 2nd June 2020 by The Highland Council (THC), following a complaint from a member of the Public about the height of structures constructed at Ardersier Waste Water Treatment Works (WWTW).

2 Context

Ardersier WWTW Growth is one of three SW projects to provide facilities for the future growth resulting from new developments over a 30-year period in the Ardersier area. The three projects are: Ardersier WwTW – UV (complete Dec 2017), Ardersier WwTW – Outfall Extension (complete May 2019) and Ardersier WwTW – Growth (planned completion Jan 2022).

The sewer infrastructure is being installed by the developers to their development timescale. Feasibility study and design work to upgrade the Ardersier WWTW started in the SR10 investment period (2010-2015) and planning permission was granted for the original proposed works in 2011. However, growth in the catchment has exceeded the forecasted rate to the extent that the planned works would need to be enlarged during the SR15 investment period (2015-2021).

The SW Alliance delivery partner Efficient Service Delivery (ESD) started work on-site on 26 June 2018 and completion is estimated to be in January 2022.

3 Planning

On 24th January 2011 The Highland Council (THC) approved planning application ref. 10/02007/FUL for construction of a new wastewater treatment works & associated works at Wastewater Treatment Works Ardersier. The highest structure therein was the Sludge Thickening Building (later replaced by the Picket Fence Thickener) at 10.6m Above Ordnance Datum (AOD).

A non-material variation (NMV) to extend this planning approval by a further three years was approved by THC on Friday 6th December 2013 with no changes to structure heights.

A further NMV was agreed by THC in January 2017 to reflect changes to the layout of the scheme. Drawings submitted showed the building and other apparatus height as 9.7mAOD. In June 2018 a NMV agreed by THC reflected further layout changes.

On 2nd June 2020 THC advise SW they are in breach of planning consent (ref.20/00143/ENF) after a complaint from a member of the Public relating to the height of buildings.

On Wednesday 1st July 2020, SW submitted a retrospective planning application for changes to the height of the Picket Fence Thickener (PFT) and Inlet Works; new heights of 12.08m AOD and 11.92m AOD respectively.

Following community engagement these heights were reduced to 10.8m AOD and 11.045m AOD and were approved by THC on Tuesday 27th April 2021.

4 The Events Preceding the Retrospective Planning Application

Having identified the need to increase the capacity of the Ardersier WWTW, SW appointed consultants Mott MacDonald to undertake the initial design to determine the most likely treatment process units and their heights; details of which formed the planning application to THC. A specialist team within SW is responsible for processing all Planning approvals on behalf of consultants/ contractors working for SW; the Specialist Service Delivery (SSD) Planning Team. This team take the outline design and drawings from consultants/ contractors and secure approvals with local authorities across Scotland before development/ construction starts.

The original planning approval based on the outline design prepared by Mott MacDonald was approved by THC in December 2011 and included a Sludge Thickener Building at 10.6m AOD.

As is common, the original Motts design was an outline only; the detailed design would be undertaken later, usually in the period leading up to the start of construction on site.

On 31st May 2018, SW approved an ESD request for authorisation to progress to construction (Governance stage Capex 3) and ESD started on site on 26th June 2018. At this time ESD drawings showed the final design heights of the Picket Fence Thickener and Inlet Works.

In December 2018 ESD advise that due to a discrepancy in the hydraulic profile, structure heights need to increase to accommodate gravity flow and then sought advice from the specialist SSD Planning Team who advised that *"I consider that this will require signing off by the Council planners as a request for a NMV due to the 9.7m reference on the approved plans"* and *"For the NMV we will need the structure marking out on the plans, and so with the above I will be able to proceed with the request."* That is a further submission to THC to amend the height of structures from the height previously approved would likely be required. However, despite ESD advising increased structure heights to the SSD Planning Team no revised drawings were issued by ESD to SW (despite a request for same by SW) to enable an NMV submission to THC.

On 2nd June 2020, THC advise SW they are in breach of planning consent (ref.20/00143/ENF) following a complaint from a member of Public about the height of structures at Ardersier WWTW.

5 Summary

In delivering the Ardersier WWTW Growth project the SW Alliance delivery partner ESD has built structures which contravene the planning permissions granted by The Highland Council in 2011 and subsequent NMVs.

In April 2018, ESD in developing the detailed design for the new works were aware that the height of their proposed structures would exceed that which they had planning approval for. In liaising with the SW Planning Team, communications between ESD and SW Planning Team referenced a potential increase in height and likely checks required against planning approvals, but failed to clearly identify the need for a NMV, and no subsequent details were submitted by ESD to allow further consideration.

The design was finalised by ESD and approval given by SW to start construction on 31st May 2018, this governance approval point included a validation that planning permissions were in place, but these were for

the lower structure heights. Whilst construction started on site, no details or drawings showing the higher structures that ESD were aware of were supplied by ESD to the SW Planning team to enable them to request a non-material variation from The Highland Council to increase the maximum permissible structure height from that approved to the new maximum height.

A notice of breach of the original planning application being the height of buildings was formally raised by The Highland Council to SW on 2nd June 2020, following a complaint by a member of the public.

SW submitted a retrospective application to amend planning permission 10/02007/FUL to reflect increased heights of the Picket Fence Thickener Tank and Inlet Works. This included a redesign of the Picket Fence Thickener that now includes a bespoke folding handrail system that reduced the visual impact of the project from a standard handrailing system, and a modified set of screens to reduce the height of the inlet works. This was approved by THC on 27th April 2021 with a maximum structure height being a motor on the Inlet Works at 11.045m AOD, some 44cm higher than the 10.6m AOD height originally approved by THC in January 2011 and 1.345m higher than that show in subsequent drawings.

6 Lessons Learned

Due to the timescales involved with procuring planning permissions (which could potentially lead to delays in SW delivering infrastructure improvements) SW progresses planning approvals based upon outline designs. Whilst planning approvals are checked to ensure they are in place before approval is given by SW to the Contractor to proceed to the construction phase, the management of subsequent changes between the outline design and the finalised design that may impact upon planning approvals is critical. In this respect the following are suggested as the key learning points and actions SW and its construction partners should take to avoid a reoccurrence of the issues at Ardersier: -

- If details of plant/equipment/buildings change during construction, then the delivery partner must provide details to SW timeously to allow revised planning permissions to be secured. It is recommended that all project teams and management teams within SW's construction partnerships are briefed on this to reinforce the importance of compliance with permissions and also so that staff are familiar with process to follow when design changes occur.
- Where SW have been advised of likely changes to plant/equipment/buildings they should follow up to ensure collaborative resolution. For high-value/reputational/complex projects then process improvements should be introduced as follows;
 - 3-monthly check-ins to be introduced with delivery partner and SSD staff to review the detailed design to ensure all current 3rd party permissions including Planning are still relevant
 - On-site quality audits to include checks on design/construction against planning approvals.

Appendix 1 - Terms of Reference for Internal Investigation

Background

The Ardersier WWTW project is being constructed by ESD. The project is currently in the latter stages of the construction phase.

The project has a complicated planning background, with the original project having been part of the SR10 programme. The original planning permission was gained in 2011 and this was extended in 2014.

In 2016 the Growth project and UV projects were allocated to ESD. In Oct 2016 planning permission for the UV project was granted and this was followed by a variation to the original planning permission to change the layout of the site.

Works on site commenced in January 2017

In June 2018 a second variation to the planning permission was approved. This reflected a number of changes to the configuration of the site, and removed a sludge treatment building, replacing it with a picket fence thickener. This variation also reduced the height of some of the structures to 9.7mAOD, to align to verbal commitments made to the community to keep the height of structures to 5m.

In summer 2020 customers in Ardersier noted to The Highland Council that they believed one of the structures on site (the Picket Fence Thickener) had been constructed out with the planning conditions. This was quickly verified to be correct and THC also served a planning enforcement notice relating to this structure. Scottish Water then assessed that a further planned structure (the inlet works) would be in excess of the planning permission height.

A retrospective planning application was then submitted for the Picket Fence Thickener, inlet works and an electricity substation. Subsequently, there has been significant community resistance to this planning application and SW are working with the local community to develop alternative solutions.

Scope of Investigation

The scope of this investigation should review all relevant matters with regard to the planning process and development of the project. Roles and accountabilities should be reviewed, together with all relevant information exchanged between all parts of the ESD and SW teams.

The investigation should set out a clear timeline of events, actions and communications.

The investigation should seek to identify root causes that have led to the situation where structures have been built or were planned to be built in contravention of approved planning permissions.

The investigation should conclude with lessons that should be applied to our programme or processes and those within our Partners to ensure that such an issue is not repeated.

The final report should be in a format and style that allows it to be shared with the local community, if required.

Timescale

Investigations and reporting should be completed by 31st March 2021. Any gaps or further work required should be detailed within a final report at that point.

The report will be approved by the Director for Capital Investment and reviewed by the ESD Strategic Board.

Contacts

Initial contact should be made with the following people:

- Sponsor of Investigation: Ewan Robertson, General Manager for Specialist Services Delivery
- COO of ESD: Wendy Cooper
- General Manager Alliance Manager, Paul Sexton
- Head of SW Planning Team: Lynn Taggart
- Alliance Manager: David Kitching
- ESD Construction Manager: Graeme Campbell

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