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## NORTH AYRSHIRE COUNCIL

### Planning Committee

Locality	Three Towns
Reference	21/00233/PP
Application Registered	15th March 2021
Decision Due	15th May 2021
Ward	Saltcoats

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	16-18 Dockhead Street Saltcoats Ayrshire KA21 5EG
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<b>Applicant</b>	Mr Ewan McLaughlin
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<b>Proposal</b>	Change of use of rear area to beer garden with formation of external seating area and erection of 2.5m high palisade fence to rear including removal of Condition 1 of 06/00401/PP
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### 1. Description

Permission is sought for the use of an area to the rear of a public house as a beer garden associated with the public house. The public house is sited on the southern side of Dockhead Street. There are other commercial properties to either side on Dockhead Street with flatted properties above.

The application site is located between the rear (south) of the public house building and the north side of Dockhead Place. The application site is some 122sqm in area, including existing terrace. Seats for a maximum of 67 persons would be provided. The western boundary of the site is the blank wall of a rear extension of 20-24 Dockhead Place. To the east of the site is the rear yard of 5-11 Quay Street. Across Dockhead Place to the south at a distance of some 8m are the rear gardens of flats at 15 Quay Street and 1 and 3 The Braes. The rear elevations of those buildings are between some 18m and 28m distant.

The application site would be used for external seating. A 2.5m high palisade fence with a recessed gate would be erected on the southern boundary with Dockhead Place. An external covered terrace already exists within the site. The terrace was granted retrospectively (ref: 06/00401/PP) in 2006 for use as a terrace associated with the public

house. Condition 1 of that permission prohibited the use of the terrace for consumption of alcoholic drinks or other beverages. The application therefore also seeks to remove this condition.

In 2008 an application (ref: 08/00107/PP) to remove the restrictions on the 2006 permission was refused, as it was considered that the use of the terrace for consumption of drinks would have a significant impact in terms of noise and disturbance on neighbouring residential properties. The decision was upheld on appeal to the Scottish Government's Directorate for Planning and Environmental Appeals in January 2009.

It is understood the area has been used at points during the Covid emergency period for outdoor drinking. During 2020 the use of the area for consumption of drink was granted temporary licenses by the Council, as Licensing Authority. The Licensing Committee granted a permanent license for the use of the area in March 2021.

The site is identified in the Adopted North Ayrshire Council Local Development Plan (the LDP) as part of the town centre of Saltcoats. The proposal requires to be assessed against Strategic Policy 1: Towns and Villages Objective, Strategic Policy 2: Placemaking and Policy 3: Town Centres and Retail. The Scottish Government has provided advice in respect of development arising during the Covid period. The advice states that "in the main, the most appropriate, straightforward and efficient way planning authorities can allow for reasonable temporary changes is by informally relaxing planning controls; particularly by using their discretion not to take enforcement action against planning breaches that are acceptable in the current circumstances."

## **Relevant Development Plan Policies**

### **SP1 - Towns and Villages Objective** Towns and Villages Objective

Our towns and villages are where most of our homes, jobs, community facilities, shops and services are located. We want to continue to support our communities, businesses and protect our natural environment by directing new development to our towns and villages as shown in the Spatial Strategy. Within urban areas (within the settlement boundary), the LDP identifies town centre locations, employment locations and areas of open space. Most of the remaining area within settlements is shown as General Urban Area. Within the General Urban Area, proposals for residential development will accord with the development plan in principle, and applications will be assessed against the policies of the LDP. New non-residential proposals will be assessed against policies of this LDP that relate to the proposal.

In principle, we will support development proposals within our towns and villages that:

- a) Support the social and economic functions of our town centres by adopting a town centre first principle that directs major new development and investment to town centre locations as a priority including supporting town centre living.
- b) Provide the right new homes in the right places by working alongside the Local Housing Strategy to deliver choice and variety in the housing stock, protecting land for housing development to ensure we address housing need and demand within North Ayrshire and by supporting innovative approaches to improving the volume and speed of housing delivery.

- c) Generate new employment opportunities by identifying a flexible range of business, commercial and industrial areas to meet market demands including those that would support key sector development at Hunterston and i3, Irvine.
- d) Recognise the value of our built and natural environment by embedding placemaking into our decision-making.
- e) Prioritise the re-use of brownfield land over greenfield land by supporting a range of strategic developments that will deliver:
  - o regeneration of vacant and derelict land through its sustainable and productive re-use, particularly at Ardrossan North Shore, harbour and marina areas, Montgomerie Park (Irvine) and Lochshore (Kilbirnie).
  - o regeneration and conservation benefits, including securing the productive re-use of Stoneyholm Mill (Kilbirnie) and supporting the Millport Conservation Area Regeneration Scheme.
- f) Support the delivery of regional partnerships such as the Ayrshire Growth Deal in unlocking the economic potential of the Ayrshire region.

## Strategic Policy 2

### Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

#### Six qualities of a successful place

##### Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

##### Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

##### Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

#### Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

#### Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

#### Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

### Detailed Policy 3 -Town Centres & Retail

#### Policy 3:

##### Town Centres and Retail

Our town centres are the social and economic heart of our communities, providing jobs, homes and employment. Appropriate development within our town centres has the potential to improve their vitality and vibrancy. This can also ensure that investment in our communities is directed in a way that is most beneficial to residents, employees and visitors to our towns.

In principle, we will support development in our network of centres shown in schedule 6 where it would be of a scale appropriate to that centre.

For development that has the potential to generate significant footfall, we will support proposals that have adopted a town centre first sequential approach. This includes retail and commercial leisure uses, offices, community and cultural facilities and where appropriate, public buildings such as education and health facilities.

We will require that locations are considered, and a reasoned justification given for discounting them, in the order of preference:

- o Town centres (as defined in Strategic Policy 1).
- o Edge of town centres.
- o Other commercial centres (as defined above).
- o Out-of-centre locations that are, or can be made, easily accessible by a choice of transport modes.

We will be flexible and realistic in applying the sequential approach, in particular where key sector and employment uses are proposed, to ensure that different uses are developed in the most appropriate locations. It is important that community, education and healthcare

facilities are located where they are easily accessible to the communities that they intend to serve. We recognise that for some uses, such as sports centres and schools, a town centre location may not always be the appropriate location for them, particularly where sports pitches are part of the proposal.

When a development is proposed within our Network of Centres, we will support proposals which positively contribute to:

- o The role and function of the centre within the network, including by addressing an identified opportunity.
- o Quality of character and identity that creates a shared sense of place for users, visitors and residents
- o Community well-being, including by supporting the integration of residential uses and by enhancing links with surrounding residential areas and tourist attractions via the road and path network with associated blue & green network.
- o Vitality, viability and vibrancy of the centre, supporting it as a place for business to locate, expand and flourish by enhancing and diversifying the mix of uses including supporting economic and social activity.
- o Our important retail streets/areas (as described in schedule 6 and in our Town Centre Audits), recognising the fragile nature of some of our retail areas.
- o Accessibility of the town centre including considering the location of regular rail and bus routes.

In principle, we will also support proposals which align with town centre strategies and we will continue to encourage other regeneration initiatives, such as Conservation Area renewal projects, which improve the quality, accessibility and perception of town centre environments.

## **2. Consultations and Representations**

Neighbour notification was carried out and the application advertised in the press. One objection has been received which can be summarised as follows:

1. Residents in Quay Street have been subject to excessive noise by users of the existing terrace. Increasing the number of potential users to 67 will cause even more noise. A 2.5m high fence will not subdue any noise.

*Response: Noted. NAC Environmental Health has reservations in respect of noise. The Licensing Authority has granted a permanent license.*

2. The proposal will affect the value of nearby residential properties.

*Response: House prices are not a material planning consideration.*

**NAC Environmental Health** - has reservations regarding these proposals in relation to excessive noise affecting occupiers of nearby noise sensitive properties. It is recommended that if permission is granted, it be done so in the first instance for a limited time to allow any complaints, should they arise, to be assessed.

*Response: Noted. Planning permission can be granted for temporary periods. Such a permission allows the Council, as Planning Authority, in consultation with Environmental Health to assess the appropriateness of granting permanent permissions.*

### **3. Analysis**

The Town and Country Objective of Strategic Policy 1 states that the Council will support the social and economic functions of town centres. Strategic Policy 2 states that proposals should respect the amenity of existing and future users in terms of factors including noise. Policy 3 states that appropriate development within town centres has the potential to improve their vitality and vibrancy. In principle support will be given to development which is of an appropriate scale for the town centre.

It is considered that the change of use, and associated removal of the planning condition, would support the operation of an existing town centre use and therefore support the social and economic function of Saltcoats town centre. The development is relatively small in scale being contained within an existing yard to the rear of the existing public house. As such it is considered the proposal accords with Strategic Policy 1 and Policy 3 of the LDP.

The proposed fence replaces an existing fence of similar design and would be viewed in the context of the rear of the commercial properties. A condition could be added to any permission requiring details of the fence to be provided and for it to be erected within 3 months of the date of any permission. As such it is considered the physical appearance of the fence is acceptable. The main issue is considered to be noise impact.

One objection has been received on the grounds that noise disturbance would occur which has also been raised within the consultation response from the Council's Environmental Health's regarding the potential for noise generation. The use of the terrace was last assessed, in planning terms, 12 years ago and it was found then to have potential for noise disturbance. Since that time, a permanent license for the use of the area as a beer garden has been granted by the Licensing Committee, and temporary Licences were issued in 2020, with the area in use as a beer garden between 15th July 2020 and 9th October 2020. The Council, as Planning Authority, has not received any complaints about the use during that period, and Environmental Health has not reported any complaints, albeit the use in the last year was for a temporary period. It should also be noted that Environmental Health has powers to take action against statutory nuisance regardless of the planning position.

On balance therefore, and given Environmental Health's recommendation, it is considered that a permission limited to 1 year, which would enable effective monitoring of any potential amenity impacts, could accord with Strategic Policy 2.

It is therefore recommended that planning permission be granted subject to conditions.

### **4. Full Recommendation**

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That the use of the land hereby approved shall cease and all tables and chairs be removed by 20th May 2022, all to the satisfaction of North Ayrshire Council, as Planning Authority.

**Reason**

In recognition of the potential noise nuisance which could be generated by such a use and to allow the use to be re-assessed.

**Condition**

2. That full details of the fence and gate for the southern boundary shall be submitted to North Ayrshire Council, as Planning Authority. Any details as may be agreed shall be fully implemented within 3 months of the date of this decision, unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority.

**Reason**

To ensure an appropriate boundary enclosure in the interests of the visual amenity of the area.

James Miller  
Chief Planning Officer

For further information please contact Mr Iain Davies on 01294 324320.

## Appendix 1 – Location Plan

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