

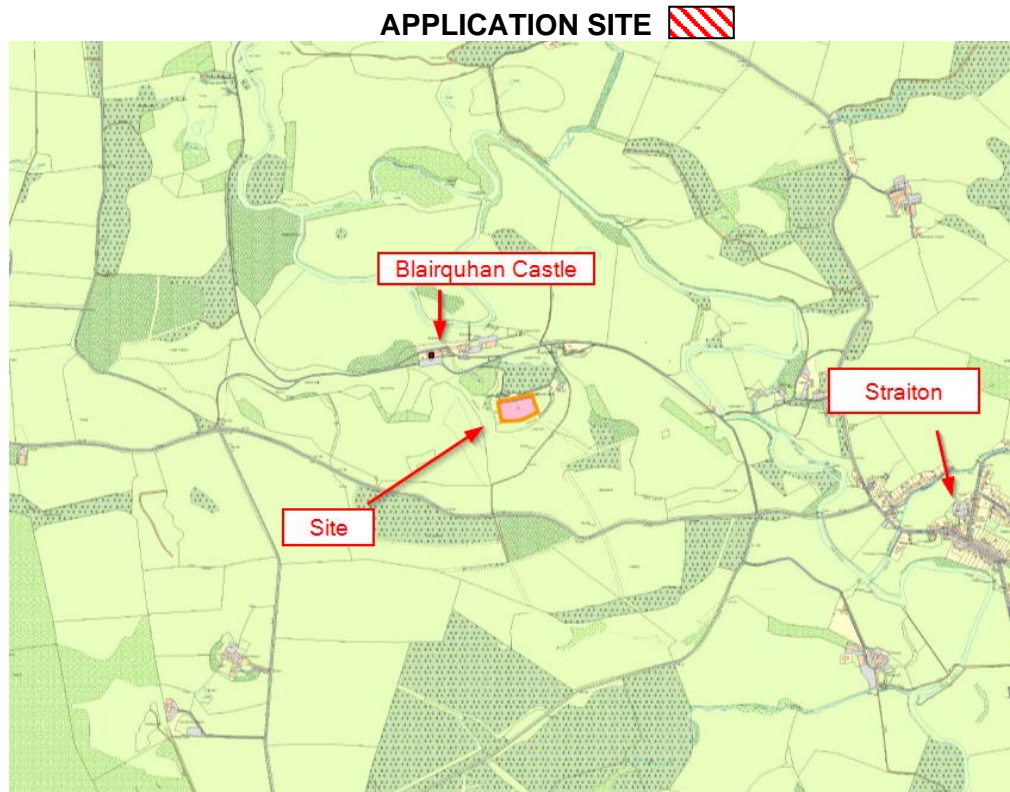
REGULATORY PANEL: 11 MAY 2023

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

23/00071/LBC

BLAIRQUHAN CASTLE B741 FROM B7023 JUNCTION AT KNOCKROON TO KIRKMICHAEL ROAD STRAITON SOUTH AYRSHIRE KA19 7LY

Location Plan



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Summary

Listed building consent is sought for the down-taking of a section of wall extending to some 14 metres along the western boundary of the category C listed walled garden within the grounds of Blairquhan Castle, Straiton. This section of wall has already partially collapsed, with this application seeking consent to remove what remains down to the footings. It is also understood that restoration of the wall is not proposed at this time due to the prohibitive costs of the works and the availability of materials. As such, the down-takings are to be retained and used in the maintenance of the remaining walls of the walled garden.

The application is being reported to the Regulatory Panel as a competent written objection has been received from a Community Council, via their designated contact person(s), and the appointed officer is recommending a determination which is contrary to the views expressed by the Community Council. The objection is principally on the grounds that the removal of around 50% of the western wall of the garden will materially change and diminish the appearance and performance of a significant listed structure and, if consent is granted, it will set an irreversible precedent for future applications to further reduce the walled enclosure. It is considered however that the proposals are justified in this case as the wall has partially collapsed and is unsafe. While there are no plans to reinstate the wall at this time, the down takings are intended for the repair and maintenance of other parts of the walled garden. Any future application for reinstatement would be considered on its own merits. Considering a reasonable case has been made that justifies the works to the wall, the proposal is considered to largely accord with the provisions of the National Planning Framework 4 (NPF4), the adopted South Ayrshire Local Development Plan 2 (LDP2) and the Historic Environment Policy for Scotland (HEPS). The works themselves will not have a significant adverse impact on the character, appearance or setting of the category C listed walled garden, the category A listed Blairquhan Castle, or the Blairquhan Inventory Garden and Designed Landscape.

This assessment takes into consideration and affords weight to the current condition and appearance of the wall, which is considered to detract from the character, appearance and setting of the walled garden.

Accordingly, it is recommended that the application be approved.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

REGULATORY PANEL: 11 MAY 2023

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	23/00071/LBC
SITE ADDRESS:	Blairquhan Castle B741 From B7023 Junction At Knockroon To Kirkmichael Road Straiton Straiton South Ayrshire KA19 7LY
DESCRIPTION:	Alterations to listed building
RECOMMENDATION:	Approval with Condition(s)

APPLICATION REPORT

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. 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 site of the proposed development is the category C listed walled garden located approximately 250 metres south-east of the category A listed Blairquhan Castle, Straiton. The walled garden falls within the Blairquhan Inventory Garden and Designed Landscape.

Listed building consent is sought for the down-taking of a section of wall extending to some 14 metres along the western boundary of the walled garden. It is understood that this section of wall has already partially collapsed, with this application seeking consent to remove what remains down to the footings. It is also understood that restoration of the wall is not proposed at this time due to the prohibitive costs of the works and the availability of materials. As such, the down-takings are to be retained and used in the maintenance of the remaining walls of the walled garden. Full details are set out in the submitted plans.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as a competent written objection has been 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:

Historic Environment Scotland offer no objections or comments to this application.

West Of Scotland Archaeology Service offer no objections to this application.

3. Submitted Assessments/Reports:

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

A supporting statement and a structural report have been submitted with this application. Both the supporting statement and structural report detail the significance, construction and current condition of the wall, and indicate that the down-takings from the wall will be used to maintain the remainder of the walled garden.

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:

1 objection has been received from Crosshill, Straiton and Kirkmichael Community Council. This can be viewed online at www.south-ayrshire.gov.uk/planning

In summary, whilst the Crosshill, Straiton and Kirkmichael Community Council welcome the applicant's intention to repair the walls and substructure of the listed walled garden, they object to the removal of around 50% of the western wall on the basis that this will materially change and diminish the appearance and performance of a significant listed structure and, if consent is granted, it will set an irreversible precedent for future applications to further reduce the walled enclosure.

In accordance with the Council's procedures for the handling of 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 the representation received from Crosshill, Straiton and Kirkmichael Community Council 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.

Section 14(2) of The Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requires special regard to be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess.

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 (The Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"); Section 24(3)). NPF4 was adopted after the adoption of LDP2, therefore NPF4 will prevail in the event of any incompatibility.

National Planning Framework 4 (NPF4)

The following policy of NPF4 is relevant in the assessment of the application and can be viewed in full online at www.gov.scot):

- Policy 7: Historic assets and places

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

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

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 \(south-ayrshire.gov.uk\)](http://Local%20development%20plan%20-%20South%20Ayrshire%20Council%20(south-ayrshire.gov.uk)):

- Strategic Policy 1: Sustainable Development;
- Strategic Policy 2: Development Management; and
- LDP Policy: 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.

It is considered that the works to the wall will not have a significant adverse impact on the character, appearance or setting of the category C listed walled garden, the category A listed Blairquhan Castle, or the Blairquhan Inventory Garden and Designed Landscape. The proposals are justified in this case as the wall has partially collapsed and is unsafe. Whilst it is regrettable that the restoration of the walled garden does not form the basis of this application, the retention of the down-takings capable of reuse for maintenance works to other sections of the walled garden is welcomed and will ensure the long-term future of the walled garden. Additionally, it is noted that the footings of the wall are to remain, and this will indicate on site the former extent of the western wall of the garden whilst also providing a solid base for any future restoration works. Any future application for reinstatement would be considered on its own merits. Considering a reasonable case has been made that justifies the works to the wall, the proposal is considered to largely accord with the provisions of the National Planning Framework 4 (NPF4), the adopted South Ayrshire Local Development Plan 2 (LDP2) and the Historic Environment Policy for Scotland (HEPS).

(i) Other Policy Considerations (including Government Guidance)

Policy HEP2 of the Historic Environment Policy for Scotland (HEPS) 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. Opportunities for enhancement should be identified where appropriate. If detrimental impact on the historic environment is unavoidable, it should be minimised. Steps should be taken to demonstrate that alternatives have been explored, and mitigation measures should be put in place.

The provisions of the Historic Environment Policy for Scotland are supplemented by Historic Environment Scotland's Managing Change in the Historic Environment series. The Managing Change documents on Setting and Boundaries are particularly relevant.

The Managing Change document on Setting requires planning authorities to take into account the setting of historic assets in the determination of applications for planning permission. Where development is proposed it is important to identify the historic assets that might be affected, define the setting of each historic asset, and assess the impact of any new development on this. Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Both tangible and less tangible elements can be important in understanding the setting. Less tangible elements may include function, sensory perceptions or the historical, artistic, literary and scenic associations of places or landscapes.

The Managing Change document on Boundaries states that alterations or repairs to a historic boundary should protect its character. Walls and fences can be valuable in their own right as major elements in the design of a historic building and its setting, or in a broader streetscape or landscape. Documentary research and fabric analysis can be useful in understanding the design and material properties of historic boundaries before undertaking alterations or repairs.

All alteration proposals must take into account the design and material characteristics of the historic boundary. Lowering of walls to create better sightlines can be damaging to the character of the boundary and gateway. Alternative locations for access may have less impact on a boundary and provide safer approaches for vehicles. The design, materials and execution of alterations should have regard to the original.

Supplementary Guidance Policy 1 of 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. Supplementary Guidance Policy 2 refers to listed buildings, and states that the Council recognises the value of listed buildings in terms of their heritage value, but also recognises their potential economic and social benefits to the community as a whole. Consequently, the Council will encourage owners to undertake appropriate maintenance and repair to such properties to ensure their character is maintained and enhanced. The Council will presume in favour of protecting listed buildings and their settings, especially from inappropriate development and will actively encourage the sensitive maintenance, restoration and re-use of all such properties. Proposals affecting a listed building shall be expected to be of a quality commensurate with that of the original building to ensure the character of the building is not adversely impacted.

It is noted that the section of wall forming the basis of this application is in a significant state of disrepair, has partially collapsed, and is unsafe. Additionally, it is considered that the present condition of the wall has an adverse impact on the character, appearance and setting of the walled garden and, as such, the proposals to remove this section of the wall are justified. The remaining section of wall is to be taken down to the footings, which will remain so as to indicate on site the former extent of the walled garden, and to provide a solid footing for any future restoration of the wall. Whilst it is regrettable that the restoration of the walled garden does not form the basis of this application, the retention of the down-takings capable of reuse for maintenance works to other sections of the walled garden is welcomed. As such, it is considered that the works will not have a significant adverse impact on the character, appearance or setting of the category C listed walled garden, the category A listed Blairquhan Castle or the wider Blairquhan Inventory Garden and Designed Landscape.

(ii) Objector Concerns

The concerns of the objectors are summarised and considered in turn as follows:

- The removal of around 50% of the western wall will materially change and diminish the appearance and performance of a significant listed structure.

The section of wall forming the basis of this application is in a significant state of disrepair, and has partially collapsed. Whilst the wall remains in situ, it is structurally unsound, there are insufficient materials to reinstate the wall to its former condition, and the cost of works to restore the wall at this time is prohibitive. The footings of the wall are to remain so as to indicate the former extent of this wall and its contribution to the walled garden, and these footings will provide a solid base for any future restoration of the wall. Given that the materials are to be salvaged in order to maintain the remaining walls of the walled garden, it is considered that the proposals will not significantly diminish the appearance or performance of the wall.

- If consent is granted, it will set an irreversible precedent for future applications to further reduce the walled enclosure.

Any future applications for the removal of the walled garden, either in sections or its entirety, will be considered on their own merits, taking cognisance of the Development Plan, consultee responses and representations.

(iii) Impact on the Locality

It is considered that the works to remove a section of the western wall of the walled garden will not have an adverse impact on the character, appearance or setting of the category C listed walled garden, the category A listed Blairquhan Castle, which is located some 250 metres north-west of the garden, or the wider Blairquhan Inventory Garden and Designed Landscape. As captured elsewhere within this report, the wall is not structurally sound, there are insufficient materials to reinstate the wall to its former condition, and the cost of works is prohibitive at this time. The salvaged materials can be used to maintain the remainder of the walled garden, and this retention and reuse of materials is welcomed. The footings of the section of wall to be removed will remain on site as a visual reminder of the extent of the walled garden, and will provide a solid base from which any future restoration proposals can proceed.

8. Conclusion:

The application has been assessed against the various material considerations, including the provisions of National Planning Framework 4 (NPF4), South Ayrshire Local Development Plan 2 (LDP2), Historic Environment Policy for Scotland (HEPS), consultations undertaken, representations received, and the impact of the proposals on the character, appearance and setting of the walled garden.

The assessment concludes that the section of wall forming the basis of this application is in a significant state of disrepair, and has partially collapsed. Whilst the restoration of this wall does not form the basis of this application, the footings of the wall are to remain so as to indicate on site the former extent of the walled garden, and to provide a solid footing for any future restoration of the wall. The retention of the down-takings capable of reuse for maintenance works to other sections of the walled garden is welcomed, and will ensure the long-term future of the walled garden. As such, it is considered that the works will not have a significant adverse impact on the character, appearance or setting of the category C listed walled garden, the category A listed castle or the wider inventory garden and designed landscape.

Given the above assessment, and having balanced the rights of the applicant against the general interest, it is recommended that the application be approved.

9. Recommendation:

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

- (1) That the works hereby granted Listed Building Consent shall be commenced within three years of the date of this consent.
- (2) That the works hereby granted Listed Building Consent shall be implemented in full accordance with the approved plan(s) as listed below unless a variation required by a condition of the consent has been agreed in writing by the Planning Authority.
- (3) That stonework from the down takings shall not be disposed of but rather retained and stored for the future reinstatement, re-use, repair or maintenance of the walled garden.

9.1 Reasons:

- (1) To be in compliance with section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended by section 20 of the Planning Etc. (Scotland) Act 2006.
- (2) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3) To ensure that any future repair and maintenance works are undertaken using the original stonework in the interests of the walled garden and its setting.

9.2 Advisory Notes:

None

9.3 List of Determined Plans:

Drawing - Reference No (or Description): 500/01
Drawing - Reference No (or Description): 500/02
Drawing - Reference No (or Description): 500/03
Drawing - Reference No (or Description): 500/04

Regulatory Panel (Planning): 11 May 2023

Report by Housing, Operations and Development Directorate (Ref: 23/00071/LBC)

9.4 Reason for Decision (where approved):

It is considered that the proposal does not detrimentally affect the traditional character or appearance of this statutorily listed building.

Background Papers:

1. Planning application form, plans and supporting information (available online)
2. National Planning Framework 4 (available online)
3. Adopted South Ayrshire Local Development Plan 2 (available online)
4. South Ayrshire Council Guidance - Historic Environment (available online)
5. Historic Environment Policy for Scotland (available online)
6. Historic Environment Scotland Managing Change in the Historic Environment - Setting (available online)
7. Historic Environment Scotland Managing Change in the Historic Environment - Boundaries (available online)
8. Representations (available online)

Equalities Impact Assessment:

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

Person to Contact:

Mr David Hearton, Lead Conservation Planner - Planning Strategy - Telephone 01292 616 352