



Cunninghame House,
Irvine.

28 November 2013

Planning Committee

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 4 DECEMBER 2013** at **2.00 p.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

1. Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2. Minutes

The accuracy of the Minutes of the meeting of the Committee held on 13 November 2013 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3. Isle of Arran

Submit reports on the following applications:-

3.1 13/00558/PP: Lamlash: Site to West of 35 Margnaheglis Road

Erection of detached dwellinghouse

3.2 13/00612/PP: Whiting Bay: Bay News

Amendment of Section 75 Agreement and Variation of Condition 1 attached to planning permission 09/00199/PP to remove occupancy restriction

(copies enclosed).

4. Planning Performance Framework

Submit report by the Corporate Director (Development and Environment) on the publication of Planning Performance Framework 2 (copy enclosed).

5. High Hedges (Scotland) Act 2013

Submit report by the Corporate Director (Development and Environment) on the provisions of the High Hedges (Scotland) Act 2013 ("the Act") and the implications for the Council (copy enclosed).

6. Urgent Items

Any other items which the Chair considers to be urgent.

Planning Committee

Sederunt: Matthew Brown
John Ferguson
Robert Barr
John Bell
John Bruce
Joe Cullinane
Ronnie McNicol
Tom Marshall
Jim Montgomerie
Robert Steel

(Chair)
(Vice-Chair)

Chair:

Attending:

Apologies:

Meeting Ended:

Planning Committee
13 November 2013

IRVINE, 13 November 2013 - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

Present

John Ferguson, Robert Barr, John Bell, John Bruce, Jim Montgomerie and Robert Steel.

In Attendance

J. Miller, Senior Manager (Planning, Transportation and Regeneration) (Development and Environment); A. Craig, Team Manager (Litigation) and D. McCaw, Committee Services Officer (Chief Executive's Service).

Chair

Councillor Ferguson in the Chair.

Apologies for Absence

Matthew Brown, Joe Cullinane, Tom Marshall and Ronnie McNicol.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The accuracy of the Minutes of (i) the ordinary meeting of the Committee held on 23 October 2013; and (ii) the special meeting held on 30 October 2013 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Irvine/Kilwinning

13/00530/PP: Site to the rear of 28 Stevenston Road, Kilwinning

Edward McLaughlin, 8A McLuckie Drive, Kilwinning has applied for planning permission for the erection of a detached dwellinghouse at a site to the rear of 28 Stevenston Road, Kilwinning. Four objections have been received, as detailed in the report.

Councillor Bruce, seconded by Councillor Steel, moved that the application be approved as detailed in the report. There being no amendment, the motion was declared carried.

Accordingly, the Committee, having considered the terms of the objections, agreed to grant the application subject to the following conditions:-

1. That prior to the commencement of the development the applicant/developer shall submit for the written approval of North Ayrshire Council as Planning Authority sample panels of the proposed external finishes to be used. Thereafter, the development shall be implemented in accordance with such details as may be approved.
2. That, prior to the commencement of the development, hereby approved, details of the culvert design shall be submitted for the written approval of North Ayrshire Council as Planning Authority.
3. That, notwithstanding the plans, hereby approved, the centre pillar at the entrance to the double garage shall be omitted.
4. That the boundary treatments indicated on the sections and sightline drawing (ref. 12-021-D-008) shall be erected prior to the occupation of the house hereby approved and maintained permanently thereafter, unless the prior written agreement of North Ayrshire Council is obtained for any alteration.
5. That prior to the commencement of the development the applicant/developer shall submit for the written approval of North Ayrshire Council as Planning Authority details of hard and soft landscaping to the front of the house. Thereafter, the development shall be implemented in accordance with such details as may be approved.

The meeting ended at 2.10 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3.1

Planning Committee

4 December 2013

Planning Area

Isle of Arran

Reference

13/00558/PP

Application

25 September 2013

Registered

Decision Due

25 November 2013

Ward

Ardrossan and Arran

Recommendation	Agree to grant subject to (a) the applicant entering into a Section 75 Agreement to ensure that the funds from the sale of the plot are used for the improvement works to the golf course and clubhouse contained within the submitted Business Plan; and (b) the conditions contained in Appendix 1
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Location	Site to West of 35 Margnaheglis Road Lamlash Isle of Arran
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Applicant	Lamlash Golf Club Lamlash Isle of Arran KA27 8JU
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Proposal	Erection of detached dwellinghouse
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1. Introduction

A local planning application would normally be determined in accordance with the Council's approved Scheme of Delegation.

At a special meeting of the Committee on the 4 October 2013, following a request submitted in accordance with the approved call in procedure, it was agreed that the application be determined by the Committee on the 23 October 2013. At the meeting of the Planning Committee on the 23 October 2013, the Committee agreed to continue consideration of this item to allow officers to progress discussions with the applicant in relation to Policy E2 and on the submission of a detailed business plan.

2. Description

The application site is within an area of countryside to the west of Margnaheglish, Lamlash. It is part of Lamlash Golf Course, and is located outwith the playing area. The site covers an area of approximately 0.1 hectares. Dwellinghouses adjoin to the east, north-east and south-east, the golf course fairways lie to the west and south-west, while an area of countryside lies to the north on the opposite side of Manse Road. The eastern edge of the site forms the boundary of the settlement of Lamlash. The site slopes from the north-east to the south-west.

It is proposed to erect a one and a half storey detached dwellinghouse with an integral garage. Accommodation would comprise a kitchen/living/dining area, utility room, a bedroom, bathroom and hallway on the ground floor and a master bedroom with en-suite facilities, three additional bedrooms and a bathroom on the upper floor. A patio would be formed to the front of the dwellinghouse, with a footprint of approximately 48 square metres and would be raised above ground level by approximately 0.2 metres.

The dwellinghouse has been designed with three elements, to replicate a farmhouse and adjoining byres with significant glazing, on the south elevation, generally with a vertical emphasis, to maximise views and solar gain. It would have pitched roofs, with the most-western element of the dwellinghouse set below the height of the remaining elements of the dwellinghouse. The maximum height of the dwellinghouse would be approximately 7 metres and the dwellinghouse would feature deep overhanging eaves. There would be a dormer on the east elevation in relation to an en-suite bathroom. The dwellinghouse would be finished in stone, render and timber cladding with a slate roof and the windows/doors would be of timber. Access to the dwellinghouse would be taken from Manse Road, with parking and turning provided to the north-west of the dwellinghouse.

The dwellinghouse has been reduced in size and scale from that previously refused in a earlier application (ref. 12/00432/PP). Planning permission (ref. 12/00432/PP) was refused on the 27 September 2012 for the erection of a detached dwellinghouse, as the proposed development would be contrary to Policies ENV1 and RES1 of the adopted Isle of Arran Local Plan and to Policies H1 and H2 of Alteration No. 1, and Criteria (a) and (b) of the Development Control Statement of the adopted Local Plan.

A Notice of Review was submitted to the Local Review Body (LRB) on the 22 November 2012, where the decision to refuse planning permission was upheld and the review application was dismissed. It was noted that the applicant's interpretation of Policy H1 differs from the interpretation applied consistently by officers, the Planning Committee and Local Review Body who consider 'nucleated groups' to be small groups of houses outwith settlement boundaries. The LRB considered that neither Lamlash nor Margnaheglis could be regarded as a 'nucleated group' in terms of Policy H1 as both are within the settlement of Lamlash. The LRB considered that the proposal was not compliant with Policy H1. Furthermore, it was considered that Policy H2 did not apply.

Planning permission (reference 98/00568/OPP) was refused on 12 November 1998 for the erection of a single storey dwellinghouse and garage as "the proposed development would be contrary to Policies HOU5 and TOU9 in the adopted Isle of Arran Local Plan in that it would comprise residential development in the countryside and on a protected leisure area for which no identified occupational need or unique justified need has been demonstrated".

A supporting statement has been submitted, which includes a design statement and a landscape capacity statement. Revisions have been made to the supporting statement submitted with the previous application (ref. 12/00432/PP). The agent states that this re-application is being made in order that the elected representatives of Arran and North Ayrshire can reassess the case being made, and consider not only the planning policies, but the very particular factors affecting this application. Since the supporting statement has been submitted, the submission has been amended in terms of Policy E2.

The agent has suggested that a site visit by the Councillors would be beneficial to develop a clear understanding of the site. It is advised that the Golf Club provides employment for up to 12 local people during the summer season, including trainee Green Staff. With a limited catchment of island members, the Club must attract visitors in order to balance the books. The audited accounts (that are available) illustrate the predicament facing this golf course. The sale of this plot would allow the Club to proceed with clubhouse and course improvements which are central to attracting visitors.

The Design Statement notes that despite being on the edge of the open countryside, the character of the area is more suburban than rural due to the suburban style of neighbouring houses in Margnaheglish Estate and the parkland character of the golf course. The site is heavily overgrown and soil/rock have been dumped on the site over the years. The site is inaccessible and unusable to local residents and golfers and has also attracted some fly tipping which detracts from the amenity of the surrounding area. The main views from the site are to the south and west over Lamlash Bay and the golf course. In order to maximise these, and the daylight and solar gain in the proposed house, the orientation should be generally east-west. This would also create a logical relationship between the house and the road, consistent with the development pattern of the neighbouring houses. Varying the height of the proposed house will break up its mass and allow it to relate to the houses in Margnaheglish Estate and maintaining a low frontage to the west. The separate elements of the dwellinghouse would also assist in reducing the massing of the dwellinghouse. The overall character and identity of the area is suburban, created by the combination of the housing and the golf course. The houses in Margnaheglish Estate are single storey interspersed with some 1.5 storey houses set approximately 6 metres back from the back of the pavement, while the Manse is a 2.5 storey house and set well back from the road in its own grounds. The over-riding development pattern is that of houses orientated to roads, on the fringe of the golf course.

The landscape capacity statement describes the landscape character/type of the area as parkland golf course adjacent to a housing estate. The landform is undulating, generally sloping down to the sea to the south, with folds in the landscape created by small watercourses and ditches and man-made features on the golf course. The site is located on an area of redundant waste ground, owned by the Golf Club. The site slopes down from the north-east to the south-west. It concludes that the scale and location of the proposed development can take place without significant effect on the landscape character of the site or the surrounding area.

Within the 2012 planning application, the applicants' justification was supported by financial statements. The applicant has submitted a copy of the accounts for the year ending 31 December 2009, 31 December 2010, 31 December 2011 and 31 December 2012 and a summary of the accounts from 1 January 2013 to 14 November 2013.

A business plan submitted by the agent, summarises the works to be carried out to the golf course and clubhouse to raise the profile of Lamlash Golf Course, with budget costs and timescales and a 5 year financial projection. Other correspondence has been submitted, which relates to estimated costs for the works from contractors, architect fees and a letter has been received from Arran Estate Agents to confirm the open market value of the plot subject to planning approval.

In the Isle of Arran Local Plan, the site is located within an area of countryside and is unaffected by any site specific policies or proposals therein. Policy RES1 indicates that residential development in settlements shall accord with the local plan. Policy ENV1 is opposed to residential development in the countryside unless it is required for persons employed in agriculture, forestry or other appropriate rural activities.

Policy H1 of Alteration No. 1 to the Local Plan permits small scale growth of existing rural housing groups of four or more houses, providing the proposal is sympathetic to the character and form of the existing group, it does not prejudice a future development opportunity and it complies with the Council's Road Guidelines.

Policy H2 of Alteration No. 1 permits single houses in rural areas if it can be demonstrated that:

- (a) the proposal is distinctive and responsive to its setting, making a positive design contribution to the locality of the area;
- (b) the proposal integrates with and complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable; and
- (c) it is demonstrated that account has been taken of the possibility of converting, rehabilitating or replacing an existing building in the countryside or of locating a new building on brownfield.

High quality design for single houses in the countryside is required and houses of a suburban character will not be accepted.

Policy ENV2 of the proposed Local Development Plan proposes to vary the terms of the Policy H2 to clarify that this would relate to single new stand-alone houses, which was the original intention of Policy H2.

Policy E2 of Alteration No. 1 to the Local Plan is also relevant, which relates to housing in rural areas in support of economic development or diversification. 2B of Policy E2 relates to enabling development, in cases where exceptional benefit is demonstrated for proposals for enabling development, not exceeding 4 houses, subject to:

- (a) the submission of a detailed business plan for the overall development showing how funds raised from the sale of the enabling housing development are to be channelled into the economic development or diversification to secure its implementation and ongoing use;
- (b) the developer can demonstrate that sufficient financial assistance is not available from any other source;
- (c) the extent of any new build is restricted to the minimum necessary, and in any event not exceeding 4 houses, to facilitate the economic development or diversification and its future viability; and

(d) the development should wherever possible be grouped with the economic development or diversification in a cohesive cluster to facilitate servicing and to reduce their environmental impact. A planning condition and a Section 75 Agreement would be required.

All development proposals require to be assessed against the relevant criteria of the Development Control Statement of the adopted Local Plan. The proposal also requires to be assessed against the Rural Design Guidance (Policy BE12: Design Guidance).

3. Consultations and Representations

Neighbour notification has been carried out and the application was advertised in the local press on 4 October 2013. Two letters of objection have been submitted. The grounds of objection can be summarised as follows:

Grounds of Objection:

1. The maintenance of village envelopes is very important to prevent sprawl or ribbon development and this development cannot be seen as setting a precedent for other similar developments. There must be a compelling reason before the boundary can be changed. The applicant does not demonstrate a specific need for a house here as it is not required for persons in rural occupation. The finances of Lamlash Golf Club are not relevant and should be set aside. This is not a valid reason to justify extending the boundary, and if so, an undesirable precedent would be set.

Response: each application is dealt with on its own merits, therefore it is considered that this would not set an undesirable precedent. The extension of the settlement is not encouraged, unless it can be justified in terms of the adopted Local Plan or if there are material considerations that indicate otherwise. It is acknowledged that the financial situation of the Golf Club is not a material planning consideration, however this proposal relates to the continued operation and raising the profile of the Golf Club thereby meeting job retention/creation and tourism/recreation objectives and not to the current financial situation of the Golf Club. This proposal is considered to be a unique case under Policy E2. A planning agreement would require to be entered into to ensure that the funds from the sale of the plot are used for the required improvement works to the golf course and clubhouse, referred to within the business plan.

2. The proposed house is too big and too conspicuous. It would not fit in with the adjacent properties in Margnaheglish Road and would be too visible from the main road between Lamlash and Brodick. The materials for the proposed building are different to the neighbouring properties.

Response: the footprint and scale of the dwellinghouse have been significantly reduced from the previous proposal. The footprint now allows for substantial front and rear garden space and the dwellinghouse is split into 3 elements, replicating a farm steading and is considered to be of an appropriate scale for the site. The rationale for the design and external finishes is contained within the design statement, which also justifies the siting of the dwellinghouse. The Landscape Capacity Statement addressed the visibility of the dwellinghouse from surrounding aspects and demonstrates that the dwellinghouse is not conspicuous. Where it is visible, it is seen against the backdrop of the existing dwellinghouses on Margnaheglish Road.

3. There are no relevant changes from the previous application. The application refers to the removal of an 'unsightly area to the benefit of the immediate housing occupants' however this is not the case. The applicant refers to fly tipping, however the site has not attracted fly tipping. The site is not untidy or unsightly. The site is not valueless and is used by the ground staff to access the course with their tractors/equipment etc. Issues with additional traffic movements, the location of the access road too close to the junction of Manse Road and Margnaheglish Road, noise and disturbance have been raised. The development would impact on the views from the neighbouring properties.

Response: as discussed above, the footprint and scale of the dwellinghouse have been significantly reduced from the previous proposal. A business plan has also been submitted to justify the proposal under Policy E2. Following a site visit, it is acknowledged that the site is not in an untidy or unsightly condition. With regard to the additional traffic movements and the access, Roads have raised no objections. Except for noise and disturbance associated with the construction of the dwellinghouse which would be of a temporary nature, it is considered that there would not be a significant adverse impact with noise and disturbance. Loss of view is not a material planning consideration.

4. No neighbour notification was received by one of the objectors.

Response: noted. Records show that neighbour notification was posted on the 25 September 2013 to the property involved. The application was advertised in the local press on the 4 October 2013.

Arran Community Council - supports the planning application. There is local support for the approach which is being taken to address an identified risk to a well-run and well supported community resource. The long term benefits of the application should be given priority over the strict interpretations previously considered, however valid they may be.

Response: noted.

Development Planning Services (Roads) - no objection provided vehicular access has a verge crossing, no surface water issues from the access/driveway onto the public road and the first 2 metres of the driveway is hard surfaced to prevent loose material from being deposited onto the public road. A Road Opening Permit would also be required.

Response: noted. A planning condition and a planning informative could be imposed in this regard.

Scottish Water - no response. However, in their response to the 2012 planning application, no objections were raised and advised that a totally separate drainage system would be required with the surface water discharging to a suitable outlet. Scottish Water requires a Sustainable Urban Drainage System (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

Response: noted. A planning condition could be imposed in this regard.

4. Analysis

Section 37 (2) of the Town and Country Planning (Scotland) Act 1997 states, in dealing with an application for planning permission, that the Planning Authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations. Section 25 of the Act states that where 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 site is located within an area of countryside as identified in the adopted Isle of Arran Local Plan. Policy RES1 states that proposals for residential development in settlements shall accord with the local plan. No specific need for a dwellinghouse in this location has been demonstrated. Sites are available for residential development within settlements to satisfy future demand without encroaching into the countryside. The proposal would not therefore accord with RES1.

The proposed dwellinghouse is not required for persons employed in agriculture, forestry or an established rural business and can not, therefore, be justified in terms of Policy ENV1 of the Local Plan.

The main determining issues are whether the proposed dwellinghouse accords with Policies H1, H2 or E2 of Alteration No. 1 of the Local Plan and Policy BE12 (Design Guidance) and the relevant criteria of the Development Control Statement of the adopted Local Plan.

The applicant has originally misinterpreted Policy H1 on the basis that Alteration No. 1 identifies the whole of Arran inclusive of its settlements as a rural area and that the policy mentions urban fringe sites; the proposal would therefore constitute extension to an existing rural group despite being on the edge of the settlement boundary. Policy H1 does not apply however, as Lamlash is a settlement, not a 'nucleated group'. As discussed above, this issue was considered at the meeting of the LRB. The definition of a 'group of houses' as stated in the adopted Local Plan is a 'well defined nucleated group of 4 or more houses (not achieved through conversion) in close proximity to one another and visually identifiable as a group with some common feature e.g. sharing access'. To comply with Policy H1, therefore a proposal must constitute a small scale addition to an existing well defined nucleated rural group of 4 or more houses. The proposed dwellinghouse would result in an addition to the settlement of Lamlash rather than a nucleated rural group of which there is none in the vicinity. The proposal would not therefore accord with Policy H1.

In addition, it is considered that the proposal fails to comply with Policy H2, given the proximity of the proposed dwellinghouse to the existing settlement of Lamlash. The intention of this policy was to permit new dwellinghouses of exceptional design within their own landscape setting rather than additions to existing groups or villages. The proposed house is neither in an appropriate location nor is it of exceptional architectural quality to merit approval under Policy H2.

At the meeting of the Planning Committee on the 23 October 2013, the Committee agreed to continue consideration of this item to allow Officers to progress discussions with the applicant in relation to Policy E2 and on the submission of a detailed business plan, which has taken place.

With regard to Policy E2 Housing in rural areas in support of economic development or diversification, a business plan has been submitted in terms of criterion (a) of the policy, which shows how funds from the sale of the plot would be channelled into the improvement works to the golf course and clubhouse by a legal agreement in this regard. The business plan includes budget costs and timescales and a 5 year financial projection. Further details have been submitted relating to estimated costs for the works from contractors in relation to the budget costs.

Criterion (b) states that the developer can demonstrate that sufficient financial assistance is not available from any other source, which has been demonstrated by the applicant. This proposal relates to one dwellinghouse, therefore the maximum number of 4 houses has not been exceeded and would therefore comply with criterion (c). In terms of Criterion (d), the dwellinghouse would be adjacent to the golf course, and the dwellinghouses on Margnaheglish Road. It would have direct access onto Manse Road and the Landscape Capacity Statement confirms that the proposed development would not have a significant effect on the landscape character of the site or the surrounding area. The proposal can therefore be justified in terms of tourism/recreation and job retention/creation objectives as part of the economic development approach it supports. It is therefore considered that the proposed development would comply with Policy E2.

A planning condition would require that the development is commenced within 2 years to prevent land banking, and, as discussed above, a legal agreement would be required to ensure that the funds from the sale of the plot are used for the improvement works to the golf course and clubhouse contained within the Business Plan.

The proposed dwellinghouse would comply with Policy BE12 (Design Guidance), in respect of the Rural Design Guidance.

The proposal also requires to be assessed against the relevant criteria of the Development Control Statement of the adopted Local Plan, an assessment of which follows:

(a) Siting, Design and External Appearance: the siting of the proposed dwellinghouse in association with Policy E2 would be acceptable. It would be within the grounds of Lamlash Golf Club and would be positioned adjacent to the existing dwellinghouses on Margnaheglish Estate. The design, scale and massing of the dwellinghouse would be acceptable in this instance. The footprint and scale of the dwellinghouse have been significantly reduced from the previous proposal and the design rationale for the dwellinghouse is considered to be acceptable. A planning condition could be imposed with regard to the external finishes.

(b) Amenity: it is considered that there would be no significant adverse impacts regarding overlooking, loss of privacy or overshadowing as a result of the development. In addition, the dwellinghouse would enjoy a satisfactory standard of residential amenity.

(c) Landscape Character: given the scale of the development, it is considered that the development would not have a significant adverse impact on the landscape character.

(d) Access, Road Layout and Parking Provision: as noted above, a planning condition could be imposed in this regard.

(e) Water and Sewerage: as noted above, a planning condition could be imposed in this regard .

Criteria (f) and (g) are not considered to be relevant in this instance.

It is considered that the proposed development would comply with Policy E2 and the Development Control Statement of the adopted Local Plan. Accordingly, planning permission should be approved.

5. Full Recommendation

See Appendix 1.

A handwritten signature in black ink, appearing to read 'CH', is written over a horizontal line.

CRAIG HATTON
Corporate Director (Development and Environment)

Cunninghame House, Irvine
25 November 2013

For further information please contact Ms J Hanna, Planning Officer , on 01294 324330

RECOMMENDATION FOR PLANNING APPLICATION REF NO 13/00558/PP

Agree to grant subject to (a) the applicant entering into a Section 75 Agreement to ensure that the funds from the sale of the plot are used for the improvement works to the golf course and clubhouse contained within the submitted Business Plan; and (b) the following conditions:-

1. That, the development, hereby approved, shall be commenced within 2 years of the date of this permission, to the satisfaction of North Ayrshire Council as Planning Authority.
2. That, prior to the commencement of the development, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority, details or samples of the proposed external finishes.
3. That, details of the boundary enclosures and landscaping shall be agreed in writing with North Ayrshire Council as Planning Authority, prior to the commencement of any works. Thereafter, any such details which may be agreed shall be implemented prior to the occupation of the dwellinghouse and thereafter maintained, all to the satisfaction of North Ayrshire Council as Planning Authority.
4. That, prior to the occupation of the dwellinghouse: (i) vehicular access to the site shall be provided with a verge crossing to be formed as detailed in the Roads Development Guidelines; (ii) the access/driveway shall be designed in such a way that no surface water shall issue onto the public road; and (iii) the first 2 metres of the driveway shall be hard surfaced in order to prevent loose material from being deposited onto the public road, all to the satisfaction of North Ayrshire Council as Planning Authority.
5. That, prior to occupation, the dwellinghouse hereby approved, shall be provided with an adequate and wholesome water supply, details of which shall be submitted to and have received the written approval of North Ayrshire Council as Planning Authority prior to the commencement of the development.
6. That, prior to the commencement of the development hereby approved, details of the surface and foul drainage/sewage disposal scheme for the proposed dwellinghouse, as certified by the relevant authority or a suitably qualified person, shall be submitted to and approved in writing by North Ayrshire Council as Planning Authority.
7. That, the dwellinghouse hereby approved, shall not come into use until the approved drainage/sewage disposal scheme is operational in accordance with the details approved in writing under Condition 6.

The reason(s) for the above condition(s) are:-

1. In order to prevent land banking and in the interests of the amenity of the area.
2. In the interest of the amenity of the area.
3. In the interest of the amenity of the area.
4. To meet the requirements of North Ayrshire Council as Roads Authority.
5. To ensure that the occupants of the dwellinghouse are provided with an adequate and wholesome water supply.
6. To ensure a suitable standard of drainage and disposal.
7. In the interests of public health.

Reason(s) for approval:

1. The proposal complies with the relevant provisions of the development plan and there are no other material considerations that indicate otherwise.

Committee Plans

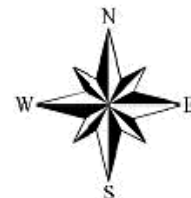
13/00558/PP



NORTH AYRSHIRE
COUNCIL

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Not To Scale



NORTH AYRSHIRE COUNCIL

Agenda Item 3.2

Planning Committee

4 December 2013

Planning Area

Isle of Arran

Reference

13/00612/PP

Application

17 October 2013

Registered

Decision Due

17 December 2013

Ward

Recommendation	Agree to modify the Section 75 Agreement and vary Condition 1 of Planning Permission 09/00199/PP to permit the dwelling flat to be used for holiday letting subject to (a) no material objections being received before 13 December 2013; and (b) the condition contained in Appendix 1
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Location	Bay News Shore Road Whiting Bay Isle of Arran
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Applicant	Mr T Hodkinson Braehead Farm Shore Road Whiting Bay
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Proposal	Amendment of Section 75 Agreement and variation of Condition 1 attached to Planning Permission 09/00199/PP to modify occupancy restriction
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1. Description

The small retail building is situated on the seaward side of the A841 in the centre of Whiting Bay, set amidst a row of commercial buildings. Residential properties lie to the west across the A841 while the shore adjoins to the east. Parking is available along the frontage of the shop and a public car park is located to the north west across the A841.

On 4 August 2009, the Planning Committee agreed to grant planning permission for alterations to the roof of the shop to form a dwelling flat and erection of a balcony to the rear (planning permission (09/00199/PP), subject to the applicants entering into a Section 75 Agreement to limit the occupation of the dwelling flat to the owner or an employee of the retail premises on the ground floor and conditions including condition 1 which also restricted occupation of the dwelling flat to the owner or an employee of the retail premises on the ground floor. Condition 1 further states that the retail unit and the dwelling flat shall be treated as a single planning unit and shall not become separated in ownership without the prior written approval of North Ayrshire Council as Planning Authority. The Section 75 Agreement was concluded and planning permission issued on 28 September, 2010. A Completion Certificate was issued on 2 October 2013.

Permission is sought to amend the Section 75 Agreement and condition 1 to allow the flat to be used for holiday letting.

In support, the applicant states that he and his wife have owned the Bay News shop for 6 years and over the last 10 years have seen a year on year decline in the number of visitors coming to the village. This has resulted in a serious decline in turnover for their business despite the range of gifts and locally made products being expanded and opening hours extended. Over recent years the applicant states that he has consistently made a loss which is not sustainable, despite his wife who operates the shop working in excess of 50 hours per week. The applicants states that for 8 months of the year it has to be subsidised from his salary as a full time IT consultant in the hope he gets the money back in the busier summer months

The Island, he considers, has experienced a significant decrease in population and there has been a reduction in the number of young families in the village. He lists a number of commercial businesses in Whiting Bay that have been lost in recent years.

With regard to the Section 75 Agreement, the applicant states that his staff are local and have no need of the accommodation and it is likely to be some 10-20 years before the applicants would need the accommodation when they retire. When he applied for permission he always wanted the flat to be part of the business but the condition that the flat be used by owners/employees came as a shock costing a 1 year delay and solicitors fees. The applicant therefore requests that the Section 75 Agreement be amended to allow it to be used for holiday letting and if necessary to limit the permission to the next 10 or 20 years as deemed appropriate which he believes would ensure that the shop remains viable and most importantly remains open and continues to serve the village.

In the adopted Isle of Arran Local Plan the site is located within a residential area in the settlement of Whiting Bay and is unaffected by any site specific policies or proposals therein.

All proposals require to be assessed against the relevant criteria of the Development Control Statement of the Local Plan.

The procedure for dealing with requests to discharge legal agreements related to planning permissions is set out in the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010. The Regulations set out the form and content of such applications to modify or discharge a planning obligation. The information required by the Regulations has been provided by the applicant.

2. Consultations and Representations

Neighbour Notification Notices were served on those with an interest in neighbouring land. The period in which representations may be lodged does not expire until 12 December 2013. To date no objections have been received. There was no requirement to advertise the application. With regard to the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010, the planning authority is required to notify interested parties that an application has been made to modify the obligation. The period for interested parties making representations does not expire until 13 December 2013.

Consultations

Development Planning Services (Transportation) - No objection.

Legal Services - No objection.

Arran Community Council - No response to date.

3. Analysis

While the proposed alteration to the roof to form a dwelling flat accorded with Local Plan policy, the report to the Planning Committee of 4 August, 2009 recommended that occupation should be limited to a person employed in the business given the proximity to the retail unit and the potential impact on the amenity of residents of the flat. As noted above, however, members expressed the view that the occupation restriction set out in condition 1 should also be the subject of a Section 75 Agreement.

The main determining issue in this case is whether the proposed use of the flat for holiday letting would be an acceptable use of the accommodation. The dwelling flat would have a bedroom, shower room and living room with a balcony accessed off the latter within the roof space in addition to a small dining/kitchen area and toilet on the ground floor at the rear of the shop. It would be capable of being independently accessed from sliding patio doors at the rear leading to the kitchen/dining area and would have sufficient accommodation for holiday letting purposes enjoying fine views towards the shore and Firth of Clyde from the patio doors serving the kitchen/dining area and the balcony off the living room. Given the temporary nature of holiday letting accommodation it is considered that concerns about the amenity of occupants would not arise.

Accordingly it is considered that the terms of the Section 75 Agreement and condition 1 of planning permission 09/00199/PP can be expanded to include use of the accommodation for holiday letting. Given the acceptability in planning terms of the use of the accommodation for this purpose it is not considered necessary to place a time limit on the permission.

4. Full Recommendation

See Appendix 1.



CRAIG HATTON
Corporate Director (Development and Environment)

Cunninghame House, Irvine
22 November 2013

For further information please contact John Michel, Senior Planning Officer , on
01294 324379

JM/SLP

RECOMMENDATION FOR PLANNING APPLICATION REF NO 13/00612/PP

Agree to modify the Section 75 Agreement and vary Condition 1 of Planning Permission 09/00199/PP to permit the dwelling flat to be used for holiday letting subject to (a) no material objections being received before 13 December 2013; and (b) the following condition:-

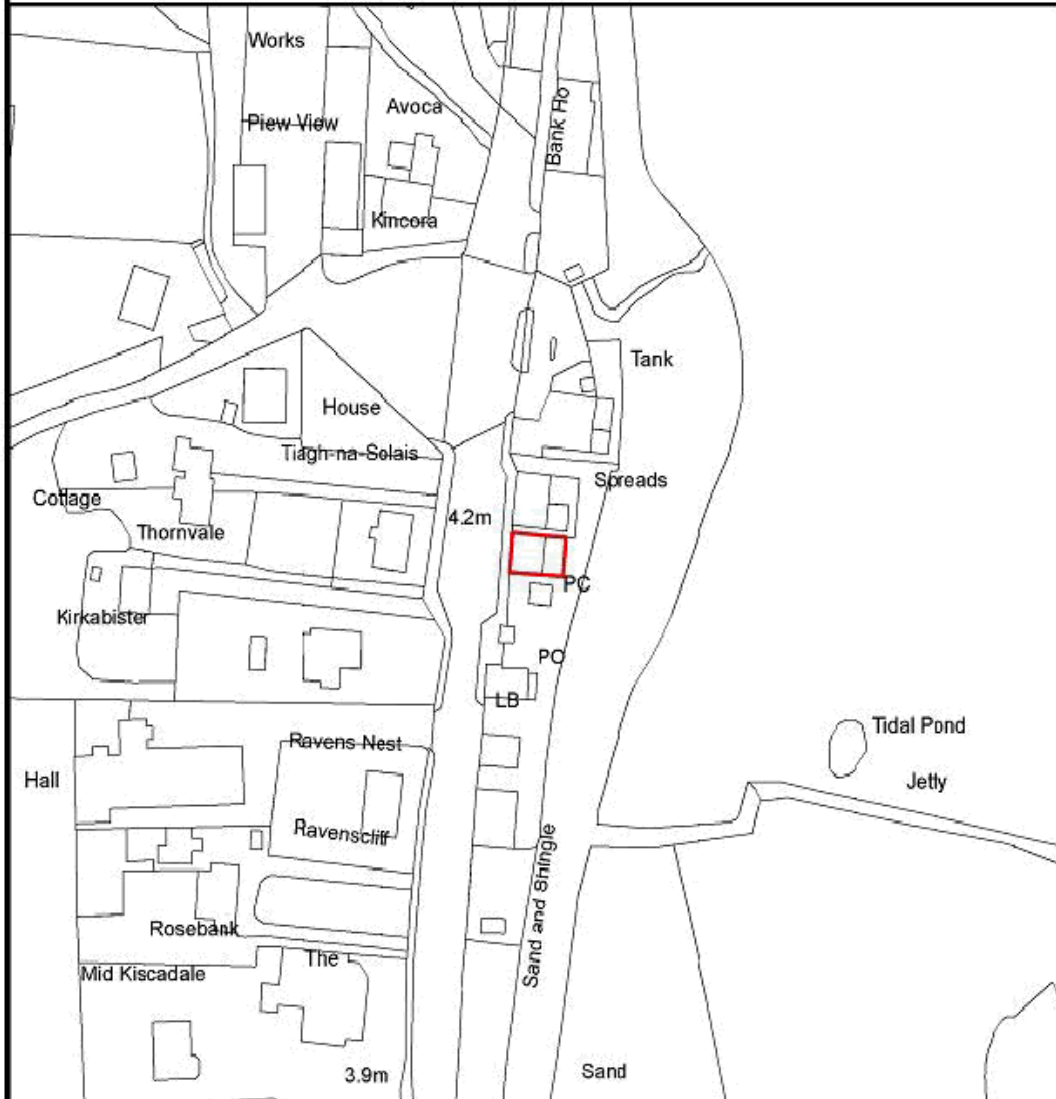
1. That the dwelling flat shall be occupied only by the owner or an employee of the retail premises on the ground floor or used as holiday letting accommodation and shall not be occupied for holiday letting for a period of more than one month or for more than 6 months in total in any calendar year by the same person, to the satisfaction of North Ayrshire Council as Planning Authority.

The reason(s) for the above condition(s) are:-

1. In recognition of the potential impact of the retail business on the amenity of the occupants of the dwelling flat.

Committee Plans

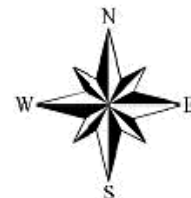
13/00612/PP



NORTH AYRSHIRE
COUNCIL

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Not To Scale



NORTH AYRSHIRE COUNCIL

Agenda Item 4

4 December 2013

Planning Committee

Subject: **Planning Performance Framework**

Purpose: To obtain the approval of the Committee for the publication of Planning Performance Framework 2.

Recommendation: That the Committee (a) notes the content of Planning Performance Framework 2; and (b) approves the publication of the document.

1. Introduction

- 1.1 The Planning Performance Framework (PPF) is a contemporary performance management framework launched by Heads of Planning Scotland, in conjunction with the Scottish Government, in April 2012. The PPF was developed in response to the Government's planning reform agenda, and an annual return is required from each planning authority. PPF2 (Appendix 1) marks the second submission from the Council and covers the period from April 2012 to March 2013.
- 1.2 The PPF provides the planning system with a "balanced score card" approach to performance which enables each planning authority to demonstrate its achievements, successes and individuality. The PPF was introduced to provide a broader picture of performance than that offered by the statutory performance indicators set by Audit Scotland.
- 1.3 The response from the Scottish Government on the Council's PPF1 submission last year stated that it was 'overall, a very well structured, straightforward report displaying a good picture of the authority's strengths and weaknesses and evidence of a shift towards a planning reform and performance culture.[the Council's] positive approach to benchmarking and to staff development clearly illustrates this'.

2. Current Position

- 2.1 The PPF sets out a mix of quantitative and qualitative indicators to measure the performance of the planning authority across four headings as follows:-

Part 1 - National Headline Indicators (NHIs)

The 11 NHIs examine all aspects of the planning process. They assess areas such as planning decision making timescales, the progress of the Local Development Plan, and the level of the housing land supply. The results for the previous year are also published to show comparisons. For PPF2, the results show that application approval rates remain consistently high - 96% of applications were approved during the period. The average timescales for determining local planning applications remain at 8.7 weeks. Timescales for householder applications are faster than last year, dropping from 6.9 weeks to 6.6 weeks.

For major applications, of which there were only 7 applications (just over 1% of total applications), average timescales increased from 14.9 weeks last year to 30.9 weeks this year. We expect that greater use of processing agreements and 'stopping the clock' measures (a mechanism introduced by Scottish Government to provide a fairer measure of timescales by discounting delay attributable to applicants) should reduce those decision making timescales. The relatively small number of major planning applications means that average timescales can be significantly distorted by a single complex application, and/or by delay at the hands of an applicant.

Part 2 - Defining and Measuring a High Quality Planning Service

Part 2 provides a qualitative assessment across eight areas of activity in order to define and measure a high quality planning service. The areas of performance assessment include headings such as 'open for business', 'high quality development on the ground', and 'culture of continuous improvement'.

Some points to note under these heading are that:

- The Planning Service negotiated and consented proposals for redevelopment of a stalled residential site at Ravenspark, Irvine which involves new build and refurbishment as part of a 75 housing unit proposal;
- The Planning Service was instrumental in brokering the disposal of a further parcel of land within Montgomerie Park, Irvine. The latest parcel of land has been disposed using an innovative deal structure, whereby up-front payments are limited, with the majority of the land cost being paid in later phases of development. This increased the attractiveness of the site to the housebuilder, as it reduced up-front costs and debt funding requirements. The developer is now on site; and

- The Planning Service continued to work collaboratively with stakeholders, particularly on more complex proposals. An example is the granting of consent of the new Irvine Leisure Centre, which involved input from an extensive set of stakeholders representing interests encompassing site selection, design and conservation, and transportation.

Part 3 - Supporting Evidence

Supporting evidence is provided to substantiate the findings of the PPF. Evidence can be provided from a variety of sources such as customer input, any audit or management / process reviews, Council reports and initiatives, informal and formal benchmarking and partnership working with others.

Parts 4 & 5 - Service Improvements

Based upon the findings of Parts 1 & 2 of the PPF, the planning authority compiles a list of key actions for future service improvements during 2013-2014 and reports on progress on actions from the previous year. In PPF2, commitments for 2013-2014 include that:

- We will work with developers to bring forward applications on at least three major development sites that are new allocations within the Local Development Plan;
- We will implement a customer feedback programme to identify further service improvements; and
- We will embed a project management culture through project management training for all staff, to assist in the efficient and effective deployment of resources and to reduce average timescales.

In terms of the twelve committed service improvements from PPF1, ten of these were completed and included commitments to specific member and officer training events, and also to record pre-application discussions. The remaining two actions are under implementation, and relate to a customer satisfaction survey and implementation of a restructure within the Development Management Team. Both of these commitments are anticipated for completion before March 2014.

3. Proposals

- 3.1 It is proposed that the Committee approves the PPF for publication, after which the document will be submitted to Scottish Government for review and feedback.

4. Implications

Financial Implications

- 4.1 N/A.

Human Resource Implications

- 4.2 N/A.

Legal Implications

- 4.3 N/A.

Equality Implications

- 4.4 N/A.

Environmental Implications

- 4.5 N/A.

Implications for Key Priorities

- 4.6 The PPF contributes to the Council Plan Core Objective 4 - 'operating more efficiently and effectively' by increasing the levels of accountability and transparency within Planning Services and by introducing annual service improvement commitments.

5. Consultations

- 5.1 None.

6. Conclusion

- 6.1 The PPF approach to measuring performance of planning authorities provides a balanced scorecard of qualitative and quantitative data. This provides a more rounded picture of performance, and facilitates improved benchmarking with other similarly sized authorities. The PPF for 2012-13 outlines a range of achievements of Planning Services as well as identifying specific areas for improvements which are in the process of being addressed during 2013 -14.



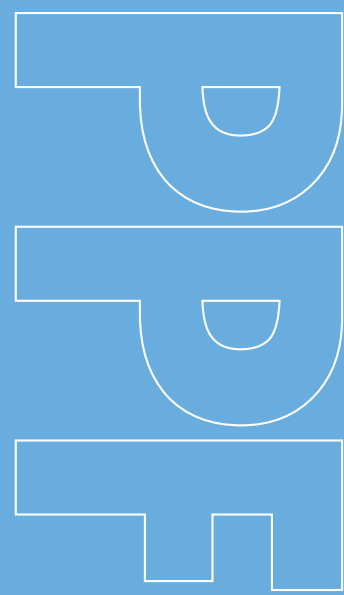
CRAIG HATTON
Corporate Director (Development and Environment)

Reference : DH/FG

For further information please contact David Hammond, Team Manager (Development Plans) on 01294 324764.

Background Papers

None



North Ayrshire Planning Performance Framework 2012–2013

September 2013



NORTH AYRSHIRE
COUNCIL

1. National Headline Indicators (NHIs)

Key outcomes	2012-2013	2011-2012
Development Planning: <ul style="list-style-type: none"> age of local/strategic development plan(s) (full years) Requirement: less than 5 years development plan scheme: on track? (Y/N) 	7 Y	6 Y
Effective Land Supply and Delivery of Outputs <ul style="list-style-type: none"> effective housing land: years supply effective housing land supply¹ housing approvals effective employment land supply² employment land take-up effective commercial floor space supply commercial floor space delivered³ 	6.57 years 3,683 units 366 units 333ha 27,672m ² 129,179m ² 9,789 m ²	4.29 years 2,404 units 165 units n/a m ² 25,900 m ² n/a m ² 4,828 m ²
Development Management Project Planning <ul style="list-style-type: none"> percentage of applications subject to pre-application advice number of major applications subject to processing agreement or other project plan percentage planned timescales met Decision-making <ul style="list-style-type: none"> application approval rate delegation rate 	33% 0 n/a% 96.1% 91.7%	n/a% 0 n/a% 94% 92%
Decision-making timescales Average number of weeks to decision: <ul style="list-style-type: none"> major developments⁴ local developments (non-householder) householder developments 	30.9 weeks 8.7 weeks 6.6 weeks	14.7 weeks 8.7 weeks 6.9 weeks
Enforcement <ul style="list-style-type: none"> time since enforcement charter published/reviewed (months) Requirement: review every 2 years number of breaches identified/resolved 	Feb 2013/1 138/137	June 2011/9 20/11

1. Figures taken from North Ayrshire Housing Land Audit 2012, and requirement based on updated housing land requirement from the emerging Local Development Plan.

2. An agreed definition of employment land is still required. The figure quoted is taken from Ryden's Employment Land Review of North Ayrshire (2009). Please note that we have amended how we derive the size of our effective employment land supply, making last year's figure irrelevant.

3. Of which 2,716m² was new or refurbished space.

4. The small number of major applications means that the average timescale is easily distorted. Processing agreements and 'stop the clock' measures are now being used to reduce the impact of reasonable delay on a small number of applications.

PLANNING PERFORMANCE FRAMEWORK

2. Defining and measuring a high-quality planning service

Open for business

North Ayrshire Council is committed to furthering sustainable economic growth. Examples of this commitment include maintaining a high level of planning approvals, 96% during the period, as well as approval of a number of significant applications. These include approval for the new 'Irvine Leisure Centre', and redevelopment of part of Irvine's Beach Park for a mixed use hotel, golf course and fractional unit development.

In support of GlaxoSmithKline, a major employer within North Ayrshire, three wind turbines have been consented on site which will provide a further opportunity for the company to harness clean, renewable energy to reduce their operating costs.

Planning permissions for a large scale regeneration opportunity at the Ardrossan Harbourside area were consented in March 2013. Collectively, the permissions provide for redevelopment of a prominent, but under utilised, area of Ardrossan's coastal frontage. The proposals are for a range of new uses, including some 400 houses (including affordable housing), a marina extension, a care home and significant new commercial space. A Matters Specified in Conditions application for the first phase of the residential development is expected imminently.

We also negotiated and consented proposals for redevelopment of a stalled residential site at Ravenspark, Irvine which involves new build and refurbishment as part of a 75 housing unit proposal.

We worked with our Community Planning partners to bring forward a new 206 bed acute mental health and community hospital. Planning permission in principle was subsequently granted, and the project represents a significant investment in healthcare in North Ayrshire.

In support of tourism within North Ayrshire, an extension to Viewfield Manor Holiday Park near Kilwinning was consented, comprising pitches for an additional 196 caravans.

We commissioned a consultant study to identify mechanisms to stimulate private sector housing development in North Ayrshire. The findings of this are expected in September 2013 and we expect to begin implementing the recommendations from the study in the period 2013-2014.

The Enterprise Area designation in Irvine is gaining critical mass, and discussion is ongoing with a number of potential investors. We expect to see some results from the protocol covering the Enterprise Area, which includes provision for a 'one-stop shop' for all consents during the period 2013-2014.

Last year's PPF service improvements for this category were to begin recording pre-application discussions, and also to commence a study on how the Council can assist in stimulating development in North Ayrshire. These actions have been achieved.

Open for business

Case Study - Montgomerie Park

The Planning Service was instrumental in brokering the disposal of a further parcel of land within Montgomerie Park, Irvine, a masterplanned residential development opportunity which has been under phased construction for several years. The latest parcel of land has been disposed to a volume housebuilder using an innovative deal structure, whereby upfront payments are limited, with the majority of the land cost being paid in later phases of development. This increased the attractiveness of the site to the housebuilder, as it reduced up-front costs and debt funding requirements. The developer is now on site.



High quality development on the ground

In raising the standard of design in new development, a particular focus has been the production of supplementary planning guidance and officer/Member training on design. These design guidance documents are now fully embedded amongst staff, and used regularly in providing advice to applicants and assessing applications. There is a specific policy within the LDP that requires proposals to take cognisance of any relevant design supplementary guidance.

We prepared and approved an addendum to our Supplementary Guidance on Rural Design, on Single Houses in the Countryside.

During the period, the service was successful in obtaining £500,000 Conservation Area Regeneration Scheme funding for Kilbirnie. This project will include specific improvement works to key buildings, as well as a small grants scheme for improvements to privately owned buildings. Progress with the Irvine CARS project continued, with completion of

works to Trinity Church scheduled for completion in October 2013. Funding has been secured through the Council budget to launch a small grants scheme for private property owners in Irvine conservation area. This will launch in August 2013.

We now record any 'value added' by a case officer on a planning application. Examples of 'value added' include: changes made to satisfy a concern of the case officer, consultee or objector; safeguarding of an item of archaeological or historical interest; and securing of a community benefit. During 2012-2013, a total of 353 applications had one or more value added inputs by the case officer.

Training on design continues. An elected Member workshop on rural design and renewable energy was held in September 2012.

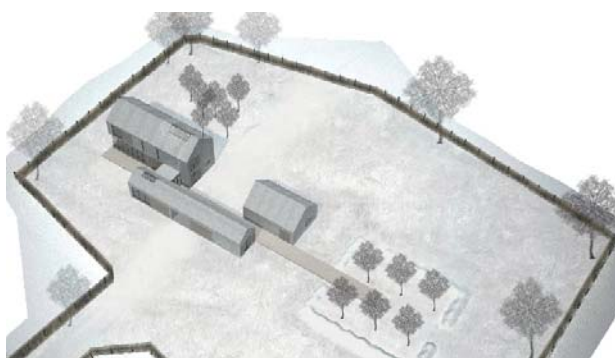
A CPD event for Planning Services staff was arranged to visit Knockroon in October 2012.

Our service improvement for this category in last year's PPF was to undertake further training for stakeholders on design, which has been achieved.

Examples of high quality developments during the period include:



Single House in the Countryside - Site to East of Sunnyside Nursery, Kilwinning



Detached Dwellinghouse - Meikle Auchengree, Dalry



Irvine East Primary School



Woodlands Primary School

High quality development on the ground Case Study - CPD, Knockroon

Staff from planning, roads and housing services received a presentation from the developers of the Knockroon site, after which there was discussion regarding the 'cost' of quality design and whether this was a barrier to development, and also questions on how to make quality design happen in more marginal housing market areas. This information was invaluable to the team, as lessons learned can then be applied in the North Ayrshire context. An example of application of this is our approach to design of two major developments (Middleton Road Perceton & North Gables, Irvine), where we are seeking to provide a more collaborative approach to the early design stages of projects to ensure the end product is of high quality.



Certainty

During the period, we prepared Supplementary Guidance on Developer Contributions. The guidance outlines our transport modelling work on the projected impact on the trunk road network from proposed LDP development. It provides specific junction improvements, costs and a mechanism for recouping these costs from the development industry as proposals come forward. The Council have set aside over 50% of the proposed cost of the transport interventions to front fund implementation, as we anticipate having to defer contributions until late into development programmes so that the contribution requirement is not a barrier to investment in the area. The clear policy on developer contributions and mechanism for delivery provides a high degree of certainty to developers.

The new Local Development Plan is anticipated for adoption before the next PPF is due. While preparation of the LDP has been carefully project managed, we have learned lessons in practice regarding the new system that we intend to apply to the next LDP review to ensure that the next plan is adopted faster. We undertook a 'post mortem' exercise for the LDP process to identify procedural recommendations for the new plan.

We are actively exploring opportunities for the use of processing agreements, however major applications currently remain at historically low levels, limiting the opportunities for agreements. We will continue to explore opportunities for processing agreements during 2013-2014. Nonetheless, we have continued to work collaboratively with stakeholders, particularly on more complex proposals. A good example is the granting of consent of the new Irvine Leisure Centre, which involved input from an extensive set of stakeholders representing interests encompassing site selection, design and conservation, and transportation.

Our service improvement for this category last year was to progress our Modified LDP to Examination, which has been achieved.

Communications, engagement and customer service

In February 2013, we held a developers forum with national and local housebuilders active in North Ayrshire. The forum was part of a wider piece of work that we commissioned to identify options for Council intervention and/or facilitation to stimulate development activity in North Ayrshire. The forum gave us useful insight into developer perceptions of the area, and barriers to development activity, which will influence the final report (this will be reported on in the next PPF).

We have designed a customer feedback survey, which is programmed for implementation during 2013-2014. This represents achievement of our improvement action in this category from last year.

Communications, engagement and customer service

Case Study - Scotts Restaurant, Largs

The owners of Scotts Restaurant in Largs were seeking to place an advertisement sign at the entrance to their site. Both the Council and Transport Scotland had concerns with the proposed siting of the sign for reasons of visual amenity and road safety. A site visit and round table meeting was arranged with all the key stakeholders to discuss various options. A satisfactory solution was identified and negotiated, and advertisement consent was subsequently granted.



Efficient and effective decision-making

Member training was undertaken on planning decision making in September 2012, to provide Members with a refresher on the legislative parameters for decisions on planning applications, as well as what constitutes a material consideration. This fulfilled our service improvement action from last year. We also undertook field training on renewable energy (wind turbines) with officers in February 2013. This event was funded using monies secured from the Scottish Government's renewable energy fund.

We introduced policy protocols for case officers, which are designed to assist in the determination of certain rural housing applications and applications involving removal of occupancy restrictions. For the former, our experience had shown that decision making timescales were stalling on such applications due to the complexity involved. For the latter, we required a protocol to ensure that the Chief Planner's letter to all planning authorities regarding the use and removal of occupancy restrictions was being considered by case officers. We will consider introduction of further protocols during 2013-2014 targeted at specific types of application which involve issues that slow determination timescales down.

Last year, we commenced a review of 'legacy cases' where applications had been in the system undetermined for a long time. There were fifteen applications in total, and eight of these were withdrawn or determined during the 2011-2012 period. Progress continues, and a further two applications were decided during 2012-2013. We hope to resolve the remaining five cases during 2013-2014.

Efficient and effective decision-making

Case Study: Redstone Design Team

Officers were involved in the design team for the Redstone affordable housing project in Kilwinning. Working together with housing and roads colleagues, officers provided focused, front loaded planning input to work up the development proposal for the site. Timescales were critical, as the funding availability for delivery of the housing was time sensitive. The proposals were agreed in time to allow delivery of the project, and the contractor is currently on site. Several lessons learned from the Redstone project resulted in our identification of a new design and tender approach to Council housebuilding projects, which has been shortlisted for a Scottish Award for Quality in Planning. Further details on this will be provided in our next Planning Performance Framework.



Effective management structures

The Planning Services Management Team all completed the Council's Management Development Programme, run by Glasgow Caledonian University. This completed a service improvement action from last year.

Following a corporate restructure, the Planning Service now sits within a new directorate to create stronger links with Economic Development and Roads.

The Council is represented on the Heads of Planning Scotland Executive, Development Management and Development Plans Committees. The benefits of this representation include the opportunity to engage on planning matters at a national level to ensure that our interests as a Council are represented as well as the ability to network and learn from others' experience on a variety of planning issues.

The Development Management Section continued to benchmark with East and West Dunbartonshire, East Renfrewshire, Renfrewshire and Inverclyde Councils.

Financial management and local governance

The Management Team (Planning Services Manager and Team Managers) met six weekly specifically to discuss budget matters to promote best value and respond to budgetary pressure.

Members were provided with comprehensive planning induction training in May 2012, following local elections.

The management team attended budget holder's training in March 2013.

Total fee and funding income for 2012-2013 for the Planning service was in excess of £1,500,000 and represents recovery of over 70% of the total cost of the service during that period.

Culture of continuous improvement

An extensive programme of team development was undertaken during the period. This included sessions on what makes an effective team, individual roles within teams, performance management, time management and a team building exercise. The sessions have resulted in improved relationships within and across teams. The awareness amongst staff regarding how the planning service contributes to corporate aims through the Single Outcome Agreement and Council Plan has significantly improved. The concept of the 'golden thread', linking staff's work to the bigger corporate picture, is now well embedded.

A follow on from this team development work was increased staff involvement in service and operational planning for 2013-2014. Staff have better ownership of their actions within these plans, and are now also more aware of the actions of others. All of this team development work represents achievement of a service improvement action from last year.

A working group of volunteers from within the planning service was set up to respond to the Council's Employee Engagement Survey, by identifying a series of actions for improvement. These are now implemented and included a nominated team member attending the team meetings of counterpart teams, and a standing team meeting agenda item to recognise staff achievements.

Various team members attended CPD opportunities during the period, and reported back on knowledge gained by circulating briefing notes. Opportunities included training on renewable energy development and urban design. This fulfilled a service improvement action from last year for this category.

3. Supporting evidence

Part 2 of this report was compiled drawing on evidence from statistical data, discussion with team managers, PSIF activity, team development work and external benchmarking activity.

4. Service improvements: 2013-14

Open for Business:

- We will work with developers to bring forward applications on at least three major development sites that are new allocations within the Local Development Plan;
- We will consult with businesses on Arran as part of preparation of new Supplementary Guidance on Affordable Housing for the island.

High Quality Development:

- We will create a new internal 'design panel' to review and advise on proposals where design is particularly sensitive;
- We will identify a mechanism to review development outcomes and monitor the changes in the physical environment.

Certainty:

- We will adopt the new Local Development Plan;
- We will implement processing agreements for at least three planning applications to assist in reducing our average timescales for determining applications.

Communications, Engagement & Customer Service:

- We will implement a customer feedback programme to identify further service improvements.

Efficient & Effective Decision Making:

- We will bring resolution to our remaining 5 'legacy' cases.

Effective Management Structures:

- We will implement the remaining elements of the Planning Services restructure, including incorporation of a Transportation team within Planning Services.

Financial Management & Local Governance:

- We will streamline our budget reporting procedures and the management team will meet six weekly to monitor the service budget.

Culture of Continuous Improvement:

- We will embed a project management culture through project management training for all staff, to assist in the efficient and effective deployment of resources and to reduce average timescales.

5. Service improvements: 2012-13

Open for Business:

- We will implement a mechanism to record pre-application discussion with applicants
- Progress: Completed. As of September 2012 we now record whether pre-application discussion was undertaken.

- We will commission a study to explore opportunities to stimulate development, including potential mechanisms to bring forward development on new allocations in the Local Development Plan.
- Progress: Completed. The study was commissioned during the period, and recommendations for action are anticipated in Autumn 2013.

High Quality Development :

- We will undertake further training for stakeholders on design.
- Progress: Completed. Member and officer training sessions on design were held. These included a CPD visit to Knockroon and a training session on rural design for Members.

Certainty:

- We will progress our Modified Plan to Examination.
- Progress: Completed. The Modified Plan was submitted for Examination in February 2013. Adoption is anticipated in early 2014.

Communications, Engagement & Customer Service:

- We will design and implement a customer feedback programme to identify further service improvements.
- Progress: Partially completed. A customer survey was designed during the period, and is being implemented during 2013-2014.

Efficient & Effective Decision Making:

- We will undertake Member training on planning decision making.
- Progress: Completed. Member training on planning decision making was held in September 2012.

Effective Management Structures:

- The management team will continue a training programme to develop skills further.
- Progress: Completed. The management team have completed the Council's Management Development Programme.

- We will seek to implement a restructure in the Development Management Team.
- Progress: Completion was delayed pending a wider corporate restructure.

- We will implement a new corporate structure.
- Progress: Completed. The corporate structure was implemented in late 2012.

Financial Management & Local Governance:

- We will explore opportunities for benchmarking for the Development Plans Team.
- Progress: Completed. Several authorities were approached for benchmarking activity, however the existence of Scottish Government regional forums to discuss issues, good practice and benchmark performance meant that the consensus was to use these regional forums more effectively for benchmarking. We have suggested this to the Scottish Government.

Culture of Continuous Improvement:

- We will prepare a CPD programme for staff and identify specific internal/external work experience opportunities to broaden knowledge.
- Progress: Completed. A CPD programme was put in place, which included a trip to Knockroon, and a training session from the Scottish Lime Centre. Secondment opportunities were identified, with the first secondment due to take place in August 2013, where a Planning Policy Officer will spend time with Historic Scotland.

- We will organise team building sessions to improve morale and productivity.
- Progress: Completed. A total of four team building sessions were held during the period. These including sessions on what makes an effective team, individual roles within teams, performance management, and a team building exercise.

PLANNING PERFORMANCE FRAMEWORK OFFICIAL STATISTICS

Decision-making timescales⁵

Category	Total number of decisions 2012-2013	Average timescale (weeks)	
		2012-2013	2011-201
Major developments	7	30.9 weeks	5/14.7 weeks
Local developments (non-householder)	270	8.7 weeks	308/8.7 weeks
• Local: less than 2 months	(86.3%)	6.6 weeks	7.1 weeks
• Local: more than 2 months	(13.7%)	22 weeks	18.3 weeks
Householder developments	189	6.6 weeks	279/6.9 weeks
• Local: less than 2 months	96.3%	6.4 weeks	6.8 weeks
• Local: more than 2 months	3.7%	13.1 weeks	12.5 weeks
Housing developments			
Major	3	27.8 weeks	1/16.1 weeks
Local housing developments	70	11.5 weeks	67/8.8 weeks
• Local: less than 2 months	80%	7.2 weeks	7.7 weeks
• Local: more than 2 months	20%	29 weeks	13.9 weeks
Business and industry			
Major	0	0 weeks	2/11.5 weeks
Local business and industry	28	9.9 weeks	29/7.5 weeks
• Local: less than 2 months	89.3%	6.5 weeks	6.8 weeks
• Local: more than 2 months	10.7%	37.8 weeks	13 weeks
EIA developments	0	0	0
Other consents*	146	7.4 weeks	126/7.1 weeks
Planning/legal agreements**	10	108.6 weeks	1/51.4 weeks
Local reviews	14	9.9 weeks	18/13.1 weeks

* Consents and certificates: Listed buildings and Conservation area consents, Control of Advertisement consents, Hazardous Substances consents, Established Use Certificates, certificates of lawfulness of existing use or development, notification on overhead electricity lines, notifications and directions under GPDO Parts 6 & 7 relating to agricultural and forestry development and applications for prior approval by Coal Authority or licensed operator under classes 60 & 62 of the GPDO.

** Legal obligations associated with a planning permission; concluded under section 75 of the Town and Country Planning (Scotland) Act 1997 or section 69 of the Local Government (Scotland) Act 1973

⁵ We expect that greater use of processing agreement and 'stopping the clock' will reduce the decision making timescales that have increased since the last period (see service improvement actions above). The relatively small number of applications in certain categories means that average timescales can be significantly distorted with one complex application.

Decision-making: local reviews and appeals

Type	Total number of decisions	Original decision upheld			
		2012-2013 No.	%	2011-2012	
Local reviews	14	9	64.3	12	67%
Appeals to Scottish Ministers	4	3	75	0	0%

Enforcement activity

	2012-2013	2011-2012
Cases taken up	138	26
Breaches identified	122	20
Cases resolved	137	11
Notices served***	5	2
Reports to Procurator Fiscal	0	1
Prosecutions	1	0

*** Enforcement notices; breach of condition notices; planning contravention notices; stop notices; temporary stop notices; fixed penalty notices, and Section 33 notices.

Context

The rise in planning enforcement activity was due to recruitment of a new Planning Inspector, with that post having been vacant for most of the PPF period 2011-2012.

WORKFORCE AND FINANCIAL INFORMATION

Head of Planning Service	Tier								
	1	2	3	4					
	Managers		Main Grade Posts		Technicians Posts		Office Support/ Clerical		Totals
	No. of Posts	Vacant	No. of Posts	Vacant	No. of Posts	Vacant	No. of Posts	Vacant	
Development Management	2	0	4.2	0	2	0	2	0	10.2
Development Planning	1	0	3	0	3	0	0	0	7
Enforcement Staff	0	0	1	0	0	0	0	0	1
Cross Service/ Other Planning	1	0	3	0	0	0	0	0	4
									22.2

Staffing Profile	Number
Under 30	3
30-39	14
40-49	1
50 and Over	6

Committees & site visits	Number per year
Full Council Committees	11
Planning Committees	11
Area Committees (where relevant)	n/a
Committee site visits	Unknown
LRB	11
LRB site visits	4
LDP Committees	3

Planning Service Budgets	Budget	Costs		Income
		Direct	Indirect	
Development Management	TBC	TBC	TBC	£406,333
Development Planning	TBC	TBC	TBC	
Enforcement	TBC	TBC	TBC	

NORTH AYRSHIRE COUNCIL

Agenda Item 5

4 December 2013

Planning Committee

Subject: **High Hedges (Scotland) Act 2013**

Purpose: To advise the Committee on the provisions of the High Hedges (Scotland) Act 2013 ("the Act") and the implications for the Council.

Recommendation: That the Committee (a) notes the terms of the Act and the associated statutory obligations on the Council; (b) agrees that functional responsibility for implementation and enforcement of the Act be undertaken by the Corporate Director (Development and Environment); and (c) agrees to recommend to the Council that the Scheme of Delegation be amended to delegate to Officers the determination of any application arising from these statutory obligations.

1. Introduction

- 1.1 The High Hedges (Scotland) Act 2013 was passed by the Scottish Parliament on 28 March 2013, received Royal Assent on 2 May 2013 and is anticipated to come into force at the beginning of April 2014. The Act provides a solution to the problem of high hedges which interfere with the reasonable enjoyment of domestic property. The Act concerns high hedges and is not designed to impact on woodlands and forests, which as a general rule are not planted as hedges.

2. Current Position

- 2.1 There is currently no statutory control over hedges which are not (a) covered by a Tree Preservation Order; (b) in a Conservation Area; or (c) covered by a condition of a previous planning consent.

3. Proposals

Summary of the Act

- 3.1 The Act allows the owner or occupier of a domestic dwelling to make an application to the Local Authority where a high hedge on neighbouring land is considered to be having an adverse effect on the reasonable enjoyment of the domestic property. An owner or occupier of a domestic property may apply to the Council for a High Hedge Notice but is under the obligation to first take reasonable steps to resolve the dispute with the owner of the hedge before making the application.
- 3.2 The Act defines a 'High Hedge' as being formed wholly or mainly by a row of 2 or more trees or shrubs which rise to a height of more than 2m above ground level and form a barrier to light. All types of hedges, whether they comprise evergreen, semi-evergreen or deciduous trees or a mixture of these, will be covered by the Act. Trees must be 'a hedge' before they can be investigated as a potential 'High Hedge'. Therefore single trees, woodland fringes, well spaced tree lines etc do not fall within the terms of the Act.
- 3.3 The Act details the procedures to be followed by the Local Authority when considering an application and this includes the right to decline to consider an application where reasonable steps have not been taken to resolve the dispute or where the Council considers that the application is frivolous or vexatious. In considering applications, the Council must take into account any representations received, the views of any relevant consultees and other material considerations. The existence of a Tree Preservation Order or other legal restriction does not prevent the issuing of a High Hedge Notice but must be considered as a material factor when determining whether or not the Notice should be issued.
- 3.4 The Local Authority is empowered to endeavour to settle disputes between neighbours but where matters cannot be resolved amicably, a High Hedge Notice can be issued to the owner of the hedge specifying the action required to be taken, the compliance period and any future preventative action to follow, in order to prevent recurrence of the dispute. The Act makes further provision for Local Authorities to undertake any necessary work where owners fail to comply with the terms of a High Hedge Notice, with any costs incurred being recoverable from the hedge owner.

- 3.5 The Act also allows the Local Authority to set the fee level for applications and allows different fees to be fixed for different types of applications. Any fee must not exceed the amount which the Council considers to represent the reasonable costs incurred in deciding the application. A further report will be made to the Committee in due course regarding these arrangements once finalised.
- 3.6 Appeals can be made to the Scottish Ministers in respect of a High Hedge Notice. The hedge owner may appeal the issuing of a notice and the applicant may appeal against a decision that there is no adverse effect from the high hedge or that no action is required to be taken. Any appeal has the effect of suspending the Notice until the appeal has been determined by Scottish Ministers. Other provisions of the Act allow the Local Authority to exercise power of entry in terms of the Legislation; to take appropriate enforcement action; and to recover expenses incurred in taking action under an issued High Hedge Notice (on both existing and future owners of the hedge).
- 3.7 The Scottish Government is preparing policy guidance for Local Authorities to be issued prior to the Act coming into force.
- 3.8 Enquiries to the planning service in the period since the Act was passed have been minimal, but it is anticipated that there may be an initial surge of enquiries and/or applications once the Act comes into force in 2014. Draft guidance in the form of a list of 'Frequently Asked Questions' has been prepared and is attached as Appendix 1 to the report. This includes a checklist of criteria which must be met before an application can be made and clarifies that only hedges which act as a barrier to light can be investigated. This guidance will be placed on the Council website and may also be issued to the Contact Centre to assist in dealing with enquiries from members of the public.
- 3.9 Given the purpose of the Act, as confirmed in the Scottish Government draft guidance, to deal with hedges, rather than single trees or woodland edges, it is not anticipated that the provisions of the Act will affect any significant numbers of Council managed trees. Streetscene would continue to action enquiries regarding Council owned trees or hedges and to carry out required works as before.
- 3.10 Applications would be determined by the Corporate Director (Development and Environment) subject to the Council's approval of the required amendment to the Scheme of Delegation.

- 3.11 It is proposed that the Committee (a) notes the terms of the Act and the associated statutory obligations on the Council; (b) agrees that functional responsibility for implementation and enforcement of the Act be undertaken by the Corporate Director (Development and Environment); and (c) agrees to recommend to the Council that the Scheme of Delegation be amended to delegate to Officers the determination of any application arising from these statutory obligations.

4. Implications

Financial Implications

- 4.1 It is envisaged that the cost of processing any application would be covered by the related application fee.

Human Resource Implications

- 4.2 None.

Legal Implications

- 4.3 None.

Equality Implications

- 4.4 None.

Environmental Implications

- 4.5 None.

Implications for Key Priorities

- 4.6 The proposals support the Council Plan 2012-17 objective to make North Ayrshire an attractive, safe and sustainable place.

5. Consultations

- 5.1 Consultation were undertaken with both Legal Services and Streetscene.

6. Conclusion

- 6.1 It is recommended that the Committee notes the terms of the Act and agrees to approve the actions outlined in the report.

A handwritten signature in black ink, appearing to be 'CH', written over a horizontal line.

CRAIG HATTON
Corporate Director (Development and Environment)

Reference : NMCA/SLP

For further information please contact Neil McAteer, Assistant Planning Officer on 01294 324316

Background Papers

None

FAQ - High Hedges (Scotland) Act 2013

The High Hedges (Scotland) Act 2013 ("the Act") received Royal Assent on 2nd May 2013 and is anticipated to come into force in April 2014. The purpose of the Act is to provide a solution to the problem of high hedges which interfere with reasonable enjoyment of domestic property. The Act concerns high hedges and is not designed to impact on woodlands and forests, which as a general rule are not planted as hedges.

Below are a number of questions and answers which outline what the Act covers, and how it will work. Further guidance will be produced by the Scottish Government early next year.

1. What is a "high hedge"?

This Act defines a high hedge as one which: a) is formed wholly or mainly by a row of 2 or more trees or shrubs; b) rises to a height of more than 2m above ground level; and c) forms a barrier to light.

A hedge is not to be regarded as forming a barrier to light if it has gaps which significantly reduce its overall effect as a barrier at heights of more than 2m. In applying the Act, no account is to be taken of the roots of a high hedge.

2. Will all trees be covered by the Act?

No. Single trees will not be covered, and it will be for the investigating officer to decide whether trees planted closely together form a hedge, or not. Woodland fringes etc. which are not planted as a hedge will not be covered.

All types of hedge – whether they comprise evergreen, semi-evergreen or deciduous trees or a mixture of these – will be covered by the Act. The hedge must be over 2m tall before it can begin to be considered a high hedge – but not all hedges over 2m can automatically be termed a 'high hedge' – only where a complaint is made and that complaint has been upheld by the council.

3. Do I need to do anything before I make a complaint to the council?

Yes. Before making a complaint, you must be able to demonstrate to the local authority that you have tried to reach a solution with the hedge owner by alternative means – such as by mediation. The Council can refuse to consider applications which do not show adequate attempts to resolve the dispute, or which are considered frivolous or vexatious.

4. I have tried to reach an agreement with my neighbour, but haven't been able to. What do I do next?

At that point you can raise a complaint with the Council. A fee will be payable at this point by the person making the complaint. This is in order to ensure that the Council can cover the costs of investigating the complaint. The fee structure has yet to be finalised.

5. What happens after I've paid the fee and the complaint is lodged?

The Council will notify the hedge owner that a complaint has been made, and then the investigating officer will visit the property to assess the hedge, and its impact on the light levels to the complainant's property. This will be considered in conjunction with the responses of relevant consultees, and any other material considerations to determine what, if any, action is required. Once the decision is made, they will notify both parties.

6. The local authority has said that the hedge is not a high hedge, but I disagree. What can I do next?

If you disagree with the decision of the local authority, you will have the right of appeal to Scottish Government ministers.

7. The local authority has determined that the hedge is a high hedge. What happens next?

A High Hedge Notice will be issued detailing any immediate action and any future preventative measures required along with the relevant timescales involved. If the hedge owner fails to comply with the terms of the Notice, the Council will arrange for the work to be carried out. The council will have the power to recover the costs of any work carried out from the hedge owner.

8. I am the hedge owner. The council have said my hedge needs to be cut back but I disagree - can I appeal?

Yes. Both sides have the right of appeal to Scottish Government ministers. Both parties can only appeal once. An appeal will have the effect of 'suspending' the Notice until the appeal has been decided.

9. I live in a property which suffers from lack of light due to a high hedge, but the hedge is not on land immediately adjoining my property. Can I still make a complaint?

Yes. The hedge does not have to be on land immediately neighbouring the property of the person making the complaint. It just needs to be a significant barrier to light.

10. Does the Act cover issues such as problems caused by pine needles blocking drains, falling leaves and branches or root damage?

No. Where plant life is causing damage to a property, there are existing civil methods which exist to address these issues. This Act is designed to deal with the problems resulting specifically from hedges creating a significant barrier to light.

11. Can the Act be reviewed?

Yes. The Act contains specific provisions to ensure that it will be reviewed within five years. This includes a review of the definition, so that changes can be made if required.

CHECKLIST
Is the hedge made up of a row of two or more trees or shrubs? Y / N
Is the hedge over 2m in height? Y / N
Is the hedge a barrier to light (even if there are gaps)? Y / N
Is the affected property residential? Y / N
Are you the owner / occupier of the affected property? Y / N
Is the hedge growing on land owned by someone else? Y / N
Have you attempted to resolve the issue with your neighbour? Y / N
NOTE: IF YOU HAVE ANSWERED 'NO' TO ANY OF THESE QUESTIONS, YOUR APPLICATION CANNOT BE CONSIDERED AS THE CRITERIA HAVE NOT BEEN MET.