

County Buildings
Wellington Square
AYR KA7 1DR
Tel No: 01292 612075

17 June 2025



To:- Councillors Lamont (Chair), Cavana, Clark, Dixon, Kilbride, Kilpatrick, Lyons, Mackay and Townson.

All other Members for Information Only

Dear Councillor

SOUTH AYRSHIRE LOCAL REVIEW BODY

You are requested to participate in the above Panel to be held in County Hall, County Buildings, Ayr on **Tuesday, 24 June 2025 at 2.00 p.m.** for the purpose of considering the undernoted business.

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

Please note that a briefing meeting will take place for all Local Review Body Members at 1.15 p.m., online and in the Prestwick Committee Room.

Yours sincerely

Catriona Caves
Chief Governance Officer

B U S I N E S S

1. Declarations of Interest.
2. Minute of previous meeting of 6 May 2025.
3. New Case for Review – 24/00914/FUR – Further Application to Remove Planning Condition 3 from Planning Permission Ref. 23/00594/APP at 23 Adamton Road North, Prestwick, South Ayrshire, KA9 2HY (copy herewith).

[Application Summary](#)

For more information on any of the items on this agenda, please telephone Committee Services on 01292 612189, at Wellington Square, Ayr or e-mail: localreviewbody@south-ayrshire.gov.uk
www.south-ayrshire.gov.uk

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SOUTH AYRSHIRE LOCAL REVIEW BODY.

Minutes of a hybrid webcast meeting held on
6 May 2025 at 2.00 p.m.

Present: Councillors Alan Lamont (Chair), Ian Cavana, Alec Clark, and Mark Dixon.

Remote: Councillor Lee Lyons.

Apologies: Councillors Martin Kilbride, Mary Kilpatrick, Craig Mackay, and Duncan Townson.

Attending: M. Vance, Solicitor, Legal and Licensing (Legal Adviser), J. Hall, Planning Strategy Co-ordinator (Planning Adviser); R. Anderson, Committee Services Assistant and C. McCallum, Committee Services Assistant.

Opening Remarks.

The Chair confirmed to Members the procedures to conduct this meeting and advised that the meeting was being broadcast live.

1. Declarations of Interest.

The Legal Adviser called the sederunt and, having called the roll, confirmed that there were no declarations of interest by Members of the Body in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

2. Minutes of Previous Meetings.

As Councillor Lyons was not present at the meeting of 25 February 2025, he was not eligible to vote on this item.

The [minutes](#) of 25 February 2025 (issued) were submitted and approved.

3. New Case for Review – 24/00757/APP- Application for Erection of a Dwellinghouse, formation of access and associated development at Land at Pierhill Farm U91 from B730 Junction Near Stair to B744 Junction Near Commonsie Annbank, South Ayrshire, KA6 5AW.

There were submitted the relevant [papers](#) (issued) relating to a request to review the decision to refuse Planning Permission for the Erection of a Dwellinghouse, formation of access and associated development at Land at Pierhill Farm U91 from B730 Junction near Stair to B744 Junction near Commonsie Annbank, South Ayrshire, KA6 5AW.

Having heard the Chair, the Legal Adviser to the Body and the Planning Adviser to the Body, the Body considered the papers relating to the Review.

The Body

Decided:

To overturn the Appointed Officer's decision and grant Planning Permission for the Erection of a Dwellinghouse, formation of access and associated development At Land at Pierhill Farm U91 from B730 Junction near Stair to B744 Junction near Commonsideside Annbank South Ayrshire, KA6 5AW, subject to the following conditions:-

Conditions

1. The development to which this permission relates must be commenced no later than **five years** from 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 prior to the commencement of development, samples, or a brochure of all materials to be used on external surfaces including building elevations, roofs and driveway, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority. Thereafter, the development shall be finished in the materials approved under the terms of this condition.
4. That prior to the commencement of development, details of the location, height and materials of all new boundary fences, gates or other means of enclosure shall be submitted to the Planning Authority for written approval and thereafter shall be implemented as approved.
5. The recommended ecological mitigation measures and biodiversity enhancement measures set out within the Preliminary Ecological Appraisal Report by Machars Ecology Ltd dated August 2024 shall be implemented in full during the construction phase of the development and operation of the development hereby permitted.
6. The planting illustrated within drawing no.0880 PP 01 shall be implemented in full within the first planting season following occupation of the development, unless otherwise agreed in writing. All planting required under the terms of this condition shall be permanently retained and any planting which, within a period of 5 years from the occupation of the development, in the opinion of the Planning Authority, is dying, damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.
7. Prior to the commencement of development, existing and proposed cross section drawings and finished floor levels shall be submitted for the approval in writing of the Planning Authority and thereafter shall be implemented as approved.

8. That the proposed access shall be constructed in accordance with the specifications in the Council's National Roads Development Guide and be a minimum of 7.3 metres wide over the initial 10 metres as measured from the rear of the public roadway. The access shall be constructed, as approved, prior to completion of the development.
9. That the private access shall be surfaced for a minimum of 10 metres as measured from the rear of the public roadway, prior to occupation. Precise detail and specifications of the required surfacing shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority) before any work commences on site.
10. That junction access visibility sightline splays of 2.5 metres by 90 metres shall be maintained in both directions at the junction with the public road. There shall be no obstacle greater than 1.05 metres in height within the visibility sightline splays.
11. That the discharge of water onto the public road carriageway shall be prevented by drainage or other means. Precise details and specifications of how this is to be achieved shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority) before any work commences on site.
12. That a minimum of 3 off-road parking spaces shall be provided within the existing site boundary to satisfy provision levels as defined within the Council's adopted National Roads Development Guide. Details of parking layouts designed to comply with the guidance set out in the Council's National Roads Development Guide, and Designing Streets as National Policy, shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority).

Reasons:

1. To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997, as amended by The Planning etc. (Scotland) Act 2006.
2. To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
3. To ensure that materials are appropriate for the site and in the interests of visual amenity.
4. To ensure that the design, height and materials are appropriate for the site and in the interests of visual amenity.
5. To ensure no adverse impact on European Protected Species including bats and other native mammals. In the interests of ecology and so as to retain and improve biodiversity at the site.

6. To ensure compliance with Policy 3 – Biodiversity of National Planning Framework 4 and to provide an improved biodiversity network and links to nearby Sites of Scientific Interest and Local Wildlife.
7. To demonstrate any level changes within the site and any associated retention is acceptable and does not adversely impact the surrounding area or landscape.
8. In the interest of road safety and to ensure an acceptable standard of construction.
9. In the interest of road safety and to ensure an acceptable standard of construction.
10. In the interest of road safety and to ensure an acceptable standard of construction. To avoid the possibility of unnecessary reversing of vehicles onto the public road.
11. In the interest of road safety and to avoid the discharge of water onto the public road.
12. In the interest of road safety and to ensure adequate off-street parking provision.

List of Approved Plans

| List of Plans determined: Plan Type | Reference: | Version No: | Received Date: |
|--|-------------------------------------|-------------|----------------|
| Drawing | LOC 01 | | 09.10.2024 |
| Drawing | LOC 02 | | 09.10.2024 |
| Drawing | LOC 03 | | 09.10.2024 |
| Drawing | PL1 | | 09.10.2024 |
| Drawing | PP 01 | | 09.10.2024 |
| Drawing | PP 02 | | 09.10.2024 |
| Drawing | PP 03 | | 09.10.2024 |
| Supporting Information | Preliminary Ecological Appraisal | | 09.10.2024 |
| Supporting Information | Supporting Statement | | 09.10.2024 |

Advice Notes:

1. Scottish Water: There is currently capacity to service the development however Scottish Water are unable to reserve capacity. Further investigations may be required to be carried out once a formal application has been submitted.
2. There are no records of public waste infrastructure within the vicinity of this development.
3. Scottish Water: They will not accept any surface water connections to their combined sewer system unless in exceptional circumstances. Scottish Water should be contacted if a connection request is being made.
4. Guidance should be considered relevant to users of all cranes exceeding a height of 10 metres above ground level or that of the surrounding structures or trees, if higher. For guidance to crane users on the crane notification process and obstacle lighting and marking please refer to CAA CAP Document 1096 which is available at: <http://www.caa.co.uk>. Please be aware any crane erected without notification may be considered a hazard to air navigation and such a crane operates at the crane user's risk of endangering the safety of an aircraft.
5. That a Road Opening Permit shall be applied for, and obtained from the Council as Roads Authority, for any work within the public road limits, prior to works commencing on site.
6. The Council as Roads Authority advises that all works on the carriageway to be carried out in accordance with the requirements of the Transport (Scotland) Act 2005 and the Roads (Scotland) Act 1984.
7. In order to comply with the requirements of the New Roads and Street Works Act 1991, all works carried out in association with the development on the public road network, including those involving the connection of any utility to the site, must be co-ordinated so as to minimise their disruptive impact. This co-ordination shall be undertaken by the developer and his contractors in liaison with the local roads authority and the relevant utility companies.
8. The Council as Roads Authority advises that any costs associated with the relocation of any street furniture shall require to be borne by the applicant / developer.
9. The Council as Roads Authority advises that promotion of Traffic Regulation Orders resulting from this development shall require to be fully funded by the applicant – including any relevant road signs and markings.

Reason for Decision:

The development hereby approved is considered to accord with the provisions of the Local Development Plan and would have no significant adverse impact on the rural landscape setting.

The meeting ended at 2.22pm.

DRAFT

SOUTH AYRSHIRE COUNCIL

LOCAL REVIEW BODY

NOTE OF CURRENT POSITION

| | |
|----------------------|--|
| Site Address: | 23 ADAMTON ROAD NORTH, PRESTWICK, SOUTH AYRSHIRE, KA9 2HY |
| Application: | 24/00914/FUR- Further application to remove planning condition 3 from planning permission Ref. 23/00594/APP |

| | |
|--|---------------|
| Appointed Officer's Decision: | Refused |
| Date Notice of Review Received: | 21 April 2025 |

| | |
|--------------------------|---|
| Current Position: | New Case for Review |
| Documentation: | <p>The following documents in relation to the review are attached:</p> <p>Pages 1 to 6 - Report of Handling</p> <p>Pages 7 to 11 - Notice of Review (April 2025)</p> <p>Pages 12 to 18 - Review Statement (April 2025)</p> <p>Pages 19 to 25 - Planning Application (December 2024)</p> <p>Pages 26 to 29 - Planning Application Designs and Plans</p> <p>Pages 30 to 37 - Planning Statement (December 2024)</p> <p>Pages 38 to 44 - Supporting Information – Previous Appeal Statement from case number 23/00594/APP (December 2023)</p> <p>Pages 45 to 63 - Supporting Information – Previous Planning Statement from case number 23/00594/APP (December 2023)</p> |

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|--|--|
| | <p>Pages 64 to 81 - Supporting Information – Previous Noise Impact Report from case number 23/00594/APP (December 2023)</p> <p>Pages 82 to 85 - Decision Notice</p> <p>Pages 86 to 88 - Consultation response from ARA (January to February 2025)</p> <p>Pages 89 to 96 - Case Officer Photographs and Comments.</p> <p>Page 97 - Draft Conditions</p> |
| New Material: | No |
| Additional Material Any other Comments: | N/A |
| Dated: | June 2025 |

Report of Handling of Planning Application

The Council's Scheme of Delegation can be viewed at <https://www.south-ayrshire.gov.uk/planning-application-process>

| | |
|------------------------|--|
| Reference No: | 24/00914/FUR |
| Site Address: | 23 Adamton Road North Prestwick South Ayrshire KA9 2HY |
| Proposal: | Further application to remove planning condition 3 from planning permission Ref. 23/00594/APP |
| Recommendation: | Refusal |

REASON FOR 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 has been determined 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 18 December 2024.
- The application was validated on 22 January 2025.
- 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 22 January 2025.
- A Site Visit was carried out by the Planning Authority on 29 January 2025.
- No Site Notice was required.
- No Public Notice in the Local Press was required.

1. Site Description:

The application site is a Class 1A retail convenience store with hot food takeaway at 23 Adamton Road North, Prestwick. The site is located within a predominantly residential area and is largely surrounded by dwellings, with a detached hairdressers' premises to the north and a vehicular access lane leading to a series of lockups which wraps around the site's rear curtilage to the east.

2. Planning History:

23/00594/APP - Part change of use of retail unit to incorporate hot food take away – Refused under delegated powers November 2023. Decision was subsequently appealed to the Council's Local Review Body who overturned the decision of the Planning Authority granting planning permission, subject to conditions in June 2024.

23/00397/APP - Part change of use of retail unit to incorporate hot food take away – Refused July 2023

20/00859/APP – Change of use and alterations of dwellinghouse to form extension to existing shop – Approved November 2020 – Implemented

00/00392/FUL - Alterations and extension to existing shop – Approved June 2020

3. Description of Proposal:

The applicant, under Section 42 of the Town and Country Planning (Scotland) Act 1997, seeks to remove condition 3 attached to planning permission Ref.23/00594/APP.

Condition 3 states:

“That within three months of the date of issue of planning consent a scheme of parking mitigation shall

require to be agreed and implemented on-street. The parking mitigation scheme shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). It is anticipated that the scheme would consist of a combination of bollards, road markings and signage.”

Planning Application 23/00594/APP was originally refused by the Planning Service under delegated powers. The Council’s Local Review Body subsequently overturned this decision and approved the application, with conditions, including Condition 3, to which this current application relates.

4. **Consultations:**

Ayrshire Roads Alliance (ARA) – Recommend refusal of the proposal to remove condition 3. The ARA position remains that parking mitigation measures such as bollards, signs and road markings should be submitted by the applicant to address their concerns. The proposed design should then be submitted for the prior written approval of the Council as Planning Authority, in consultation with the Council as Roads Authority.

5. **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.

6. **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.

7. **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.

8. **Representations:**

No representations were received.

9. **Development Plan:**

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 (The 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.

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):

- National Policy 14: Design, quality and place
- National Policy 27: City, town and commercial centres

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.

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://south-ayrshire.gov.uk/local-development-plan-2):

- LDP 2 Strategic Policy 1: Sustainable Development
- LDP 2 Strategic Policy 2: Development Management
- LDP 2 Policy: Residential Policy within Settlements, Release Sites and Windfall Sites;
- LDP 2 Policy: Town Centres
- LDP 2 Policy: Small Town Centres and Local Neighbourhood Centres
- LDP 2 Policy: Land Use and Transport

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.

10. Other Relevant Policy Considerations (including Government Guidance):

None.

11. Assessment (including other material considerations):

An application under section 42 of the Act, is one to develop land without compliance with conditions previously attached.

Section 42(2) states that "On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and - (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was grantedthey shall grant planning permission accordingly."

As such, the assessment of this application centres on the reasons why condition 3 was considered to be necessary as part of planning permission Ref.23/00594/APP, and whether circumstances have changed which would indicate that this condition is no longer considered to be necessary. As noted above, the application was originally refused by the Planning Service under delegated powers. The Council's Local Review Body subsequently overturned this decision and approved the application, with conditions, including Condition 3.

Condition 3 was recommended by the Ayrshire Roads Alliance on the basis that a Parking Mitigation Scheme was deemed an appropriate solution to address the intensification of use of the commercial unit due to the addition of a hot food takeaway, which was considered likely to result in an increase of vehicles parking for short periods on-street. The condition was ultimately recommended by the ARA in the interest of road safety and to ensure adequate provision was made for pedestrians.

The application has been accompanied by a supporting statement which seeks to justify the removal of Condition 3 for a number of reasons, which are considered in turn, as follows:

1. Accessibility Impacts: Negative Effects on Disabled Individuals

The statement argues that bollards would restrict door opening for vehicles, increase risks of using pavements for wheelchair uses, impact on safety and independence for those with limited and mobility or vision impairments and be contrary to disability legislation (Equality Act 2010 and Building Standards Regulation 8300-2:2018).

In response, it is considered that the wording of the condition does state that there is a particular design which requires to be adhered to:

“That within three months of the date of issue of planning consent a scheme of parking mitigation shall require to be agreed and implemented on-street. The parking mitigation scheme shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). It is anticipated that the scheme would consist of a combination of bollards, road markings and signage.”

The condition requires that the design should be brought forward by the applicant for consultation with the Ayrshire Roads Alliance. This process would ensure that any layout agreed would consider safe access for all users of the public pavements, including retention of an adequate depth of footway and that bollards, if an agreed mitigation method, were appropriately spaced. As such, it is not considered that condition 3 would result in a detrimental impact on accessibility of the public footway but rather a starting point to ensure a design solution is agreed to safeguard accessibility of the footway for all users, by preventing vehicles parking on footway, for example.

2. Site Design and Safety Issues

The statement further argues that bollards add to street clutter, can be poorly planned and may obstruct emergency and service vehicles.

In response, it is again considered that Condition 3 requires a design solution to be brought forward for agreement with both the Planning Service and Ayrshire Roads Alliance. The parking mitigation scheme to be agreed, if this includes bollards, would comply with best practice regarding appropriate spacing of bollards and ensure that these would not be excessive in number. Finally, the presence of bollards would not prevent vehicles from gaining access in an emergency – the ARA has confirmed this position with the Planning Service.

3. Legal, Policy and Precedent Considerations

Finally, the statement argues that the condition is contrary to The Town and Country Planning (Scotland) Act 1997 (as amended), Scottish Government Circular 4/1998: The use of conditions in planning permissions, the Equality Act 2010 and Scottish Planning Policy 2014. In particular, it is concluded that conditions must balance the needs of development with public interest and accessibility and Condition 3 fails the necessity and reasonableness tests as the development does not demonstrably increase parking demands beyond what existing infrastructure can support.

In response, it is considered that the Equality Act 2010 has been addressed under points 1 and 2 above, and Scottish Planning Policy 2014 was superseded prior to the submission of this current application, as well as the planning application to which it relates – 23/00594/APP – and as such is not relevant.

With regard to whether Condition 3 meets the aforementioned tests, it is noted that conditions should be tailored to tackle specific problems, not be wider in scope than necessary to achieve the desired objective and not be unduly restrictive or onerous in their requirements. In this instance, the ARA recommended the condition to address the increase of on-street parking issues in the immediate locale, including obstruction of the public footway, which they considered to be of a result of the intensification of use of the commercial unit from the addition of a hot food takeaway. The condition seeks a design solution to be proposed by the applicant to mitigate the issues and concerns that the ARA has, and it is not considered that the scheme to be agreed would be more than what is necessary to address this issue.

In addition, to addressing road safety issues arising from the use of the hot food takeaway, Condition 3 would also seek to ensure the use would not undermine the amenity of the surrounding area, as required by Policy 27 paragraph c of NPF4, through the agreement of measures to mitigate the increased vehicular traffic in the predominantly residential area immediately surrounding the premises.

The Planning Service is satisfied that the condition meets the requirements of Circular 4/1998.

In light of the aforementioned concerns, it is considered that the proposal to remove/not comply with Condition 3 of planning permission Ref.23/00594/APP cannot be reasonably supported. Without the condition, the development subject of planning permission Ref. 23/00596/APP (Part change of use of retail unit to incorporate hot food take away) is not acceptable and does not meet with the policy provisions of NPF4 Policy 27, LDP 2 Policy: Residential Policy within Settlements, Release Sites and Windfall Sites and LDP2 Policy: Land Use and Transport. Condition 3 is required to mitigate the impacts of the development, as advised by the ARA.

12. **Recommendation:**

It is recommended that the application is refused for the following reasons.

Reasons:

- (1R) That the proposal to not comply with condition 3 of planning permission 23/00594/APP is contrary to NPF4 National Policy 27: City, town, local and commercial, by reason that it has not been demonstrated that non-compliance with the condition would not undermine the amenity of the area.
- (2R) That the proposal to not comply with condition 3 of planning permission 23/00594/APP is contrary to LDP 2 Policy: Residential Policy within Settlements, Release Sites and Windfall Sites, by reason that it has not been demonstrated that non-compliance with the condition would prevent negative effects on the local amenity of the residential area from the non-residential development.
- (3R) The proposal to not comply with Condition 3 of planning permission 23/00594/APP is contrary to LDP 2 Policy: Land Use and Transport by reason that it has not been demonstrated that non-compliance with the condition would effectively minimise the negative effects of road traffic in the area.

Advisory Notes:

None.

List of Plans Determined:

| Plan Type | Reference | Version No. | Received Date |
|------------------------|---|--------------------|----------------------|
| Drawing | Location Plan | | 18.12.2024 |
| Drawing | 01 | Rev. C | 18.12.2024 |
| Drawing | KK/FP1 | | 18.12.2024 |
| Drawing | KK/FP-02 | | 18.12.2024 |
| Supporting Information | Planning Services UK Supporting Statement | | 18.12.2024 |
| Supporting Information | Appeal Statement | | 18.12.2024 |
| Supporting Information | Original Application Noise Impact Report | | 18.12.2024 |
| Supporting Information | Original Application Planning Statement | | 18.12.2024 |

Integrated Impact Assessment:

The consideration of this planning application sits within a policy framework of the Council's Local Development Plan 2 and National Planning Framework 4. These have been the subject of Equalities Impact Assessments which considered how the policies may impact on protected characteristics.

Therefore, no separate Integrated Impact Assessment is required.

| | |
|-----------------------------------|--------------------------|
| <i>Decision Agreed By:</i> | <i>Appointed Officer</i> |
| <i>Date:</i> | <i>12 March 2025</i> |



County Buildings Wellington Square Ayr KA7 1DR Tel: [REDACTED] Email: [REDACTED]

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100709028-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

| | | | |
|-----------------------|----------------------|--|----------------|
| Company/Organisation: | Planning Services UK | | |
| Ref. Number: | | You must enter a Building Name or Number, or both: * | |
| First Name: * | Thomas | Building Name: | |
| Last Name: * | Cochrane | Building Number: | 37 |
| Telephone Number: * | | Address 1 (Street): * | Dyfrig Street |
| Extension Number: | | Address 2: | |
| Mobile Number: | | Town/City: * | Shotts |
| Fax Number: | | Country: * | United Kingdom |
| | | Postcode: * | ML7 4DQ |
| Email Address: * | | | |

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

| | | | |
|----------------------|-----------|--|----------------|
| Title: | Mrs | You must enter a Building Name or Number, or both: * | |
| Other Title: | | Building Name: | |
| First Name: * | Kulwinder | Building Number: | 63 |
| Last Name: * | Kaur | Address 1 (Street): * | Colonsay Drive |
| Company/Organisation | | Address 2: | |
| Telephone Number: * | | Town/City: * | Glasgow |
| Extension Number: | | Country: * | Scotland |
| Mobile Number: | | Postcode: * | G77 6TY |
| Fax Number: | | | |
| Email Address: * | | | |

Site Address Details

Planning Authority:

South Ayrshire Council

Full postal address of the site (including postcode where available):

Address 1:

23 ADAMTON ROAD NORTH

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

PRESTWICK

Post Code:

KA9 2HY

Please identify/describe the location of the site or sites

Northing

625739

Easting

235869

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Further application to remove planning condition 3 from planning permission Ref. 23/00594/APP

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

appeal statement is submitted

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Appeal Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

24/00914/FUR

What date was the application submitted to the planning authority? *

17/12/2024

What date was the decision issued by the planning authority? *

21/03/2025

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

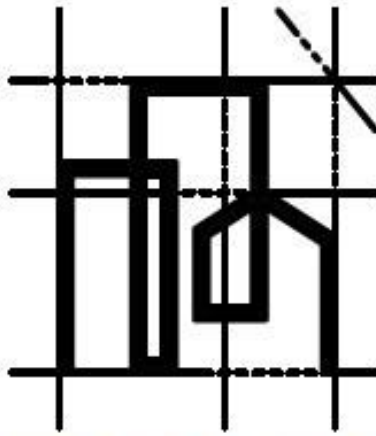
Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Thomas Cochrane

Declaration Date: 18/04/2025



PLANNING SERVICES UK

Planning Appeal Statement

Appeal against Refusal of Application

24/00914/FUR

Site Address:

23 Adamton Road North,

Prestwick

Original Permission:

23/00594/APP

Condition in Dispute:

Condition 3 – Requirement for On-Street Parking Mitigation Scheme

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1. Introduction

This statement is submitted to the Local Review Body in support of an appeal against the delegated refusal of application **24/00914/FUR**, which sought to remove **Condition 3** of planning permission **23/00594/APP**. Condition 3 requires the submission and implementation of an on-street parking mitigation scheme (anticipated to include bollards, road markings and signage).

This appeal is made under **Section 43A(8)** of the *Town and Country Planning (Scotland) Act 1997* (as amended). The appellant respectfully submits that the decision to refuse the application does not appropriately consider the nature of the proposed use, the material circumstances of the site, or the implications of the condition imposed.

2. Background

- The original application (**23/00594/APP**) for part change of use from Class 1A retail to incorporate a hot food takeaway was **granted on appeal by the Local Review Body in June 2024**.
- The permission was granted subject to **Condition 3**, requiring a parking mitigation scheme to be submitted and implemented within three months.
- Application **24/00914/FUR** was subsequently submitted under Section 42 to remove this condition, supported by a planning statement and analysis of site-specific impacts.
- The application was **refused under delegated powers** on the basis that removing Condition 3 would be contrary to:
 - **NPF4 Policy 27**: City, Town and Commercial Centres
 - **LDP2 Residential Policy** within Settlements
 - **LDP2 Policy**: Land Use and Transport

3. Grounds of Appeal

3.1 The Nature of the Use is Ancillary and Low-Impact

The delegated officer assessed the proposal as if it constituted a full conversion to a hot food takeaway. However, the original application clearly demonstrates that:

“The store’s ancillary hot food service remains a minor aspect of the business, underscoring its primary function as a General Store rather than a food outlet.”

— Supporting Statement (2023)

This is consistent with well-established case law, particularly **Glasgow District Council v Secretary of State for Scotland (1985)**, which held that an ancillary use does not constitute a material change of use unless it materially alters the character of the overall planning unit.

In that and other relevant cases (e.g. **Alexandra Transport Co Ltd v Secretary of State for Scotland (1974)**), the courts confirmed that:

- Planning assessment must consider the **planning unit as a whole**.
- Ancillary uses are acceptable provided they are **functionally and spatially subordinate** to the primary use.
- **No planning breach arises unless the secondary use becomes dominant or materially changes the nature of the premises.**

The hot food element in this case is minimal, accounting for approximately 5% of the shop's overall turnover. It is clearly subordinate to the principal retail use and has not resulted in any material change to the character of the business. The premises continue to operate primarily as a convenience store, with only around 4% of the total sales floor area allocated to hot food provision. Consequently, the justification for Condition 3—predicated on anticipated increases in traffic and adverse impacts on local amenity—is not substantiated by the actual operation of the premises.

3.2 Lack of Evidence of Harm or Community Objection

- No objections were submitted by local residents or businesses with regards to removing this condition.
- There is no record of complaints, enforcement action, or community concern.
- The delegated officer's report relies on **assumed impacts**, not actual observations.

According to *Scottish Government Circular 4/1998*, planning conditions should only be imposed where there is a **demonstrable need**, based on material planning concerns. That threshold is **not met** in this case.

3.3 Accessibility, Equality, and Emerging Local Policy Context

Condition 3 anticipates the use of **bollards and signage** to manage on-street parking, but such measures may:

- **Reduce usable pavement space.**
- Create hazards for wheelchair users and people with visual impairments.
- Impact accessibility to a neighbouring **hairdresser**, whose clients often require close-proximity and longer-duration parking.
- Conflict with duties under the **Equality Act 2010**.

Crucially, **South Ayrshire Council has a ban on pavement parking which took effect from 31 March 2025** under the *Transport (Scotland) Act 2019*. According to the Council's official statement:

"Pavement parking, double parking and parking at dropped kerbs will be illegal from 31 March 2025 in South Ayrshire."

The Council has confirmed that enforcement will be undertaken by its own Parking Attendants, with the overarching aim of ensuring pavements remain clear, safe, and accessible for all users, particularly vulnerable groups such as disabled individuals, those with mobility aids, and families with pushchairs. This approach is designed to minimise the need for additional physical infrastructure, such as bollards, which can contribute to visual clutter and detract from the overall quality of the streetscape.

In this context, the imposition of bollards or similar barrier-based measures as part of Condition 3 would not only be unnecessary but may also be inconsistent with the Council's emerging strategy for promoting pedestrian-friendly, unobstructed public spaces.

Moreover, while not a material planning consideration, it is reasonable to note that the installation of such features could have a negative impact on the perceived desirability of nearby residential properties. The presence of fixed traffic control measures may give the impression of ongoing or unresolved parking and traffic issues, which could in turn affect local property values.

The inclusion of Condition 3 is therefore not just premature — it is **incompatible** with upcoming statutory changes that render such physical interventions **unnecessary and inconsistent** with policy direction.

3.4 Material Considerations Were Overlooked

i. Economic and Community Benefit

The delegated report fails to take into account:

- Support for **local employment and entrepreneurship**.
- Provision of an accessible local service within walking distance.
- **The financial burden imposed by Condition 3 is beyond the applicant's reasonable means, effectively rendering the permission unimplementable. As such, the condition functions as a refusal in all but name.**

ii. Flexible Interpretation of Policy

NPF4 Policy 27 allows for local, small-scale food services where they support community vitality and do not undermine amenity. The site:

- Lies within a **mixed-use environment**.
- Has not generated any complaints or enforcement actions.
- Provides a **long-standing, accessible facility** valued by residents.

iii. Current parking restrictions.

There are currently no parking restrictions in place on the street where the planning authority has proposed additional measures. This indicates that there has been no historic or ongoing traffic or parking issues in the area. Furthermore, the ancillary nature of the store's use is not

expected to generate a level of traffic that would justify the imposition of the proposed conditions.

3.5 The Condition Fails the Tests of Circular 4/1998

Under the guidance set out in *Scottish Government Circular 4/1998*, planning conditions must meet five tests: necessity, relevance, precision, reasonableness, and enforceability. Condition 3 fails in multiple respects:

| Test | Assessment |
|-------------|--|
| Necessary | No demonstrable harm; based on hypothetical impacts. |
| Precise | Lacks detail on scope, design, or extent of intervention. |
| Reasonable | Imposes a disproportionate cost burden on a small business. |
| Enforceable | Monitoring and compliance mechanisms are unclear. |
| Relevant | Conflict with South Ayrshire’s own policy on pavement enforcement from 2025. |

3.6 Risk of Precedent for Small Retailers in Outer Settlements

The imposition of Condition 3 in this case risks establishing an unfavourable precedent for other small-scale or independent retail operators within South Ayrshire’s suburban and rural settlements. If left uncorrected, this decision may signal that even minor or ancillary retail diversification proposals—such as the addition of a limited hot food element—will routinely be subject to disproportionate infrastructure requirements, regardless of demonstrable site-specific harm.

As a matter of planning practice, local authorities are expected to act in a fair and consistent manner. Future applications will inevitably be assessed with reference to how similar cases have been handled, particularly where the nature of the use, site context, and scale of operation are comparable. This could deter modest retail adaptations or service enhancements in smaller communities, where margins are typically tight and where such interventions may be critical to economic sustainability and local service provision.

In that context, retaining Condition 3 without sound justification risks undermining broader policy objectives relating to **vibrant local centres, walkable neighbourhoods, and support for small businesses** as outlined in **NPF4** and **LDP2 Strategic Policy 1**. It could also increase the risk of inequitable or inconsistent decision-making across the authority area, weakening public confidence in the fairness and proportionality of the planning process.

4. Conclusion

In light of the points set out above, the appellant respectfully submits that Condition 3 is neither justified nor proportionate when considered against the nature of the proposal, the established use of the site, and the absence of any demonstrated harm.

The hot food element remains clearly ancillary to the principal retail use and does not amount to a material change of use. The condition was imposed without site-specific evidence of harm, contrary to national guidance, and fails the key tests outlined in Scottish Government Circular 4/1998. It also places an unreasonable financial burden on the applicant and risks rendering the permission unviable.

Furthermore, the anticipated mitigation measures under Condition 3—such as the installation of bollards—conflict with South Ayrshire Council’s forthcoming statutory enforcement of pavement parking from 31 March 2025, which is explicitly intended to remove obstructions and enhance pedestrian access. Imposing new physical barriers in this context is not only inconsistent with emerging policy but could actively undermine the objectives of the Council’s own enforcement regime.

The decision to retain this condition also sets a concerning precedent for similar small-scale operators, particularly in suburban or rural areas, where flexibility and proportionality are essential to maintaining vibrant, accessible, and economically sustainable local services.

For all of these reasons, we respectfully request that the Local Review Body allow this appeal and grant planning permission **without Condition 3**, thereby supporting a consistent, evidence-led, and proportionate approach to local development management.

Thomas Cochrane BSc (Hons) HND, CPC

Planning Consultant



County Buildings Wellington Square Ayr KA7 1DR Tel: [REDACTED] Email: [REDACTED]

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100696406-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Please provide the application reference no. given to you by your planning authority for your previous application and the date that this was granted.

Application Reference No: *

23/00594/APP

Date (dd/mm/yyyy): *

06/12/2023

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Apply to Vary (Remove) Planning conditions Ref. No: 23/00594/APP Part Change of Use of Retail Unit to Incorporate Hot Food Take Away at 23 Adamton Road North Prestwick, South Ayrshire KA9 2HY_LRB Conditions.

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

16/10/2023

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

Our Client Need Started the Business to Support their Family

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Planning Services UK

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Philip

Building Name:

Last Name: *

Landa

Building Number:

35

Telephone Number: *

Address 1 (Street): *

Clydesdale Street

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Hamilton

Fax Number:

Country: *

United Kingdom

Postcode: *

ML3 0DD

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

| | | | |
|----------------------|--|--|---|
| Title: | <input type="text" value="Mrs"/> | You must enter a Building Name or Number, or both: * | |
| Other Title: | <input type="text"/> | Building Name: | <input type="text"/> |
| First Name: * | <input type="text" value="Kulwinder"/> | Building Number: | <input type="text" value="23"/> |
| Last Name: * | <input type="text" value="Kaur"/> | Address 1 (Street): * | <input type="text" value="Adamton Road North"/> |
| Company/Organisation | <input type="text"/> | Address 2: | <input type="text"/> |
| Telephone Number: * | <input type="text" value="REDACTED"/> | Town/City: * | <input type="text" value="Prestwick"/> |
| Extension Number: | <input type="text"/> | Country: * | <input type="text" value="Scotland"/> |
| Mobile Number: | <input type="text"/> | Postcode: * | <input type="text" value="KA9 2HY"/> |
| Fax Number: | <input type="text"/> | | |
| Email Address: * | <input type="text" value="REDACTED"/> | | |

Site Address Details

| | |
|---|---|
| Planning Authority: | <input type="text" value="South Ayrshire Council"/> |
| Full postal address of the site (including postcode where available): | |
| Address 1: | <input type="text" value="23 ADAMTON ROAD NORTH"/> |
| Address 2: | <input type="text"/> |
| Address 3: | <input type="text"/> |
| Address 4: | <input type="text"/> |
| Address 5: | <input type="text"/> |
| Town/City/Settlement: | <input type="text" value="PRESTWICK"/> |
| Post Code: | <input type="text" value="KA9 2HY"/> |

Please identify/describe the location of the site or sites

| | | | |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="625739"/> | Easting | <input type="text" value="235869"/> |
|----------|-------------------------------------|---------|-------------------------------------|

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

89.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Retails

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

2

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

Yes – connecting to public drainage network

No – proposing to make private drainage arrangements

Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water?? *
(e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? * Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? * Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? * Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) * Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? * Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Philip Landa

On behalf of: Mrs Kulwinder Kaur

Date: 17/12/2024

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | | | |
|--|------------------------------|----------------------------|------------------------------|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes | <input type="checkbox"/> T | <input type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Thomas Cochrane

Declaration Date: 17/12/2024

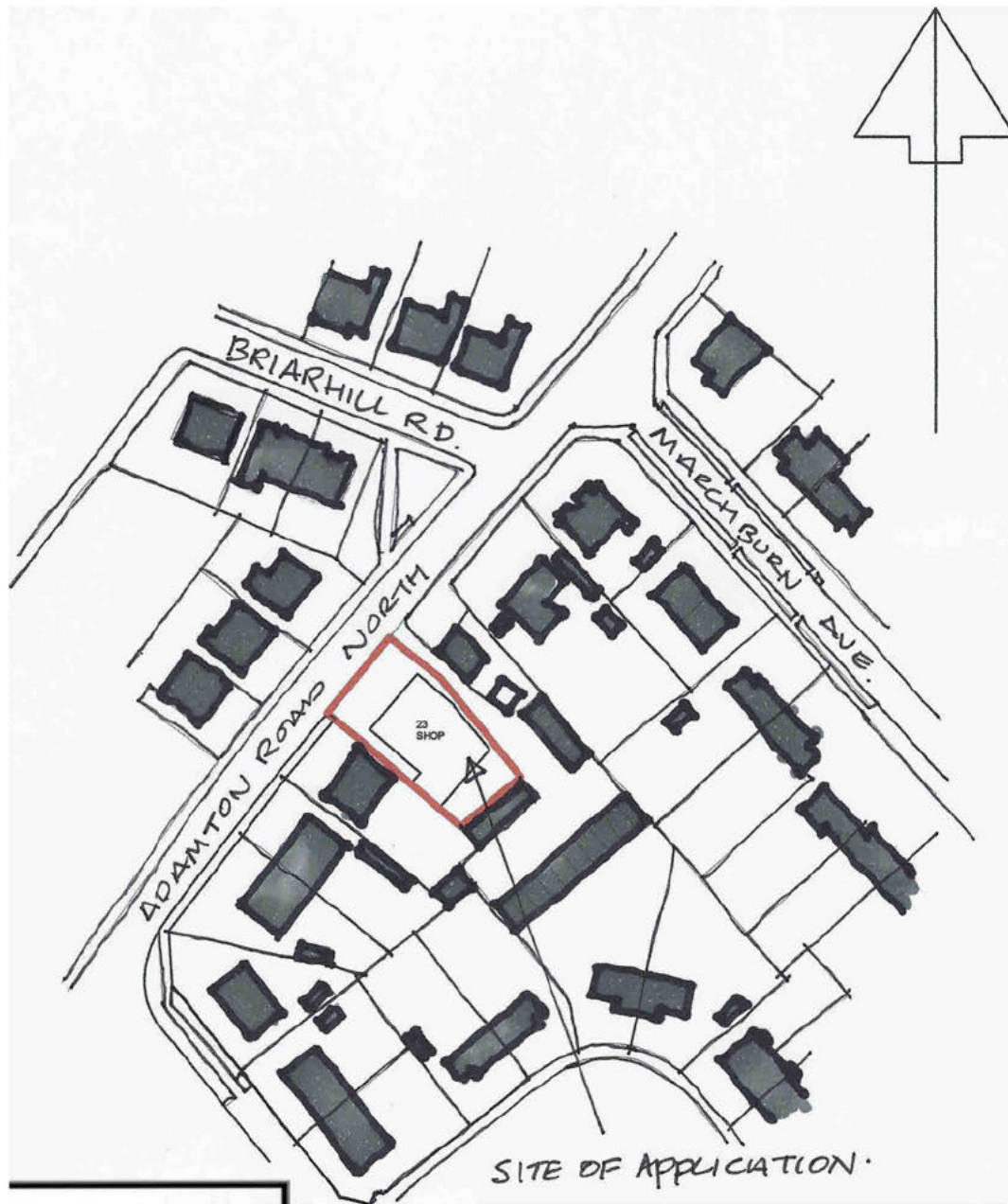
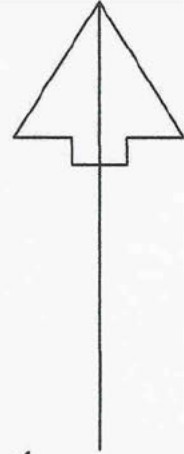


JAMES ROBERTSON ARCHITECT

B. Arch. Dip. Arch. A.R.I.B.A.

7 Park Avenue
Prestwick
Ayrshire
KA9 1RG

NORTH



**South Ayrshire Council
Planning Service**

Refused under The Town and Country Planning
(Scotland) Act 1997 (as amended), subject to reasons
that may be specified in the notification of this decision
by South Ayrshire Council.

LOCATION PLAN

SCALE 1 1250



BLOCK PLAN AS PROPOSED

SCALE 1 200


ADAMTOWN ROAD NORTH

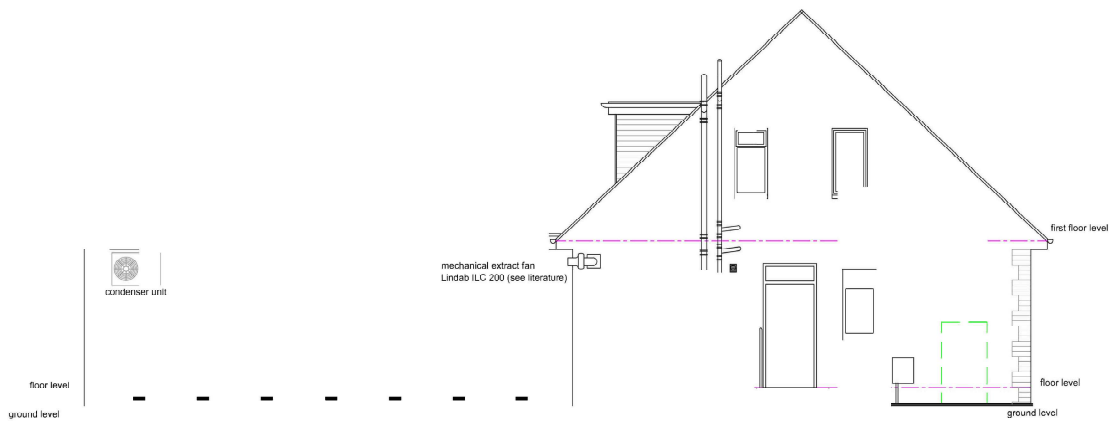


**South Ayrshire Council
Planning Service**

Refused under The Town and Country Planning (Scotland) Act 1997 (as amended), subject to reasons that may be specified in the notification of this decision by South Ayrshire Council.

| | |
|---------|--|
| notes | |
| client | Mrs Kulwinder Kaur 63 Colonsay Drive Newton Mearns G77 6TY |
| project | PROPOSED HOT FOOD SALE AND PREP AREA WITH N EXISTING SHOP AT 23 ADAMTOWN ROAD NORTH PRESTWICK |
| drawing | BLOCK PLAN AS PROPOSED |
| | JAMES ROBERTSON ARCHITECT B. Arch. Dip. Arch. A.R.I.B.A. 2 Park Avenue Ayrshire Ayr G7 1HG |
| scale | 1 : 200 |
| date | JUNE 2021 |
| drawn | checked |
| draw no | KK/FP1 |

SCALE 



ELEVATION TO NORTH (RETROSPECTIVE APPLICATION)

**South Ayrshire Council
Planning Service**

Refused under The Town and Country Planning (Scotland) Act 1997 (as amended), subject to reasons that may be specified in the notification of this decision by South Ayrshire Council.

notes

client: Mrs Kulwinder Kaur
63 Colonsay Drive
Newton Mearns
G77 6TY

project: PROPOSED ALTERATIONS AND EXTENSION
WITH CHANGE OF USE TO SHOP
AT 23 ADAMTON ROAD NORTH
PRESTWICK

drawing: NORTH ELEVATION SHOWING
EXTRACT FAN AND DUCT

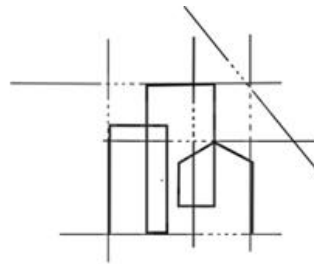
JAMES ROBERTSON ARCHITECT
R. Arch. Reg. Arch. A.R.I.B.A.

2 Fax Home
Private
Address
[REDACTED]

scale: 1 : 50 date: MAY 2023

user: checked

dwg no: **KK/FP-02**



PLANNING SERVICES UK
by Urbanara Ltd

**Apply to Vary (Remove) Planning conditions
Ref. No: 23/00594/APP**

**Part Change of Use of Retail Unit to Incorporate Hot
Food Take Away at 23 Adamton Road North
Prestwick, South Ayrshire KA9 2HY**

Philip M. Landa
Planning Consultant
BSc. (Hon), MSc. In Town and Country Planning
Planning Services UK
35 Clydesdale Street
Hamilton ML3 0DD

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1.0 Introduction

- 1.1 This statement is submitted in connection with **Application Ref No. 23/00594/APP**, pertaining to the site at **23 Adamton Road North, Prestwick**, and the proposal to change the **use of a retail unit to incorporate a hot food takeaway**.
- 1.2 The Local Review Body (LRB) granted the application **on 19 March 2024**, subject to certain conditions outlined in the decision notice. The LRB agreed that this application be approved, and planning permission be granted to the appropriate conditions as follows:
- i. That the development hereby permitted must be begun within three years of the date of this permission.
 - ii. 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.
 - iii. That within three months of the date of issue of planning consent, a scheme of parking mitigation shall be required to be agreed upon and implemented on-street. The parking mitigation scheme shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). It is anticipated that the scheme would consist of a combination of bollards, road marking and signage.
- 1.3 This document will outline the reasoning behind the request to remove Condition 3 and demonstrate that its removal is consistent with planning policies, does not adversely affect the surrounding environment, and aligns with the public interest and intended outcomes of the approved application.

Reasons:

- i. 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.
- ii. To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- iii. In the interest of road safety.

2.0 Reasons and Justification

- 2.1 This statement provides a comprehensive justification for removing **Condition 3**, attached to the planning consent granted by the Local Review Body (LRB) on 19 March 2024 for **Application Ref No. 23/00594/APP**, concerning the part change of use at **23 Adamton Road North, Prestwick, South Ayrshire**.

Condition 3 states:

"Within three months of the date of issue of planning consent, a scheme of parking mitigation shall be agreed upon and implemented on-street. The parking mitigation scheme shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). It is anticipated that the scheme would consist of a combination of bollards, road markings, and signage."

- 2.2 While the intent of Condition 3—to address potential parking and traffic impacts—is acknowledged, its implementation introduces disproportionate obligations, accessibility barriers for disabled individuals, and possible legal and practical conflicts with planning and disability standards. This condition is not necessary, reasonable, or proportionate and is therefore incompatible with the principles of planning policy and inclusive design.

2.3 **Accessibility Impacts: Negative Effects on Disabled Individuals**

Installing bollards as part of a parking mitigation scheme raises significant accessibility concerns, particularly for disabled individuals who rely on vehicles with adaptations or require more expansive spaces for safe transfers between vehicles and pavements.

i. Restricted Door Opening for Vehicles

Bollards placed close to the kerb may prevent vehicle doors from opening fully, creating difficulties for individuals who require a wide door arc to transfer safely. For wheelchair users or those using mobility aids, this obstruction could make it impossible to enter or exit a vehicle safely. Furthermore, vehicles with adaptations, such as ramps or lift mechanisms, require additional clearance, which poorly placed bollards fail to provide.

ii. Increased Risks for Wheelchair Users

If bollards block the deployment of ramps or lifts, wheelchair users may be forced to exit directly onto the road, creating a significant safety hazard. This issue is particularly acute in busy urban environments, where the lack of a safe exit onto a pavement increases the risk of accidents.

iii. Impact on Safety and Independence

Barriers caused by poorly designed bollard placement limit independence for disabled individuals. Those with limited mobility or vision impairments may be unable to navigate these obstacles without assistance. Such barriers contradict the aims of the **Equality Act 2010**, which requires public infrastructure to provide accessible and inclusive spaces.

iv. Conflict with Disability Legislation and Standards

The **Equality Act 2010** mandates that public spaces do not create undue barriers for disabled individuals. Poor bollard placement may violate this requirement by restricting access to pavements and kerbs, potentially exposing the planning authority to legal challenges. Standards such as **BS 8300-2:2018** (Design of Accessible and Inclusive Built Environment) recommend clear pathways and unobstructed access for disabled individuals, which this condition fails to address adequately.¹

2.4 Site Design and Safety Issues

Beyond accessibility, introducing bollards as part of a parking mitigation scheme has broader implications for the site's functionality and safety.

i. Cluttered Urban Space

Bollards add to street clutter, narrowing effective pavement widths and making manoeuvring harder for those using mobility aids, pushchairs, or bicycles. Inadequate spacing between bollards may force pedestrians into unsafe or indirect routes, contradicting the principles of **Inclusive Mobility (UK)**, which emphasises maintaining clear and accessible pathways.

ii. Inadequate Spacing Standards

Guidelines recommend that bollards be spaced to maintain a minimum gap of 1.2–1.5 metres to ensure accessibility. However, in areas where vehicles frequently stop for loading or passenger drop-offs, such spacing may still be insufficient to accommodate adapted vehicles or larger mobility aids. Poorly planned bollard schemes exacerbate the risk of non-compliance with accessibility standards.²

¹ Equality Act (2010): <https://www.legislation.gov.uk/ukpga/2010/15/contents>

² <https://wheelsforwellbeing.org.uk/inclusive-cycle-infrastructure-guide-vehicle-access-restriction-bollards/>

iii. **Impact on Emergency and Service Vehicles**

Bollards near the kerb can hinder essential services, such as ambulances, adapted taxis, or other vehicles catering to disabled passengers. These vehicles need unrestricted access to safely drop off or pick up individuals, particularly those with limited mobility.

2.5 **Legal, Policy, and Precedent Considerations**

The imposition of Condition 3 conflicts with established planning principles and legal obligations under national and local frameworks:

- i. **The Town and Country Planning (Scotland) Act 1997 (as amended) states that planning** conditions must balance the needs of development with public interest and accessibility.
- ii. **Circular 4/1998 (The Use of Conditions in Planning Permissions) states that conditions** must meet six tests: necessary, relevant to planning, relevant to the development, enforceable, precise, and reasonable. Condition 3 fails the necessity and reasonableness tests as the proposed development does not demonstrably increase parking demands beyond what existing infrastructure can support.³
- iii. **Equality Act 2010:** Imposing barriers to accessibility through poorly designed bollards risks non-compliance with this Act, which requires that public spaces accommodate the needs of disabled individuals.
- iv. **Scottish Planning Policy (SPP) (2014):** Emphasises the importance of proportionate planning conditions that support, rather than hinder, economic activity and inclusivity.

Precedents from similar planning applications within South Ayrshire show that such conditions are not typically imposed for developments of this scale. Introducing a small hot food takeaway does not warrant disproportionate parking mitigation measures, particularly where existing infrastructure is sufficient.

³ <https://www.gov.scot/publications/planning-circular-4-1998-use-of-conditions-in-planning-permissions/>

3.0 Summary

- 3.1 This statement justifies the removal of **Condition 3** attached to the planning consent for **Application Ref No. 23/00594/APP** concerning the part change of use at **23 Adamton Road North, Prestwick, South Ayrshire**. Condition 3 requires the implementation of a parking mitigation scheme, including bollards, road markings, and signage, to be agreed upon and completed within three months of consent.
- 3.2 The condition is unnecessary and disproportionate given the nature and scale of the development, the adequacy of existing parking infrastructure, and the significant accessibility and legal concerns it raises. Bollards, as proposed in the mitigation scheme, present physical barriers to disabled individuals by restricting vehicle door access and obstructing the use of ramps or lifts, forcing wheelchair users and those with limited mobility into unsafe conditions. This conflicts with the **Equality Act 2010**, which mandates accessibility and inclusivity in public spaces, and standards such as **BS 8300-2:2018** and **Inclusive Mobility (UK)**.⁴
- 3.3 The condition adds unnecessary street clutter, reduces pavement usability, and risks obstructing essential services like ambulances or adapted taxis. Additionally, its implementation timeline is impractical, and the financial burden on the applicant is unreasonable. Similar developments within South Ayrshire have not faced comparable requirements, establishing a precedent for this condition's removal.
- 3.4 Removing Condition 3 aligns with the principles of **Scottish Planning Policy (2014)**, **Circular 4/1998**, and the **Town and Country Planning (Scotland) Act 1997**, which require planning conditions to be necessary, proportionate, and reasonable. The development can proceed without compromising public safety, accessibility, or infrastructure, making the condition redundant.
- 3.5 We respectfully request that Condition 3 be removed to ensure the development complies with legal, planning, and accessibility standards while avoiding undue hardship for the applicant.

4

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1044542/inclusive-mobility-a-guide-to-best-practice-on-access-to-pedestrian-and-transport-infrastructure.pdf

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Appendix 1

Appeal Statement

**Part Change of use of the retail unit to
incorporate hot food takeaway at 23 Adamton
Road North Prestwick South Ayrshire KA9
2HY.**

Planning Services UK
69-71 Aberdalgie Road
Glasgow, G34 9HJ


www.planning-services.co.uk

INTRODUCTION

The site in question is located at 23 Adamton Road, North Prestwick, in South Ayrshire, with a postcode of KA9 2HY. The red line on ScotLIS can distinguish the boundary of the property's area. The retail convenience store at this address is classified as Class 1A and is located in a residential area, surrounded mostly by homes.

To the north of the store is a detached hairdresser's salon, while a vehicular access lane leading to a series of lockups wraps around the site's rear curtilage to the east.



REASON FOR APPEAL

- i. **That the proposed part change of use of the retail unit to incorporate hot food takeaway is contrary to the provisions of National Planning Framework 4, specifically National Policy 14: Design, quality and Place, National Policy 23: Health and Safety and National Policy 27: City, town and commercial centres, by reason that a hot food takeaway does not represent an appropriate or compatible use within a residential area, as such use shall undermine the established residential character of the surrounding area and result in a detrimental impact on the amenity of residential properties by way of increased noise and disturbance.**

RESPOND:

While it is true that the proposed change of use to incorporate a hot food takeaway may raise concerns related to the provisions of National Planning Framework 4, specifically National Policy 14, 23, and 27, it is important to consider a broader perspective that considers the evolving nature of urban areas and the needs of residents.

1. Diverse Urban Environments:

Urban areas are dynamic and constantly evolving. The concept of mixed-use zoning has gained prominence in urban planning to create vibrant and diverse neighbourhoods. Allowing a hot food takeaway in a residential area can contribute to a more diverse and active urban environment. Residents can benefit from increased access to convenient food options within walking distance, reducing the need for long trips to distant commercial centres.

2. Economic Benefits:

Introducing a hot food takeaway can also bring economic benefits to the community. It can create job opportunities for local residents and stimulate economic activity in the neighbourhood. Small businesses like hot food takeaways often contribute to the local economy and help revitalize areas that might otherwise face economic stagnation.

3. Mitigating Concerns:

It is possible to implement strict regulations and guidelines to address noise and disturbance concerns. Modern kitchen equipment and soundproofing technologies can significantly reduce noise levels associated with food preparation and service. Additionally, operating hours can be limited to minimise disruptions during late-night hours.

4. Community Engagement:

Before dismissing the proposal outright, engaging with the local community to gather their input and preferences would be beneficial. Conducting a thorough impact assessment, involving residents in the decision-making process, and making necessary adjustments to the hot food takeaway's design and operation can help balance commercial activity and residential amenities.

In conclusion, while introducing a hot food takeaway in a residential area may initially raise concerns, careful planning, community engagement, and adherence to regulations can mitigate potential negative impacts. Encouraging a diverse urban environment and supporting local businesses can contribute positively to the overall quality of life in the neighbourhood.

- ii. **That the proposed part change of use of the retail unit to incorporate hot food takeaway is contrary to the provisions of the South Ayrshire Local Development Plan 2, specifically LDP 2 Policy: Residential Policy within Settlements, Release Sites and Windfall Sites and LDP 2 Policy: Town Centres, by reason that a hot food takeaway does not represent an appropriate or compatible use within a residential area, that the proposed hot food takeaway will have a significant adverse impact on the amenity of residential properties as a result of increased noise and disturbance, particularly during early morning and late evening, and that the hot food takeaway has not been located within a peripheral town centre area or local neighbourhood centre, both of which are identified as suitable for hot food takeaways.**

RESPOND:

While it is essential to consider the provisions of the South Ayrshire Local Development Plan 2, it is also crucial to assess the specific circumstances and potential benefits associated with the proposed change of use to incorporate a hot food takeaway in this residential area.

1. Evolving Consumer Demands:

Consumer preferences and lifestyles have evolved. With the increasing demand for convenient and diverse dining options, adapting to these changing preferences is necessary. The presence of a hot food takeaway can cater to the needs of residents who may appreciate the convenience of nearby food options, especially during early morning and late evening hours when other food establishments may be closed.

2. Economic Viability:

While the Local Development Plan may suggest that hot food takeaways should be located in peripheral town centres or local neighbourhood centres, it's worth noting that these guidelines were developed based on historic urban planning norms. In some cases, rigid adherence to such guidelines may not consider specific neighbourhoods' unique characteristics and needs. The economic viability of a hot food takeaway in a peripheral location may be questionable, whereas locating it within a residential area could potentially contribute to its sustainability.

3. Local Business Growth:

Supporting the establishment of a hot food takeaway in this residential area can foster local entrepreneurship and contribute to the local economy. Small businesses often play a vital role in creating jobs and stimulating economic activity within communities. It's essential to weigh the potential economic benefits against concerns about noise and disturbance.

In conclusion, while the Local Development Plan guidelines are essential, they should not be applied rigidly without considering the unique context and needs of the specific location. Adapting to changing consumer preferences and fostering local economic growth should also be considered when evaluating the appropriateness of a hot food takeaway in a residential area. Careful planning and mitigation measures can help balance residential amenity and commercial activity.

SUMMARY

In conclusion, the General Store in question has successfully established itself as a vital community hub, adeptly balancing a diverse range of products and services while adhering to regulatory standards and emphasising quality and convenience. Its operations are firmly rooted in retail, offering an extensive selection of food, beverages, alcohol, and general merchandise, aligning with the everyday needs of its customers. Although a valuable addition, the store's ancillary hot food service remains a minor aspect of the business, underscoring its primary function as a General Store rather than a food outlet.

In light of the foregoing, it is imperative to emphasise that planning consent is not a prerequisite in the present circumstance, **given that the proposed alteration remains ancillary to the primary operation of the class 1 retail shop.**

Planning consent would only be necessitated in the event that the ancillary use assumes a dominant role within the property.

The clarification of ancillary use, as delineated by precedents like Glasgow DC v Secretary of State for Scotland (1985) and Alexandra Transport Co Ltd v Secretary of State for Scotland (1974), reinforces the store's primary retail orientation. The careful balance maintained between the primary and ancillary uses ensures compliance with Use class order provisions, avoiding material changes in use that would require additional planning permissions.

Overall, the General Store's strategic approach to product diversity, community integration, and adherence to legal and quality standards positions it as a key player in the local retail landscape, while its careful management of ancillary services aligns seamlessly with its overarching retail objectives.

Considering this, we would ask the Local Review Body to consider granting this appeal.

Planning Services UK Teams
Planning Consultant



PLANNING STATEMENT FOR PART CHANGE OF USE OF THE RETAIL UNIT TO INCORPORATE HOT FOOD TAKE AWAY

On behalf of Mr. Kulwinder Kaur, at 23
Adamton Road North, Prestwick, South
Ayrshire KA9 2HY



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1.0 INTRODUCTION

TmC Planning and Property Development Ltd have been tasked with preparing and submitting a planning statement and application to obtain Planning permission for a partial change of use of the retail unit located at 23 Adamton Road North Prestwick, South Ayrshire KA9 2HY, to incorporate a hot food takeaway.

The site's location can be on the site location plan, as depicted by the red line in Figure 1.

The purpose of this planning statement is to provide a thorough summary of the site location, development proposal, relevant planning policies, and supplementary guidance. It serves as a valuable point of reference for the planning proposal.

Furthermore, this statement aims to offer a comprehensive overview of all the critical information concerning the development and assessment in accordance with The National Planning Framework 4, Adopted Local Development Plan, Supplementary Guidance, and other applicable policies.

It should be noted that a previous application was denied, primarily due to environmental concerns that have since been addressed. The remaining grounds for refusal are disputed, and this planning statement intends to address them.

2.0 SITE BACKGROUND

2.1 Location of site

The site in question is located at 23 Adamton Road, North Prestwick, in South Ayrshire, with a postcode of KA9 2HY. The red line on ScotLIS can distinguish the boundary of the property's area. The retail convenience store at this address is classified as Class 1A and is located in a residential area, surrounded mostly by homes.

To the north of the store is a detached hairdresser's salon, while a vehicular access lane leading to a series of lockups wraps around the site's rear curtilage to the east.



Figure 1: Site Location, ScotLIS



2.2 Current Use

The building is currently a one-and-a-half-storey general grocery store, constructed around 60 years ago. A planning application was approved in 2020 for converting the adjacent house to form an extension to the retail unit.

This property is currently being utilised as retail premises, which include a sales area, two storerooms, and a staff restroom.



Figure 3: External Views

2.3 Surrounding Area

The area surrounding the grocery store is mainly residential. The Map below shows the location of the retail unit. The red line indicates a ½ mile radius.



Figure 4: The surrounding area

3.0 PLANNING HISTORY

A few planning histories have been recorded for this property, 23 Adamton Road North Prestwick Ayrshire KA9 2HY.

| No | Application | Reference No. | Status |
|----|--|---------------|-----------------------|
| 1. | Erection Of Illuminated Fascia Board & Hanging Signs | 96/00069/ADV | Historic Approval |
| 2. | Formation Of New Shopfront | 96/00607/FUL | Historic Approval |
| 3. | Erection Of Internally Illuminated Projecting Box Sign | 96/00058/ADV | Unknown |
| 4. | Alterations and extensions to existing shop | 00/00392/FUL | Approved |
| 5. | Alterations and extensions to the existing shop | 00/00392/FUL | Unknown |
| 6. | Change of use and alterations of dwellinghouse to form an extension to existing shop | 20/00689/APP | Unknown |
| 7. | Change of use and alterations of dwellinghouse to form an extension to existing shop | 20/00859/APP | Unknown |
| 8. | Part change of use of the retail unit to incorporate hot food takeaway | 23/00397/APP | Refusal + Enforcement |

4.0 PROPOSAL

4.1 Proposal for Development

The proposal is for retail diversification by converting part of the premise to sell hot food. The intended time of service is from 7 am to 3 pm. The owner wants to close before school children are on their way home from school.

The hot food part of the retail premises employs five people with a mixture of part-time and full-time roles.

Employment

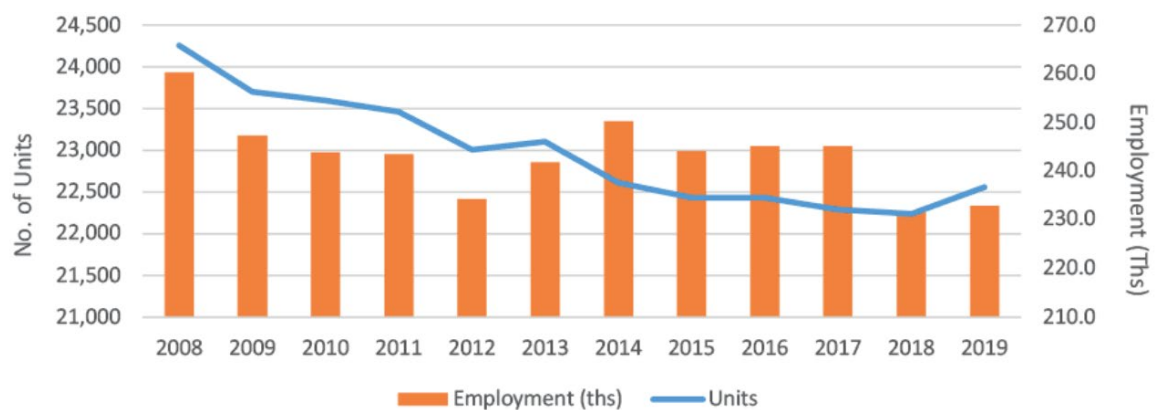


Figure 4: Employment

The visual representation depicted above, from *Getting the Right Change – retail strategy for Scotland*¹ illustrates a notable decrease of 30,000 employees within the retail industry since 2008. It is widely acknowledged that retail enterprises that fail to broaden their scope of operations may encounter difficulties in retaining their customer base. Our client's judicious strategy of diversifying their business operations will ensure profitability and sustain their current workforce.

¹ (Scottish Government, 2022)

Due to the recent expansion of grocery delivery services, small retailers, such as the applicants, are compelled to maximise the utilisation of their premises. To remain competitive, small grocers must contend with established companies like Store2door, Snappy Shopper, One Shop, and even transportation giants like Uber and Eat that have begun to offer grocery delivery services.

Additionally, larger grocery store chains such as Tesco Local, Spar, Coop, Scotmid, One to One, and Morrisons have also entered the small grocery store market, adding to the challenge small grocers face. Moreover, these larger companies offer hot food items, increasing competition for small grocery stores.

5.0 RELEVANT POLICIES

According to Section 25 of the Town and Country Planning (Scotland) Act 1997, planning applications should follow the Local Development Plan unless material considerations suggest otherwise. The planning statement aims to identify the policies that the proposed development complies with within the South Ayrshire Local Development Plan.

5.1 NATIONAL PLANNING FRAMEWORK 4

Local Living and 20 minute neighbourhoods

Policy Principles

Policy Intent:

To encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.

Policy Outcomes:

- Places are planned to improve local living in a way that reflects local circumstances.
- A network of high-quality, accessible, mixed-use neighbourhoods which support health and wellbeing, reduce inequalities and are resilient to the effects of climate change.
- New and existing communities are planned together with homes and the key local infrastructure including schools, community centres, local shops, greenspaces, health and social care, digital and sustainable transport links.

Local Development Plans:

LDPs should support local living, including 20 minute neighbourhoods within settlements, through the spatial strategy, associated site briefs and masterplans. The approach should take into account the local context, consider the varying settlement patterns and reflect the particular characteristics and challenges faced by each place. Communities and businesses will have an important role to play in informing this, helping to strengthen local living through their engagement with the planning system.

Policy 15

- a) Development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development

with the surrounding area, including local access to:

- sustainable modes of transport including local public transport and safe, high quality walking, wheeling and cycling networks;
- employment;
- shopping;
- health and social care facilities;
- childcare, schools and lifelong learning opportunities;
- playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
- publicly accessible toilets;
- affordable and accessible housing options, ability to age in place and housing diversity.

Policy impact:

- ✓ Just Transition
- ✓ Conserving and recycling assets
- ✓ Local living
- ✓ Compact urban growth
- ✓ Rebalanced development
- ✓ Rural revitalisation

Key policy connections:

- [Tackling the climate and nature crises](#)
- [Climate mitigation and adaptation](#)
- [Sustainable transport](#)
- [Design, quality and place](#)
- [Infrastructure first](#)
- [Quality homes](#)
- [Blue and green infrastructure](#)
- [Play, recreation and sport](#)
- [Community wealth building](#)
- [City, town, local and commercial centres](#)
- [Retail](#)

The support of a local grocery store will help with local 20-minute neighbourhoods as supported by Policy 15 of NPF4.

Policy 28 C of the NPF4 States, Proposals for new small-scale neighbourhood retail development will be supported where the proposed development:

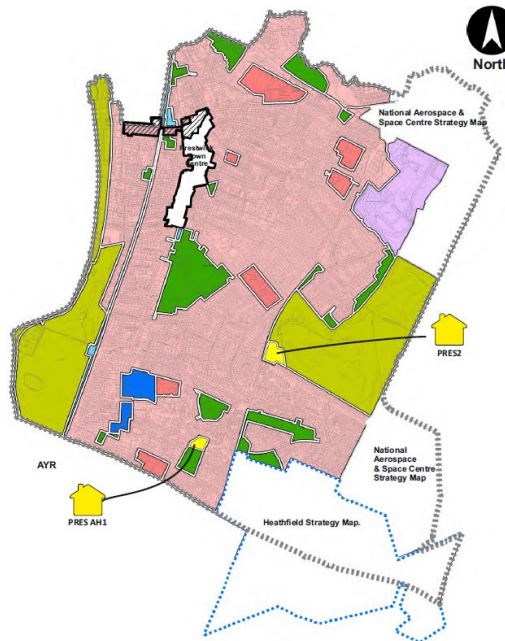
- i. contributes to local living, including where relevant 20-minute neighbourhoods.

5.2 SOUTH AYRSHIRE LOCAL DEVELOPMENT PLAN 2022

Prestwick

Legend

| | |
|---|--|
|  | Settlement Boundaries |
|  | Proposed Housing Release Sites |
|  | Community Facility |
|  | Conservation Area |
|  | General Industry |
|  | General Retail |
|  | Office |
|  | Open Space |
|  | Predominantly Residential Area |
|  | Existing Housing Allocation Site |
|  | Significant leisure/recreation/tourism |
|  | Transport |
|  | General Industry |



Map not to scale

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5.2.1 POLICY 1: SUSTAINABLE DEVELOPMENT

STRATEGIC POLICY 1: Sustainable Development

We will support the principles of sustainable development by making sure that development meets the following standards

- Respects, protects and where possible, enhances natural, built and cultural heritage resources.
- Protects and safeguards the integrity of designated sites.
- Protects peat resources and carbon rich soils.
- Does not have a negative effect on air or water quality
- Incorporates sustainable urban drainage and avoids increasing (and where possible reduces) risks of, or from all forms of flooding.
- Respects the character of the landscape and the setting of settlements.
- Respects, and where possible contributes to the Central Scotland Green Network.
- Makes efficient use of land and resources.
- Ensures appropriate provision for waste water treatment, avoids the proliferation of private treatment systems and connects foul drainage to the public sewerage system wherever feasible.
- Contributes to an efficient use of, or provision for public services, facilities and infrastructure.
- Embraces the principles of 'place-making' and the '6 qualities of Place'
- Wherever possible, is in an accessible location, with opportunities for the use of public transport, and other sustainable transport modes including cycling and walking.
- Designed to maximise energy efficiency through building siting, orientation and materials,
- Helps mitigate and adapt to the effects of climate change.
- Includes the use of micro-renewables, wherever appropriate
- Wherever possible, Incorporates or facilitates the development of District heating / heat networks.
- Respects the Scottish government's Zero waste Objectives.
- When considering development proposals, due weight will be given to the consideration of net economic benefit.

The inclusion of small-scale hot food sales within retail premises can make a significant contribution towards reducing carbon emissions. By providing customers with the convenience of finding all their necessities in one location, walking and cycling are encouraged. Additionally, this approach can reduce the need for motorised transport to travel to other locations to obtain hot food provisions, promoting sustainable development.

5.2.2 Retail Outside of the Town Centre

Retail outside of the town centre

We will only consider locations outside of town centres if the development proposed is less than 1000 square metres gross floorspace and meets local neighbourhood needs or where there are no other sites that would suit the sequential approach, and:

- a. the scale, design and access arrangements are appropriate, and there will be no significant negative effect on the vitality and viability of existing centres (a retail impact assessment will have to be carried out if the proposal is for more than 2500 square metres gross floorspace)
- b. the development site is well connected to public transport and walking and cycling networks; and
- c. where there is clear evidence that the proposal will meet a quantitative or qualitative deficiency.

Note: Please see LDP Policy: small town centres and local neighbourhood centres for development proposals relating to retail development at South East Ayr.

As evidenced by previous planning applications, the proposed partial change of use has been deemed feasible within a building that satisfies the appropriate scale and design requisites. Including a hot food takeaway within the premises is not expected to harm the overall character of the immediate local community or the Prestwick town centre. Furthermore, the store's location is highly convenient, being situated across from a bus stop and easily reachable by local community members on foot or by bicycle.

5.2.3 POLICY: SMALL TOWN CENTRES AND LOCAL NEIGHBOURHOOD

CENTRES

Small Town Centres and Local Neighbourhood Centres

Not all shops are based in town centres – corner shops and shops in neighbourhood centres and smaller settlements also serve local needs. Pubs and hotels are also valuable, commercially and to the community.

LDP policy: small town centres and local neighbourhood centres

We aim to keep our local shops, pubs and community facilities so that people do not have to travel for goods and services. This will help prevent areas from becoming isolated from essential facilities, especially for people who are less mobile.

Within local centres and small settlements, particularly in town centres, we will protect pubs and hotels, shops and Class 2 office developments that serve local communities.

We will support proposals for new shops and offices at local centres and small settlement town centres where they provide extra services and amenities for local communities, and otherwise comply with retail policies in this LDP. We will be sympathetic to proposals for investment in new or existing businesses in these locations. We will assess the effect of proposals for amusement centres and hot-food takeaways in these areas on the character and amenity of surrounding areas and, particularly, schools and homes.

The council will prepare Supplementary Guidance, including a site design brief, which identifies land for a local neighbourhood centre and community facilities within phase 1 of the South East Ayr development (Corton), to serve the local catchment, together with provision for active, public and private modes of transport.

We will also consider the effect of the cumulative impact of the provision of retail floorspace outwith town centres, where relevant.

The presence of Neighbourhood Centres is of utmost importance to local communities. Even if an area has only one convenience store and a hair salon, it can still be considered a neighbourhood centre, albeit in an unofficial capacity. Supporting local stores can prevent the area from becoming isolated.

The local planning authority has expressed willingness to support investments in established businesses. That being said, the policy stipulates that the impact of hot food takeaways on the character of the area and its proximity to schools and homes will be considered during the assessment.

Our assessment of the surrounding area.



Figure 5: Del's Hot and Cold Rolls

Furthermore, other Convenience stores within the Prestwick area sell hot food. We have listed these below.

SPAR Deals Products Services Recipes Community Become a SPAR Retailer About Store Locator

NEW PRESTWICK
 Jewson Prestwick
 Ayrshire Alignment
 Shred Skatepark
 HEATHFIELD
 Callander Rd
 Ward Cr
 Carradale Ave
 Google
 Map data ©2023

PRESTWICK
 KA9 2LQ

Saturday 07:00 - 22:00
 Sunday 07:00 - 22:00

Directions

SERVICES AT CARRADALE DRIVE

- Costa
- Collect Plus
- Fresh Fruit & Veg
- Contactless
- collect#
- Off Licence
- Paypoint
- Hot Food
- ATM
- Lottery
- Apple Pay

SPAR Deals Products Services Recipes Community Become a SPAR Retailer About Store Locator

01292 618246

Address
74
Main Road
Whitletts
Ayr
KA8 0LQ

[Directions](#)

| | |
|-----------|---------------|
| Tuesday | 07:00 - 22:00 |
| Wednesday | 07:00 - 22:00 |
| Thursday | 07:00 - 22:00 |
| Friday | 07:00 - 22:00 |
| Saturday | 07:00 - 22:00 |
| Sunday | 08:00 - 22:00 |

SERVICES AT WHITLETTS

- Costa
- Off Licence
- ATM
- Lottery
- Fresh Fruit & Veg
- Fresh Meat
- Paypoint
- Hot Food
- Apple Pay
- Contactless

As indicated above, it is not uncommon for larger franchised convenience stores to offer hot food for sale. To ensure that planning authorities act fairly and consistently within the local area and throughout the region, this application is expected to be approved.



Figure 6: Shaw Stores, Fast Food and Take away.



There's a Shaw Stores fast food/takeaway situated at 25 Shaw Road, Prestwick KA9 2LW. The business hours are open from 8:00 am to 2:30 pm, and unfortunately, there are no parking spaces available at the location.

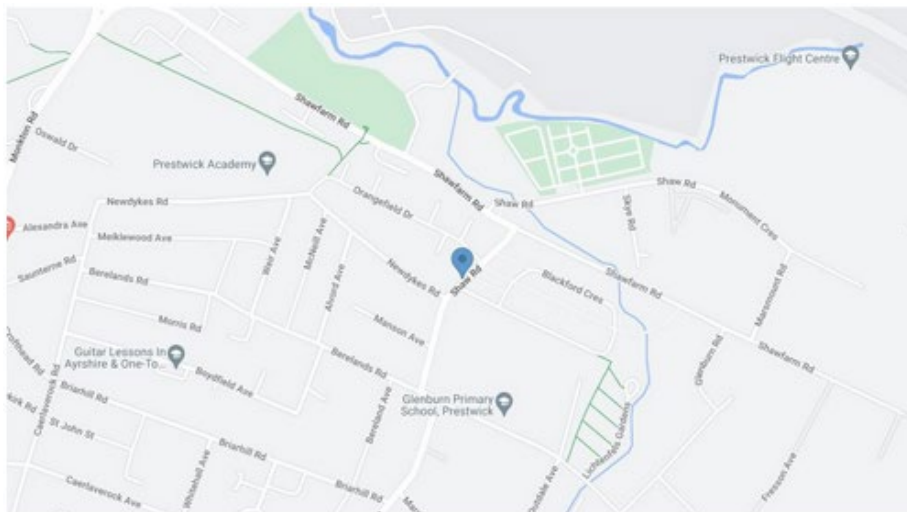


Figure 7: Shaw Store Location and Business Hours

Environmental Impact on Surroundings

The closest residential property is located next to the property in question. We observed that the occupants raised no objections to the previously rejected application. The closest residential property is located next to the property in question. We observed that the occupants raised no objections to the previously rejected application.

A commercial hairdresser currently occupies the next nearest property. As for the rear area, it is leased out as garages and houses an electrical substation.

6.0 NOISE IMPACT

The client engaged the services of accredited acoustic engineers to conduct a Noise impact assessment with respect to the extraction system. It is important to note that the assessment results revealed no cause for concern.

7.0 SUMMARIES

To summarise, the proposed change of use application has been thoroughly reviewed. It has adhered to all relevant policies and supplemental guidance to preserve the design and character of the area. This application aligns with the National Planning Framework 4 policies and South Ayrshire Local Development Plan, ensuring compliance with planning policy objectives in the region.

Additionally, the proposed development will not negatively impact residential amenities. Therefore, we respectfully request that the applicant be treated fairly and equitably in accordance with the standard procedures for all applications in the area. Unless significant and corroborated evidence is presented that would warrant the rejection of this application, we recommend its approval.

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23 Adamton Road North
Prestwick, South Ayrshire

2 August 2023

18414-NIA-01

Noise Impact Assessment

Project Number
18414

Issued For
Nick Kooner



EXECUTIVE SUMMARY

This noise impact assessment has been undertaken in order to assess a plant installation for commercial use at 23 Adamton Road North.

The plant installation comprises the following plant units:

- 1 No. Lindab 898461 ICL 200 Extract Fan Unit
- 3 No. JEHS-0200-B2-M-1 Condenser Units.
- 2 No. Toshiba Air Conditioning Units.

A background noise survey has been undertaken as detailed in the report, in order to determine an appropriate noise emission criterion, in accordance with the requirements of the South Ayrshire Council.

Calculations were undertaken for the nearest identified receiver, identified as 13 and 25 Adamton Road North. It should be noted that if there are closer receivers that Clement Acoustics is not aware of, a reassessment will be necessary, and this should therefore be confirmed by the Client.

It has been demonstrated that compliance with the established criterion is feasible, dependent on the following material considerations:

The extract fan and A/C plant is only in use between 07:00 and 22:00.

The noise emissions data for the units, as obtained from available manufacturer information.

Plant and receiver locations are as established in this report and marked on the attached site plan.

Mitigation is applied as recommended in this report, in the form of a suitable inline attenuator and paneled enclosure for the extract fan and the relocation of one condenser unit.

If there is any deviation from the above, Clement Acoustics must be informed, in order to establish whether a reassessment is necessary.

Clement Acoustics has used all reasonable skill and professional judgement when preparing this report. The report relies on the information as provided to us at the time of writing and the assumptions as made in our assessment.

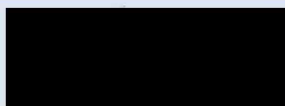

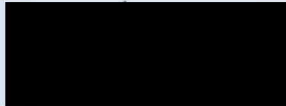
This report is designed to be suitable to discharge typical plant noise planning conditions, as per our original scope of work.

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| 18414-SP1 | Indicative Site Plan |
| 18414-TH1 | Environmental Noise Time History |
| Appendix A | Glossary of Acoustic Terminology |
| Appendix B | Noise Model |

| Issue | Date of Issue | Author | Reviewed | Authorised |
|-------|---------------|---|---|---|
| 0 | 02a/08/2023 |  Jamie Newton Senior Consultant BEng (Hons) MIOA |  Andrew Thomas Principal Consultant BSc (Hons) MIOA |  John Smethurst Director BSc (Hons) MIOA |

| Issue | Comment |
|-------|-------------|
| 0 | First Issue |

1.0 INTRODUCTION

Clement Acoustics has been commissioned by Nick Kooner to measure existing background noise levels at 23 Adamton Road North. Measured noise levels have been used to determine noise emissions criteria for a plant installation in agreement with the planning requirements of the South Ayrshire Council.

This report presents the results of the environmental survey followed by noise impact calculations and outlines any necessary mitigation measures.

An acoustic terminology glossary is provided in Appendix A.

2.0 SITE DESCRIPTION

The site is a small local supermarket on Adamton Road North, bound by garage buildings to the south-east, No. 25 Adamton Road to the south-west, Adamton Road North to the north-west, and No. 21 Adamton Road North to the north-east. The surrounding area is predominantly residential in nature.

Six items of fixed plant have been installed, the plant is associated with refrigeration, climate control and hot-food production at the site.

No. 13 Adamton Road North to the north-east and No. 25 Adamton Road North to the south-west have been identified as the nearest affected receivers. These nearest noise sensitive receivers were identified through observations on-site. If there are any receivers closer to that identified within this report then a further assessment will need to be carried out. Therefore, the closest noise sensitive receiver should be confirmed by the client before the plant is installed or any noise mitigation measures are implemented.

Locations are shown in attached site plan 18414-SP1.

3.0 ENVIRONMENTAL NOISE SURVEY

3.1 Unattended Noise Survey Procedure

Measurements were undertaken at one position as shown on indicative site drawing 18414-SP1. The choice of this position was based both on accessibility and on collecting representative noise data in relation to the nearest affected receiver.

The surroundings and position used for the monitoring location are described in Table 3.1.

| Position No. | Description |
|--------------|---|
| 1 | The microphone was mounted on a 1st storey flat roof at the back of the building. The microphone was positioned > 3.5 m in front of the wall. [1] |

Table 3.1 Description of unattended monitoring locations

Note [1]: The position was considered to be free-field according to guidance found in BS 4142: 2014, and a correction for reflections has therefore not been applied.

Continuous automated monitoring was undertaken for the duration of the survey between 13:30 on 21 June 2023 and 13:30 on 22 June 2022.

The measurement procedure generally complied with BS 7445: 1991: 'Description and measurement of environmental noise, Part 2- Acquisition of data pertinent to land use'.

3.2 Weather Conditions

At the time of set-up and collection of the monitoring equipment the weather conditions were dry with light winds. It is understood that the weather conditions during the unattended survey remained dry with wind speeds below 5 m/s.

It is considered that the weather conditions did not significantly adversely affect the measurements and are therefore considered suitable for the measurement of environmental noise.

3.3 Equipment

The equipment calibration was verified, by means of a field verification check, before and after use and no abnormalities were observed.

The equipment used was as follows.

- 1 No. Svantek Type 977 Class 1 Sound Level Meter
- Norsonic Type 1251 Class 1 Calibrator

4.0 RESULTS

4.1 Unattended Noise Survey Results

The $L_{Aeq: 5min}$, $L_{Amax: 5min}$, $L_{A10: 5min}$ and $L_{A90: 5min}$ acoustic parameters were measured at the location shown in site drawing 18414-SP1.

Measured noise levels are shown as a time history in Figure 18414-TH1, with average ambient and typical background noise levels summarised in Table 4.1.

| Position | Time Period | Average ambient noise level $L_{Aeq: T}$, dB | Typical background noise level $L_{A90: 5min}$, dB |
|----------|-------------------------------------|--|--|
| 1 | Daytime (07:00 - 23:00) | 49 | 43 |
| | Night-time (23:00 - 07:00) | 46 | 40 |
| | Operating Period (07:00 – 22:00) | 49 | 43 |

Table 4.1 Average ambient and typical background noise levels

5.0 NOISE CRITERIA

5.1 Local Authority Criteria

The South Ayrshire Council set two planning conditions relating to noise for the plant installation. These conditions are as follows:

- “(5) *Maximum Target Noise Levels within the noise sensitive receptor to be used are as follows;*
LAEQ16hrs 35dB (0700-2300) internal noise level
LAEQ 8hrs 30dB (2300-0700) internal noise level
LAMAX 45dB (2300-0700) internal noise level
LAEQ 16hrs 50dB (0700-2300) outside amenity space
In addition, the significance of effect to be no greater than neutral as per Technical Advice Note Assessment of Noise (TAN) Table 3.5 page 20 Insert quote here
- (6) *prior to the commencement of development, an acoustic consultant's report or manufacturer's specifications demonstrating that the ventilation extraction system/refrigeration condenser units complies with noise rating criteria 25 when measured within a habitable room of the nearest noise sensitive dwelling with windows open sufficiently for ventilation”*

Table 3.5 of TAN is recreated below in Table 5.1

| Magnitude of Impact (After – Before) $L_{Aeq,T}$ dB ^[1] | Sensitivity of Receptor based on likelihood of complaint, $x = \text{Rating } (L_{ar,tr}) - \text{Background } (L_{A90,T})$ dB | | |
|--|--|-------------------------|--------------------|
| | Low ($x < 5$) | Medium ($5 = X < 10$) | High ($X = 10$) |
| Major (= 5) | Slight / Moderate | Moderate / Large | Large / Very Large |
| Moderate (3 – 4.9) | Slight | Moderate | Moderate / Large |
| Minor (1 – 2.9) | Neutral / Slight | Slight | Slight / Moderate |
| Negligible (0.1 – 0.9) | Neutral / Slight | Neutral / Slight | Slight |
| No Change (0) | Neutral | Neutral | Neutral |

Table 5.1 TAN Requirements

[1] rounded to one (1) decimal place

In order to limit the change in noise level to below 0.1 dB, the plant noise level ($L_{Aeq,T}$) at the nearest noise sensitive receivers must be at least 20 dB below the existing noise level at the receiver ($L_{Aeq,T}$). As the “neutral” significance is not dependent on the receiver sensitivity, the “X” value is not required to be calculated.

Based on the results of the environmental noise survey and requirements of South Ayrshire Council, Table 5.2 presents the plant noise emission criteria.

It is understood that the plant units will be for climate control use and extract for hot-food preparation, operational between 07:00 and 22:00.

| Location | | Plant Noise Emission Limit |
|------------------------------------|--------------------------------|-----------------------------|
| Closest Habitable Room | Outside Window – 07:00 – 22:00 | $L_{Aeq,T}$, 29 dB |
| | Outside Window – 24 Hour | $L_{Aeq,T}$, 26 dB |
| | Inside Room | $L_{Aeq,T}$, 35 dB / NR 25 |
| Residential External Amenity Space | | $L_{Aeq,T}$, 50 dB |

Table 5.2 Plant noise emission limits

6.0 PLANT NOISE IMPACT ASSESSMENT

6.1 Plant Installation

The plant installation comprises the following:

- 1 No. Lindab 898461 ICL 200 Extract Fan
- 3 No. JEHS-0200-B2-M-1 Condenser Units
- 1 No. Toshiba RAV-GM1401ATP-E Air Conditioning Unit
- 1 No Toshiba RAV-GM801ATP-E Air Conditioning Unit

Noise emissions for the plant units, as provided by the manufacturer, are shown in Table 6.1. Loudest modes of operation have been used in order to present a robust worst-case assessment.

| Unit | | Sound Power Level in each Frequency Band, Hz | | | | | | | | |
|---|-------------------|--|-----|-----|-----|----|----|----|----|-------|
| | | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k | dB(A) |
| Lindab 898461 ICL 200 Extract Fan | Induct Extract | 62 | 65 | 77 | 72 | 72 | 71 | 62 | 50 | 77 |
| | Unit Breakout | 52 | 54 | 64 | 60 | 60 | 59 | 52 | 42 | 65 |
| Unit | | Sound Pressure Level (at 1 m, dB) in each Frequency Band, Hz | | | | | | | | dB(A) |
| JEHS-0200-B2-M-1 Condenser Unit | | 56 | 56 | 54 | 51 | 48 | 42 | 34 | 29 | 53 |
| Toshiba RAV-GM1401ATP-E A/C Unit | | 58 | 45 | 43 | 42 | 40 | 35 | 28 | 20 | 44 |
| Toshiba RAV-GM801ATP-E A/C Unit | | 52 | 45 | 47 | 41 | 40 | 32 | 25 | 18 | 44 |

Table 6.1 Manufacturer provided noise emissions levels

The plant location is on the north-east and southeast façade of the site which is shown on indicative site plan 18414-SP1.

6.2 3D Noise Model

In order to provide an accurate and robust assessment of the plant installation, noise emissions have been considered by developing a noise map.

The plant noise emissions have been modelled using the following source types:

Condensers, A/C Units and Fan

- Point sources placed in the plant locations

Ventilation Plant Duct Terminations

- Point sources placed in the duct termination locations

The noise model was constructed using the proprietary noise modelling software package CadnaA, utilising the following assumptions and parameters:

- Noise levels modelled and calibrated using the manufacturer noise levels described in Section 6.1
- Locations of obstacles such as building envelopes
- Presence of reflecting surfaces
- Hardness of the ground between the sources and receivers
 - The site is modelled as reflective
- Attenuation due to atmospheric absorption
- Receiver height for first floor windows 4 m above ground
- Receiver heights for gardens 1.5 m above ground

It should be noted that all calculations in the CadnaA model, including those for distance and screening of intermediate building envelopes are undertaken according to International Standard ISO 9613-2:1996 '*Acoustics – Attenuation of sound during propagation outdoors. Part 2: General method of calculation*'. This standard is the preferred method stated in BS 4142 to minimise uncertainty.

The specific noise level has been derived by the use of the 3D noise map model following the calculation method stated in ISO 9613. Calculations are performed over single octave band from 63 Hz to 8 kHz.

Figure 6.1 and Appendix B show a plan view of noise propagation from the site, towards the identified receptors, with all measured noise sources operational.



Figure 6.1 Plan view of noise propagation in 3D noise mapping model

6.3 Proposed Mitigation Measures

6.3.1 Fan Duct Attenuator

In order to meet the criteria stated in Section 5.0, it is recommended that an attenuator is installed on the atmospheric side of the extract fan ducting. The attenuator should provide sufficient performance to achieve a maximum sound pressure level of 49 dB(A) when measured at 1 m in all directions from the duct terminus.

Based on the information provided, an enclosure meeting the insertion losses as stated in Table 6.2 should be suitable to achieve this. The attenuator should be fitted directly after the fan.

| Mitigation | Required Insertion Losses (dB) in each Frequency Band, Hz | | | | | | | |
|-----------------|---|-----|-----|-----|----|----|----|----|
| | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k |
| Duct Attenuator | 3 | 7 | 14 | 21 | 27 | 26 | 17 | 12 |

Table 6.2 Required insertion losses from mitigation

6.3.2 Fan Enclosure

In order to meet the criteria stated in Section 5.0, it is recommended that either the fan is relocated inside the envelope of the building or an enclosure is installed around the fan unit. The enclosure should provide sufficient attenuation to achieve a maximum sound pressure level of 39 dB(A) when measured at 1 m in all directions.

Based on the information provided, an enclosure constructed of 50 mm acoustic panelling meeting the sound reduction indices as stated in Table 6.3 should be suitable to achieve this.

| Mitigation | Required Attenuation (dB) in each Frequency Band, Hz | | | | | | | |
|---------------|--|-----|-----|-----|----|----|----|----|
| | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k |
| Fan Enclosure | 21 | 19 | 22 | 30 | 42 | 49 | 57 | 57 |

Table 6.3 Required attenuation from mitigation

6.3.3 Re-Locating of a Condenser Unit

At present, one JEHS-0200-B2-M-1 Condenser Unit is located on the north-east façade of the site with line-of-sight to both the garden and south-west facing first floor window of 13 Adamton Road North. It is therefore proposed that this unit is re-located to the south-east façade of the site, adjacent to the Toshiba air conditioning units, with the height of the unit being no more than 1.5 m above ground level, as presented in 18141-SP2.

6.4 Noise Impact Assessment

The closest receivers have been identified as 13 Adamton Road North and 25 Adamton Road North.

Screening of the nearest noise sensitive receptor is provided by 21 Adamton Road, the surrounding garage buildings and residential fences.

Taking into account all necessary acoustic corrections, the resulting noise level at the identified residential windows would be as shown in Table 6.4.

| External Receiver | | Design Criterion | Noise Level at Receiver (due to plant installation) |
|-----------------------|-----------------------------|------------------|---|
| 13 Adamton Road North | Nearest Window (Day time) | 29 dB(A) | 27 dB(A) |
| | Nearest Window (Night time) | 26 dB(A) | 18 dB(A) |
| | Garden | 50 dB(A) | 21 dB(A) |
| 25 Adamton Road North | Nearest Window (Day time) | 29 dB(A) | 21 dB(A) |
| | Nearest Window (Night time) | 26 dB(A) | 21 dB(A) |
| | Garden | 50 dB(A) | 41 dB(A) |

Table 6.4 Noise levels and project criterion at noise sensitive receivers

As shown in Table 6.4, the highest plant noise level at a noise sensitive window is 28 dB(A), a level 21 dB below the existing ambient noise level. This will lead to a change in noise level of less than 0.1 dB, leading to a “neutral” significance of effect when assessed against Table 3.5 of TAN.

Table 6.4 also shows a maximum plant noise level within an adjacent residential external amenity space of 38 dB(A), a level 12 dB below the criteria set out in the projects planning condition.

The loudest external noise levels outside a residential window of 28 dB(A) has been observed at 13 Adamton Road North, this corresponds to a noise rating level of NR 25. The planning condition states that a façade with a partially opened window is expected to provide 10 dB attenuation. The internal noise rating level has therefore been calculated to be NR 15, 10 dB lower than the NR 25 criteria stated in Section 5.1.

The plant installation with the mitigation measures proposed in Section 6.3 would be expected to meet the requirements of the proposed criteria.

7.0 CONCLUSION

An environmental noise survey has been undertaken at 23 Adamton Road North. The results of the survey have enabled criteria to be set for noise emissions from the plant installation in accordance with the requirements of the South Ayrshire Council.

A noise impact assessment has then been undertaken using manufacturer noise data to predict the noise levels, due to the plant installation, at the nearby noise sensitive receivers.




Calculations show that noise emissions from the units should meet the requirements of the South Ayrshire Council with the recommended mitigation installed as stated herein.



Not to scale

Description:
 Indicate site plan showing noise monitoring position and nearest sensitive receiver

| | |
|---------------------|--|
| Date | 02 August 2023 |
| Reference | 18414-SP1 |
| Project Name | 23 Adamton Road North, Prestwick, South Ayrshire |
| Image © | Google Earth |

| | |
|---|----------------------------------|
| Key: | |
|  | Unattended Noise Survey Position |
|  | Noise Sensitive Receiver |
|  | Site Location |



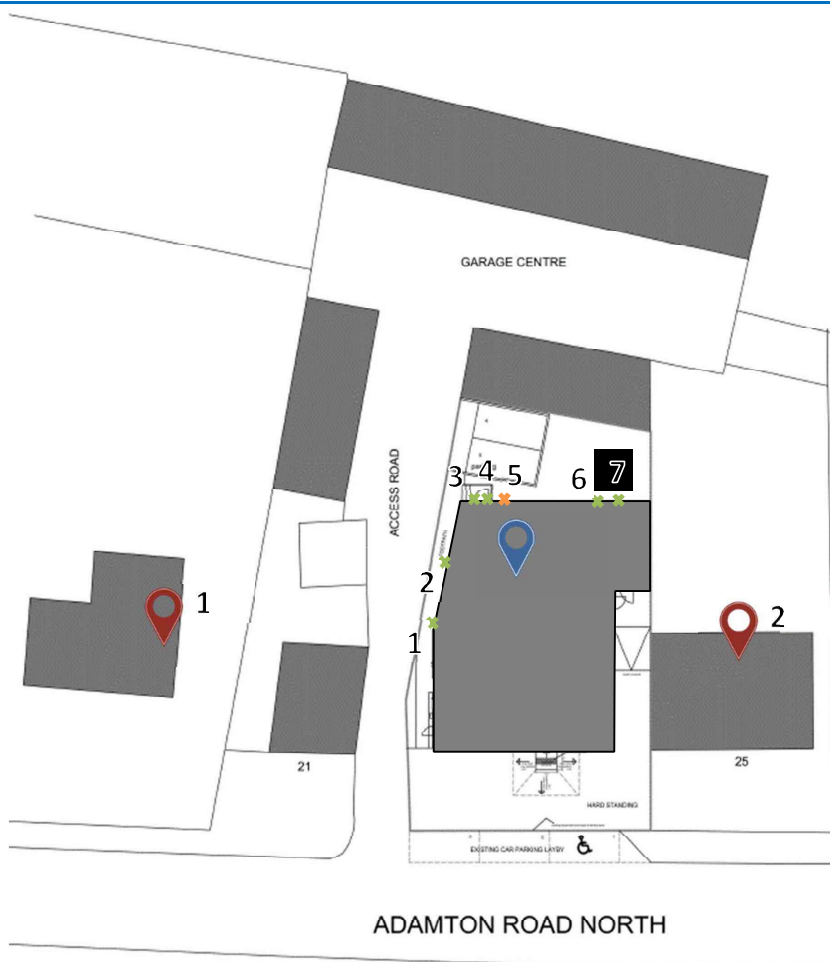
Not to scale

Description:
Indicate site plan showing noise monitoring position, plant locations and nearest sensitive receiver

| | |
|---------------------|------------------------|
| Date | 02 August 2023 |
| Reference | 18414-SP2 |
| Project Name | 23 Adamton Road North, |
| Image © | Google Earth |

| | |
|-------------|----------------------------------|
| Key: | |
| | Unattended Noise Survey Position |
| | Noise Sensitive Receiver |
| | Plant Locations |

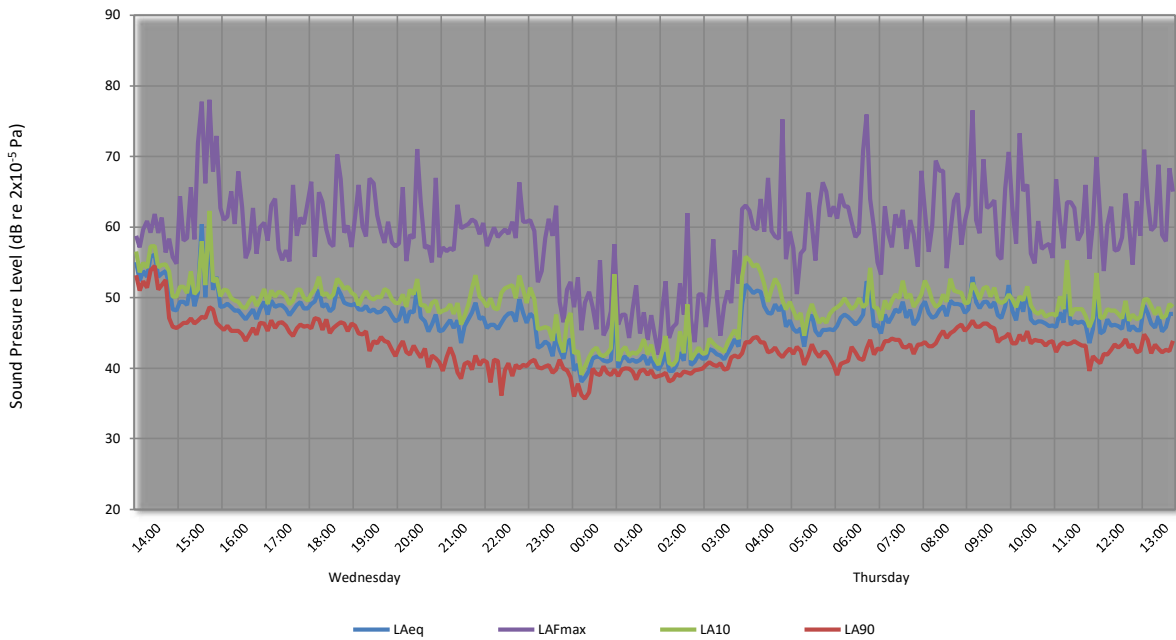
| | |
|------------------------|---------------------------------|
| Plant Locations | |
| 1 | Extract Fan and Terminus |
| 2 | Current Condenser 1 Location |
| 3 | A/C 1 (RAV-GM1401ATP-E) |
| 4 | A/C 2 (RAV-GM801ATP-E) |
| 5 | Proposed Condenser 1 Relocation |
| 6 | Condenser 2 |
| 7 | Condenser 3 |



23 Adamton Road North, Prestwick,
South Ayrshire
Position 1



Environmental Noise Time History
21 June 2023 to 22 June 2023



18414-TH1

GLOSSARY OF ACOUSTIC TERMINOLOGY

dB(A)

The human ear is less sensitive to low (below 125Hz) and high (above 16kHz) frequency sounds. A sound level meter duplicates the ear's variable sensitivity to sound of different frequencies. This is achieved by building a filter into the instrument with a similar frequency response to that of the ear. This is called an A-weighting filter. Measurements of sound made with this filter are called A-weighted sound level measurements and the unit is dB(A).

L_{eq}

The sound from noise sources often fluctuates widely during a given period of time. An average value can be measured, the equivalent sound pressure level L_{eq} . The L_{eq} is the equivalent sound level which would deliver the same sound energy as the actual fluctuating sound measured in the same time period.

L₁₀

This is the level exceeded for not more than 10% of the time. This parameter is often used as a "not to exceed" criterion for noise

L₉₀

This is the level exceeded for not more than 90% of the time. This parameter is often used as a descriptor of "background noise" for environmental impact studies.

L_{max}

This is the maximum sound pressure level that has been measured over a period.

Octave Bands

In order to completely determine the composition of a sound it is necessary to determine the sound level at each frequency individually. Usually, values are stated in octave bands. The audible frequency region is divided into 10 such octave bands whose centre frequencies are defined in accordance with international standards.

Addition of noise from several sources

Noise from different sound sources combines to produce a sound level higher than that from any individual source. Two equally intense sound sources operating together produce a sound level which is 3dB higher than one alone and 10 sources produce a 10 dB higher sound level.

Attenuation by distance

Sound which propagates from a point source in free air attenuates by 6dB for each doubling of distance from the noise source. Sound energy from line sources (e.g. stream of cars) drops off by 3 dB for each doubling of distance.

Subjective impression of noise

Sound intensity is not perceived directly at the ear; rather it is transferred by the complex hearing mechanism to the brain where acoustic sensations can be interpreted as loudness. This makes hearing perception highly individualised. Sensitivity to noise also depends on frequency content, time of occurrence, duration of sound and psychological factors such as emotion and expectations. The following table is a reasonable guide to help explain increases or decreases in sound levels for many acoustic scenarios.

| Change in sound level (dB) | Change in perceived loudness |
|----------------------------|------------------------------|
| 1 | Imperceptible |
| 3 | Just barely perceptible |
| 6 | Clearly noticeable |
| 10 | About twice as loud |
| 20 | About 4 times as loud |

Barriers

Outdoor barriers can be used to reduce environmental noises, such as traffic noise. The effectiveness of barriers is dependent on factors such as its distance from the noise source and the receiver, its height and its construction.

Reverberation control

When sound falls on the surfaces of a room, part of its energy is absorbed and part is reflected back into the room. The amount of reflected sound defines the reverberation of a room, a characteristic that is critical for spaces of different uses as it can affect the quality of audio signals such as speech or music. Excess reverberation in a room can be controlled by the effective use of sound-absorbing treatment on the surfaces, such as fibrous ceiling boards, curtains and carpets.



Notes:

The noise model was constructed using the proprietary noise modelling software package Cadna A. The potential noise mitigation of a barrier at the nearby proposed buildings has been predicted using the calculation methodology outlined in ISO 9613-2.

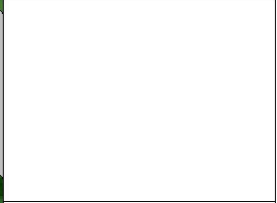
The noise model was constructed utilising the following assumptions and parameters:

- Locations of obstacles such as screens or barriers in the propagation path
- Presence of reflecting surfaces
- Hardness of the ground between the sources and receivers
- Attenuation due to atmospheric absorption

18c, Ylikon Road, London SW12 9PZ
www.clementacoustics.co.uk

+ Point Source
 Building
 Barrier
 Receiver
 Calculation Area

18414-Appendix_B



Planning and Building Standards

Service Lead – Planning and Building Standards: Craig Iles

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Tel: [REDACTED]
Email: [REDACTED]
Our Ref: 24/00914/FUR
Date: 21 March 2025



Mrs Kulwinder Kaur
per Planning Services UK
Philip Landa
35 Clydesdale Street
Hamilton
United Kingdom
ML3 0DD

Dear Sir/Madam,

THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

PROPOSAL: Further application to remove planning condition 3 from planning permission Ref. 23/00594/APP
SITE ADDRESS: 23 Adamton Road North Prestwick South Ayrshire KA9 2HY

With reference to your Application for Further Planning Permission, I enclose a copy of the Decision Notice refusing permission. This Decision Notice should be read in conjunction with our [Guidance Note for Planning Decisions](#).

The refused drawings and other documents, where relevant, can be accessed from the [Council's website](#) by using the application reference number noted above. You may find the Report of Handling (otherwise entitled 'Delegated Report') of particular interest, as this sets out an assessment of the application and an explanation for the decision taken.

If you require further information in respect of your decision notice, please contact Emma McKie by telephoning 01292 616 203 or by emailing [REDACTED]

Yours faithfully,

[REDACTED]

Craig Iles
Service Lead – Planning and Building Standards

Encs.

LOCAL DEVELOPMENT

**REFUSAL OF FURTHER APPLICATION
(Delegated)**

Ref No: 24/00914/FUR

SOUTH AYRSHIRE COUNCIL

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) (SCOTLAND) ORDERS**

**To: Mrs Kulwinder Kaur
per Planning Services UK
Philip Landa
35 Clydesdale Street
Hamilton
United Kingdom
ML3 0DD**

With reference to your **Application for Further Planning Permission** dated **22nd January 2025**, under the aforementioned Regulations, for the following development, viz:-

Further application to remove planning condition 3 from planning permission Ref. 23/00594/APP

at: 23 Adamton Road North Prestwick South Ayrshire KA9 2HY

South Ayrshire Council in exercise of their powers under the aforementioned Regulations hereby **refuse** the Application for Further Planning Permission for the said development in accordance with the following reasons as relative hereto and the particulars given in the application. The refused drawings and other documents, where relevant, can be accessed from the [Council's website](#) by using the application reference number noted above these and represent the refused scheme.

The reason(s) for the Council's decision are as follows:

NOTE: Reasons will be numbered and prefixed with an 'R'

- (1R) That the proposal to not comply with condition 3 of planning permission 23/00594/APP is contrary to NPF4 National Policy 27: City, town, local and commercial, by reason that it has not been demonstrated that non-compliance with the condition would not undermine the amenity of the area.
- (2R) That the proposal to not comply with condition 3 of planning permission 23/00594/APP is contrary to LDP 2 Policy: Residential Policy within Settlements, Release Sites and Windfall Sites, by reason that it has not been demonstrated that non-compliance with the condition would prevent negative effects on the local amenity of the residential area from the non-residential development.
- (3R) The proposal to not comply with Condition 3 of planning permission 23/00594/APP is contrary to LDP 2 Policy: Land Use and Transport by reason that it has not been demonstrated that non-compliance with the condition would effectively minimise the negative effects of road traffic in the area.

List of Refused Plans:

| Plan Type | Reference | Version No. | Received Date |
|------------------------|--|--------------------|----------------------|
| Drawing | Location Plan | | 18.12.2024 |
| Drawing | 01 | Rev. C | 18.12.2024 |
| Drawing | KK/FP1 | | 18.12.2024 |
| Drawing | KK/FP-02 | | 18.12.2024 |
| Supporting Information | Planning Services UK Supporting Statement | | 18.12.2024 |
| Supporting Information | Appeal Statement | | 18.12.2024 |
| Supporting Information | Original Application Noise Impact Report | | 18.12.2024 |
| Supporting Information | Original Application Planning Statement | | 18.12.2024 |

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

Dated: 21st March 2025



.....
Craig Iles
Service Lead – Planning and Building Standards

PLANNING SERVICE, COUNTY BUILDINGS, WELLINGTON SQUARE, AYR, KA7 1DR

NOTICE TO ACCOMPANY REFUSAL OR GRANT OF PERMISSION WITH CONDITIONS

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

If the applicant is aggrieved by the decision of the Planning Authority to refuse permission or grant permission for approval subject to conditions, the applicant may require the Planning Authority to review the case under Section 43A of The Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Information on how to request a review can be obtained from the address and contact details below.

A Notice of Review can be submitted via the [ePlanning Scotland website](#) . This is the most efficient method to submit a review request.

Alternatively, you can submit a review request via paper form addressed to:

South Ayrshire Council
Planning Service
County Buildings
Wellington Square
Ayr
KA7 1DR
T: [REDACTED]
E: [REDACTED]
W: www.south-ayrshire.gov.uk

If permission to develop land is refused or granted subject to conditions, the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with Part 5 of The Town and Country Planning (Scotland) Act 1997.

In certain circumstances, a claim may be made against the Planning Authority for compensation, where permission is refused or granted, subject to conditions by the Scottish Ministers. The circumstances in which such compensation is payable are set out in Section 77 of The Town and Country Planning (Scotland) Act 1997.

Where permission is being granted in respect of any building or premises which are open to the public, attention is hereby drawn to the applicant's duty, in terms of Sections 4, 5, and 7 to 8A of The Chronically Sick and Disabled Persons Act 1970, to include, where reasonable and practicable provision for the needs of the disabled. (Ref. Section 45 of The Town and Country Planning (Scotland) Act 1997).

Attention is also drawn to The Equality Act 2010 which may impose further obligations on developments.

[REDACTED]

From: [REDACTED]
Sent: 24 February 2025 10:37
To: [REDACTED]
Subject: RE: South Ayrshire Council Planning Consultation - 24/00914/FUR [PUBLIC]
Categories: Consultations

 External email >

CLASSIFICATION: PUBLIC

Hi [REDACTED]

I have spoken to [REDACTED] on this for a second opinion and we are both in agreement that ARA's position remains the same, we would be looking for parking mitigation measures within 3 months of planning consent being issued. The applicant refers to how the parking mitigation measures do not meet specific guidance or they have design and safety issues. However there has been no design issued to compare such guidance or concerns, it's the applicants responsibility to submit their design proposals for approval and within the design should be mitigation measures such as bollards, signs and road markings.

Kind regards,

[REDACTED]
County Buildings, Ayr
Ayrshire Roads Alliance

From: [REDACTED]
Sent: 12 February 2025 14:22
To: Ara.RccSouth [REDACTED]
Cc: [REDACTED]
Subject: RE: South Ayrshire Council Planning Consultation - 24/00914/FUR [PUBLIC]

Hi [REDACTED]

Thanks for this initial response.

All documents submitted in support of the application are available to view [here](#), using the application reference.

The document titled Planning Services UK Supporting Statement should assist you in providing a formal response.

Kind regards,

[REDACTED]

From: [REDACTED] **On Behalf Of Ara.RccSouth**
Sent: Wednesday, February 12, 2025 1:50 PM
To: [REDACTED]
Subject: RE: South Ayrshire Council Planning Consultation - 24/00914/FUR [PUBLIC]

CLASSIFICATION: PUBLIC

Hi [REDACTED]

Do we have any justification from the applicant as to why they are looking to remove condition 3? Our concerns remain and with that our conditions would not change.

Thanks,

[REDACTED]
County Buildings, Ayr
Ayrshire Roads Alliance

From: [REDACTED]
Sent: 23 January 2025 15:34
To: Ara.RccSouth [REDACTED]
Subject: South Ayrshire Council Planning Consultation - 24/00914/FUR

Please find consultation request attached.

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify South Ayrshire Council, [REDACTED]

This footnote also confirms that this email message has been swept by websense for the presence of computer viruses.

Visit our web site at www.south-ayrshire.gov.uk

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify South Ayrshire Council, [REDACTED]

This footnote also confirms that this email message has been swept by websense for the presence of computer viruses.

Visit our web site at www.south-ayrshire.gov.uk

From: [REDACTED]
Sent: Tuesday, May 20, 2025 4:02 PM
To: Local Review Body [REDACTED]
Subject: RE: LRB/24/00914/FUR - 23 Adamton Road North, Prestwick, KA9 2HY

Good afternoon [REDACTED],

Please see attached Draft Conditions, Written Statement in Response and site photo in response to this appeal.

Kind regards,

[REDACTED]

[REDACTED]
[REDACTED] | County Buildings | Wellington Square | Ayr | KA7 1DP | www.south-ayrshire.gov.uk

[REDACTED]
[REDACTED] | County Buildings | Wellington Square | Ayr | KA7 1DP | www.south-ayrshire.gov.uk

Please Note:

Planning and Building Standards Staff are now working remotely .

The Planning Service currently has a short term reduction in available staff and there may be a resultant delay in the processing of your application/enquiry. We apologise for any inconvenience that this may cause and can assure you that our team are working hard to process cases as quickly as possible.

From: Local Review Body [REDACTED]
Sent: 19 May 2025 08:49
To: Local Review Body [REDACTED]
Subject: RE: LRB/24/00914/FUR - 23 Adamton Road North, Prestwick, KA9 2HY

Morning [REDACTED],

Hope you're well.
Just a reminder email in regard to the below, you have until this Thursday (the 22nd) to submit comments/photographs.

Many thanks and kind regards,
[REDACTED]

South Ayrshire Council Local Review Body

County Buildings, Wellington Square, Ayr, KA7 1DR
[REDACTED]

W: www.south-ayrshire.gov.uk

From: Local Review Body [REDACTED]
Sent: Thursday, May 8, 2025 11:37 AM
To: [REDACTED]
Cc: Local Review Body [REDACTED]
Subject: LRB/24/00914/FUR - 23 Adamton Road North, Prestwick, KA9 2HY

Good morning, [REDACTED],

Please see attached letter for your attention.

Kind regards,
[REDACTED]

South Ayrshire Council Local Review Body

County Buildings, Wellington Square, Ayr, KA7 1DR
[REDACTED]

W: www.south-ayrshire.gov.uk

Planning Service Written Statement in Response

For

LRB

LRB/24/00914/FUR

Appeal against Refusal of Planning Application:

Case Detail: Further Application to remove planning condition 3
from planning permission Ref. 24/00914/FUR

23 Adamton Road North, Prestwick KA9 2HY

20th May 2025

Location of site

The site to which this appeal relates is a commercial unit operating as retail shop and hot food takeaway within a predominantly residential area of Prestwick, as defined by the Council's Adopted Local Development Plan 2 (LDP2).

Background

The application site has an extensive history of both planning applications and enforcement investigations, as follows.

In 2020 a planning application (ref. 20/00859/APP) was approved for the change of use and alterations of a dwellinghouse to form an extension to the existing shop. At this time the application site comprised of a convenience/retail store adjoined to a self-contained dwellinghouse. The permission granted a singular use to the planning unit as an enlarged shop of approximately 160sqm in retail floorspace and 37sqm of stock storage to the rear, with ancillary office space incidental to the shop contained within the attic floor level. A condition attached to this consent restricted the use of the planning unit to those within the then Class 1, now Class 1A, uses within Schedule of the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended.

Following implementation of this consent the Planning Service received a complaint from a member of the public in February 2023 that the shop was also being used as a hot food takeaway. This matter was investigated by planning enforcement (ref. 23/00078/UNUSE). The investigation concluded that a material part change of use had occurred, contrary to the condition attached to the 2020 planning consent.

A retrospective planning application (Ref. 23/00397/APP) was subsequently received for the part change of use. The application received 22 objections. This was refused by the Planning Service in July 2023 under delegated powers for the reasons that the use was not appropriate for a residential area and would undermine the established residential character of the surrounding area and result in a detrimental impact on amenity of residential properties by way of increased noise and disturbance. The applicant/agent did not choose to appeal this decision to the Local Review Body.

Following this determination, as further complaints were received that the unauthorised use was still operational, a further planning enforcement investigation was opened in July 2023 (Ref. 23/00282/UNUSE). This was closed when another retrospective planning application (Ref. 23/00594/APP) for the part change of use of retail unit to incorporate hot food take away was received. This application received several representations including 46 objections and 169 supporting. The application was refused by the Planning Service in July 2023 under delegated powers for the reasons that the use was not appropriate for a residential area and would undermine the established residential character of the surrounding area and result in a detrimental impact on amenity of residential properties by way of increased noise and disturbance.

The applicant/agent to appeal this decision to the Local Review Body. The Local Review Body overturned the decision of the Planning Service and granted retrospective planning permission 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 within three months of the date of issue of planning consent a scheme of parking mitigation shall require to be agreed and implemented on-street. The parking mitigation scheme shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). It is anticipated that the scheme would consist of a combination of bollards, road markings and signage.”

A further enforcement investigation (Ref. 24/00571/COND) commenced in September 2024 following a complaint received by a member of the public that the applicant had not complied with Condition 3, within the 3-month timescale required. As part of this investigation, the Planning Service engaged with the applicant/agent to agree a parking mitigation scheme acceptable to the Ayrshire Roads Alliance, in order to discharge this condition. The initial scheme which the applicant/agent provided was not considered to meet the requirements of the ARA.

Thereafter, the applicant/agent decided to submit an application (Ref. 24/00914/FUR) under s.42 of the Town and Country Planning (Scotland) Act 1997, as amended, to remove Condition 3 from planning permission 23/00594/APP and therefore remove the requirement to comply with this condition. The Planning Service refused this application, in consultation with the Ayrshire Roads Alliance, for the following reasons:

- 1R) That the proposal to not comply with condition 3 of planning permission 23/00594/APP is contrary to NPF4 National Policy 27: City, town, local and commercial, by reason that it has not been demonstrated that non-compliance with the condition would not undermine the amenity of the area.
- (2R) That the proposal to not comply with condition 3 of planning permission 23/00594/APP is contrary to LDP 2 Policy: Residential Policy within Settlements, Release Sites and Windfall Sites, by reason that it has not been demonstrated that non-compliance with the condition would prevent negative effects on the local amenity of the residential area from the non-residential development.
- (3R) That the proposal to not comply with condition 3 of planning permission 23/00594/APP is contrary to LDP 2 Policy: Land Use and Transport, by reason that it has not been demonstrated that non-compliance with the condition would ensure that any negative effects of road traffic on the environment associated with development proposals would be kept to a minimum.

The applicant/agent has now chosen to appeal this decision to the Local Review Body.

Response to grounds of appeal

The Planning Service consider the Report of Handling to outline fully the assessment undertaken in determining planning application 24/00914/FUR.

However, we will provide additional comments in response to the grounds of appeal set out within the submitted “Planning Appeal Statement”, as follows.

3.1 The Nature of the Use is Ancillary and Low-Impact

The Planning Service would comment that, although contained within a large unit operating as a convenience store, the size of the hot food area is considered to be comparable of standalone hot food takeaways commonplace in the peripheries of town centres within South Ayrshire.

Regardless, the part use of the property as a hot food takeaway has already been granted consent by the Local Review Body (Ref. 23/00594/APP). The Planning Service would note that this appeal does not relate to whether the use of the property is in accordance with policy. The appeal relates solely to whether Condition 3 attached to this consent should remain so.

3.2 Lack of Evidence of Harm of Community Objection

As noted in the background section above, there have been 3 planning enforcement investigations undertaken regarding the use of the application site. There was also noted to be public interest in both earlier retrospective planning applications for the part change of use of the retail unit to a hot food takeaway. The Planning Service would therefore contest that there has been no record of complaints, enforcement action or community concern.

3.3 Accessibility, Equality, and Emerging Local Policy Context

As noted in Section 11 of the Report of Handling, no parking mitigation scheme has been agreed. Any design would require to be agreed with the Ayrshire Roads Alliance. This process would ensure that any layout agreed would consider safe access for all users of the public pavements, including retention of an adequate depth of footway and that bollards, if an agreed mitigation method, were appropriately spaced. The Planning Service therefore consider that this process would result in a scheme in accordance with relevant National and Local Policies, including the Equality Act 2010.

Additionally, the potential use of bollards as part of a parking mitigation scheme is not considered to be in contradiction to the ban on pavement parking within South Ayrshire Council, which has been introduced, given that such methods would aid in reducing the opportunities for vehicles to park on the pavement.

3.4 Material Considerations Were Overlooked

As noted above, the application site is located within a predominantly residential area as defined by the Council’s Adopted Local Development Plan 2 (LDP2). The part use of the property as a hot food takeaway has already been granted consent. Condition 3 of this consent was attached to mitigate the impact of this use on the residential amenity of the surrounding residential properties.

As already outlined, the Planning Service have conducted 3 enforcement investigations regarding the use of the site and as such consent that there has been no record of complaints or enforcement actions.

The Planning Service do not have the authority to independently place parking restrictions on public road. Parking restrictions fall within the remit of the Ayrshire Roads Alliance. This is why Condition 3 was recommended by the Ayrshire Roads Alliance and requires their input to be discharged.

3.5 The Condition Fails the Tests of Circular 4/1998

A full response to this ground is detailed in Section 11 of the Report of Handling. As noted within the Report, Condition 3 was recommended by the Ayrshire Roads Alliance. However, in summary, the condition is considered;

- Necessary, owing to the complaints and enforcement investigations undertaken by the Planning Service, which highlighted the vehicular traffic at the site, and in consideration of the opinion of the Ayrshire Roads Alliance that the parking and road safety issues occurring were a result of the intensification of the use of the retail unit following the addition of a hot food takeaway.
- Precise, as the wording of the condition outlines the actions required and the timescale for agreeing a mitigation scheme with the Planning Service and the Ayrshire Roads Alliance.
- Reasonable, as the Planning Service do not consider that the scheme agreed would be any more than necessary to address the issue.
- Enforceable, as the requirements to comply with the condition, namely, to agree and implement a parking mitigation scheme within a specified timescale, are clearly set out.
- Relevant, as Condition 3 relates to the impact on the locality from the part use of the property as a hot food takeaway which was the development under consideration in the planning application which attached this condition – Ref. 23/00594/APP.

3.6 Risk of Precedent for Small Retailers in Outer Settlements

The part use of the property as a hot food takeaway has already been granted consent by the Local Review Body (Ref. 23/00594/APP). The Planning Service would note that this appeal does not relate to whether the use of the property is in accordance with policy. The appeal relates solely to whether Condition 3 attached to this consent should remain so.

With regard to the question of precedent, the Planning Service would respond that the Council's Adopted Local Development Plan 2 Policy: Town Centre (Guiding Land Use), directs hot food takeaways to the peripheries of town centres within South Ayrshire Council. The Planning Service would therefore continue to direct such uses to these areas. Regardless, each planning application received is considered on its own merits. Material planning considerations, including parking and road safety, are wholly site specific. Therefore, any mitigation measures which may be deemed necessary for one site, may not be appropriate for another.

Conclusion

To conclude, for the reasons outlined both in this Written Statement in response to the Appeal and the Report of Handling for planning application Ref. 24/00914/FUR, the Planning Service consider that the appeal to remove Condition 3 from 24/00914/FUR should be dismissed.



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.

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.

Advisory notes:

- (1) The Council as Roads Authority advises that all works on the carriageway to be carried out in accordance with the requirements of the Transport (Scotland) Act 2005 and the Roads (Scotland) Act 1984.
- (2) In order to comply with the requirements of the New Roads and Street Works Act 1991, all works carried out in association with the development on the public road network, including those involving the connection of any utility to the site, must be co-ordinated so as to minimise their disruptive impact. This co-ordination shall be undertaken by the developer and his contractors in liaison with the local roads authority and the relevant utility companies.
- (3) The Council as Roads Authority advises that any costs associated with the relocation of any street furniture shall require to be borne by the applicant / developer.
- (4) The Council as Roads Authority advises that promotion of Traffic Regulation Orders resulting from this development shall require to be fully funded by the applicant – including any relevant road signs and markings.

List of Plans Determined:

| Plan Type | Reference | Version No. | Received Date |
|------------------------|---|--------------------|----------------------|
| Drawing | Location Plan | | 18.12.2024 |
| Drawing | 01 | Rev. C | 18.12.2024 |
| Drawing | KK/FP1 | | 18.12.2024 |
| Drawing | KK/FP-02 | | 18.12.2024 |
| Supporting Information | Planning Services UK Supporting Statement | | 18.12.2024 |
| Supporting Information | Appeal Statement | | 18.12.2024 |
| Supporting Information | Original Application Noise Impact Report | | 18.12.2024 |
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