

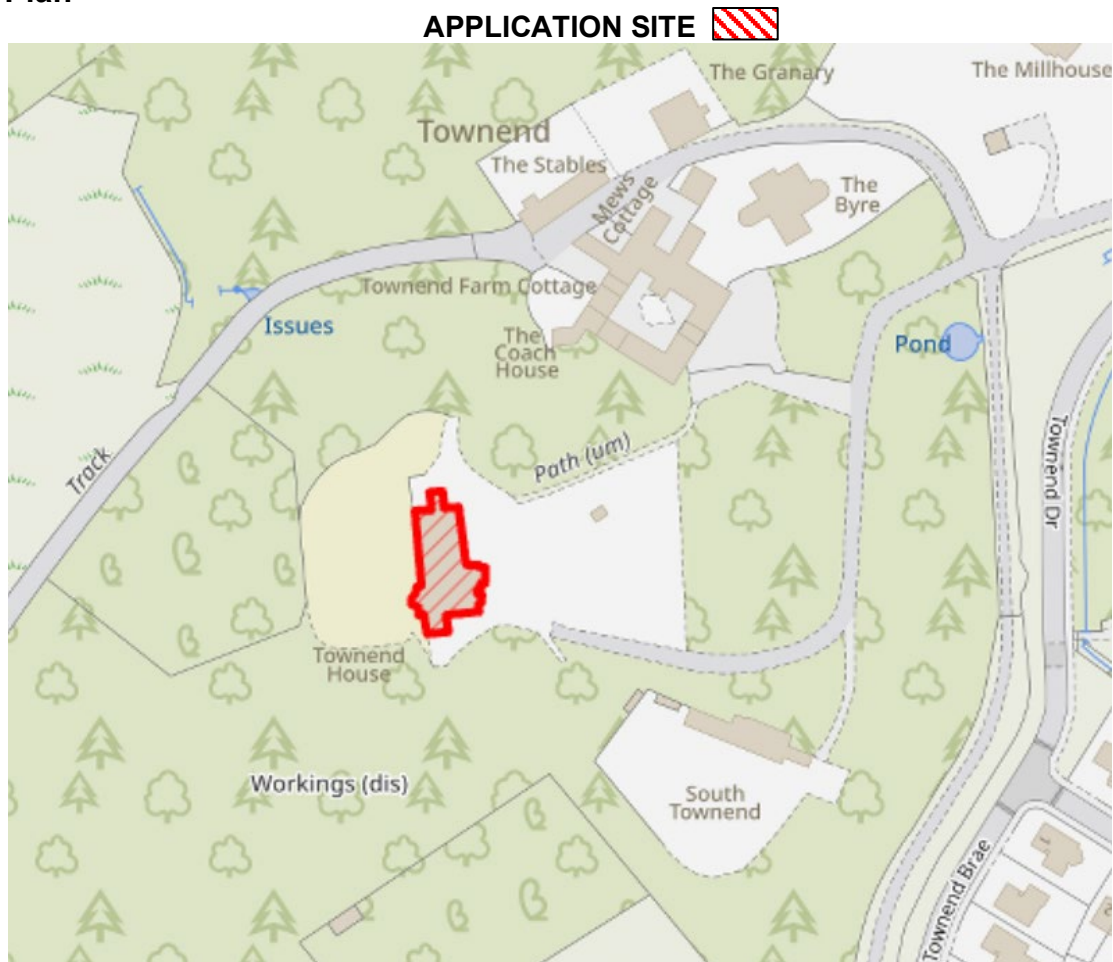
REGULATORY PANEL: 5 FEBRUARY 2026

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

25/00689/APP

TOWNEND HOUSE TOWNEND DRIVE SYMINGTON SOUTH AYRSHIRE KA1 5QL

Location Plan



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

<https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T4KKOWBDIRP00&activeTab=summary>

Summary

Planning permission is sought for external alterations to Townend House, a mid-19th century Category B Listed building located within the Townend Estate to the south-west of Symington, together with the formation of a car park within its landscaped grounds. The application is retrospective and relates primarily to alterations to cast-iron rainwater goods and the creation of a surfaced parking area on previously grassed land. The use of the building as a Class 8 residential institution is considered to remain unchanged, and no change of use is proposed.

The building comprises long-established residential accommodation with associated grounds. No alterations to the internal layout of the building form part of this application. The proposal solely seeks permission for the external drainage works and the formation of the parking area.

The application has attracted a significant number of objections, largely relating to the perceived future use of the building, traffic, residential amenity, biodiversity impacts, and procedural matters. These concerns have been considered in the context of relevant planning policy and the physical works proposed by this application. It is considered that none of the objections raise material planning reasons to warrant refusal of the application.

The proposed development has been assessed against the provisions of National Planning Framework 4 and South Ayrshire Local Development Plan 2. The works are considered to be acceptable and, subject to appropriate landscaping, biodiversity, and lighting conditions, are unlikely to result in unacceptable impacts on the listed building, its setting, or the wider locality. Accordingly, the application is recommended for approval subject to conditions.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

REGULATORY PANEL: 5 FEBRUARY 2026

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	25/00689/APP
SITE ADDRESS:	Townend House Townend Drive Symington South Ayrshire KA1 5QL
DESCRIPTION:	Alterations to Townend House and formation of car park and associated hardstandings
RECOMMENDATION:	Approval with conditions

APPLICATION REPORT

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

Key Information:

- The application was received on 23 October 2025.
- The application was validated on 28 October 2025.
- The case officer visited the application site on 23 October 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 29 October 2025.
- No Site Notice was required.
- No Public Notice in the Local Press was required.

1. Proposal:

The application site comprises Townend House, a mid-19th-century Category B Listed building located to the south-west of Symington within the Townend Estate. The application site includes Townend House itself together with its landscaped grounds. Access is taken via a private estate road shared with several other properties. Areas of woodland within the wider grounds are identified within the Ancient Woodland Inventory.

Townend House has most recently operated as a residential care facility (Class 8 of the Use Classes Order) providing long-term accommodation and support for adults with a range of physical and learning disabilities and associated care needs.

Planning permission is sought for alterations to Townend House and for the formation of a car park within its grounds. The application is retrospective insofar as a number of the external alterations to the listed building have already been undertaken, and the car park area has also been constructed on site.

The external works primarily relate to alterations to the cast-iron drainage outlets and associated ventilation serving the building. These include the installation of new cast-iron downpipes, the repositioning of existing outlets, and the introduction of new or revised ventilation terminals to serve internal services. Ancillary works comprise making-good to areas of masonry where previous rainwater goods and vents had been removed or altered.

The proposal also includes the formation of a vehicular parking area within the grounds of Townend House. The car park is shown on the submitted site layout plan and consists of a surfaced parking area located to the east of Townend House.

Background information

Historically, the site has operated as a Class 8 residential institution under the Use Classes Order (Planning (Scotland) Act), providing long-term residential accommodation and support for adults with a range of physical and learning disabilities and associated care needs. Most recently, Townend House has operated as a residential care facility delivering long-term support for adults with a range of physical and learning disabilities and associated care needs.

It is understood that Townend House is proposed to be used as an alcohol and drug rehabilitation facility. This prospective use has generated significant public interest and correspondence, with numerous objections received relating primarily to the intended use of the building. However, in planning terms, this proposed use is also considered to fall within Class 8. Residents attending the facility would do so voluntarily, and the accommodation would continue to operate as a residential institution. The Planning Service has advised the applicant that a Certificate of Lawfulness (Proposed Development) could be submitted to formally establish the proposed use, although this is not mandatory. Based on the information available, the proposal does not constitute a change of use for planning purposes.

Accordingly, the purpose of this planning application is to consider solely the external alterations to Townend House - primarily the removal, repositioning, and reinstatement of cast iron drainage outlets - and the formation of a car park to the south-east of the building. While the prospective use has been a focal point of public concern, it is not a material consideration in the determination of this application. The assessment of the proposal will therefore focus exclusively on the physical works to the building's exterior and the associated car parking provision.

The application requires to be reported to the Council's Regulatory Panel, as more than ten competent written objections have been received, together with an objection from the Community Council, who express a different view to the recommendation to approve the application subject to conditions.

2. Consultations:

Ayrshire Roads Alliance - offer no objections.

Environmental Health - offer no objections.

3. Submitted Assessments/Reports:

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

None.

4. S75 Obligations:

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

None.

5. Scottish Ministers Directions:

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

None.

6. Representations:

34 representations have been received, 34 of which object to the proposed development. All representations can be viewed online at <https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T4KKOWBDIRP00&activeTab=summary>

The issues raised by Representees can be summarised as follows.

Change of Use / Nature of Facility

- Residents express concern that the building is changing from a care home for adults with learning difficulties to a drug and alcohol rehabilitation facility.
- It is alleged that future occupants may include individuals recently released from prison or with complex needs.
- Concerns are raised regarding potential risks to the safety and security of children, families, and vulnerable residents.
- Fears have been expressed regarding the potential for increased crime, anti-social behaviour, and disturbance.

Impact on Residential Amenity

- Anticipated increase in traffic along a narrow, private, and unlit access road.
- Potential adverse impacts arising from noise, light pollution (including floodlighting and car park lighting), and loss of privacy.
- Loss of informal recreational space and disturbance to wildlife, including deer, foxes, bats, and bird species.
- Perceived erosion of the quiet, rural, and conservation character of the village.

Car Park and Access Concerns

- Objection to the construction of a new car park as opposed to resurfacing existing hardstanding areas.
- Removal of mature trees and the potential impact on biodiversity, including bats.
- Increased vehicle movements, deterioration of the access road, and the associated maintenance burden on residents.
- Concerns regarding inadequate drainage provision and an increased risk of flooding arising from the new car park.

Listed Building and Heritage Concerns

- Internal alterations, including the installation of en-suite bathrooms and associated structural works, are considered by residents to be excessive.
- External works, including the installation of plastic vents, drainage pipes, and other alterations, are perceived as harmful to the character and appearance of the listed building.
- A lack of clarity is expressed as to whether the requisite Listed Building Consent has been obtained for the works undertaken.

Procedural and Transparency Concerns

- Allegations that retrospective works have been carried out without prior planning/ listed building consent.
- Concerns regarding the absence of consultation with local residents prior to the commencement of works or the alleged change of use.
- Claims within the application are alleged to be misleading in relation to site ownership and land use.
- Doubts are raised as to whether the appropriate planning procedures have been followed, including matters relating to risk assessment and public notification.

Practical Impacts on Residents

- Concerns regarding potential property devaluation, failed property sales, and wider impacts on community wellbeing.
- Queries regarding the adequacy of existing water supply and drainage infrastructure to accommodate additional en-suite facilities.
- General anxiety relating to public safety and the absence of a prior risk assessment.

The matters raised by the representees are considered elsewhere in this report.

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

7. Assessment:

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

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

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

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

(i) National Planning Framework 4 (NPF4)

The following policies of NPF4 are considered particularly 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/publications/national-planning-framework-4/pages/1-introduction.aspx):

Policy 2 – Climate mitigation and adaptation

Policy 3 – Biodiversity

Policy 6 – Forestry, woodland and trees

Policy 7 – Historic assets and places

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

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

(ii) South Ayrshire Local Development Plan 2

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

- o Strategic Policy 1: Sustainable Development;
- o Strategic Policy 2: Development Management;
- o LDP Policy: Historic Environment;
- o LDP Policy: Woodland and Forestry;
- o LDP Policy: Preserving trees; and
- o LDP 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.

(iii) Planning History

The relevant planning history of the site is summarised as follows:

- 08/00039/FUL – Alterations to the existing building, including the sub-division of bedrooms. *Approved.*
- 08/01318/LBC – Internal alterations to the listed building. *Approved.*
- 22/00751/APP – Alterations and extension to the existing care home. *Approved.*
- 22/00752/LBC – Alterations and extension to the listed building. *Approved.*
- 25/00690/LBC – Listed Building Consent for cast iron works, submitted alongside the current planning application. *Pending consideration.*

In respect of the 2022 approvals, it is noted that development has commenced on site, with foundations laid for the approved extension. It appears, however, that these works have since ceased, with subsequent activity focused on works to Townend House itself.

In addition, unauthorised internal works have been undertaken within Townend House. These matters are currently being progressed by the Planning Authority through the enforcement process, and a further retrospective Listed Building Consent application is anticipated to be submitted in due course in connection with those works.

(iv) Objector Concerns

The concerns of the objectors are summarised and consider as follows: -

Change of Use / Nature of Facility

Objection: Residents express concern that the building is changing from a care home for adults with learning difficulties to a drug and alcohol rehabilitation facility. It is alleged that future occupants may include individuals recently released from prison or with complex needs. Concerns are raised regarding potential risks to the safety and security of children, families, and vulnerable residents. Fears have been expressed regarding the potential for increased crime, anti-social behaviour, and disturbance.

Response: The current application does not propose a change of use. Townend House remains within Class 8 (Residential Institutions – Care Home). The planning assessment is therefore restricted to the physical works proposed, including minor external alterations and the formation of a car park. Matters relating to the client group, operational practices, or perceived future use are not material to the determination of this application.

Impact on Residential Amenity

Objection: Anticipated increase in traffic along a narrow, private, and unlit access road. Potential adverse impacts arising from noise, light pollution (including floodlighting and car park lighting), and loss of privacy. Loss of informal recreational space and disturbance to wildlife, including deer, foxes, bats, and bird species. Perceived erosion of the quiet, rural, and conservation character of the village.

Response: The planning assessment is confined to the land-use and physical effects arising from the proposed development. In terms of traffic impacts, the lawful use of Townend House already generates vehicular movements, and the proposed car park is intended to manage existing parking demand. No alterations to the access are proposed, and the level of additional traffic on the private access road is not considered to be significant in highway or amenity terms.

With regard to noise, light and privacy, the proposal does not introduce any late-night operational use beyond that already associated with the established use of the building. External lighting proposed, including any car park or security lighting, can be controlled by condition to ensure its appropriateness so as to prevent light spill, glare and disturbance to nearby residents or wildlife. The layout of the car park is such that there is no direct overlooking into neighbouring dwellings, and separation distances are sufficient to safeguard residential privacy.

It is acknowledged and accepted that the loss of the existing grassed area is disappointing and represents a change to the character of this part of the site. However, this loss must be considered in the context of the operational requirements of the established use of Townend House and the benefits of providing more formalised parking to prevent uncontrolled and potentially more harmful encroachment onto wider green areas. While the loss of green space is regrettable, it is not, in itself, of a scale or nature sufficient to justify refusal of the application, particularly where mitigation can be secured through planning conditions. A comprehensive landscaping scheme, including replacement planting, boundary treatment and biodiversity enhancement measures, can be required by condition to ensure that the visual, environmental and ecological quality of the site is appropriately mitigated and, where possible, enhanced.

In terms of ecology, no evidence has been submitted to demonstrate that the works would result in unacceptable harm to protected species such as bats or to local wildlife populations including birds and mammals. Nevertheless, appropriate ecological safeguards and habitat enhancement measures can be incorporated through planning conditions where necessary.

Finally, while it is acknowledged that residents place a high value on the quiet, rural and conservation character of the village, the scale and nature of the proposed works are limited and do not introduce a new or intensified principal use on the site. Subject to the proposed mitigation and conditions, the development is not considered to result in an unacceptable erosion of the established character of the area.

Car Park and Access Concerns

Objection: Concerns are raised to the construction of a new car park rather than resurfacing existing hardstanding areas. Concerns include the potential removal of mature trees, impacts on biodiversity (including bats), increased vehicle movements, deterioration of the access road and the associated maintenance burden on residents, together with concerns regarding surface water drainage and a potential increased risk of flooding.

Response: It is acknowledged that some damage has occurred to a tree located in close proximity to the car park during the course of works. Concerns have also been raised regarding the potential felling of other trees within the wider grounds of the Townend Estate. The current application, however, does not propose the removal of any trees, and no tree felling forms part of the approved development.

The affected tree is not protected by a Tree Preservation Order nor is it located within a Conservation Area. While parts of the wider estate are identified within the Ancient Woodland Inventory, this designation does not, in itself, require the Planning Authority to give written consent for works or confer statutory protection on individual trees. Planning control is therefore limited to the direct physical impacts of the car park works, and any tree damage occurring outside the scope of the approved development falls outwith the powers of the Planning Authority under this application. The integrity of the woodland resource is not considered to be materially affected.

Mitigation can be secured through planning conditions, including landscaping, replacement planting, tree protection during any remaining works, and biodiversity enhancement measures to ensure that any localised damage is addressed and the overall ecological value of the site is maintained.

The application site is not identified within the SEPA Flood Risk Map as being at risk from river, coastal, or surface water flooding. Surface water drainage is therefore not considered to require control by condition and is instead addressed by advisory note, to ensure runoff is appropriately managed and does not adversely affect neighbouring land or the private access road.

Traffic generation associated with the lawful use of the building and the future maintenance of the private access road fall outwith the scope of planning control. The Ayrshire Roads Alliance has raised no objection to the proposal. Proportionate landscaping and biodiversity enhancement measures can be secured by condition to mitigate the loss of grassed areas, offset localised impacts, and support the wider ecological value of the site.

Listed Building and Heritage Concerns

Objection: Internal alterations, including the installation of en-suite bathrooms and associated structural works, are considered by residents to be excessive. External works, including the installation of plastic vents, drainage pipes, and other alterations, are perceived as harmful to the character and appearance of the listed building. A lack of clarity is expressed as to whether the requisite Listed Building Consent has been obtained for the works undertaken.

Response: The external works proposed as part of this planning application primarily relate to alterations to the cast-iron drainage outlets and associated ventilation serving the building. Internal works are not part of this planning application and are considered separately under Listed Building legislation. No significant harm to the character or appearance of the listed building is identified as part of this assessment. The separate Listed Building Consent process addresses any works requiring heritage consent.

Procedural and Transparency Concerns

Objection: Allegations that retrospective works have been carried out without prior planning consent. Concerns regarding the absence of consultation with local residents prior to the commencement of works or the alleged change of use. Claims within the application are alleged to be misleading in relation to site ownership and land use. Doubts are raised as to whether the appropriate planning procedures have been followed, including matters relating to risk assessment and public notification.

Response: The retrospective nature of the works is noted. The planning system allows for the assessment of retrospective applications in the same manner as prospective proposals. While pre-application consultation with residents may have been limited, the current application enables the Council to impose appropriate conditions to mitigate any impacts, including landscaping, biodiversity enhancement, and lighting control. Matters relating to ownership or procedural engagement beyond statutory requirements are not material planning considerations.

Practical Impacts on Residents

Objection: Concerns regarding potential property devaluation, failed property sales, and wider impacts on community wellbeing. Queries regarding the adequacy of existing water supply and drainage infrastructure to accommodate additional en-suite facilities. General anxiety relating to public safety and the absence of a prior risk assessment.

Response: These matters largely relate to the perceived use of the building rather than the physical works proposed. Planning assessment is confined to the material impacts of the development, including the car park, hardstanding, and minor external works. Issues relating to property values, water infrastructure beyond the site boundary, or public safety associated with future operational practices fall outwith the scope of the planning assessment.

(v) Impact on the Locality

Planning permission is required for the alterations to Townend House and the formation of a car park within its grounds. The assessment of the current application is required to consider the physical impacts of these proposals on the locality, having regard to the development plan, and other material considerations, including representations received and consultation responses. It is important to emphasise that the application does not propose a change of use. Accordingly, the assessment and planning decision focus exclusively on the physical works and their effects on the grounds and the surrounding environment.

Matters relating to Listed Building Consent will be considered separately as part of the assessment of the Listed Building application(s) submitted (see Planning History above).

Townend House, a mid-19th-century Category B Listed building, is located within landscaped grounds that include areas of woodland identified in the Ancient Woodland Inventory. The property has a long-established lawful use as a Class 8 residential institution, most recently operating as a care facility. The proposed works include the removal, repositioning, and reinstatement of cast-iron drainage outlets and the formation of a surfaced car park to the east of the building. These works have been carried out retrospectively. It is disappointing that the applicant undertook these works without dialogue with neighbours or the Council, resulting in retrospective enforcement implications and public concern.

The car park works, while described in the application as “resurfacing,” have involved the conversion of a previously grassed embankment into a hardstanding area. This has resulted in the loss of grassed amenity and potential habitat, which is regrettable. In line with Policy 3 (Biodiversity) of NPF4 and LDP2 policies on woodland and trees, appropriate mitigation in the form of landscaping and biodiversity enhancements can be secured through conditions, providing compensatory ecological benefit and ensuring that the development is proportionate to its scale.

Concerns have been raised regarding trees and woodland, including potential damage during car park formation. The application does not propose the felling of any trees, and while minor damage to one tree is acknowledged, the integrity of the Ancient Woodland Inventory is not materially compromised. Any mitigation measures would be limited to landscaping improvements consistent with the scale of the car park and the surrounding grounds, in accordance with Policy 6 (Forestry, Woodland and Trees) of NPF4 and LDP2 provisions on tree preservation.

The external alterations to Townend House are minor and largely relate to rainwater management. While retrospective, these works are not considered to materially harm the character or setting of the listed building, in accordance with Policy 7 (Historic Assets and Places) of NPF4 and LDP2 policies on the historic environment. Internal works, such as the installation of en-suite facilities, fall outside the scope of this application.

Issues regarding traffic, road safety, or potential operational impacts associated with the proposed use of Townend House as a rehabilitation facility are not material to the assessment, as the lawful use of the building remains Class 8. Similarly, concerns regarding perceived increases in noise, lighting, or general amenity are either outside planning control or can be mitigated by conditions where associated with the physical works (e.g., lighting associated with the car park).

Overall, while it is disappointing that the applicant undertook retrospective works and did not engage proactively with the local community, the proposed alterations to the Townend House and the formation of the car park are modest and proportionate. The application seeks to regularise the development, and planning conditions can be attached to secure biodiversity and landscaping mitigation, to ensure that the physical works respect the character of the listed building, its grounds, and the wider locality. On balance, the impact on the locality is acceptable and in accordance with the relevant provisions of NPF4 (Policies 2, 3, 6, and 7) and South Ayrshire LDP2 (Strategic Policies 1 and 2, Historic Environment, Woodland and Forestry, Preserving Trees, and Land Use and Transport).

8. Conclusion:

The application seeks planning permission for alterations to Townend House, a Category B Listed building, and for the formation of a surfaced car park within its grounds. The works are retrospective, involving external alterations to rainwater goods/ vents and the creation of a hardstanding area on previously grassed land. While the proposals have generated public concern, particularly regarding the perceived change of use and operational impacts, it is considered that Townend House remains within Class 8 (Residential Institutions – Care Home). Accordingly, the use of the building and potential client group are not material considerations in the determination of this application.

The external works are relatively minor and do not materially affect the character or setting of the listed building. The car park, although constructed on a previously grassed embankment, can be mitigated through appropriate landscaping and biodiversity enhancements. Overall, the integrity of the Ancient Woodland Inventory is considered to be maintained.

On balance, the proposed alterations and car park formation are proportionate, acceptable in design, and sympathetic to the character of the listed building and its grounds. Appropriate conditions can secure biodiversity, landscaping, and lighting mitigation, ensuring that the works integrate with the surrounding locality. The proposals are therefore considered to accord with the relevant provisions of NPF4 (Policies 2, 3, 6, and 7) and South Ayrshire LDP2 (Strategic Policies 1 and 2; Historic Environment; Woodland and Forestry; Preserving Trees; Land Use and Transport). Approval of the application, subject to conditions, is recommended.

9. Recommendation:

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

- (1C) That the development hereby permitted must be begun within three years of the date of this permission.
- (1R) 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.
- (2C) 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.
- (2R) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3C) That within three months of the date of this permission, a landscaping and biodiversity mitigation scheme shall be submitted to and approved in writing by the Planning Authority. This shall include planting, habitat enhancements, and measures to mitigate the loss of grassed areas. The approved scheme shall be implemented and maintained in perpetuity.
- (3R) To offset the ecological and visual impact of the car park.
- (4C) That no external lighting shall be installed in association with the car park hereby approved unless a lighting scheme has first been submitted to and approved in writing by the Planning Authority. Any approved lighting shall be installed and maintained in accordance with the approved details, for the lifetime of the development.
- (4R) To safeguard residential amenity, reduce light pollution, and protect ecological interests in the event that external lighting is installed.

9.1 Advisory Notes:

- (1) The applicant is advised to ensure that surface water from the car park does not adversely affect the private access road or neighbouring properties. Any drainage measures required beyond the site boundary are the responsibility of the landowners concerned.

9.2 List of Determined Plans:

- Drawing - Reference No (or Description): AE(00)010
- Drawing - Reference No (or Description): AE(00)011
- Drawing - Reference No (or Description): AE(00)012
- Drawing - Reference No (or Description): AE(00)013
- Drawing - Reference No (or Description): AE(00)014
- Drawing - Reference No (or Description): AE(00)015
- Drawing - Reference No (or Description): AE(00)016
- Drawing - Reference No (or Description): AE(00)017
- Drawing - Reference No (or Description): AE(00)00L Rev A
- Drawing - Reference No (or Description): AL(00)0CP

9.3 Reason for Decision (where approved):

The proposed external alterations to Townend House and the formation of a car park are not considered to materially harm the character, appearance, or setting of the Category B Listed building or its landscaped grounds. The development accords with the relevant provisions of National Planning Framework 4 and South Ayrshire Local Development Plan 2.

Background Papers:

1. Application form, plans and submitted documentation.
2. Representations.
3. Adopted South Ayrshire Local Development Plan (LDP2).
4. National Planning Framework 4 (NPF4).
5. Use Classes Order (Planning (Scotland) Act)

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.

Person to Contact:

David Clark, Co-ordinator (Development Management) - Telephone 01292 616 118

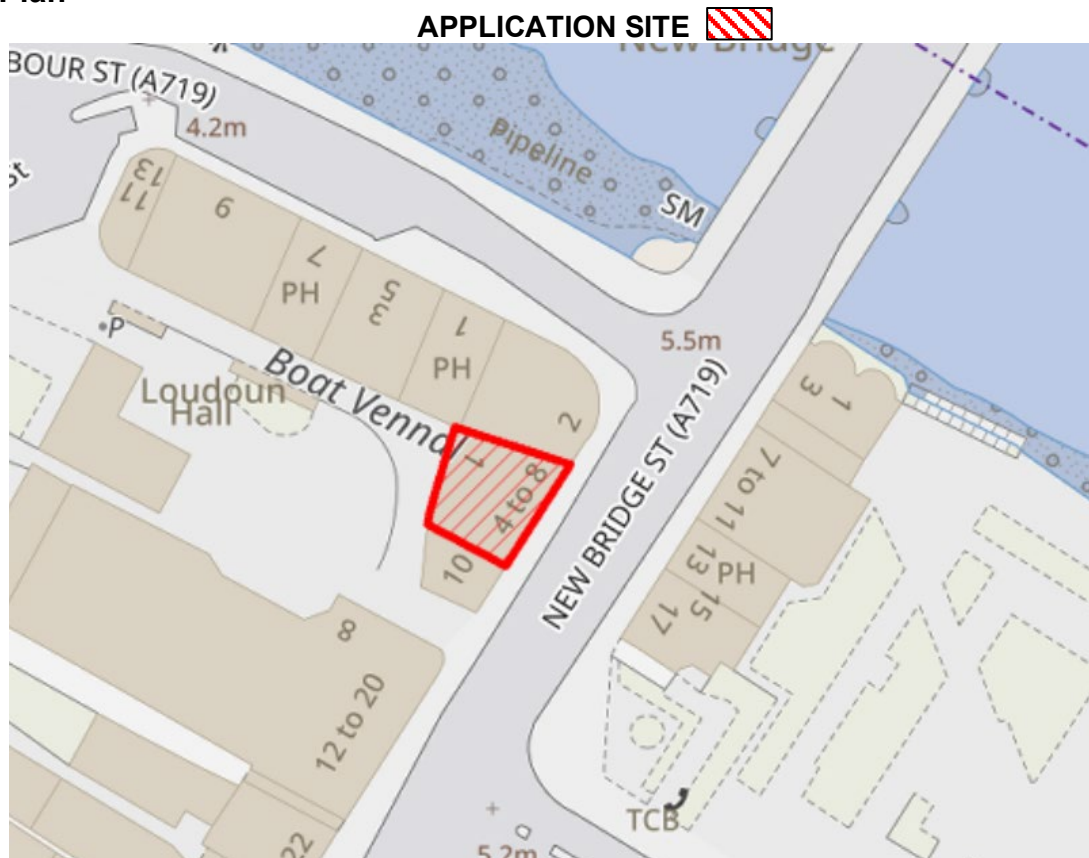
REGULATORY PANEL: 05 FEBRUARY 2026

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

25/00765/APP

8B NEW BRIDGE STREET AYR SOUTH AYRSHIRE KA7 1JX

Location Plan



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

<https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T5WSSJBDJEQ00&activeTab=summary>

Summary

Planning permission is sought for the change of use of a dwelling flat to short-term letting accommodation at 8B New Bridge Street, Ayr. The application site comprises a two-bedroom second-floor flat within a three and a half storey building. The application site shares a communal entrance with two other residential properties. The building is located within Ayr town centre and lies within the Ayr Central Conservation Area. The building is also category B-listed. There are not known to be any other short-term lets operating within the building.

The flat comprises a hall, kitchen, living room/dining room, two bedrooms, and a bathroom. No alterations to the internal layout or external appearance of the building are proposed; the application solely seeks permission for the change of use to short-term letting purposes in accordance with the Scottish short-term letting licensing scheme. The application is supported by an Operational Statement which sets out proposed management arrangements including a maximum occupancy of four guests, house rules, noise sensors installed within property, in person check in, and cleaning arrangements between stays.

The application has attracted two objections, one of which from the Fort, Seafield and Wallacetown Community Council, raising concerns regarding over-provision of short-term lets, shared access and bin facilities, the loss of long-term housing, and the loss of amenity for neighbouring residential properties. These matters have been carefully considered in the context of relevant planning policy, the town centre location, the flat's modest scale, and the operational management measures proposed.

The proposed development has been assessed against National Planning Framework 4 (NPF4) and the South Ayrshire Local Development Plan 2 (LDP2). Given the flat's scale, location, and management measures, the use is unlikely to result in unacceptable impacts on local amenity, communal areas, or the character of the building and Conservation Area. Any potential impacts on amenity, including noise or disturbance, would be addressed through licensing and enforcement mechanisms.

Accordingly, the application is recommended for approval with conditions restricting the use to short-term holiday accommodation.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

REGULATORY PANEL: 05 FEBRUARY 2026

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	25/00765/APP
SITE ADDRESS:	8B New Bridge Street Ayr South Ayrshire KA7 1JX
DESCRIPTION:	Change of use of dwellingflat to form short term let
RECOMMENDATION:	Approval with condition(s)

APPLICATION REPORT

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

Key Information:

- The application was received on 18 November 2025.
- The application was validated on 18 November 2025.
- A Site Visit was carried out by the Planning Authority on 3 December 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 21 November 2025.
- A Site Notice was posted in the locality under Section 60 of Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) by the Planning Authority on 2 December 2025.
- A Public Notice, under The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) was placed in the Local Press on 2 December 2025.

1. Proposal:

Planning permission is sought for the change of use of a dwellingflat to form short-term letting accommodation. The application site comprises of a 2nd floor dwellingflat located at 8B New Bridge Street, Ayr. The dwellingflat is situated within a building of three and a half storeys and shares a communal entrance with two other dwellingflats. There is a commercial property located at ground floor level. The application site is located with Ayr town centre and Ayr Central conservation area, as prescribed by the South Ayrshire Local Development Plan 2, and is also within a category B-listed building.

The proposed use of the flat for short-term letting purposes does not involve any alterations to the internal layout or external appearance of the building, with the application solely seeking permission for the change of use in order to comply with the Scottish short-term letting licensing scheme.

The application is accompanied by an Operational Statement submitted with the application, which sets out the following operational and management arrangements:

- The property has two bedrooms and a maximum occupancy of four persons.
- The property shall be let between March and December.
- The let shall operate a minimum stay length of two days and a maximum of fourteen days.
- The property shares a communal entrance with three other dwellingflats.
- The guests shall be met in person at check in time of 3pm. Check out time shall be 11am.
- All cleaning and laundry shall be undertaken by the applicant.
- Waste shall be disposed of using existing communal bins.
- Guests shall be informed of house rules contained within guest manual stored in property. Noise sensors shall also be installed within the property.
- Owner has provided neighbouring residential properties with their phone number to be contacted should there be any complaints. Each complaint shall be reviewed and stays terminated, if appropriate.

The flat shares a common entrance with two other units, and communal bin provision is also shared among the three flats. No external amenity space or private parking is associated with the flat; both on and off-street public parking is available nearby.

The application requires to be reported to the Council's Regulatory Panel, as the Fort, Seafield and Wallacetown Community Council has objected to the application, thereby expressing a different view to the recommendation to approve the application subject to conditions.

2. Consultations:

No consultations were undertaken for this application.

3. Submitted Assessments/Reports:

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

None.

4. S75 Obligations:

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

None.

5. Scottish Ministers Directions:

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

None.

6. Representations:

2 representations have been received which object to the proposed development. All representations can be viewed online at <https://publicaccess.south-ayrshire.gov.uk/online-applications/applicationDetails.do?keyVal=T5WSSJBDJEQ00&activeTab=summary>

The objections raise the following key concerns:

- Perceived over-provision of short-term lets within the area,
- Shared access to the property, which could result in disturbance of amenity and overuse of communal bin facilities.
- The loss of a residential property from the housing stock, which could exacerbate a shortage of long-term accommodation.

In accordance with the Council's procedures for the handling of planning applications, Representees have the opportunity to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to the points raised in the objection is included within the assessment section of this report.

7. Assessment:

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

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

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

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

(i) National Planning Framework 4 (NPF4)

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-planning-framework-4/pages/12/index.aspx):

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

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

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

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

The application site is located within the settlement of Ayr, more specifically with the town centre, and guests of the STLs will have easy access to services and amenities located with Ayr and other neighbouring settlements. It is not unreasonable to assume that guests of the STLs will use such services and amenities and thus increase spend within the local area. Overall, it is considered that the loss of the existing residential accommodation can be justified due to the local economic benefits associated with the application proposals.

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.

For the reasons set out above, and elsewhere in this report, the proposals are considered to align with the policy provisions of the National Planning Framework 4.

(ii) South Ayrshire Local Development Plan 2

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

- LDP 2 Strategic Policy 1: Sustainable Development
- LDP 2 Strategic Policy 2: Development Management
- LDP 2 Policy: Tourism
- LDP 2 Policy: Town Centres

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

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

(iii) Other Policy Considerations (including Government Guidance)

None.

(iv) Objector Concerns

- *Perceived over-provision of short-term lets within the area.*

While it is acknowledged that Ayr contains a number of existing STLs, each application is assessed on its individual merits. The proposed flat is modest in size, with two bedrooms and maximum occupancy of four guests. The operational arrangements, including house rules, noise sensors installed within property and in person check in, are designed to ensure minimal impact on neighbouring residents. The proposal does not contribute to cumulative adverse impacts in the wider town centre.

- *Shared access to the property, which could result in disturbance of amenity and overuse of communal bin facilities.*

The flat shares a common entrance and bin store with two other flats. Guests will be provided with clear instructions within the House Rules regarding the use of the property, which should minimise potential disturbances to neighbours.

- *The loss of a residential property from the housing stock, which could exacerbate a shortage of long-term accommodation.*

The application involves a single two-bedroom flat within a three-unit block. While there is a finite supply of residential properties, the modest scale and temporary nature of the proposed short-term letting use and its location within Ayr town centre, mean that the impact on long-term housing availability is minimal and is outweighed by the local economic benefits associated with tourism spend and supporting local businesses.

(v) Impact on the Locality

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises National Planning Framework 4 (NPF4) and the South Ayrshire Local Development Plan 2 (LDP2), as outlined above. The main issues in this case are whether the proposal complies with development plan policy, and whether any other material considerations justify a departure from policy.

NPF4 was adopted on 13 February 2023 and carries increased weight over previous national frameworks. In the absence of specific Council guidance relating to short-term lets, Policy 30 of NPF4 is relevant. It states that proposals for the reuse of existing buildings for short-term holiday letting should not be supported where they would result in an unacceptable impact on local amenity or the character of a neighbourhood, or where the loss of residential accommodation is not outweighed by demonstrable local economic benefits.

The submitted Operational Statement demonstrates management measures designed to mitigate potential impacts on amenity, including house rules, noise sensors installed within property, in person check in, and overall availability of the operator. The modest scale of the flat, with two bedrooms and a maximum occupancy of four guests, further limits potential disturbance. Any persistent issues would be addressed through Police Scotland, the Council's Environmental Health Service, or the Short-Term Lets Licensing Team.

In terms of economic impact, the Scottish Government's research on short-term lets in Scotland highlights local economic benefits, including increased spend, additional employment (including property management, cleaning, and maintenance), and support for tourism-related services. The flat is located in Ayr town centre, providing guests with convenient access to local services and amenities. These economic benefits support the justification for the limited loss of long-term residential accommodation.

The site at 8B New Bridge Street, is a two-bedroom flat within a three and a half storey category B-listed building, with three other residential units and commercial premises at ground floor level within Ayr town centre and Ayr Central conservation area. Shared access and bin provision are in place, and there are no other short-term lets in the building. No neighbouring residential properties have not objected. Parking and access have been considered; while the flat relies on public on and off street parking, the modest occupancy and central location in proximity to public transport options, combined with a public car park immediately to the rear, suggest that additional parking demand would be minimal.

No external alterations are proposed. The short-term letting use will retain the residential character of the flat and will be restricted to holiday occupancy only. The operational measures and licensing controls are considered sufficient to prevent unacceptable impacts on neighbours or the character of the locality.

The Regulatory Panel has considered multiple applications for short-term let accommodation across South Ayrshire, and their decisions are acknowledged as material considerations. Each application is assessed on its individual merits, with careful attention to potential impacts on residential amenity, property scale, over-provision of short-term lets, and parking. These decisions highlight the scrutiny applied by the Panel in balancing the benefits of short-term letting against potential adverse impacts on local amenity and the character of residential areas.

In the context of this application, the property is a two-bedroom second floor flat located within a town centre. Its scale, operational management measures, and town centre location suggest that the likelihood of significant adverse impacts on neighbouring amenity is limited. Expectations of residential amenity in a town centre context differ from predominantly residential areas, where the Panel's previous refusals were based. No neighbouring residents have objected, and the Operational Statement demonstrates robust measures to manage occupancy, guest behaviour, and waste.

While the Regulatory Panel retains the discretion to reach a different view, the proposal is considered to comply with Policy 30 of NPF4 and relevant LDP2 provisions. Licensing arrangements provide ongoing operational control, including measures to address noise or anti-social behaviour, with licences requiring renewal every three years.

Taking into account NPF4 Policy 30, relevant LDP2 provisions, the flat's scale, operational management measures, and town centre context, the proposal is not expected to result in unacceptable impacts on local amenity or the character of the area. Approval is recommended, subject to conditions restricting use to short-term holiday accommodation only.

8. Conclusion:

The application has been assessed against the various material considerations, including the provisions of the development plan, relevant supplementary guidance, consultations, representations received, and the impact of the proposed development on the locality.

The assessment concludes that the principle of the proposed development complies with the development plan and relevant guidance. The consultation responses do not raise any issues of overriding concern that cannot be addressed by condition. Similarly, the points raised in the objection have been fully considered but do not raise any matters that would merit refusal of the application. It is considered that the site context, the character of the area, and the operational management arrangements for the short-term let are satisfactory and, together with the imposition of suitable planning conditions, will ensure an acceptable form of development.

Given the above assessment, and having balanced the applicant's rights against the general interest, the application is recommended for approval, subject to conditions restricting the use to short-term holiday accommodation only.

9. Recommendation:

It is recommended that the application is approved with the following condition(s):

Reasons:

- (1C) That the development hereby permitted must be begun within **three years** of the date of this permission.
- (1R) 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.
- (2C) 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.
- (2R) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3C) That the accommodation hereby approved shall not be promoted, advertised, let, or used for any purpose other than as holiday accommodation, to the satisfaction of the Planning Authority.
- (3R) To define the terms of this planning permission, and to retain proper planning control over the development.

9.1 Advisory Notes:

None.

9.2 List of Determined Plans:

Drawing - Reference No (or Description): Location Plan

Drawing - Reference No (or Description): Floor Plan

Supporting Information - Reference No (or Description): Operational Statement

9.3 Reason for Decision (where approved):

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

Background Papers:

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

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.

Person to Contact:

Emma McKie, Supervisory Planner (Development Management) - Telephone 01292 616 203

REGULATORY PANEL: 5 FEBRUARY 2026

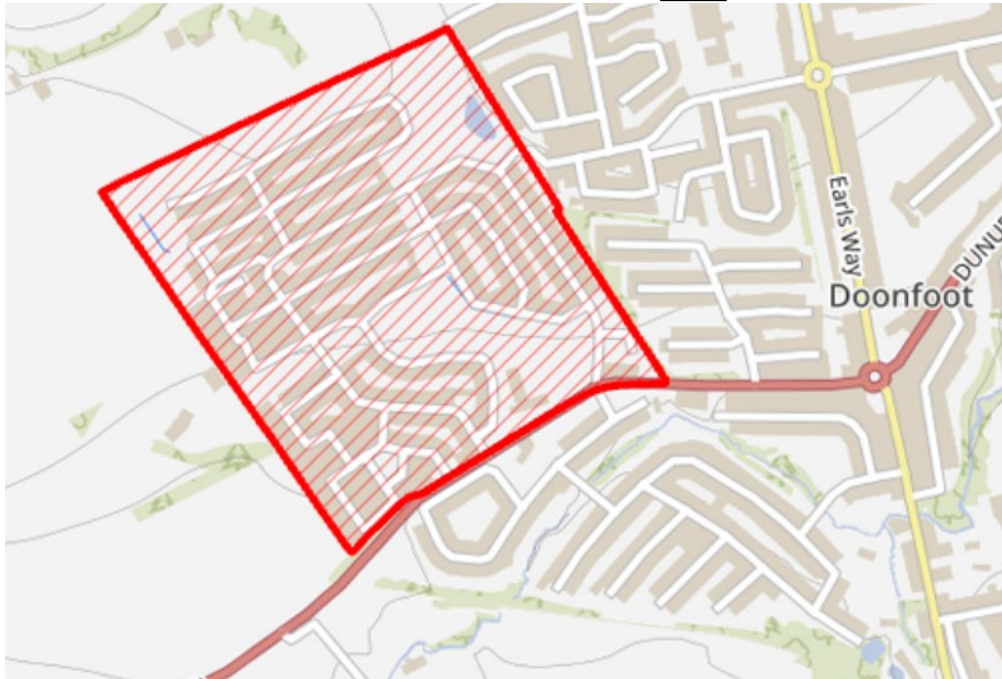
REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

25/00364/MDO and 25/00372/MDO

LAND AT GREENAN DUNURE ROAD AYR SOUTH AYRSHIRE

Location Plan

APPLICATION SITE 



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

[\(Application Summary\)](#)

Summary

These applications seek to modify the Minutes of Agreement associated with the Section 75 obligations for planning permissions 09/00683/OUT and 18/00311/FURM, the latter being a renewal of the original permission 09/00683/OUT.

These applications are not planning applications and the statutory requirements for determining a planning application are not relevant to the consideration of these applications. Primacy of the development plan is not applicable although it remains a consideration alongside Circular 4/2025 and representations received from interested parties. Interested parties are defined in the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 as (other than the applicant) the owner of the land and/or any other person against whom the planning obligation is enforceable.

The Section 75 Agreements for both planning permissions contain equivalent provisions. They relate to the payment of financial contributions towards education infrastructure (alongside other matters not under consideration in these applications). A total of 495 homes were approved, and it was anticipated that pupil numbers in local schools would rise as a result. Accordingly, the Agreements set out the expected contribution levels to meet the associated education infrastructure requirements. However, the number of children generated by the development has been significantly lower than projected. As a result, some of the contributions paid by the developer have not been required for school infrastructure. The developer is therefore seeking repayment of the unspent monies through these applications. It is important to note that these contributions are not a tax; rather, they operate as a form of insurance designed to cover

the cost of additional education infrastructure if pupil numbers increased at the levels originally forecast - which ultimately did not occur.

Infrastructure is identified in the Agreements as:

- (a) “the extension of Doonfoot Primary School (including temporary units), incorporating a community lifelong learning suite”;
- (b) “the extension of Kyle Academy”; and
- (c) “the extension of St John’s Primary School”.

The Agreements allow some flexibility in how contributions may be used, specifying that if “the Council determine that the sums received would be better spent on alternative facilities to meet the educational needs of children residing in the Development, the Council shall be entitled to spend the sums accordingly”.

All education contributions due to the Council under the Agreements amount to approximately £9 million over a 15-year period. The Council has used part of these funds to expand and improve Doonfoot Primary School. Approximately £3.8 million has been spent on alteration projects at the school, including: a three-classroom extension at the Lower School (£850,000, completed in 2014); a games hall extension (£1.75 million, completed in 2020); a two-classroom extension at the Upper School (£725,000, completed in 2023); and car park extension, landscaping, and security works (£500,000, completed in 2024). Around £1.9 million associated with Doonfoot Primary School remains unspent.

The Agreements require a contribution of £914.00 from the developer for each new housing unit sold, to be used towards the construction of an extension at St John’s Primary School or alternative educational works benefitting children from the development. No alteration projects have been undertaken at St John’s Primary School since 2014 using Greenan developer contributions, and, including interest accrued, approximately £632,000 remains unspent.

Similarly, the Agreements require a contribution of £914.00 per unit towards the construction of an extension at Kyle Academy or alternative works to meet the educational needs of children residing in the development. No alteration projects have been delivered at Kyle Academy since 2014 using Greenan developer contributions, and, including accrued interest, approximately £2.8 million remains unspent.

In September 2024, MacTaggart and Mickel made their final payment to the Council, following completion of the last dwelling within the development. The Section 75 Agreements specify that any contributions not contractually committed or spent are to be repaid within five years of completion. Notwithstanding this current proposal to amend the legal agreement, any unspent monies would be due to be returned to the applicant by September 2029. The unspent monies are c£5.3million plus interest.

The Section 75 Agreements stipulate that any contributions not contractually committed or spent must be repaid within five years of completion of the development. Accordingly, any unspent monies would be due to be returned to the applicant by September 2029.

The applicant is now seeking to modify the Section 75 Agreements to allow for the repayment of unspent education contributions, together with accrued interest. The applicant’s position is that there is no lawful basis for the Council to justify any further expenditure on education infrastructure arising from the Greenan development.

Twelve representations have been received from interested parties in relation to application 25/00364/MDO: eleven objections (two from same individual x2) and one in support. A separate representation from Alloway, Doonfoot and St Leonards Community Council has also been received, which objects to the proposal. Nine representations (two from same individual x2) have been submitted by interested parties in relation to application 25/00372/MDO, all of which object. The issues raised across both applications include concerns about education infrastructure, the use of contributions, demographic trends, the content of the interested party notification letter, and various other matters relating to the estate. A separate representation from Alloway, Doonfoot and St Leonards Community Council has also been received, which objects to the proposal. This community view can only be noted as representations that can be considered under the S75A procedure are limited to interested parties which is defined as the owner of the land and/or any other person against whom the planning obligation is enforceable, as set out above. Only representations received from parties with a land ownership interest should be considered in relation to these applications. As set out above, consideration of these applications falls outside the statutory requirements for determining planning applications therefore representations made by interested parties are not regarded as material planning considerations and are listed for information only.

Having regard to the available evidence on pupil numbers, projections, and school capacities within the catchment area (and at Kyle Academy, which lies outwith the catchment), and taking account of the tests contained in Circular 4/2025 on Planning Obligations, the Development Plan and representations from interested parties, it is considered that the Council cannot reasonably retain the unspent education contributions associated with the Greenan development and they are now unnecessary. While a spike in the school-age population could occur within the next four years, the evidence indicates this is highly unlikely. The recommendation that the unspent monies should be returned has therefore been reached on the basis of a balanced assessment of the evidence. If approved, the decision will be reported to Cabinet for noting due to financial implications for the Council.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

REGULATORY PANEL: 5 FEBRUARY 2026

SUBJECT:	PLANNING REPORT
APPLICATION REFS:	25/00364/MDO and 25/00372/MDO
SITE ADDRESS:	Land At Greenan Dunure Road Ayr South Ayrshire
DESCRIPTION:	Modification of planning obligations to require repayment of sums not spent on delivery of education infrastructure related to the development (09/00683/OUT and 18/00311/FURM)
RECOMMENDATION:	Approval. The decision will be reported to Cabinet for noting due to financial implications for the Council.

APPLICATION REPORT

The application is considered in accordance with the Council's Scheme of Delegation.

Key Information:

- The applications were received on 6 June 2025.
- The applications were validated on 28 July 2025.
- No Site Visit was undertaken by the Planning Authority because the applications relate to the modification of Minutes of Agreement connected to Section 75 obligations and no physical development is proposed.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was not required to be undertaken for the applications.
- Letters to Interested Parties, as required under Section 75A of The Town and Country Planning (Scotland) Act 1997 were carried out by the Planning Authority on 1 August 2025. This relates to every property and landowner within the red line application site boundary associated with planning permission 09/00683/OUT and the subsequent renewal application - 18/00311/FURM. A further letter to interested parties was issued on 3 November 2025.
- No Site Notice was required.
- No Public Notice in the Local Press was required.
- If approved, the decision will be reported to Cabinet for noting due to financial implications for the Council.

1. Site Description

The application site is located to the south of Ayr and comprises an area of approximately 35 hectares of land which has been developed for residential (and commercial) use.

2. Planning History

There is an extensive planning history at the site and applications are listed below.

04/01658/OUT - Outline planning permission for the erection of residential development and community facility – Withdrawn June 2009.

09/00683/OUT – Outline planning permission for the erection of residential development and ancillary uses, local convenience retail (class 1), care home (class 8), community facility (class 10) and associated access car parking, open space and landscaping – Approved October 2010.

10/00957/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved January 2011.

11/01406/MDO - Modification of minute of agreement (Section 75) October 2010 (Planning Permission 09/00683/OUT), Paragraph 6.1.1 – Approved December 2011.

14/00052/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved March 2014.

14/00772/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved September 2014.

15/01090/MDO - Discharge of minute of agreement (Section 75) (Planning Permission 09/00683/OUT) – Approved May 2016.

16/00227/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved June 2016.

17/01081/APP – Substitution of house types on plots 4, 5, 8, 9, 10, 19, 20, 36, 37, 40 and 44 in approval 14/00772/MSCM – Approved November 2017.

17/01387/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved May 2018.

18/00105/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT - erection of 105 residential units, associated works, SUDS basin and landscaping – Approved June 2018.

18/00311/FURM – Further application as not to comply with Condition 1 of Planning Permission 09/00683/OUT to extend the period of time within which Matters Specified in Conditions applications may be submitted by six years – Approved July 2021.

18/00357/MSCM - Approval of matters specified in conditions of outline planning permission 09/00683/OUT (amendment to layout of plots 11-14, 42 and 43 in approval 14/00772/MSCM) – Approved September 2018.

18/00736/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT – Approved March 2019.

18/00947/MSCM - Application of approval of matters specified in conditions of outline planning permission 09/00683/OUT (formation of spine road) – Approved December 2018.

21/00556/MSCM – Approval of matters specified in conditions of outline planning permission 09/00683/OUT (as renewed by 18/00311/FURM) – Withdrawn September 2021.

21/00800/MSC - Approval of matters specified in conditions of outline planning permission 09/00683/OUT (as renewed by 18/00311/FURM) - Formation of kickabout pitch and associated works – Approved November 2021

21/00839/MDO - Application for modification of Section 75 agreement in relation to 09/00683/OUT – Approved October 2021.

21/00962/MSC - Approval of matters specified in conditions of outline planning permission 09/00683/OUT (as renewed by 18/00311/FURM) – Approved November 2021.

3. Background and description

Background

Permission is sought to modify the Minutes of Agreement associated with the Section 75 legal obligations for planning applications 09/00683/OUT and 18/00311/FURM. Application 18/00311/FURM renewed the consent previously granted under 09/00683/OUT.

MacTaggart and Mickel Ltd and the Council are signatories to the Agreement associated with permission 09/00683/OUT and MacTaggart and Mikel Ltd, West of Scotland Housing Association Limited, CALA Management Limited and the Council are signatories to the Agreement associated with permission 18/00311/FURM.

The Agreements relate to the payment of financial contributions towards the provision of education infrastructure, alongside other matters not under consideration in these applications. A total of 495 homes were consented, and it was anticipated that pupil numbers in the local schools would increase as a result, with the expected contribution costs set out below. However, the number of children arising from the development has been significantly lower than projected, meaning that some of the contributions paid by the developer have not been required. The developer is therefore seeking repayment of these unspent funds through the current applications. It is important to note that the contributions are not a tax; rather, they mitigate anticipated impacts from a development with projected necessary expansions to local schools in response to the predicted rise in pupil numbers, which ultimately did not occur. The detail of these Agreements is as follows.

Outline planning permission was granted in October 2010 (09/00683/OUT) for a 495-unit residential development at Greenan. The sole applicant, MacTaggart and Mickel Ltd, entered into a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 with South Ayrshire Council, covering a number of matters including the payment of financial contributions towards the delivery of school enhancements. The Agreement contains planning obligations relating to the provision of education infrastructure to mitigate the impact of the development. The infrastructure identified comprises:

- the extension of Doonfoot Primary School (including temporary units), incorporating a community lifelong learning suite;
- the extension of Kyle Academy; and
- the extension of St John's Primary School.

The Agreement provides some flexibility in the use of contributions, stating that if “the Council determine that the sums received would be better spent on alternative facilities to meet the educational needs of children residing in the Development, the Council shall be entitled to spend the sums accordingly.”

A separate Section 75 Agreement was entered into in 2021 when planning permission 18/00311/FURM was granted to allow the continuation of the Greenan development. That Agreement contains equivalent provisions to those in the 2010 agreement in relation to education contributions.

The applicant, MacTaggart and Mickel, has paid all education contributions due under the Agreements to the Council, amounting to approximately £9 million over a 15-year period. The Council has used part of these funds to expand and improve Doonfoot Primary School. Approximately £3.8 million has been spent on alteration projects, including:

- a three-classroom extension at the Lower School (£850,000, completed in 2014);
- a games hall extension (£1.75 million, completed in 2020);
- a two-classroom extension at the Upper School (£725,000, completed in 2023); and
- car park extension, landscaping, and security works (£500,000, completed in 2024).

Approximately £1.9 million associated with Doonfoot Primary School remains unspent.

Under the Section 75 Agreements, a contribution of £914 per housing unit sold is required towards the construction of an extension at St John's Primary School, or alternative works to meet the educational needs of children from the development. No alteration projects have been completed at St John's Primary School since 2014 using Greenan developer contributions, and including accrued interest, approximately £632,000 remains unspent.

Similarly, a contribution of £914 per unit is required towards the construction of an extension at Kyle Academy, or alternative works to meet the educational needs of children from the development. No alteration projects have been completed at Kyle Academy since 2014 using Greenan developer contributions, and including accrued interest, approximately £2.8 million remains unspent.

In September 2024, MacTaggart and Mickel made their final payment to the Council, following completion of the last dwelling within the development. The Section 75 Agreements specify that any contributions not contractually committed or spent are to be repaid within five years of completion. Notwithstanding this current proposal to amend the legal agreement, any unspent monies would be due to be returned to the applicant by September 2029. The unspent monies are c£5.3million plus interest.

Description

The applicant is seeking to modify the Section 75 Agreements to provide for repayment of unspent education contributions, together with accrued interest, as they consider there to be no lawful basis for further expenditure by the Council on education infrastructure arising from the Greenan development.

Specifically, the applicant has applied to modify the Section 75 Agreements to delete the words “within 5 (five) years of the last payment” in Clause 4.1.8 (last completed dwelling) and to delete the existing wording in clause 4.1.9 and replace it with the following:

“Contributions received under Clause 4.1 but not committed to or spent on the extension, or other alternative works as aforesaid by 18th February 2025, and all accrued interest thereon shall be repaid by the Council to MacTaggart and Mickel Homes limited by 30th July 2025 or, if later, 28 days after it is agreed or determined that such contributions have not been spent in accordance with the terms of the Agreement”.

4. Submitted Assessments/Reports:

The applicant has submitted the following reports in support of their submission:

Supporting Statement: This sets out the background to the Section 75 Legal Agreements. It states that c£9m has been paid to the Council in education contributions over a period of nearly 15 years and that in August 2024 the Council held c£5.9m which at that stage had not been allocated to any identified future capital projects. MacTaggart and Mickel (the applicant) made a final payment to the Council of £259,778 in September 2024. It further states that the available evidence strongly suggests that there is no ongoing requirement to carry out any further school improvements as a result of the Greenan development. The Agreement provides that any contributions that have not been contractually committed or spent are to be repaid within 5 years of completion of the Development, i.e. September 2029. However, the statement outlines that in view of the available evidence, there does not appear to be any lawful basis on which the Council could justify further expenditure on education infrastructure arising from the Development.

South Ayrshire Council Report by Director of Housing, Operations and Development to Service and Partnerships Performance Panel of 20 August 2024: This report provided an update to Panel on Developer Contributions, obtained through legal agreements, gathered and utilised during the period 2023/24. For Greenan, it outlined that income was £479,228.54 and that expenditure was £550,650.39 in this time period, leaving a balance of £5,899,028.73. It should be noted that this figure does not include payment for the car park project at Doonfoot Primary School (£500,000) which was completed in late August 2024.

Education Capacity Assessment Report (Lichfields, dated 12 September 2025): This report explores whether the education contributions set out in the Section 75 Agreements are justified, fair and reasonable given the impact the development has had and is predicted to have on the Council's school estate. The report considers the following: identifies the policy tests for developer contributions/planning obligations, assesses the population change within Doonfoot Primary School's catchment area, identifies the history of the school capacities in each of the relevant schools, considers whether the spending of the contributions made is in line with the requirements of NPF4/Circular 3/2012 and sets out conclusions. The conclusions reached are as follows: any monies still held for the provision of increased capacity at Doonfoot Primary School should be returned to the developer, the developer contributions that were paid as part of the Greenan development for an extension to St John's Primary School (none of which has been spent to date and will not be required in the future) should be returned and that the developer contributions that were paid as part of the Greenan development for an extension to Kyle Academy (none of which has been spent to date and will not be required in the future) should be returned.

5. Consultations:

Council's Schools and Service Support (Education Service): The response from Education forms a critical element within the assessment of these applications. As such, the response is incorporated within the assessment section of this report.

6. S75 Obligations

Applications 25/00364/MDO and 25/00372/MDO seek to modify legal agreements entered into in relation to planning permissions 09/00683/OUT and 18/00311/FURM respectively, solely in relation to Education Contributions.

The obligations within 09/00683/OUT cover the following matters in relation to Education Contributions:

- Doonfoot Primary School – the owner shall pay £3,365,610 towards the extension of Doonfoot Primary School (including any temporary units), incorporating a community lifelong learning suite, to the Council.
- Kyle Academy – the owner shall pay £1,744,940 towards the extension of Kyle Academy to the Council.
- St John's Primary School – the owner shall pay £393,020 towards the extension of St John's Primary School to the Council.

It is stated that any money which has not been committed or spent on the extensions, or other alternative works to meet the educational needs of children residing in the Development, and all accrued interest will be repaid to the Owner if the Council has not appointed a contractor to construct the extensions, or other alternative works as aforesaid, within 5 years of the completed construction of the full Development.

The obligations within 18/00311/FURM effectively mirror those within the previous planning permission in respect of Education Contributions.

The Section 75 Agreements associated with planning permission 09/00683/OUT and renewal 18/00311/FURM also included affordable housing provision, financial contributions to the Council's Roads and Transportation Services towards improvements to the local road network and the provision of a commercial bus service servicing the application site. However, as aforementioned, the applications currently under consideration only relate to the return of unspent Education Contributions

7. Scottish Ministers Directions:

None.

8. Representations:

The process of determining a s75A application requires the Council to notify any party with a land interest. The houses built as part of the Greenan development have land titles over which the section 75 Agreements relate. The purpose of the notification is to let parties with title interest be aware of potential changes to their land title. 12 representations from interested parties with a land interest have been received in relation to application 25/00364/MDO (two from same individual x2), 11 of which object to the proposal, including from Alloway, Doonfoot and St Leonards Community Council.

9 representations have been received in relation to application 25/00372/MDO (two from same individual x2), all of which object to the proposal.

All representations can be viewed online at: [25/00364/MDO | Modification of planning obligation to require repayment of sums not spent on delivery of education infrastructure related to the development \(09/00683/OUT\) | Land At Greenan Dunure Road Ayr South Ayrshire](#)

[25/00372/MDO | Modification of planning obligation to require repayment of sums not spent on delivery of education infrastructure related to the development \(18/00311/FURM\) | Land At Greenan Dunure Road Ayr South Ayrshire](#)

It is important to note that representations require to be considered in the determination of these applications; however, they are not material planning considerations in the way that representations on a planning application are considered.

The representations can be summarised under the topic headings below, although as noted above, these do not have the status of being 'material planning considerations'. The Planning Service's response to the representations has also been provided.

Education Infrastructure

- Money should be used for future upgrades/renovations to local schools as the Greenan development will result in an increase in school rolls.

Response: This matter is addressed within the assessment section of this report.

- Doonfoot Primary School is stretched, increase in pupils with special needs including ADHD, dyslexia, physical impairment etc – demand for teaching assistants. If money isn't used for this, future problems will be created in relation to disaffected/disassociated adults in area.

Response: Pupil numbers at Doonfoot Primary are addressed within the assessment section of this report. Money obtained from Education contributions cannot be used to fund teaching assistants.

Use of Money

- Mini football pitch within development has not been installed, only grass with no goals/markings – this is an educational need.

Response: Planning application 21/00800/MSA approved the formation of kickabout pitch and associated works in November 2021. The developer has confirmed that these works are complete. However, the Planning Service has asked the developer if goals could be provided (there is no planning requirement), no response has been received to this request to date.

- The £9m should have been allocated and spent, Council should have been on top of this and had foresight to put clauses in planning permission for matters such as recreational facilities or a GP Surgery.

Response: The education developer contributions function as a form of insurance. As noted in the assessment section of this report, pupil numbers have not increased as anticipated as a result of the Greenan development, leaving a significant sum unspent. No impact on health provision was identified arising from the development and a GP surgery was not part of any approved planning permission within the Greenan development. The current applications relate solely to education infrastructure.

- Residents should be able to present a case for keeping the money for such things as better recreational facilities for young people or a GP Surgery.

Response: The money in question can only be spent on extensions to the schools or on alternative facilities to meet the educational needs of children residing in the Development. Better recreational facilities for young people or a GP Surgery does not fit into either category.

- Money should be used for the benefit of the community - establish play areas with swings/slides, football ground, repair roads/cycle track, installation of benches along cycle track etc.

Response: As aforementioned, the education contributions relate solely to education infrastructure.

Demographic Changes

- The developer wants money back 4 years early, much can change in this time. In one street, 4 babies have been born and two 2 years olds have arrived in past 3 years.

Response: It is agreed that demographic changes could occur; however, as outlined within the assessment section of this report, the evidence suggests that this is highly unlikely to warrant the retention of the unspent education contributions. The decision requires to be based on evidence, planning policy and planning guidance.

Content of Interested Parties Notification Letter

- Difficult to understand what the applications relate to from interested parties letter – jargon.

Response: The Interested Parties letter provides all of the information required under The Town and Country Planning (Scotland) Act 1997 (as amended) and The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010. Although the language is technical, this is necessary to accurately convey the purpose of the notification, and it is therefore considered reasonable.

Other Matters

- Social housing too close to private dwellings, take issue with CALA and the Council.

Response: This is not a relevant consideration in the assessment of the current applications.

- In the original Masterplan for the development, there was a Community Building shown in vicinity of the pond – this was not built and a Community Hall is needed.

Response: This is not a relevant consideration in the assessment of the current applications. Notwithstanding, a Community Hall has not formed part of an approved planning application within the Greenan site.

- Existing play area in development poorly equipped.

Response: This is not a relevant consideration in the assessment of the current applications.

- Greenan estate was supposed to house a football pitch, climbing frame and basketball nets.

Response: A football pitch was approved under application 21/00800/MS and the developer has confirmed that this is complete. The developer has not applied for detailed planning consent for a climbing frame or basketball nets.

- MacTaggart and Mickel should have provided a formal pedestrian route from the estate to Greenan Road.

Response: This is not a relevant consideration in the assessment of the current applications.

The letter of support outlines that the money should be returned to the developer due to the fact that further works do not require to be carried out.

9. Development Plan:

There is no statutory criteria for determination of an application for modification or discharge of a planning obligation. In particular, there is no statutory requirement in section 75A of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for regard to be had to the development plan. Consequently section 25 of that Act (which requires in respect of planning applications that they are to be determined in accordance with the development plan unless material considerations indicate otherwise) does not apply to applications for modification or discharge of planning obligations. The context provided by planning policy is, of course, still a relevant consideration. The development plan is presently comprised of National Planning Framework 4 and the Council's Local Development Plan 2.

National Planning Framework 4 (NPF4)

The following policy of NPF4 is relevant in the assessment of the applications 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):

The relevant policy in the case of these applications is: NPF4 Policy 18 – Infrastructure First

This policy states that “where planning obligations are entered into, they should meet the following tests:

- be necessary to make the proposed development acceptable in planning terms
- serve a planning purpose
- relate to the impacts of the proposed development
- fairly and reasonably relate in scale and kind to the proposed development
- be reasonable in all other respects

South Ayrshire Local Development Plan 2

The following policy of the South Ayrshire Local Development Plan 2 is 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)

The relevant policy in the case of these applications is: LDP Policy: Delivering Infrastructure

This policy states that all requirements will be related to the scale, nature and kind to the development and calculated on a case-by-case basis and that any planning obligations should be in accordance with Circular 3/2012: Planning Obligations and Good Neighbour Agreements (now superseded by Circular 4/2025 - see section 10, below). Where there are several developments causing a cumulative impact on infrastructure, the Council will seek contributions proportionate to the scale of each of the proposed developments to ensure contributions are fair and reasonable.

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

The key assessment in determining a s75A are the terms of Circular 4/2025. Circular 4/2025 relates to Planning Obligations and Good Neighbour Agreements. The Circular sets out the tests to be applied in the assessment of applications to modify legal agreements, including the adoption of a sequential approach which considers the use of planning conditions in the first instance, and secondly, the use of an alternative legal agreement. The Circular also states that obligations should meet the “planning purpose test”, should relate to the development being proposed, should relate in scale and kind to the proposed development, and be reasonable in the circumstances of the development.

Paragraph 21 sets out the policy tests and states that:

Planning obligations made under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) should only be sought where they meet all of the following tests:

- necessary to make the proposed development acceptable in planning terms (paragraph 24)
- serve a planning purpose (paragraph 25) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the impacts of the proposed development (paragraphs 26 and 27)
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 28-31)
- be reasonable in all other respects (paragraphs 32-34)

The tests are to be applied to the facts as they stand at the time of the decision on the current applications.

Paragraph 104 states that the planning authority should take into account any changes in circumstances; for example, it may be that external factors affecting the development mean that the obligation is no longer reasonable and that a modification to reflect the change in circumstances is appropriate.

11. Assessment

Introduction

Through the current applications, the applicant is seeking to modify the Section 75 Agreements associated with planning permissions 09/00689/OUT and 18/00311/FURM to provide for the repayment to MacTaggart and Mickel of unspent education contributions, together with accrued interest. The applicant contends that there is no lawful basis on which the Council can justify further expenditure on education infrastructure arising from the Greenan development.

Section 75 Agreements – Education Contributions

On 6 October 2010 Mactaggart and Mickel Homes Limited entered into an Agreement (“the First Agreement”) under Section 75 of the Town and Country Planning (Scotland) Act 1997 with South Ayrshire Council. The First Agreement relates to planning permission **09/00683/OUT** for a residential development at Greenan, Ayr (hereafter referred to as the “2010 permission”).

In May 2021 Mactaggart and Mickel, West of Scotland Housing Association Limited and CALA Management Limited entered into a further Section 75 Agreement (“the Second Agreement”) with the Council in relation to the Greenan development, associated with planning permission 18/00311/FURM (hereafter referred to as the “2021 permission”). The Council required the Second Agreement before granting planning permission under Section 42 of the 1997 Act to allow for further development to take place at Greenan beyond the original end date of the 2010 planning permission.

The First Agreement contains planning contributions towards the provision of education infrastructure to mitigate the impact of the development. It identifies the infrastructure as:

- (a) “...the extension of Doonfoot Primary School (including any temporary units), incorporating a community lifelong learning suite”;
- (b) “...the extension of Kyle Academy”; and
- (c) “...the extension of St John’s Primary School”.

The Second Agreement effectively mirrors these obligations in relation to any development carried out under the 2021 planning permission.

The First Agreement provides some flexibility to the Council on how the contributions can be spent. It provides that if “the Council determine that the sums received would be better spent on alternative facilities to meet the educational needs of children residing in the Development, the Council shall be entitled to spend the sums accordingly”. Again, the Second Agreement effectively mirrors these obligations in relation to any development that took place under the 2021 planning permission.

The 2010 Agreement between the Council and MacTaggart & Mickel Homes Ltd set out that a contribution of £7,827.00 would be made by the developer in respect of each new housing unit sold, which should be used toward construction of an extension of **Doonfoot Primary School**, or any alternative works to meet the educational needs of children residing within the development. Detailed below, various alteration projects have been completed at Doonfoot Primary School since 2014 using Greenan Developer Contributions and including interest accrued on contributions received, circa £3.8m has been spent on alteration projects, with circa **£1.9m remaining unspent**.

The 2010 Agreement between the Council and MacTaggart & Mickel Homes Ltd set out that a contribution of £914.00 would be made by the developer in respect of each new housing unit sold, which should be used toward construction of an extension of **St John’s Primary School**, or any alternative works to meet the educational needs of children residing within the development. Zero alteration projects have been completed at St John’s Primary School since 2014 using Greenan Developer Contributions and including interest accrued on contributions received, circa **£632,000.00 remains unspent**.

The 2010 Agreement between the Council and MacTaggart & Mickel Homes Ltd set out that a contribution of £914.00 would be made by the developer in respect of each new housing unit sold, which should be used toward construction of an extension of **Kyle Academy**, or any alternative works to meet the educational needs of children residing within the development. Zero alteration projects have been completed at Kyle Academy since 2014 using Greenan Developer Contributions and including interest accrued on contributions received, circa **£2.8m remains unspent**.

2009 Education Impact Assessment and Current Position

Doonfoot Primary School

In drafting the 2009 Education Impact Assessment in connection with the 2010 Agreement, the Council’s **Schools and Service Support** (hereafter referred to as “Education Services”) assessed that the school roll at Doonfoot Primary School would increase by over 150 pupils, by the year 2018 and that additional accommodation would be required, of which contributions from the Greenan Development should make up 88% of the estimated cost. The roll of the school for the previous 2007/08 session was 332 and the building had a classroom capacity of 368 pupils.

For the 2024/25 school session the school had a roll of 359 and an updated classroom capacity of 459 pupils. The roll including the 60 infants in the School’s Early Years Centre is 419.

Despite the school roll not increasing as anticipated in the 2009 Education Impact Assessment, and pupil product ratios being lower than expected, recent postcode analysis undertaken by Educational Services of pupils registered in South Ayrshire Council Schools and living in the Greenan Development shows that there are in fact 191 school and nursery age children living in the circa 500 new Greenan development homes attending Council schools and Early Years Centres. 91 school or nursery age children are currently attending Doonfoot Primary School and Early Years Centre from new Greenan development homes.

As the roll at Doonfoot Primary School has only risen by circa 40 pupils in the fifteen years since the original Section 75 Agreement was signed, the above indicates that other postcodes in the Doonfoot catchment have matured.

In their September 2025 Education Capacity Assessment Report, the applicant copies the pupil projection numbers prepared by the Council in 2009 for Doonfoot Primary School and the Scottish Government recorded pupil capacity of Doonfoot Primary School and the roll/spare capacity year on year since 2011. These are highlighted in tables 1 and 2 below.

TABLE 1

Year	Doonfoot Primary (excluding developments that are subject to contributions)	Doonfoot Primary (including developments that are subject to contributions)
Capacity	368	368
(less 10%)	(331)	(331)
2007	332	332
2008	337	337
2009	348	348
2010	341	341
2011	337	345
2012	342	362
2013	354	388
2014	355	406
2015	354	421
2016	354	444
2017	355	465
2018	355	487

TABLE 2

Doonfoot Primary School	Capacity	Total pupils	P1	P2	P3	P4	P5	P6	P7	Spare Capacity
2011	368	322	49	42	39	56	49	39	48	46
2012	368	333	48	43	37	51	48	47	59	35
2013	368	333	42	37	49	47	47	59	52	35
2014	368	333	48	43	37	51	48	47	59	35
2015	368	345	55	54	42	40	56	50	48	23
2016	459	331	34	59	53	44	41	51	49	128
2017	459	342	48	42	54	55	46	45	52	117
2018	459	331	34	51	37	56	61	47	45	128
2019	459	342	46	37	57	39	51	64	48	117
2020	459	334	35	48	38	59	41	51	62	125
2021	459	340	57	37	51	40	61	42	52	119
2022	459	345	52	59	38	53	41	61	41	114
2023	459	363	29	56	64	44	61	48	61	96
2024	459	357	47	34	57	68	44	60	47	102

The applicant asserts that table 2 above demonstrates that the original capacity at Doonfoot Primary School (368 pupil places) has not been exceeded as a result of the new housing development at Greenan and that school rolls have remained significantly lower than what was predicted by the Council in 2009.

Table 3 below illustrates Council predicted school rolls for Doonfoot Primary and actual school rolls.

TABLE 3

Year	Predicted school roll excluding new homes	Predicted school roll including new homes	Actual school rolls	Difference between predictions / actual rolls		Original Capacity before extension	Spare Capacity - actual rolls v original capacity
2011	337	345	322	-15	-23	368	46
2012	342	362	333	-9	-29	368	35
2013	354	388	333	-21	-55	368	35
2014	355	406	333	-22	-73	368	35
2015	354	421	345	-9	-76	368	23
2016	354	444	331	-23	-113	368	37
2017	355	465	342	-13	-123	368	26
2018	355	487	331	-24	-156	368	37
2019			342			368	26
2020			334			368	34
2021			340			368	28
2022			345			368	23
2023			363			368	5
2024			357			368	11

It is important to note that while the roll at Doonfoot Primary School has not increased as anticipated as per the Council's 2009 pupil projections, these projections were based on the best available data at the time and were intended to mitigate risk.

The current occupancy of the school (357 pupils in the applicant's report of September 2025) is substantially less than its capacity (459). A Report by Education Services in June 2025 outlined that for the current school session there are a total of 320 primary school age children living in the entire Doonfoot catchment area. As aforementioned, the current school roll at Doonfoot Primary is 357. The applicant therefore deduces that at least 37 of those pupils must be present in the school via placement requests being successful from children living out of the catchment area. The applicant reasons in their submitted Education Capacity Assessment Report (Sept 2025) that since the development is now complete and there remains a significant number of spare pupil places in the school, that there will be no further impact on this school as a result of the development at Greenan. The current number of spare pupil places is 102 or at least 139 for catchment pupils, with the school therefore operating at 77.8% capacity.

Notwithstanding the aforementioned, Educational Services can evidence that 28% of the total of primary age pupils residing in the Doonfoot PS catchment area now live within the Greenan Development and that 91 of them attend Doonfoot Primary School and Early Years Centre. Educational Services further note that it would not be possible to accurately predict whether this figure may increase over the remaining four years before any contributions are required to be repaid.

In this regard, the Council is aware, in particular, of the recent planning obligation appeal cases by *Kirkwood Homes Limited against Dundee City Council (POA-180-2006 and POA-180-2007)* in which the original notice of intention and decision were issued on 16 January 2025 (hereafter referred to as the "**the Dundee Appeals**"). It is apparent that the reporter in relation to the Dundee Appeals was aware that the exercise of predicting both future pupil numbers and future educational infrastructure requirements is very uncertain. The main consideration that appears to have influenced his decision is that there was no evidence that in the future (and within the 10 year re-payment time period in terms of the relevant agreement) there was any real likelihood that the situation would change. As he put it there were unlikely to be any "unknown unknowns". At paragraph 80 of the Dundee Appeals the reporter noted:

"While I agree in general that it is better to err on the side of caution and that removal of the obligation should not be permitted lightly, the inescapable conclusion from the evidence in my judgement is that the causal link is in practical terms broken between the appeal site and any potential future infrastructure impacts to be mitigated in order to now make the development acceptable. Despite the wording of the clause concerned, the foreseeable context is the local primary school and it is with that in mind, that I reach this view".

The Reporter based the above position on his findings, namely that (emphasis added):

I conclude that occupancy rates fall at present significantly below the maximum capacity of Forthill Primary School. That position is likely to continue for the foreseeable future. Nothing placed before me suggests a basis for concluding that this may change. As the Council accept, such a change is unlikely. If it happens, that will be because of an unknown unknown. The evidence before me leads to the inevitable conclusion that it would take a remarkable change of circumstances to require an education contribution by the appellants under the Agreement.

Circular 4/2025 outlines that planning obligations made under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) should only be sought where they meet all of the following tests at the time of the decision on an application:

- necessary to make the proposed development acceptable in planning terms (paragraph 24)
- serve a planning purpose (paragraph 25) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the impacts of the proposed development (paragraphs 26 and 27)
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 28-31)
- be reasonable in all other respects (paragraphs 32-34)

Paragraph 104 states that the planning authority should take into account any changes in circumstances; for example, it may be that external factors affecting the development mean that the obligation is no longer reasonable and that a modification to reflect the change in circumstances is appropriate. Appeal examples of a similar issue elsewhere are therefore considered relevant in assessing whether the obligation is still reasonable or not.

The purpose of this report is not to revisit the Council's original decision to require the obligation as a condition of granting permission. Rather, the relevant tests must be applied to the facts as they exist at the time of the decision on these applications under Section 75A.

Taking cognisance of the figures outlined above, the evidence suggests that the school roll is very unlikely to increase significantly at Doonfoot Primary School by September 2029, when the contributions are due to be returned to the applicant under the Agreements if not committed or used prior to then. Consequently, the evidence indicates that the development is unlikely to give rise to any future infrastructure impacts at Doonfoot Primary School that would require to be mitigated in order to make the development acceptable.

Following a robust assessment, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that retaining these unspent contributions is not necessary and would be unreasonable.

St John's Primary School

In Drafting the Education Impact Assessment in 2009, the Council's Education Service anticipated that the school roll at St John's Primary School would increase by over 100 pupils by the year 2018 and that additional accommodation would be required, of which contributions from the Greenan Development were expected to meet 11% of the estimated cost. The roll of the school for the previous 2007/08 session was 302 and the building had a classroom capacity of 433 pupils. For the 2024/25 school session the school had a roll of 237 and an updated classroom capacity of 394 pupils.

The anticipated increase in roll at St John's Primary School has not been realised. Many factors can have contributed to this including there being no Early Years Centres formed in Council denominational primary schools through Early Years expansion and that there is no dedicated Additional Support Needs education provision at the school. Additional accommodation at the school has not been required, and as such, contributions for St John's have not been spent.

Table 4 below sets out the Scottish Government recorded pupil capacity for St John's Primary and the roll/spare capacity year on year since 2011. 2011 represents the first year after the first new homes were completed at Greenan and the year it is anticipated that new pupils from the subject site would have started entering the school. The figures would appear to evidence that the primary school has not been adversely impacted by the subject development and that the school rolls have remained significantly lower than predicted in 2009 and well below total capacity. It is also noted that capacity at the school has been reduced during the period when additional pupils generated as a result of the Greenan development would have been entering the school.

TABLE 4

St John's Primary School	Capacity	Total pupils	P1	P2	P3	P4	P5	P6	P7	Spare Capacity
2011	429	284	44	40	51	45	31	36	37	145
2012	429	295	49	44	40	54	41	31	36	134
2013	429	300	48	47	42	37	53	40	33	129
2014	429	308	39	52	45	40	41	51	40	121
2015	429	305	37	40	48	46	42	41	51	124
2016	394	298	35	38	45	46	49	42	43	96
2017	394	289	35	37	38	44	46	48	41	105
2018	394	271	27	32	36	40	47	46	43	123
2019	394	277	43	25	37	39	40	46	47	117
2020	394	275	33	47	27	38	40	40	50	119
2021	394	254	31	31	48	28	39	38	39	140
2022	394	244	33	32	25	49	28	41	36	150
2023	394	254	30	34	30	28	56	31	45	140
2024	394	237	24	32	33	30	31	54	33	157

The capacity of St John's Primary School is 394 pupils. The number of pupils attending St John's in 2023/24 was 254, which equates to an occupancy level of around 64%. The number of pupils at the school has not exceeded 308 (78% occupancy) in the period since the First Agreement was entered into.

Following a robust assessment, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that retaining these unspent contributions is not necessary and would be unreasonable.

Kyle Academy/Belmont Academy

In drafting the 2009 Education Impact Assessment, the Council's Education Service assessed that extending schools within existing Public Private Partnership (PPP) contractual arrangements was highly complex and extremely expensive and may not represent Best Value. As the catchment non-denominational secondary school for the Greenan Development, Belmont Academy, is a PPP funded school, Education colleagues were of the view that any developer contributions should be based on an extension of nearby, non-catchment, non-denominational secondary school **Kyle Academy**. An anticipated increase in roll at the two schools was for over 400 pupils by the year 2018, which would require additional accommodation, of which it was assessed that contributions from the Greenan Development should make up 11% of the estimated cost.

The combined roll of the two schools for the previous 2007/08 session was 2181. For the 2024/25 school session the schools had a combined roll of 2055. Albeit there are currently 68 pupils attending Council secondary schools that live in the Greenan Development, additional accommodation has not been required. As such and to date, contributions for Kyle Academy have not been spent.

Table 5 below sets out the Scottish Government recorded pupil capacity for Belmont Academy and the roll/spare capacity year on year since 2011. As outline above, 2011 represents the first year after the first new homes were completed at Greenan and the year it is anticipated that new pupils from the subject site would have started entering the school.

TABLE 5

Belmont Academy	Capacity	Total pupils	S1	S2	S3	S4	S5	S6	Spare Capacity
2011	1300	1296	221	231	234	233	203	174	4
2012	1300	1309	232	224	236	232	215	170	-9
2013	1300	1269	217	234	229	235	197	157	31
2014	1300	1250	233	216	230	230	209	132	50
2015	1300	1266	229	230	216	237	202	152	34
2016	1300	1268	232	231	231	215	214	145	32
2017	1300	1263	206	236	234	242	199	146	37
2018	1300	1221	213	209	235	238	198	128	79
2019	1300	1237	231	222	210	233	198	143	63
2020	1300	1251	226	232	218	213	209	153	49
2021	1300	1211	202	226	233	220	182	148	89
2022	1300	1206	231	201	232	233	191	118	94
2023	1300	1211	218	225	200	230	195	143	89
2024	1300	1192	220	215	219	203	194	141	108

As illustrated above, Belmont Academy was over capacity in 2012 by 9 pupils. However, numbers have been generally declining since then, resulting in 108 spare pupil places in 2024. The figures above illustrate that there appears to be adequate capacity to accommodate children from the development.

The applicant submitted information in relation to pupil generation for the subject site projected forward to 2031 as this is when current P1s will enter S1. The applicant contends that as the site was completed in 2024 that the enhanced pupil numbers generated by children from the Greenan development are already in the system. The Council's Education Services do not dispute this reasoning. Table 6 below illustrates the applicant's anticipated school roll for Belmont Academy.

TABLE 6

Belmont Academy		Roll	S1	S2	S3	S4	S5	S6	Capacity	
Actual Scot Gov recorded pupil by stage	2011	1296	221	231	234	233	203	174	4	100%
	2012	1309	232	224	236	232	215	170	-9	101%
	2013	1269	217	234	229	235	197	157	31	98%
	2014	1250	233	216	230	230	209	132	50	96%
	2015	1266	229	230	216	237	202	152	34	97%
	2016	1268	232	231	231	215	214	145	32	98%
	2017	1263	206	236	234	242	199	146	37	97%
	2018	1221	213	209	235	238	198	128	79	94%
	2019	1237	231	222	210	233	198	143	63	95%
	2020	1251	226	232	218	213	209	153	49	96%
	2021	1211	202	226	233	220	182	148	89	93%
	2022	1206	231	201	232	233	191	118	94	93%
	2023	1211	218	225	200	230	195	143	89	93%
2024	1192	220	215	219	203	194	141	108	92%	
Pupils from new homes programmed for delivery	2025	1191	221	220	215	219	177	140	109	92%
	2026	1217	243	221	220	215	191	127	83	94%
	2027	1237	229	243	221	220	187	137	63	95%
	2028	1260	241	229	243	221	191	135	40	97%
	2029	1270	227	241	229	243	192	138	30	98%
	2030	1221	174	227	241	229	211	138	79	94%
	2031	1187	194	174	227	241	199	152	113	91%

To work out future school rolls, Lichfields (on behalf of the applicant) took the figures for each known school year group from the feeder schools and transitioned them into S1 at the appropriate time (i.e. 2022 P1 pupils into S1 in 2029). The table illustrates that the school roll will peak again in 2029 at 98% capacity but that it will then start to decrease and by 2031, there will be 113 spare pupil places. It should also be noted that the school is able to operate at this capacity given it has been operating at over 90% since 2011. Education Services have not questioned this methodology. It can therefore reasonably be stated that as the majority of pupils from the development at Greenan are now in the school system that the most significant pupil generation impact will have already occurred.

The Council's Report to the Service and Partnership Performance Panel of 20 August 2024 stated: "Legal Agreements also set timescale for when contributions require to be spent. Developer contributions unspent within specified time periods require to be returned to the developer. Planning, Education and Professional Design Services are working together to ensure that the balances noted in table 1 (Greenan unspent contributions at that time was £5,899,028.73) will be utilised to mitigate the impact of the developer (sic) as intended in respective legal agreements. There is a risk that some of the contributions from the Greenan development will not be able to be spent and will require to be returned in 2027/28. This is due to the school rolls for Kyle Academy and St John's being lower than projected. In the event that money requires to be returned, the interest that the Council has collected on that money also requires to be returned. There is currently no other identified further cases of risk".

Following a robust assessment, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that retaining these unspent contributions is not necessary and would be unreasonable.

Conclusion

The applicant has applied to modify the Section 75 Agreements to delete the words “within 5 (five) years of the last payment” in Clause 4.1.8 (last completed dwelling) and to delete the existing wording in clause 4.1.9 and replace it with the following: *“Contributions received under Clause 4.1 but not committed to or spent on the extension, or other alternative works as aforesaid by 18th February 2025, and all accrued interest thereon shall be repaid by the Council to MacTaggart and Mickel Homes limited by 30th July 2025 or, if later, 28 days after it is agreed or determined that such contributions have not been spent in accordance with the terms of the Agreement”*.

The Council’s recently approved budget does not commit any of the contributions towards any specific education project required as a result of the Greenan development, with no project identified by the Council over the next two financial years.

495 homes were consented (of which 494 have been built) and it was envisaged that the predicted number of pupils in the local schools would increase as a result, with the developer agreeing to pay money towards education infrastructure at local schools. However, the number of children associated with the development has been significantly less than expected, the result being that some money paid by the developer has not been required to be spent.

The occupancy of Doonfoot Primary is currently 366, with a capacity of 459, St John’ Primary has current occupancy of 237 with a capacity of 394 and Belmont Academy is currently operating at approximately 12% spare capacity and future projections not rising above 98% capacity. While it is possible that the school population demographic could spike within the next 4 years, the evidence points to this being highly unlikely. In view of the available evidence in respect of pupil numbers/projections and school capacities within the catchment (and at Kyle Academy which is outwith the catchment), together with the content of Circular 4/2025 in relation to Planning Obligations, it is considered that the Council cannot reasonably retain the unspent education developer contributions associated with the Greenan development.

Following a robust assessment against Circular 4/2025, the evidence available and other considerations such as the Development Plan and representations from interested parties, it is concluded that retaining the unspent contributions would not satisfy all of the tests set out in Circular 4/2025. The evidence demonstrates that the development is unlikely to give rise to any future impacts on the local educational infrastructure that would require to be mitigated in order to make the development acceptable. The Planning Authority has obtained KC legal opinion on this matter which indicates that there would be little evidence to justify the retention of the unspent contributions. It is therefore considered that retaining these unspent contributions is not necessary and would be unreasonable. It is recommended that the applicants proposed wording to modify the S75 Agreements is approved.

12. Recommendation:

It is recommended that the application is approved. The decision shall be reported to Cabinet for noting due to financial implications for the Council.

Reason for Decision:

In view of the available evidence in respect of pupil numbers/projections and school capacities within the catchment (and at Kyle Academy which is outwith the catchment), and having considered the tests within Circular 4/2025 in relation to Planning Obligations, the Development Plan and representations from interested parties, it has been concluded that retaining these unspent contributions is not necessary and would be unreasonable. The Planning Authority has obtained KC legal opinion on this matter which indicates that there would be little evidence to justify the retention of the unspent contributions. It is recommended that the applicants proposed wording to modify the S75 Agreements is approved.

Advisory Notes:

None.

List of Determined Plans:

Drawing - Reference No (or Description): Location Plan 264.30/PA/SP01 Rev: 0

Background Papers:

- Application form, plans and supporting documents.
- National Planning Framework 4 (NPF4).
- South Ayrshire Local Development Plan 2 (LDP2).
- Circular 4/2025 - Planning Obligations and Good Neighbour Agreements.
- Section 75 Legal Agreement associated with 09/00683/OUT.
- Section 75 Legal Agreement associated with 18/00311/FURM.
- Education Capacity Assessment (Lichfields, September 2025) – on behalf of the applicant.
- Council's 2009 Education Impact Assessment.
- Council's Recent Postcode Analysis.
- Representations received.
- Consultation response received.

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.

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