

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



1 December 2022

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

**All other Members for Information Only**

Dear Councillor

### **REGULATORY PANEL (SITE VISIT)**

You are invited to attend a Site Visit by the above Panel in relation to the undernoted site on **Tuesday, 13 December 2022, to be on site at 2.30 p.m.**

I would remind you that as the hearing process relating to this application has already been undertaken, no further written or verbal submissions will be appropriate at the meeting. **The application will be determined at the Regulatory Panel scheduled to take place on Wednesday, 14 December 2022.**

Yours sincerely

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

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

1. Declarations of Interest.
2. Planning Application Continued from the Regulatory Panel of 17 November 2022:- 21/00998/APP – Recreation Ground, Winehouse Yett, Dundonald - Submit report by the Housing, Operations and Development Directorate (copy herewith).

[Application Summary](#)

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

**REGULATORY PANEL: 17 NOVEMBER 2022**

**REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE**

**21/00998/APP**

**RECREATION GROUND WINEHOUSE YETT DUNDONALD SOUTH AYRSHIRE**

**Location Plan**

**APPLICATION SITE** 



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**Summary**

Planning permission is sought for landscaping works (including changing site levels) and installation of a drainage system at the existing recreational ground, Winehouse Yett, Dundonald. The purpose of the works is so that the recreational ground can accommodate a formal football pitch. The application submission intimates that the rise in site levels equates to less than 600mm; however, the submitted drawings indicate that the levels have increased (in some areas) by approximately 900 mm. The use of the site as open space does not change as a consequence of the development proposals.

The application has been assessed against the various material planning considerations which include the provisions of the development plan, Scottish Planning Policy, PAN79, PAN65, consultations, representations received, and the impact of the proposed development on the locality. The assessment concludes that the proposed development broadly aligns with the policy provisions of the local development plan. The consultation responses do not raise any issues of over-riding concern. The matters raised in the representations have been considered, but do not raise any issues that would merit a different recommendation. Overall, there are no policy objections. It is considered that the proposal will not have an unacceptable impact on the character, setting or appearance of the site, or the wider locality; nor will the application proposals increase the risk of flooding within the locale. The application has been considered in this context. Accordingly, the application is recommended for approval, subject to conditions.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

### REGULATORY PANEL: 17 NOVEMBER 2022

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>21/00998/APP</b>
<b>SITE ADDRESS:</b>	<b>RECREATION GROUND WINEHOUSE YETT DUNDONALD SOUTH AYRSHIRE</b>
<b>DESCRIPTION:</b>	<b>LANDSCAPING WORKS (INCLUDING CHANGING SITE LEVELS) AND INSTALLATION OF DRAINAGE SYSTEM</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:

Planning permission is sought for landscaping works (including changing site levels) and installation of drainage system at the recreational ground, Winehouse Yett, Dundonald.

The site is bound to the north by residential properties located on Kilnford Drive and Drybridge Road and to the west by the residential properties located at Parkthorn View. To the south the application site is bound by a car park and visitor centre building associated with Dundonald Castle and to the east by Dundonald Bowling Club, a derelict commercial building and a residential property located on Drybridge Road. The Dundonald Burn, which is located approximately 200 metres to the south-west of the site, is the closest watercourse to the application site. The application site comprises recreational ground; and is identified in the South Ayrshire Local Development Plan 2 as an area of open space. In total, the application site covers an area of approximately 9012 square metres.

The works subject to the planning application assessment entail the installation of a drainage system and the changing of site levels. The purpose of the works is so that the recreational ground can accommodate a formal football pitch. The application submission intimates that the rise in site levels equates to less than 600mm; however, the submitted drawings indicate that the levels have increased (in some areas) by approximately 900 mm.

The proposals involve the installation of new filter trench systems to accommodate the proposed formation of the football pitch. Furthermore, the submission notes that surface water run off discharge from the development proposal will be picked up through filter trench systems with 160mm perforated pipes at the base located on the outside perimeter of the proposed football pitch which will free flow into an existing inspection chamber in the north west of the application site. An inspection chamber and 160mm diameter outfall pipe are located at the north west of the site which appear to be a flooding overflow system for any excess greenfield run off in heavy rain event. The submission identifies that the water discharge from this development is to the existing outfall which runs between properties on the west side of the application site, continues under Parkthorn View into the open space to the west of Parkthorn View, turns north west towards Coats Place and thereafter runs under Coats Place,

## **Regulatory Panel (Planning): 17 November 2022**

Report by Housing, Operations and Development Directorate (Ref: 21/00998/APP)

Kilnford Crescent to a discharge into the Dundonald Burn at the pedestrian bridge on the footpath between the wetlands and Kilnford Crescent.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the Council has a financial and ownership interest in the site, and one or more written objection has been received. Also, the Dundonald Community Council has expressed a contrary view to the recommendation that this planning application be approved.

### Background

The application has been made in retrospect in so far that the majority of the works, subject of the planning application submission, have been undertaken on site.

The application site is within the ownership of South Ayrshire Council; however, the site is subject of a 25 year lease to the Dundonald Community, Sports, Recreation and Heritage Association (DCSRHA) which was approved by the Council's Leadership Panel on 13 February 2018.

It is understood that the works pertaining to this planning application commenced in June 2021, however, it is important to note that the planning application was not submitted and registered until February 2022. The delay in progressing the application thereafter was due to lack of information however the planning service is now in receipt of all relevant information that is required to enable a full assessment and recommendation.

A number of objections have been received with respect to the application and relate to flooding issues caused as a consequence of the works that have been carried out. It is noted that the Ayrshire Roads Alliance, acting as local flood prevention authority, were required to deploy sandbags around the perimeter of the application site in order to minimise water runoff into the gardens of properties which bound the application site.

### Programme of works

As part of the application assessment, clarification was sought regarding the programme of works relating to the application proposals. Consequently, the applicant confirmed the following: -

The first activity was to remove the sward from the surface of the playing field, this was stacked on site to be reused for reshaping of some banking areas at a later stage. The next activity was to strip the top soil from the surface and suitably stack on site for use after installation of drainage.

Following on from removal of the top soil, the sub soil was then regraded and moved about the playing field area to acquire the desirable gradients and evenness for the activity surface. The applicants have confirmed that the gradient across the surface for the west to east aspect ideally should be 1:80 and the gradient the south to north aspect should be 1:100.

In this instance this required the movement of approximately 2,000 tons of material. No excess soil was removed from site during any operations. The top soil was reapplied onto the sub soil.

At this point the piped primary drainage system was installed at 5 metre centres over the entire surface of the field with the run of the pipes going from east to west and were connected into the existing exit pipe located within the application site.

The secondary drainage system was installed immediately thereafter at right angles to the primary system. This consists of a series of mini trenches called 'slit drains' cut out at right angles to the primary drainage pipes. These must be deep enough to connect with the permeable clean gravel back filling in the primary pipe drain trenches. This method is also called 'gravel banding' and is a back up to the primary installation.

There is an additional primary pipe installed which runs along the east edge of the field which catches the run off from the Castle area. This has still to be properly connected into the system. In addition to the drainage two additional chambers/silt traps have been installed to help with the flow of the water from the field. These have still to have some minor works to be carried out on them.

A final addition of 670 tons of imported root zone material (a mixture of sand and a small amount of compost) was spread over the surface of the field. This is to act as an ameliorate on the surface to help improve the surface over time. Reference was made to SportsScotland data sheets for best practice pitch construction.

Works which are outstanding

While the majority of works relating to this planning application have been completed, there are outstanding works which require to be undertaken as part of the site's drainage strategy. Specifically, there are several pipe runs to be finished to bring additional gravel up to the surface and there are pipe chambers which require additional repair work. The applicant has also confirmed that some areas require levelling to complete groundworks and that additional cultivation works require to be undertaken on the surface verti-draining, feeding & reseeding.

**2. Consultations:**

**Historic Environment Scotland** - offer no comment or objection to the application proposals but advise that the comment should be sought from archaeological and conservation services.

**Scottish Water** - offer no objection.

**Ayrshire Roads Alliance (ARA)** – The Ayrshire Roads Alliance acting as the Flood Risk Management authority on behalf of South Ayrshire Council initially recommended refusal of the application on the basis of flood risk. Subsequently, the applicant submitted a Drainage Strategy Report for the consideration of the ARA who confirmed that they offered no objection to the application, provided the drainage system is installed as agreed and submitted. However, following the submission of Civil Engineers Reports from the Dundonald Residents Playing Field Network, the ARA has reinstated their objection to the application until such time that applicant can demonstrate that the outfall pipe (located at the north west of the site) is in a suitable condition which is capable of accommodating the calculated greenfield run off rates.

**West Of Scotland Archaeology Service (WoSAS)** - indicate that the application site lies within an area of some sensitivity associated with the nearby Dundonald Castle where large scale earthworks are of concern. WoSAS recognise that the application is in most part retrospective and advise that the works did raise potential archaeological concerns. However, since the current application involves no further ground disturbance on the site it does not raise substantive archaeological issues.

**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.

**Drainage Strategy Report** – A Drainage Strategy Report has been submitted which assesses the risk of flooding associated with the application site which concludes the following:-

- The development is not at risk from costal, river or watercourse flooding;
- Detailed levels and drainage designs should remove all low points subject to surface water ponding where possible and provide adequate surface drainage to remove any potential risk of surface water ponding;
- The new pitch drainage system reduces the risk of flooding to surrounding properties and micro drainage calculations confirm no flooding occurs for up to a max. 1 in 200 year + 30 climate change + 10% additional flow for urban creep rainfall event within the proposed system for max greenfield surface water discharge run off ever entering the new system; and
- a 450mm deep ditch on western and northern boundaries will future proof any run off ever entering privately owned land out with pitch boundary extents.

**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:**

70 representations have been received, 66 of which object to the proposed development, including an objection from the Dundonald Community Council. 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.

- The development proposals have created flooding issues which have damaged neighbouring properties
- The development proposals do not meet with the Scottish Government's Guidance on Sustainable Urban Drainage Systems
- Health & safety concerns and access concerns as a consequence of the development proposals, particularly raised embankments created as a consequence of the development proposals
- Privacy concerns due to change in site levels
- Parking concerns
- The Ayrshire Roads Alliance has had to take direct action to address flooding issues by placing sandbags around the perimeter of the application site
- Inaccuracies and omissions within the planning application submission
- The DCSRHA's original proposals for the site have change significantly since their initial proposals to upgrade drains and make general improvements to the field
- Archaeological concerns as a consequence of the development proposals
- Burying of non-biodegradable waste
- The formation of a formal football pitch limits the open space to be used for alternative leisure/ sporting activities
- Loss of public open space
- Loss of trees as a consequence of the development proposals
- Adverse impact on the setting of the Dundonald Conservation Area and Dundonald Castle
- Works were undertaken without the benefit of planning permission
- Noise concerns
- Lack of changing/ toilet facilities to serve the football pitch
- Development proposals may impact on the ability of the site to host the Dundonald Highland Games
- Funding and Indemnity concerns
- The application proposals breach the UN Convention on the Rights of the Child

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.

### (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 local development plan 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>

- o Strategic Policy 1: Sustainable Development;
- o Strategic Policy 2: Development Management;
- o Community Facilities;
- o Archaeology;
- o Historic Environment;
- o Flooding and Development; and
- o Land Use and Transport.

The Strategic Policy 1: Sustainable Development seeks to support the principle of sustainable development by making sure that development respects, protects and where possible, enhances natural, built and cultural heritage resources. Strategic Policy 2: Development Management ensures development is in accordance with the site's land use and will be appropriate in terms of layout, scale, massing, design and materials in relation to their surroundings and surrounding land use. In addition, development should be suitable in terms of its bearing on residential amenity, infrastructure implications and contribute to the efficient use of public services and facilities.

In this instance the proposal seeks the installation of a drainage system and the changing of site levels so as the recreational ground can be utilised as a formal football pitch. In principle, it is considered that proposals to improve the recreational ground to create a formal football pitch has the potential to make positive contribution to local amenities, in terms of the provision of improved and additional community facilities.

Further consideration of the impact of the works associated with the application proposals on the residential amenity of properties in the vicinity, is set out below. Consultation responses received have not raised any objections to the scheme. Planning conditions and advisory notes can be attached to any permission to control matters arising as a consequence of the development.

It is considered that the proposals to improve the recreational ground to accommodate a formal football pitch has the potential to make positive contribution to local amenities, in terms of the provision of improved and additional community facilities.

The LDP policy in relation to community facilities seeks to support community facilities. In this regard, the proposals to improve the recreational ground are considered to be consistent with this policy objective of the LDP.

In terms of archaeological issues, the site lies within an area of archaeological sensitivity and potential based on the presence of recorded sites of prehistoric, medieval, and later date in the surrounding landscape. WoSAS indicate that the application site lies within an area of some sensitivity associated with the nearby Dundonald Castle where large scale earthworks are of concern. WoSAS recognise that the application is in most part retrospective and advise that the works did raise potential archaeological concerns. However, since the current application involves no further ground disturbance on the site it does not raise substantive archaeological issues.

The LDP policy in relation to the historic environment seeks to protect listed buildings and their settings, especially from inappropriate development. Historic Environment Scotland has been consulted on this application and offer no objection comment on the proposed works. The Council's Lead Conservation Officer has also reviewed the application proposals and notes that the ground works are not considered to have an adverse impact on the character or setting of Dundonald Conservation Area or Dundonald Castle.

In terms of the flooding, and as set out above, the Ayrshire Roads Alliance acting as the Flood Risk Management authority on behalf of South Ayrshire Council initially recommended refusal of the application on the basis of flood risk. Subsequently, the applicant submitted a Drainage Strategy Report for the consideration of the ARA who confirmed that they offered no objection to the application, provided the drainage system is installed as agreed and submitted. However, following the submission of Civil Engineers Reports from the Dundonald Residents Playing Field Network, the ARA has reinstated their objection to the application until such time that applicant can demonstrate that the outfall pipe (located at the north west of the site) is in a suitable condition which is capable of accommodating the calculated greenfield run off rates. SEPA has not been consulted on this application as it falls outwith the range of applications that they require to be consulted on as per their Triage Framework dated January 2022. The ARA has provide site specific advice on matters relating to flooding and this is considered in more detail, below.

With regard to traffic/ parking road safety implications associated with the development proposals, the Ayrshire Roads Alliance has been consulted on the application and offer no objection.

Given the above policy context, the principle of the development proposal is considered to be in accordance with the aforementioned policy provisions of the local development plan.

The provisions of the Adopted South Ayrshire Local Plan 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)

Scottish Planning Policy

Scottish Planning Policy states that planning authorities should have regard to the probability of flooding from all sources and take flood risk into account when preparing development plans and determining planning applications. The calculated probability of flooding should be regarded as a best estimate and not a precise forecast. Authorities should avoid giving any indication that a grant of planning permission implies the absence of flood risk.

Planning Advice Note 79: Water and Drainage

Planning Advice Note 79: Water and Drainage states that infrastructure provision must meet existing demands, be of a high enough standard to ensure that the supply of water and discharge of waste water comply with water quality regulations, sufficient to allow proposed development to proceed without unreasonable delay, and should not increase the risk of flooding. The arrangements proposed for water supply and drainage can be a material planning consideration.

An assessment of the flood risk impact is set out elsewhere in the report.

Planning Advice Note 65 – Planning and Open Space

Planning Advice Note - PAN65 - Planning and Open Space recognises that "open spaces are important for our quality of life. They provide the setting for a wide range of social interactions and pursuits that support personal and community well-being. They allow individuals to interact with the natural environment and provide habitats for wildlife. They can also be important in defining the character and identity of settlements". PAN 65 considers sports areas to be open space where they are described as "large and generally flat areas of grassland or specially designed surfaces, used primarily for designated sports (including playing fields, golf courses, tennis courts and bowling greens) and which are generally bookable". Given that PAN65 defines sports areas as being open space, it is considered that the principle of the proposal is consistent with this government advice note.

South Ayrshire Open Space Strategy 2012;



The Council has produced an Open Space Strategy. The Strategy, which is based on a quantitative and qualitative audit of open space in South Ayrshire, sets out a vision for the provision, management, and maintenance of open spaces within the Council's area. Whilst generally seeking to protect and improve open spaces, the Strategy does not preclude them from being developed - particularly when the development improves the facilities associated with the open space. However, development proposals also require to be considered based on the provisions of the development plan, merits of the proposal and any individual site-specific circumstances arising, and also the planning history of the site. The application has been considered in this context.

(iii) Objector Concerns

The representations received in relation to the proposal are noted, and the following response is offered in respect of the objections received:

- The development proposals have created flooding issues which have damaged neighbouring properties;

As set out above, it is noted that the Ayrshire Roads Alliance, acting as local flood prevention authority, were required to deploy sandbags around the perimeter of the application site in order to prevent water runoff into the gardens of properties which bound the application site. The planning application assessment needs to consider whether the proposed development, when completed, would increase the risk of flooding within the locale. An assessment of the proposed development's flooding impact is set out elsewhere in this report.

- The development proposals do not meet with the Scottish Government's Guidance on Sustainable Urban Drainage Systems;

The Ayrshire Roads Alliance has confirmed the following in response to suggestion that the proposed development does not meet the Scottish Government's Guidance on Sustainable Urban Drainage Systems: -

*"Based on the surface water information supplied and the installation of the proposed drainage system then the development complies with Scottish Planning Policy in that the proposed development is not at significant risk of being affected by flooding or would increase the risk of flooding to others.*

*No new impermeable surfaces are being introduced which would result in increased surface water flooding requiring specific mitigation by Sustainable Urban Drainage Systems which are generally aimed at integrating surface water management into the design and development of towns and cities. Having a greenspace like this playing field should be a positive for surface water management for the Dundonald Community.*

*According to the information ARA have received the playing field has historically drained through the proposed outfall route to the Dundonald Burn with the connection into the system being through the historic manhole already in the Playing field. This would suggest historic permissions are in place for drainage of the playing field to the Dundonald Burn although ARA have no evidence of this."*

- Health & safety concerns and access concerns as a consequence of the development proposals, particularly raised embankments created as a consequence of the development proposals and the impact this has on the existing children's playpark;

Issues covered by other legislation, e.g. health and safety regulations, are not material planning considerations which can be considered as part of this planning application assessment. It is however noted that the level changes do not significantly alter the profile of the ground at the area of the play park to such a degree that it impacts access and egress to the play area.

- Privacy concerns due to change in site levels;

Matters pertaining to privacy and amenity impact are set out elsewhere in this report.

- Parking concerns;

The Ayrshire Roads Alliance (ARA) offer no objection to the application proposals and therefore the proposals are considered acceptable from a traffic/ parking/ road safety perspective.

- The Ayrshire Roads Alliance has had to take direct action to address flooding issues by placing sandbags around the perimeter of the application site;

Noted. This matter is acknowledged elsewhere within the report.

- Inaccuracies and omissions within the planning application submission.

The onus is on the applicant to provide accurate information to allow the planning authority to appropriately assess the application proposals. In this case, further information and clarity was sought by the planning service in their assessment of the application.

- The DCSRHA's original proposals for the site have change significantly since their initial proposals to upgrade drains and make general improvements to the field;

The application assessment requires to consider the proposals which form the basis of the planning application submission.

- Archaeological concerns as a consequence of the development proposals;

Matters relating to archaeology are considered elsewhere in this report.

- Burying of non-biodegradable waste;

Issues covered by other legislation, e.g. environmental regulations, are not material planning considerations which can be considered as part of this planning application assessment.

- The formation of a formal football pitch limits the open space to be used for alternative leisure/ sporting activities;

The works subject to the planning application assessment entail the installation of a drainage system and the changing of site levels, only. The use of the application site does not change as a consequence of the development proposals in land use planning terms; it remains an area of recreational open space. How a facility in South Ayrshire is used, issues arising from its use and alternative options for the provision of alternative leisure/ sporting activities are not material considerations that should be given weight in the consideration of this application proposal.

- Loss of public open space;

The works subject to the planning application assessment entail the installation of a drainage system and the changing of site levels, only. The use of the application site as recreational open space does not change as a consequence of the development proposals in land use planning terms. PAN65 defines sports areas (including football pitches) as being open space. The proposals are therefore not considered to result in the loss of open space.

- Loss of trees as a consequence of the development proposals;

It is understood that works to trees, outwith but adjoining the application site, have been undertaken. These trees are not afforded protection by way of a tree preservation order and works to these trees could be undertaken without the prior written approval of the Planning Authority.

- Adverse impact on the setting of the Dundonald Conservation Area and Dundonald Castle;

Matters pertaining to the impact on the setting of the Dundonald Conservation Area and Dundonald Castle are set out elsewhere in this report.

- Works were undertaken without the benefit of planning permission;

It is noted that planning permission is sought in retrospect for the majority of the works which are the subject of this application assessment. The planning system does not preclude applications being made in retrospect.

- Noise concerns;

The works subject to the planning application assessment entail the installation of a drainage system and the changing of site levels, only. The use of the application site as an area of recreational open space does not change as a consequence of the development proposals in land use planning terms. Statutory noise nuisance, should it occur, is a matter for the Council's Environmental Health Service.

- Lack of changing/ toilet facilities to serve the football pitch;

There are no changing/toilet facilities proposed by the application proposals. It should however be noted that how a facility in South Ayrshire is used, issues arising from its use and alternative options for the provision of sports facilities are not material considerations that should be given weight in the consideration of this application proposal. The purpose of this assessment is to consider the planning merits of the development being presented under this application.

- Development proposals may impact on the ability of the site to host the Dundonald Highland Games;

While the ability or otherwise to host the Dundonald Highland games is not a material planning consideration, it is understood that the games were held earlier this year on the application site.

- Funding and indemnity concerns;

Matters relating to funding and indemnity associated with the site are not material planning considerations that should be given weight in the consideration of this application proposal. Concerns relating to ownership of the outfall system are noted, however, this is not considered to be a material planning consideration that should be given weight in the consideration of this application proposal.

- The application proposals breach the UN Convention on the Rights of the Child;

Issues covered by other legislation are not material planning considerations which can be considered as part of this planning application assessment. The planning system requires to focus on whether a development itself is acceptable in planning terms.

(iv) Impact on the Locality

Planning permission is sought for landscaping works (including changing site levels) and installation of drainage system at the recreational ground, Winehouse Yett, Dundonald.

The application is required to be determined in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan, the main issues in this application are whether the development project would (a) seriously harm the residential amenity of the area and/or (b) result in increased flood risk to neighbouring properties.

- Residential amenity impact

The application site is located within an area of designated open space; however, it is noted that the site is bound to the north by residential properties location on Kilnford Drive and Drybridge Road and to the west by the residential properties located at Parkthorn View. The application submission intimates that the purpose of the works is so that the recreational ground can accommodate a formal football pitch, albeit the actual use of the application site does not change in land-use planning terms as sport areas are designated as being open spaces. The application assessment does, however, need to consider the residential amenity impact created by the increase in site levels, particularly matters pertaining to privacy and overlooking impact. The application

submission intimates that the rise in site levels equates to less than 600mm; however, the submitted drawings indicate that the levels have increased (in some areas) by approximately 900 mm. A number of the objectors have raised concerns that, as a consequence of the increased site levels, existing rear boundary fencing no longer provides adequate screening from the application site and that their private garden grounds are now overlooked. Strategic Policy 2: Development Management requires, inter alia, that development proposals do not have an unacceptable impact on the amenity of nearby land uses.

Generally, the levels of the site have increased towards the north and north-western parts of the application site and the 'levels layout and cross sections' plan, which accompanies the application submission, delineates the change in ground levels. The north-western portion of the application site has experienced the greatest increase in site levels and there can be no doubt that existing rear boundary treatments, particularly the properties located at 9 and 9A Parkthorn View, no longer provide the same level of screening to/from the application site that existed prior to the undertaking of the works. While some of the existing rear boundary treatments no longer provides the same level of screening to/from the application site, it does not automatically follow that the development proposals would have an unacceptable impact on the residential amenity of neighbouring residential properties. The fact that the use of the site does not change in land use planning terms (i.e. remains as open space) is considered to be of significance to the assessment of the application. Also, the development proposals, when fully completed, are considered to improve an existing recreational/ leisure facility within Dundonald, to the benefit of the wider community. The application site has and will continue to function as open space whereby users of this community facility will do so on an ad-hoc basis. Generally, the site will tend to accommodate leisure and recreational activities whereby users of the open space are unlikely to congregate in specific areas of the open space for prolonged periods of time. As set out above, the purpose of the proposed development is so that the recreational ground can accommodate a formal football pitch. The application submission shows the location of the proposed pitch which is to be sited, at its closest point, approximately 8.9 metres from the rear boundary of 9 Parkthorn View, approximately 8.6 metres from the rear boundary of 9A Parkthorn View and approximately 14 metres from the rear boundary of 11 Kilnford Drive. It is considered that due to the separation distance of the proposed pitch to rear mutual boundaries, along with the sporadic use of the pitch, that the residential amenity of the neighbouring properties would not be significantly adversely compromised as a consequence of the development proposals. It is also noted from the application submission that the 'portable Ballstops' are to be installed intermittently around the field to help alleviate, at least to some extent, balls entering residents' gardens when matches are being played. While there may be certain vantage points within the site which have the potential to overlook areas of neighbouring garden grounds, it is considered that the improved community facility outweighs the potential overlooking/ amenity concerns that may be created as a consequence of the development proposals. Overall, it is considered that the application proposals are not so injurious to the residential amenity of the neighbouring properties which would merit refusal of the application in this instance.

- Flood risk to neighbouring properties

In terms of the flooding, and as set out above, the Ayrshire Roads Alliance acting as the Flood Risk Management authority on behalf of South Ayrshire Council initially recommended refusal of the application on the basis of flood risk. Subsequently, the applicant submitted a Drainage Strategy Report for the consideration of the ARA who confirmed that they offered no objection to the application, provided the drainage system is installed as agreed and submitted. However, following the submission of Civil Engineers Reports from the Dundonald Residents Playing Field Network, the ARA has reinstated their objection to the application until such time that applicant can demonstrate that the outfall pipe (located at the north west of the site) is in a suitable condition which is capable of accommodating the calculated greenfield run off rates. Ordinarily, the Planning Authority would request that the applicant undertake a survey of the outfall pipe to the Dundonald Burn, prior to the determination of the application, so as to demonstrate that its condition is capable of accommodating the proposed greenfield run off rates from the application site. Without this information it would be reasonable for the Planning Authority to refuse the application on the grounds that the applicant had not demonstrated that the existing outfall pipe is of a suitable condition to accommodate the drainage proposals set out in the Drainage Strategy Report. However, given that the large majority of works undertaken on site are retrospective and that the planning application was submitted in February of this year, it is considered prudent to address matters which remain outstanding in terms of drainage and flooding via planning condition. The refusal of the planning application would not address the flooding concerns which appear to be ongoing in close proximity to the application site. In this instance, it is considered appropriate to attach a condition which requires for the applicant to demonstrate that the existing outfall pipe is in a suitable condition so as to ensure the successful operation of the drainage system installed at the application site. The condition will also require the applicant to present alternative proposals for surface water run off collection should the outfall pipe be deemed to be in an unsuitable condition.

It is important to note that SPP specifically indicates that “authorities should avoid giving any indication that a grant of planning permission implies the absence of flood risk”. While the approval of the planning permission would not guarantee the absence of flood risk, it is considered that the submitted Drainage Strategy Report, along with the suggested planning conditions relating to the completion of drainage works and condition survey of the outfall pipe, adequately address matters pertaining to flood risk.

The proposed works, when fully completed, are considered to ensure the continued open space use of the site. While the concerns of the ARA are noted, it is considered that the suggested planning conditions adequately address matters pertaining to flood risk. Accordingly, there are no policy objections to the development proposal, which will facilitate the compatibility of sport and recreational uses in the wider area of open space. Overall, the principle of the proposed development complies with the development plan. The consultation responses of Scottish Water, WoSAS and Historic Environment Scotland do not raise any issues of over-riding concern that would merit refusal of application. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that are considered to merit a recommendation of refusal of the application.

## **8. Conclusion:**

The application has been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received and the impact of the proposed development on the locality. The assessment concludes that the proposed development generally complies with the development plan. The concerns raised by the ARA can be addressed by way of suggested planning condition, whereas the consultation responses of Scottish Water, WoSAS and Historic Environment Scotland do not raise any issues of over-riding concern that would merit refusal of application. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that are considered to merit a recommendation of refusal of the application. Overall, there are no policy objections and following the above assessment, it is considered that the proposal will not have a significant adverse impact on the amenity of the locality. 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 subject to the following conditions: -

- (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) That notwithstanding the terms of condition 1 above, the applicant shall undertake a conditional survey of the existing outflow pipe located at the north-west perimeter of the application site, within 1 month of the date of this decision, so as to demonstrate that the existing outflow pipe is capable of accommodating the calculated greenfield run off rates set out in the Drainage Strategy Report dated July 2022. Should the conditional survey determine that the outflow pipe is in an unsuitable condition to accommodate the calculated greenfield run off rates set out in the Drainage Strategy Report dated July 2022, then an alternative proposal(s) for surface water run-off collection shall be submitted within 2 months of the date of this decision for the prior written approval of the Planning Authority, in consultation with the Ayrshire Roads Alliance. Thereafter, the agreed alternative proposal for surface water run-off collection shall be implemented within 3 months of the date of this decision, to the satisfaction of the Planning Authority.
- (3) That notwithstanding the terms of condition 2 above, the requirements and recommendations set out in the Drainage Strategy Report, dated July 2022, shall be fully incorporated into the final design solution of the development hereby approved and shall be fully undertaken and completed within 2 months of the date of this decision, 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) To ensure the site is drained in an acceptable manner and the drainage infrastructure is properly maintained.
- (3) To ensure the site is drained in an acceptable manner and the drainage infrastructure is properly maintained.

**Advisory Notes:**

N/A.

**List of Determined Plans:**

Drawing - Reference No (or Description): Location Plan

Drawing - Reference No (or Description): Pitch Details

Drawing - Reference No (or Description): 2022-001-100

Drawing - Reference No (or Description): 2022-001-200

Other – Drainage Strategy Report dated July 2022

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

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

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

**Background Papers:**

1. Application form, plans and submitted documentation
2. Representations
3. Adopted South Ayrshire Local Development Plan 2
4. South Ayrshire Open Space Strategy 2012
5. SPP
6. PAN 79
7. PAN 65
8. Report by Head of Property and Risk to Leadership Panel of 13 February 2018

**Equalities Impact Assessment:**

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

**Person to Contact:**

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