

County Buildings  
Wellington Square  
AYR KA7 1DR  
Telephone No.01292 612436



3 November 2023

**To: Councillors Bell (Chair), Cavana, Clark, Dixon, Kilbride, Kilpatrick, Lamont, Mackay and Townson**

**All other Members for Information Only**

Dear Councillor

**REGULATORY PANEL (PLANNING)**

You are requested to participate in the above Panel to be held on **Thursday, 16 November 2023 at 10.00 a.m.** for the purpose of considering the undernoted business.

**Please note that a briefing meeting will take place for all Panel Members at 9.15 a.m., online and in the Prestwick Room.**

This meeting will be held on a hybrid basis, remotely and in County Hall and will be live-streamed and available to view at <https://south-ayrshire.public-i.tv/>

Yours sincerely

**CATRIONA CAVES**  
Head of Legal and Regulatory Services

**B U S I N E S S**

1. Declarations of Interest.
2. Minutes of previous meeting of 11 October 2023 (copy herewith).
3. Hearings relating to Applications for Planning Permission - Submit reports by the Housing, Operations and Development Directorate (copy herewith).

For more information on any of the items on this agenda, please telephone Andrew Gibson, Committee Services on at 01292 612436, at Wellington Square, Ayr or e-mail: [andrew.gibson@south-ayrshire.gov.uk](mailto:andrew.gibson@south-ayrshire.gov.uk)  
[www.south-ayrshire.gov.uk](http://www.south-ayrshire.gov.uk)

## **Webcasting**

Please note: this meeting may be filmed for live and subsequent broadcast via the Council's internet site. At the start of the meeting, it will be confirmed if all or part of the meeting is being filmed.

You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during this webcast will be retained in accordance with the Council's published policy, including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Live streaming and webcasting takes place for all public South Ayrshire Council meetings. By entering a public Council meeting you are consenting to the possibility that your image may be live streamed on our website, be available for viewing online after this meeting, and video and audio recordings will be retained on Council Records. Further information on how we process your personal data can be found at: <https://south-ayrshire.gov.uk/59239>

If you have any queries regarding this and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact [Committee.Services@south-ayrshire.gov.uk](mailto:Committee.Services@south-ayrshire.gov.uk)

## **Copyright**

All webcast footage is the copyright of South Ayrshire Council. You are therefore not permitted to download footage nor upload it to another website nor take still photographs from this footage and distribute it without the written permission of South Ayrshire Council. Please be aware that video sharing websites require you to have the permission of the copyright owner in order to upload videos to their site.

**REGULATORY PANEL (PLANNING)**

Minutes of a hybrid webcast meeting  
on 11 October 2023 at 10.00 a.m.

Present  
In County  
Buildings: Councillors Kenneth Bell (Chair), Ian Cavana, Alec Clark, Hugh Hunter and Martin Kilbride.

Present  
Remotely: Councillors Mark Dixon, Mary Kilpatrick, Craig Mackay and Duncan Townson.

Attending  
in County  
Buildings: K. Briggs, Service Lead – Legal and Licensing; C. Iles, Service Lead – Planning and Building Standards; E. Goldie, Co-ordinator (Place Planning); E. McKie, Planner; A. Gibson, Committee Services Officer; and E. Moore, Clerical Assistant.

**Chair's Remarks.**

The Chair

- (1) welcomed everyone to the meeting; and
- (2) outlined the procedures for conducting this meeting and advised that this meeting would be broadcast live.

**1. Sederunt and Declarations of Interest.**

The Service Lead – Legal and Licensing called the Sederunt for the meeting and having called the roll, confirmed that there were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

**2. Minutes of previous meetings.**

- (1) The minutes of 4 May 2023 (Site Visit) ([issued](#)) were submitted and approved.
- (2) The minutes of 14 September 2023 ([issued](#)) were submitted.

In terms of Standing Order No. 19.9, there was no general agreement to the unopposed motion, therefore, the Council moved to a vote for or against the Motion.

By a majority, the Panel

**Decided:** to approve the minutes.

### 3. Hearing relating to Applications for Planning Permission.

There was submitted a report ([issued](#)) of September 2023 by the Housing, Operations and Development Directorate on planning applications for determination.

The Panel considered the following applications:-

- (1) **23/00426/APP – AYR – 40 Smith Street, South Ayrshire, KA7 1TF** – Change of use of betting shop (Class 1A) to form restaurant (Class 3) including takeaway, alterations to shopfront and erection of flue.
- (2) **23/00427/LBC - AYR – 40 Smith Street, South Ayrshire, KA7 1TF** - Alterations to listed building and erection of flue.

The Panel heard from two interested parties.

**Decided:** **23/00426/APP** to approve the planning application subject to the following conditions:-

- (a) that the development hereby permitted must be begun within three years of the date of this permission;
- (b) that the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority;
- (c) that prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and implemented in accordance with the approved details;
- (d) the applicant/ developer shall, prior to the commencement of works, submit a Service Management Plan (SMP) for the written approval of the Council as Planning Service in conjunction with the Roads Authority. The plan shall describe the best practice methodology for the movement of delivery traffic associated with the development including delivery timings, routing, banksmen requirements and other related matters. The SMP shall require the agreement in writing of the Planning Authority through consultation with the Ayrshire Roads Alliance prior to occupation of the development;
- (e) ventilation within the kitchen requires to be adequate and suitable for the food handling/cooking carried out therein. In order to prevent the occurrence of an odour nuisance, the ventilation system in this area must be provided with suitable means of filtration e.g., grease and charcoal filters and extended ducting terminating at least one metre above eaves level of any building within 15m of the building housing the commercial kitchen, or alternatively the operation of the premises is limited to enclosed unit cooking. Details of the ventilation system shall be submitted for the approval in writing of the Planning Authority through consultation with the Council's Environmental Health Service and thereafter installed as approved, prior to the occupation of the development;

- (f) that, prior to the occupation of the development, an acoustic consultant's report or manufacturer's specifications demonstrating that the ventilation extraction system complies with noise rating criteria 25 when measured within a habitable room of the nearest noise sensitive dwelling with windows open sufficiently for ventilation, or alternatively, the closest accessible location to the nearest noise sensitive dwelling from where noise can be measured, shall be submitted for the formal prior written approval of the Council as Planning Authority in consultation with the Environmental Health Service. The location from where the noise can be measured from will first be agreed in writing by the Planning Authority; and
- (g) the ventilation unit shall be installed using anti-vibration mounts where it attaches to a building, the ground or other hard surface, in order to prevent noise caused by vibration.

**Reasons:**

- (a) to be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019;
- (b) to ensure that the development is carried out in accordance with the approved plans unless otherwise agreed;
- (c) to safeguard the character and appearance of the conservation area;
- (d) in the interest of road safety;
- (e) in order to prevent the likelihood of a smell nuisance;
- (f) in order to prevent the likelihood of a noise nuisance; and
- (g) in order to prevent the likelihood of noise nuisance.

**Advisory Notes:**

- The granting of this Planning Permission does not negate the need for the applicant to obtain Advertisement Consent for any signage to be erected at the premises.
- The applicant/developer is advised to contact Environmental Health with regard to standards applicable to this development proposal.
- The premises require to fully comply with the Health and Safety at Work etc Act 1974 and the Food Safety Act 1990 and any Regulations and requirements therein and thereto.
- Adequate provision must be made for the storage and disposal of food waste, non-edible by-products and other refuse. Refuse stores are to be designed and managed in such a way as to enable them to be kept clean and, where necessary, free of animals and pests.

**Decided:** **23/00427/LBC** to approve the application subject to the following conditions:-

- (a) that the development hereby permitted must be begun within three years of the date of this permission;

- (b) that the works hereby granted Listed Building Consent shall be implemented in full accordance with the approved plan(s) as listed below unless a variation required by a condition of the consent has been agreed in writing by the Planning Authority; and
- (c) that prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and implemented in accordance with the approved details.

**Reasons:**

- (a) to be in compliance with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended by Section 20 of the Planning Etc. (Scotland) Act 2006;
- (b) to ensure that the development is carried out in accordance with the approved plans unless otherwise agreed; and
- (c) to safeguard the character and setting of the listed building.

**List of Determined Plans:**

Drawing - Reference No (or Description): 23/KITA/LP Location Plan;  
Drawing - Reference No (or Description): 23/KITA/PL/01A Existing Plans; and  
Drawing - Reference No (or Description): 23/KITA/PL/02A Proposed Plans.

**Reason for Decision:**

The applications have been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received (18 in total) and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concerns that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections, and following the above assessment, it is considered that the proposal will not have an adverse impact on residential amenity at the locality and will have a neutral impact on the character and appearance of Ayr Central conservation area or the setting of the C listed building.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

**4. Closing Remarks.**

As this was Councillor Hunter's last meeting of this Panel, the Chair thanked him for his work on the Panel.

The meeting ended at 10.35 a.m.

## South Ayrshire Council

### List of Planning Applications for Regulatory Panel (Planning) Consideration on 16th November 2023

List No.	Reference Number	Location	Development	Applicant	Recommendation
1.	23/00656/APP Mr David Clark  (Objections)  <a href="#">(Application Summary)</a>	1A Cassillis Street Ayr South Ayrshire KA7 1DN	Change of use of existing dwellingflat for use as short-term let/holiday accommodation	Mr John Charles Kennedy	Approval with Condition(s)
2.	23/00684/APP Ms Dianne Lewis  (Objections)  <a href="#">(Application Summary)</a>	10 Cargill Avenue Maybole South Ayrshire KA19 8AD	Erection of a garage	Mr Brian Connolly	Approval with Condition(s)
3.	23/00087/APP Mr David Hearton  (Objections)  <a href="#">(Application Summary)</a>	Brig O'Doon House Hotel Alloway Ayr South Ayrshire KA7 4PQ	Alterations and extension to existing hotel	RAD Hotel Group	<b>Report to follow</b>
4.	23/00089/LBC Mr David Hearton  (Objections)  <a href="#">(Application Summary)</a>	Brig O'Doon House Hotel Alloway Ayr South Ayrshire KA7 4PQ	Alterations and extension to existing listed building / hotel	RAD Hotel Group	<b>Report to follow</b>
5.	23/00166/APP Mr David Hearton  (Objections)  <a href="#">(Application Summary)</a>	Brig O'Doon House Hotel Alloway Ayr South Ayrshire KA7 4PQ	Formation of raised terrace and associated landscaping works	RAD Hotel Group	<b>Report to follow</b>

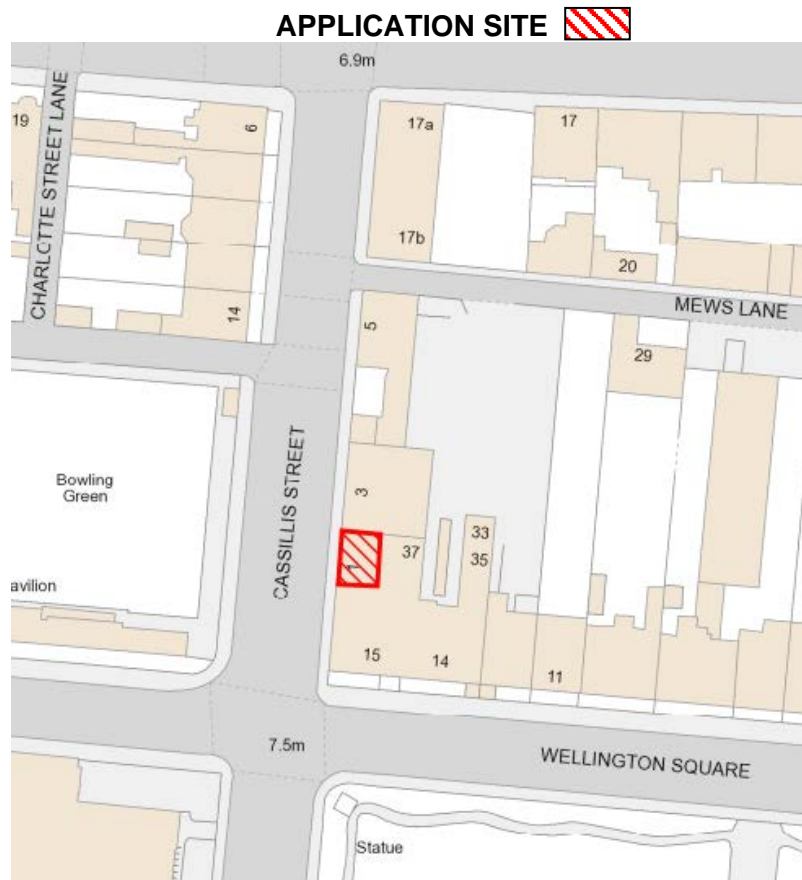
## REGULATORY PANEL: 16 NOVEMBER 2023

### REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

23/00656/APP

1A CASSILLIS STREET AYR SOUTH AYRSHIRE KA7 1DN

#### Location Plan



This product includes mapping data licensed from Ordnance Survey with permission of the Controller of Her Majesty's Stationery Office.  
© Crown copyright and/or database right 2018. All rights reserved. Licenced number 100020765.

#### Summary

Planning permission is sought for the change of use of a dwellingflat to form short-term letting accommodation at 1A Cassillis Street, Ayr. The application site of the proposed development comprises a flatted property which is located within Ayr Central Outstanding Conservation Area. The dwellingflat has historically been occupied on a permanent residential basis with the current application seeking permission to allow it to be used for short-term letting purposes in order to comply with the licensing scheme introduced in Scotland in relation to short-term letting properties. In this regard, no changes to the internal layout or exterior appearance of the building are proposed, with the application merely seeking permission for change of use. The application site is located at Cassillis Street which includes a mix of commercial, residential and other compatible uses in the surrounding area.

A representation has been received which objects to the proposed development. The objection has been submitted by the Fort, Seafield and Wallacetown Community Council. Following consideration, the points raised do not merit refusal of this application.

On balance, the proposed development subject to this planning application has been assessed against the relevant policies of National Planning Framework 4 (NPF4) alongside South Ayrshire Local Development Plan 2 and it is considered that the proposal is capable of positive consideration against the terms, criteria and requirements of all of applicable statutory planning policy framework. Other material planning considerations have been assessed and it is not considered that any of these matters would warrant a recommendation other than approval noting the developments compliance with the statutory development plan framework.



## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

### REGULATORY PANEL: 16 NOVEMBER 2023

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>23/00656/APP</b>
<b>SITE ADDRESS:</b>	<b>1A Cassillis Street Ayr South Ayrshire KA7 1DN</b>
<b>DESCRIPTION:</b>	<b>Change of use of existing dwellingflat for use as short-term let/holiday accommodation</b>
<b>RECOMMENDATION:</b>	<b>Approval with conditions</b>

#### APPLICATION REPORT

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

#### Key Information:

- The application was received on 1 September 2023.
- Following receipt of additional information, the application was validated on 19 September 2023.
- A Site Visit was carried out by the Planning Service on 27 September 2023.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was carried out by the Planning Authority on 27 September 2023.
- A Site Notice was posted in the locality under Section 65 of Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) by the Planning Authority on 3 October 2023.
- A Public Notice, under The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) was placed in the Local Press on 3 October 2023.

#### 1. Proposal:

Planning permission is sought for the change of use of a three-bedroom dwellingflat to form short-term letting accommodation at 1A Cassillis Street, Ayr.

The site of the proposed development comprises a flatted property located at 1A Cassillis Street, Ayr. The property is laid out over two floors, is finished in a white render with stale roof and is located within the Ayr Outstanding Conservation Area. The application site is located within the settlement boundary of Ayr, as prescribed by the South Ayrshire Local Development Plan 2.

Planning permission is sought for the change of use of a dwellingflat to form short-term letting accommodation. The application seeks planning permission to allow the dwellingflat to be used for short-term letting purposes in order to comply with the licensing scheme introduced in Scotland in relation to short-term letting properties. In this regard, no changes to the internal layout or exterior appearance of the building are proposed, with the application merely seeking permission for change of use.

The application submission is accompanied by an Operating Plan which confirms the following: -

- The applicants do not plan to manage the let. It is intended to use a professional serviced apartment company (Donnini of Ayr). The applicants believe they will provide all the necessary services to ensure the property is let and managed with minimum impact to the neighbouring properties and the area in general. They will also ensure the property is well maintained.
- The property is within a block which has a factor contract in place (Toner and McCartney Parkhouse St Ayr) again ensuring the block and common areas are suitably maintained and managed.
- The applicants are not operating on any large scale this being their only STL property and represents an investment that we are keen to keep well maintained and managed.
- This is a new application and the property has not been used for this purpose previously.
- It is expected that occupancy will be restricted to single family groups or a maximum of 5 persons. No sleeping arrangements will be provided in the living areas but restricted to the existing three bedrooms.
- Shared facilities associated with the property comprise the following: -
  - Common entrance from Cassilis Street,
  - Common entrance from car park at rear,
  - Shared landing with one other property,
  - Allocated parking space within rear parking court, and
  - Bin area at rear.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the Fort, Seafield and Wallacetown Community Council has expressed a contrary view to the recommendation that this for the planning application to be approved.

**2. Consultations:**

**Ayrshire Roads Alliance** - no response at the time of writing this report.

**3. Submitted Assessments/Reports:**

In assessing and reporting on a Planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations.

None.

**4. S75 Obligations:**

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development.

None.

**5. Scottish Ministers Directions:**

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

None.

## **6. Representations:**

A single representation has been received which objects to the proposed development. The Objection has been submitted by the Fort, Seafield and Wallacetown Community Council. This can be viewed online at [www.south-ayrshire.gov.uk/planning](http://www.south-ayrshire.gov.uk/planning)

The grounds of the objection alongside a response to each objection by the Planning Service is set out in detail in the 'Objector Concerns' of the Assessment section below.

In accordance with the Council's procedures for the handling of Planning applications the opportunity exists for Representees to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to these representations is included within the assessment section of this report.

## **7. Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

On 13 February 2023, Scottish Ministers published and adopted National Planning Framework 4 (NPF4). NPF4 sets out the Scottish Ministers position in relation to land use planning matters and now forms part of the statutory development plan, along with the South Ayrshire Local Development Plan 2 (LDP2) (adopted August 2022).

Sections 25(1) and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. The application is determined on this basis.

Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); Section 24(3)). NPF4 was adopted after the adoption of LDP 2, therefore NPF4 will prevail in the event of any incompatibility.

### **(i) National Planning Framework 4 (NPF4)**

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at National Planning Framework 4 - gov.scot ([www.gov.scot](http://www.gov.scot)):

Policy 30 of the revised Draft National Planning Framework 4 states that development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

An assessment of the application proposals on the impact on local amenity is set out elsewhere in this report.

In considering part ii above with regards the local economic benefit of the application proposal, the Scottish Government's 'Research into the impact of short-term lets on communities across Scotland' document is of relevance to the assessment of the application. The document sets out 5 key impacts that short-term lets have on communities, which include local economic benefits. The document acknowledges that STLs encourage tourism which supports local economic benefits. Specifically, the benefits identified relate to increased spend, increased availability of jobs (often all year round) and direct jobs and trade for the STLs supply chain including property managers, cleaners and the property maintenance industry.

The application site is located within the settlement of Ayr and guests of the STL will have easy access to services and amenities located in-and-around Ayr. It is not unreasonable to assume that guests of the STL will use such services and amenities and thus increase spend within the local area. Furthermore, it is noted from the submitted Operating Plan that the applicant uses an Ayr company to manage the property and meet guests on arrival/ departure. Again, the application proposals are considered to support local economic benefit. Overall, it is considered that the loss of the existing residential accommodation can be justified in part due to the local economic benefits associated with the application proposals.

(ii) South Ayrshire Local Development Plan 2

The following policies of the South Ayrshire Local Development Plan 2 are relevant in the assessment of the application and can be viewed in full online at Local development plan 2 - South Ayrshire Council (south-ayrshire.gov.uk):

- o Strategic Policy 1: Sustainable Development;
- o Strategic Policy 2: Development Management;
- o LDP Policy: Town Centres;
- o LDP Policy: Historic Environment;
- o LDP Policy: Tourism; and
- o LDP Policy: Residential policy within settlement, release sites and windfall sites.

The provisions of the Adopted South Ayrshire Local Development Plan 2 must, however, be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

An assessment of the proposals against the provisions of Local Development Plan 2 is set out below.

(iii) Objector Concerns

A representation has been received which objects to the proposed development. The Objection has been submitted by the Fort, Seafield and Wallacetown Community Council. The points of objection are summarised in the sub-sections below (in bold) and responded to below as follows:

**Application proposals are contrary to the development plan (NPF4 and the adopted South Ayrshire Local Development Plan).**

An assessment of the proposal against the provisions of the development plan is set out elsewhere in this report.

**Loss of housing.**

NPF4 precludes the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits. An assessment of the proposals demonstrable local economic benefit is set out elsewhere in this report.

**Parking concerns.**

The property has an allocated parking space within a private parking court to the rear. While the Ayrshire Roads Alliance offer no response to the application proposals at the time of writing this report, the proposal would in essence retain a residential use despite the commercial aspect, and it is considered that the parking implications associated with the development proposals would not significantly differ to that which exist at the existing residential dwellingflat.

(iv) Impact on the Locality

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises NPF4 and the South Ayrshire Local Development Plan 2. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

As noted previously in the report, NPF4 was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan. Whether an LDP has been adopted prior to or after the adoption and publication of NPF4, legislation states that in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); section 24(3)).

In this instance, in the absence of any specific policy on short term lets in the Local Development Plan, NPF4 Policy 30e Tourism is relevant and states -

Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

The application site is located within the settlement of Ayr and guests of the STL will have easy access to services and amenities located in-and-around Ayr. It is not unreasonable to assume that guests of the STL will use such services and amenities and thus increase spend within the local area. In respect of criterion (i) above, it is considered that the proposed change of use of the residential flat to a short-term let property would be compatible with the amenity and character of the surrounding area.

In respect of criterion (ii), the proposal would result in the loss of a 3-bedroom flat to short term let accommodation. The proposal would not have a significant impact on the availability of residential accommodation in the local area. There are economic benefits to the provision of small-scale holiday let accommodation. Indeed, the Council's Tourism Service (Destination South Ayrshire) has confirmed that *"holiday lets contribute hugely to the South Ayrshire economy and have become more and more popular since the covid – 19 pandemic for visitors wanting to stay in self-catering and for small to medium groups (friends /family) to holiday together. Also, South Ayrshire is limited in number of hotels and beds. The self-catering sector boosts the South Ayrshire economy by over £50m, and it has provided a vital source of alternative accommodation for major events and will continue to do so. This was the case for the recent International Ayrshow - Festival of Flight in September 2023 and for The Open Golf in 2024."*

The proposal is therefore considered to satisfy NPF4 Policy 30e Tourism.

In terms of the South Ayrshire Local Development Plan 2, LDP policy: Residential policy within settlements, release sites and windfall sites indicates that development proposals should not affect the privacy and amenity of existing and proposed properties. An issue to consider in the assessment of this application is whether changing the flat's primary and lawful use from residential to commercial short term visitor self-catering accommodation would be acceptable in principle. The South Ayrshire Local Development Plan 2 does not preclude the short term lets uses outright. A key policy test for the acceptability or otherwise of the proposal should therefore principally be based on whether the use would be materially detrimental to the amenity of other residents within the locale.

The impact of the proposed change of use in regard to the character and appearance of the built environment/conservation area would be negligible as no external changes are proposed to the property itself. However, in certain circumstances, the introduction of a commercial use in a primarily residential area can negatively impact residential character. An example of this is where the scale of usage associated with the numbers of lets, patrons and cars is excessive and unreasonable.

It is noted that the access to the application site is shared with another residential property located at 1 Cassillis Street. It is considered that the use of the application site for the purposes of a short term let, assuming that the STL is managed appropriately, is not considered to compromise the residential amenity of the properties located within the immediate locale to such an extent which would merit refusal of the application. In addition, the proposed use would also be restricted by the modest nature of the dwelling itself, currently three-bed, the applicant is proposing a maximum occupancy of five people which is no more than the property could potentially house if it were utilised on a full-time residential basis, and therefore it is not considered the proposed use would increase residential densities on a constant basis. However, if it were the case that persistent and/or unreasonable noise and disturbance were to result from the future occupiers, such anti-social behaviour would be dealt with by either Police Scotland, the Council's Environmental Health Service or the Short Term Lets Licensing Team. Furthermore, given the property would no longer be considered as a residential dwelling, it would not benefit from householder permitted development rights. Should future owners therefore seek to undertake any external alterations or development often associated with short-term occupancy uses such, which could be capable of generating noise nuisance, a further application would require to be submitted.

Under LDP Policy: Tourism, the Council will allow new sites and accommodation to be developed provided that:

- a) All new accommodation is for holiday use only; and
- b) The development has suitable screening and is appropriate in terms of the landscape setting, scale and design.

In this instance, the proposal does not fit specifically with any criteria above which is in part due to the current LDP2 being adopted, prior to the publication of NPF4. Despite the dwelling continuing to be utilised for residential purposes, it would be occupied by different parties on a short-term, as opposed to a permanent basis i.e. it would no longer be the sole or main residence of any of the occupants and it would be utilised on a commercial basis to provide tourist accommodation, as opposed to its historic private use.

Given its siting within the settlement boundary of Ayr, it is considered the application proposals would be well related to an existing settlement thus avoiding any potential dispersed pattern of development. Furthermore, as no external alterations are proposed, it is determined that the proposal would respect the character, amenity and scale of the historic, built and natural environment in the surrounding area and bring about no detriment to the conservation area. All of the preceding being the case, it is considered that the proposal can be supported under LDP Policy: Tourism.

A condition can be attached to any permission to ensure the use of the property is for holiday occupation by any person or connected group only that it shall not be used at any time as the sole or principal residence by any occupants.

In conclusion, the proposal which would in essence retain a residential use despite the commercial aspect, is considered to be compliant with the provisions of the stated Development Plan Policies and as there are no material considerations which override the presumption in favour of a determination in accordance with the terms of the development plan, it is recommended that this proposal be approved subject to condition listed below.

## **8. Conclusion:**

Following review, it has been established that both Local Development Plan 2 (LDP2) and National Planning Framework 4 (NPF4) are generally supportive of the proposed use in this location. It has been demonstrated and satisfied that the proposed development is compliant with the specific policies which cover these topics across the statutory development plan framework.

Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the planning application be approved subject to the following conditions.

**9. Recommendation:**

It is recommended that the application is approved subject to the following conditions: -

- (1) That the development hereby permitted must be begun within three years of the date of this permission.
- (2) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (3) That the accommodation hereby approved shall not be promoted, advertised, let, or used for any purpose other than as holiday accommodation, to the satisfaction of the Planning Authority.

**9.1 Reasons:**

- (1) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.
- (2) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3) To define the terms of this planning permission, and to retain proper planning control over the development.

**9.2 Advisory Notes:**

None.

**9.3 List of Determined Plans:**

Drawing - Reference No (or Description): Layout Plan

Drawing - Reference No (or Description): Location Plan

Other - Reference No (or Description): Operating Statement

**9.4 Reason for Decision (where approved):**

The proposed change of use proposal is supported by the framework of planning policy including National Planning Framework 4 and Local Development Plan 2 in that it could bring economic benefits to the area and is not expected to have a detrimental impact on residential amenity or the character of the surrounding area. Should any residential amenity issues arise in the future, it would be for Police Scotland, the Council's Environmental Health Service or Licensing Team to pursue through their regulatory powers.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

**Background Papers:**

1. Application form, plans and submitted documentation.
2. Representations.
3. Consultation Responses.
4. Adopted South Ayrshire Local Development Plan (LDP2).
5. National Planning Framework 4 (NPF4).

**Regulatory Panel (Planning): 16 November 2023**

Report by Housing, Operations and Development Directorate (Ref: 23/00656/APP)

**Equalities Impact Assessment:**

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

**Person to Contact:**

Mr David Clark, Supervisory Planner - Place Planning - Telephone 01292 616 118



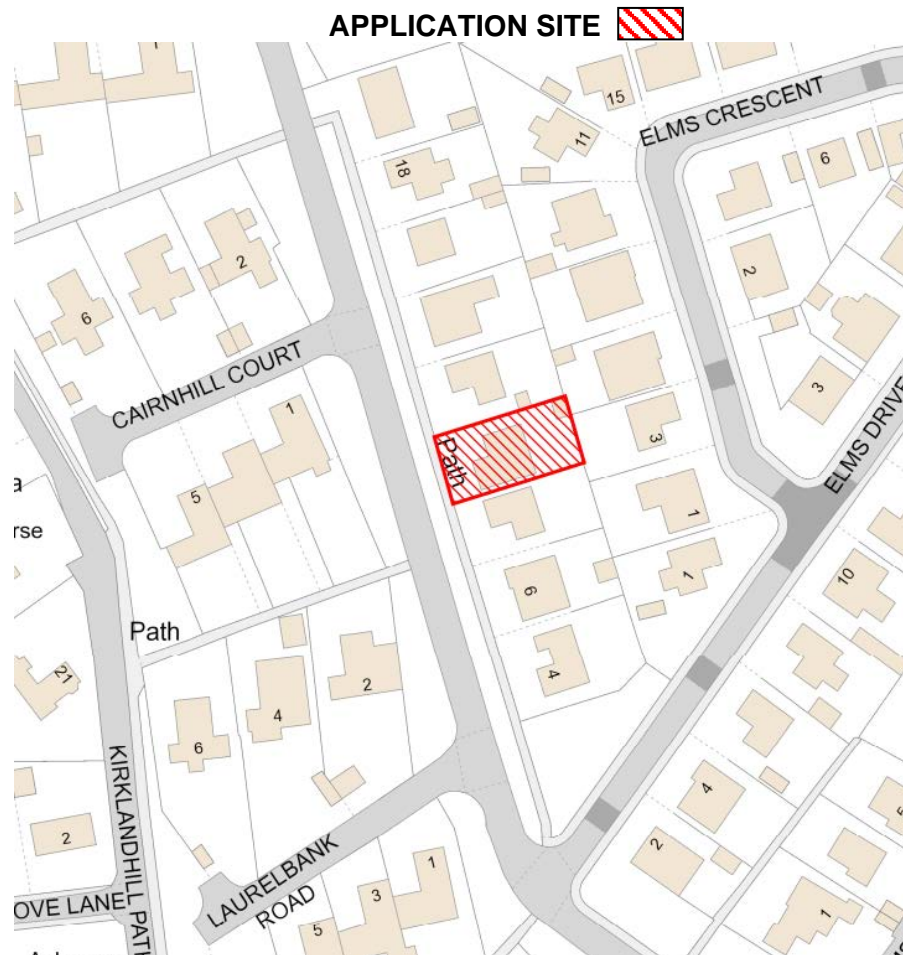
## REGULATORY PANEL: 16 NOVEMBER 2023

### REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

23/00684/APP

10 CARGILL AVENUE MAYBOLE SOUTH AYRSHIRE KA19 8AD

#### Location Plan



This product includes mapping data licensed from Ordnance Survey with permission of the Controller of Her Majesty's Stationery Office. © Crown copyright and/or database right 2018. All rights reserved. Licenced number 100020765.

#### Summary

The development proposal is the erection of a domestic garage/garden store within the curtilage of a detached dwellinghouse sited at 10 Cargill Avenue, Maybole. The proposed garage is to be sited within the dwelling's rear garden ground and shall reach a height of 4.2 metres (from the adjacent lowest ground level) and has a footprint of approximately 35 sqm (4.5m width and 7.8m in length). The proposed garage/garden store shall match the finishing materials of the dwellinghouse (precast concrete roof tiles, facing brick walls, uPVC gutters and rainwater goods, an aluminium sliding patio door set, and a 'up and over' garage door and a pass door.

The application has been assessed against the various material planning considerations which include the provisions of the development plan, consultations, and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. Overall, there are no policy objections, and following the assessment, it is considered that the proposal will not have an adverse impact on the residential character or amenity of the locality. Accordingly, the application is recommended for approval.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the applicant is a South Ayrshire Council Elected Member and the application will require to be determined by the Regulatory Panel, per 3.3: Para (6) of the current Scheme of Delegation.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

### REGULATORY PANEL: 16 NOVEMBER 2023

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>23/00684/APP</b>
<b>SITE ADDRESS:</b>	<b>10 Cargill Avenue Maybole South Ayrshire KA19 8AD</b>
<b>DESCRIPTION:</b>	<b>Erection of garage</b>
<b>RECOMMENDATION:</b>	<b>Approval with conditions</b>

#### APPLICATION REPORT

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

#### Key Information:

- The application was received on 8 September 2023.
- The application was validated on 8 September 2023.
- A Site Visit was carried out by the Planning Authority on 17 October 2023.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was carried out by the Planning Authority on 20 September 2023.
- No Site Notice was required.
- No Public Notice in the Local Press was required.

#### 1. Proposal:

The development under consideration is the erection of a domestic garage/ garden store within the curtilage of a detached dwellinghouse sited at 10 Cargill Avenue, Maybole. The proposed garage is to be sited within the dwelling's rear garden ground and shall reach a height of 4.2 metres (from the adjacent lowest ground level) and has a footprint of approximately 35sqm (4.5m width and 7.8m in length) and shall match the finishing materials of the original dwellinghouse (precast concrete roof tiles, facing brick walls, uPVC gutters and rainwater goods, an aluminium sliding patio door set, and a 'up and over' garage door and a pass door). It is noted that an existing garden shed currently sited within the rear garden ground shall be demolished to accommodate the proposals.

#### 2. Consultations:

**Ayrshire Roads Alliance** offers no objections to the proposed garage/ garden store.

#### 3. Submitted Assessments/Reports:

In assessing and reporting on a Planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations. None.

**4. S75 Obligations:**

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development. None.

**5. Scottish Ministers Directions:**

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. None.

**6. Representations:**

No representations were received.

**7. Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

On 13 February 2023, Scottish Ministers published and adopted National Planning Framework 4 (NPF4). NPF4 sets out the Scottish Ministers position in relation to land use planning matters and now forms part of the statutory development plan, along with the South Ayrshire Local Development Plan 2 (LDP2) (adopted August 2022).

Sections 25(1) and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. The application is determined on this basis.

Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); Section 24(3)). NPF4 was adopted after the adoption of LDP 2, therefore NPF4 will prevail in the event of any incompatibility.

(i) National Planning Framework 4 (NPF4)

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/national-planning-framework-4):

With regard to householder development proposals, Policy 16(g) outlines that such proposals will be supported where they:

- i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
- ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

The provisions of NPF4 must, however, be read and applied as a whole, and as such, no policies should be read in isolation. The application has been considered in this context.

As assessment of the proposals against the provisions of NPF4 is set out below.

(ii) South Ayrshire Local Development Plan 2

The following policies of the South Ayrshire Local Development Plan 2 are relevant in the assessment of the application and can be viewed in full online at [Local development plan 2 - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://www.south-ayrshire.gov.uk):

The provisions of the Adopted South Ayrshire Local Development Plan 2 must, however, be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

LDP 2 Policy: Strategic Policy 1: Sustainable Development

LDP 2 Policy: Strategic Policy 2: Development Management

LDP 2 Policy: Residential Policy within Settlements, Release Sites and Windfall Sites

An assessment of the proposals against the provisions of Local Development Plan 2 is set out below.

(iii) Other Policy Considerations (including Government Guidance)

**Planning Guidance: House Alterations and Extensions;** states that extensions should be of a size and design which respect the existing building and surrounding street scene. In respect of garages and outbuildings, the guidance states that garages and outbuildings should be designed to appear ancillary to the main dwellinghouse. They should be sited and designed so as to perform their intended function.

It is considered that the development accords with the provisions of the SG on House Alterations and Extensions on the basis that it does not over dominate the original dwelling or the surrounding locale. The proposed garage is sited within the rear curtilage of a dwellinghouse and is of a size and scale which is characteristic of garages/ outbuildings found within the locale. It is considered that the garage, due to its siting, size and scale, will appear ancillary to the main dwellinghouse and has been designed so as to perform its intended function as ancillary accommodation associated with the dwellinghouse at 10 Cargill Avenue, Maybole. Overall, the proposed garage is considered to meet with the provisions of the aforementioned guidance, and this is considered further, below.

**Planning Guidance: Open Space and Designing New Residential Developments;** The SPG is relevant in the assessment of the application, which states that detached, semi-detached and terraced properties should be provided with garden ground in proportion to their size. Rear gardens will be expected to be a minimum of 1.5 times the size of the ground floor area for detached and semi-detached dwellings and no less than 100sqm. This will generally include rear and side dwellinghouse gardens enclosed by fence/ wall/ hedge. A minimum garden depth of 9 metres shall be required.

The remaining private garden ground at the property is considered commensurate with the immediate neighbouring properties within the locale. On this basis, it is considered that an acceptable level of private garden ground is retained for the dwelling.

(iv) Impact on the Locality

It is considered that the proposed garage / garden store will not have an adverse impact on visual or residential amenity of the locale. It is acknowledged that the locale is characterised by single storey and 1.5 storey dwellinghouses (some with garages) which have been built by the same developer in a similar design and style and finished with the same palette of materials. The proposed garage/ garden store is considered to be subsidiary to the dwellinghouse in terms of its design, massing and scale, and has been appropriately positioned within the rear curtilage of the dwellinghouse. Additionally, it is noted that the external finishes of the building are intended to match the dwellinghouse and surrounding locale (precast concrete roof tiles, facing brick walls). Finally, it is considered that the garage / garden store has been designed so as to perform its intended function as an ancillary building to that of the original dwellinghouse. It is therefore considered that the proposals shall not have an adverse impact on the streetscape, character or visual amenity of the locale.

In respect of residential amenity, the proposed garage/ garden store is to be sited immediately adjacent to the mutual side and rear boundaries with the neighbouring properties at 12 Cargill Avenue and 5 Elms Crescent, respectively. However, due to the siting of the proposed garage/ garden store, it is considered sufficiently distant from other residential dwellings so as not to give rise to overshadowing concerns or create a sense of enclosure for neighbouring properties. It is also noted that neighbouring properties within the residential estate have various outbuildings and garages sited within their rear garden grounds. Therefore, it is not considered that the proposed garage in terms of its siting, scale, design or finishing materials is atypical for the locale.

Furthermore, there are no windows proposed within garage/ garden store and the proposed patio door set within the garage's southern elevation is to be sited over 9 metres from the side mutual boundary with the neighbouring property at 8 Cargill Avenue, which is considered to be a sufficient distance so as not to impact on the neighbouring property's privacy. It is also acknowledged that the rear garden ground is enclosed by an existing 1.8m high timber fence which partially screens the neighbouring properties.

Additionally, it is considered prudent to attach a condition to any permission to ensure that the proposed garage is utilised for domestic purposes incidental to the enjoyment of the dwellinghouse only so as not to give rise to any residential amenity concerns.

The application has been assessed against the various material planning considerations which include the provisions of the development plan, consultations, and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern that cannot be addressed by condition. Overall, there are no policy objections, and following the above assessment, it is considered that the proposal will not have a significant adverse impact on the character or amenity of the locality which would be so injurious to merit a refusal of planning permission in this instance.

## **8. Conclusion:**

Given the above assessment, it is recommended that the application is approved, subject to conditions, as set out below.

## **9. Recommendation:**

It is recommended that the application is approved with conditions;

- (1) That the development hereby permitted must be begun within three years of the date of this permission.
- (2) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (3) The garage shall be used solely for domestic purposes incidental to the use of the dwellinghouse and no commercial activities shall be undertaken to the satisfaction of the Planning Authority.

## **9.1 Reasons:**

- (1) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.
- (2) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3) In the interests of residential amenity.

## **9.2 Advisory Notes:**

N/A.

## **9.3 List of Determined Plans:**

Drawing - Reference No (or Description): 23-73-P01  
Drawing - Reference No (or Description): -23-713-P02  
Drawing - Reference No (or Description): 23-713-P03  
Drawing - Reference No (or Description): 23-713-P04

**9.4 Reason for Decision (where approved):**

The siting and design of the development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

**Background Papers:**

- (1) Application form and submitted drawings;
- (2) National Planning Framework (NPF4)
- (3) South Ayrshire Local Development Plan (LDP2);
- (4) Planning Guidance House Alterations and Extensions;
- (5) Consultation Reply – the Ayrshire Roads Alliance

**Equalities Impact Assessment:**

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

**Person to Contact:**

Ms Dianne Lewis, Planner - Place Planning - Telephone 01292 616175