Special Development Orders (SDO) and Compensation

Meeting 25 September 2023

Attending [Redacted], [Redacted] (Planning)

[Redacted] (PCD)

Background

1. [Redacted] see Saving Ardeer | Scottish Wildlife Trust and Development fears at 'important' sand dune site - BBC News. from 2018. The latter contains Plans which have been drawn up to redevelop the site with housing, retail, a hotel, marina and a golf course. It is the largest brownfield area in Scotland (630 ha) having been the site of ICI works and a dynamite factory and there is ongoing sand extraction leading to a loss of wildlife habitat. Ardeer peninsula: Call to protect abandoned wildlife haven - BBC News covers the possibility of NatureScot designating the area as a SSSI. (630 ha)

2. Also see Statement from North Ayrshire Council Leader following STEP announcement – This Is North Ayrshire

3. At Ardeer, a Special Development Order introduced in 1953 [Redacted]

4. from Planning (Scotland) Act 2019 - Explanatory Notes (legislation.gov.uk)

199. .Section 30(2) of the 1997 Act enables planning permission to be granted by a development order in relation to land specified in the order. This power is now rarely if ever used but a number of old "special development orders" made under previous versions of the legislation are still in effect.

200. Part IV of the 1997 Act deals with compensation for the effects of certain orders, notices etc. Section 77 currently sets out provisions for the payment of compensation if planning permission granted by a development order is withdrawn or modified. This includes the circumstances where a development order is revoked (section 77(1)(a)). If a development order is revoked, and an application is made within 12 months for planning permission for development previously permitted by the order, then compensation is payable by the planning authority if that planning permission is refused (or granted subject to different conditions than those included in the development order). In such cases section 76 applies as it does where a planning permission (not granted by a development order) is revoked or modified.

201. Section 39 of the Act repeals section 77 of the 1997 Act and introduces instead a power for the Scottish Ministers to make regulations concerning the compensation that may be payable on revocation of an order. The effect of this provision is to enable the Scottish Ministers to use regulations to :

- set out the circumstances in which compensation may be payable;
- set out what the compensation is to cover;
- set out the manner in which the level of compensation is to be calculated;

- require a claim for such compensation to be made within a certain period and specify how such a claim should be made and the information which should be included;
- apply or disapply any of the provisions of Part IV of the 1997 Act with or without modifications.

5. There is limited information on the number of SDOs extant in Scotland and the only recent one was at [The the Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Amendment Order 2021 (legislation.gov.uk)]

Discussion

6. The 2019 Act allows SM to make regulations as regards any compensation payable for the revocation of the SDO. This would apply to all SDOs and not just Ardeer.

7. [Redacted] There is a tension here between the laissez faire approach to Planning under the SDO and what would now be permitted under normal Planning guidelines including LDPs and NPF4. CAADs would also not allow much development in the absence of the 'scheme' [Redacted]

8. [Redacted]. North Ayrshire Council are also supportive of some development on the land 'the SNP group leader on North Ayrshire Council, Marie Burns, backs the development but "absolutely not at any cost."

- She added: "I think this site is important in terms of wildlife and development and I don't think the two are mutually exclusive.
- "But I do think to address both those things it has to be done within the regulatory framework that applies across the whole of North Ayrshire."

9. [Redacted]

10. [Redacted]

11. [Redacted]

[Redacted]

Principal Property Adviser