

## REGULATORY PANEL: 15 SEPTEMBER 2022

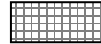
### REPORT BY PLACE DIRECTORATE

22/00466/APP

5 CHERRY HILL ROAD AYR SOUTH AYRSHIRE KA7 4TE

### Location Plan

APPLICATION SITE



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### Summary

Planning permission is sought for the erection of an ancillary outbuilding within the rear curtilage of a residential dwellinghouse at 5 Cherry Hill Road, Ayr. The application site is located within a residential area and comprises of a one and a half storey semi-detached dwellinghouse.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the application has received over 5 competent written objections.

The application has been assessed against the various material planning considerations which include the provisions of the Adopted Local Development Plan 2, consultations, representations received (10 in total), and the impact of the proposed development on the locality. It is considered that – suitably conditioned – the proposal accords with the provisions of the aforementioned local development plan.

Accordingly, it is recommended that the application is approved subject to conditions.

## REPORT BY PLACE DIRECTORATE

**REGULATORY PANEL: 15 SEPTEMBER 2022**

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>22/00466/APP</b>
<b>SITE ADDRESS:</b>	<b>5 CHERRY HILL ROAD AYR SOUTH AYRSHIRE KA7 4TE</b>
<b>DESCRIPTION:</b>	<b>ERECTION OF ANCILLARY OUTBUILDING</b>
<b>RECOMMENDATION:</b>	<b>APPROVAL WITH CONDITIONS</b>

### APPLICATION REPORT

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

#### **1. Proposal:**

The application site relates to a one and half storey semi-detached dwellinghouse at 5 Cherry Hill Road, Ayr. The application site is situated with a residential area and shares boundaries with residential properties to the north, east and west.

Planning permission is sought for the erection of an ancillary outbuilding within the rear curtilage of the dwellinghouse. The proposed outbuilding shall occupy a footprint of approximately 45 sqm, feature a mono pitched roof of approximately 3.3 metres in height and is to be finished with timber cladding and aluminium windows and doors.

The applicant/agent has submitted a supporting statement to accompany the application. This statement outlines that the proposed outbuilding shall comprise of a garden room/kitchen area, shower room and office/bedroom. A flue for a log burning stove is also proposed.

The planning application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, more than five representations have been received objecting to the proposal.

#### **2. Consultations:**

**Ayrshire Roads Alliance** - Offer no objections.

#### **3. Submitted Assessments/Reports:**

None.

**4. S75 Obligations:**

None.

**5. Scottish Ministers Directions:**

None.

**6. Representations:**

10 representations have been received, all of which object to the proposed development. All representations can be viewed online at [www.south-ayrshire.gov.uk/planning](http://www.south-ayrshire.gov.uk/planning)

The issues raised by Representees can be summarised as follows.

- Adverse impact on residential amenity due to overlooking
- Adverse impact on residential amenity due to loss of light
- Design out of character with locale
- Overdevelopment
- Drainage concerns
- Fire safety concerns
- Road safety/parking concerns
- Loss of view
- Damage to boundary wall during construction
- Access serving proposed development
- Ownership/intended use of proposal
- Noise during construction
- Description of the proposal

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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at [www.south-ayrshire.gov.uk/planning](http://www.south-ayrshire.gov.uk/planning). 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.

(i) Development Plan

Section 25 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 following provisions of the South Ayrshire Local Development Plan 2 are considered relevant to the consideration of this application and the policies can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/planlpdocuments.aspx>:

LDP Policy: Strategic Policy 1: Sustainable Development  
LDP Policy: Strategic Policy 2: Development Management  
LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites

The development proposal has been assessed against the above policies and is considered to be in accordance with the development plan, as outlined further below in section 7 (v) of this report.

The provisions of the Adopted South Ayrshire Local Plan 2 must 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.

(ii) Other Policy Considerations (including Government Guidance)

South Ayrshire Council's Supplementary Planning Guidance (SPG) on House Alterations and Extensions indicates that alterations and extensions should be of a size and design which respect the existing building and surrounding street scene.

In respect of garages and outbuildings, South Ayrshire Council's Supplementary Guidance on House Alterations states that garages and outbuildings should be designed to appear ancillary to the main dwellinghouse. They should be sited and designed so as to perform their intended function.

It is considered that the outbuilding accords with the provisions of the SG on House Alterations and Extensions on the basis that it does not over dominate the original dwelling or the surrounding locale. This is addressed further in section 7(iv), below, in regard to the impact of the development on the locality.

Planning Guidance (SPG): Open Space and Designing New Residential Developments

The guidance is relevant in the assessment of the application, which states that detached, semi-detached and terraced properties should be provided with garden ground in proportion to their size. Rear gardens will be expected to be a minimum of 1½ times the size of the ground floor area for detached and semi-detached dwellings and no less than 100sqm. This will generally include rear and side dwellinghouse gardens enclosed by fence/ wall/ hedge.

The existing dwellinghouse has a footprint of approximately 103 sqm and the proposed outbuilding has a footprint of approximately 45 sqm. The area of rear garden ground which shall be retained is approximately 200 sqm. As such the remaining private garden ground at the property is considered to meet with the quantitative standards outlined above and is considered adequate to ensure that an appropriate level of amenity is retained.

(iii) Planning History of the Site

The most recent planning application at 5 Cherry Road, is noted as follows:

Planning application ref. 22/00174/APP was received for the erection of a dwellinghouse. This application was withdrawn following dialogue between the planning service and the agent where it was concluded that the description of that application did not accurately reflect either the development proposals, as per the submitted plans, or the intentions of the applicant. As such, due to the nature of this description error, the applicant was advised that a new application would require to be submitted for the proposed development with an accurate description. 22/00174/APP was therefore withdrawn and the current application under consideration, was submitted.

(iv) Objector Concerns

- *Adverse impact on residential amenity due to overlooking*

The potential impact of the proposal on neighbouring properties is addressed in section 7(v) of this report.

- *Adverse impact on residential amenity due to loss of light*

The potential impact of the proposal on neighbouring properties is addressed in section 7(v) of this report.

- *Design out of character with locale*

This matter is addressed in section 7(v) of this report.

- *Overdevelopment of plot*

This matter is addressed in section 7(ii) of this report.

- *Concerns regarding proposed drainage arrangements*

A downpipe and a soil vent pipe (SVP) are indicated on the proposed drawings. The downpipe would capture and drain surface water from the roof and the SVP would serve the proposed shower/ toilet room within the outbuilding. Both would be expected to connect to the existing drainage network for surface water and foul drainage respectively. Drainage arrangements will be considered in detail through the separate Building Warrant process.

- *Fire safety/fumes from log burner*

The installation of the proposed log burner itself does not require the benefit of planning permission under Class 6C of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. However, if odours from the log burner cause a nuisance, this is a matter controlled by the Council's Environmental Health service under their relevant legislation. Whether the log burner complies with fire safety regulations is controlled by other legislation as regulated by the Council's Building Standards Service and will be considered as part of the separate building warrant process.

- *Road safety/parking concerns*

The Ayrshire Roads Alliance have offered no objections to the proposed development in terms of road safety or off-street parking requirements. For these reasons, the proposal is not considered to raise any issues relating to traffic, transport, road safety and accessibility. The existing parking arrangements are satisfactory.

- *Loss of view*

Any 'loss of view' considered to be attributed to the erection of the outbuilding does not constitute a material planning consideration and therefore does not form part of the assessment of this planning application.

- *Damage to boundary wall during construction*

It is considered that this matter is a civil one and therefore more appropriately considered and addressed by the applicant and the neighbouring property, rather than being a material planning consideration which requires consideration as part of the assessment of this application.

- *Access serving proposed development*

This planning application is for the erection of an outbuilding forming ancillary accommodation to the existing dwellinghouse. As such, the proposed outbuilding shall utilise the existing access of the dwellinghouse.

- *Ownership/intended use of development*

This planning application is for the erection of an outbuilding forming ancillary accommodation to the existing dwellinghouse. Notwithstanding this, a condition shall be attached to any permission granted that the outbuilding forming ancillary accommodation shall remain part of the same single inter-connected residential planning unit as the dwellinghouse. This condition shall also prevent the outbuilding from being sold, leased or otherwise disposed of for the use as a separate dwellinghouse or holiday let, for example. Any such proposal would require the benefit of planning permission. A further condition shall be attached to restrict the use of the outbuilding to solely domestic purposes and no commercial activities shall be permitted to be undertaken.

- *Noise during construction*

The erection of outbuildings and extensions is common in residential areas. A degree of temporary inconvenience can be expected during the construction period. Any noise nuisance, should it occur would be controlled by the Council's Environmental Health Service who have the statutory powers in relation to noise nuisance.

- *Description of proposal*

It is noted that a previous application for the site – ref. 22/00174/APP – was withdrawn. This application was withdrawn following dialogue between the planning service and the agent where it was concluded that the description of that application – “Erection of a dwellinghouse” – did not accurately reflect either the development proposals, as per the submitted plans, or the intentions of the applicant. As such, due to the nature of this description error, the applicant was advised that a new application would require to be submitted for the proposed development with an accurate description. The current application was therefore submitted.

(v) Impact on the Locality

The proposed timber clad garden room has a footprint of approximately 45 sqm, is to be sited to the rear of the application site and features a mono pitched roof of a maximum of 3.3 metres in height. As such, it is considered to be subsidiary to the dwellinghouse both in terms of its design, massing and scale, and due to its siting to the rear of the application site.

It is considered that the outbuilding has clearly been designed so as to perform its intended function as a personal home office for the occupiers of the house and also to accommodate short stays for visiting family. Notwithstanding this, a condition can be attached to the permission to ensure that its use remains ancillary to the dwellinghouse and part of the same inter-connected planning unit. Considering this mechanism for controlling the use, it is considered that the outbuilding will not have an adverse impact on the character of the area.

In respect of residential amenity, the scale and positioning of the outbuilding to the rear of the application site and the distance from other residential properties is sufficient so as not to give rise to overshadowing concerns.

Two doorways are proposed within the front elevation and face into the applicants garden and a window forming part of a shower/ toilet room is proposed within the eastern side elevation of the outbuilding. In order to safeguard amenity of the neighbouring property at 7 Cherry Hill Road, it is deemed prudent to attach a condition to any planning permission granted that requires the window within the eastern elevation (serving the shower/ toilet room) to be glazed with obscured/frosted glass. The relationship between the proposed outbuilding and 7 Cherry Hill Road is otherwise acceptable, considering the approximate 3.5 metre separation distance between the outbuilding and the boundary with No.7 and also the approximate 17 metres between the outbuilding and property No.7 itself.

There is approximately 14 metres between the proposed outbuilding and the property at No. 3 Cherry Hill Road however it is noted that only a low-level brick boundary wall exists between the rear gardens. As such, and due to the proximity of the proposed outbuilding to this mutual boundary (approximately 0.5 metres) and to ensure levels of amenity are maintained, a condition can be attached to the permission to ensure that additional boundary screening of 1.8 metres in height (standard fence height) is formed along the entire boundary of the rear curtilage adjacent to 3 Cherry Hill Road. Such boundary treatments (usually fences) measuring 1.8 metres in height is very common in residential areas and is an appropriate solution in this case to safeguarding neighbouring amenity.

It is considered that both the distance of the proposed garden room from the neighbouring dwelling of 7 Lauchlanglen Road, to the rear of the application site, as well as the existing boundary fencing and planting of that mutual boundary, will ensure that no adverse amenity issues will be created for this neighbouring dwelling as a consequence of the development proposals. Therefore, it is considered that the proposals shall not adversely impact any neighbouring properties in terms of privacy or amenity.

As set out above, the existing dwellinghouse will continue to be severed by a sufficient amount of private garden ground, which will ensure that an acceptable level of amenity is provided.

The Ayrshire Roads Alliance has offered no objections to the proposed development in terms of road safety or off-street parking requirements. Therefore, the proposed development is not considered to be inappropriate in this regard.

There are no policy objections to this proposal and it is considered that this proposal does not have an adverse impact on the character or residential amenity of the surrounding area. Given the above and having balanced the applicant's rights against the general interest, it is recommended that the application be approved subject to conditions.

**8. Conclusion:**

The application has been assessed against the various material considerations which include the provisions of the development plan, consultations undertaken, 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. The points raised in the objection have been fully considered but do not raise any issues that would merit refusal of the application.

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

**9. Recommendation:**

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

- (1) 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.
- (2) The ancillary outbuilding shall be used solely for domestic purposes incidental to the use of the dwellinghouse and no commercial activities shall be undertaken to the satisfaction of the Planning Authority.
- (3) That the existing dwellinghouse and the outbuilding forming ancillary accommodation shall remain part of the same single inter-connected residential planning unit. Once the outbuilding has been erected, neither the existing dwellinghouse nor the ancillary outbuilding shall be sold, leased or otherwise disposed of separately for the use as a separate dwellinghouse without the benefit of planning permission.
- (4) That notwithstanding the plans hereby approved, the shower room window on the eastern elevation of the outbuilding hereby granted planning permission shall be glazed with obscured / frosted glass to the satisfaction of the Planning Authority, and retained as such for the lifetime of the development. Full details of the glazing shall be submitted for the prior written approval of the Planning Authority prior to the commencement of works on site and shall be implemented as approved.
- (5) That notwithstanding the plans hereby approved and unless otherwise agreed, additional screening of 1.8 metres in height, when measured from ground level, shall be erected along the entire western boundary of the rear curtilage of the application site adjacent to the neighbouring residential property at 3 Cherry Hill Road. Precise details of the proposed screening shall be submitted for the prior written approval of the Planning Authority before works commence on site. Thereafter, the agreed screening shall be installed prior to the completion of the outbuilding hereby approved and retained at its agreed height and location for the lifetime of the development to the satisfaction of the Planning Authority.

**Reasons:**

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (2) In the interests of residential amenity.
- (3) In order to retain full control over the development and to avoid the creation of an additional permanent dwellinghouse.
- (4) In the interests of residential amenity.
- (5) In the interests of residential amenity.

**Advisory Notes:**

- (1) The development could be in an area where there are gas mains and services. Please see the link below for further information and actions required of you: <https://archive.south-ayrshire.gov.uk/planning/decisions.aspx>
- (2) A Building Warrant will require to be obtained before works start on site. The Council's Building Standards Service can be contacted for further information.

**List of Determined Plans:**

Drawing - Reference No (or Description): **Approved** 2102-A-101  
Drawing - Reference No (or Description): **Approved** 2102-A-102  
Drawing - Reference No (or Description): **Approved** 2102-A-103  
Drawing - Reference No (or Description): **Approved** 2102-A-104

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

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

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

**Background Papers:**

1. Planning application form and plans.
2. Adopted South Ayrshire Local Development Plan 2 (available online)
3. Supplementary Planning Guidance: House Alterations and Extensions (available online)
4. Planning Guidance: Open Space and Designing New Residential Developments (available online)
5. Representations (available online)

**Equalities Impact Assessment:**

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

**Person to Contact:**

Ms Emma McKie, Planner - Place Planning - Telephone 01292 616 203