

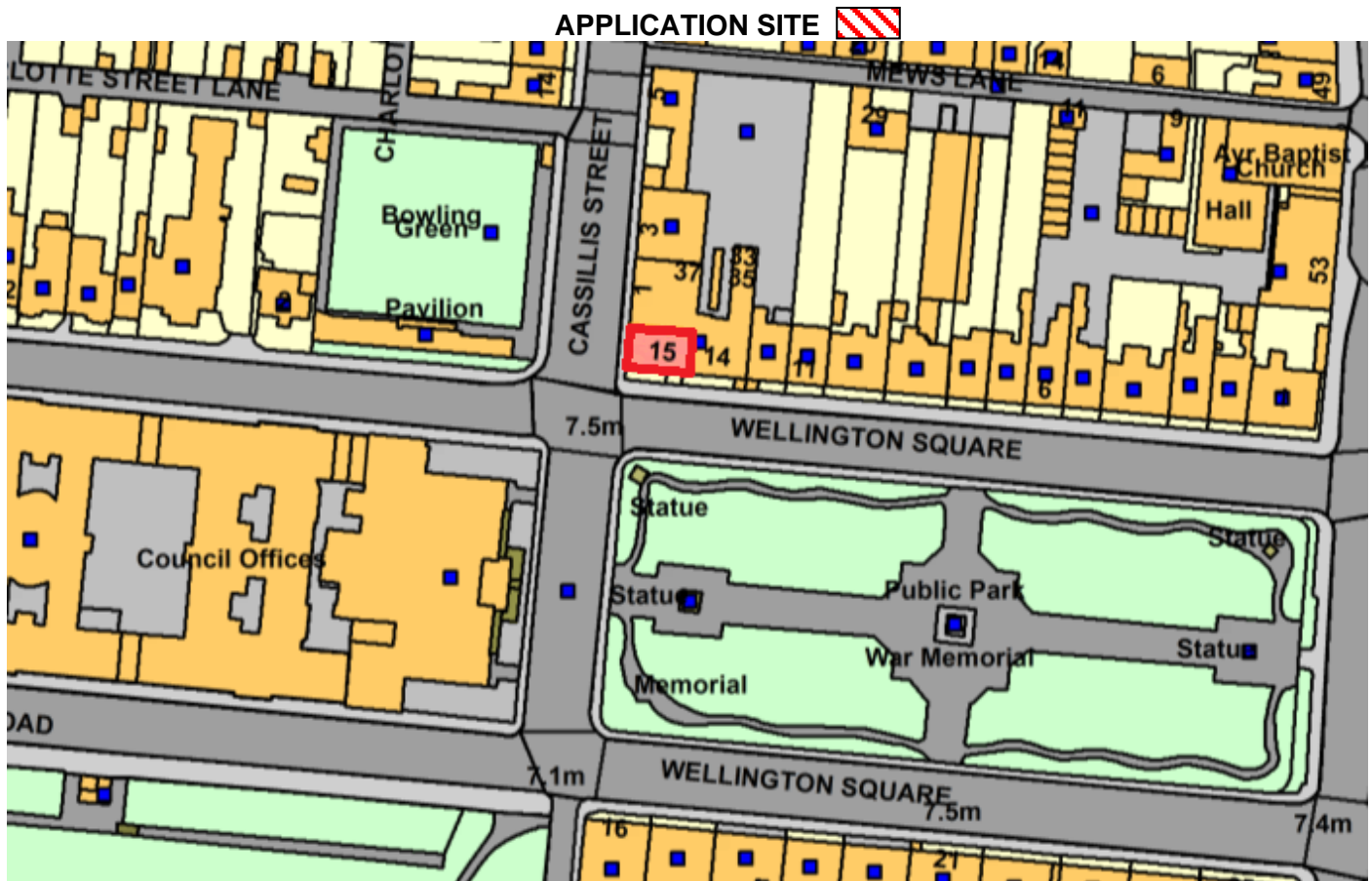
**REGULATORY PANEL: 11 MAY 2023**

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

**23/00065/APP**

**15D WELLINGTON SQUARE AYR SOUTH AYRSHIRE KA7 1EN**

**Location Plan**



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**Summary**

Planning permission is sought for the change of use of a dwellingflat to form short term letting accommodation at 15D Wellington Square, Ayr. The application site of the proposed development comprises a Category B listed building which is also located within Ayr Central Outstanding Conservation Area. The dwellingflat has historically been occupied on a permanent residential basis with the current application seeking permission to allow it to be used for short-term letting purposes in order to comply with the licensing scheme introduced in Scotland in relation to short term letting properties. In this regard, no changes to the internal layout or exterior appearance of the building are proposed, with the application merely seeking permission for change of use. The application site is located at Wellington Square which includes a mix of commercial, residential and other compatible uses in the surrounding area. This is a retrospective application. The supporting statement notes that the property has operated as a short-term let since 2020.

3 representations have been received, 3 of which object to the proposed development. Objections have been submitted by the Fort, Seafield and Wallacetown Community Council as well as the Kyle and Carrick Civic Society. Following consideration, the points raised do not merit refusal of this application. Consultation responses have been received from a range of consultees with no objections or issued being raised that would warrant a recommendation other than approval.

On balance, the proposed development subject to this planning application has been assessed against the relevant policies of National Planning Framework 4 (NPF4) alongside South Ayrshire Local Development Plan 2 and it is considered that the proposal is capable of positive consideration against the terms, criteria and requirements of all of applicable statutory planning policy framework. Other material planning considerations have been assessed and it is not considered that any of these matters would warrant a recommendation other than approval noting the developments compliance with the statutory development plan framework.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

**REGULATORY PANEL: 11 MAY 2023**

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>23/00065/APP</b>
<b>SITE ADDRESS:</b>	<b>15D Wellington Square Ayr South Ayrshire KA7 1EN</b>
<b>DESCRIPTION:</b>	<b>Change of use of existing dwellingflat for use as short-term let/holiday accommodation</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 the change of use of a dwellingflat to form short term letting accommodation at 15 D Wellington Square, Ayr.

The site of the proposed development comprises a first floor dwellingflat of a Category B listed two-storey building with attic and basement. The property is finished in painted ashlar with a slate roof and is located at the corner of Wellington Square and Cassillis Street. At present, there are a total of 8 dwellings located at 15 Wellington Square. 15A, 15B and 15C are located at ground floor level, 15D, 15E and 15F are located at first floor level, 15G is located at 2<sup>nd</sup> floor level and 15H is located within the building's basement. Access to the dwellings at 15A to 15G are via a shared access point taken from Wellington Square. The application site falls within the Ayr Outstanding Conservation Area.

Planning permission is sought for the change of use of a dwellingflat to form short term letting accommodation. The dwellingflat has historically been occupied on a permanent residential basis with the current application seeking permission to allow it to be used for short-term letting purposes in order to comply with the licensing scheme introduced in Scotland in relation to short term letting properties. In this regard, no changes to the internal layout or exterior appearance of the building are proposed, with the application merely seeking permission for change of use.

The application submission is accompanied by an Operating Plan which confirms the following: -

- The property at 15D Wellington Square is a 1 bed property but capable of accommodating up to 4 guests at any given time as there is a sofa bed in the living space;
- Occupation of the property is restricted to a maximum of 28 consecutive days per calendar year for any lessee;

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- There is an allocated parking space to the rear of the building and any required repairs/ maintenance are dealt with immediately;
- The main entrance has a buzzer system but all guests are provided with keys to access the property. A key safe is located at main front door; however, the applicant can meet guests prior to their stay if required;
- Change overs are managed by the applicant and a part time house keeper; and
- Check out is 10am and check-in is 3pm.

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 Fort, Seafield and Wallacetown Community Council has expressed a contrary view to the recommendation that this planning application be approved.

### 2. Consultations:

**Ayrshire Roads Alliance** - offer no objection.

**Environmental Health** - offer no objection on the basis that the proposal must not result in the existing background levels for the surrounding area being increased when measured at the nearest noise sensitive building.

**Destination South Ayrshire** - support the application proposals and note that "*holiday lets contribute hugely to the South Ayrshire economy and have become more and more popular since Covid for visitors wanting to stay in self-catering and for small to medium groups ( friends /family) to holiday together. Also, South Ayrshire is limited in number of hotels and beds. The self-catering sector boosts the South Ayrshire economy by over £50m, and it has provided a vital source of alternative accommodation for major events and will continue to do so especially with 2 international events; International Ayr show – Festival of Flight in September 2023 and The Open Golf in 2024*".

### 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:**

3 representation(s) has/have been received, 3 of which object to the proposed development. Objections have been submitted by the Fort, Seafield and Wallacetown Community Council as well as the Kyle and Carrick Civic Society. All representations can be viewed online at [www.south-ayrshire.gov.uk/planning](http://www.south-ayrshire.gov.uk/planning)

The grounds of the objection alongside a response to each objection by the Planning Service is set out in detail in the 'Objector Concerns' of the Assessment section below.

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, objector concerns, planning history and the impact of the proposal on the amenity of the locality.

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

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

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

### **(i) National Planning Framework 4 (NPF4)**

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](http://www.gov.scot):

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

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

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

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

The application site is located in close proximity to Ayr Town Centre and guests of the STL will have easy access to a variety of services and amenities located within the town centre. It is not unreasonable to assume that guests of the STL will use such services and amenities and thus increase spend within the local area. Furthermore, it is noted from the submitted Operating Plan that the applicant uses a locally based company to undertake the laundry. Again, the application proposals are considered to support local economic benefit.

Overall, taking account of the above and the consultation response from SAC's 'Destination South Ayrshire, the proposal is considered to comply with Policy 30 part (ii) of NPF4 as it is considered that the loss of the existing residential accommodation can be justified due to the local economic benefits associated with the application proposals.

(ii) South Ayrshire Local Development Plan 2

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

- o Strategic Policy 1: Sustainable Development;
- o Strategic Policy 2: Development Management;
- o LDP Policy: Town Centres;
- o LDP Policy: Historic Environment;
- o LDP Policy: Tourism; and
- o LDP Policy: Residential policy within settlement, release sites and windfall sites.

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

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

(iii) Objector Concerns

3 representation(s) has/have been received, 3 of which object to the proposed development. Objections have been submitted by the Fort, Seafield and Wallacetown Community Council as well as the Kyle and Carrick Civic Society. The points of objection are summarised in the sub-sections below and responded to (in bold) below as follows:

Noise and amenity concerns.

**It is considered that appropriate usage of the proposal should not adversely affect residential amenity. An assessment of the proposal's amenity impact is set out elsewhere in this report. Furthermore, the Council's Environmental Health Service offer no objection to the application on the basis that the proposal must not result in the existing background levels for the surrounding area being increased when measured at the nearest noise sensitive building.**

Application proposals are contrary to the development plan.

**An assessment of the proposal against the provisions of the development plan is set out elsewhere in this report.**

Loss of housing.

**NPF4 precludes the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits. An assessment of the proposals demonstrable local economic benefit is set out elsewhere in this report.**

Parking concerns.

**The Ayrshire Roads Alliance offer no objection to the application proposals, from an access/ road safety and parking perspective. The proposals are therefore considered to be acceptable on access, road safety and parking grounds.**

Anti-social behaviour and security concerns.

**Anti-social behaviour/ security issues, should they occur, are matters for the police/ anti-social behaviour/ Short Term Let licensing teams.**

Detrimental impact on the appearance of the communal part of the listed building.

**The application proposals do not involve any physical works. The upkeep and maintenance of communal parts of the building are matters for owners/ occupiers of the properties located at 15 Wellington Square.**

(iv) Planning History

Planning applications (23/00067/APP & 23/00068/APP) for the change of use of existing dwellingflat for use as short-term let/holiday accommodation were submitted for the properties at 15C Wellington Square and 15G Wellington Square, respectively.

The Planning Authority are mindful that when assessing any proposal they should take account of the potential cumulative impact of similar proposals in the immediate vicinity. While there are 3 x outstanding applications for proposed short term let accommodation within the building at 15 Wellington Square, it is considered that appropriate usage of the proposed short term lets should not adversely affect residential amenity. However, if it were the case that persistent and/or unreasonable noise and disturbance were to result from the future occupiers, such anti-social behaviour would be dealt with by either Police Scotland, the Council's Environmental Health Service or the Short Term Lets Licensing Team.

(v) Impact on the Locality

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises NPF4 and the South Ayrshire Local Development Plan 2. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.

In this instance, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities in determining such an application as this to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is relevant and requires planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the designated conservation area.

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

As noted previously in the report, NPF4 was adopted on 13 February 2023 and comprises part of the statutory development plan. Whether an LDP has been adopted prior to or after the adoption and publication of NPF4, legislation states that in the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); section 24(3)).

In this instance, in the absence of any specific policy on short term lets in the Local Development Plan, NPF4 Policy 30e Tourism is relevant and states –

Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

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

The application site is located at Wellington Square which includes a mix of commercial, residential and other compatible uses in the surrounding area. This is a retrospective application. The supporting statement notes that the property has operated as a short-term let since 2020. In respect of criterion (i) above, it is considered that the proposed change of use of the residential flat to a short-term let property would be compatible with the amenity and character of the surrounding area.

In respect of criterion (ii), the proposal would result in the loss of a flat (capable of accommodating 4 people) to short term let accommodation. The proposal would not have a significant impact on the availability of residential accommodation in the local area. There are economic benefits to the provision of small-scale holiday let accommodation in locations such as Ayr which provide access to a range of tourist attractions and activities. Indeed, the Council's Tourism Service (Destination South Ayrshire) has confirmed that *"holiday lets contribute hugely to the SA economy and have become more and more popular since covid for visitors wanting to stay in self-catering and for small to medium groups (friends /family) to holiday together. Also, South Ayrshire is limited to number of hotels and beds. The self-catering sector boosts the South Ayrshire economy by over £50m, and it has provided a vital source of alternative accommodation for major events and will continue to do so especially without 2 international events; International Ayr show – Festival of Flight in September 2023 and The Open Golf in 2024"*.

Considering the above together with Section 7(i) of this report, the proposal is considered to satisfy NPF4 Policy 30e Tourism.

In terms of the South Ayrshire Local Development Plan 2, LDP policy: Residential policy within settlements, release sites and windfall sites indicates that development proposals should not affect the privacy and amenity of existing and proposed properties. An issue to consider in the assessment of this application is whether changing the flat's primary and lawful use from residential to commercial short term visitor self-catering accommodation would be acceptable in principle. The South Ayrshire Local Development Plan 2 does not preclude the short term lets uses outright. A key policy test for the acceptability or otherwise of the proposal should therefore principally be based on whether the use would be materially detrimental to the amenity of other residents within the locale.

The impact of the proposed change of use in regard to the character and appearance of the built environment would be negligible as no external changes are proposed to the property itself. However, in certain circumstances, the introduction of a commercial use in a primarily residential area can negatively impact residential character. An example of this is where the scale of usage associated with the numbers of lets, patrons and cars is excessive and unreasonable.

The application site is located in close proximity to Ayr Town Centre which has a number of different uses, as well as fairly regular pedestrian/ vehicular movements. It is considered that given the nature of the location, the occupiers of nearby residential flats would be accustomed to some degree of ambient noise and activity. The Council's Environmental Health Service has been consulted on this application and offer no objections from a noise pollution perspective. It is therefore considered that the use of the application site as a short term let would not introduce a use which would be atypical for this part of Wellington Square.

It is noted that the access to the application site is shared with other residential properties located at 15 Wellington Square; however, the site's location in close proximity to Ayr Town Centre is considered significant to the assessment of the current application. Specifically, the site is not located within a quiet residential area and the use of the application site for the purposes of a short term let, assuming that the STL is managed appropriately, is not considered to compromise the residential amenity of the properties located at 15 Wellington Square to such an extent which would merit refusal of the application. In addition, the proposed use would also be restricted by the modest nature of the dwelling itself whereby the applicant is proposing a maximum occupancy of four people which is no more than the property could potentially house if it were utilised on a full time residential basis, and therefore it is not considered the proposed use would increase residential densities on a constant basis. However, if it were the case that persistent and/or unreasonable noise and disturbance were to result from the future occupiers, such anti-social behaviour would be dealt with by either Police Scotland, the Council's Environmental Health Service or the Short Term Lets Licensing Team. Furthermore, given the property would no longer be considered as a residential dwelling, it would not benefit from householder permitted development rights. Should future owners therefore seek to undertake any external alterations or development often associated with short-term occupancy uses such, which could be capable of generating noise nuisance, a further application would require to be submitted.

Under LDP Policy: Tourism, the Council will allow new sites and accommodation to be developed provided that:

- a) All new accommodation is for holiday use only; and
- b) The development has suitable screening and is appropriate in terms of the landscape setting, scale and design.

In this instance, the proposal does not fit specifically with any criteria above which is in part due to the current LDP2 being adopted, prior to the publication of NPF4. Despite the dwelling continuing to be utilised for residential purposes, it would be occupied by different parties on a short-term, as opposed to a permanent basis i.e. it would no longer be the sole or main residence of any of the occupants and it would be utilised on a commercial basis to provide tourist accommodation, as opposed to its historic private use.



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Given its siting in close proximity to Ayr town Centre, it is considered the application proposals would be well related to an existing settlement thus avoiding any potential dispersed pattern of development. Furthermore, as no external alterations are proposed, it is determined that the proposal would respect the character, amenity and scale of the built and natural environment in the surrounding area and bring about no detriment to either the listed building or conservation area. All of the preceding being the case, it is considered that the proposal can be supported under LDP Policy: Tourism.

A condition can be attached to any permission to ensure the use of the property is for holiday occupation by any person or connected group only that it shall not be used at any time as the sole or principal residence by any occupants.

In conclusion, the proposal which would in essence retain a residential use despite the commercial aspect, is considered to be compliant with the provisions of the stated Development Plan Policies and as there are no material considerations which override the presumption in favour of a determination in accordance with the terms of the development plan, it is recommended that this proposal be approved subject to condition listed below.

**8. Conclusion:**

Following review, it has been established that both Local Development Plan 2 (LDP2) and National Planning Framework 4 (NPF4) are generally supportive of the proposed use in this location. It has been demonstrated and satisfied that the proposed development is compliant with the specific policies which cover these topics across the statutory development plan framework.

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

**9. Recommendation:**

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

- (1) That the development hereby permitted must be begun within three years of the date of this permission.
- (2) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (3) That the accommodation hereby approved shall not be promoted, advertised, let, or used for any purpose other than as holiday accommodation, to the satisfaction of the Planning Authority.

**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) To define the terms of this planning permission, and to retain proper planning control over the development.

**9.2 Advisory Notes:**

N/A.

**9.3 List of Determined Plans:**

Drawing - Reference No (or Description): Location Plan

Drawing - Reference No (or Description): Floor Plan (No change)

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

The proposed change of use proposal is supported by the framework of planning policy including National Planning Framework 4 and Local Development Plan 2 in that it could bring economic benefits to the area and is not expected to have a detrimental impact on residential amenity or the character of the surrounding area. Should any residential amenity issues arise in the future, it would be for Police Scotland, the Council's Environmental Health Service or Licensing Team to pursue through their regulatory powers. The proposal would also have no adverse impact on the character of the Listed Building.

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. 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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