

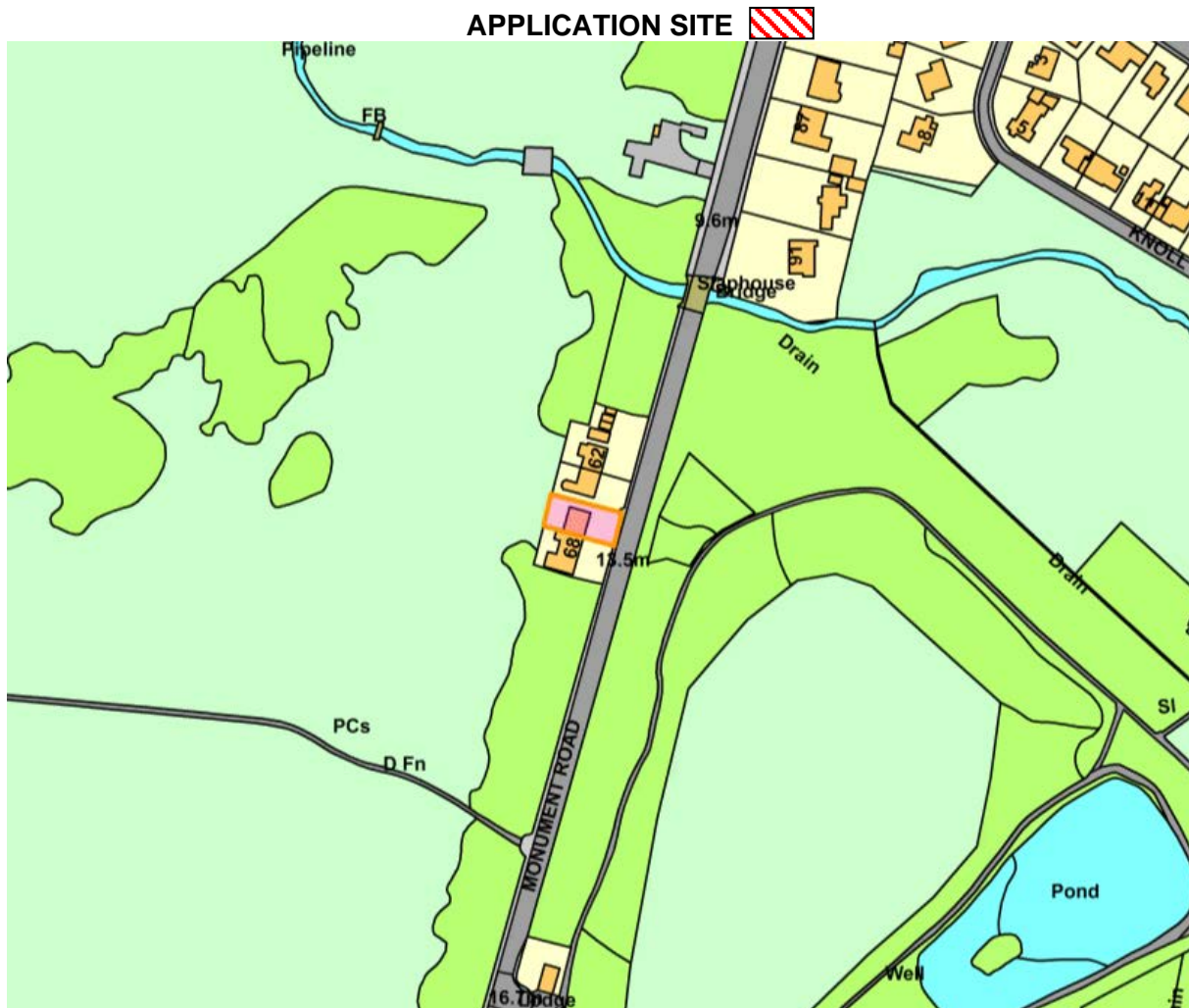
**REGULATORY PANEL: 14 SEPTEMBER 2023**

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

23/00495/FUR

**3 SUMMERFIELD COTTAGES 66 MONUMENT ROAD AYR SOUTH AYRSHIRE KA7 4NG**

**Location Plan**



This product includes mapping data licensed from Ordnance Survey with permission of the Controller of Her Majesty's Stationery Office. © Crown copyright and/or database right 2018. All rights reserved. Licenced number 100020765.

**Summary**

The proposal is for the formation of a vehicular access at 3 Summerfield Cottages, 66 Monument Road, Ayr. Planning permission is required for the formation of a vehicle access onto Monument Road, as it is a classified road. Planning permission was granted in 2010, 2014, 2017 and 2020 for the formation of a vehicular access at the application site. However, planning permission 20/00435/APP granted by the Regulatory Panel on 3<sup>rd</sup> September 2020 will lapse on 2<sup>nd</sup> September 2023. Therefore, Planning permission is sought to extend the timescales within which works can begin on site by a further 3 years.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the application relates to land in the ownership of the Council and more than one objection has been received.

The proposed development has been assessed against the relevant policies of the Development Plan and other applicable material considerations and it is considered that – suitably conditioned – the proposal accords with the provisions of the aforementioned local development plan.

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

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

### REGULATORY PANEL: 14 SEPTEMBER 2023

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>23/00495/FUR</b>
<b>SITE ADDRESS:</b>	<b>3 Summerfield Cottages 66 Monument Road Ayr South Ayrshire KA7 4NG</b>
<b>DESCRIPTION:</b>	<b>Further application to renew planning permission 20/00435/APP</b>
<b>RECOMMENDATION:</b>	<b>Approval, subject to condition(s)</b>

#### APPLICATION REPORT

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

#### 1. Proposal:

The application site is a semi-detached dwellinghouse situated within a row of 4 cottages, known as 3 Summerfield Cottages, 66 Monument Road, Ayr.

Planning permission is sought for the formation of a vehicular access at 3 Summerfield Cottages, 66 Monument Road, Ayr.

Planning permission is required for the formation of a vehicle access onto Monument Road, as it is a classified road. However, the associated formation of parking/turning area within the front curtilage of the dwelling and alterations proposed to the front boundary wall do not require the benefit of planning permission.

The principle of the formation of a driveway at the application site was established in 2010 when planning permission was first granted; Planning Ref:10/01678/APP. Thereafter, planning permission was renewed in 2014, 2017 and 2020; Planning References:14/00248/FUR, 17/00318/FUR and 20/00435/APP. The current application seeks to renew planning permission as the previous application granted in 2020 will lapse on 2<sup>nd</sup> September 2023.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as the application relates to land in the ownership of the Council and more than one objection has been received.

**2. Consultations:**

**Ayrshire Roads Alliance** offers no objections subject to previous conditions being attached. The recommended conditions can be attached to any Planning permission granted.

**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:**

Two representations have been received, which object to the application and can be viewed online at [www.south-ayrshire.gov.uk/planning](http://www.south-ayrshire.gov.uk/planning)

The issues raised by Representees can be summarised as follows.

- Road safety concerns for pedestrians and other road users;
- Despite the application form declaration, the property has adequate parking and a garage at the northern end of the row of cottages;
- Land Ownership Issues -The applicant does not own of the land to which the proposal relates. There is a communally owned path by the property owners of Summerfield Cottages and land owned by South Ayrshire Council; Certificate B also has a discrepancy with the owner at no.4 Summeffield Cottages;
- Insufficient information on location plan in regard to details of any gates, etc.
- Potential drainage issues for neighbours.

These points are addressed in section 7(iii) of this report.

In accordance with the Council's procedures for the handling of Planning applications the opportunity exists for Representees to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to these representations is included within the assessment section of this report.

## **7. Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

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 \(www.gov.scot\)](https://www.gov.scot/national-planning-framework-4):

With regard to householder development proposals, Policy 16(g) outlines that such proposals will be supported where they:

- i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
- ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

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.

### **(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://south-ayrshire.gov.uk/local-development-plan-2):

Strategic Policy 1: Sustainable Development;  
Strategic Policy 2: Development Management;  
LDP Policy: Residential Policy within Settlements, 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.

On every previous occasion that planning permission has been granted for the formation of the proposed access (years 2010, 2014, 2017 and 2020), it was considered to be in accordance with the relevant development plan at that time. On the granting of the consents, there was not considered to be any significant adverse effect on the amenity or privacy of adjoining properties and the proposal raised no road safety issues.

Whilst a new development plan (NPF4 and LDP2) has been adopted since the last decision in 2020, there have been no significant changes in policy or the setting or physical characteristics of the application site, or its surroundings that would lead to a different decision. It is therefore considered that the development proposal remains acceptable and in accordance with the Development Plan.

ii) Planning History

Planning permission was originally granted in 2010 for the formation of a vehicular access the application site. Planning Ref: 10/01678/APP. In assessing planning application 10/01678/APP, it was considered that the proposal for the formation of a vehicular access was not contrary to the development plan. It was further considered that there was not a significant adverse effect on the amenity or privacy of adjoining properties. It was also noted that the proposal raised no road safety issues.

Thereafter, planning permission was renewed in 2014, 2017 and 2020; Planning References:14/00248/FUR, 17/00318/FUR and 20/00435/APP.

While the development plan has changed since the approval of the permissions, there have been no significant changes in policy or the setting of the application site or its surrounding that would lead to a different decision in terms of the principle of the proposed development.

(iii) Objector Concerns

Response to representations

- Road safety concerns;

The Ayrshire Roads Alliance has been consulted on the application and offers no objections subject to conditions.

- The property has adequate parking and a garage at the northern end of the row of cottages despite the application form certification;

It is noted that the property at 66 Monument Road has off road parking in the communal area of land to the northern end of the development, which includes garages and off-road parking for all properties at Summerfield Cottages. The application under consideration is to form a new vehicular access onto Monument Road. The assessment is therefore made on the proposal submitted before the Council and not the need or otherwise of an individual.

- Land ownership issues as the applicant does not own of the land to which the proposal relates. There is a communally owned path and land owned by South Ayrshire Council and the Land Ownership Certificate B states that the owners of the property at no.4 Summerfield Cottages is a Mr and Mrs McKenzie, however, this is not accurate;

It is acknowledged that the land which fronts all properties known as Summerfield Cottages is owned by South Ayrshire Council and that the footpath behind that land is communally owned by all properties at Summerfield Cottages. For the avoidance of doubt, an applicant does not need to own all of the land to which planning application relates. The applicant is legally required to complete a Land Ownership Certificate and submit it as part of the planning application submission. If an applicant does not own all of the land or property to which an application relates, the applicant is legally required to notify all owners. In terms of the consideration of the planning application, the correct ownership notification has been served on all relevant properties and the Council's Estates department.

It is also important to note that the granting of planning permission for the formation of a vehicular access at 3 Summerfield Cottages does not preclude the applicant from seeking other permissions which are not regulated by Planning legislation i.e., South Ayrshire Council Estates Department and other joint owners of Summerfield Cottages.

Ownership notification has been raised with the applicant, who has confirmed, in writing, that notification was hand delivered and served on all of the neighbouring properties. The applicant has confirmed that the correct owner, Ms L McKechnie, at no.4 Summerfield Cottages was served notification and the Land Ownership Form has been amended accordingly with the correct owner's name. On this basis, the land ownership notification has been served correctly.

- Insufficient information on location plan;

It is noted that the application is not accompanied by any submitted plans and is a 'Further application'. A Further application is sought to extend the time period of Planning Permission before the period lapses. Regulation 11 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 provides that where a previous application was granted planning permission, development has not begun and the duration of the previous permission has not expired, a further application for planning permission (or planning permission in principle) for the same development does not need to include all of the information specified in regulations 9 or 10. Planning Permission 20/00495/APP expires on 2<sup>nd</sup> September 2023. Notwithstanding, the submitted plans which accompanied Planning application Ref: 20/00495/APP were considered sufficient for the purposes of the application proposals and allowed for a robust assessment to be undertaken.

- Potential drainage implications for neighbouring properties;

Condition 4 requires details of surface water drainage for the access to be submitted prior to works commencing to prevent discharge of water onto the public road. The associated parking/turning area within the front curtilage of the dwelling does not require the benefit of planning permission; with regards any perceived drainage implications on neighbours, this would be a private civil matter between the parties involved.

(iv) Impact on the Locality

In assessing planning applications 10/01678/APP, 14/00248/FUR, 17/00318/FUR and 20/00435/APP it was considered that the proposal for the formation of a vehicular access was not contrary to the development plan, is not considered to detract from the character and appearance of the property or surrounding locality, and it was further considered that there was no significant adverse effect on the amenity or privacy of adjoining properties that would merit a refusal of planning permission. Therefore, there has been no material change in circumstances since the consideration of the former planning applications that would materially affect the assessment of the current planning application. On this basis, it is recommended that the current application is approved subject to conditions.

It is also important to note that the granting of planning permission for the vehicular access at 3 Summerfield Cottages does not preclude the applicant from seeking other permissions required i.e., from the Council's Estates department and property owners at Summerfield Cottages.

**8. Conclusion:**

The application has been assessed against the various material considerations which include the provisions of the development plan, consultations undertaken, representations received and the impact of the proposed development on the locality. The assessment concludes that the principle of the proposed development complies with the development plan. The consultation response does not raise any issues of over-riding concern. Equally, the points raised in the representations received has been fully considered but does not raise any issues that would merit refusal of the application.

Given the above assessment, it is recommended that the application is approved with conditions.

**9. Recommendation:**

It is recommended that the 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 proposed access shall be constructed in accordance with the specifications in the Council's Roads Development Guide, and be a minimum of 3.6 metres wide over its initial 5 metres and be surfaced for a minimum of 5 metres, as measured from the rear of the public footway prior to operation.
- (4) That the discharge of water onto the public road carriageway shall be prevented by drainage or other means. Precise details and specifications of how this is to be achieved shall be submitted for the prior written approval of the Planning Authority before any work commences on site.
- (5) That junction access visibility sightline splays of 2.4 metres by 43 metres shall be maintained in both directions at the junction with the public road. There shall be no obstacle greater than 1.05 metre in height within the visibility sightline splays.
- (6) That prior to completion of the development any gates shall open inwards away from the public roadway.

## **Regulatory Panel (Planning): 14 September 2023**

Report by Housing, Operations and Development Directorate (Ref: 23/00495/FUR)

### **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 an acceptable standard of construction.
- (4) In the interest of road safety and avoid the discharge of water on to the public road.
- (5) In the interest of road safety and to ensure acceptable visibility at road junctions.
- (6) In the interest of road safety.

### **9.2 Advisory Notes:**

- (1) (i) The Council as Roads Authority advises that any costs associated with the relocation of any street furniture will require to be borne by the applicant/developer.  
  
(ii) The Council as Roads Authority advises that access to the site shall be by way of dropped kerbs, in accordance with the Council's Roads Development Guide before completion of the development.  
  
(iii) In order to comply with the requirements of the New Roads and Street Works Act 1991, all works carried out in association with the development on the public road network, including those involving the connection of any utility to the site, must be co-ordinated so as to minimise their disruptive impact. This co-ordination shall be undertaken by the developer and his contractors in liaison with the local roads authority and the relevant utility companies.

### **9.3 List of Determined Plans:**

N/A

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

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

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

### **Background Papers:**

1. Planning application form and land ownership certificate;
2. Planning Application form, plans and photos for planning permission:10/01678/APP; 14/00248/FUR; and 17/00318/FUR and 20/00495/APP;
3. National Planning Policy 4 (NPF4) and South Ayrshire Local Development Plan2 (LDP2);
4. Representations Received.
5. Consultation Response

### **Equalities Impact Assessment:**

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

### **Person to Contact:**

Ms Dianne Lewis, Planner - Place Planning - Telephone 01292 616 175