



NORTH AYRSHIRE
COUNCIL

Cunninghame House,
Irvine.

13 March 2014

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 19 MARCH 2014** 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 26 February 2014 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. North Coast and Cumbraes

Submit report on the following application:-

14/00087/PP : 9 Union Street, Largs

Amend Planning Permission (ref. 03/00986/PP) to increase the number of children served by the nursery from 35 to 48 (copy enclosed).

4. Irvine/Kilwinning

Submit report on the following application:

14/00002/TPO : 2 Shewalton Moss, Drybridge, Irvine

Felling of sycamore tree within an area covered by Irvine No 1 Tree Preservation Order (copy enclosed).

5. Notice under Section 14 of the Land Reform (Scotland) Act 2003, Montgreenan Mansion House Hotel, Montgreenan, Kilwinning

Submit report by the Corporate Director (Development and Environment) on a Notice under Section 14 (2) of the Land Reform (Scotland) Act 2003 to remove the signs which have the purpose of preventing or deterring persons entitled to exercise the right of responsible access under the Land Reform (Scotland) Act 2003 (copy enclosed).

6. Planning Performance Framework

Submit report by the Corporate Director (Development and Environment) on feedback from the Scottish Government on the Planning Performance Framework 2 (copy enclosed).

7. Urgent Items

Any other items which the Chair considers to be urgent.

Planning Committee

Sederunt: Matthew Brown (Chair)
John Ferguson (Vice-Chair)
Robert Barr
John Bell
John Bruce
Joe Cullinane
Ronnie McNicol
Tom Marshall
Jim Montgomerie
Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Planning Committee
26 February 2014

IRVINE, 26 February 2014 - 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, Joe Cullinane, Ronnie McNicol, Tom Marshall, Jim Montgomerie and Robert Steel.

In Attendance

J. Miller, Senior Manager (Planning, Transportation and Regeneration) (Development and Environment); and J. Law, Solicitor (Contracts and Licensing) and D. McCaw, Committee Services Officer (Chief Executive's Service).

Chair

Councillor Ferguson in the Chair.

Apologies for Absence

Matthew Brown.

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 the meeting of the Committee held on 5 February 2014 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. North Coast and Cumbraes

12/00159/PPM: Site to North of Fairlie Primary School

Dawn Homes Limited, 220 West George Street, Glasgow, have applied for (a) a variation to the terms of Condition 1 to permit the development to commence prior to the upgrading of the culvert between the application site and the Firth of Clyde and (b) an amendment to Conditions 2, 3 and 4 and deletion of Condition 6, to reflect (i) additional information submitted by the applicants with regard to drainage and (ii) the comments of SEPA. One objection and one letter of representation have been received, as detailed in the report.

The Senior Manager (Planning, Transportation and Regeneration) circulated at the meeting a summary of the matters raised in one further representation and a further letter of objection received, together with responses to those issues.

The Committee, having considered the terms of the objection and representations, agreed (a) to the following revised conditions:-

1. That no development, excavation or tree felling works shall commence until the proposed temporary attenuation feature comprising the provision of on-site storage to attenuate surface water discharges to greenfield run-off rate and the installation of a sediment trap as indicated in the revised proposals dated 27th November 2013, submitted by T Lawrie & Partners, Consulting Engineers have been fully implemented and arrangements made for the inspection and maintenance of the works, to the satisfaction of North Ayrshire Council as Planning Authority; the temporary attenuation feature hereby approved shall remain in place and in effective operation until such times as the capacity of the Keppen Burn channel between the application site and the Firth of Clyde is sufficiently increased as to allow surface water from the application site during a 1 in 200 year storm event to be discharged to the Keppen Burn without attenuation and without increasing the flood risk elsewhere, to the satisfaction of North Ayrshire Council as Planning Authority.

2. That the flood management measures recommended in the Flood Risk Assessment by Kaya Consulting Limited accompanying the documents and plans submitted by T Lawrie & Partners Consulting Engineers dated 27th November 2013 shall be fully implemented and no development shall take place until the following information has been submitted in relation to flood risk: (i) confirmation of channel characteristics to enable verification of discharge capacities; (ii) proposals for an appropriate inspection and management regime to be put in place with regard to the proposed sediment trap in the Keppen Burn; and (iii) a programme for the implementation of the flood management measures, all to the satisfaction of North Ayrshire Council as Planning Authority.

3. That prior to the implementation of the attenuation measures referred to in Condition 1, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority proposals to ensure the proper safety, including proposals for enclosures and fencing and maintenance of the attenuation feature and sediment trap, including inspection and cleaning; the proposals shall include details of the proposed factor or other agency that will be responsible for the maintenance and safety of the attenuation feature and sediment trap, all to the satisfaction of North Ayrshire Council as Planning Authority.

4. That prior to the commencement of the development, the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority: (i) a programme for the installation of the cut-off drain shown on drawing number 1103-104 submitted by T Lawrie & Partners Consulting Engineers on 27th November, 2013; (ii) proposals for providing access to and for the regular maintenance of the cut-off drain by a factor; (iii) the proposed factoring arrangements for the maintenance of the cut-off drain and (iv) proposals for managing the additional volume of water as part of the surface design, all to the satisfaction of North Ayrshire Council as Planning Authority.

5. That prior to the occupation of any of the residential units hereby approved, foul drainage from the development shall be connected to the public sewerage system.
6. That the development hereby approved shall be provided with a public mains water supply prior to the occupation of any of the residential units hereby approved.
7. That the proposed access shall join the trunk road at a new junction which shall be constructed by the applicants to a standard as described in the Department of Transport Advice Note TA 41/95 (Vehicular Access to All Purpose Trunk Roads) (as amended in Scotland) complying with Layout 5. The junction shall be constructed in accordance with details that shall be submitted to and approved by North Ayrshire Council as Planning Authority, after consultation with Transport Scotland, before any part of the development is commenced.
8. That there shall be no drainage connections to the trunk road drainage system.
9. That visibility splays shall be provided and maintained on each side of the new access to the A78, to the satisfaction of North Ayrshire Council as Planning Authority. These splays are the triangles of ground bounded on 2 sides by the first 4.5m of the centre line of the access road (the set back dimension) and the nearside trunk road carriageway measured 70m (the Y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05m and 2m positioned at the set back dimension to an object height of between 0.26m and 1.05m anywhere along the Y dimension.
10. That prior to the commencement of the development hereby approved revised proposals shall be submitted for the access to the flats and two dwellings to the north of the site access road, which shall be served by a short road built to an adoptable standard, all to the satisfaction of North Ayrshire Council as Planning Authority .
11. That driveways shall have a minimum length of 6m measured from the rear of the service strip.
12. That all internal junction radii shall be designed to accommodate general service vehicles including vehicle tracking, to the satisfaction of North Ayrshire Council as planning authority.
13. That prior to the commencement of the development the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority exact details of the design and alignment of the temporary footpath from the south-east edge of the site to Castlepark Gardens, which shall be of a standard to facilitate use by both pedestrians and cyclists, shall be lit and shall be provided prior to the occupation of any of the houses on plots 1-24, all to the satisfaction of North Ayrshire Council as Planning Authority.

14. That all tree planting, seeding or turfing comprised in the landscaping proposals hereby approved shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless North Ayrshire Council as Planning Authority gives written consent to any variation.

15. That prior to the occupation of any of the flats or dwellinghouses and where Council adoption of open space areas is not to be pursued, there shall be submitted for approval of North Ayrshire Council as Planning Authority, details of the proposed factor or management agency and a landscape management plan which shall include retention of a green link through the site and the whorled caraway marshland north of the access road, long term design objectives, management responsibilities and maintenance schedules for all open space areas. The landscape management plan shall be carried out in accordance with the approved details unless the prior written approval of North Ayrshire Council as Planning Authority is obtained for any variation, and the agreed agency shall only be changed with the agreement of North Ayrshire Council as Planning Authority.

16. That the minimum number of trees shall be felled and no trees or hedges, other than those shown to be felled or lopped on the plans hereby approved, shall be felled or lopped without the prior written approval of North Ayrshire Council as Planning Authority.

17. That prior to any tree felling taking place, the trees shall be surveyed for the presence of bats and a report shall be submitted for the written approval of North Ayrshire Council as Planning Authority detailing the findings of the survey and any measures required to be taken prior to the felling of the trees should the presence of bats be detected, all to the satisfaction of North Ayrshire Council as Planning Authority.

18. That all tree removal, ground and vegetation clearance works shall take place outwith the main bird breeding season, i.e. outwith the period March - July inclusive, to the satisfaction of North Ayrshire Council as Planning Authority.

19. That prior to the commencement of the development, the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority exact details of: (i) all external finishes to the buildings; (ii) all hard surfaces including parking areas and footpaths; (iii) all boundary and internal enclosures; (iv) the proposed bin store enclosures; (v) the finished floor levels for the flats and dwellinghouses relative to existing levels; and (vi) details of proposals for excavating the embankment to accommodate the access road to the upper level of the site.

20. That prior to the commencement of the development the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority exact details of the proposed equipped play area which shall include the provision of 5 different types of play equipment, seating; details shall also be submitted with regard to the means of enclosure including 2 gated points of access/exit, surface finish, litter bin provision and maintenance and management arrangements. The approved play area proposals shall be implemented on completion of more than 75% of the houses on plots 1-24 inclusive, unless North Ayrshire Council as Planning Authority gives written consent to any variation.

21. That the developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to North Ayrshire Council as Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief shall be submitted by the applicants, agreed by the West of Scotland Archaeology Service and approved by North Ayrshire Council as Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to North Ayrshire Council as Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

22. That prior to the commencement of the development, hereby approved, the applicants shall undertake a desk study of the application site, (including a review of any previous site investigations) to assess the likelihood of contamination and assist in the design of an appropriate site investigation and subsequent suitable quantitative risk assessment. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall meet the standard of BS 10175:2011, be verified by a suitably qualified Environmental Consultant and submitted for the written approval of the Environmental Health Service of North Ayrshire Council. Thereafter the presence of any significant unsuspected contamination, which becomes evident during the development of the site, shall be reported to North Ayrshire Council and treated in accordance with a remediation scheme acceptable to the Environmental Health Service of North Ayrshire Council. On completion of the proposed works written verification, detailing what has been done by way of remediation shall also be submitted to the Environmental Health Service of North Ayrshire Council.

and (b) that the Senior Manager (Planning, Transportation and Regeneration) circulate finalised details of the safety proposals, as intimated in condition 3, to the 4 Members for Ward 8.

The meeting ended at 2.15 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

Planning Committee

19 March 2014

Planning Area

North Coast and Cumbraes

Reference

14/00087/PP

Application

18th February, 2014

Registered

Decision Due

18th April, 2014

Ward

North Coast & Cumbraes

Recommendation	Grant without conditions as per Appendix 1
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Location	9 Union Street Largs
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Applicant	Childcare Scotland 24 Kilwinning Road Irvine
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Proposal	Amend Planning Permission (ref. 03/00986/PP) to increase the number of children served by the nursery from 35 to 48
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1. Description

The nursery occupies a detached two storey red sandstone former guest house located at the junction of Union Street and Stanlane Place. Planning permission for the change of use of the premises to a pre-school nursery to serve up to 35 children was granted by the Planning Committee on 22 June 2004 (ref. 03/00986/PP). The applicants initially sought permission for the nursery to accommodate 60 children, but this was amended due to concerns about parking and congestion. No internal or external alterations are proposed. It was a condition of planning permission that the parking area shown on the submitted plans be provided and the access to Union Street widened prior to the commencement of the use. The car parking area has been provided and the access widened.

In the adopted North Ayrshire Local Plan (Excluding the Isle), the site is located within a residential area and is unaffected by any site specific policies or proposals therein. All development proposals require to be assessed against the relevant criteria of the Development Control Statement.

The applicants state that they have obtained a Care Inspectorate Registration Certificate for 48 children following the closure of another local nursery, which has resulted in increased demand for places. They state that most of the nursery clients live near the nursery so there will not be a large increase in vehicles attending the premises.

2. Consultations and Representations

Neighbours were notified on 19 February, 2014 and no objections have been received to date. There was no requirement to advertise the application.

Development Planning Services (Transportation) - No objection. It is noted that the applicant claims that there will be minimal increase in vehicular traffic and therefore there should be no transportation related issues regarding the proposed increase in the number of children accommodated. Parking is available at present within the curtilage of the site and vehicles can use it for picking up and dropping off children.

Response - Noted.

3. Analysis

The application relates only to the increase in numbers attending the nursery school. No alterations to the premises are proposed. The parking and access arrangements for the nursery have been provided in accordance with the conditions attached to the original planning permission. Although concerns were raised when planning permission was originally sought, it has operated for the past 10 years apparently without complaint. Development Planning Services (Transportation) are satisfied that the proposed increase in the number of children will not lead to undue parking or congestion issues.

4. Full Recommendation

See Appendix 1.

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CRAIG HATTON
Corporate Director (Development and Environment)

Cunninghame House, Irvine
6 March 2014

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

JM/JW

APPENDIX 1

RECOMMENDATION FOR PLANNING APPLICATION REF NO 14/00087/PP

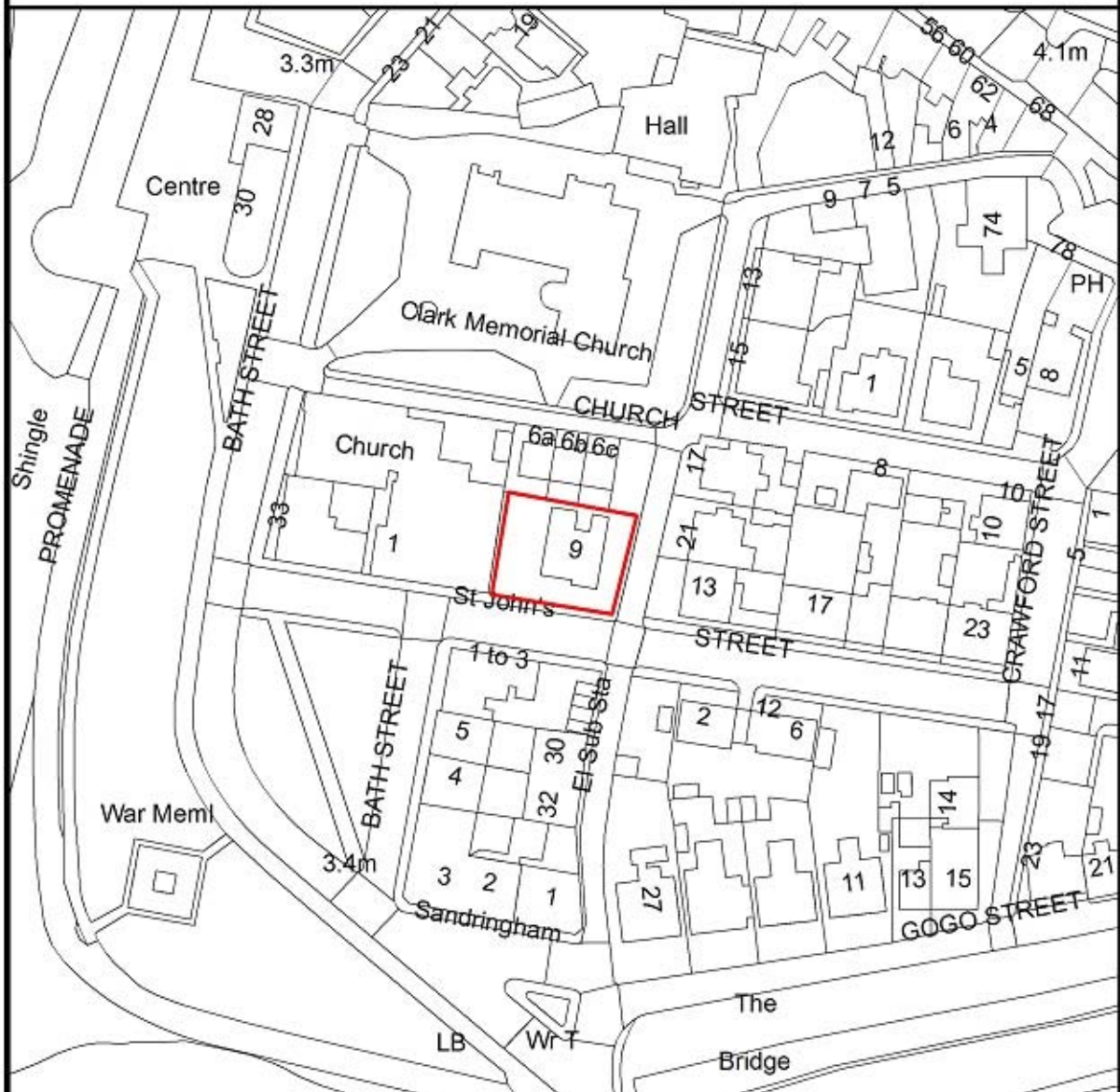
Grant (No conditions).

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

14/00087/PP



NORTH AYRSHIRE
COUNCIL

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NORTH AYRSHIRE COUNCIL

Agenda Item 4

Planning Committee

Planning Area

**19 March 2014
Irvine/Kilwinning**Reference
Application
Registered
Decision Due
Ward**14/00002/TPO
6th January 2014

6th March 2014
Irvine West**

Recommendation	Refuse for the reasons contained in Appendix 2
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Location	2 Shewalton Moss Drybridge Irvine Ayrshire
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Applicant	Mr John Ferris 2 Shewalton Moss Drybridge Irvine KA11 5BW
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Proposal	Felling of sycamore tree within an area covered by Irvine No 1 Tree Preservation Order
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1. Description

The application relates to a mature Sycamore tree located on an area of landscaped open space, some 18m to the south of 2 Shewalton Moss. The tree is located within an area covered by a Tree Preservation Order (TPO), which was confirmed in 1990 and covers an area of mixed deciduous and coniferous trees extending to some 1.69ha.

The applicant has not submitted a report in support of the application. A letter to the applicant from a tree care company was submitted which states that the tree "is in very poor health. In my opinion as a professional arborist, I would recommend that this tree is section felled down to ground level. The base of the main stem is hollow and I would be concerned about the tree falling on your property". The legal ownership of the land on which the tree is located has not been determined. Given this uncertainty, the applicant would be responsible for establishing the ownership, prior to carrying out any works.

The same applicant applied for consent to fell the same tree in 2011 (ref. 11/00264/TPO), which was refused due to insufficient evidence or justification for the removal of the tree. It was considered at the time that there was not an immediate need to remove the tree, the felling of the tree would be detrimental to the character of the area protected by the TPO, and would set an undesirable precedent for other such unjustified works. Advice was given that the health of the tree should be monitored for any change in these circumstances.

In terms of the Adopted North Ayrshire Local Plan (excluding Isle of Arran) there are no specific policies regarding the preservation of trees covered by a Tree Preservation Order, although the Development Control Statement requires that all development should have regard to the preservation and planting of trees and hedgerows and to the landscape features and landscape character of the area.

2. Consultations and Representations

There is no statutory requirement to carry out neighbour notification for this type of application nor was there any requirement to advertise the application. No public comments have been received.

Consultations

North Ayrshire Council Arboricultural Officer (AO) - The tree is growing on an open space area and is part of a wider group of trees situated at the front (South) of properties 2, 4 and 6 Shewalton Moss. Its habit is dominant. Previous crown lifting has been carried out to a height of approx. 5m from ground level - the resultant pruning wounds have generally occluded adequately. The lower bole is leaning to the South, (away from the property number 2), and the mid and upper crown is also weighted to the South. The lean is historical and there was no sign of root lift/movement or soil cracking at the base of the tree. There was no evidence of fungal fruiting bodies or structures, and no evidence of hung up or dead limbs within the crown. There were only a small number of small diameter branches at the base of the tree.

There is a degree of central, basal decay associated with a historic wound at the base of the tree facing North. The extent of basal decay could not be determined given the type of inspection carried out while on site.

The letter of application refers to a 'Tree Survey Report' but other than the letter, no survey or report has been included in the application. It is suggested that a survey be supplied to include further investigation, (using either a resistograph or Picus tomograph, as examples of equipment that would facilitate this), to ascertain the extent of decay and thereafter to offer justification of whether felling is necessary. At present there is not sufficient information with which to take the application further. The report and recommendation should be carried out by a suitably qualified and independent arborist.

Response – The requirement to provide further evidence to support the application was forwarded to the applicant but no additional information or survey report has been submitted. It is also noted that these comments are consistent with the AO's consultation response to the previous application in 2011.

3. Analysis

Section 160 of the Town and Country Planning (Scotland) Act 1997, as amended, provides that a planning authority may make a TPO where it appears to the authority that it is expedient in the interests of amenity to do so. A TPO prohibits treeworks unless the permission of the authority has been granted.

This application has been made on the basis that the felling of the tree is necessary in the interests of safety. No detailed arboricultural report has been submitted to substantiate the claim.

The application is identical to a previous request which was refused in 2011. The tree appears visually to be in a similar condition/situation as before and, given the Arboricultural Officer's advice, it is not considered that sufficient evidence of deterioration has been shown to justify the removal of the tree at the present time. The applicant was invited to provide a detailed tree survey with an arboricultural justification but no further details have been submitted. It is acknowledged that any future change in the tree's condition may alter this appraisal but, in the absence of evidence to the contrary, the Arboricultural Officer's assessment indicates the tree's healthy condition.

It is considered that the tree contributes to the overall landscape character and amenity of this part of Shewalton Moss and the planning authority has a duty to make provision for the preservation of trees or woodlands in the interests of amenity, unless it can be shown that there are detailed safety factors requiring its removal.

For these reasons, the felling of the tree without sound arboricultural justification would set an undesirable precedent for other unnecessary works within areas subject to a TPO and it is therefore recommended that the application should be refused.

4. Full Recommendation

Refuse for the reasons contained in Appendix 2.

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CRAIG HATTON
Corporate Director (Development and Environment)

Cunninghame House, Irvine
7 March 2014

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

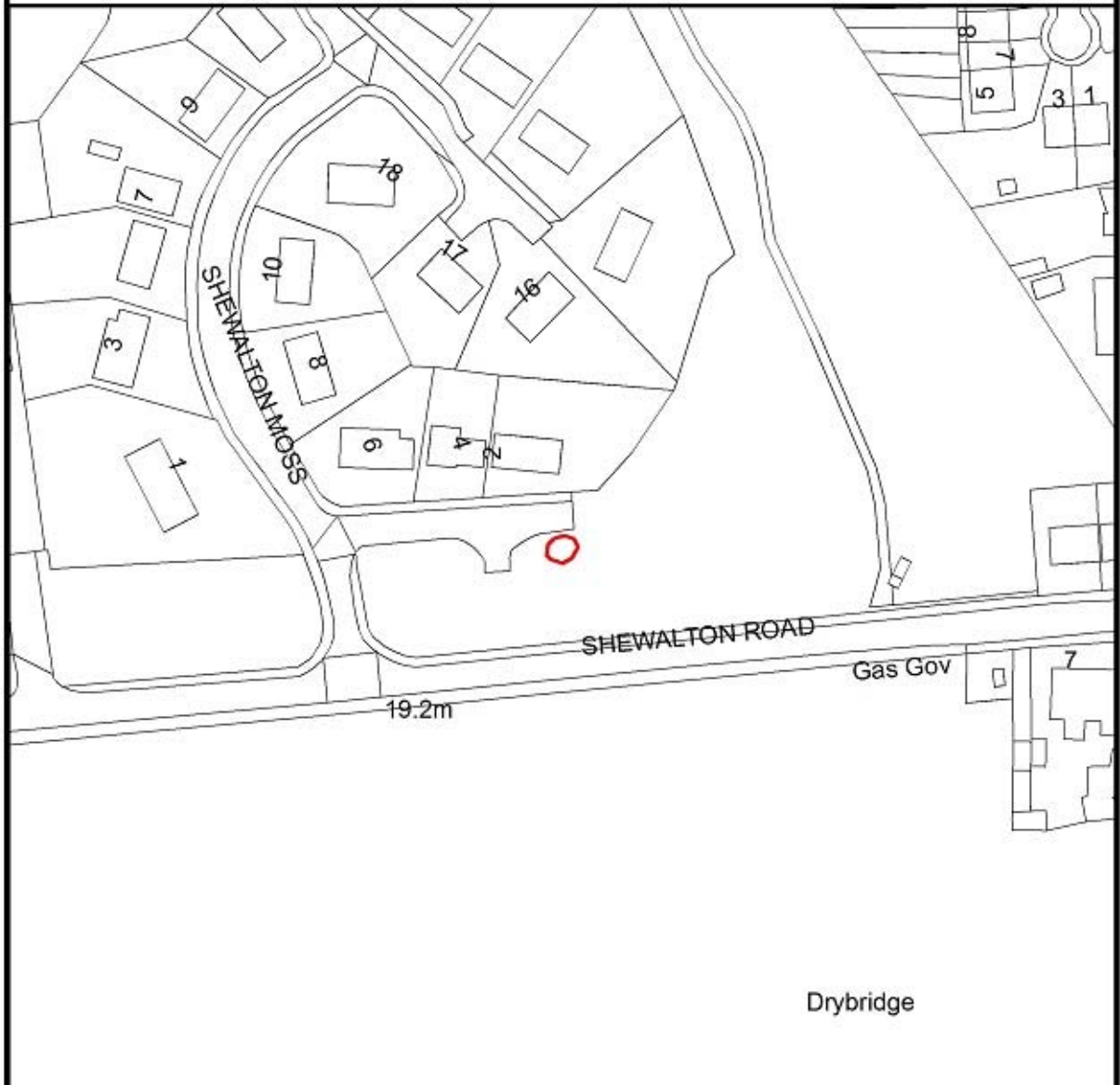
RECOMMENDATION FOR PLANNING APPLICATION REF NO 14/00002/TPO

Refuse on the following grounds:-

1. That the applicant has failed to provide sound arboricultural reasons for the felling of the tree which would therefore constitute unnecessary tree works which would (i) detract from the character and amenity of the surrounding area; and (ii) set an undesirable precedent for other unnecessary works to trees protected by Tree Preservation Orders..

Committee Plans

14/00002/TPO



NORTH AYRSHIRE
COUNCIL

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NORTH AYRSHIRE COUNCIL

Agenda Item 5

19 March 2014

Planning Committee

Subject: **Notice under Section 14 of the Land Reform (Scotland) Act 2003, Montgreenan Mansion House Hotel, Montgreenan, Kilwinning**

Purpose: To seek approval to serve a Notice under Section 14 (2) of the Land Reform (Scotland) Act 2003 requiring the removal of two unauthorised signs at Montgreenan Mansion House Hotel.

Recommendation: That the Committee approves the serving of the Notice under Section 14 (2) of the Land Reform (Scotland) Act 2003 to remove the signs which have the purpose of preventing or deterring persons entitled to exercise the right of responsible access under the Land Reform (Scotland) Act 2003.

1. Introduction

- 1.1 The Land Reform (Scotland) Act 2003 ("the Act") provides the public with the right of responsible access to a wide variety of land and inland water. The Act also places a reciprocal obligation on landowners and land managers to manage land responsibly for outdoor access. The Scottish Outdoor Access Code ("the Code") explains the rights and responsibilities for both access users and landowners and land managers under the Act.
- 1.2 Section 13 of the Act places a statutory responsibility on the Council to assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised. Sections 14 and 15 provide the key powers by which the Council can uphold the access rights. Section 14 prohibits land owners from preventing or deterring the exercise of responsible access rights through prohibition signs, obstructions or dangerous impediments. Section 14 (2) provides the power to serve notice on the owner of land where a sign is being displayed for the purpose of preventing or deterring persons entitled to exercise their responsible rights of access to the land a Notice requiring the removal of said sign.

- 1.3 Montgreenan Mansion House Hotel is a Category B Listed Building situated approximately 3 kilometres east of Kilwinning. The Property, which is currently vacant and not in use as a hotel, is situated within approximately 56 acres of woodland. The woodland and associated path network is within the right of responsible access under the Act and is well used by the local community for walking, cycling and horse riding.
- 1.4 Complaints were received in early 2013 that signage had been erected at the main approach road to the property with the purpose of preventing public access through the grounds. This was investigated by the Access Officer and Enforcement Officer. The signs and obstructions on the paths were found to be in contravention of the Act. Negotiation was undertaken with the landowner and agreement was obtained for their removal however the works were never fully implemented. Reminders were issued on a number of occasions however responses were never received to these. Appendix One to this report summarises the complaint, investigation and findings. This includes the content and location of the signs, the legislative position and the negotiations undertaken with the landowners.

2. Current Position

- 2.1 Despite negotiation and repeat correspondence the signs have not been removed however their content has been amended. The content of the signs is still considered to prevent or deter the exercise of access rights. A number of obstructions were removed from the woodland paths however these have been replaced by additional obstructions which continue to prevent legitimate use of the path network. The landowner no longer responds to written correspondence and the telephone numbers provided by the landowner and their site manager are no longer in use therefore further negotiation is not possible. The remaining option available to the Council resolve the issue is to serve a Notice under Section 14 (2) of the Act be served on the landowner requiring that the signs be removed.
- 2.2 The advertisements are also unauthorised as they do not benefit from advertising consent. No consent has been granted by the Council, as Planning Authority, and they do not benefit from deemed consent under the Town and Country Planning (Control of Advertisement) Regulations 1984. However, given the location of the advertisements and that advertisements for the purpose of identification, direction or warning of 0.2 square metres in area could be displayed without the Council's consent, it is not considered expedient to pursue the advertisements under the Advertisement Regulations.

3. Proposals

- 3.1 It is proposed to serve a Notice on the landowner of Montgreenan Mansion House Hotel under Section 14(2) of the Act requiring the removal of the obstructions on the woodland path network and the signs from the eastern and southern entrances to the property as highlighted in Appendix 1. A copy of the proposed Notice is provided as Appendix 2 to this Report.

4. Implications

Financial Implications

- 4.1 Should any requirement of the Notice not be complied with following the expiry of the compliance period, the Council may enter the land and carry out such steps in order to achieve compliance with the requirements of the Notice. The Council may then seek to recover from the person who is then land owner or lessee any expenses reasonable incurred during the carrying out of these works.
- 4.2 The landowner may appeal the Notice by summary application to the Sheriff. Should the landowner chose to do so, the Council will be required to defend the Notice in the Sheriff Court. This would have a financial implication, the extent of which is not quantifiable at present time. The only alternative available to the Council would be to retract the Notice at that stage.

Human Resource Implications

- 4.3 There are no human resource implications arising from this report.

Legal Implications

- 4.4 The proposed Notice complies with the Council's statutory duty under Section 13 of the Land Reform (Scotland) Act 2003 to uphold access rights. Legal Services has been consulted on the proposal and is in agreement that the issue of a Notice under Section 14(2) is appropriate in light of both the lack of action or response from the landowner and the Council's statutory responsibility under Section 13 of the Act to promote and protect the reasonable exercise of access rights. Legal Services has also advised that should an appeal be brought against the Notice the Council will be required to defend the Notice in the Sheriff Court. The only alternative available to the Council would be to retract the Notice and refrain from taking the remedial action stipulated therein, thereby permitting the continued display of the sign.

Equality Implications

- 4.5 The signs and obstructions to the path network prevent legitimate outdoor access for all within the Montgreenan Estate.

Environmental Implications

- 4.6 There are no environmental implications arising from this report.

Implications for Key Priorities

- 4.7 The proposed notice supports the Single Outcome Agreement outcome: People are more active more often.

Community Benefit Implications

- 4.8 There are no community benefit implications arising from this report.

5. Consultations

- 5.1 North Ayrshire Outdoor Access Forum was established in 2002 to provide advice and guidance to the Council on outdoor access related matters. The Forum has been consulted on the issue and is in agreement that the signage prevents or deters the exercise of the right of responsible access within the grounds. The Forum is also in agreement with the proposal to issue a Notice under Section 14(2) of the Act in light of the lack of action or response from the landowner.
- 5.2 Legal Services was consulted on the proposal and is in agreement that the issue of a Notice under Section 14(2) is appropriate in light of both the lack of action or response from the landowner and the Council's statutory responsibility under Section 13 of the Act to promote and protect the reasonable exercise of access rights.

6. Conclusion

- 6.1 It is considered that the owner of the property has been given significant notice and opportunity to remove the signs and ensure people are not prevented or deterred from exercising their rights to responsible access under the Land Reform (Scotland) Act 2003. The service of a Notice under Section 14 (2) of the Land Reform (Scotland) Act 2003 is the only remaining option open to the Council to ensure that the access rights are upheld and the adverse impact on the local amenity is abated.



CRAIG HATTON
Corporate Director (Development and Environment)

Reference : LK/SLP

For further information please contact Louise Kirk, Access Officer on telephone number 01294 324766

Background Papers

Scottish Outdoor Access Code

Land Reform (Scotland) Act 2003**Section 14 Prohibition signs, obstructions, dangerous impediments, etc.**

Location: Montgreenan Mansion House Hotel, Montgreenan, Kilwinning KA13 7QZ

Complaint Details

A number of complaints have been received from early 2013 in relation to signage and obstructions on within the grounds of Montgreenan House Hotel, near Kilwinning. Furthermore it was claimed that a number of trees were being felled within the grounds which are subject to a Tree Preservation Order (Kilwinning No.1). The issue was investigated by the Access Officer and Enforcement Officer in light of the nature of the complaint. This report addresses the issues under the Land Reform (Scotland) Act 2003 (the Act), namely the signage and obstructions on the path.

Background

Montgreenan Mansion House Hotel is a Category B Listed Building situated approximately 3 kilometres east of Kilwinning. The property is currently vacant and not in use as a hotel and is situated within approximately 56 acres of woodland. The woodland and associated path is well used by the local community including dog walkers and horse riders. The main driveway to the property links two public places namely

Two signs are displayed on the main approach road to the property, within the entrances to the woodland area. The first is at the eastern approach approximately 20 metres to the west of the properties known as East Lodge Gate House and East Lodge North, on the boundary of the woodland associated with the property. This sign is approximately 1.2 metres by 1 metre and sits on poles elevating it approximately 1 metre off the ground. On the eastern face of the sign is the legend "Strictly Private Residents Only CCTV in Operation". The second sign is located on the southern approach to the property. The sign is located approximately 20 metres north of the properties known as Nos. 1 and 2 South Lodge Cottage, again on the boundary of the woodland associated with the property. The sign is approximately 1.2 metres by 1 metre and on its southern face bears the legend "Private Property CCTV in Operation"

A number of obstructions also blocked the path network within the woodlands. This included branches and tree stumps. The complainants advised that they felt the obstructions had been placed and the signs had been erected with the purpose of preventing or deterring the exercise of their right of responsible access under the Land Reform (Scotland) Act 2003.

The sign at the North Lodge entrance previously stated "No Horses Strictly Private Residents Only CCTV in Operation" and it is noted that this has been modified during the negotiation process potentially by the landowner or a third party. Figure One below highlights the nature of the blockages and content of the signs including the sign at the eastern entrance before and after modification. Figure Two provides a map of the property, the path network and the locations of the signs and obstructions.

Legislative Position

The Act provides the public with the right of responsible access to a wide variety of land and inland water. The Act also places a reciprocal obligation on landowners and land managers to manage land responsibly for outdoor access. The Scottish Outdoor Access Code explains the rights and responsibilities for both access users and landowners and land managers under the Act. Section 6 of the Act outlines the land over which access rights are and are not exercisable. This is further supplemented and qualified by Section 7 of the Act.

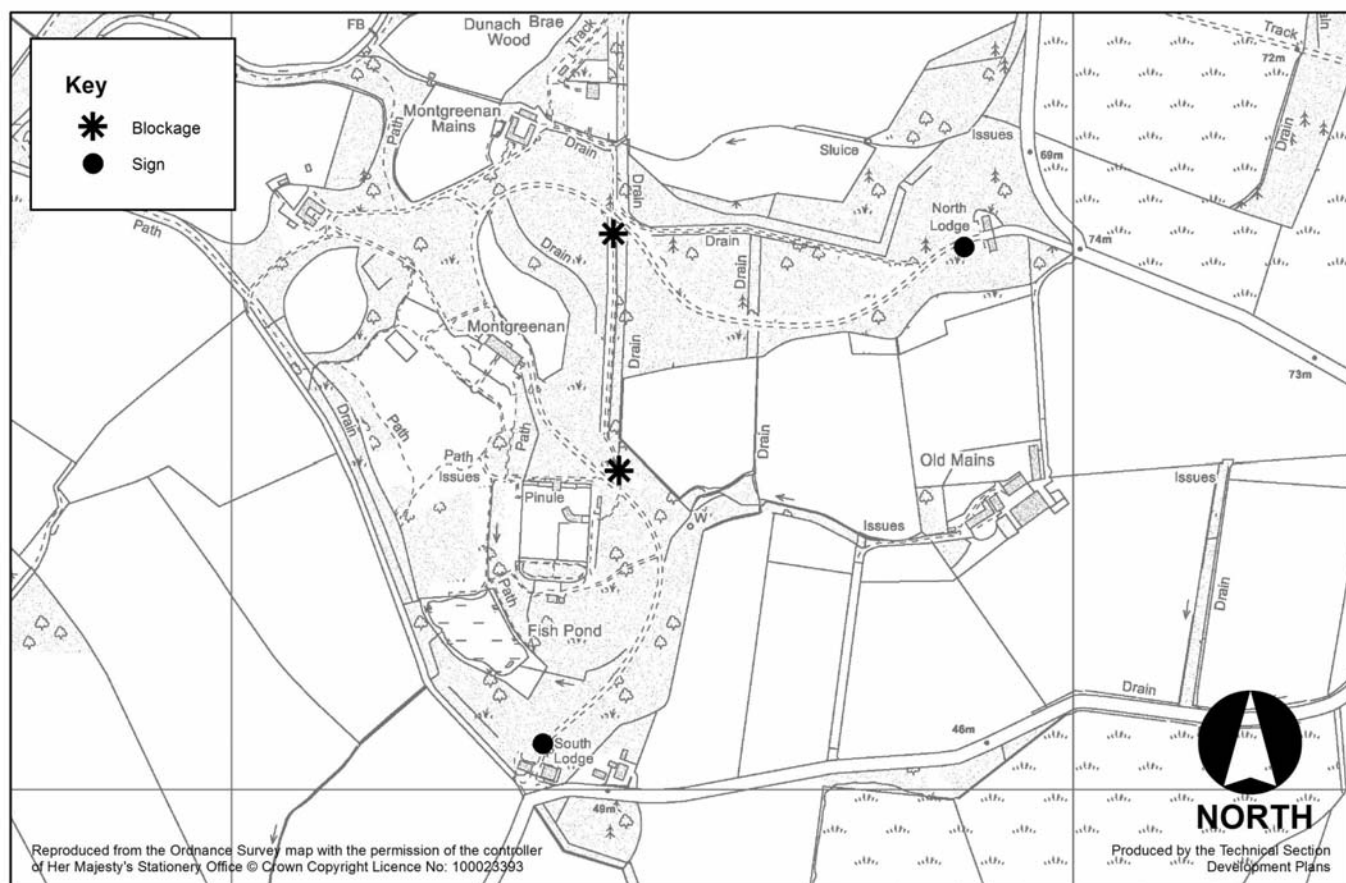
Section 13 of the Act places a statutory responsibility on the Council to assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised. Section 14 of the Act prohibits land owners from preventing or deterring the exercise of responsible access rights through prohibition signs, obstructions or dangerous impediments. Sections 14 and 15 of the Act provide the key powers by which the Council can uphold the access rights. Section 14 (2) of the Act provides the power to serve notice on the owner of land where a sign is being displayed for the purpose of preventing or deterring persons entitled to exercise their responsible rights of access to the land a Notice requiring the removal of said sign.

Based on an assessment of these sections of the Act and examination of the situation on the ground, it was determined that the woodland paths blocked by the obstructions and signs were within the right of responsible access. Furthermore it was determined that the signage and the blockages were erected for the purposed of preventing or deterring the exercise of the right of responsible access. North Ayrshire Outdoor Access Forum was established in 2002 to provide advice and guidance to the Council on outdoor access related matters. The Forum was consulted on the issue and is in agreement that the signage prevents or deters the exercise of the right of responsible access within the grounds.

Figure One: Signage and blockages

	
Sign One	Sign Two (Before Modification)
	
Sign Two (After Modification)	Example of Blockage

Figure Two: Approximate locations of signage and blockages



Negotiations and Correspondence

The ownership of the property was established through Legal Services and following several conversations and e-mails with the owner of the property, a meeting was arranged. On the 7th March 2013 a meeting on site was held between the landowner, their site manager, the Access Officer and Planning Inspector. Prior to the meeting it was confirmed that the signs and obstructions restricting access to the path network within the woodland were still in place.

The legislative position under the Land Reform (Scotland) Act 2003 was explained to the landowner and their site manager at the meeting. This included confirmation that people had a right of responsible access to the woodland and the associate path network and that as such they could not block paths or put up signs for the purpose of preventing or deterring the exercise of access rights. Confirmation was also provided that under the Planning Acts signs giving warning or direction required consent from the Council unless they were below 0.2 square metres in size. The landowner was advised that signs which had been erected at the property required consent from the Council. They were further advised that the woodland was subject of a Tree Preservation Order and the Council could take action against the signage on the grounds they were held to harm amenity.

The owner accepted and noted the legislative position and advised that they had put the signs up to deter unauthorised motor vehicles. They were advised that signage relating to the prohibition of unauthorised motor vehicles could be acceptable but that the signs were preventing or deterring legitimate users from exercising their right of responsible access. The landowner agreed to remove the obstructions on the paths and the signs as soon as the work could be arranged. It was further agreed that a suitable wording would be discussed with the Access Officer prior to the erection of any replacement signs.

A follow up e-mail was issued to the landowner on 13th March 2013. This provided links to signage guidance, occupiers' liability and path construction. The landowner was asked to contact the Access Officer when they were in a position to discuss the content of replacement signage for the Property. A further e-mail was issued to the landowner on 14th March requesting confirmation of timescales for the removal of the signage. No response was received. The removal of the obstructions on the path was confirmed on site however the signs were still in place. A number of follow up calls were made but no response was received.

In July 2013 it was confirmed that the signage had still not been removed. An email of 17th July 2013 was sent to the owner. This email requested that they contact the Access Officer at their earliest convenience to discuss the signs at Montgreenan. No response was received.

A letter dated 13th August 2013 was sent to the owner of the Property. This asked that they contact the Access Officer within 7 days to provide an update on their proposals for the removal of the signage at the entrances to the Property. The letter stated that land owners and land managers are required by the Land Reform (Scotland) Act 2003 to manage their land responsibly for outdoor access. The letter set out new powers that the Council had with respect to removing signs or Notices deterring or preventing people from exercising their right of responsible access. No response was received.

On 26th September 2013 a further letter was sent to the owner requesting that they remove the signs. The letter again set out the responsibilities of the owner under the Land Reform Act. A copy was hand delivered to the Property. At that time it was noted that the signage remained in situ. No response was received.

On 5th November 2013 a letter was sent to the owner of the Property. This stated that it was now the Council's intention to seek authority for the issue of Notices requiring the removal of the signs. The letter stated that the only right of appeal with respect of a Notice under the Land Reform (Scotland) Act 2003 is by application to the Sheriff Court. Should Notices be served and not complied with the Council can remove the signs and seek its costs from the land owner. The letter asked that if they had any representations to be taken into account when considering formal action, that they be submitted in writing within 14 days of the date of the letter and if the advertisements had been removed that they confirm by return. No response was received.

A number of telephone calls were also made to the mobile and land line telephone numbers provided by the landowner. These numbers no longer appear to be connected or accepting incoming calls. Further negotiation with the landowner is therefore not possible.

Current Position

Despite the negotiations undertaken and repeat correspondence with the landowner as detailed in Appendix One, the signs have not been removed and the paths have subsequently been blocked further by branches and logs. The landowner no longer responds to written correspondence and the telephone numbers provided by the landowner and their agents are no longer in use therefore further negotiation is not possible. The remaining option available to the Council to resolve the issue is to serve a Notice under Section 14 (2) of the Act on the landowner requiring that the signs be removed. This will allow the Council to remove the signs and other obstructions should the landowner fail to undertake the necessary action within the required period.

Further Consultation

North Ayrshire Outdoor Access Forum was consulted on the proposal to serve a Notice under Section 14 (2) of the Act on the landowner requiring that the signs be removed. The Forum is also in agreement with the proposal to issue a Notice under Section 14(2) of the Act in light of the lack of action or response from the landowner.

The Council's Legal Services was consulted on the proposal and is in agreement that the issue of a Notice under Section 14(2) is appropriate in light of both the lack of action or response from the landowner and the Council's statutory responsibility under Section 13 of the Act to promote and protect the reasonable exercise of access rights. Legal Services have also advised that should an appeal be brought against the Notice the Council will be required to defend the Notice in the Sheriff Court. The only alternative available to the Council would be to retract the Notice and refrain from taking the remedial action stipulated therein, thereby permitting the continued display of the sign.

Access Officer
February 2014

LAND REFORM (SCOTLAND) ACT 2003

WRITTEN NOTICE

ISSUED BY: North Ayrshire

1. **THIS IS A FORMAL NOTICE** issued to you *insert name of owner of the land* by the North Ayrshire Council in exercise of the powers conferred by section 14(2) of the Land Reform (Scotland) Act 2003 ("the Act"), because it appears to them that you have contravened the terms of section 14(1) of the Act on the land referred to in Article 2, of which you are the owner.

2. THE LAND AFFECTED

The land on which it appears a breach of section 14(1) of the Act has taken place is Montgreenan Mansion House Hotel, Montgreenan, Kilwinning, KA13 7QZ shown edged red on the attached plan signed as relative hereto.

3. THE BREACH OF PREVENTING OR DETERRING THE EXERCISE OF ACCESS RIGHTS

Signage has been erected at the eastern and southern entrances to Montgreenan Mansion House Hotel for the purpose of preventing or deterring any person entitled to exercise their right of responsible access from doing so. The first sign is at the eastern approach approximately 20 metres to the west of the properties known as East Lodge Gate House and East Lodge North, on the boundary of the woodland associated with the property. This sign is approximately 1.2 metres by 1 metre and sits on poles elevating it approximately 1 metre off the ground. On the eastern face of the sign is the legend "Strictly Private Residents Only CCTV in Operation". The second sign is located on the southern approach to the property. The sign is located approximately 20 metres north of the properties known as Nos. 1 and 2 South Lodge Cottage, again on the boundary of the woodland associated with the property. The sign is approximately 1.2 metres by 1 metre and on its southern face bears the legend "Private Property CCTV in Operation"

Branches, logs and other wooden debris block the woodland path network off the main drive linking the eastern and southern entrances to Montgreenan Mansion House Hotel for the purpose of preventing or deterring any person entitled to exercise their right of responsible access from doing so. These are located on the path leading from the main drive opposite the entrance to the property known as Montgreenan Mains and on the path leading from the main drive opposite the entrance to the property known as Pinule.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the contravention of section 14(1) of the Act has occurred within the last 11 months and that despite negotiation and repeat correspondence no action has been taken to remove the signs.

5. WHAT YOU ARE REQUIRED TO DO

1. Remove the signs at the eastern and southern entrances to Montgreenan Mansion House Hotel and the blockages on the woodland path network as detailed in Article 3 of this notice
- 2 Timescale for compliance: 2 weeks after this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on *insert date*, unless an appeal is made against it beforehand.

7. YOUR RIGHT OF APPEAL BY SUMMARY APPLICATION

You are entitled to appeal against this notice by summary application made to the sheriff under section 14(4) of the Act. The rules which apply to an appeal made by you are contained in the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 (S.I. 1999/929). In accordance with rule 2.6 of those rules any appeal must be received, or posted to be received by the sheriff clerk **WITHIN 21 DAYS OF THE DATE OF ISSUE** (see below), namely before *insert date*.

8. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this written notice, it will take effect on *enter the specified effective date* and you must then ensure that the required steps for complying with it set out in Article 5.1, for which you may be held responsible, are taken within the period specified in Article 5.2.

Failure to comply with a written notice which has taken effect can result in the removal of the signs by the Council which is empowered to recover reasonable costs from you for such action by virtue of section 14(3) of the Act.

Dated: *Insert date of issue*

Signed: *Signature of Council's authorised officer*

on behalf of North Ayrshire Council, Cunninghame
House, Irvine, KA12 8EE

Please note that a plan would also be attached on would be written "This is the plan referred to in Article 2 of the foregoing Written Notice, dated *insert date of notice*. The map would also be signed by the Council's authorised officer.

NORTH AYRSHIRE COUNCIL

Agenda Item 6

19 March 2014

Planning Committee

Subject: **Planning Performance Framework**

Purpose: To report on the feedback from the Scottish Government on the Planning Performance Framework 2 and seek approval for an action programme as indicated within Appendix 2.

Recommendation: That the Committee agrees to (a) note the feedback; and (b) approve the action programme contained within Appendix 2.

1. Introduction

- 1.1 At the meeting on 4 December 2013, the Committee approved the publication of Planning Performance Framework 2 (PPF2) and submission to the Scottish Government. PPF was developed in response to the Government's Reform Agenda and an annual return is required from each Planning Authority within Scotland. 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.
- 1.2 The preparation of the next PPF (PPF3) is underway and will be submitted to the Committee for consideration in the summer of 2014.

2. Current Position

- 2.1 By letter dated 11 December 2013, Mr Derek Mackay MSP, the Minister for Local Government and Planning noted his pleasure at the considerable progress made across Scotland over the past year on Planning Reform (see Appendix 1). In particular for North Ayrshire, he was pleased at the Council's positive report as contained within PPF2, which provided a good description of our commitment to delivering sustainable economic growth, high quality design and the development of staff and Elected Members. Furthermore he noted that the positive decision making timescales across the range of development categories were particularly welcomed alongside our commitment to clear the remaining legacy cases. However he also noted, with concern, the time taken to progress the North Ayrshire Council Local Development Plan. The Feedback Report included a rating for each of the national indicators based on the information provided within the report. This feedback forms the basis of the

proposed action programme arising from the comments on PPF2 by the Scottish Government (see Appendix 2).

- 2.2 Decision Making - The report notes that the decision making timescales for all categories of application are much better than the national average. Further clarity is requested in respect of timescales for major developments which the report noted had increased. The Service will continue to address the legacy cases with applicants, and restructure the Service to improve the priority given to both Major applications and account managed companies.
- 2.3 Processing Agreements - The report notes that no Processing Agreements were used during the reporting period and seeks information on how the Council would promote and publicise the use of Processing Agreements. The Service will encourage all applicants for Major Applications to enter a processing agreement at all pre-application meetings and by publicity on the Council's web page .
- 2.4 Early Collaboration With Applicants and Consultees - The report notes that pre-application discussions are now being recorded with a relatively high proportion of applicants using this services (33%). However further clarity is required on how pre-application is promoted and how early collaboration ensures clear and proportionate supporting information requests. The Council's web page advises that the Service will provide pre-application advice for any application, free of charge. The Service will promote the opportunities for pre-application discussion with stakeholders. The Account Managed companies are encouraged by the Council to enter pre-application discussion with the Service. All development enquiries will be advised of the opportunities for pre-application engagement with the Service.
- 2.5 Legal Agreements - The report notes a lack of description of steps taken to conclude Legal Agreements. There is also an increase in time to determine applications subject to Legal Agreements. Further investigation will be undertaken to ascertain the delay in Legal Agreements with in particular to determine if applicant's legal advisors are unduly delaying the process.
- 2.6 Enforcement Charter - It is proposed to review the Enforcement Charter during 2014.
- 2.7 Continuous Improvement - As noted above concern is raised about the increase in decision making timescales for both major applications and applications subject to Legal Agreements and the delay to the implementation of the LDP (refer 2.2 and 2.5 above and 2.8 below). However, the report also notes that good progress is being made in delivering previous service improvement commitments.

- 2.8 Local Development Plan - The report notes that the plan is more than five years since adoption. The Local Development Plan was submitted to the Scottish Government in 2013 and their approval is anticipated for adoption by April 2014
- 2.9 Development Plan Scheme - The report notes with concern that the current LDP is not in course for adoption within five years (refer to action at 2.8).
- 2.10 Regular and Proportionate Policy - The report notes that policy and guidance is in place to ensure clear and proportionate developer contribution however further clarity is required to ensure that guidance is in place to support proportionate information requirements for application. A report on the issue of developer contributions will be considered by the Local Development Plan Committee in April 2014. Reference to the policy, advice and guidance that is available, will be clarified in PPF3..
- 2.11 Corporate Working Across Services - The report notes good evidence of a culture of corporate working to improve the outputs in services for customer. The Service will continue to develop good working practices across the Council services.
- 2.12 Sharing Good Practice Skills and Knowledge - The report notes good practice shared throughout Heads of Planning Scotland (HoPS) and other forums and benchmarking with other authorities. The Service will continue to develop and share good working practice skills and knowledge with partners.
- 2.13 Stalled Sites/Legacy Cases - The report notes progress on reducing legacy cases with five cases still remaining. These cases will be progressed during 2014 for reporting in PPF3.
- 2.14 Developer Contribution - The report notes a thorough description of how developer contributions are set out in LDP but further clarity is required on how these matters are addressed at pre-application discussions. A report on the issue of developer contributions will be considered by the Local Development Plan Committee in April 2014.

3. Proposals

- 3.1 As noted above, the action points arising from the feedback report will be addressed within the next PPF and through the pending adoption of the North Ayrshire Council Local Development Plan.
- 3.2 The Committee is invited to agree to (a) note the feedback; and (b) approve the action programme contained within Appendix 2.

4. Implications

Financial Implications

- 4.1 There are no financial implications arising from this report.

Human Resource Implications

- 4.2 There are no Human Resource implications arising from this report.

Legal Implications

- 4.3 There are no legal implications arising from this report.

Equality Implications

- 4.4 There are no equality implications arising from this report.

Environmental Implications

- 4.5 There are no environmental implications arising from this report.

Implications for Key Priorities

- 4.6 PPF contributes to the Council core objective for "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 No consultations have been undertaken in relation to this report.

6. Conclusion

- 6.1 The Scottish Government feedback on PPF2 notes a generally successful performance from North Ayrshire Council Planning Services and includes feedback points which can be addressed through the above noted actions.



CRAIG HATTON
Corporate Director (Development and Environment)

Reference : JM//LB/FG

For further information please contact James Miller, Senior Planning & Transportation Manager, Development Planning Services on telephone number 01294 324315

Background Papers

0

Minister for Local Government and Planning
 Ministear airson Riaghaltas Ionadail agus Dealbhadh
 Derek Mackay MSP
 Derek MacAoidh BPA

F/T: 0845 774 1741
 E: scottish.ministers@scotland.gsi.gov.uk

Ms Elma Murray
 Chief Executive
 North Ayrshire Council



11 December 2013

Dear Ms Murray

COUNCIL PERFORMANCE: THE PLANNING PERFORMANCE FRAMEWORK

Thank you for your authority's second annual Planning Performance Framework (PPF) report. Please find enclosed a feedback report for your authority, which I hope you will find useful.

I am delighted to see the progress that has been made across Scotland over the past year. I am particularly pleased to see the increasing use of processing agreements and authorities working hard to remove 'legacy cases' from the system as this can have a detrimental impact on average timescales. It is also pleasing to see that authorities are taking a corporate approach to service delivery with some authorities drawing closer links between planning and roads sections to align planning permission and roads construction consent, which is influencing better designed places. Authorities are also engaging with each other in bench marking groups enabling them to compare services and learn from each other.

Councillor Stephen Hagan, COSLA Spokesperson for Development, Economy & Sustainability and I wrote to authorities in August, to ask that information was provided within PPF reports on an agreed set of markers. You will note that we have incorporated an additional element to the feedback report this year which gives a rating for each indicator based on the information provided within your report.

We hope the format is useful in highlighting priority areas for improvement action. The High Level Group on Planning Performance, which I co-chair with Councillor Hagan, will next meet in January 2014. At this meeting we will discuss the reports and feedback style and will consider how the key markers have been reported. We are happy to take comments and views on any aspect of the performance feedback reporting, that can inform the group's discussion.

I was disappointed that a number of authorities missed the deadline for submission this year, some fairly significantly, and some for the second year running. It really is important that the process of producing PPF reports are appropriately managed to ensure submission is on time and reports are complete and in their final form. We are discussing with HOPS and COSLA the feasibility of bringing forward the deadline for submission of the reports to early summer and we will keep you up to date with discussions and dates for submission. I know that my own officials are already working on our

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 Cidhe Bhictòria, Dùn Èideann, EH6 6QQ
www.scotland.gov.uk

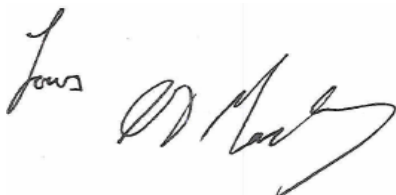


PPF for the current reporting year to ease pressure closer to the year end. Setting up appropriate monitoring arrangements now will ensure the task of drafting our PPF is easier.

Turning to your authority's performance report, I was pleased with your positive report which provided a good description of your commitment to delivering sustainable economic growth, high quality design and the development of staff and elected members. Your positive decision making timescales across the range of development categories are particularly welcomed, alongside the commitment to clear your remaining legacy cases. The time taken to progress your Local Development Plan does concern me though. In a plan-led system, these plans must be constantly reviewed and updated within the statutory 5-year timescale. Lessons need to be learned for the production of your subsequent Local Development Plan to ensure that it avoids slippage and progresses towards adoption within the required timescale.

I would also like to take this opportunity to thank your staff for participating in the performance events that I held over the summer, which allowed me to speak directly to staff to outline my vision for a highly performing planning service. I found it really informative to hear directly from those at the frontline and I was really pleased with the productive discussions and positive feedback from the delegates.

I was particularly impressed with the dedication of the planners and their willingness to play a role in the improvement of the services they provide. Many of the challenges for planners are not new but what we need are new approaches and renewed determination. This is where I think the PPFs can add the most value, identifying good practice and areas for improvement. I look forward to working with you to deliver a high performing planning system.



DEREK MACKAY

cc. James Miller, Senior Planning Manager

NAC Action Programme – PPF2

No.	Performance Marker	Scottish Government Feedback on PPF2	Proposed Actions on Feedback
1	Decision-making: continuous reduction of average timescales for all development categories [Q1 - Q4]	<p>Decision making timescales for all categories – major, local (non-householder) householder remain much better than the national average.</p> <p>Slight reduction in timescales for householder developments. Local developments remain unchanged, but major development timescales have increased. The report was not clear whether this is a result of ongoing work to clear legacy cases.</p> <p>There was also an increase in decision making timescales for applications subject to legal agreements.</p>	<p>Continue to deliver efficiencies in the determination of all applications</p> <p>Continue to address the legacy cases with applicants. Restructure the Team to improve the priority given to both Major applications and account managed companies</p> <p>This matter will be fully addressed within PPF3.</p>
2	Processing agreements: <ul style="list-style-type: none"> offer to all prospective applicants for major development planning applications; and availability publicised on website 	<p>No processing agreements were used during the reporting period, but report highlights they are now being used, and opportunities for expanding their use are being explored. Service improvement commitment to use for at least 3 applications during 2013/14.</p> <p>Report lacks a description of how processing agreements are promoted and publicised.</p>	<p>The Service will encourage all applicants for Major Applications to enter a processing agreement at all pre-application meetings and by publicity on the Council's web page.</p>
3	Early collaboration with applicants and consultees <ul style="list-style-type: none"> availability and promotion of pre-application discussions for all prospective applications; and clear and proportionate requests for supporting information 	<p>Pre-application discussions now being recorded with a relatively high proportion of applicants using the service (33%).</p> <p>Report lacks a description of how pre-application is promoted, and would benefit from more details of how early collaboration ensures clear and proportionate supporting information requests.</p>	<p>The Service will promote the opportunities for pre-application discussion with stakeholders, and publicise on the web. The Account Managed companies are directed to enter pre-application discussion with the Service. All development enquiries will be advised of the opportunities for pre-application engagement with the Service.</p>

NAC Action Programme – PPF2

4	Legal agreements: conclude (or reconsider) applications after resolving to grant permission <ul style="list-style-type: none"> reducing number of live applications more than 6 months after resolution to grant (from last reporting period) 	Report lacks a description of steps taken to conclude legal agreements/reduce number of live applications more than 6 months old. Increase in time taken to determine applications subject to legal agreements (108.6 weeks), now higher than the national figure.	Further investigation will be undertaken to ascertain the delay in Legal Agreements with in particular to determine if applicant's legal advisors are unduly delaying the process.
5	Enforcement charter updated / re-published within last 2 years	Enforcement charter updated February 2013.	It is proposed to review the Enforcement Charter during 2014.
6	Continuous improvement: <ul style="list-style-type: none"> progress/improvement in relation to PPF National Headline Indicators; and progress ambitious and relevant service improvement commitments identified through PPF report 	Some progress on reducing decision making timescales, but increases in major development category and for applications subject to legal agreements. Age of local plan is a concern. It will be over 8 years old by the time LDP is adopted in 2014. Good progress made on delivering previous service improvement commitments.	Refer Action 1, 4 and 7
7	Local development plan less than 5 years since adoption	Local plan adopted November 2005.	The Local Development Plan was submitted to the Scottish Government in 2013 and their approval is anticipated for adoption by April 2014
8	Development plan scheme – next LDP: <ul style="list-style-type: none"> on course for adoption within 5 years of current plan(s) adoption; and project planned and expected to be delivered to planned timescale 	LDP not on course for adoption within 5 years of current plan. Most recent development plan scheme on track. LDP must continue to be project managed strongly to ensure completion in a timely manner.	Refer Action 7
9	Elected members engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i>	N/A	N/A

NAC Action Programme – PPF2

10	<p>Cross sector stakeholders* engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i></p> <p><i>*including industry, agencies and Scottish Government</i></p>	N/A	N/A
11	<p>Regular and proportionate policy advice produced on:</p> <ul style="list-style-type: none"> • information required to support applications; and • expected developer contributions 	<p>Policy and guidance in place to ensure clear and proportionate developer contributions.</p> <p>Report lacks a clear description of policy, advice and guidance that is in place to support proportionate information requirements to support planning applications.</p>	<p>A report on the issue of developer contributions will be considered by the Local Development Plan Committee in March. Reference to the policy, advice and guidance that is available, will be clarified in PPF3.</p>
12	<p>Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined-up services; single contact arrangements; joint pre-application advice)</p>	<p>Report provides good evidence of a culture of corporate working to improve outputs and services for customers. This includes examples of planning applications and case studies which involved corporate working to deliver positive results.</p> <p>Protocol in place for Irvine enterprise area. Further protocols to be considered for introduction in 2013/14 to improve efficiency.</p>	<p>Continue to develop good working practices across services.</p>
13	<p>Sharing good practice, skills and knowledge between authorities</p>	<p>Good practice shared through HOPS and other forums. Benchmarking work ongoing with 5 other planning authorities. Future reports would benefit from a description of issues discussed and good practice shared.</p>	<p>The Service will continue to develop and share good working practice skills and knowledge with partners.</p>
14	<p>Stalled sites / legacy cases: conclusion or withdrawal of old planning applications and reducing number of live applications more than one year old</p>	<p>Further progress being made to reduce legacy cases. Two cases determined during reporting period, with 5 remaining.</p> <p>Service improvement commitment to determine remaining legacy cases during 2013/14.</p>	<p>These remaining cases will be progressed during 2014.</p>

NAC Action Programme – PPF2

15	<p>Developer contributions: clear and proportionate expectations</p> <ul style="list-style-type: none"> • set out in development plan (and/or emerging plan); and • in pre-application discussions 	<p>Report provides a thorough description of how developer contributions are set out in LDP and supplementary guidance. Approach appears to be clear and proportionate.</p> <p>Report not clear how developer contributions are set out during pre-application discussions.</p>	<p>A report on the issue of developer contributions will be considered by the Local Development Plan Committee in March.</p> <p>.</p>
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