

Cunninghame House,  
Irvine.

20 October 2016

## **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 26 OCTOBER 2016** at **14.00 a.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 (Page 5)**

The accuracy of the Minutes of meetings of the Committee held on 21 September 2016 and 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 report on the following application:

**16/00852/PP: Eastland, Shiskine (Page 9)**

Removal of condition 1 of planning permission CH/01/98/0109 relating to occupancy restriction (copy enclosed).

**4. Garnock Valley**

Submit reports on the following applications:

**4.1 16/00814/PPP: Site to the East of 1 Kirkland Crescent, Dalry (Page 17)**  
Residential development (in principle) (copy enclosed).

**4.2 16/00855/ALO: Derrilin View, Gateside (Page 25)**  
Removal of Section 75 obligation relating to occupancy restriction (copy enclosed).

**5. Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997: 6 Perceton Gate, Irvine KA11 2AJ (Page 33)**

Submit report by the Executive Director (Economy & Communities) on a Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with a condition attached to planning permission (copy enclosed).

**6. Consultation on proposed removal of various Public Call Boxes (Page 39)**

Submit report by the Executive Director (Economy & Communities) on an ongoing consultation on the proposed removal of various Public Call Boxes by British Telecom (copy enclosed).

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## Planning Committee

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

Chair:

Attending:

Apologies:

Meeting Ended:



Planning Committee  
21 September 2016

**Irvine, 21 September 2016** - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Matthew Brown, John Ferguson, Robert Barr, John Bell, John Bruce, Ian Clarkson, Joe Cullinane, Ronnie McNicol, Tom Marshall and Robert Steel.

**In Attendance**

J. Miller, Senior Manager (Planning) (Economy and Communities); A. Craig, Team Manager (Litigation) (Legal Services) and A. Little, Committee Services Officer (Chief Executive's).

**Chair**

Councillor Brown in the Chair.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

**2. Minutes**

The accuracy of the Minutes of meetings of the Committee held on 31 August 2016 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. Garnock Valley**

**16/00814/PPP: Site to the East of 1 Kirkland Crescent, Dalry**

Mr W Ahmed, 17 Ayr Road, Glasgow has applied for planning permission in principle for a residential development to the east of 1 Kirkland Crescent, Dalry.

Councillor Barr, seconded by Councillor Bruce, moved to refuse the application.

Following discussion on the character of the location, transport and traffic issues and access arrangements to the site, Councillor Barr withdrew his motion.

Councillor Barr, seconded by Councillor Steel, moved that the application be continued to the next meeting to allow the Committee to observe the site and surrounding area.

There being no amendment the motion was declared carried.

The Committee agreed to continue the application to the next meeting to allow the Committee to visit the site and surrounding area.

#### **4. Irvine and Kilwinning**

##### **16/00807/PP: Elderbank Primary School, St. Kilda Bank, Irvine**

North Ayrshire Council, (Property Management and Investment), Cunninghame House, Irvine has applied for the removal of Condition 4 of permission no. N/12/00228/PPM to delete the requirement for the provision of an overspill car park at Elderbank Primary School, St. Kilda Bank, Irvine.

The Committee agreed to grant the application to remove Condition 4 of permission no. N/12/00228/PPM to delete the requirement for the provision of an overspill car park at Elderbank Primary School, St. Kilda Bank, Irvine.

#### **5. Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: 42A Hamilton Street, Saltcoats KA21 5DS**

Submitted report by the Executive Director (Economy & Communities) on a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring proper maintenance of land for the abatement of the adverse impact on the local area.

The property, 42A Hamilton Street, Saltcoats comprises an upper floor flat of a mid-terrace property with associated rear garden ground which opens onto Park Road. The rear elevation of the garden comprises a high rendered wall with an opening in which is sited a shed. The rest of the opening next to the shed had been covered by a gate. The former gate access has collapsed and there has been an accumulation of waste at the western end of the garden, including the remains of the gate. The side elevation of the garage has been exposed by the collapse of the gate and the side door of the garage is hanging on its hinges. The front elevation of the garage has had graffiti sprayed on the door which has also become rusted. The garden ground is overgrown and screened by the large rear extension to the north and the side of the property to the south. It is therefore considered that the adverse impact is primarily on Park Road to the west. The land is visible from Park Road and nearby residential properties on Eglinton Place. The condition of the land, due to the accumulation of refuse and the rear window, has a significant adverse impact on the amenity of the local area.

The Council has received several complaints regarding the site. An inspection of the land in May 2016, revealed the condition of the site and the owner of the land was requested in writing to clear the site and secure to prevent further deterioration. A response was not received. Further inspections were carried out in July 2016 where it was noted that no action had been taken and the condition of the land remained the same. Further letters were sent to the owner requesting clearance, however, no response has been received.

The Committee agreed, in the interest of the amenity of the area, to approve the serving of a Notice under Section 179 of the Town and Country planning (Scotland) Act 1997 requiring the owner to (i) remove all refuse, including the remains of the gate, from the land to the south of the garage; (ii) re-affix the side door of the garage; and (iii) paint a recessive colour the garage door on the elevation facing onto Park Road.

## **6. Revocation Order of Tree Preservation Order, Millport No 1**

Submitted report by the Chief Executive on the proposed Revocation Order of Tree Preservation Order Millport No 1 in respect of trees at the rear boundary of private gardens at Nos 22 - 28 Bute Terrace, Millport.

At the Planning Committee on 27 April 2016, the Committee agreed to serve a Revocation Order of Tree Preservation Order Millport No 1 on the basis that the circumstances which supported the original designation had materially changed. The trees collectively form a wooded strip running along a section of Howard Street and on either side of Church Hill. The Tree Preservation Order was designated by Cunninghame District Council in 1991. All of the trees affected by the Order fall within Millport Conservation Area and, accordingly, receive a degree of statutory protection in addition to the protection afforded by the Order. A Revocation Order was served on the owners of the affected land with the effective date of 20 July 2016. A public notice was published concurrently in the Largs and Millport Weekly News and provided details of the period and process for public objections and representations. The Revocation Order remains in force until 20 January 2017 after which date it will expire unless it is confirmed by the Committee. The statutory period for receipt of objections and representations ended on 17th August 2016. No objections or representations were received.

The Committee considered that as Tree Preservation Order Millport No 1 was no longer merited as the circumstances which supported the original designation of the Order had materially changed it was agreed that the Revocation Order is confirmed without modification.

The meeting ended at 2.30 p.m.





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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 3**

Planning Committee

**26 October 2016**

Locality

**Arran**

Reference

**16/00852/PP**

Application

**8th September 2016**

Registered

Decision Due

**8th November 2016**

Ward

**Ardrossan and Arran**

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<b>Recommendation</b>	<b>Grant as per Appendix 1</b>
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**Location**Eastland  
Shiskine  
Isle of Arran  
KA27 8DT**Applicant**Margaret M Currie  
Sandwood  
Blackwaterfoot  
Isle of Arran  
KA27 8EU**Proposal**Removal of condition 1 of planning permission  
CH/01/98/0109 relating to occupancy restriction

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**1. Description**

The property is a relatively modern one and a half storey detached dwellinghouse, located on the eastern side of the B880 String Road, Shiskine on the opposite side of the road to the Balmichael Visitor Centre. The dwellinghouse is set back from the road by approximately 27 metres and is screened by vegetation along the western (front) boundary of the site. The site covers an area of approximately 0.26 ha. Planning permission was granted for the dwellinghouse on the 7th May 1998 (reference CH/01/98/0109). The applicant seeks planning permission to remove Condition 1 of the planning permission., which states:

"That the occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 277 of the Town and Country Planning (Scotland) Acts 1997 or in forestry, or a dependant of such a person residing with him or her, or a widow or widower of such a person."

In support of the current planning application, the applicant has advised that she no longer lives in this property, which she occupied for 16 years. Although the applicant still has an interest in part of the lands of Balmichael Farm, she is no longer involved in the farming operation and the dwellinghouse at Eastland is no longer required for an agricultural worker. At the time of the original application, the applicant has confirmed that she was an active partner in the farming business carried out at Balmichael from which she is now retired.

The application site lies within an area of countryside as identified within the adopted Local Development Plan and is unaffected by any site specific policies or proposals therein. Policy ENV2 (Housing Development in the Countryside), indicates that for housing for workers engaged in a rural business, that there is a general presumption against development in the countryside which is not related to an appropriate rural business, such as agriculture, forestry or other operations provided for under Policy ENV1. Policy ENV2 indicates that any new housing in the countryside for workers engaged in a rural business requires justification that there is a genuine operational need for a worker to live on site in pursuance of an established rural business.

All development proposals require to be assessed against the relevant criteria of the General Policy of the LDP.

## **2. Consultations and Representations**

Neighbour notification was carried out and the application was advertised in the local press on the 30th September 2016. Neither any objections or representations have been received.

Arran Community Council - no objections.

*Response: noted.*

## **3. Analysis**

This application relates to a request to remove an agricultural occupancy condition for a dwellinghouse which received planning permission in 1998. In terms of the removal of occupancy conditions, the following points can be considered to be material considerations:

- (a) the dwellinghouse has been in situ for 16 years with the planning condition in force during that time, and has now served its planning purpose;

- (b) in terms of substantial change in circumstance, the Scottish Government guidance in relation to the use of such conditions has changed in recent years and the use of such occupancy restrictions is not promoted;
- (c) the submission indicates that the applicant is no longer involved in the farming operation, and, as such, Eastland is not required for an agricultural worker.

Whilst there has not been any evidence submitted in respect of any attempts to dispose of the property on the open market with the occupancy restriction, for the reasons given above, it is recommended that the occupancy restriction, contained within Condition 1 of planning approval CH/01/98/0109, should be removed.

In terms of the General Policy of the LDP, it is considered that the proposal would offer an acceptable level of residential amenity. In terms of siting and design, it is noted that the property occupies a prominent location adjacent to the String Road, however the dwellinghouse is set back from the road by approximately 27 metres and is screened by vegetation along the western (front) boundary of the site. The design of the dwellinghouse is considered to be acceptable for its countryside location.

There are no other material considerations to address and accordingly planning permission can be approved.

#### **4. Full Recommendation**

See Appendix 1.



**KAREN YEOMANS**  
Executive Director (Economy and Communities)

Cunninghame House, Irvine  
3 October 2016

For further information please contact Ms J Hanna , on 01294324330.



## **APPENDIX 1**

### **RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00852/PP**

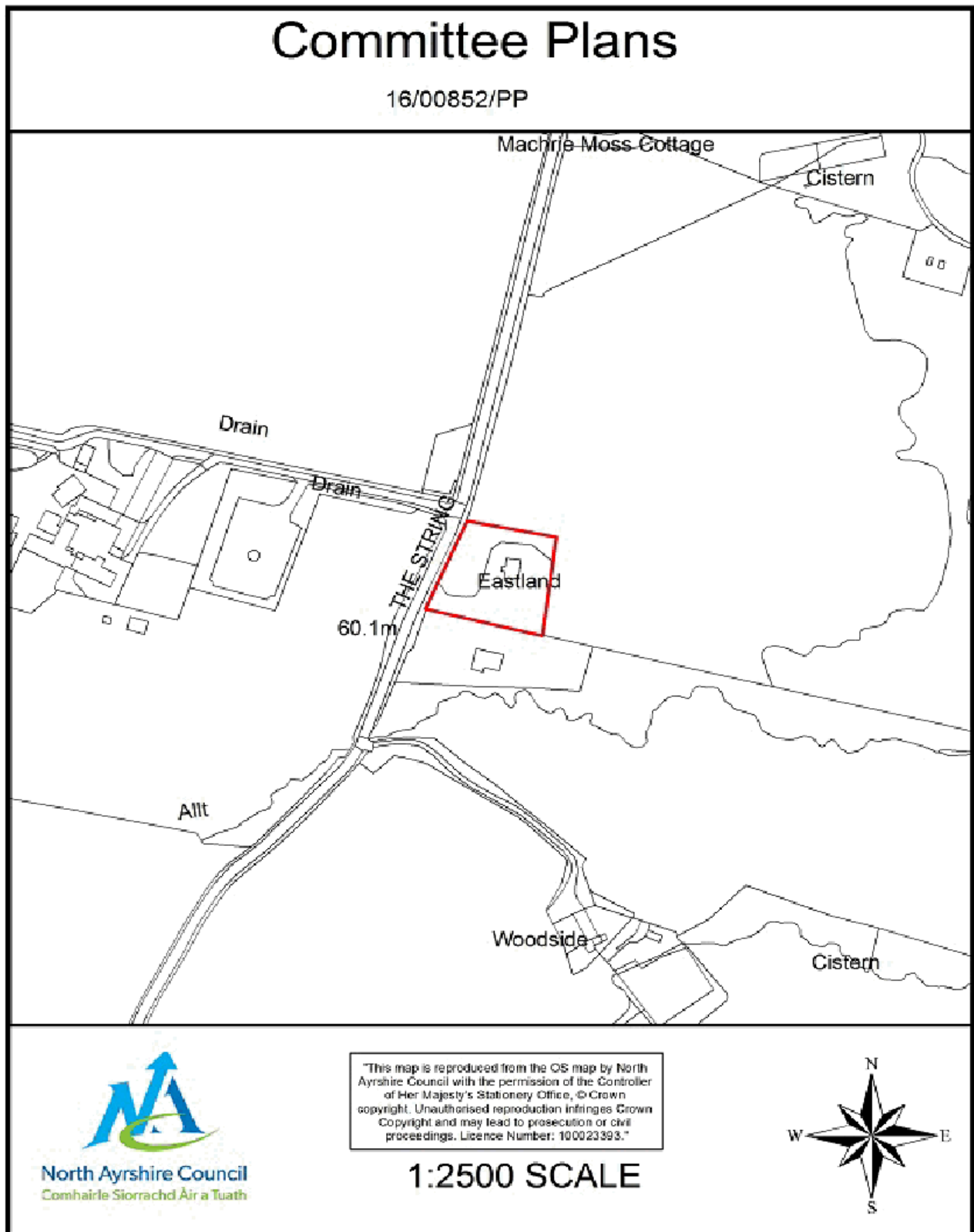
Grant (No conditions).

Reason(s) for approval:

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



## Location Plan







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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 4.1**

Planning Committee

	<b>26 October 2016</b>
Locality	<b>Garnock Valley</b>
Reference	<b>16/00814/PPP</b>
Application	<b>25 August 2016</b>
Registered	
Decision Due	<b>25 October 2016</b>
Ward	<b>Dalry and West Kilbride</b>

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<b>Recommendation</b>	<b>Grant with Conditions contained in Appendix 1</b>
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<b>Location</b>	Site to the East of 1 Kirkland Crescent Dalry
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<b>Applicant</b>	Mr W Ahmed 17 Ayr Road Glasgow G46 6SB
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<b>Proposal</b>	Residential development (in principle)
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**Introduction**

Consideration of this application was continued at the meeting of the Planning Committee to enable a site familiarisation visit to be undertaken by Members of the Committee. The site familiarisation visit was held on 17th October 2016.

**1. Description**

This application seeks planning permission in principle for residential development to the east of 1 Kirkland Crescent, Dalry. The application site relates to an area of maintained grassland of approx. 877sqm. situated to the north west of the junction of West Kilbride Road and Craig Avenue. The site is located within an area characterised by two-storey semi-detached and terraced properties and is opposite a play area to the east side of Craig Avenue. Beyond the southern boundary of the application site, the open space continues westwards between West Kilbride Road and the rear boundaries of the residential properties at Kirkland Crescent.

The application site forms part of an area of maintained grassland that is identified as protected open space in the adopted Local Development Plan (LDP), where the relevant policy is ENV 12 (Development of Open Space). The proposal also requires to be assessed against the General Policy contained within the LDP with the relevant criteria being (a) Siting, Design and External Appearance, (b) Amenity and (d) Access, Road Layout, Parking Provision.

Planning permission was refused in August 2008 for the erection of 2 dwellinghouses and a shop (ref: 08/00554/PP). The 2008 application was refused on the grounds that the applicant had failed to demonstrate a local need for the shop and it was considered that the development would have an adverse impact on the character, appearance and amenity of the area.

In support of the proposal to develop an area of protected open space, the applicant's agent has submitted a landscaping scheme for improvements to the adjacent areas of open space.

An aerial photograph held by the Council indicates that there was a small building on the site with a frontage onto Craig Avenue. The building was used either for retail purposes or as a games hall, and was demolished during the 1970s. Since that time, the Council has maintained the site although is not the owner of the land.

## **2. Consultations and Representations**

Neighbour notification was undertaken in accordance with statutory procedures and the application was also advertised in a local newspaper. The period in which representations may be lodged does not expire until 29 September 2016. To date, no objections have been received.

Consultations have been undertaken with NAC Streetscene and NAC Transportation, neither of whom have expressed objection to the proposed development.

## **3. Analysis**

The application site is within an area of protected open space as identified within the Adopted Local Development Plan (LDP) and requires to be assessed against criteria 2 and 3 of Policy ENV 12, which states that:-

2. Where the proposed development is for a use other than outdoor recreational or physical activity purposes, it will not set a desirable precedent for further incremental loss of open space
3. The proposed development will not unacceptably impact upon the recreational and/or amenity value of any area of active or passive open space when considered in relation to the overall level of provision in the local area.

Taking both points together, the application site is near to a large children's play area to the east of Craig Avenue. The play area includes a large tarmac playground for ball games and there is also an equipped play park. The play area is bounded on three sides by streets and is overlooked by the frontages of a row of houses on Kirkland Crescent. In contrast to the play area, it is considered that the application site is not comparable as a functional area of open space due to its restricted size and position. Since it is on the opposite side of Craig Avenue, the application site is outwith the play area and appears separate and remote. Furthermore, the application site has no particular amenity function, and, whilst the grass is regularly mown by the Council, it is not landscaped in any way.

Given the history of the site, part of which was previously developed, it is not considered that the proposed residential development would set an undesirable precedent for further loss of open space in the area, having regard to its position between existing housing and roads and its separation from the play area by Craig Avenue.

When viewed from West Kilbride Road, the application site occupies a visually prominent position and acts as a gateway into the Kirkland Crescent and Craig Avenue housing area. The applicant's agent has submitted an indicative landscaping scheme for improvements to the quality of the adjacent area of open space, which would include tree and shrub planting. It is considered that development of the application site together with appropriate landscaping could significantly improve the appearance of the area by creating 'gateway' housing facing onto the street together with planting that would enhance the setting of the housing estate. Whilst the current application is in principle, the applicant's agent has confirmed that he is committed to a design and layout that would ensure that the development would result in positive amenity benefits to the area. Given the above, it is considered that the proposal would comply with Policy ENV 12.

In terms of criteria (a) and (b) of the General Policy, the proposal is in principle and as such design and layout would be considered in any subsequent application for the approval of matters specified in conditions. The dwellinghouses proposed in the previous application (ref: 08/00554/PP) that was refused in 2008 were considered to be of a 'standard' design with a frontage to Kirkland Crescent and rear elevations onto West Kilbride Road. However, as discussed above, design and layout would be a key consideration to ensure that the development would be appropriate and provide a visual improvement to the area to the benefit of amenity. To the west of the site, the rear elevations houses on Kirkland Crescent back onto a wide verge, beyond which is West Kilbride Road. Notwithstanding this established pattern of development, it is considered that any subsequent application for new dwellinghouses provides the opportunity for street frontages onto both Kirkland Crescent and Craig Avenue. Together with the proposed landscaping, such a layout would provide a more attractive entrance into Craig Avenue from West Kilbride Road. An appropriate condition could be attached with respect to the landscaping. It is therefore considered that the proposal would accord with criteria (a) and (b) of the General Policy.

In respect of criterion (d), details of the access and parking arrangements would be considered on the submission of any subsequent application.

In view of the above, it is considered that the proposal would accord with the relevant provisions of the Local Development Plan and that the small loss of protected open space could be justified given that the development would have no impact on the main area of open space serving the housing estate. Planning permission should therefore be granted, subject to conditions.

#### **4. Full Recommendation**

See Appendix 1.



**KAREN YEOMANS**  
Executive Director (Economy and Communities)

Cunninghame House, Irvine  
10 October 2016

For further information please contact Fiona Knighton, Planner , on 01294 324313

## **APPENDIX 1**

### **RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00814/PPP**

Grant subject to subject to no material objections being received before 29 September 2016 and the following conditions:-

1. That the approval of North Ayrshire Council as Planning Authority with regard to the siting, design and external appearance of, landscaping and means of access to the proposed development shall be obtained before the development is commenced.
2. That all planting, seeding or turfing comprised in the approved details of landscaping (drawing no. (10)03 A) shall be carried out in the first planting season and seeding seasons following the occupation of the buildings or the completion of the development to the satisfaction of North Ayrshire Council as Planning Authority.

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

1. In order that these matters can be considered in detail.
2. In the interest of the amenity of the area.



## Location Plan

# Committee Plans

16/00814/PPP







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**NORTH AYRSHIRE COUNCIL**

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**Agenda Item 4.2**

Planning Committee

Locality	<b>26 October 2016</b>
Reference	<b>Garnock Valley</b>
Application	<b>16/00855/ALO</b>
Registered	<b>7th September 2016</b>
Decision Due	<b>7th November 2016</b>
Ward	<b>Kilbirnie and Beith</b>

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<b>Recommendation</b>	<b>Approve without conditions as per Appendix 1</b>
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<b>Location</b>	Derrilin View Gateside Beith
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<b>Applicant</b>	Mr and Mrs J Maitland Burnside Cottage Gateside Beith
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<b>Proposal</b>	Removal of Section 75 obligation relating to occupancy restriction.
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**1. Description**

This report relates to an application in terms of Section 75A of the Town and Country Planning (Scotland) Act 1997 to remove a legal obligation that was entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997. The obligation was in relation to an occupancy restriction. An application in principle for the erection of a detached dwellinghouse for an agricultural worker was approved by the Planning Committee in November 2008, subject to a Section 75 obligation and conditions (Ref. 08/00473/PPP). The legal obligation restricts the occupancy of the dwellinghouse to a person employed at Gateside Nursery or a dependant of such a person.

Following the approval of permission in principle, a further application was approved in April 2012 for the siting and design of the house (Ref: 12/00109/MSC). The resulting dwelling, known as Derrilin View, is now at an advanced stage of construction. The design of the house has been influenced by other rural houses in the area, featuring elements such as a traditional steep roof pitch but with distinctive modern elements such as the glazed gable on the west elevation, bisected by a wide chimney stack. The other elements of the house combine traditional proportions for walls and windows with contemporary glazing and internal layout. The roof has been slated and the finished walls would be rendered.

The application site is located within the countryside as identified in the adopted Local Development Plan (LDP) and is unaffected by any site specific policies or proposals therein. The relevant policy is ENV 2 (housing development in the countryside - housing for workers engaged in a rural business). The policy states that new housing for workers engaged in an appropriate rural business shall accord with the LDP subject to meeting a range of criteria, including a genuine operational need for a dwellinghouse.

The application has been submitted due to a change of circumstances. A supporting statement has been included with the application which indicates that the applicants have been experiencing difficulty in borrowing from the financial institutions in order to develop the house and expand the Gateside Nursery business as the new dwellinghouse has a severely restricted valuation placed upon it due to the Section 75 obligation. The applicants' agent has confirmed that the restricted ability to secure adequate capital has created difficulties in financing the house construction and is also hampering previously approved plans for the future expansion of the business.

The applicants would like to expand and improve the nursery in the near future by providing a garden centre and tea room to attract more visitors and complement the existing business. A letter from the Royal Bank of Scotland has been provided which states that the bank has provided some funding for the construction of the dwellinghouse and that the borrowing of the funding has been in the name of the business partnership. The bank has also stated that personal funding has not been possible as a result of the Section 75 obligation, which has placed a much reduced asset value on the property as security against borrowing. The removal of the obligation would allow a more realistic (market) valuation to be placed on the dwellinghouse and would allow the possibility of personal borrowing by the applicants. The expansion of the existing business would require substantial financial support which in turn, would only be possible with clear, unrestricted asset security.

At the time of the decision to grant planning permission in principle, the determination of the application was based on the adopted development plan policy prevailing at that time. In this case, the policy was ENV 1 of the North Ayrshire Local Plan (Excluding Isle of Arran). This policy was broadly similar to the current LDP policy, and required proposals to demonstrate a "genuine operational need for a worker to live on site in pursuance of an established rural business" in order to justify the development of a new house in the countryside. Policy ENV6 (Economic Development or Diversification in Rural Areas) contained within the LDP also recognises the need to adopt a more refined approach to appropriate economic development and diversification in rural areas offering a wider choice of site, location and environmental amenity to meet the needs of rural businesses.

The application site relates to a long established horticultural business, which has operated a wholesale nursery at the wider site since the early 1980s. Planning permission was approved in October 2008 for the erection of a garden centre and a tea room (Ref : 08/00360/PP). Although a plant centre has since been erected, the tearoom has not been implemented. The applicants wish to expand the business by providing a garden centre and tearoom and state that this expansion would only be possible with unrestricted asset security.

## **2. Consultations and Representations**

Neither any objections nor any representations have been received.

## **3. Analysis**

The use of occupancy restrictions is now discouraged within Scottish Planning Policy (SPP). Circular 3/2012 (Planning Obligations and Good Neighbour Agreements) states that the use of occupancy restrictions may introduce unnecessary burdens or restrictions. It is also noted in the Circular that where additional accommodation is justified by an appropriate appraisal of need with respect to the agricultural enterprise in question, that this should be enough without the further need for any occupancy restriction or a binding agreement in title. The approval of the dwellinghouse at Derrilin View was granted on the basis of need for a second house in pursuance of a long established and viable rural business. (ref: 08/00473/PPP).

The dwellinghouse shares an entrance with the access road serving the wholesale nursery, thereby creating a permanent physical connection between the house and the business. It is also located adjacent to another dwelling not associated with Gateside Nursery, forming a rural grouping of 2 houses. It is considered that the house has been designed taking into account the Council's Rural Design Guidance and represents a positive addition to the domestic architecture of the rural area of North Ayrshire, as it has been carefully considered in relation to the site specific characteristics of this rural location and the architecture of the countryside. The dwelling is also orientated where the main view would be towards the nursery and given that it shares an access with the wholesale entrance, this siting further consolidates the relationship between the dwelling and the business.

It is considered that the removal of the Section 75 obligation could facilitate the expansion of the business in line with Policy ENV6 of the LDP. For the above reasons, it is not considered necessary for the occupancy restriction to remain in place and it is therefore recommended that the obligation is removed.

#### **4. Full Recommendation**

See Appendix 1



**KAREN YEOMANS**  
Executive Director (Economy and Communities)

Cunninghame House, Irvine  
20 September 2016

For further information please contact Fiona Knighton, Planner , on 01294 324313

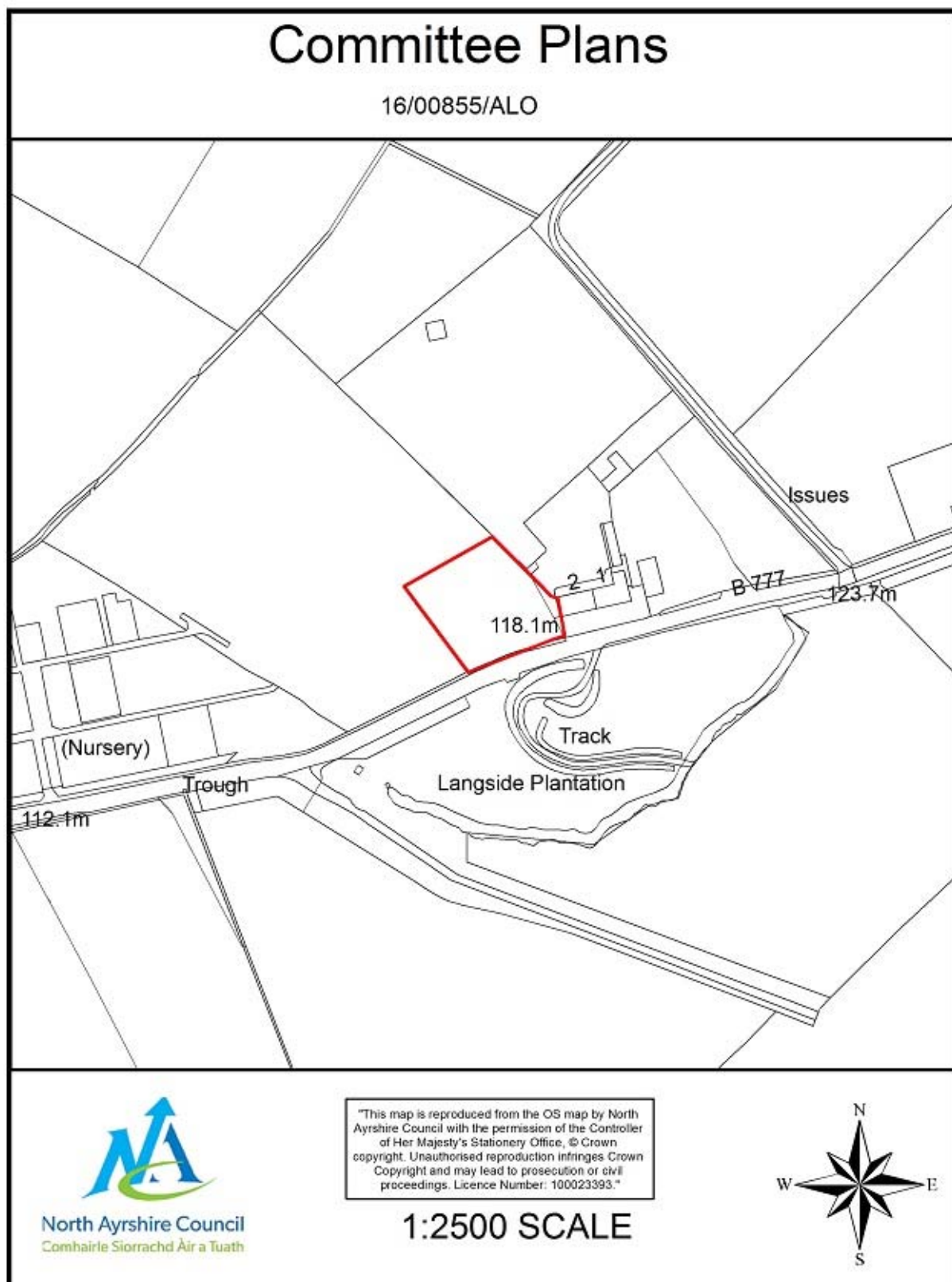
APPENDIX 1

**RECOMMENDATION FOR PLANNING APPLICATION REF NO 16/00855/ALO**

Grant (No conditions).



## Location Plan







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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 5**

**26 October 2016**

#### **Planning Committee**

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<b>Title:</b>	<b>Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997: 6 Perceton Gate, Irvine KA11 2AJ</b>
<b>Purpose:</b>	To seek approval to serve a Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with a condition attached to planning permission (ref: 16/00228/PP)
<b>Recommendation:</b>	That the Committee grants authority for the service of a Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with a condition attached to planning permission (ref: 16/00228/PP)

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#### **1. Executive Summary**

- 1.1 Planning permission was granted on 13th May 2016 (ref: 16/00228/PP) for the extension to a shed, the siting of (non-residential) static caravan with viewing platform and a retrospective part change of use from agricultural land to equine use. The permission was granted subject to several conditions including Condition 3, which states that within 6 weeks of the date of the decision the first 5 metres of the access road shall be hard surfaced in order to prevent loose material and surface water issuing from the access onto the public road, in the interest of road safety.
- 1.2 The site is within the rural area, as identified by the Local Development Plan (LDP), approx. 300m to the east of Irvine. The site sits on the southern side of the B769. The closest residential properties are at Perceton Gate approx. 50m to the north. The site access is to the south of one of the accesses to those properties.

- 1.3 The Council received a complaint following the expiry of the 6 week period, 24th June 2016, that several conditions attached to the permission had not been met. Inspections in July 2016 revealed that conditions, including Condition 3, had not been complied with. The owner of the land was written to and advised to comply. There was no response received. The Council again inspected in September 2016 where it was revealed that Condition 3 had still not been complied with. The first 5 metres of the access had not been hard surfaced. The owner was written to and advised that it was now the Council's intention to seek authority for the issue of a Breach of Condition Notice. There was again no response received.
- 1.4 A Breach of Condition Notice would require full compliance with the requirements of the condition. There is not a right of appeal against a Breach of Condition Notice. Anyone responsible for not complying with a Breach of Condition Notice is guilty of an offence, which can be reported to the Procurator Fiscal.

## **2. Background**

- 2.1 The following condition attached to planning permission dated 13th May 2016 (ref: 16/00228/PP) has not been complied with and is therefore in breach.

*Condition 3 - That, within 6 weeks of the date of the decision, the first 5 metres of the access road shall be hard surfaced in order to prevent loose material and surface water issuing from the access onto the public road*

Inspections had revealed that the first 5 metres of the access road have not been hard surfaced.

- 2.2 For a condition to be immune from planning control, it has to have been in breach for at least the last 10 consecutive years. The relevant permission was granted 13th May 2016 and the condition can not have been in breach for more than 6 months.

## **3. Proposals**

- 3.1 In the interests of the road safety and to prevent loose material and surface water issuing onto the public road, it is proposed to issue a Breach of Condition Notice requiring the following action, in respect of Condition 3 of the planning permission dated 13th May 2016 (ref: 16/00228/PP);

(i) Hard surface the first 5 metres of the access road;

- 3.2 It is proposed that the compliance period be 6 weeks from the date of issue, which allow sufficient time for the works to be carried out.

#### 4. Implications

<b>Financial:</b>	The service of the Notice has no financial implications outwith normal budgetary provisions.
<b>Human Resources:</b>	N/A
<b>Legal:</b>	The proposed Breach of Condition Notice is in accordance with Statutory Regulations. Non-compliance with such a Notice is an offence and the Council, as Planning Authority, could report such an offence to the Procurator Fiscal.
<b>Equality:</b>	N/A
<b>Environmental &amp; Sustainability:</b>	N/A
<b>Key Priorities:</b>	The proposed Breach of Condition Notice supports the Council Plan priority - "Protecting and enhancing the environment for future generations."
<b>Community Benefits:</b>	N/A

#### 5. Consultation

- 5.1 Finance and Corporate Support has been advised of the report in terms of its budgetary provision.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Reference : 16/00096/NONCOM

For further information please contact Iain Davies on 01294 324320

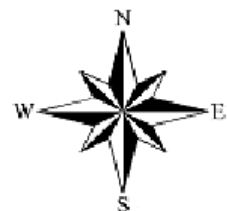
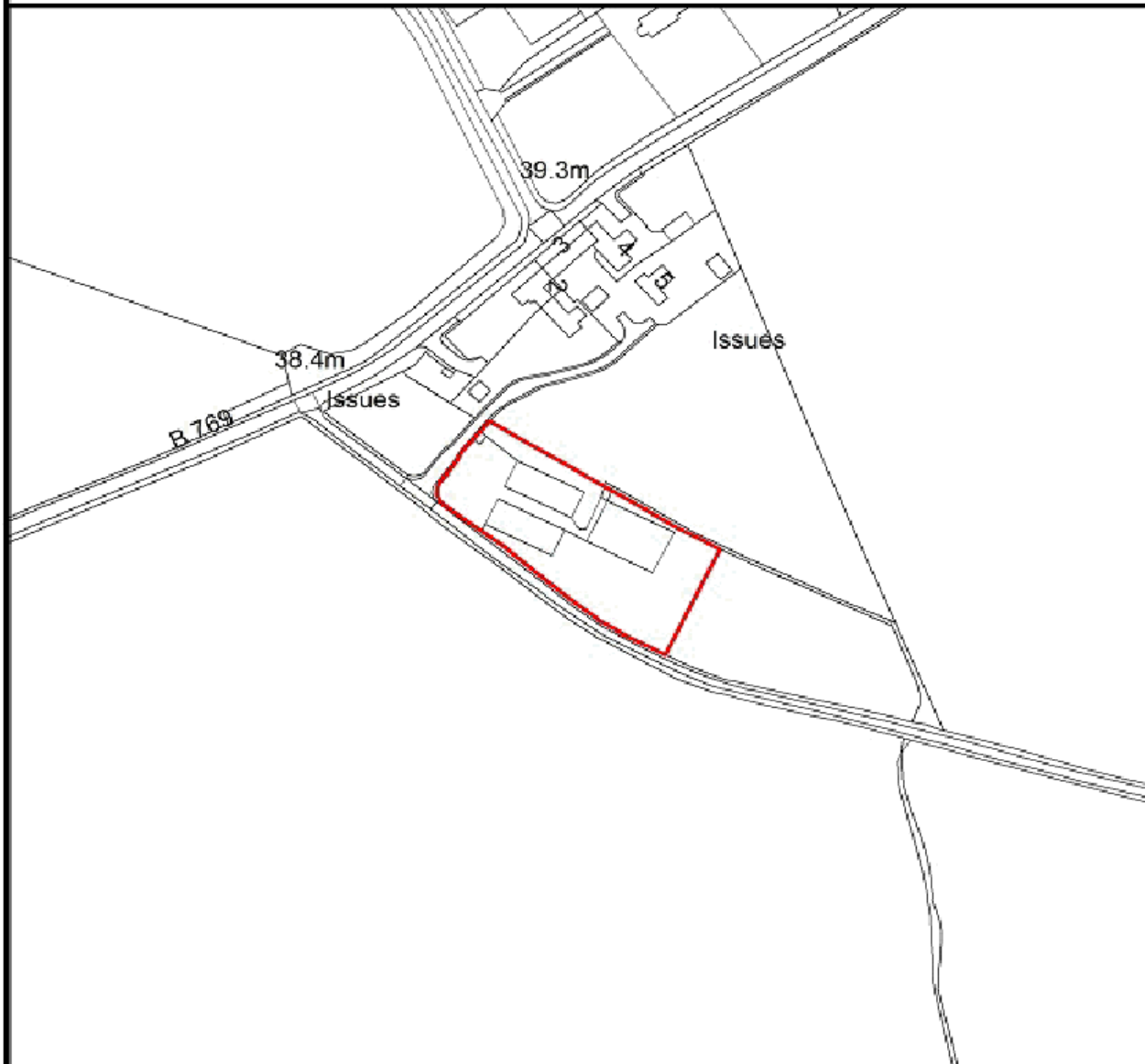
#### Background Papers

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## Location Plan

### Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997: 6 Perceton Gate, Irvine KA11 2AJ





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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 6**

**26 October 2016**

#### **Planning Committee**

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**Title:** **Consultation on proposed removal of various Public Call Boxes**

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**Purpose:** To make the Committee aware of an ongoing consultation on the proposed removal of various Public Call Boxes by British Telecom.

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**Recommendation:** That the Committee note the contents of the report and agree to the removals in principle with the exception of Glen Road/Main Road West Kilbride, subject to any further objection or comments being received in individual cases by 31 November 2016.

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#### **1. Executive Summary**

The Council was notified on 5th September 2016 by British Telecom of their intention to remove thirty two public payphone call boxes in the North Ayrshire Council area which they have identified as being no longer required given low numbers of calls made over the preceding 12month period and the increasing provision of the emergency services network coverage by mobile phone network providers. At the same time, BT posted a public notice on each affected call box. A list of the affected locations is attached as an appendix to the report. The Council has the right to object to any removals, although there is no prescribed list of grounds of objection in the OFCOM regulations.

It is considered that the low levels of usage of the facilities reported would indicate that the call boxes could be removed with little adverse effect on the surrounding areas with the exception of the installation at the junction of Glen Road and Main Road, West Kilbride, which has received some objection.

#### **2. Background**

Planning permission is not required for removal of the call boxes but BT has a responsibility to maintain a Universal Service Provision and in cases where it is proposed to remove the last call box in a 400m radius, OFCOM regulations require that a notice is posted on the call box and the Local Authority is notified who can, following consultation with the local community, decide to use a 'local veto' to object to the plans. The reasons for or comments on the objection should be given to BT.

It is also available to the local community to 'adopt' a traditional red 'heritage' phone box for a nominal fee (£1) and to retain it as a community asset that local people can enjoy.

The BT notification begins a 90 day consultation period in which the Local Authority is required to:

- (a) consult with the local community and any other interested bodies;
- (b) consider any comments received along with any other relevant factors;
- (c) post a draft notice on the call box of the intention to agree, to object or for the community to adopt;
- (d) following a further 1 month period in which to consider any further comments received, to post a final notice of the decision on the call box; and
- (e) notify BT of the final decision whether to object or not.

The OFCOM regulations relating to removal are attached as an appendix to this report.

### **3. Proposals**

The proposals affect locations in Irvine, Ardrossan, Saltcoats, Kilwinning, Stevenston, West Kilbride, Dalry, Largs, Beith and Community Councils for these areas and to the local Area Housing Offices on 7th September 2016. Notification of the proposals was also distributed to various community and youth groups identified by the Connected Communities service. Comments were requested by Friday 14th October.

Following the BT Notices and the stage 1 measures detailed above, two responses were received, both objecting to the removal of the box at the junction of Glen Road/Main Street, West Kilbride on the grounds that it is the only remaining public payphone in the town, that it is reasonably well used (333 calls in the previous 12 month period) and is in an area of variable or no mobile phone signal. The call numbers are taken from BT's own data, although the OFCOM website voice call coverage checker advises that this area is 'likely to have good coverage'.

Stage 2 of the consultation will involve a draft notice being posted to each payphone of Committee's decision whether to object, not object or for the community to adopt in each case. A further period of a month will then be allowed for any comments in response to the on site notices to be received and considered, before a final the decision is confirmed, a notice is posted on each site and confirmation of the decisions given to BT. The overall closing date for the 90 day consultation period is 3rd December 2016 and there is no further right of objection following this date.



#### 4. Implications

<b>Financial:</b>	None
<b>Human Resources:</b>	None
<b>Legal:</b>	None
<b>Equality:</b>	None
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	None
<b>Community Benefits:</b>	None

#### 5. Consultation

As noted above, consultation was undertaken with Members and the Community Councils for Irvine, Ardrossan, Saltcoats, Kilwinning, Stevenston, West Kilbride, Dalry, Largs, Beith and Kilbirnie and Area Housing Managers for Beith/Dalry, Irvine, Kilwinning, Kilbirnie, Largs and the Three Towns.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Reference :

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

#### **Background Papers**

None



## Appendix 1

### North Ayrshire

Telephone Number	Address	Post Code	Number of calls in last 12 months	Posting Completed Date	Agree/ Adopt/ Object	Comments/Reasons
01294211721	CROWN HOTEL BLDGS MAIN ST DREGHORN IRVINE	KA11 4AH	109	01/08/2016		
01294211802	PERCETON VILLAGE OLD PERCETON IRVINE	KA11 2AE	0	01/08/2016		
01294211834	PCO LOCHLIBO RD GIRDLE TOLL IRVINE	KA11 2AY	143	01/08/2016		
01294222198	SOUTH VENNEL BOURTREEHILL SOUTH IRVINE	KA11 1ND	0	01/08/2016		
01294273423	PCO ROSEHOLM AVE IRVINE	KA12 OJU	0	01/08/2016		
01294278432	PCO THORNHOUSE AVE IRVINE	KA12 OLS	0	01/08/2016		
01294463058	CLYDE TERRACE/MILLGLEN RD MILLGLEN RD ARDROSSAN	KA22 7EA	0	11/08/2016		
01294463175	EGLINTON RD ARDROSSAN	KA22 8NQ	137	11/08/2016		

British Telecommunications plc  
Registered office:  
81 Newgate Street  
London EC1A 7AJ  
Registered in England No 1800000  
[www.bt.com](http://www.bt.com)

Telephone Number	Address	Post Code	Number of calls in last 12 months	Posting Completed Date	Agree/ Adopt/ Object	Comments/Reasons
01294463660	HUNTER AVE ARDROSSAN	KA22 8BD	47	11/08/2016		
01294463982	PCO DALRY RD ARDROSSAN	KA22 7LB	0	11/08/2016		
01294464436	SOUTH SIDE AILSA GARDENS ARDROSSAN	KA22 7BW	81	11/08/2016		
01294464592	JNCT KILBRANNAN AVE PIRNMILL RD SALTCOATS	KA21 6DG	3	11/08/2016		
01294552110	OPP 29/31 BRIDGEND KILWINNING	KA13 7LY	89	01/08/2016		
01294552171	JNCT FERGUSHILL RD MONTGOMERIE TERRACE KILWINNING	KA13 7NR	2	01/08/2016		
01294552231	STEVENSTON RD KILWINNING	KA13 6LG	18	01/08/2016		
01294552288	DIRRANS HOUSING SCHEME SMITH CRESCENT KILWINNING	KA13 7PG	21	01/08/2016		

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[www.bt.com](http://www.bt.com)

Telephone Number	Address	Post Code	Number of calls in last 12 months	Posting Completed Date	Agree/ Adopt/ Object	Comments/Reasons
01294552366	PCO ALMSWALL RD KILWINNING	KA13 6BN	163	01/08/2016		
01294552654	PCO PENNYBURN LOCAL CENTRE KILWINNING	KA13 6TA	236	01/08/2016		
01294552698	PCO BAIRD AVE KILWINNING	KA13 7AP	26	01/08/2016		
01294553345	PCO PENNYBURN RD KILWINNING	KA13 6LF	20	01/08/2016		
01294605346	PCO FULLARTON PLACE STEVENSTON	KA20 3EH	592	11/08/2016		
01294822077	HIGHTHORNE CRESCENT WEST KILBRIDE	KA23 9DN	0	08/08/2016		
01294822211	JUNCTION GLEN ROAD MAIN ST WEST KILBRIDE	KA23 9AP	333	08/08/2016		
01294832295	PCO HIGHFIELD DALRY	KA24 4HP	0	08/08/2016		

Telephone Number	Address	Post Code	Number of calls in last 12 months	Posting Completed Date	Agree/ Adopt/ Object	Comments/Reasons
01475672033	BARRFIELDS BRISBANE RD LARGS	KA30 8NN	102	08/08/2016		
01475672111	AT LINN AVE HOLEHOUSE RD LARGS	KA30 9EL	41	08/08/2016		
01475673631	AT IRVINE RD LOVAT ST LARGS	KA30 9NE	14	08/08/2016		
01505502243	AT BYE PASS ROEBANK RD BEITH	KA15 2DX	5	02/08/2016		
01505502292	PCO MAINS ROAD BEITH	KA15 2AF	86	02/08/2016		
01505502317	AT AULDLEA RD MAPLE DRIVE BEITH	KA15 2DD	0	02/08/2016		
01505681295	OPP LADYBANK DR HIGH ST KILBIRNIE	KA25 7EX	0	02/08/2016		
01505683345	PCO BRIDGE ST KILBIRNIE	KA25 7BL	1	02/08/2016		

Telephone Number	Address	Post Code	Number of calls in last 12 months	Posting Completed Date	Agree/ Adopt/ Object	Comments/Reasons
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Signature: .....

Area: North Ayrshire

British Telecommunications plc  
 Registered office:  
 81 Newgate Street  
 London EC1A 7AJ  
 Registered in England No 1800000  
[www.bt.com](http://www.bt.com)





Appendix 2

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## Introduction

There are many people who rely on the UK's 67,000 public call boxes (known as 'call boxes' or 'phone boxes').

For some people, who don't have any kind of phone of their own, phone boxes are a lifeline. For others, they're useful if they find that their mobile phone isn't working. Most phone boxes – around 64,500 – are owned by BT.

Our research shows that over 33% of adults use phone boxes from time to time, while 7% use them regularly. They're most popular with:

- young people;
- people on low incomes;
- people with mobiles but no home phone; and
- people who have no phone at all.

They're especially important in areas where mobiles don't work, and in any community where there are disadvantaged people.

Even so, people aren't using phone boxes like they used to. The money that BT received from phone boxes went down by nearly half between 2000 and 2006. In fact, BT say that six out of 10 of their phone boxes are losing them money. This is why they've launched a programme to reduce the number of phone boxes.

However, unlike a normal business, BT can't just take away services for reasons linked to money. They have a duty, known as the Universal Service Obligation (USO), to provide a reasonable number of working phone boxes where they're most needed.

In 2005, we carried out a study of phone boxes. We wanted to be able to strike the right balance between the number of call boxes that the public actually needs, and BT's wish to remove phone boxes that lose them money. This booklet explains the rules that BT must now follow if they want to remove the only phone box in a local area, and the important role that local authorities play in that process. (In the Hull area, these same rules apply to Kingston Communications, which owns the phone boxes there.)

This booklet gives you a simple summary of those rules. If you need to know the fuller details, or want to ask for a new box in your area, please turn to the end of this booklet.

## Removing Public Call Boxes: a guide to the rules

### Removing a phone box - what BT have to do first

Our rules come into play when BT want to remove the one and only call box from a site. By 'site', we mean a 400-metre walking distance surrounding a call box. This means that if there are two phone boxes within 400 metres' walk of each other, BT can take one away without following our rules. However, if they want to take away the last one as well, they have to follow an agreed process.

BT have to display a notice on the call box, to tell the public:

- that they are planning to remove this particular phone box;
- the name of the local authority where people can object (within 42 days); and
- a freephone number people can call to find out the next nearest phone box.

As well as letting the public know, BT must tell certain organisations about their plans to remove the call box. These organisations include, in England:

- district councils;
- metropolitan councils;
- London boroughs;
- unitary councils;
- the Corporation of London; and
- the Council of the Isles of Scilly.

In Scotland, these organisations include:

- unitary councils.

In Wales, these organisations include:

- county councils and county borough councils.

In Northern Ireland, these organisations include:

- unitary districts.

BT must tell them:

- details of the call box they want to remove;
- why this is reasonable, with any information to back up their view;
- the date BT posted the notice on the call box;

## Removing Public Call Boxes: a guide to the rules

- that there is a web link to our guidance on procedures; and
- how the local organisation can make any objections to BT.

If the local organisation then writes to BT within 90 days to object, setting out their reasons, BT cannot remove the call box. This is known as the 'local veto'.

### What does the local public organisation do?

When BT announces plans to remove a phone box, it is the local organisation's job to decide whether to use its local veto to object. To do this, they must first ask the views of the local community by carrying out a consultation process. The notice posted by BT on the call box may also invite local comments. The local organisation will then announce their first decision, and ask for people's opinions on it, before arriving at their final decision a month or so later.

We don't lay down rules on how local organisations should go about testing the true feelings of their local area. However, we would normally expect their consultations to involve other public organisations, such as the parish or community council or, in Northern Ireland, local community groups.

This makes for an open and fair process, with all the local councils fully involved in the decision-making process. Also, local organisations usually have systems in place to make sure that the voices of the local communities and neighbourhoods are heard. The local organisation must also work within the terms of the Communications Act 2003. This means that they must be able to justify their decisions, as well as encourage competition and look after the interests of us all as citizens.

Below, we look at how they go about reaching their decision.

### What to consider

Once the local organisation has heard back from their various consultations, we recommend they look at the area that surrounds the phone box and the people who live locally and consider the following.

#### Who lives there?

The type of local housing around a phone box may say how important it is to the area. If it's surrounded by people who own their homes, there's a fair chance they have home phones or mobiles as well. However, if the neighbourhood has

## Removing Public Call Boxes: a guide to the rules

mainly rented properties, social housing or residential-care homes, it could be that there are people on low incomes who need that phone box.

### Emergency calls

Many people feel reassured that phone boxes are available if there's an emergency. This can range from 999 calls to being able to call for help if your car breaks down. The local organisation needs to think about whether a particular phone box is more likely to be used for emergency calls than another. If, for example, the call box is near a known accident blackspot, it may strengthen the argument for it to be kept.

### What are the takings?

Whether it's a shop, a pub or a phone box, the amount of money people spend on a local service is a sign of whether it's important to them. BT may be able to show how much business a particular phone box is getting. If it's a very low figure, this may support their case to remove it.

## The procedure for publishing a notice

After the local organisation has weighed up the views they received from the first consultation, they must follow a special procedure. This happens in two stages.

In stage one, the organisation publishes their first notice. This notice will say whether they agree or object to BT's plan to remove the phone box, and their reasons why. We recommend that the local organisation waits at least 42 days after BT first announced their plans before they publish this notice.

The local organisation then allows at least one month to receive comments back on their decision, and to consider those comments. They must then publish their second notice (known as the 'final notice'), which sets out their final decision and the reasons behind it.

The local organisation must make sure that these notices reach all the local people who are affected by them. Like the consultations, we'd expect other local public organisations to be involved, such as the parish or community council or, in Northern Ireland, local community groups. BT and the Department of Trade and Industry must also receive these notices.

## Appeals

If a local organisation objects to a phone box being removed, there is an appeals system. The case would then be considered by the Competition Appeals Tribunal.

### The option to pay with cash

Many people prefer to use cash for the calls they make in phones boxes, instead of credit or phone cards. For this reason, at least seven out of ten boxes must offer cash payment facilities.

When BT does take away the option to pay by cash, we expect them to make sure that people can always make emergency, freephone and reverse-charge calls. We would also expect, unless there's a very good reason, that these phone boxes accept debit and credit cards.

We expect BT to 'sound out' local organisations before they take away cash facilities.

### Asking for a new public phone box

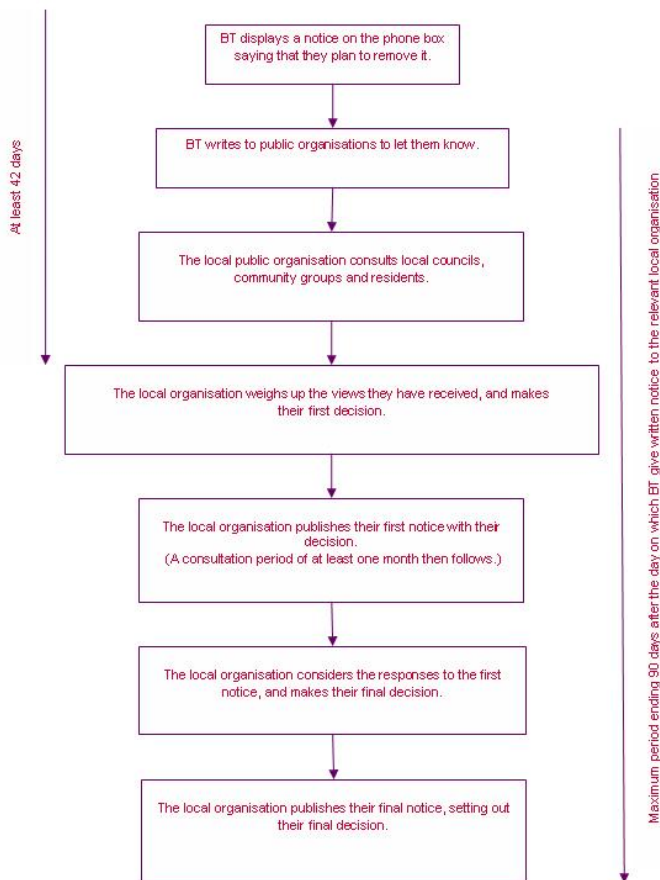
You can also ask BT to install a call box on a new site. They weigh up each request by looking at:

- the number of people the new call box would serve;
- the type of housing in that community; and
- the distance between a call box already there and the possible new site.

To reach a decision, BT uses a scoring system under rules we have set. They give the higher scores to large local communities with a high percentage of social housing, and where there's no phone box nearby. You can find full details of this scoring system on our website.

## Removing Public Call Boxes: a guide to the rules

### The process for removing – or keeping – a public call box (phone box)



## Would you like to know more?

If you'd like to see the full rules about removing a call box, please log on to:

<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/callboxdirection.pdf>

Local organisations carrying out the consultation process should look at the rules and guidance on our website. Here there are examples of notices, and letters to be sent to the Department of Trade and Industry.

<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/removals.pdf>

You can see the process for new phone boxes and the scoring system for requests at:

<http://stakeholders.ofcom.org.uk/binaries/consultations/uso/statement/requestcallbox.pdf>



**ECONOMIC GROWTH**

**Head of Service: Caitriona McAuley**  
**Cunninghame House, Irvine KA12 8EE**  
**Tel: 0845 603 0594 Fax: 01294 324144**  
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**NORTH AYRSHIRE**  
 COUNCIL

If telephoning please call: **Mr Neil McAteer, telephone 01294 324316**  
 e-mail: [nmcateer@north-ayrshire.gov.uk](mailto:nmcateer@north-ayrshire.gov.uk)

8 September 2016

Hello Councillor,

**Proposed removal of public call boxes by British Telecom**

The Council has been notified by British Telecom of their intention to remove a number of public payphones in the North Ayrshire Council area which they have identified as being no longer required given the low numbers of calls made over the preceding 12 month period.

BT's justification makes reference to the declining use of call boxes in the UK generally, the increasing incidence of mobile phone ownership and improvements in the mobile network to provide access to the emergency network even where there is no network coverage from the users' own coverage provider. They also confirm that some locations are not considered for removal, including those (a) in suicide hotspots, (b) in accident blackspots, (c) in areas with no mobile coverage or (d) within 400m of the coast.

In addition, BT have applied three criteria and have not considered locations to which all three apply:

- the only payphone within an 800m radius;
- has had at least 12 calls of any type within the preceding 12 month period; and
- the local population is not fewer than 500 households within 1Km of the payphone.

This exercise resulted in a list of thirty two locations in the North Ayrshire Council area proposed for removal.

Planning permission is not required for removal of the call-boxes but OFCOM rules require BT to notify the Local Authority who can decide to use a 'local veto' to object to the plans. It is also available to the local community to 'adopt' a traditional red 'heritage' phone box for a nominal fee (£1) and to retain it as a community asset that local people can enjoy.

The BT notification begins a 90 day consultation period in which the Local Authority is required to:

- (a) consult with the local community and any other interested bodies;
- (b) consider any comments received along with any other relevant factors;
- (c) post a first notice on the call-box of the intention to agree, object or for the community to adopt;
- (d) following a further month in which to consider any further comments, to post a final notice of the decision on the call-box;
- (e) notify BT of the final decision whether to object or not.

A link to the OFCOM regulations is contained in the attached BT letter.

As part of stage (a) of this consultation, I would ask that you please forward any objections you may have to Neil McAteer in Planning Services who will co-ordinate any responses received.

In order to comply with the consultation period above, **any comments should be received by Friday 14<sup>th</sup> October 2016.**

Yours faithfully,

J Miller  
 Senior Planning Services Manager