

REGULATORY PANEL: 30 MARCH 2023

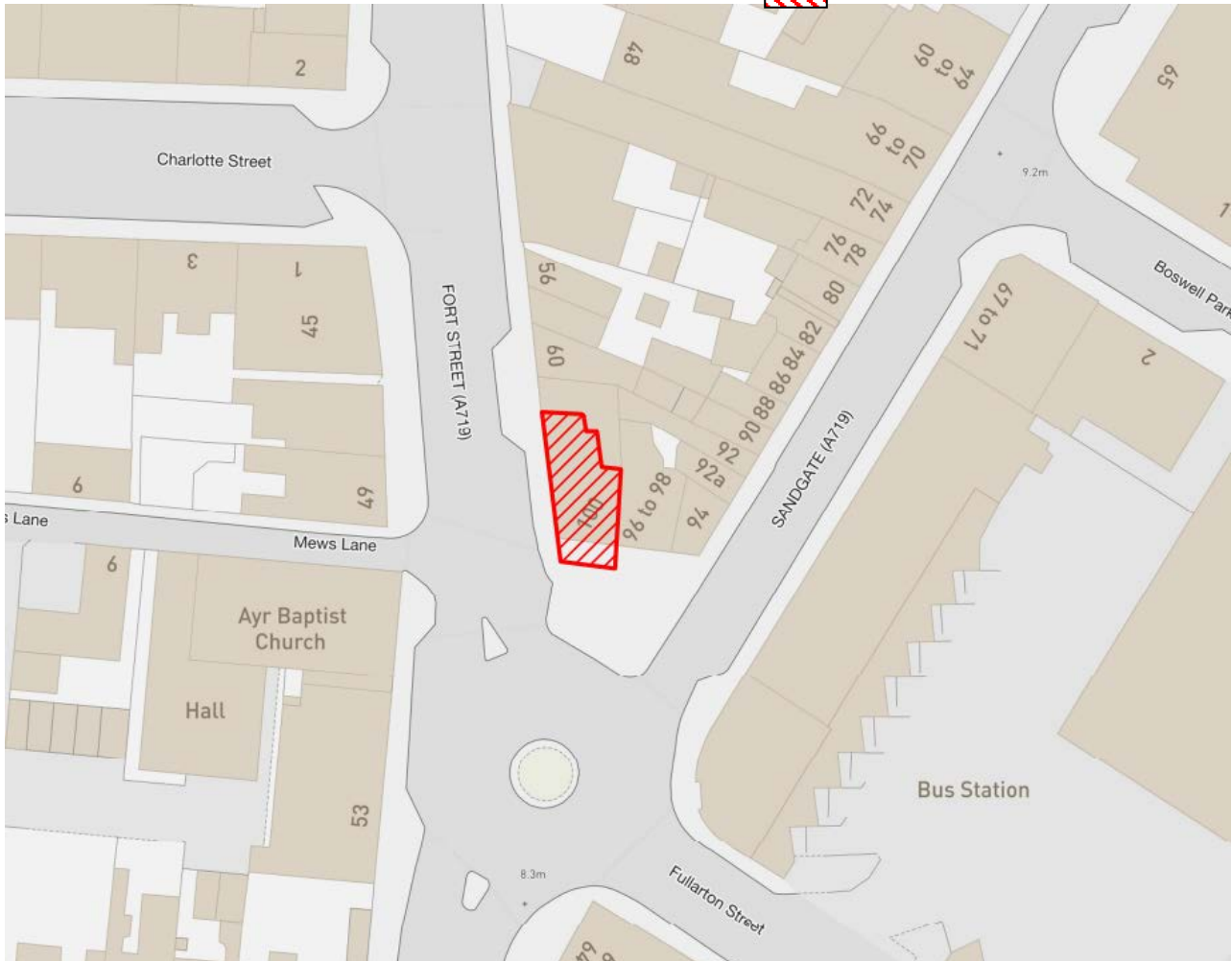
REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

23/00082/APP and 23/00081/ADV

100 - 104 SANDGATE AYR SOUTH AYRSHIRE KA7 1BX

Location Plan

APPLICATION SITE 



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Summary

Planning permission is sought for a part change of use of an area of public footpath to form an external seating area, alterations to existing shopfront and installation of barriers at 100-104 Sandgate, Ayr. The works to the shopfront and the installation of a barrier has already taken place and therefore these aspects are retrospective. Separate retrospective advertisement consent is also sought concurrently for the erection of a fascia and projecting sign at the property. The application site is sited within the retail periphery area of Ayr town centre (as defined by the Local Development Plan 2) and sited outwith but adjacent to Ayr Central Conservation Area.

The applications have 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 complies with the development plan and the proposals will not have a significant adverse impact on the amenity of the locality. The consultation responses do not raise any issues of over-riding concerns. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the applications.

Having balanced the applicant's rights against the general interest, it is recommended that planning permission and advertisement consent be approved subject to conditions. Accordingly, both applications are recommended for approval.

The applications require 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 planning application and associated advertisement consent have received a competent written objection received from a Community Council, via their designated contact person(s), and the appointed officer is minded to recommend a determination which is contrary to the views expressed by the Community Council.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

REGULATORY PANEL: 30 MARCH 2023

SUBJECT:	PLANNING APPLICATION AND ADVERTISEMENT CONSENT
APPLICATION REF:	23/00082/APP and 23/00081/ADV
SITE ADDRESS:	100 - 104 Sandgate Ayr South Ayrshire KA7 1BX
DESCRIPTION:	23/00082/APP: Part change of use of public footpath to form external seating area, alterations to existing shopfront and installation of barriers 23/00081/ADV: Erection of signage
RECOMMENDATION:	Approved 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. 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 is an end-terrace, two storey café/restaurant and hot food takeaway, located at 100-104 Sandgate, Ayr. The site is bound by commercial premises and an area of hardstanding to the south. The application site is in a prominent corner locale immediately adjacent to, but outwith the boundaries of the Ayr Central Conservation Area and sited within Ayr town centre.

Planning permission is sought for a part change of use of 11sqm of public footpath to form an external seating area accommodating 12 seats and 3 tables, alterations to existing shopfront and installation of barriers. It is noted that the alterations to the shopfront and installation of a door barrier have been undertaken and permission is sought retrospectively. The former timber shopfront, which comprised no.3 windows and no.2 doors, has been removed and replaced with a glazed frontage comprising a fixed window and bi-folding doors. The works include the repainting of the shopfront in a blue finish (RAL 5013) and the installation of a permanent 0.9m high steel barrier. It is also proposed to install removable barriers so as to create an external area for the siting of tables and chairs to the front of the premises. Internal alterations are proposed to both the ground and upper floors of the building which brings the upper floor back into use as café/ restaurant.

A separate retrospective Advertisement Consent application is sought concurrently with the planning application and comprises a fascia and projecting sign located on the principal elevation of the property. The fascia signage, which extends the full width of the frontage of the premises (7030mm), has a blue background (RAL5002) with white LED internally illuminated letters. Advertisement consent is also sought for an illuminated projecting sign which is also at fascia level, side hung, projecting 800mm in depth, 3300mm above ground level, 0.4sqm in area on a blue background with white letters.

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The Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Miscellaneous Amendment Order 2023 that comes into force on 31st March 2023 is relevant for noting in this case. It makes provisions for the siting of tables and chairs outside a Class 3 café/ restaurant, a public house or bar, without the need to seek planning permission. This is part of a suite of changes to Planning legislation so as assist in the recovery of town centres post Covid-19 pandemic. Should the current planning application have been submitted on or after 31 March 2023, the outdoor seating aspect of the proposal would not have required planning permission.

The applications require to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling of planning applications and scheme of delegation, as the planning application and associated advertisement consent have received a competent written objection received from a Community Council, via their designated contact person(s), and the appointed officer is minded to recommend a determination which is contrary to the views expressed by the Community Council.

2. Consultations:

Ayrshire Roads Alliance (ARA) - offer no objection subject to an advisory note that the applicant will have to apply for and be granted a street café permit.

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:

6 representations (from 2 households and a community Council) have been received, which object to the proposed development. Three of the objections have been submitted by the Fort, Seafield and Wallacetown Community Council. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The issues raised by Representees can be summarised as follows:

- Only two tables should be allowed to avoid bottleneck for pedestrians;
- barriers, tables and chairs should be removed each evening;
- a permanent barrier has been installed with no regard to health and safety of the public or Equalities Act of 2010; A complaint has been made to the Ayrshire Roads Alliance directly in regard to their legal responsibilities;
- glass door opening into public footpath is risk to pedestrians;
- with fixed barrier, narrow access to upper floor, and existing street furniture will funnel people and cause obstruction for pedestrians (overcrowding and queueing);

Regulatory Panel (Planning): 30 March 2023

Report by Housing, Operations and Development Directorate (Refs: 23/00082/APP + 23/00081/ADV)

- If the council are minded to allow the applicants some external seating, the existing wrought iron public seating should be removed and sited elsewhere at the applicants' cost; and
- The projecting signage does not comply with the requirement of a conservation area.

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:

Statutory Development Plan Framework:

(1) National Planning Framework 4 (NPF4)

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).

Section 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 statutory development plan and that determination shall be made in accordance with the plan unless material considerations indicate otherwise.

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

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at <https://www.gov.scot/publications/national-planning-framework-4/>

Policy 7 Historic assets and places;
Policy 9 Brownfield, vacant and derelict land and empty buildings;
Policy 14 Design, Quality and Place;
Policy 15 Local living and 20-minute neighbourhoods; and
Policy 27 City, town, local and commercial centres.

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

NPF4 and the policies which apply in the context of the development proposal subject to this planning application largely overlap with the policy considerations and requirements of LDP2. Whilst there are some differences in specific criteria requirements within certain consistent and overarching policies between NPF4 and LDP2, it is not considered that any of these would constitute an apparent material policy conflict which would require a particular policy of NPF4 to be considered in place of a policy in LDP2.

NPF4 emphasises the need to make efficient use of existing buildings, land and infrastructure and to redevelop rural and urban brownfield sites before greenfield sites. Brownfield land is defined in the NPF4 as land which has been previously developed and includes vacant or derelict land, land occupied by redundant or unused buildings and developed land within the settlement boundary where further intensification of use is considered acceptable. In this regard, it is of note that the site is located within Ayr Town Centre. The site is considered to fall within the above noted NPF4 definition of brownfield land. It is considered that the application proposals represent the sustainable re-development and secure a continued use of a building within the town centre which is in accordance with the objectives of NPF4. NPF4 also takes a town centre first approach and supports proposals that will improve the vitality and viability of town centres and it is considered that the proposals are consistent with this.

NPF4 also emphasises the importance of Sustainability and Placemaking. In terms of 'Sustainability', this involves directing development to the right place, and not to allow development at any cost. This means that policies and decisions should be guided by a series of key principles, of which one relates to the need to avoid over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality. As noted above, the site is considered to represent sustainable development due to involving the re-use of an existing building within a settlement and will operate without adverse impacts on amenity.

With regards to 'Placemaking', NPF4 states that planning should take every opportunity to create high quality places by taking a holistic and design-led approach which demonstrates the six qualities of a successful place, namely; distinctiveness, safe and pleasant, welcoming, adaptable, resource efficient and easy to move around and beyond. It is considered that the proposal offers the opportunity to continue the use of a property located in a prominent location within the town centre without significant adverse impact on the character or townscape setting of the area, or on the amenity of the locality. The proposal is therefore not considered to contravene the NPF4 in terms of 'Placemaking'.

The preservation of the historic environment is also a key consideration in NPF4. The application site is adjacent but outwith the Ayr Conservation Area and the proposals are not considered to directly impact the character of the Conservation Area to any extent that would warrant refusal of these applications. This is outlined further below.

Overall, and for the reasons noted above, it is considered that the proposal accords with the provisions of NPF4.

(ii) South Ayrshire Local Development Plan 2 (LDP2)

The following policies of the South Ayrshire Local Development Plan 2 are relevant in the assessment of the planning 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/local-development-plan-2):

B1 Sustainable Economic Development;
B4 Regeneration of town centres;
Sustainable Development;
Development Management;
Town Centre First Principle;
Town Centre; and
Historic Environment.

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.

The above policies direct development proposals to the main towns (i.e Ayr, Prestwick, Troon, Maybole and Girvan), and in particular proposals for commercial, industrial or community facilities. In particular, the policies seek to promote and enhance the vitality and viability of town centres, and the use of vacant, redundant or brownfield sites. The application site benefits from a prominent location within Ayr town centre, and the proposals involve the continued use of an existing café/ restaurant which closed following the retirement of a long-standing business at the locale (former Wellington Café).

Under the Town Centre First Principle, new public and private sector development proposals are, in the first instance, directed towards town centres. The Network of Centres policy identifies that the main towns of Ayr, Troon, Prestwick, Maybole and Girvan will be supported as locations for retail, office and commercial leisure development that help to sustain those centres as vibrant centres for their local communities.

The Town Centre policy identifies the site as being within the 'Peripheral' area of Ayr town centre, and the policy seeks to ensure that town centres remain strong shopping centres, with Class 3 uses recognised as one of the mainstay of town centres, in terms of contributing to their vitality and viability. In this context, the proposal, due to its location within an existing town centre location is considered to be in accordance with the spatial strategy and policies of the LDP. The proposals are also considered to offer the potential for not only linked trips to multiple commercial premises, but also sustainable trips by means of other modes of transport such as walking, cycling, or bus trips. Therefore, the proposals are considered to accord with the LDP policy in relation to sustainable development. Given the above policy context the development proposal is considered to accord with the aforementioned provisions of the local development plan.

The Historic Environment Policy states that new development should preserve and enhance the character and appearance of South Ayrshire's conservation areas and their settings. This should include the appropriate layout, design, materials, scale and siting of development affecting buildings and structures located within a Conservation Area. Although sited outwith the conservation area, the application site is sited immediately adjacent to a conservation area. In this regard, it is considered that the proposals shall not have an adverse impact on the setting, character or appearance of the adjacent Ayr Outstanding conservation area. This is outlined further, below.

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

It is important to note that section 25 of the Town and Country Planning (Scotland) Act 1997, which gives primacy to the development plan, does not apply in advertisement consent cases. However, the Council's Guidance on Advertisements and Commercial Signage identifies the council's standards and general approach to the signage and is considered further, below.

(iii) Other Policy Considerations (including Government Guidance)

The Historic Environment Policy for Scotland. Policy HEP2 states that decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations, whilst Policy HEP4 states that changes to specific assets and their context should be managed in a way that protects the historic environment. The provisions of the Historic Environment Policy for Scotland are supplemented by Historic Environment Scotland's Managing Change in the Historic Environment series. With regard to this application, the Managing Change documents on Setting and Shopfronts and Signs are of particular relevance.

The Managing Change document on Setting defines setting as the way in which the surroundings of a historic asset contributes to how it is experienced, understood and appreciated, and indicates that the setting of a historic structure often extends beyond the immediate property boundary of that structure into the broader landscape. The Managing Change document on Shopfronts and Signs states that the interest of a historic shopfront can be derived from its architectural quality, fixtures and features and its historical and cultural associations. The commercial purpose of a shopfront is to attract customers. This can present challenges for the historic character of a building or place. A balance needs to be achieved between accommodating commercial needs such as signage and security and maintaining the historic significance of the shopfront.

South Ayrshire Council's Guidance on the Historic Environment refers to design quality, and states that development proposals will be considered in terms of compliance with the 'General Criteria for New Development', which applies to both new development and extensions to existing development / buildings. The guidance refers specifically to development proposals within or affecting the setting of conservation areas, and states that all new development within, or affecting the setting of, a conservation area shall be required to preserve or enhance its character or appearance.

While the application site lies outwith Ayr Central Conservation Area, it is located adjacent to the boundaries of the conservation area. It is considered that the proposed shopfront does not have such an adverse impact on the character, appearance or setting of Ayr Central Conservation Area to warrant a refusal of the planning application on built heritage grounds. On this basis, the proposals are not considered to cause harm or adversely impact on the setting, character or appearance of the conservation area at this locale.

South Ayrshire Council's Design Guideline on Advertisements and Commercial Signage states that signage / advertisements will generally be restricted to that necessary to identify discreetly the business or company occupier and their trade. In determining the acceptability of an advertisement / signage display the following two principles will always be taken into account:

- Amenity - advertisement displays have an impact on the visual amenity, not only of the property itself, but also the amenity of neighbouring properties and the surrounding area. Proposals considered by the Council to have an unacceptable detrimental impact will not be considered acceptable; and
- Safety - The effect of all advertisement displays will be assessed for their impact on public safety including the safety of pedestrians, drivers and other road users. Proposals considered by the Council to have an unacceptable detrimental impact on road or pedestrian safety will not be supported.

Town and neighbourhood centres are expected to be the centre of business activity, and consequently are likely to be the most lively and vibrant areas of towns and villages. The appearance of these areas can have an effect on the way they are perceived by occupiers, visitors and potential investors. For these reasons, the commercial interests of an individual business, and the cumulative impact of actions must be balanced against the interests of the commercial area as a whole. The Council will therefore allow flexibility and encourage businesses to promote themselves in an effective manner but will be mindful of the effect this may have on the building concerned and the area as a whole.

Strategic Guidance Policy 1, Policy 2 Ground Floor Commercial Premises and Policy 4 Projecting Signs are relevant in the consideration of the advertisement consent application.

The proposed signage is unobtrusive and is not considered to adversely impact on the locality or amenity of neighbouring properties.

Furthermore, the Ayrshire Roads Alliance offer no objections to the proposed signage. It is considered that the proposed signage is proportionate for the business, does not have an adverse impact on the appearance of the property, surrounding locality or adjacent conservation area and does not result in advertising clutter.

(iv). Planning History of the Site;

The following recent applications are considered to be relevant;

Planning application 22/00931/APP - Part change of use of public footpath to form external seating area, alterations to existing shopfront and installation of barriers. This application was withdrawn by the applicant's agent following discussion with the Planning Service.

Advertisement Consent 22/00932/ADV – Erection of signage was also withdrawn by the applicant's agent following discussion with the Planning Service.

It is noted that the current, re-submitted planning application and advertisement application represent an improvement to that originally submitted. Tiling to the shopfront has been removed and proposed signage reduced.

(v) Objector Concerns

It is noted that those objecting to the development proposal are nearby neighbouring residents and the local community council. Their concerns are captured and summarised in italics. Responses to the representations are offered directly below.

- *Only two tables should be allowed to avoid bottleneck for pedestrians;*
- *barriers, tables and chairs should be removed each evening;*

The Ayrshire Roads Alliance offers no objections to the proposals subject to the owner/ proprietor seeking a separate Street Café Permit for the siting of tables and chairs on the public footpath. A Street Café Permit also ensures any barriers or furniture is removed when the premises is not in use/ is closed and ensures that any barriers/ furniture does not cause obstruction to pedestrians or users, as well as other requirements in terms of pedestrian obstruction, etc. when in use.

It is not considered that the proposed external seating area will adversely impact the locality and can be absorbed within the streetscape without impacting pedestrian flows. The proposal is considered to encourage footfall and to help promote the resilience, regeneration and recovery of Scotland's town centres.

It is relevant to note that The Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Miscellaneous Amendment Order 2023 comes into force on 31st March 2023. It makes provisions for the siting of tables and chairs outside a Class 3 café/ restaurant, a public house or bar, without the need to seek planning permission. This is part of a suite of changes to Planning legislation so as assist in the recovery of town centres post Covid-19 pandemic. Should the current application have been submitted on or after 31 March 2023, the outdoor seating area would not require the benefit of planning permission. The separate street café permit would however still require to be sought.

- *a permanent barrier has been installed with no regard to health and safety of the public or Equalities Act of 2010;*
- *glass door opening into public footpath is risk to pedestrians;*
- *with fixed barrier, narrow access to upper floor, and existing street furniture will result in overcrowding and queuing;*

It is noted that a fixed barrier has been installed on the public footpath outside the premises. The barrier reaches 0.9m in height and projects approximately 0.9m from the front building line of the property. The Council's Building Standards Service has advised that under Building Regulations, where a doorway opens outwards into an area where there are pedestrians (such as in this case), that Building Regulations would always require some form of barrier so as to guide people away from the doorway. This is to reduce the occurrence of any instances whereby a door opens into the path of someone potentially resulting in injury. The Building Standards Service also advises that the door cannot open inwards due to a restricted landing area, which given occupancy numbers, would need to open in direction of escape. The Ayrshire Roads Alliance offer no objections to a barrier in terms of its siting on the public footpath. Notwithstanding this, it is recognised that the barrier that has been installed could potentially be a hazard to those who are visually impaired and therefore it is recommended that the barrier as installed is not approved as part of any decision to approve this application. A condition is recommended that, notwithstanding the existing barrier and proposals, plans for a revised barrier shall be submitted for the approval in writing of the planning authority that is designed to take account of visually impaired individuals.

- *If the council are minded to allow the applicants some external seating, the existing wrought iron seating should be removed and sited elsewhere at the applicants' cost;*

It is considered that the part change of use of 11sqm of footpath for the siting of table and chairs to the front of the application site is acceptable and considered to be sited a sufficient separation distance from existing street furniture so as not to cause unnecessary obstructions to pedestrians at the locale. It is also noted that the applicant will require to seek a Street Café Permit from the Ayrshire Roads Alliance. A Street Café Permit ensures table and chairs are not obstructing footpaths or its users, that minimum separation distances are adhered to, and that any proposed barriers surrounding the seating area must be distinguishable to other users, particularly those with visual impairments, amongst other requirements. It is the responsibility of the permit holder to ensure that all barriers, tables, chairs etc are removed off-street out-with the agreed operational hours, or when the street café is not in use.

As set out elsewhere within the report, it is relevant to note that the Scottish Government are introducing permitted development rights so as cafes/ restaurants, bars and public houses do not require to apply for planning permission for outdoor seating from 31st March 2023. This is part of a suite of changes to Planning legislation so as assist in the recovery of town centres.

- *The projecting signage does not comply with the requirement of a conservation area.*

As set out elsewhere within the report, the application site is not sited within the boundaries of Ayr Central Conservation Area. The policy guidance which applies to the signage is set out elsewhere within the report and the signage is assessed in this context.

(vi) Impact on the Locality

The application site at 100-104 Sandgate, Ayr has operated as a café/restaurant/ hot food takeaway for many years. The premises has recently been bought by a new owner after the retirement of a longstanding business. The proposals are for the alterations to a shopfront, part change of use of the footpath for an external seating area, erection of barriers and erection of signage.

Alterations to shopfront and installation of a permanent barrier;

The repainting of the timber shopfront in blue and introducing a revised glazed frontage is considered to improve and update the visual appearance of the premises and visual amenity of the surrounding locale. The property retains the original timber pilasters, and the fully glazed shopfront adds an open, attractive welcoming façade at the locale. It is not considered that the removal of the former windows and doors (which were not considered to be original) have had a detrimental impact on the property or surrounding locale. It is important to note the property is unlisted and is not sited within a conservation area. Taking all of the above into account, it is considered that the proposals to alter the shopfront have a neutral impact on the character, appearance and setting of the adjacent Ayr Central Conservation Area.

As set out under section (v) of this report, the proposals include the installation of a permanent barrier on the footpath immediately adjacent to the front of the building. The defining factors in the assessment of the barrier are its impact upon the setting and character of the surrounding area and road/pedestrian safety. The barrier which comprises steel, is 0.9m in height and projects approximately 0.9m from the front of the building has been installed as a safety feature so as to accord with the projection of the outward opening glazed front entrance door. The barrier has been installed so as to reduce any potential occurrence of the door opening into the path of someone potentially resulting in injury. Advice from the Council's Building Standards Service was sought, and it has been advised that the door cannot open inwards due to a restricted landing area which, given occupancy numbers, would need to open in direction of escape in the event of an emergency. The proposed glazed door will comprise toughened glass to British Standards and requires a barrier to be installed on safety grounds. Additionally, the Ayrshire Roads Alliance offer no objections to a barrier on the footpath. While it is recognised that a barrier solution is necessary, the barrier as installed could potentially be a hazard to those who are visually impaired. Therefore, a condition is recommended that, notwithstanding the proposals, plans for a revised barrier design shall be submitted that is required to take account of visually impaired individuals.

Outdoor seating area:

It is proposed to create an outdoor seating area approximately 11sqm to the front of the existing restaurant/takeaway. The proposed development will enclose part of the pedestrian street by means of removable barriers and will make provision for 12 seats and 3 tables. The proposed seating area will function as an ancillary part of the existing planning unit. The defining factors in the assessment of the seating area are its impact upon the setting and character of the surrounding area and road/pedestrian safety. Due to the nature of the proposal, it is not considered that the proposal will have an adverse impact upon the setting or character of the surrounding area or adjacent conservation area. The Ayrshire Roads Alliance has no objections to the proposals subject to the applicant obtaining a Street Café Permit. The proposed external seating area and associated removable barriers is therefore not considered to have an adverse impact upon road or pedestrian safety. A Street Café Permit manages all aspects of an external seating area in terms of pedestrian safety, minimum clearance for siting of furniture, etc. It is considered that the proposal to part change the use of the footpath to the front of the property for external seating for patrons will enhance the vitality of the area and attract footfall to the town centre. It is also considered that the proposals complement the neighbouring uses found at the locale. It is recognised that the neighbouring premises 'Renaldo's' also has outdoor seating to the front of the property; Planning Application; 21/01127/APP.

As set out under section (v) above, it is relevant to note that from 31st March 2023, the outdoor seating area currently under consideration would no longer require the benefit of planning permission. The Scottish Government are introducing a series of changes to Planning legislation which is intended to help promote the resilience, regeneration and recovery of Scotland's town centres.

It is also important to note that the granting of planning permission is an enabling consent and does not preclude the applicant from seeking other permissions which are not regulated by Planning legislation.

Proposed signage:

It is considered that the signage is generally acceptable and accords with the Council's guidance, as set out elsewhere within the report. Furthermore, the Ayrshire Roads Alliance offer no objections to the proposed signage, and it is not considered to have an unacceptable detrimental impact on road or pedestrian safety. The signage will not compromise the design or characteristics of the building. The proposed signage is acceptable in terms of design, siting and proportions, all of which is considered to have a neutral impact on the visual amenity of the locality and shall not adversely impact the setting, character and appearance of the adjacent Ayr Central Conservation Area.

Amenity:

The proposal will contribute towards the vitality and vibrancy of the town centre by being an occupied premises that encourages footfall and the trading environment for local shops/cafes, etc. It is not considered that the proposals will create any adverse amenity issue for residential properties within the town centre. In any case it is recognised that residential properties within, or immediately adjacent to town centres may, by virtue of their location, have a reduced level of residential amenity than a property which is located in an exclusively residential area, yet on the other hand are more accessible to town centre amenities.

8. Conclusion:

The planning application and advertisement consent application have 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 complies with the development plan. The consultation responses do not raise any issues of over-riding concern that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. A condition can be imposed requiring a re-design of the door barrier to take account of visually impaired individuals. Overall, there are no policy objections and following the above assessment, it is considered that the proposals, as conditioned, will not have a significant adverse impact on 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:

Planning Application:

It is recommended that the planning application is approved with conditions;

- (1) That the development hereby permitted must be begun within three years of the date of this permission.
- (2) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (3) That the area in which tables, etc. shall be physically delineated by a removable barrier. All tables, barriers, etc. shall be removed from the pedestrian area when they are not in use. There shall be no permanent structure within the enclosed seating area, and service shall be from within the building; to the satisfaction of the Planning Authority.
- (4) That notwithstanding plan no.22_181_56, planning permission is not granted for the door barrier. Revised plans for a door barrier shall be submitted for the approval in writing of the planning authority within one calendar month of the decision notice. The revised plans shall include a door barrier that is designed to take account of visually impaired individuals. Thereafter, the revised barrier shall be installed in accordance with the details approved under the terms of this condition and within one calendar month of the revised plan(s) being approved.

9.1 Reasons:

- (1) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.
- (2) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3) In the interest of road safety and to ensure that adequate provision is made for pedestrians.
- (4) To ensure that the barrier is designed and installed to take account of visually impaired individuals.

Advisory Notes:

- (1) Prior to commencement of the development, the applicant will have to apply for and be granted a street café permit by the Ayrshire Roads Alliance.

Advertisement Consent:

It is recommended that the advertisement consent is approved with conditions;

- (1) The display of advertisement shall be implemented in accordance with approved plan(s) as listed below.

Reasons:

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.

9.2 List of Determined Plans:

Planning Application;

Drawing - Reference No (or Description): 22.181.01
Drawing - Reference No (or Description): 22_181_53
Drawing - Reference No (or Description): 22_181_54
Drawing - Reference No (or Description): 22_181_55
Drawing - Reference No (or Description): 22_181_56
Drawing - Reference No (or Description): 22_181_57
Drawing - Reference No (or Description): 22_181_58

Advertisement Consent;

Drawing - Reference No (or Description): 22.181.01
Drawing - Reference No (or Description): 22_181_55
Drawing - Reference No (or Description): 22_181_58

9.3 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.

The advertisement is considered to be acceptable in terms of road safety and amenity.

Background Papers:

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

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:

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