



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

## **Planning Committee**

A Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 02 October 2019** at **14:00** to consider the undernoted business.

**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 meeting of the Committee held on 4 September 2019 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        Irvine**

Submit reports on the following applications:

**3.1      19/00600/PP: Glaxosmithkline, Shewalton Road, Riverside Business Park, Irvine**

Section 42 planning application to vary condition 1 (Mitigation Strategy) of planning permission 19/00164/PP (copy enclosed).

**4        North Coast and Cumbraes**

Submit reports on the following applications:

**4.1      19/00322/PPPM: Site To East Of Golf Course Road, Skelmorlie**

Residential development (copy enclosed).

**5        Adoption of the Montgomerie Park Simplified Planning Zone (SPZ)**

Submit report by the Executive Director (Place) on the adoption of the proposed Montgomerie Park Simplified Planning Zone (copy enclosed).

**6      Grouping of Trees adjacent to the A841 between Rosa and Cnocan Bridge, near Brodick, Arran**

Submit report by the Executive Director (Place) which seeks approval for the confirmation with modification of the Tree Protection Order concerning a group of trees along the A841 at Brodick, Isle of Arran.

**7      Urgent Items**

Any other items which the Chair considers to be urgent.

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## Planning Committee Sederunt

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Tom Marshall (Chair)  
Timothy Billings (Vice-Chair)  
Robert Barr  
Ian Clarkson  
Robert Foster  
Christina Larsen  
Shaun Macaulay  
Ellen McMaster  
Ronnie McNicol  
Donald Reid

Chair:

Apologies:

Attending:

**Planning Committee  
4 September 2019**

Agenda Item 2

**Irvine, 4 September 2019** - At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Tom Marshall, Timothy Billings, Robert Barr, Ian Clarkson, Robert Foster, Christina Larsen, Ronnie McNicol and Donald Reid.

**Also Present**

**In Attendance**

J. Miller, Senior Manager (Planning), M. Henry, Team Leader (Roads) (Place); J. Law, Solicitor (Legal Services); and H. Clancy, Committee Services Officer (Chief Executive's Service).

**Chair**

Councillor Marshall in the Chair.

**Apologies for Absence**

Shaun Macaulay and Ellen McMaster.

**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 Minutes of the meeting of the Planning Committee held on 19 June 2019 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3.1 19/00532/PP: Homebase Ltd 6 Riverway Riverway Retail Park Irvine**

TJ Morris Ltd have applied to remove condition 2 of planning permission 01/97/0133 to enable the sale of all types of retail goods. No objections were received.

Planning permission 01/97/0133 relates to the development of the second phase of Riverway Retail Park and has a condition which states:

"That Units 1 - 8 shall be occupied by businesses selling comparison goods only."

The Committee unanimously agreed to grant the application.



### **3.2 19/00533/PP: 3 Ladyburn Court Lawthorn Irvine**

Robert and Joan Corrance have applied for change of use of an open space to incorporate into a garden area including erection of 1.8-metre-high fence. No objections were received.

Planning permission had previously been refused in 2005 by the then Planning Committee, for the change of use of a larger area of open ground, measuring 34.7sqm, to private garden ground and the relocation of an existing fence (ref. 05/00102/PP) at the same property.

The Committee unanimously agreed to grant the application.

### **4.1 19/00573/ALO: Clauchlands Cottage No 3 Clauchlands Road Lamlash Brodick Isle Of Arran**

A & A Reid have applied for the removal of Section 75 obligation attached to planning permission (ref. 08/00918/PP) to remove occupancy restriction. No objections were received.

Planning permission was issued on 14 January 2010 for the erection of a detached dwellinghouse following the signing of a legal agreement which stipulated that the house must be occupied only by a person either currently or last employed locally in agriculture, or in forestry, or their dependants, or a widow or widower of such a person.

The Committee unanimously agreed to grant the application with no conditions.

### **5.1 19/00351/PPPM: Site To South Of 128-130 Meadowfoot Road West Kilbride**

Gladman Developments Ltd have applied for planning permission in principle for a residential development. 27 objections were received and summarised in the report.

The Committee unanimously agreed to grant the application subject to 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, means of access to the proposed development and affordable housing contribution, shall be obtained before the development is commenced.
2. That further application(s) for approval under the terms of Condition 1 shall be accompanied by a written scheme of investigation for a programme of archaeological works. Any scheme as may be approved by the Council, as Planning Authority.
3. That further application(s) for approval under the terms of Condition 1 shall include a report of an appropriate site investigation and subsequent suitable quantitative risk assessment, taking cognisance of the Conclusions and Recommendation on Development contained within Section 6 of the Phase 1 Geo-Environmental Desk Study Report, submitted in support of this application,

Project Reference No P17/378, by Mason Evans and dated May 2019. Any submitted report shall have been verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority.

4. That further application(s) for approval under the terms of Condition 1 shall include details of access, road layout and parking provision. For the avoidance of doubt access for residential properties shall be from Ardrossan High Road only. Details of road widening and footways for Ardrossan High Road shall be provided. Any access shall have a visibility splay of 2.5m by 70m. Internal layouts shall be designed in accordance with Designing Streets principles
5. That further application(s) for approval under the terms of Condition 1 shall include details of drainage which have been designed for exceedance i.e. 200-year critical storm event + climate change. Details of overland flow-paths, 'additional' attenuation measures, control devices etc and demonstration that access/egress will be maintained must be provided. A Drainage Impact Assessment must be provided including a land drainage strategy and details of implementation and maintenance.
6. That further application(s) for approval under the terms of Condition 1 shall include a dated Protected Species Survey updating the survey by EnviroCentre dated 24th April 2019 and submitted as part of this application.

## **5.2 19/00506/PP: Site To East Of Castlepark Gardens Fairlie Largs**

Dawn Homes Ltd have applied to vary planning condition number 4 of 18/00659/PP, to provide a temporary shared-use path adjacent to plots 38,39 & 46, in lieu of the permanent path proposed adjacent to plots 35, 36 & 37. Two objections were received and summarised in the report.

The Committee unanimously agreed to grant the application subject to the following conditions:

1. That, within one month of the date of consent, the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority:
  - i) Details of a scheme to intercept surface water runoff from the higher ground to the east and routing into the drainage system;
  - ii) Details of a cut off drain along the western boundary of the application site;
  - iii) Details of proposed watercourse crossings which ensure that crossings have a better or neutral effect on flood risk and do not result in the elevation of land within the functional floodplain;
  - iv) Details of proposed landscaping and safety of the SuDs pond as well as a programme for its completion/operation;
  - v) Maintenance of existing water channels which enter and are contained within the site; and
  - vi) The proposed programme for the installation of those flooding measures contained within this condition, and those approved with the application, as well as details of maintenance and factoring.

Such details as may be approved shall be completed in compliance with the proposed programme of implementation, agreed under (vi) above, and maintained permanently thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

2. That within one month of the date of consent, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a scheme of hard and soft landscaping. The submitted scheme should include:
  - i) details of proposed hard surfacing, including paths, roads, shared spaces, driveways and boundary treatments;
  - ii) details of species and planting densities;
  - iii) details of potential biodiversity, including habitat, improvements;
  - iv) a programme of proposed implementation of the scheme; and
  - v) proposed maintenance programmes and factoring.

The soft landscaping details, which may be 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.

3. That, within one month of the date of approval full details of proposed tree protection measures for the development shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall comply with the principles and practices contained in "BS 5837:2012 - Trees in relation to design, demolition and construction - Recommendations." Detailed plans indicating tree protection fencing to be erected, an Arboricultural Impact Assessment and an Arboricultural Method Statement shall be submitted for written approval. For the avoidance of doubt:
  - i) that there shall be no treeworks undertaken within the Tree Preservation Order area, unless otherwise agreed in writing;
  - ii) all tree protection measures to be erected shall be maintained in a satisfactory condition for the duration of all engineering and construction operations, until the completion of the development.The development shall be implemented only in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.
4. The temporary footpath link through the primary school grounds, as shown on approved drawing 3494 AL(0)119, shall be removed and the primary school grounds restored to their former condition on the completion of the proposed shared use path to Castlepark Gardens located between plots 35, 36 and 37. The shared use path shall be completed prior to the occupation of the dwellings on plots 35, 36 or 37 or no later than 12 months from the date of this permission.
5. That prior to the commencement of development on plots 26, 27, 28, 29, 34, 35, 36, 45 and 46, as illustrated in approved plan AL(0)114, details of proposed

finished ground levels and finished floor levels, retaining walls, any raised terracing, garden slopes, boundary treatments shall be submitted on plans and section drawings for the written approval of North Ayrshire Council as Planning Authority. Such details as may be approved shall be completed to the satisfaction of North Ayrshire Council as Planning Authority, unless otherwise agreed in writing.

6. That the measures identified within the Ecological Assessment 2017 by Nigel Rudd, approved under the original planning permission 17/00584/PPM shall be fully implemented within phase 2, to the satisfaction of North Ayrshire Council as Planning Authority.
7. That within one month of the date of approval details of the proposed equipped play area, which shall include the provision of at least 5 different types of play equipment, seating and unequipped play areas shall be submitted for the written approval of North Ayrshire Council as Planning Authority. The details shall include the proposed location of the play area, site levels, programme of installation, any means of enclosure, including gated points of access/exit, surface finish, litter bin provision, maintenance and management arrangements. Unless otherwise agreed in writing the approved play area facilities should be installed and operational no later than, or prior to, the occupation of plots 25 or 26 as outlined within approved plan AL(0)114. The approved play area should be completed to the satisfaction of North Ayrshire Council as Planning Authority and maintained in perpetuity.
8. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.

### **5.3 19/00554/PP: 48 Gallowgate Street, Largs**

Mr Stephen McDonald has applied for the modification of condition 2 of 18/00518/PP to allow furniture to be stored in Gallowgate Square, Largs. One objection was received.

The Committee unanimously agreed to grant the application subject to the following conditions:

1. That the seating area shall at all times be enclosed by a suitably designed removable barrier, full details of which shall be submitted for the written approval of North Ayrshire Council as Planning Authority. For the avoidance of doubt no artificial lighting or individually sited heating systems shall be provided within the outdoor seating area.
2. That the maximum permitted hours of operation of the outdoor seating area shall be between 1100 and 2100 hours on any day unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority. The seating together with any

tables, umbrellas, associated posts and barriers shall be removed from the approved seating area and stored against the wall of 48 Gallowgate Street, as shown on the approved location plan marked 'Seating Area - Option B,' outwith these hours and at all times when the premises are closed to customers. When stored against the wall, the seating etc. will be secured by a chain attached to the wall of 48 Gallowgate Street.

**6. Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: former Seafield School, Eglinton Road, Ardrossan**

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

The Senior Manager (Planning) provided the Committee with information on the site and advised that both the House and the Stables have been subject to vandalism and unauthorised entry. The owners have been instructed by the North Ayrshire Council to board any smashed window, secure the buildings and make them wind and water tight. They were also instructed to demolish modern extensions which had been built onto Seafield House. These extensions were demolished in the summer of 2017 with the rubble left on site. Seafield House, was the subject of a fire in 2017. This fire was largely contained in the eastern wing of the building. However, the roof of that section of the building has collapsed.

Members asked questions and were provided with further information on:-

- the robustness of the exterior grade plywood recommended for boarding all openings, which it was also noted was being pursued by the Council in terms of the Building (Scotland) Acts; and
- the steps which would be taken if enforcement notice was served and no further action was taken as well as issues around reclaiming costs from owners.

The Committee unanimously agreed to grant authority for the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 to abate the adverse impact on the land on the local area at the former Seafield School, Eglinton Road, Ardrossan.

**7. Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: Site of Former St Peter's Primary School, 24 South Crescent Road, Ardrossan**

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

The Senior Manager (Planning) provided the Committee with information on the site and advised a fence had been erected on the southern frontage of the site. The fence is in a dilapidated condition and has collapsed entirely at its eastern end. The interior of the site is overgrown and there remains demolition rubble on site. The condition of the land, due to the dilapidated condition of the fence, and view to the overgrown

rubble strewn interior which it provides has a significant adverse impact on the amenity of the local area.

The Committee unanimously agreed to grant authority for the service of a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 to abate the adverse impact on the land on the local area at the former St Peter's Primary School, 24 South Crescent Road, Ardrossan.

**8. Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: Construction access track on a designated area of Wild Land and Special Protection Area within Clyde Muirshiel Regional Park**

Submitted report by Executive Director (Place) to serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 in relation to a construction access track on a designated area of Wild Land and Special Protection Area within Clyde Muirshiel Regional Park.

The Senior Manager (Planning) provided the Committee with information on the site and advised the route of the construction track through the Wild Land Area had been agreed beforehand as a condition of the planning permission for the turbine house. A complaint was received from Scottish Natural Heritage in February 2019 which alleged that the track as formed differed to that illustrated in the documents associated with the planning permission. A site inspection has confirmed that the alignment of the track is significantly different to that which had been previously identified by the developer, with some 700 metres having been constructed within the Special Protection Area. The developer was contacted in February 2019 and no action has been taken to either reinstate the land to its former condition, or submit an application seeking consent to retain the track.

Members asked questions and were provided with further information on:-

- whether a permanent track would constitute an adverse impact on the area, being located within both a Special Protection Area and Wild Land Area;
- the 18-month timescale given to the owner to restore the land to its previous wild hillside condition; and
- the steps which would be taken if enforcement notice was served and no further action was taken as well as issues around reclaiming costs from owners were the Council to undertake the restorative works.

Councillor Foster, seconded by Councillor McNicol, moved that the Committee serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 to remove the construction track north of the former Pundeavon Reservoir, including the removal of any associated, culverts and bridge structures; and the restoration of the land and any associated borrow pits to its previous wild hillside condition.

As an amendment, Councillor Barr, moved that, the access road be kept as a public path. There being no seconder, the amendment fell.

Accordingly, the Committee agreed to grant authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring the

reinstatement of the construction access track to wild land following the construction of pipework to serve a hydro electric power generating plant near Holehouse Farm, Kilbirnie.

#### **9. Notification by Clydeport Operations Ltd (Peel Ports Group) to broaden the scope of the Liaison Committee for Hunterston Marine Yard**

Submitted report by the Executive Director (Place) on the intentions of Clydeport Operations Ltd (Peel Ports Group) to broaden the scope of the Liaison Committee for Hunterston Marine Yard.

The Senior Manager (Planning) provided the Committee with information on Clydeport Operations Ltd (Peel Ports Group) intention to extend the scope of the liaison committee. They intend to widen the scope of the liaison committee to cover the whole of Clydeport Operations Ltd's interests at the site, Hunterston PARC, in addition to the decommissioning of marine structures.

Noted.

#### **10. The Planning (Scotland) Act 2019**

Submitted report by the Executive Director (Place) on a new statutory basis for the operation of the planning system has been passed and to highlight the main changes to the overall framework under which the system operates.

The Senior Manager (Planning) provided the Committee with information on the Act which includes provisions for regulations to be made relating to a wide range of issues, including development planning, development management, performance and fees. The regulations will set out the detail of how new provisions introduced by the Act will work in practice. Additionally, there are new requirements for statutory guidance relating to matters including regional planning, engagement and the role of a Chief Planning Officer.

Noted.

#### **11. Control of Advertisements Planning Guidance**

Submitted report by the Executive Director (Place) on the current planning guidelines on advertisements.

Members asked questions and were provided with further information on:-

- advertising on roundabouts and election advertising; and
- the decision taken by other Local Authorities on advertisements.

The Committee unanimously agreed to (a) grant delegated powers to the Head of Economic Development and Regeneration to adopt the proposed Control of Advertisements Planning Guidance, subject to confirmation that a strategic environmental assessment is not required; and (b) approve the deletion of the current

Control of Advertisements Planning Guidance at the point of adoption of the reviewed guidance.

The Meeting ended at 3.15 p.m.



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**NORTH AYRSHIRE COUNCIL**

2nd October 2019

**Planning Committee**

Locality	Irvine
Reference	19/00600/PP
Application Registered	12th August 2019
Decision Due	12th October 2019
Ward	Irvine South

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Glaxosmithkline Shewalton Road Riverside Business Park Irvine Ayrshire KA11 5AP
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<b>Applicant</b>	GlaxoSmithKline Plc
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<b>Proposal</b>	Section 42 planning application to vary condition 1 (Mitigation Strategy) of planning permission 19/00164/PP
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**1. Description**

This application seeks planning permission to vary a condition under Section 42 of the Town and Country Planning (Scotland) Act 1997. It is proposed to vary the wording of condition 1 of planning permission ref. 19/00164/PP and add an additional condition. The planning permission relates to the erection of two wind turbines, each measuring 149m in height to blade tip, at the GlaxoSmithKline plant to the southeast of Irvine, approved by the Council's Planning Committee during June 2019. Condition 1 of the planning permission relates to radar mitigation and is worded as follows:

"No turbine blade shall be fixed to either turbine until:

- (i) The developer has agreed radar mitigation schemes with Glasgow Prestwick Airport and the National Air Traffic Services, and those schemes have been approved in writing by North Ayrshire Council as Planning Authority; and
- (ii) The approved mitigation measures have been implemented to the satisfaction of North Ayrshire Council as Planning Authority.

Thereafter, the development shall operate fully in accordance with the approved schemes and shall not operate should the radar mitigation measures not be achieved because the developer or the operator does not comply with the Scheme."

The applicant is proposing that the wording of the condition be amended to:

"(i) No blade shall be fitted to any turbine or turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as North Ayrshire Council receives confirmation from the Airport Operator that all measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented.

(ii) No turbine shall operate other than in accordance with the terms of the Radar Mitigation Scheme."

The applicant has requested that definitions be provided for the following terms in the Decision Notice:

"Airport Operator" means Glasgow Prestwick Airport Limited or any successor as certified or licensed by the Civil Aviation Authority to operate Glasgow Prestwick Airport.

"Radar Mitigation Scheme" means such equipment, procedural or technological measures, as the Airport Operator identifies as necessary and sufficient to prevent the operation of the development or of any turbines forming part of the development impacting adversely on radar performance at Glasgow Prestwick Airport or on maintaining safe and efficient air traffic control services or procedures or airspace and which the Airport Operator is willing and able to implement and maintain for the lifetime of the development or for such shorter period as may be agreed in consultation with the Airport Operator as necessary to mitigate any such adverse impact.

"Testing Protocol" means the protocol to control the operation of any turbine or turbines forming part of the development for the purposes of testing of the Radar Mitigation Scheme.

The applicant has also requested that an additional condition be attached to the Planning Permission worded as follows:

"No turbine blade shall be fixed to either turbine until:

(i) The developer has agreed a radar mitigation scheme with the National Air Traffic Services and this scheme has been approved in writing by North Ayrshire Council as Planning Authority; and

(ii) The approved mitigation measures have been implemented to the satisfaction of North Ayrshire Council as Planning Authority.

Thereafter, the development shall operate fully in accordance with the approved scheme and shall not operate should the radar mitigation measures not be achieved because the developer or the operator does not comply with the Scheme."

The site covers both an open countryside and industry allocation in the adopted Local Development Plan. The following LDP policies are relevant to the determination of the

application: PI 9 (Renewable Energy); ENV 1 (New Development in the Countryside), IND 3 (Industrial Estates) and the General Policy.

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP, because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

## **Relevant Development Plan Policies**

### **POLICY PI 9**

#### **POLICY PI 9: RENEWABLE ENERGY**

Proposals for the development of wind turbines, wind farms, biomass, solar powered, thermal, wave or run-of-river renewable energy development, or microrenewables, shall accord with the LDP subject to the proposal satisfying the following criteria:

- (a) the development is appropriate in design and scale to its surroundings; AND
- (b) it can be demonstrated that there is no unacceptable adverse impact on the intrinsic landscape qualities of the area (especially for areas with a specific landscape designation, and coastal areas); AND
- (c) in the case of individual wind turbine or wind farm development, that the proposed development is not in an area designated as "high sensitivity" in the "Landscape Capacity Study for Wind Farm Development in North Ayrshire"; AND
- (d) the proposal shall not result in unacceptable intrusion, or have an unacceptable adverse effect on the natural, built, cultural or historic heritage of the locality; AND
- (e) it can be demonstrated that there are no unacceptable adverse impacts on the operation of tourism or recreation interests; AND
- (f) it can be demonstrated that any unacceptable adverse effects on telecommunications, transmitting, receiving, or radar systems for civil, broadcasting, aviation or defence interests can be effectively overcome; AND
- (g) the proposal can be satisfactorily connected to the national grid without causing any unacceptable negative environmental impacts; AND
- (h) when considered in association with existing sites, sites formally engaged in the Environmental Assessment process or sites with planning permission, including those in neighbouring authorities, there are no unacceptable impacts due to the cumulative impact of development proposals; AND
- (i) in the case of individual wind turbine and wind farm development, that the proposal satisfies the contents of the Ayrshire Supplementary Guidance: Wind Farm Development (October 2009); AND
- (j) where appropriate, applicants will be required to demonstrate consideration of colocation with significant electricity or heat users.

The Council will require that any redundant apparatus will be removed within 6 months of it becoming non-operational and that the site will be restored, unless it can be demonstrated that said apparatus will return to productive use within a reasonable timeframe.

### **ENV1**

#### **POLICY ENV 1: NEW DEVELOPMENT IN THE COUNTRYSIDE (EXCLUDING**

## HOUSING)

Proposals for new development within the countryside (excluding housing) shall not accord with the LDP unless the following criteria can be satisfied:

(a) the development is necessary non-residential development associated with agriculture, forestry operations or other established rural businesses and is of a scale proportionate to the operational need of the rural business it is associated with; OR

(b) the development is a small-scale business falling within Class 4 that has a specific locational need to be located on site;

OR

(c) the development is essential public infrastructure that has a specific operational need to be located on site or where a range of alternative sites have been examined within settlements and no suitable site can be made reasonably available;

OR

(d) the development is within an existing village on mainland North Ayrshire, Arran or the Isle of Cumbrae, and would not constitute ribbon, backland or sporadic development;

OR

(e) the development is a tourism proposal acceptable under Policy TOU 1;

OR

(f) the development is outdoor sport and recreation with a specific operational need to be located within the countryside.

Development proposals should take account of the Council's approved Rural Design Guidance and include landscaping proposals.

## IND3

### POLICY IND 3: INDUSTRIAL ESTATES

Proposals for business; industrial; and storage and distribution uses within Use Classes 4, 5 and 6, including small groups of workshop units of 150m<sup>2</sup>

or less, on the sites listed in

Table 3, and identified on the LDP Maps, shall accord with the LDP.

## General Policy

### GENERAL POLICY

(a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.

- Design should have regard to existing townscape and consideration should be given

to size, scale, form, massing, height, and density.

- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.
- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas. Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.
- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.
- Design should have regard to the need to reduce carbon emissions within new buildings.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

(c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

(d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

#### (e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

#### (f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering, health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

#### g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services, facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

#### h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

## i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

## 2. Consultations and Representations

The application has been advertised in a local newspaper. There were no neighbours to notify due to the ownership boundary of GSK being more than 20m away from the application site. No letters of representation have been received.

**West of Scotland Archaeological Service** - reiterate the requirement for an archaeological watching brief to be carried out.

*Response - This requirement is addressed within Condition 5 of the original planning permission (ref. 19/00164/PP), which would not be altered by this Section 42 application. A similar condition could be attached to any further grant of consent.*

**Glasgow Prestwick Airport (GPA)** - support the proposal to amend the condition.

**National Air Traffic Service (NATS)** - no concerns and it is noted that NATS has agreed a radar mitigation scheme with the developer.

*Response – Noted.*

## 3. Analysis

Section 42 of The Town and Country Planning (Scotland) Act 1997, as amended, relates to the determination of applications to develop land without compliance with conditions previously attached. Section 42 states that, on such an application, the planning authority shall consider only the question of the conditions subject to which planning permission be granted and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous planning permission was granted, they shall grant planning permission accordingly.

The proposed amended wording of condition 1 would not alter the purpose of the existing condition. The changes to the wording have been requested by Glasgow Prestwick Airport (GPA) as this is their standard preferred wording for radar mitigation conditions. GPA considers that the proposed wording would give them a greater degree of control, ensuring that the mitigation scheme is satisfied and implemented. The proposed wording keeps the intention of the original condition and would meet the tests for conditions as set out in Circular 4/1998. The proposed wording relies on a number of particular definitions, which could be included as an informative note to accompany the decision notice.

The proposed additional condition would be required in order to meet the requirements of NATS in terms of radar mitigation. The proposed wording is acceptable and would meet the test for conditions. As NATS have already agreed radar mitigation with the developer, the proposed condition could be part discharged immediately, and would only be required to ensure that the mitigation scheme is implemented.

In summary, while there is an outstanding objection from GPA regarding the effect of the development on their radar systems, these effects can be mitigated through the Terma SCANTER radar mitigation system, which is to be implemented prior to the turbines coming into operation, and consequently addressing the concerns of GPA. The previous decision to grant planning permission for the wind turbine development was taken against this background, with an outstanding objection from GPA. However, the mitigation of the impacts on radar systems would be addressed by the conditions attached to the planning permission. As such, it is therefore recommended that this Section 42 application is granted. Although this application relates only to two conditions, the other conditions attached to the original planning permission also require to be included in order to ensure their implementation as part of the development.

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

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. (i) No blade shall be fitted to any turbine or turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as North Ayrshire Council receives confirmation from the Airport Operator that all measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented.

(ii) No turbine shall operate other than in accordance with the terms of the Radar Mitigation Scheme.

##### **Reason**

To meet the requirements of Glasgow Prestwick Airport.

##### **Condition**

2. At wind speeds not exceeding 12ms<sup>-1</sup>, as measured or calculated at a height of 10m above ground level at the wind turbine, the noise immission level at any noise sensitive premises, including those dwellings listed in Table 5 of the applicant's Noise Report 'Proposed extension to wind energy development - GSK Irvine, Noise Impact Assessment, KSG Acoustics, Prepared for Stephenson Halliday, 27 February 2019', shall comply with the following:

(i) During night hours, defined in The Assessment and Rating of Noise from Wind Farms, 1996 ETSU-R-97 as 23:00 to 07:00 on all days, the cumulative noise immission level of the two wind turbines associated with this permission and the two existing wind turbines (built under permissions 09/00878/PP and 12/00629/PP) shall not exceed 43dB LA90,10min or the ETSU-R-97 derived night hours noise limit based on the measured LA90,10min noise level plus 5dB(A), whichever is the greater. The night hours noise limits shall be taken from Table 5 of the applicant's noise report.

(ii) During Daytime Hours, defined as 07:00 to 23:00 on all days, the cumulative noise immission level of the two wind turbines associated with this permission and the two existing wind turbines (built under permissions 09/00878/PP and 12/00629/PP) shall not exceed 35dB LA90,10min or the ETSU-R-97 derived quiet waking hours noise limit based on the



measured LA90,10min noise level plus 5dB(A), whichever is the greater. The quiet waking hours noise limits shall be taken from Table 5 of the applicant's noise report.

**Reason**

To meet the requirements of Environmental Health

**Condition**

3. When assessed at any noise sensitive premises the operation of the wind turbine shall not result in any audible tones as defined in The Assessment and Rating of Noise from Wind Farms, 1996 (ETSU-R-97).

**Reason**

To meet the requirements of Environmental Health

**Condition**

4. The presence of any significant unsuspected contamination which becomes evident during the development of the site shall be brought to the attention of the Environmental Health Service of North Ayrshire Council. Thereafter, a suitable investigation strategy, agreed with the Environmental Health Service of North Ayrshire Council, shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site.

**Reason**

To meet the requirements of Environmental Health

**Condition**

5. That the applicant 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 and recover items of interest and finds. A method statement for the watching brief will be submitted by the applicant, and agreed by the West of Scotland Archaeology Service, and approved in writing by North Ayrshire Council as Planning Authority prior to the 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 in writing not less than 14 days before the development commences.

**Reason**

To meet the requirements of the West of Scotland Archaeology Service

**Condition**

6. That the applicant shall construct and operate the development in accordance with the Protected Species Survey Report (ref. SHA05.19.1833) and, where necessary, shall implement recommended mitigation measures contained in the Protected Species Survey Report to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

To ensure that the development does not impact upon any protected species.

**Condition**

7. By the end of a period of 25 years from the completion of the development, all of the above ground elements of the development hereby approved shall be removed within 24 weeks. Thereafter, the site shall be restored in accordance with an appropriate scheme of restoration to be approved in writing by North Ayrshire Council as Planning Authority.

**Reason**

In recognition of the temporary nature of the development.

**Condition**

8. If any turbine ceases to be operational for a continuous period of 6 months all of its above ground elements shall be removed within 24 weeks and the ground reinstated to the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

To ensure that any turbines which become redundant are removed; in the interest of the visual amenity of the area.

**Condition**

9. No development shall commence on the site until a Construction Method Statement, including details of all on-site construction works, detailed timescales for the various stages of site clearance, construction and commencement of operation and environmental mitigation measures has been submitted to, and agreed in writing by North Ayrshire Council as Planning Authority. The development shall then progress in accordance with the approved Construction Method Statement.

**Reason**

To ensure that the development is constructed in a satisfactory manner and to protect environmental features.

**Condition**

10. That prior to the commencement of the development hereby approved, the applicant shall complete all relevant Abnormal load movement application and notification forms and submit all relevant forms to North Ayrshire Structures Team. Unless otherwise agreed in writing by North Ayrshire Council as Planning Authority, all HGV traffic associated with the construction of the wind turbines shall enter and leave the site from the A78 trunk road via the Newhouse Interchange, the B7080 (moss Drive) and Oldhall Roundabout.

**Reason**

In the interest of road safety

**Condition**

11. No turbine blade shall be fixed to either turbine until:

- (i) The developer has agreed a radar mitigation scheme with the National Air Traffic Services and this scheme has been approved in writing by North Ayrshire Council as Planning Authority; and
- (ii) The approved mitigation measures have been implemented to the satisfaction of North Ayrshire Council as Planning Authority.

Thereafter, the development shall operate fully in accordance with the approved scheme and shall not operate should the radar mitigation easures not be achieved because the developer or the operator does not comply with the Scheme.

**Reason**

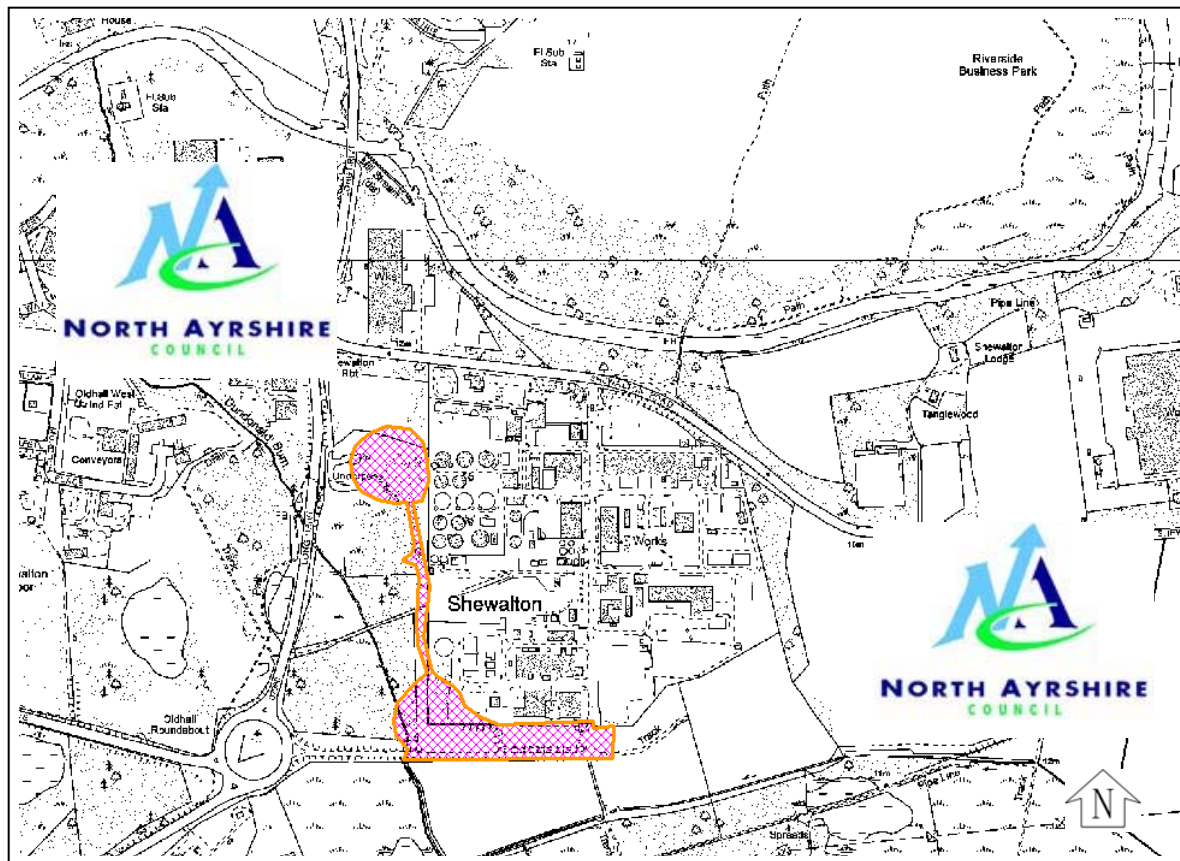
In order to mitigate the effects of the development on the National Air Traffic Services Lowther Hill radar.

Russell McCutcheon  
Executive Director (Place)

For further information please contact Mr John Mack on 01294 324794.

## Appendix 1 – Location Plan

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**NORTH AYRSHIRE COUNCIL**

2nd October 2019

**Planning Committee**

Locality	North Coast
Reference	19/00322/PPPM
Application Registered	7th May 2019
Decision Due	7th September 2019
Ward	North Coast And Cumbraes

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Site To East Of Golf Course Road Skelmorlie Ayrshire
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<b>Applicant</b>	Fairhold Limited
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<b>Proposal</b>	Residential development
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## 1. Description

Planning permission in principle is sought for residential development of an area of land to the east of Golf Course Road and Hillview, Skelmorlie. The land is some approx. 4.2 hectares in area. The land is bounded to the north and east by open space, to the west by Golf Course Road, Hillview and the newly built Balnagowan Wynd and to the south by land within the settlement of Skelmorlie, as identified by the Local Development Plan (LDP2).

The site is allocated as suitable for residential in the Local Development Plan (LDP) adopted 2014 and the proposed Local Development Plan (LDP2). LDP2 was approved by the LDP Committee on 17th September 2019 and is due to be adopted October 2019. The proposal has been assessed against both the LDP and LDP2.

An area of the southern end of the site was granted permission in 2008 (ref: 08/00797/PP) for the demolition of a bus garage and erection of 9 flats. An adjacent area, also within this site, was granted permission in 2008 (ref: 08/00501/PP) for erection of a house. In 2012 permission (ref: 12/00187/PP) was granted for erection of a house on another area of the southern end of the site.

The application falls within the category of "major" development, in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. A

pre-application consultation (PAC) was required and a PAC notice was received 14th August 2018 (ref: 18/00733/PREAPM).

Some supporting documents refer to a proposed indicative capacity for 68 houses. An indicative plan was also submitted. For the avoidance of doubt, reference to the number of houses and any layouts are indicative only and would not be approved should planning permission in principle be granted. Further planning applications with specific details of any layouts, design, house number etc. would be required to be submitted and approved before development could commence.

In support of the application the following documents have been submitted:

#### PAC report

A public event was held and households and land owners within 150m of the site were contacted. The PAC report notes the publicity measures undertaken and that meetings and exhibitions were held on the 22nd, 25th, 26th and 27th of September 2018. The report notes there were 75 attendees at the events. Comments raised include; concern over additional traffic/impact on roads including drainage and pedestrian safety; impacts on wildlife; need to address declining population; impact on doctor's surgery; and that the site should be left undeveloped.

#### Planning Statement

The planning statement summarises the planning background, making reference to the previous permissions and LDP allocation. The statement sets out the context of the site within Skelmorlie and the wider area.

#### Design Statement

This statement sets out the ideas relating to a development of 68 houses. As above this statement is indicative only and would not be approved as part of this application. The statement also sets out detail of ground water and potential ways to manage it in the context of development of the site.

#### Flood Risk and Drainage Impact Assessment

This assessment provides a review of the existing condition of the site including influential features and potential sources of flooding. The report concludes that there is little or no risk of coastal, fluvial or flooding from infrastructure. Pluvial flooding is noted to be of medium risk to the site through an existing overland flow routing to the Kelly Burn. This risk should be mitigated through design and a Sustainable Drainage System. The implementation of attenuation and flow control within the proposed drainage network is anticipated to reduce the risk of flooding.

#### Invasive Weeds Survey

The survey confirmed the presence of Japanese Knotweed on the site and outlines the area within the site in which it was found to be growing. The survey also found Rhododendron and Horsetail and Greater Horsetail. The survey sets out recommendations for managing and removing invasive species particularly Japanese Knotweed.

## Transport Statement and assessments

This assessment considers the potential trip generation and distribution characteristics of the development. It outlines the changes that were made to design following public comments regarding access, although as noted the submitted layouts are indicative only. The Transport Statement acknowledges that further analysis will be required for any detailed planning stage.

## Phase 1 Contamination Desk Study and Preliminary Contamination Risk Assessment

The documents provide a summary of any former contaminative uses, information on nearby groundwater and surface water courses, an indication of geological conditions, recognition of any historical pollution incidents, identifies possible presence and assesses potential risks of contamination. It is acknowledged that there are former refuse tips within the site.

The report states that there may be potential contamination at the surface in the areas of the historic refuse tips, that there is potential for contamination from made ground and soil gas from the historic garage use and associated development, and there is potential soil gas emission from peat deposits. Details of further investigations to be carried out are provided.

The Town and Country Planning (Scotland) Act 1997 states that when determining planning applications regard shall be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. The relevant policies of the Local Development Plan adopted May 2014 (LDP) are RES2: Additional Housing Sites, RES4: Affordable Housing and the General Policy.

The relevant policies of the proposed Local Development Plan (LDP2), which has been examined by the Scottish Government 10th July 2019, and has been approved on 17th September 2019 are Strategic Policy 1: Spatial Strategy; Strategic Policy 2: Placemaking and Policy 1: New Homes and Maintaining an Effective Housing Land Supply.

## Relevant Development Plan Policies

### RES2

#### POLICY RES 2: ADDITIONAL HOUSING SITES

The sites identified in Table 1 and on the LDP Maps are allocated for market housing to meet the identified housing requirement to 2025.

Sites will require to mitigate against any unacceptable adverse impacts on infrastructure arising as a result of the site's development. Indicative requirements are set out within the Action Programme.

### RES4

#### POLICY RES 4: AFFORDABLE HOUSING

Proposals for the development of RES 2 sites allocated in the local development plan and residential proposals on Arran and the mainland will be subject to requirements for affordable housing, as detailed in supplementary guidance. The contributions to affordable

housing provision will be at the following levels in the following areas:

- Irvine & Kilwinning: 15%
- Three Towns: 10%; and
- North Coast and Arran: 25%.

Additional criteria to guide the provision are set out in the supplementary guidance (Affordable Housing - Guidance for Developers & Policy: Isle of Arran and Affordable Housing - Guidance for Developers & Policy: Mainland), which is consistent with the Scottish Government's policy set out in Scottish Planning Policy and in the Chief Planner's letter of 5 March 2011 and with its advice on affordable housing contained in Planning Advice Note 2/2010.

The sites identified in Table 2 and on the LDP Maps are allocated specifically for affordable housing to help address the identified housing requirement to 2025. For the avoidance of doubt, Policy RES4 does not apply to sites in the Garnock Valley sub Housing Market Area.

## General Policy GENERAL POLICY

### (a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.
- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.
- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.
- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas. Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.
- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.
- Design should have regard to the need to reduce carbon emissions within new buildings.

### (b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any



other environmental pollution;

- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

In relation to neighbouring properties regard should be taken of privacy, sunlight and daylight.

#### (c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will generally be required to ensure an appropriate boundary between town and country is provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist assessment of significant proposals.

#### (d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an integral part of any significant development proposal. Development should have regard to North Ayrshire Council's Roads Development Guidelines and meet access, internal road layout and parking requirements.

#### (e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated with them where specific consultation is required in assessing planning applications. The objective is to ensure that no development takes place which is incompatible from a safety viewpoint. The need for consultation within Safeguarding Zones is identified when an application is submitted. Supporting Information Paper No. 7 provides further information on Safeguarding Zones.

#### (f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering, health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

#### g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services, facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse

impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement.

This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

#### h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

#### i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

## **2. Consultations and Representations**

Neighbour notification was carried out and the application was advertised. There have been 48 objections received, which can be summarised as follows;

1. Impact on the road network, in particular Sandybrae Road and Golf Course Road. Existing pavements are limited, and roads are narrow. Impact already by the construction of houses to the south of Balnagown Cottage, further construction would exacerbate this. issue There is no scope to improve sightlines at junctions.

*Response: NAC Active Travel and Transportation offers no objection, and advised on specific details required to see in any future detailed applications. The comments are summarised below.*

2. Impacts on surface water and foul sewage drainage. The submitted reports mention that further research is required. The nearest drain has been blocked for many years. There is potential for flooding.

*Response: Both SEPA and NAC Flooding offer no objection subject to conditions. Summaries of their comments are given below.*

3. The land is contaminated including dumping of hazardous material. Development would expose locals to this contamination. It is understood to include lead, asbestos and other toxic substances. Further testing of the site is required.

*Response: North Ayrshire Council Environmental Health offers no objection and requires further investigations to be carried out and reports to be submitted as part of any future detailed applications. The comments are summarised below.*

4. The previous permission for the site required demolition of bus garage prior to development. This should be required before any development.

*Response: Specific details of any development of the site, including the area of the bus garage, would be the subject of future detailed applications.*

5. The development will impact on existing water supplies. The development will impact on electricity supplies. These issues were raised in 2011 in response to the Local Development Plan process.

*Response: The site was assessed as appropriate through LDP procedures. Scottish Water offers no objections. The response is summarised below.*

6. 60+ houses are too many for the site. With the current adjacent development this will bring 98 further families to an area which does not have sufficient infrastructure, including bus services, doctors' surgeries and youth facilities.

*Response: The application is for permission in principle and any reference to housing numbers in this application is indicative only and would not be approved. The site has been allocated through the LDP processes which has determined the site as suitable in principle for residential development.*

7. There is Japanese Knotweed on the site.

*Response: This is noted and a condition requiring details of remediation measures to accompany any detailed applications could be attached to any permission.*

8. Impacts on wildlife. The site is considered to be home to species including bats and nesting birds. Removal of all the mature trees would be detrimental to the area and there are no proposals to replace them. The Council's Biodiversity action plan states that we need to carefully evaluate decisions and take a precautionary approach to avoid loss and damage. The loss of the space would negatively impact on the quality of life in the village.

*Response: The application is for permission in principle. The site has been allocated through the LDP processes and has been assessed in terms of biodiversity. Any detailed applications could require appropriate habitat surveys to identify any protected species with*

*details for protection as necessary. Detailed applications could also be required to be accompanied by appropriate tree surveys identifying trees to be retained where possible and schemes for landscaping as necessary.*

9. The proposed new road goes over a property with servitude rights.

*Response: The new road in the plans is indicative only and such details would have to be determined through future detailed applications. Any access rights etc would be a matter between the respective land owners.*

10. Inadequate consultation of those effected.

*Response: The application has been subject to statutory consultation procedures. The applicant has also carried out the required pre-application consultation. The site has been assessed through Local Development Plan processes.*

The Woodland Trust submitted a late objection that the site may potentially be unmapped ancient woodland. The Trust do not believe that a buffer of 30m from the woodland to any development could be incorporated into the layout.

*Response: Whilst the comments are noted, the area has been subject to other uses and development. There is a former bus garage at the southern end of the site and many of the objections received refer to the use of the site as a dump. This is confirmed by the applicant's preliminary assessments, which states that significant tree clearance took place from the late 1950s with development of the garage buildings, the refuse tip in the north-west and an up-filled feature, possibly another tip, in the centre of the site. Given this situation any value the site may have had as ancient woodland would be minimal. The site has been determined as suitable for residential development through LDP processes. As above the application is for permission in principle only and any layout would have to be determined through further applications*

Among the objections, the following representation points were also raised.

1. Need for more housing generally. The school will benefit from potential pupils. The local shop will benefit from increased custom

*Response: Noted*

**Skelmorlie Community Council** - The site is contaminated, and any development would adversely affect the whole area, including water courses and the Clyde. The site is also a Bluebell woodland and it is illegal to uproot or destroy those plants. There are drainage and flooding issues associated with the site

*Response: Environmental Health offers no objection subject to a requirement for further investigation and potential remediation as appropriate. The Council's Flooding Officer and SEPA offer no objection. The responses are outlined below. It is not illegal to uproot or destroy bluebells. However, it is illegal to remove them for commercial sale. Such activities are not controlled through the planning process. Any development of the site would have to ensure it complied with all relevant legislation.*

**Scottish Water** - No objections.

*Response: Noted*

**SEPA** - Do not object subject to an appropriate condition. If it is not, SEPA would object. The condition would require an updated Flood Risk Assessment to be submitted, to the satisfaction of SEPA when detailed planning permission is sought. The reason for this condition is that it is required to ascertain the developable extent of the site and ensure that the site layout is in accordance with Scottish Planning Policy and the principle of flood avoidance. SEPA reserve the right to object to any detailed planning application.

*Response: Noted. Such a condition could be added to any permission.*

**NAC Flooding** - On the basis SEPA does not object, NAC Flooding does not object. A full planning application should meet certain conditions. Such an application must demonstrate drainage proposals have been designed for exceedance. Details of overland flow-paths, 'additional' attenuation measures, control devices etc and demonstration that access/egress will be maintained must be provided. A Drainage Impact Assessment must be provided. Surface water discharge to the water environment must accord with the principles of SUDS Manual and relevant regulations. Full details of parties responsible for maintenance including implementation and schedule should be provided. A land drainage strategy is required including an assessment that demonstrates that the proposal would not be at risk of up to and including a 1 in 200 year event and will not increase flood risk elsewhere. Any assessments should be carried out in consultation with SEPA, NAC and Scottish Water.

*Response: Noted. Conditions could be attached to any permission requiring such relevant details as part of any future application for full permission.*

**NAC Regeneration (Active Travel and Transport)** - No objections although concerns over the proposed indicative means of access to the site. The site accesses via Golf Course Road/Sandybrae Road is not of a standard to accommodate a development of this scale due to junctions being unable to accommodate the increased volumes of traffic. It has already been intimated to the developer's agents that the proposals to reduce Skelmorlie Castle Road to 4.8metres in the vicinity of the junction is unacceptable.

A maximum of ten dwellings should be accessed via Golf Course Road, with any remaining accessing the site through Innes Park Road/Hillview. To gain access to Hillview the developer will require to seek permission from North Ayrshire Council (Estates) to construct an access to Hillview, which is not shown on the planning application as land under the control of the developer.

There are currently approximately 173 dwellings accessed via the single access of Innes Park Road. Should the total number of dwellings using this road exceed 200 dwellings then an emergency access will be required. It may be possible to connect to Golf Course Road but only as an emergency access. Pedestrian and cycle links through to Golf Course Road will be acceptable

Any layout should comply with Designing Streets, ensuring speeds are no greater than 20mph and that infrastructure provided accommodates proposed traffic volumes and does not over provide. Consideration should be given to linking this site through the allocated

"Skelmorlie Lower Reservoir" site onto Skelmorlie Castle Road, which would allow the site to be fully connected to the existing road network.

*Response: Noted. Conditions could be attached to any permission requiring such details as part of any future application for full permission.*

**NAC Environmental Health** - No objections. Any permission to be subject to conditions. Prior to the commencement of the development the applicants shall undertake an appropriate site investigation and subsequent suitable quantitative risk assessment, taking cognisance of the Recommendations for Ground Investigation contained within Section 9 of the Phase 1 Desk Study (Contamination), submitted in support of the application, Report Reference No 8170OR01, by FWS and dated February 2019. Remediation proposals shall also be presented in relation to any significant findings.

All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority. 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 an agreed remediation scheme. On completion of the proposed works written verification, detailing what was done by way of any remediation, shall also be submitted.

Anecdotal information suggests that slaughter house, hospital and computer wastes may have been deposited on this site. Sources of radioactive contamination should also therefore be considered.

The applicant should demonstrate that cumulative effect of traffic, from the proposed development and any nearby existing developments will not have a detrimental effect on local air quality by way of an air quality screening study submitted to the satisfaction of North Ayrshire Council as Planning Authority. Advice is also given on minimising disturbance from construction/demolition and measures to limit noise during construction.

*Response: Noted. A condition requiring contamination investigation, along with remediation proposals as appropriate, could be added to any permission. The specific advice on development is noted and has been passed to the applicant. However, as this is a permission in principle the specific methods of building and actual remediation are not relevant at this point as no detailed permission would be granted. Environmental Health has the power to control any such impacts under their own legislation, regardless of whether planning permission is required.*

### **3. Analysis**

As noted above the site is allocated as suitable for residential in the Local Development Plan (LDP) adopted in 2014 and the proposed Local Development Plan (LDP2), which has been approved by the Council. Policy RES2 of the LDP states that sites allocated as an additional housing site are allocated for market housing, which is essentially re-iterated in Strategic Policy 1 and Policy 1 of LDP2. The principle of development for residential purposes is therefore acceptable.

Policy RES4: Affordable Housing of the LDP states that development of allocated housing sites in the North Coast Area (i.e. Skelmorlie) will be subject to the requirements of

affordable housing. The contributions will be at 25% for the North Coast Area. As this application is for the principle of development only, a condition could be attached to any permission requiring details of affordable housing provision. The proposal is considered to accord with Policy RES4 of the LDP.

The siting, design and external appearance of any specific development of the site would be considered as part of any further detailed planning applications. A condition could be attached to any permission in principle requiring such details to be submitted. Amenity impacts both within the site and on neighbouring properties would also be fully considered through such applications. A condition could be added to any permission in principle requiring ground investigation and assessment of impact on air quality in accordance with Environmental Health's requirements. Similarly, an appropriate condition in respect of drainage and flood risk could also be added.

The access, road layout and parking provision of any specific development of the site, would be considered as a part of any further detailed planning applications. NAC Regeneration (Active Travel and Transport) has provided details of the requirements and these could be added to any permission in principle. The site has been assessed as a suitable location in terms of access to public transport.

Any detailed planning applications would also be assessed in terms of landscaping provision in the context of an edge of settlement site and the trees within it. A survey of existing trees with proposals for retention/planting could also be required by condition. Any infrastructure contributions, if any are required, would be assessed in the context of the specific number of residential properties sought through detailed planning applications. The proposal is therefore considered to accord with the General Policy of the LDP and Strategic Policy 2 of LDP2.

The proposal is held to accord with the relevant policies of the LDP and the policies of LDP2. Accordingly, the application should be approved subject to the conditions referred to in this report.

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

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That the approval of North Ayrshire Council as Planning Authority with regard to the siting, design and external appearance of, landscaping, means of access to the proposed development and affordable housing contribution, shall be obtained before the development is commenced.

##### **Reason**

In order that these matters can be considered in detail.

##### **Condition**

2. That further application(s) for approval under the terms of Condition 1 shall include a report of an appropriate site investigation and subsequent suitable quantitative risk

assessment, taking cognisance of the Recommendations for Ground Investigation contained within Section 9 of the Phase 1 Desk Study (Contamination), submitted in support of the application, Report Reference No 8170OR01, by FWS and dated February 2019. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitably qualified Environmental Consultant and submitted the satisfaction of North Ayrshire Council as Planning Authority.

**Reason**

To ensure proper consideration of potential contamination and remediation measures.

**Condition**

3. That further application(s) for approval under the terms of Condition 1 shall include an air quality screening study demonstrating the cumulative effect of traffic, from the proposed development and any nearby existing developments, on local air quality to the satisfaction of North Ayrshire Council, as Planning Authority.

**Reason**

To ensure proper consideration of potential impacts on air quality.

**Condition**

4. That further application(s) for approval under the terms of Condition 1 shall include details of access, road layout and parking provision. For the avoidance of doubt no more than 10 residential properties shall be accessed from Golf Course Road. An emergency vehicular access from the site to Golf Course Road shall be required if the total number of residential properties using Innes Park Road exceeds 200 dwellings. Internal layouts shall be designed in accordance with Designing Streets principles. Proposals should include extensions to the existing layby parking on Innes Park Road and pedestrian and cycle links to Golf Course Road.

**Reason**

To ensure appropriate access and site layout in accordance with the requirements of the Council, as Roads Authority.

**Condition**

5. That further application(s) for approval under the terms of Condition 1 shall include an updated Flood Risk Assessment (FRA), to the satisfaction of SEPA when detailed planning permission is sought. Such an FRA will establish the developable extent of the site with a layout in accordance with Scottish Planning Policy and the principle of flood avoidance.

**Reason**

To ascertain the developable extent of the site and ensure that any layout is in accordance with Scottish Planning Policy and the principle of flood avoidance, to the satisfaction of SEPA and North Ayrshire Council, as Planning Authority.

**Condition**

6. That further application(s) for approval under the terms of Condition 1 shall include details of drainage which have been designed for exceedance i.e. 200 year critical storm event + climate change. Details of overland flow-paths, 'additional' attenuation measures, overflow devices etc must be provided. A Drainage Impact Assessment must be provided



including a land drainage strategy and details of implementation and maintenance. Any discharge of surface water to the water environment must accord with the principles of the SUDS Manual (C753), published by CIRIA November 2015 and comply with the terms of The Water Environment (Controlled Activities) (Scotland) Regulations 2011.

**Reason**

To ensure appropriate consideration of drainage in accordance with the requirements of the Council's Flooding Officer.

**Condition**

7. That further application(s) for approval under the terms of Condition 1 shall include a tree survey identifying any trees within the site to be retained and protection measures to be put in place during any construction. A plan of landscaping including details of replacement tree planting shall also be provided.

**Reason**

To allow consideration of the impact of any scheme on existing trees and to ensure an appropriate landscaping scheme.

**Condition**

8. That further application(s) for approval under the terms of Condition 1 shall include a dated Phase 1 Habitat Survey.

**Reason**

To ensure proper consideration of the ecology of the site, in recognition of the potential for species movement.

**Condition**

9. That further application(s) for approval under the terms of Condition 1 shall include a scheme for the remediation and treatment of Japanese Knotweed within the site.

**Reason**

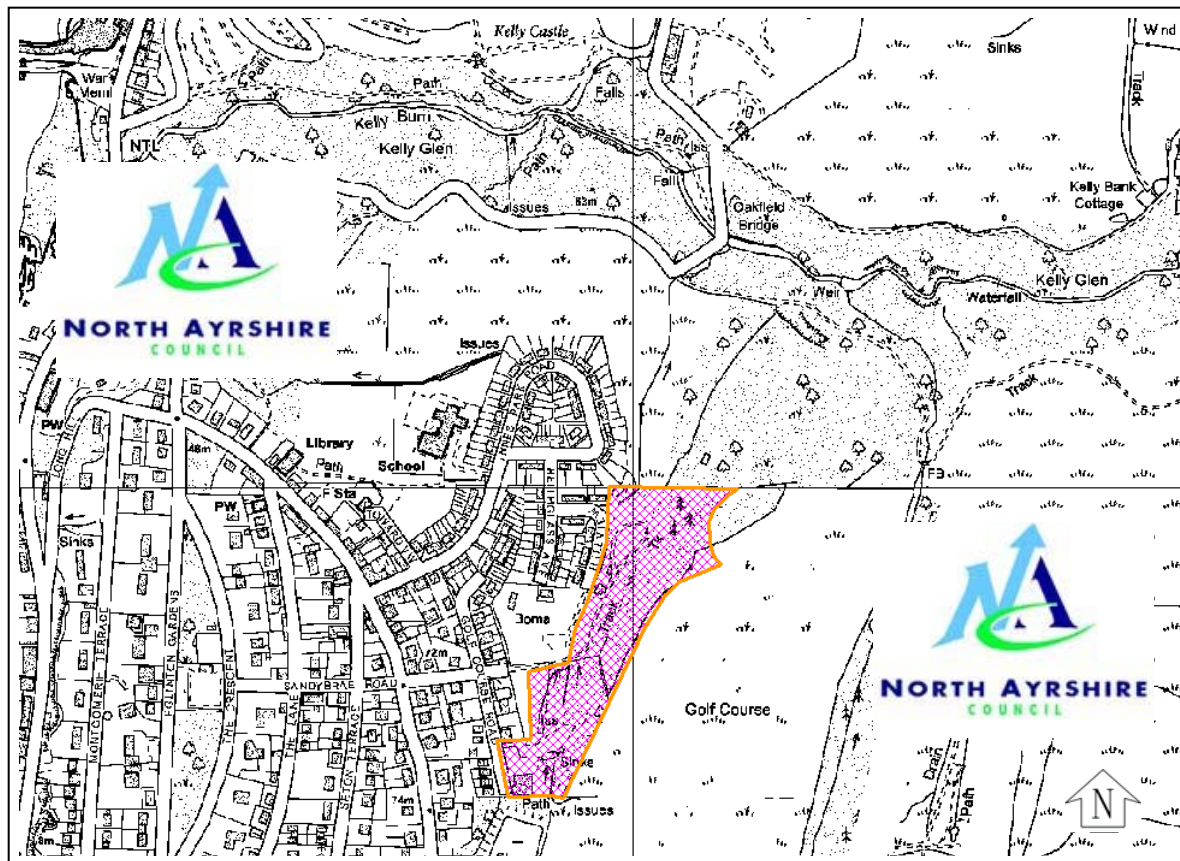
To ensure an appropriate scheme for removal/management of a known invasive species within the site.

Russell McCutcheon  
Executive Director (Place)

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

## Appendix 1 – Location Plan

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## **NORTH AYRSHIRE COUNCIL**

**2<sup>nd</sup> October 2019**

### **Planning Committee**

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**Title:** **Adoption of the Montgomerie Park Simplified Planning Zone (SPZ)**

**Purpose:** This report seeks the approval of the Planning Committee to adopt the proposed Montgomerie Park SPZ with no modifications, subject to minor editorial changes that may arise.

**Recommendation:** That the Planning Committee adopts the Montgomerie Park SPZ with no modifications, subject to referral and clearance from Scottish Ministers.

---

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

- 1.1 This report seeks the approval of the Planning Committee to adopt the proposed Montgomerie Park Simplified Planning Zone.
- 1.2 The SPZ Scheme was prepared in conjunction with the Scottish Government as part of the Simplified Planning Zone pilots which will inform the introduction of Masterplan Consent Areas (which will replace SPZ's) through the new Planning Act.

#### **2. Background**

- 2.1 Montgomerie Park has been allocated for residential development dating back to approximately 1989. To date 5 sites (totalling 481 dwellings) have been delivered for within Montgomerie Park dating from 2004 through to 2016, with the Persimmon development being the most recent. Since the recession build rates have slowed across North Ayrshire and within Montgomerie Park with a large area (approximately 450 homes) have remained undeveloped with low values and limited commercial interest.
- 2.2 To kickstart the delivery of homes, and to adopt an innovative approach to large scale housing delivery, Council officers secured £30,000 grant funding in 2017 from the Scottish Government to support development costs to make and deliver a pilot Simplified Planning Zone. North Ayrshire is one of three Local Authorities participating in the pilot, however, we the only one utilising the SPZ as a method of delivering major scale residential development. As such, the Montogmerie Park is unique and will help inform the implementation of the recent Planning Act and Masterplan Consent Areas. This incentive is part of a wider approach to placemaking in Montgomerie Park, which includes the Council's capital programme committing £4.6m to supporting

development at the remaining undeveloped portions of land at Montgomerie Park, and a new school at Montgomerie Park – all of which are integral to supporting the total package of investment in placemaking at Montgomerie Park.

- 2.3 An SPZ has a defined development boundary where certain types of development are granted planning permission upfront by providing a framework for certain land uses and development the Council wants to achieve in that area. If developers comply with the SPZ Scheme they do not need to apply to the Local Authority for Planning Permission. The SPZ Scheme sets out pre-commencement conditions and notification processes to allow officers to check, before work commences on site, that the proposed development complies with the conditions and terms of the SPZ Scheme.
- 2.4 If the developers do not comply with the scheme, they do not have planning consent and the works will be unauthorised and subject to enforcement action in line with the Council's Enforcement Charter. The Council seeks to market the land to a volume housebuilder, and it is envisaged that a volume housebuilder would not want to proceed without complying with the SPZ Scheme as any such development would not have planning permission. The Council's ownership of the land provides additional control mechanisms to ensure high quality development.
- 2.4 To stimulate development interest, and maximise land value, rather than setting out onerous conditions and limitations to control development, officers have sought, in conjunction with the Scottish Government, to provide a framework ensuring aspects that are most important are protected and considered within the development. Full details of the SPZ conditions are contained within the attached SPZ Scheme, which include that: -
- there is a clear road hierarchy,
  - a new primary road is delivered which can accommodate a bus service and will eventually connect through to Long Drive as development of the remaining land continues,
  - that boundaries along existing dwelling houses are designed sensitively with an 18-metre separation distance and a maximum build height of two storeys,
  - that footpaths links remains open and
  - that rainwater harvesting is incorporated within the development.
- 2.5 The making of a SPZ is a statutory process. The Montgomerie Park SPZ Scheme has been prepared in line with the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Simplified Planning Zones) (Scotland) Regulations 1995.
- 2.6 Pre-deposit consultation on the making of the SPZ was carried out initially with statutory consultees SEPA, NAC Flooding, Scottish Water, Scottish Ministers, The Coal Authority and NAC Roads from July 2018. There is no Community Council covering Montgomerie Park, however, the Local Development Plan included Montgomerie Park as a Strategic Development Area and highlighted the remainder of Montgomerie Park as a Strategic Housing Growth Area with the inclusion in part of a Simplified Planning Zone. The Local Development Plan was widely consulted with public consultation event held within the Portal, Irvine and publicised on social media. In addition, a workshop on the SPZ was held at the Hallmark Hotel in May 2017, and publicly advertised, to provide information and seek views from interested parties.

- 2.7 The site has been subject to a Stage 1 Habitat Appraisal, topographic surveys, constraints mapping, archaeological investigations and ground surveys. An Environmental Screening Opinion has been adopted to state that an Environmental Impact Assessment is not required as the development does not raise any likely significant environmental impacts.
- 2.8 On the 14<sup>th</sup> of August 2019, in line with the requirements of the legislation, the proposed SPZ was advertised within the local paper and the Edinburgh Gazette for two consecutive weeks. All previously consulted consultees were re-notified and invited to make comment on the proposed scheme and site notices (8 in total) were placed on or near the land proposed to be included within the SPZ for a period of at least 6 weeks.
- 2.9 The consultation period ran from the 14<sup>th</sup> August until the 25<sup>th</sup> September. Objections have been received on the proposed Montgomerie Park SPZ Scheme; all of which are from members of the public. No statutory consultees raised any objections to the SPZ Scheme.
- 2.10 As a result of the consultation, additional conditions were placed in the scheme to ensure that, in addition to maintaining separation distances from existing properties that would be imposed through planning permission, those houses bounding adjacent residential properties would not exceed two stories in height.
- 2.11 No other issues were raised in consultation that are not addressed through proposed conditions or are matters that alter the recommendations. It should be noted that consultation procedures have been undertaken in excess of that required by regulations; and that the site is already an established residential allocation, which has predated all phases of development adjacent to the site. A full summary of the points raised through representations, and the Planning Authority's response, can be viewed in Appendix 2, which demonstrate that the SPZ will not result in an unacceptable impact on residential amenity for existing or new residents, and that the consultation process were in line with, or in excess of, statutory requirements.
- 2.12 Subject to the recommendations in this report being accepted, the Council will place notices in accordance with regulations and notify Scottish Ministers of the intention to adopt the SPZ. Scottish Ministers have 28 days from being notified to respond, failing which the SPZ will become adopted, and will be in place for 10 years from that date.

### 3. Proposals

- 3.1 That the Planning Committee adopts the Montgomerie Park SPZ with no modifications, subject to referral and clearance from Scottish Ministers.

### 4. Implications/Socio-economic Duty

<b>Financial:</b>	None. SPZ pilot has been funded through Scottish Government funding of £30, 000, which may require to be repaid if the SPZ is not adopted.
<b>Human Resources:</b>	The work was undertaken from existing staff resources

<b>Legal:</b>	The Montgomerie Park SPZ Scheme has been prepared in line with the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Simplified Planning Zones) (Scotland) Regulations 1995.
<b>Equality/Socio-economic Duty:</b>	No implications.
<b>Children and Young People:</b>	No implications.
<b>Environmental &amp; Sustainability:</b>	The site has been subject to a Stage 1 Habitat Appraisal, topographic surveys, constraints mapping, archaeological investigations and ground surveys. An Environmental Screening Opinion has been adopted to state that an Environmental Impact Assessment is not required as the development does not raise any likely significant environmental impacts.
<b>Key Priorities:</b>	The Montgomerie Park SPZ provides a strategic framework and an innovative approach to housing delivery whilst supporting the delivery of a number of Council Plan priorities, particularly 'Inclusive, growing and enterprising local economy', 'Affordable, modern and well-designed homes that meet residents needs', 'Vibrant, welcoming and attractive Places' and 'A Sustainable Environment'.
<b>Community Benefits:</b>	No direct procurement implications arising from the recommendations.

## 5. Consultation

- 5.1 The SPZ Scheme has been consulted in line with statute and has also been supported by the proposed Local Development Plan, as intended to be adopted in October 2019 after approval from the Local Development Plan Committee on the 17<sup>th</sup> September 2019, which has undergone consultation which exceeded statutory requirements.
- 5.2 Pre-deposit consultation on the making of the SPZ was carried out initially with statutory consultees SEPA, NAC Flooding, Scottish Water, Scottish Ministers, The Coal Authority and NAC Roads from July 2018. There is no Community Council covering Montgomerie Park. However, the Local Development Plan included Montgomerie Park as a Strategic Development Area and highlighted the remainder of Montgomerie Park as a Strategic housing Growth Area with the inclusion of a Simplified Planning Zone. The Local Development Plan was widely consulted with public consultation event held within the Portal, Irvine and publicised on social media.
- 5.3 On the 14<sup>th</sup> of August 2019, in line with the requirements of the legislation, the proposed SPZ was advertised within the local and the Edinburgh Gazette for two consecutive weeks, all previously consulted consultees were re-notified and invited to make comment on the proposed scheme and site notices (8 in total) were placed on or near the land proposed to be included within the SPZ for a period of at least 6 weeks.

- 5.4 The consultation period ran from the 14<sup>th</sup> August until the 25<sup>th</sup> September. Objections have been received on the proposed Montgomerie Park SPZ Scheme. All of which are from members of the public, no statutory consultees (SEPA, The Coal Authority and Scottish Water, NAC Roads and NAC Flooding) raised any objections to the SPZ Scheme. A summary of the points raised, and the Planning Authority's response can be viewed in Appendix 2.

RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Joanna Glacken, Assistant Planning Officer**, on **01294 323480**.

### **Background Papers**

Appendix 1: Montgomerie Park SPZ Scheme - Information Document

Appendix 2: Montgomerie Park SPZ Scheme - Consent

Appendix 3: Summary of Representations

**simplified planning zone** draft scheme

**1**

**montgomerie park, irvine**

**info**





# contents

## 1 SPZ info

**A. our place**  
why an SPZ?

**B. i-build**  
who gets involved?

**C. u-build**  
when can building start?

## 2 SPZ consent

**A. our place**  
where is the site?

**B. i-build**  
how will Council help?

**C. u-build**  
what is required?

The SPZ has been split into 2 parts. Part 1 provides standard **information** on SPZs whilst Part 2 provides specific details about what we will **consent** for Montgomery Park. Both parts have been divided into **our place**, **i-build** and **u-build** and are as easy to read as A,B,C.

# our place

## why an SPZ?

### advantages

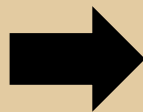
- **proactive** approach by the Council to place making and speed of delivery with development ready land.
- **certainty** for anybody wishing to develop sites, as well as the community, as to what will be allowed by the Council.
- **simple** process to help attract investment to the area.



# legals...the small print

- **provisions** - this Simplified Planning Zone (SPZ) scheme has been prepared in line with provisions of Sections 49 and 50 and Schedule 5 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) as amended by the Planning Etc. (Scotland) Act 2006 and the Town and Country Planning (Simplified Planning Zones (Scotland) Regulations 1995 (the Regulations).
- **no planning application required** - detailed designs need only demonstrate compliance with the scheme, and its design conditions.
- **other consents** - the SPZ scheme only grants planning permission. It is the developer's responsibility to ensure compliance with all other relevant legislation. For example, separate approval will be required from the Council for building warrants and Roads Construction Consent.
- **permitted development** - Nothing in this SPZ removes, cancels, or otherwise makes void the national permissions granted by The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the GDPO).

## 10 years



this is how long the provisions of the SPZ scheme will be valid for from the date of its adoption.

## SPZ definition

A SPZ is where, for a particular area, the local authority puts in place a SPZ scheme. This is a document which sets out, and gives, authorisation for the type of development the Council wishes to see developed in that area, along with the conditions and design criteria that must be complied with.

The Council will engage with the community and statutory consultees before finalising the scheme.

When proposals come forward that comply with the SPZ scheme there is no need for the developer to apply separately for planning permission, as the principles have been thought through and the consent is put in place upfront by the Council.

# i-build

## who gets involved?

### roles

- **everyone** has a role from the council to the community including statutory consultees.

The reason for this is because the SPZ follows an inclusive approach. This means that the local community can feel reassured that all the right checks and consultations have been put in place before any development begins.

# B

# around the table

## **council**

### **lead role in place making**

- commits to creating development ready sites and setting the design requirements

## **consultees**

### **expertise**

- offer views on the draft SPZ scheme to shape the consent and conditions -

## **community**

### **offer ideas and comments**

- opportunity to feed-in local knowledge and ideas as well as voice any concerns



## **customer**

### **developer or individual**

- liaises with the Council and responds to the design requirement – either directly or through an architect or design team.

## **architect /**

### **design team**

### **designs**

- works to create the best design outcome which clearly meets the requirements in the SPZ scheme.

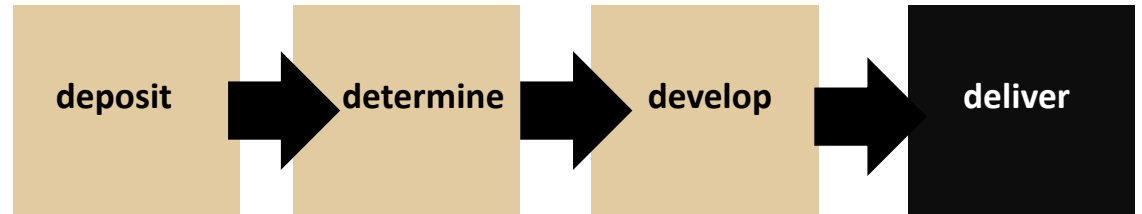
**u-build**

**when can building start?**

**as soon as...**

C

# process



# forms

- pre-development notification
- commencement
- completion

only

3



# forms

## Developers notify the Council at 3 key stages

### Pre-development Notification

Prior to the commencement of development under the provisions of the SPZ Scheme, it is the developer's responsibility to notify the local planning authority using the Pre-development Notification Form.

It is important that accurate information is provided to allow the Council to ensure that development is in accordance with the SPZ's conditions and for monitoring.

The Council will acknowledge the notification and respond regarding the suitability of any additional information within 14 days.

If the Council doesn't respond in writing within this period, or request further information (with specified reasons) it will be deemed to be mean that the pre-notification requirement has been fulfilled.

### Development Commencement

Developers are required to complete and return the Development Commencement form as soon as practical after starting works to carry out development under the provisions of this SPZ Scheme.

### Completion

Developers are required to complete and return the Completion notification form when they finish developing the site.

# forms

## pre-development

# 1

### SPZ Pre-development notification form (page 1 of 4)

#### 1. Contact Details

##### Developer

Contact Name

Company/organisation

Address

Post Code

Telephone number

Email:

##### Agent (if applicable)

Contact Name

Company/organisation

Address

Post Code

Telephone number

Email:

# forms pre-development

# 1

## SPZ Pre-development notification form (page 2 of 4)

### 2. Location of proposed development

### 3. Details of the proposed development

### 4. Estimated date works will commence

# forms pre-development

# 1

## SPZ Pre-development notification form ( page 3 of 4)

### Notes for developers

Completion of this form is a mandatory requirement if development is undertaken under the provisions of the SPZ scheme. It is essential that the local planning authority maintains an accurate record of the development activity so that the terms of the SPZ are complied with.

On receipt of this form, the planning authority will

- within 10 working days provide acknowledgement to the agent or developer if no agent is specified. Acknowledgement of the form does not constitute the local planning authority's confirmation that the proposal is compliant with the SPZ.
- within 14 working days respond as to the suitability of the submitted information.

If developers want a formal decision from the planning authority about the proposal's compliance with the SPZ they must apply for a Certificate of Lawfulness of Proposed Use or Development under section 151 of Town and Country Planning (Scotland) Act 1997.

### Submitted information

**I/we submit the following required information (please tick):**

- ☐ Site location plan  
(scale 1:1250 or 1:2500)

**Other information to comply with the pre-commencement conditions (please tick & attach):**

#### Condition

- ☐ 4 Site Layout  
(block plan 1:500 or 1:200)
- ☐ 5 Vehicle swept path
- ☐ 6 Floorplans
- ☐ 7 Elevations
- ☐ 8 Boundary treatment details
- ☐ 9 Hard & soft landscaping scheme
- ☐ 10 Details of all earth movement and proposed level changes
- ☐ 11 Drainage Strategy and Plan
- ☐ 12 Coal Mining Risk Assessment

# forms

## pre-development

# 1

### SPZ Pre-development notification form (page 4 of 4)

#### 4. Developer declaration

I/we

hereby give notice of the intention to carry out development under the provisions of the Montgomerie Park Simplified Planning Zone Scheme.

shall carry out the proposed work in accordance with the details included on this form and the associated scaled plans.

confirm that the development will be undertaken in accordance with the conditions and informatives of the SPZ.

understand that any material variation from the details I/we have provided will require a revised pre-development notification to be made.

understand that the local planning authority may take enforcement action if it considers that the proposed development is not permitted by the SPZ, or is not in accordance with the details that have been provided herewith.

Name:

Signature:

Date:

**SPZ Development Commencement form (page 1 of 2)****Notes for developers**

A person who has commenced development for which notification has been given under the terms of the SPZ, must, as soon as practicable after starting works, give notice to North Ayrshire Council by returning this completed Notice to:

North Ayrshire Council  
Planning  
Cunninghame House  
Irvine  
Scotland  
KA12 8EE

01294 324 380

[ldp@north-ayrshire.gov.uk](mailto:ldp@north-ayrshire.gov.uk)

Reference Number

Previous Notification Date

Developer

Proposal

Address

Full name and address of all owners of the property/land to be developed if different from the developer

**SPZ Development Commencement form (page 2 of 2)**

Full name and address of person(s),  
company or body carrying out the  
development (if different from  
developer):

Full name, address and contact details  
of person(s), company or body  
appointed to oversee the carrying out of  
the development:

**Start Date:**

Signed

\* On behalf of .....  
(delete where inappropriate)

Date

# forms completion

# 3

## SPZ Completion of Development form

### Notes for developers

A person who has completed development for which notification has been given under the terms of the SPZ, must, as soon as practicable after completion, give notice to North Ayrshire Council by returning this completed Notice to:

North Ayrshire Council  
Planning  
Cunninghame House  
Irvine  
Scotland  
KA12 8EE

01294 324 380

[ldp@north-ayrshire.gov.uk](mailto:ldp@north-ayrshire.gov.uk)

Reference Number

Previous Notification Date

Developer

Development

Address

Completion Date

Signed

Name

\* On behalf of....

Date



## Completion quality

### monitoring

It is important that the Council are able to monitor development activity, to allow outcomes to be measured and to achieve the SPZ scheme's primary objective of encouraging high quality and sustainable residential development.

Developers must provide information using the pre-development notification process and submit the Commencement and Completion of development forms, to allow progress to be checked and any monitoring to be carried out.

### enforcement

Failure to provide accurate information may lead to enforcement action being taken by the Council. If the Council considers that development is in breach of the SPZ Scheme's provisions, or other planning permission, it may take enforcement action. Any action will be undertaken at the Council's discretion in accordance with its [Planning Enforcement Charter](#).

### confirmation of compliance

If prospective developers require the Council's formal confirmation that a proposed development is approved by the SPZ Scheme, they can apply for a Certificate of Lawfulness is required together with the requisite application fee (Section 151 of the 1997 Act).

The Council will endeavour to determine applications for a Certificate of Lawfulness in respect of the SPZ Scheme within 28 days. If the application is refused, the applicant will have the normal rights of appeal.

### alteration of the scheme

North Ayrshire Council intends the SPZ Scheme to remain unaltered for the entirety of its period of operation (10 years).

However, it has the right to propose alterations to the Scheme including to; add to, remove or otherwise alter the planning controls (under the provisions of Section 53 of the 1997 Act). Any alterations will be subject to further public consultation and will only come into effect 12 months from the date of adoption of any changes.

almost there...

# thanks

## contact details

North Ayrshire Council  
Planning  
Cunninghame House  
Irvine  
Scotland  
KA12 8EE

Call 01294 324 380  
[ldp@north-ayrshire.gov.uk](mailto:ldp@north-ayrshire.gov.uk)

# back page



## simplified planning zone

# 2

this SPZ shows North Ayrshire's  
commitment to **innovation** by  
taking forward a new way of  
delivering quality new homes.

## montgomerie park, irvine

# consent



# our place

## why an SPZ?

- place
- policies
- preps
- process

A

# place

relationship to town centre

## Location

- Edge of settlement greenfield site (part of an existing masterplan)

## History

- Greenfield

## Ownership

- North Ayrshire Council

## Size

- Site A - 6.72 acres
- Site B - 7.81 acres

## Capacity

- Site A - 65 units (approx)
- Site B - 85 units (approx)

## Mix of house types

- Family housing (2-5 beds)





# place

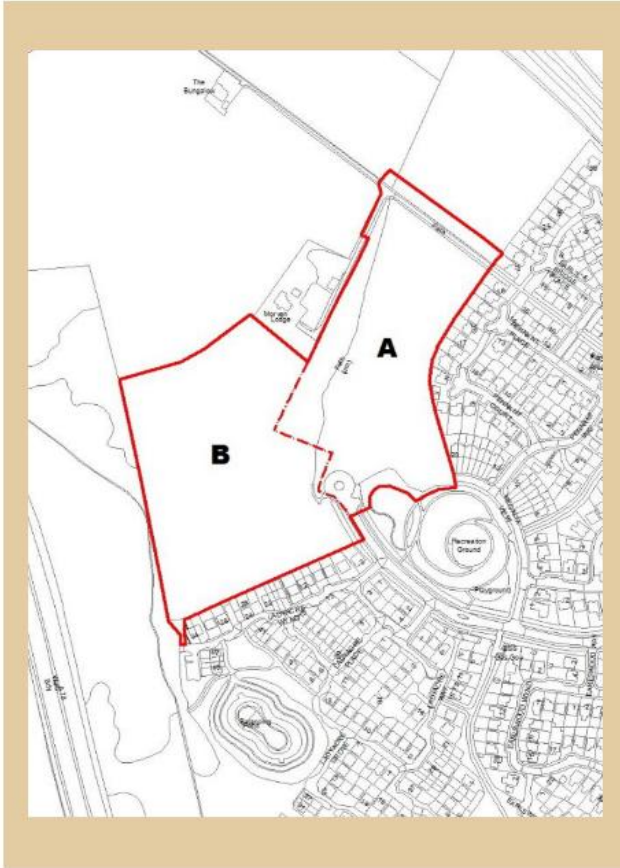
drone footage



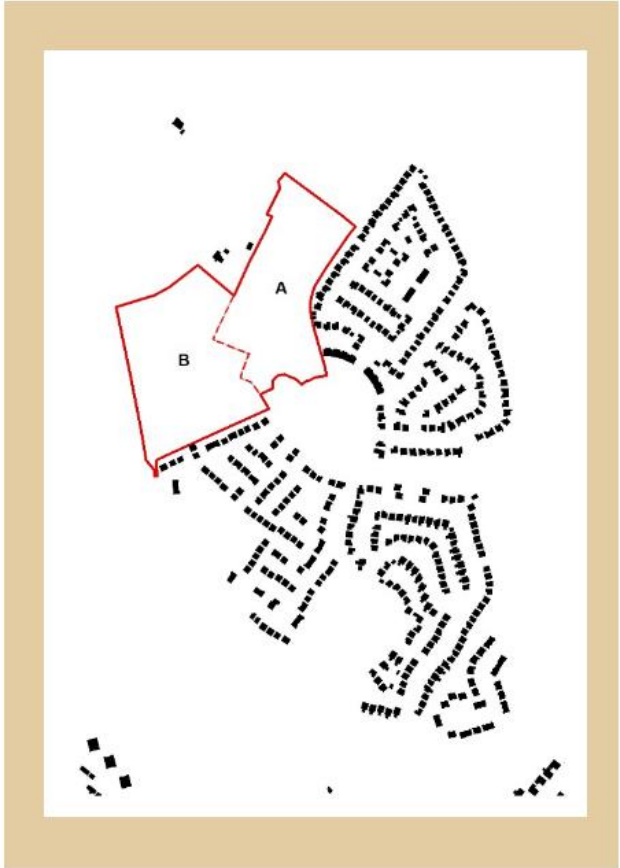
**aerial**



os map



**figure ground**

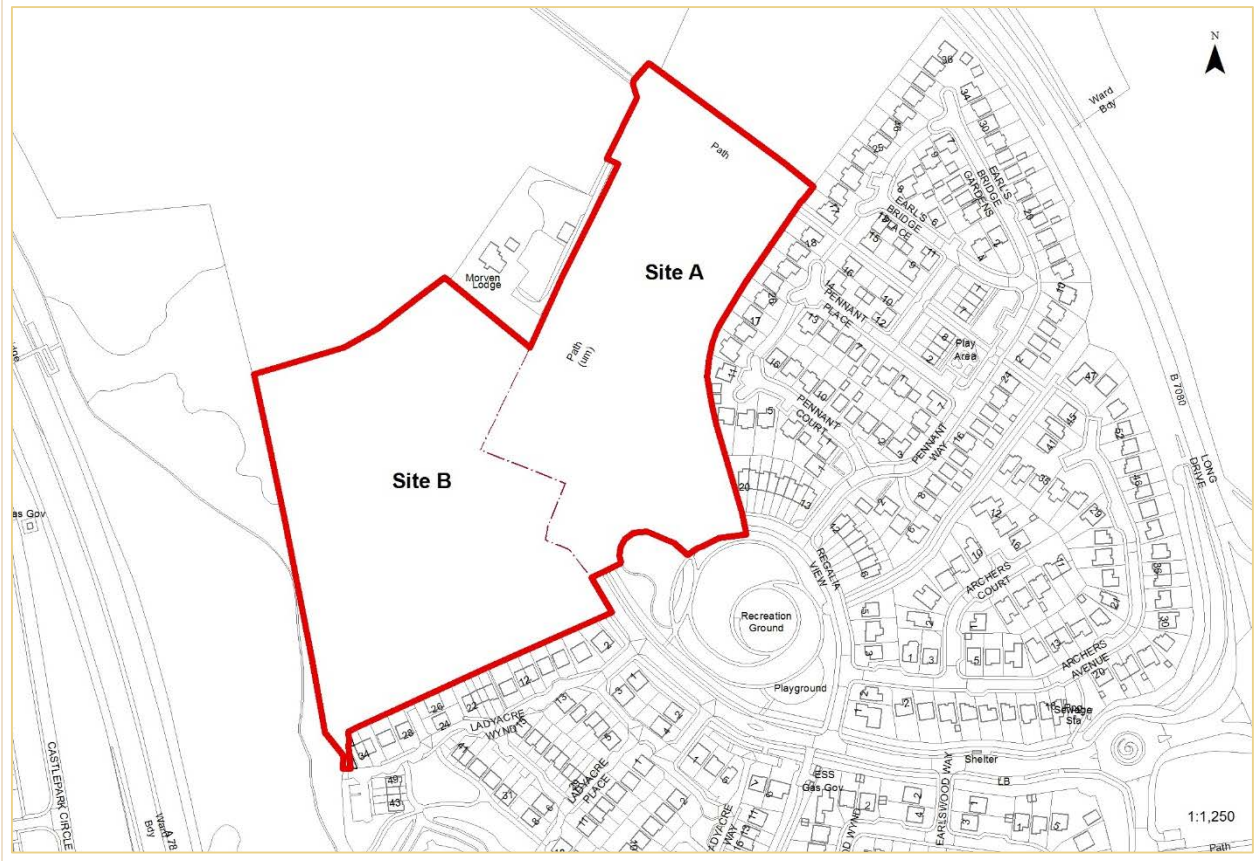




# spz consent & boundary

this SPZ Scheme grants planning permission to deliver residential development and any associated development required to aid the delivery of new homes.

The SPZ only applies to land within the **red line boundary**.





# Existing b-plan

drawings behind the design thinking

b-plan – clearly identifies relationships between existing movement, buildings and space before committing pen to paper.



# policies

## national & local

We have picked out some of the key policy documents for speed of reference to Montgomerie Park.

### planning

#### National

- [Scottish Planning Policy](#) Planning Policy (SPP) and the [Six Qualities of Successful Places](#)

#### Local

- [Local Development Plan \(LDP\)](#) North Ayrshire Council's Proposed LDP supports Montgomerie Park as a Strategic Development Area promoting the delivery of housing and an SPZ on site.
- **Design guidance** - North Ayrshire Council's [Neighbourhood Design Guidance](#).

### roads

#### National

- [Designing Streets](#)
- [SCOTS National Roads Development Guide](#)

#### Local

- [North Ayrshire Council Roads Design Guide](#), which is the adopted guidance for NAC (**Note:** refer to for parking numbers)
- [Key Transportation Areas for Development](#).
- **Key headings:**
  - No. of vehicles per dwelling
  - No of access points
  - Design speeds
  - Carriageway widths
  - Footway widths
  - kerb heights
  - Verges and service strip
  - Distance between speed restraint features
  - Forward visibility
  - Minimum centre line radii
  - Direct vehicular access

### building control

The following documents would be expected with a building warrant.

- Proposed Site Plan
- Elevations showing all drainage, materials, structural details, vents etc
- Floorplans – showing the size each room distance to the boundary, position of appliances, electrical points and switches, structural and thermal efficiency details
- Drainage details.
- Structural Certificates
- Electrical Certificates
- Energy Performance Certificate
- Information on construction safety
- Site Investigations/ Ground Conditions Information.
- STAS Certificate if developer part of STAS.

Building Standards accept a STAS certificate as evidence of compliance of the building standards. No further checks, other than local site conditions, are made for a design which has been approved nationally. This results in faster responses and faster approvals of building projects. For further advice about building warrants and STAS, telephone 01294 324348 or email

[buildingstandards@north-ayrshire.gov.uk](mailto:buildingstandards@north-ayrshire.gov.uk)

# what's the deal

## the scheme

we would like to help your development achieve joint Planning, Road Construction Consent (Stage 1) and Building Warrants.\*



**\*the SPZ scheme only grants planning permission, However, to help you we have provided lists of all the information that you will need to provide to achieve the above.**

# **i-build**

## **how will the Council help?**

### **masterplan**

**North Ayrshire Council are committed to helping speed up the delivery process by helping you as much as possible**

**we have set out diagrammatically existing infrastructure, our future committed investment plans for Montgomerie Park as well as a Concept Masterplan of what we consider to be the important for place and design that must be considered when developing the site**

# **B**

# preps.

these are lists of all the preparation work we have covered.

## physical

### Ground i.e. gradient/slope & condition

- All surveys undertaken :
  - Topographical survey (2019)
  - Preliminary Environmental Assessment 2019 (includes Habitats Survey phase 1)
  - AECOM mineral conditions (mapped) (including constraints map & ground stabilisation).
  - Coal Mining Risk Assessment will be required – see conditions
- Note:** Potential developers may wish to carry out further survey work as due diligence.

### Water

- AECOM Drainage strategy
- Flood Risk Assessment (FRA) - not required.
- Site specific Drainage Strategy is required – see conditions.

### Waste

- Connections (shown on map)
- Foul Water Sewerage connection (shown on map).
- Surface Water Connection (shown on map)

### Wires

- Services available i.e. electrical and telecom (shown on map).

**Note:** Montgomerie Park is served by superfast fibre broadband (speeds up to 24mbps). Plus Stanecastle Exchange has capacity).

### Ecology

- Stage 1 Habitat Survey

### Designations

Local Nature Conservation Site (woodland adjacent to Site B.

## social

### Council

- **Internal Department consultations**
  - all relevant consultations have taken place within the council
- **Councillor awareness/consultations**
  - The proposed LDP was approved by elected members which included the intent to commence a SPZ for Montgomerie Park.
- **Committee cycles**
  - every month (with the exception through recess)
- **Project team**
  - a project team has been set up to manage this site.

### Consultees

- Scottish Water - no issues
- SEPA – no comments but referenced our own internal officer advice
- Coal Authority – need Coal Mining Risk Assessment

### Community

- **LDP consultation**
  - no objections received regarding the SPZ.
  - The LDP was publicly advertised and consultation events were held in conjunction with Irvine Community Council.
- **Land owners** – N/A
- **6 week consultation on draft SPZ scheme**
- **Site Notices & Press Adverts** – to be done during consultation (August -Sept 6 weeks)
- **Public Services**
  - New primary School – will be provided
  - Public transport - Council will work with SPT and local operators to seek an extension to the bus service.

## economic

### Time

- **Site** – ready.
- **Phasing** – if required

### Money

- **Funding** - The Council has allocated capital funding for potential contribution to infrastructure.
- **Affordable housing** - No affordable housing contributions will be sought.

# place

existing

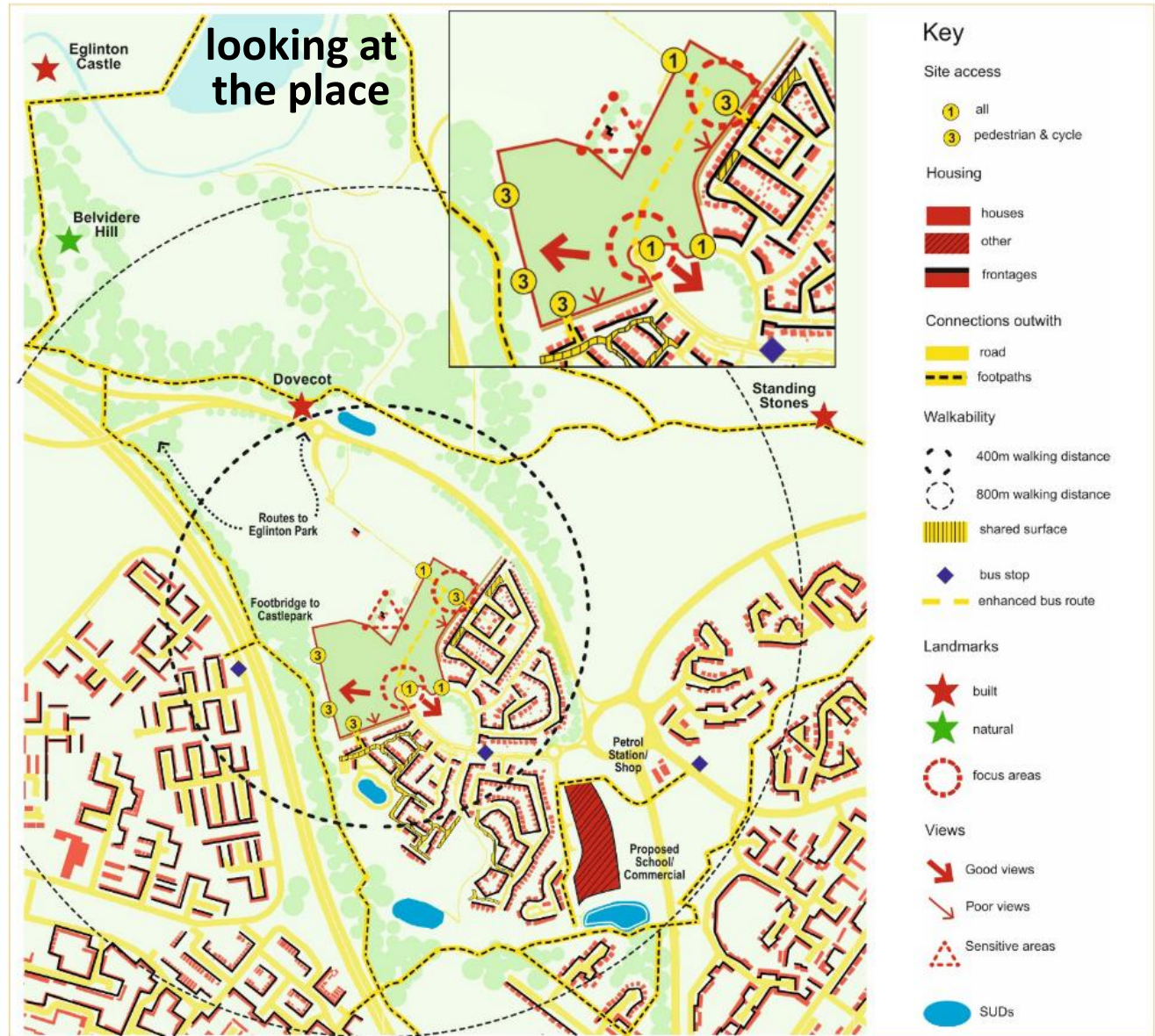


## Legend

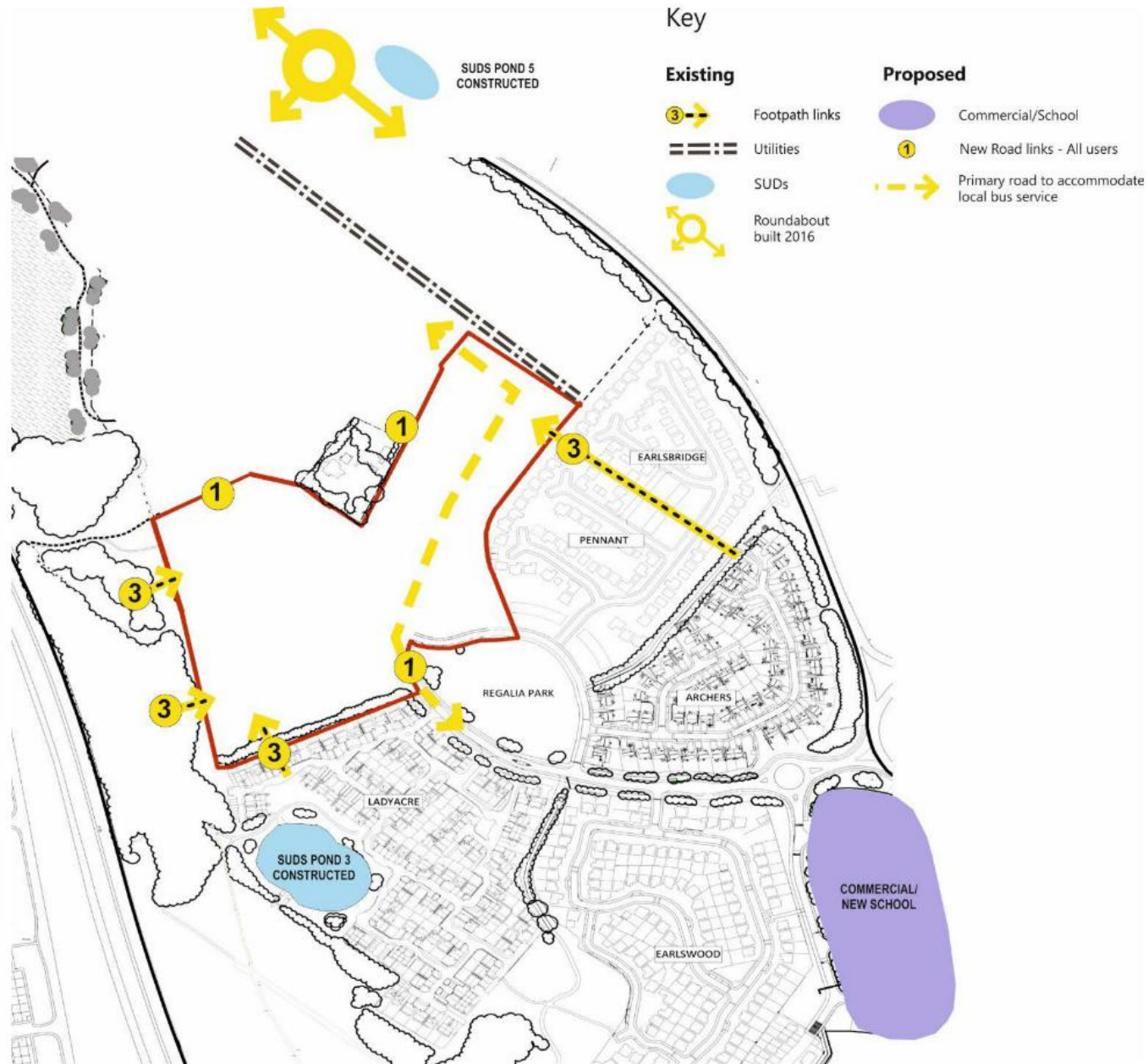
- Core Path (Existing)
- SPZ Boundary
- Regalia Park
- Bus Stop
- Bus Route 30
- Bus Route 29 & 29A
- Bus Route 22
- Local Nature Conservation Sites
- Eglinton Park
- Footpath Links



# observation



# infrastructure & investment

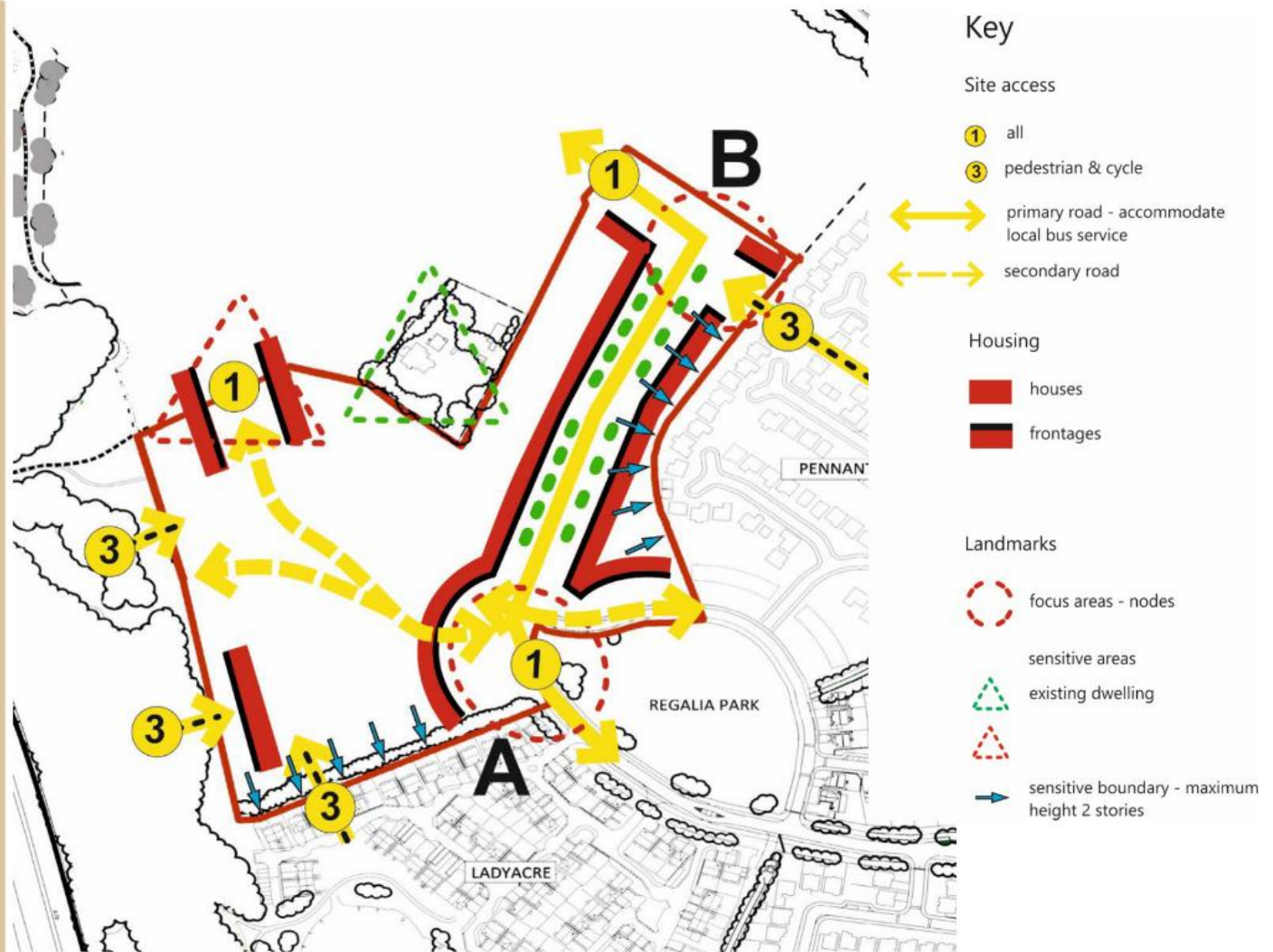


existing infrastructure and future committed investment



# concept masterplan

what we think is important



# u-build

## what is required?

- **conditions**

1. Policy (plus advisory note)
2. Pre-commencement (general, Road Construction Consent Stage 1 and surveys)
3. Standard
4. Tailored (plus illustrated in the conditions diagram).

- **indicative ideas for u**

C

# policy

## Development carried out under the SPZ scheme **MUST** comply with the following:

1	National	Roads & Street Guidance	<ul style="list-style-type: none"> <li>• <a href="#">Designing Streets</a></li> <li>• <a href="#">SCOTS National Roads Development Guide</a></li> </ul>
2	Local	Council policies	<ul style="list-style-type: none"> <li>• <a href="#">North Ayrshire Council's Local Development Plan</a></li> <li>• <a href="#">North Ayrshire Council's Adopted Roads Design Guide</a></li> <li>• <a href="#">North Ayrshire Council's Standard Road Construction Detail Drawings</a></li> <li>• <a href="#">North Ayrshire Council's Key Transportation Areas for Development</a></li> <li>• <a href="#">North Ayrshire Council's Guidance for Waste &amp; Recycling Collection Services: Information for Developers</a></li> </ul>
3	Masterplan	Concept	The Montgomerie Park Simplified Planning Zone Concept Masterplan
4	Advisory	Contamination	<p>Note: If contamination becomes evident during construction, work <b>MUST</b> cease immediately and the contamination brought to the attention of North Ayrshire Council's Environmental Health team.</p> <p>Thereafter, a suitable investigation strategy, as agreed with North Ayrshire Council, shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site.</p>

# pre commencement

## general

The following information **MUST** be submitted to, and approved in writing, by North Ayrshire Council as Planning Authority prior to the commencement of the development on site.

5	Masterplan	<p>Site layout(s), drawings and/ or cross sections indicating the position, materials and colour of:</p> <p><b>Movement</b></p> <ul style="list-style-type: none"> <li>• Hard surfacing (including roads, footways, footpaths, shared spaces and driveways);</li> <li>• Car parking areas (including confirmation of car parking provision for each dwelling and visitor parking to be formed).</li> </ul> <p><b>Buildings</b></p> <ul style="list-style-type: none"> <li>• Location of each house type with floorplans and elevations.</li> </ul> <p><b>Space</b></p> <ul style="list-style-type: none"> <li>• Areas of open space</li> <li>• All boundaries to be formed (including height details)</li> <li>• Landscaping - including details of all proposed species and planting densities.</li> </ul> <p><b>Infrastructure</b></p> <ul style="list-style-type: none"> <li>• Proposed earth movement and level changes, both throughout the site and in relation to adjacent land.</li> </ul>
6	Design & Access Statement	A Design & Access Statement <b>MUST</b> be accompanied with the masterplan layout

# pre commencement road construction consent

If you submit the following information to the Roads Authority this will enable you to get stage 1 Road Construction Consent.

## movement

7	Connections (within)	<p>Street hierarchy plan – including <a href="#">projected peak flow diagram</a>.</p> <p><b>Pedestrian facilities</b> – crossing points, dropped kerbs (including kerb heights) and controlled crossings etc.</p> <p><b>Cycling facilities</b> – crossing points, dropped kerbs and controlled crossings, bike racks etc.</p>
8	Public Transport	<p><b>Public transport facilities</b> - including bus stops, shelters etc. The developer should ensure future provision for a bus stop along the primary route through site A.</p>

## infrastructure

9	Levels	<p><b>Preliminary roads levels design</b> - including sample cross and long sections.</p>
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## layout

10	Traffic & Parking	<p><b>Traffic speed</b> – Design speeds for all roads should not exceed 20mph</p> <p><b>Vehicle swept path analysis</b> – refuse, emergency, bus and pantechnican vehicles.</p> <p><b>Road Safety Audit</b> - Stage 1 and 2 and designers response.</p> <p><b>Speed controlling features</b> – distance between them.</p> <p><b>Road geometry plan</b> - horizontal geometry, junction spacing, carriageway widths/ footway widths, corner/centre line radii and forward junction visibility.</p> <p><b>Parking Layout</b> - including private (allocated) and public (unallocated) provision.</p>
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# pre commencement road construction consent

continued.

## detail

11	Streets & Spaces	<b>Reducing clutter:</b> <ul style="list-style-type: none"> <li>• Signs - preliminary locations</li> <li>• Street markings -preliminary drawings</li> <li>• Lighting - preliminary street lighting design layout</li> <li>• <a href="#">Construction Detail drawings</a> - preliminary</li> <li>• Structures - bridges, culverts &amp; retaining walls etc.</li> <li>• Adoption details plan</li> </ul>
12	Drainage	<b>Waste &amp; Water</b> - Drainage drawings including surface, foul and SUDS details (plus 1:200 year flood path).  <b>Utilities</b> - Schematic layout (including service strip locations).

## area

13	Access	<b>Parking</b> <ul style="list-style-type: none"> <li>• Driveway Access points</li> <li>• Size of parking spaces</li> <li>• Location – front/side/rear.</li> <li>• No. of spaces per house.</li> <li>• Garages - internal dimensions (See <a href="#">Standard Construction Detail Drawings</a> for guidance).</li> </ul>
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# pre commencement strategies & surveys

The following surveys and strategies **MUST** be carried out prior to the commencement of the development on site. All development thereafter **MUST** accord with the findings and recommendations of the following surveys and strategies.

## space

14	Habitats and protected species survey	<p><b>Update of Ecology Appraisal</b></p> <p><a href="#">The Preliminary Ecological Appraisal for Montgomerie Park Drive</a>, Irvine undertaken by Wild Survey Ltd (July 2019) <b>MUST</b> be updated with additional survey work as recommended in paragraph 5.2 of the Appraisal. All such survey work <b>MUST</b> be undertaken and certified by a suitably qualified and competent person.</p> <p><b>Note:</b></p> <p><b>Additional surveys</b> - The findings of the additional surveys required above shall be submitted to North Ayrshire Council as Planning Authority prior to the commencement of the development.</p> <p><b>Mitigations</b> - any mitigation measures or actions required, as advised by the additional surveys, shall be implemented in line with the advice from, and certified by, a suitably qualified and competent person.</p>
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## infrastructure

15	Drainage	<p>a. <b>discharge of surface water to the water environment</b> <b>MUST</b> accord with the principles of the SUDS Manual (C753), published by CIRIA in November 2015, and comply with the terms of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR). Discharge rates and locations <b>MUST</b> be provided for approval, along with details of appropriate water quality treatment measures, prior to commencement of the development on site.</p> <p>b. <b>sub catchments</b> - development proposals <b>MUST</b> not alter the extents of the sub-catchments of the existing ponds, as shown on <a href="#">Drawing No. 44762782/0121</a>, without first identifying and implementing appropriate mitigation measures. Such amendments <b>MUST</b> be agreed with North Ayrshire Council's Flooding Officer prior to implementation.</p>
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# pre commencement strategies & surveys

continued.

16	Drainage	<p>Developments within the SPZ <b>MUST</b> accord with the findings and recommendations of a drainage strategy. The drainage strategy <b>MUST</b> include a:</p> <p><b>land drainage strategy</b> to include/demonstrate:</p> <ul style="list-style-type: none"> <li>• locations of cut-off drains, discharge location(s) and other associated assets</li> <li>• details of appropriate water quality treatment and attenuation where necessary</li> <li>• that the proposals accord with the requirements of <b>Condition 15</b>.</li> </ul>
		<p><b>surface water drainage strategy to include/ demonstrate:</b></p> <ul style="list-style-type: none"> <li>• locations of all proposed drains, sewers and other relevant assets;</li> <li>• consideration of the technical and legal requirements of Scottish Water;</li> <li>• that people and property will not be put at risk during critical rainfall events (plus an allowance for climate change) when the capacity of the proposed surface water infrastructure is exceeded</li> <li>• any requirement for temporary surface water storage over and above the volume permitted by Scottish Water;</li> <li>• that the proposals accord with the requirements of <b>Condition 15</b>.</li> </ul>
		<p><b>maintenance and management schedule to include:</b></p> <ul style="list-style-type: none"> <li>• details of the parties responsible for all new land and surface water drainage assets.</li> </ul>
		<p><b>redundant features strategy to include:</b></p> <ul style="list-style-type: none"> <li>• a method for dealing with relic features such as field drains and other aging or redundant features.</li> </ul>



# pre commencement strategies & surveys

continued.

17	Coal Mining Risk Assessment	<p>a coal mining risk assessment <b>MUST</b> be undertaken.</p> <p><b>Note</b></p> <p>a) The Coal Mining Risk Assessment may require intrusive site investigations. If intrusive site investigations are required a site investigation strategy <b>MUST</b> be submitted to, and agreed in writing, by the Planning Authority. Thereafter the agreed strategy shall be implemented to the satisfaction of the Planning Authority.</p> <p>b) The intrusive site investigations may require a remediation strategy. The findings of the intrusive site investigations and, if required, a remediation strategy shall be submitted for written approval of the Planning Authority prior to the commencement of the remedial works on site.</p> <p>c) The works required by the remediation strategy <b>MUST</b> be complete prior to the commencement of the development.</p> <p>*All the above investigations and works must be carried out by a suitably qualified and competent person.</p>
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# standard

## The following are standard conditions for the SPZ site

### movement

18	Connections (within)	<p>a. <b>Layout</b> – the layout of all roads <b>MUST</b> be well connected maximising continuous movement throughout the site</p> <p><b>Note:</b> Cul-de-sacs and turning areas will only be acceptable where it is demonstrated that there is no other viable option and where they will contribute to the overall quality of the place and efficient use of space.</p> <p>b. <b>Footway widths</b> - There is an existing 3metre shared cycle/footway on Montgomerie Park Drive. This connection <b>MUST</b> be continued along the primary road through site A.</p>
19	Parking	<p>a. <b>Numbers per unit</b> - Car parking for both residents and visitors <b>MUST</b> accord with the current standards adopted by North Ayrshire Council.</p> <p>b. <b>On street parking areas</b> <b>MUST</b> be contiguous with the carriageway.</p> <p>c. <b>Space size</b> - car parking spaces <b>MUST</b> be a minimum of 5 metres in length by 2.5 metres in width.</p> <p>d. <b>Streets</b> <b>MUST</b> not be dominated by car parking within the front curtilage of dwellings. Design solutions should consider dealing with the visual impact of parking. For example, the or use of planting to screen parking or by incorporating parking to the side or rear of dwellings.</p> <p>e. <b>Driveways</b> <b>MUST</b> be hard surfaced with a suitable material</p> <p><b>Note:</b> The sole use of stone chips as a driveway covering will not be acceptable.</p> <p>e. <b>Surface water</b> - All surface water runoff <b>MUST</b> be directed to a permeable surface or drain within the curtilage of the dwelling house.</p>
20	Junctions	<p>a. <b>Transition between roads</b> - transition areas at junctions <b>MUST</b> be designed to highlight the change in street hierarchy to road users.</p>

### buildings

21	Frontages	<p>a. <b>Principle elevations</b> - The principle elevation of all properties <b>MUST</b> front, and have an active frontage onto the road.</p> <p>b. <b>Corner plots</b> - where a dwelling is located on a corner plot the dwelling <b>MUST</b> have a dual frontage to give an active frontages onto all roads.</p>
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# standard

## The following are standard conditions for the site:

### space

22	<b>Boundaries</b>	<p><b>a. Front gardens</b> - Boundary treatments forward of the front building line, if required, <b>MUST</b> consist of low walls or planting not greater than 1 metre in height.</p> <p><b>b. All boundaries behind the front building line</b> of the associated dwellinghouse <b>MUST</b> not exceed 2 meters in height.</p> <p><b>c. Side boundaries fronting a road</b> - Where side boundaries front a road or public space these boundaries <b>MUST</b> be of a higher quality design and materials (see picture below). Full height close boarded timber fences should be avoided where the boundary is visible from the public domain.</p>
23	<b>Planting</b>	<p><b>Timing</b> - The soft landscaping details 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.</p>
24	<b>Gardens</b>	<p><b>a. Size</b> - Each dwelling <b>MUST</b> have a private garden with sufficient space to accommodate an outdoor drying area and outdoor amenity space.</p> <p><b>b. Ancillary buildings</b> - All properties <b>MUST</b> demonstrate provision for cycle storage and bin storage, including for recycling.</p>



# standard

The following are standard conditions for the site:

## infrastructure

25	Drainage	<p><b>a. discharge of surface water</b> to the water environment <b>MUST</b> accord with the principles of the SUDS Manual (C753), published by CIRIA in November 2015, and comply with the terms of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR). Discharge rates and locations <b>MUST</b> be provided for approval, along with details of appropriate water quality treatment measures, prior to commencement of the development</p> <p><b>b. sub catchments</b> - development proposals <b>MUST</b> not alter the extents of the sub-catchments of the existing ponds, as shown on <a href="#">Drawing No. 44762782/0121</a>, without first identifying and implementing appropriate mitigation measures. Such amendments <b>MUST</b> be agreed with North Ayrshire Council's Flooding Officer prior to implementation.</p>
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# tailored

## Conditions masterplan

### Key

#### Site access

- ① all
- ③ pedestrian & cycle

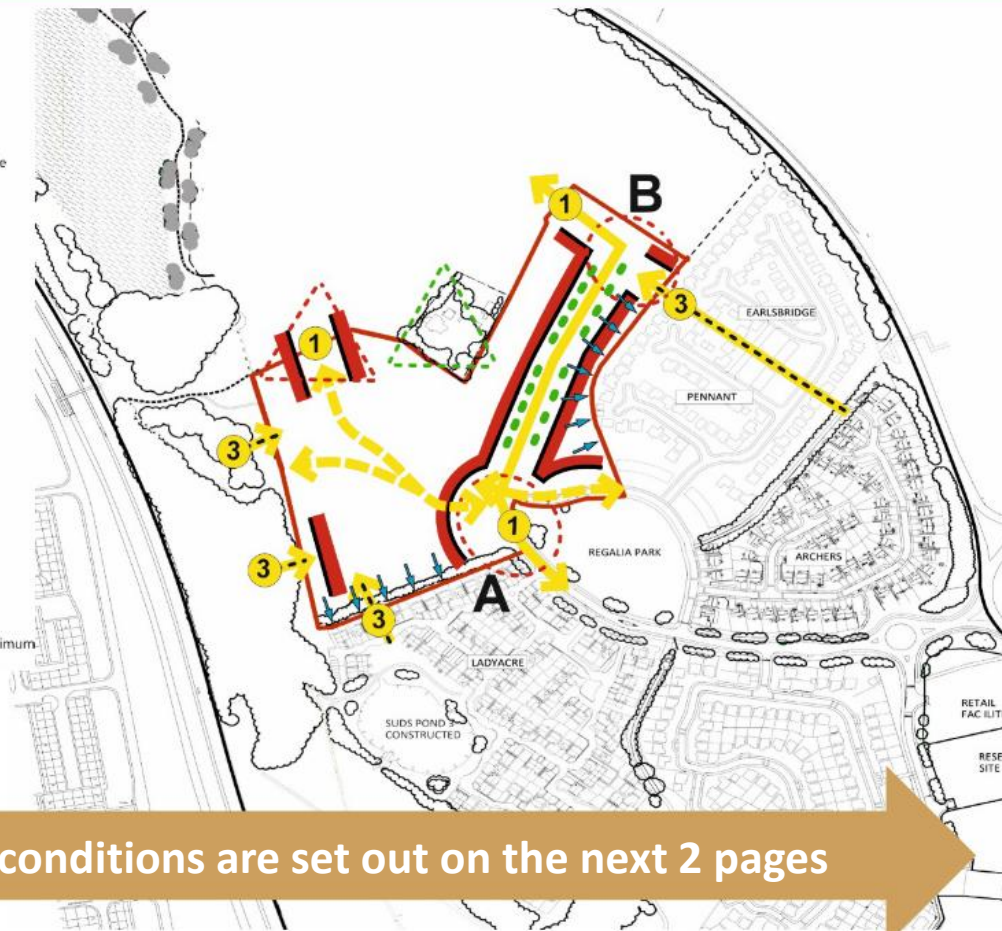
- primary road - accommodate local bus service
- secondary road

#### Housing

- houses
- frontages

#### Landmarks

- focus areas - nodes
- sensitive areas
- existing dwelling
- sensitive boundary - maximum height 2 stories



# movement

## primary road

- a. **provision** - the primary access road as shown the Concept Masterplan **MUST** be created through the site. The exact position of this road can be *flexible* provided the road links from Node A to Node B and continues north west from to Reference point 4 as shown on the Concept Masterplan

- a. **bus route** - the road **MUST** be a minimum of 6 metres in width to accommodate a buses.

### notes:

- The primary route through site A from node A to node B **MUST** be designed to Street Type 2 as specified in the Street Design Summary Table within [North Ayrshire Council's Key Transportation Areas for Development](#)
- Peak hour flow is assumed as 0.75 vehicles per dwelling for sites A & B
- The primary road **MUST** be constructed as part of the first phase of development

## secondary road

- a. **provision** - a secondary road **MUST** be created through site B from node A to reference point 5, as shown on the Concept Masterplan, to provide a connection to the adjacent future development site to the north west providing a connection for all road users.

## regalia view road

- a. **provision** – a road connection for all users **MUST** be provided to connect Regailia View to the SPZ development.

## nodes

- a. **Provision:** Two nodes **MUST** be created as shown on the Concept Masterplan (applies to Site A only). These nodes must be designed to include landscaping and should contribute to enhancing the amenity and character of the street scene. These nodes **MUST** be completed prior to the occupation of the first dwelling house.

## footpaths

- a. **provision** - pedestrian links **MUST** be created as shown on the concept masterplan.
- b. **access to woodland** (site B only) - **MUST** create and/or improve pedestrian links to the woodland in accordance with as the Concept Masterplan.

# buildings

## frontages

- a. **primary road** - Houses along the primary road **MUST** front the road as shown on the Concept Masterplan.
- b. **woodland views** - The houses to the west of the site, as shown on- the concept masterplan, **MUST** front the woodland.
- c. **regalia park** - houses on regalia park **MUST** front and have an active frontage onto the park.

## character areas

a minimum of two character areas **MUST** be provided at around the feature nodes, shown on the Concept Masterplan. These zones **MUST** provide variation in terms of design, heights and materials; consideration should also be given to use of density, spacing, landscaping and design features to create visual interest.

### windows

- a. **Distance** - A minimum separation distance of 18 metres **MUST** be applied between directly facing habitable room windows. This includes windows on adjacent sites.

### heights

- a. **Across the site** - Buildings **MUST** not be greater than 3 stories in height.

# space

## boundaries

- a. **sensitive** - Development along the south east boundary of Morven Lodge **MUST** be designed with sensitivity to respect the amenity of the existing dwelling at Morven Lodge.

## innovation – rain water

- a. **houses** – each dwelling house **MUST** incorporate facilities for rain water harvesting (for example a water butt or rain water garden). Such facilities **MUST** have a backup connection to the main surface water system in the event that the rain water harvesting system reaches capacity.
- b. **communal landscaped areas** - such as landscaped nodes and verges should incorporate bioretention/ rain garden areas to treat and control surface water runoff, whilst providing amenity value.

# ideas for u

## masterplan

- to help give you an idea of the sort of **place** we would like you to create we have provided **indicative sketch layouts** for you to look at
- the **indicative layouts** have been created by paying attention to everything that is considered to be important both on, and around, the site
- by creating an **indicative layout** we are confident that you will be able to fulfil our requirements so that together we can build a great **place**



# 2D layout

## Possible Result? – based on SPZ parameters

- Distinctive
- Well connected
- High Quality Place



# 2D layout

## b-plan sketch

- Housing
- 'Landmark' house
- Roads and parking
- Public greenspace
- Private greenspace



# 2D layout

## b-plan details



# 3D layout

aerial view





**entrance**



**access onto primary road**



# character

landmark buildings across the site



# summary

**The following diagrams provide an indicative layout vision of our built new place.**

vision

# b-plan

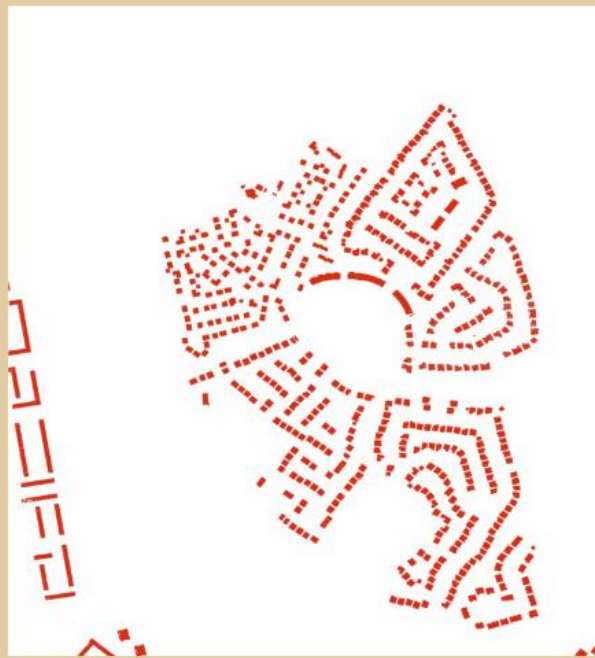




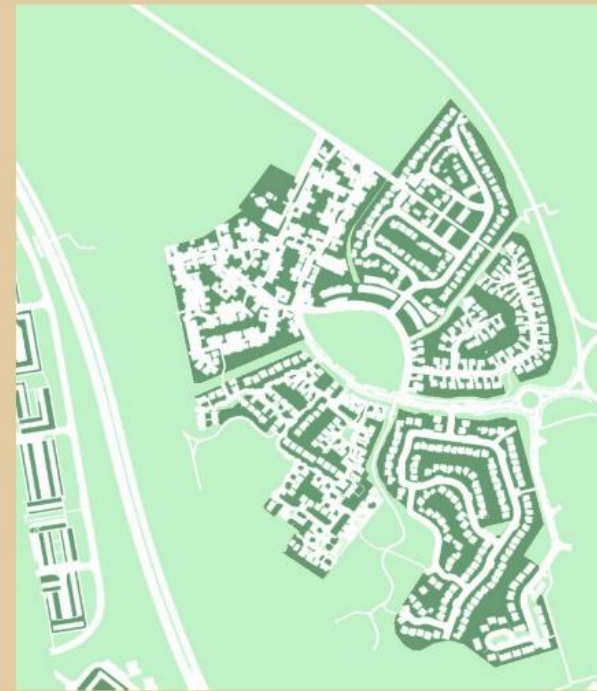
## streets



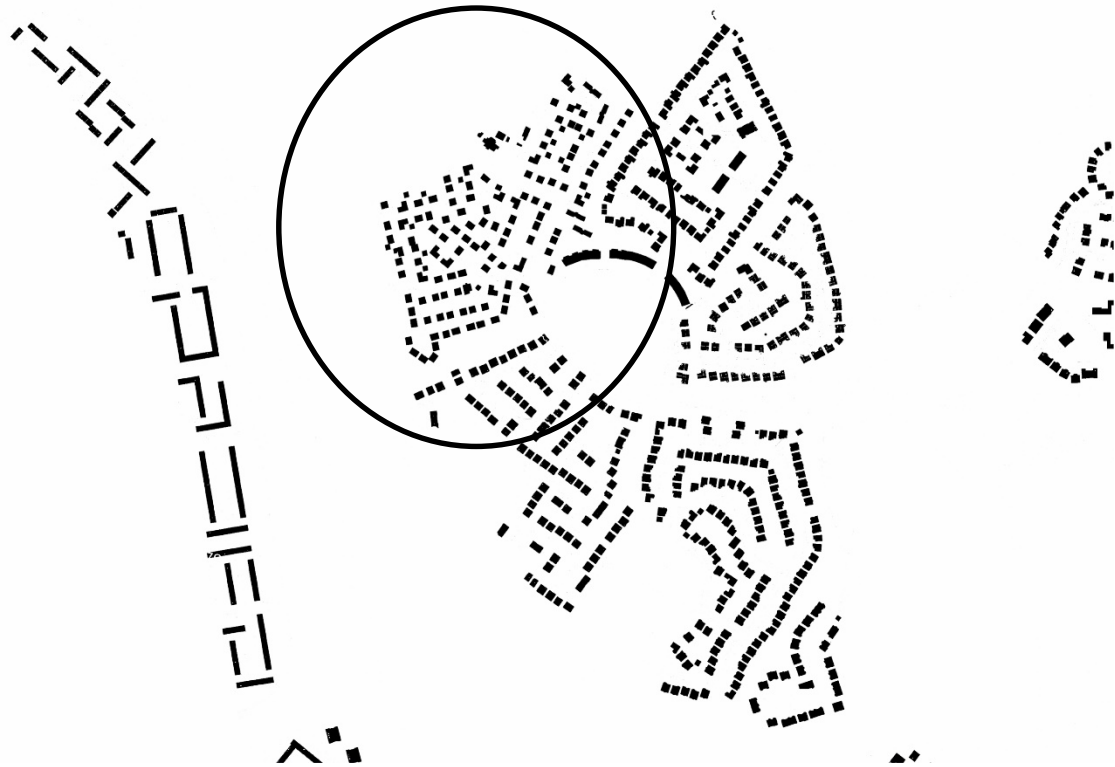
## buildings



## space



# fig-ground



# design delivery

**we have given you an idea of what we are looking for. the reason we think this is important is that we want to you to create the best design for our place.**

**if you follow our design thinking, it means we can create a beautiful place - where people feel both happy and healthy.**

**delivery**

# Possible Outcome?



3d fly through

Montgomery Park SPZ Possible Outcome – click video link above to play.

# conclusion

a summary of our ambitions for our place are provided in the following pages. But first...

**happy** - we aim to create sociable streets which will allow you to stop and chat with neighbours.

**healthy** - we are providing the opportunity for you to connect into existing footpaths which will allow easy walking to accessible greenspace etc.

happy & healthy

# last bits...

## **Scheme compliance and rights of appeal**

Should prospective developers require North Ayrshire Council's formal confirmation that a proposed use or development is approved by the SPZ Scheme, an application for a Certificate of Lawfulness is required together with the requisite application fee (Section 151 of the 1997 Act).

The Council will endeavour to determine applications for a Certificate of Lawfulness in respect of the SPZ Scheme within 28 days. If the application is refused, the applicant will have the normal rights of appeal.

## **Monitoring arrangements**

For the SPZ Scheme to work efficiently, for outcomes to be measured and for it to achieve its primary objective of encouraging high quality and sustainable residential development, it is important that the Council are able to monitor development activity.

Developers are required to provide information using the pre-development notification, commencement and completion of development forms (For guidance and forms please see the Montgomerie Park SPZ Info Document).

## **Enforcement**

If the Council considers that a development is in breach of the provisions of the SPZ Scheme the Council may take enforcement action. This action is undertaken at the discretion of the Council in accordance with the Council's [Planning Enforcement Charter](#).

## **Alteration of the SPZ Scheme**

The Council intends that the SPZ Scheme will remain unaltered for the entirety of its period of operation (10 years).

However, under the provisions of Section 53 of the 1997 Act the Council has the right to propose alterations to the Scheme including to add to, remove or otherwise alter the planning controls.

In accordance with the regulations, alterations will be subject to further public consultation and will only come into effect 12 months from the date of adoption of any changes.

# final info

# thanks

## contact details

North Ayrshire Council  
Planning Services  
Cunninghame House  
Irvine  
Scotland  
KA12 8EE

Call 01294 324380  
[ldp@north-ayrshire.gov.uk](mailto:ldp@north-ayrshire.gov.uk)

# back page



### Appendix 3: Summary of Representations

Total number of representations received = 21	
Summary of issue raised	Council response
<ul style="list-style-type: none"> <li>Impact on residential amenity from increase residents</li> <li>Proximity to existing development – some representations wish to see a path behind fence line to separate developments.</li> <li>Building heights adjacent to existing residential properties.</li> </ul>	<p>The SPZ does not change the land use zoning for the site, which is allocated for residential use, and has been since it was included in the housing land supply in 1989 in subsequent development plans. Residential development at this location is acceptable in principle.</p> <p>All infrastructure implications of the development of the wider Montgomerie Park have been considered in development plans dating back to the identification of the site for residential purposes; and in the development of the project and wider management of development at Montgomerie Park. The Council has committed a capital allocation towards provision of infrastructure to support the development of the site and a new Montgomerie Park school, in the Council's capital programme – both of which are dependent on the development proposals. The SPZ documents outline infrastructure requirements of the developer.</p> <p>In terms of impact on existing properties, conditions in the SPZ would ensure that overlooking and loss of daylight and privacy are addressed by including a range of pre-development conditions that mean that the SPZ does not apply to any development that fails to provide appropriate residential amenity standards. The SPZ contains a condition that proposed dwellings along boundaries shared with existing dwellings cannot be more than 2 storeys in height and there is a 'cover-all' condition that requires a minimum separation distance between dwellings of 18 metres. An appropriate residential amenity standard would be maintained.</p> <p>It should be noted that the SPZ does not prescribe the layout of the site; instead it imposes conditions on any prospective developer to ensure that any development provides a sufficient level of residential amenity for existing and proposed properties. It is not considered that the SPZ, as a matter of principle, would create an unacceptable residential amenity standard.</p>
<ul style="list-style-type: none"> <li>Drainage impact on existing dwellings</li> <li>Loss of natural flood barrier</li> </ul>	<p>There are conditions in the SPZ to ensure that appropriate drainage infrastructure is provided by the development. This matter would also be addressed within the building warrant process.</p>



<ul style="list-style-type: none"> <li>SUDS provision and capacity.</li> </ul>	<p>SEPA and NAC Flooding have not raised any objections on flooding or drainage grounds and the conditions proposed within the SPZ are considered appropriate for the scale and nature of the development and location.</p> <p>SUDS ponds are already in place and have enough capacity and no concerns have been raised by SEPA or NAC Flooding in this respect.</p>
<ul style="list-style-type: none"> <li>Loss of path to Eglinton park.</li> <li>Loss of greenspace does not comply with the LDP.</li> <li>Impact on landscape</li> </ul>	<p>The SPZ is conditioned so that the site would remain well connected with all existing footpaths remaining open. The development would improve connections through the site by providing a walking and cycling route from the existing development.</p> <p>The woodland and Regalia Park remain within close proximity to the development and the development would improve accessibility and ensure the site would be well connected. A stage 1 habitat appraisal has also been carried out which is accounted for within the SPZ conditions therefore mitigating any significant impacts.</p> <p>The development is not considered to have a detrimental impact on the landscape. Conditions within the SPZ would ensure the development will be developed with the surrounding environment in mind.</p>
<ul style="list-style-type: none"> <li>Increase in traffic and pollution,</li> <li>Light pollution</li> </ul>	<p>The development is conditioned so that it would be in accordance with Designing Streets, the National Roads Design Guide and NAC Roads guidance which ensures that all proposed roads would be safe and would be designed to accommodate traffic flow. Any increase in pollution is not considered to have a significant impact on air quality given the nature and density of the development of the SPZ proposal.</p> <p>The development proposed is not considered to be out of character with a residential setting and raises no significant concerns in relation to light pollution.</p>
<ul style="list-style-type: none"> <li>Type and tenure of housing proposed</li> </ul>	<p>The SPZ does not identify a preferred tenure for new houses. It is expected that the site would be marketed for private market houses, which is in line with the expected contribution of the site within the housing land audit. It is vital that sites contained in the housing land audit produce an effective supply of new houses to meet housing need and demand in the North Ayrshire housing market area.</p>
<ul style="list-style-type: none"> <li>Impact of house values</li> </ul>	<p>The impact of development on existing house values is not a material planning consideration and cannot be considered in determining planning proposals.</p>
<ul style="list-style-type: none"> <li>Construction noise and dust</li> </ul>	<p>Impact of construction on the existing area is time limited and not a material planning concern. Any concerns about adverse noise issues could be addressed through the relevant Environmental Health legislation.</p>

<ul style="list-style-type: none"> <li>• Parking for new school</li> </ul>	<p>The school is out with the control of the SPZ and would be managed by separate consultative, development management and transportation processes.</p>
<ul style="list-style-type: none"> <li>• Change to the proposed primary route from the 2003 masterplan</li> </ul>	<p>The changed direction complies with modern road standards to avoid a large section of straight road that could be used as a through route by road users outwith the development. The new route and proposed path ensure safety through design and maximise the quality of place.</p>
<ul style="list-style-type: none"> <li>• That the road from Long Drive is not complete</li> </ul>	<p>The road to Long Drive would be completed as future phases of Montgomerie Park are released. The SPZ development would kickstart the first section of this road allowing future developers to complete the link.</p>
<ul style="list-style-type: none"> <li>• Concerns about the funding support for the SPZ and compliance with grant fund conditions</li> </ul>	<p>The Scottish Government provided £30,000 funding for development works related to the implementation of a pilot simplified planning zone. Criteria related to the funding, required the Council to meet the stages of the regulations related to SPZ implementation. The Council has worked with the Government in partnership throughout the process.</p>
<ul style="list-style-type: none"> <li>• Complaints about the consultation processes undertaken, including that incomplete information was published, site notices were inadequately located and placement of material on websites</li> </ul>	<p>the Council's progression of work related to the SPZ has met, and indeed, exceeded statutory requirements in relation to consultation; and the Council has worked in partnership with Scottish Government to ensure compliance. In addition, the Council undertook consultation on the SPZ through the emerging Local Development Plan. Sites notices were placed at 10 locations around the site, and press notices were published to advertise the consultation, in line with statutory procedures. The SPZ was publicised on both the Council and community planning websites. The information published is a draft, as required by legislation at the current stage of preparation of the SPZ; however, all information related to the consultation was published online and in a sufficient form to allow comments by members of the public. There were no incomplete forms published with the consultation.</p>
<ul style="list-style-type: none"> <li>• Clarity if flats are permitted by the SPZ and that no sensitivity has been given Persimmon and David Wilsons Homes development whilst Morven Lodge has been highlighted within the SPZ as a sensitive receptor.</li> </ul>	<p>Residential development is permitted by the SPZ to provide flexibility to the market. Flats have not been ruled out of the SPZ Scheme. The reference to Class 9 houses has been removed to clarify this point and height restrictions are in place to ensure development does not exceed 3 storeys in height; and no more than 2 storeys in height adjacent to existing residential properties.</p> <p>Morven Lodge has been highlighted as a sensitive location as three boundaries of Morven Lodge may be impacted by the development. Therefore to ensure this property does not have a detrimental impact extra sensitivity is highlighted as a consideration through the scheme. It is not uncommon in housing developments for gardens to be back to back. However, to address consultation concerns the existing dwellings have also been highlighted as a sensitive</p>

	location within the concept masterplan to address residents' concerns. As such, any developer would have to consider this within their design.
<ul style="list-style-type: none"> <li>Residents do not want a failed development similar to Ladeside Gardens, Kilbirnie.</li> </ul>	Ladeside was a self-build development. It was not a SPZ. The site is to be sold to a housebuilder not individuals.
<ul style="list-style-type: none"> <li>Residents do not want to share back fences.</li> </ul>	This is not a requirement of the SPZ and relates to legal titles.
<ul style="list-style-type: none"> <li>An extension to the bus service is not required</li> </ul>	To ensure a sustainable and well-connected development it is important that the existing bus route is extended to ensure public transport coverage for all. SPT has indicated support for such an extension of the route.
<ul style="list-style-type: none"> <li>Lack of school and shops</li> </ul>	Sites have been allocated for a new school and commercial facilities within Montgomerie Park. These facilities would be delivered separately from the SPZ.
<ul style="list-style-type: none"> <li>Loss of view</li> </ul>	Loss of view is not a material planning consideration.
<ul style="list-style-type: none"> <li>Ongoing factoring issues within Montgomerie Park</li> </ul>	Ongoing factoring issues are out with the terms of the SPZ.
<ul style="list-style-type: none"> <li>The opening of the pedestrian access at Ladyacre Wynd – fear that it would attract anti-social behaviour</li> </ul>	This link is currently closed off by a fence, but was earmarked for future access. The re-opening of this route would ensure an accessible and well-connected development for both existing and new residents. Concerns about anti-social behaviour should be referred to the Police. The SPZ is conditioned so that houses will front this path to provide active surveillance.
<ul style="list-style-type: none"> <li>Impact on trees and shrubs along boundary at Morven Lodge, and future maintenance</li> </ul>	<p>Any trees and shrubs outwith the Council's ownership and the SPZ boundary remain in the control of the owner and would not be removed as part of the development.</p> <p>A landscape plan is required as part of the SPZ and would take account of existing trees and shrubs. Morven Lodge is identified as a sensitive location and developers must demonstrate sensitivity to this property including its boundary. A minimum separation distance is also required as part of the SPZ scheme which will mitigate any detrimental impacts.</p> <p>Access for maintenance would have to be agreed with the landowner. However, it is within the developer's interest to ensure existing trees and shrubs can be maintained.</p>

## **NORTH AYRSHIRE COUNCIL**

**2<sup>nd</sup> October 2019**

### **Planning Report Committee**

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<b>Title:</b>	<b>Grouping of Trees adjacent to the A841 between Rosa and Cnocan Bridge, near Brodick, Arran</b>
<b>Purpose:</b>	To seek approval for the confirmation with modification of the Tree Protection Order concerning a group of trees along the A841 at Brodick, Isle of Arran.
<b>Recommendation:</b>	That the Council confirms the North Ayrshire Council A841 Brodick Primary School to Cnocan Bridge, Brodick, Isle of Arran) Tree Preservation Order 2019 under S.160 1997 Town and Country Planning (Scotland) Act in the interests of protecting public amenity.

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### **1. Executive Summary**

- 1.1 This report updates members on the Tree Preservation Order (TPO) Notice served in May 2019 on a grouping of trees on Arran along the A841. The Council is required to confirm the Order, within 6 months of serving the Notice (before 22<sup>nd</sup> November 2019). The TPO has been subject to consultation with interested parties. The notice was also publicised in a local newspaper.
- 1.2 An independent survey from a qualified practitioner has been carried out which analyses the contribution the trees make to public amenity and cultural and/or historical heritage. The analysis also makes recommendations to whether the TPO should be confirmed.
- 1.3 It is recommended that a modified Tree Preservation Order be confirmed (see Annex 1). It is considered that the grouping of trees between Rosa and Cnocan Bridge contribute significantly to public amenity. The modification, which removes the protection of woodland from Brodick Primary to Rosa Bridge reflects the recommendations noted above.

### **2. Background**

- 2.1 In May 2019, the Planning Committee agreed to serve a Tree Preservation Order (TPO) along the A814 from North of Brodick Primary School to Cnocan Bridge on the Isle of Arran. The Committee was advised at the time that a probationary period of no more than 6 months will be in place. This period has allowed interested parties to make representations and allow a full analysis of the contribution the trees make to public amenity and/or cultural/historical heritage.

- 2.2 During the probationary period, the Notice serving the TPO was sent to interested parties and an advert was placed in the local newspaper. A consultation period of 28 days started from the date of the notice (22<sup>nd</sup> of May 2019) which attracted two letters of representation, both from persons representing Arran Estates.
- 2.3 Following a procurement process, Informed Tree Services was appointed to undertake an independent survey on the suitability of the Tree Preservation Order as served in May 2019. The brief gave instruction to analyse how (if at all) the grouping of trees meet the criteria listed under S160 of the Town and Country Planning (Scotland) Act 1997. The two criteria listed are:
- (a) that it is expedient in the interests of amenity to make that provision,
- (b) that the trees, groups of trees or woodlands are of cultural or historical significance.
- 2.4 The Report splits the grouping of trees into three segments, referred to as compartments. These are made up of:
- Compartment 1) "Brodict primary School to the junction of B880 String Road incorporating the northern perimeter of Stronach Wood to the south of A841".
- Compartment 2) "A841 incorporating roadside trees forming an avenue and public footpath past Rosa Bridge woodland with golf course to the south and on to the bend in the road just north of Strabane".
- Compartment 3) "A841 passing Home Farm with mature woodland and road side trees to Cnocan Bridge".
- 2.5 The study allowed detailed analysis into the contribution each of these groupings of trees make as opposed to a general survey of the area. Each compartment has been subject to analysis and has recommendations to whether they are worthy of a TPO.
- 2.6 The trees were appraised on the week beginning 5th of August 2019 and have been assessed using nationally recognised systems entitled "The Evaluation Method for Preservation Orders" (TEMPO) (J. Forbes-Laird 2006) to rate the appropriateness of the TPO and "Visual amenity valuation of trees and woodlands – The Helliwell system 2008" (R. Helliwell 2008). The latter provides a comparative amenity value to the protected woodland. The TEMPO method has the following scoring categories:
- Do not apply TPO
  - TPO indefensible
  - Does not merit TPO
  - TPO defensible
  - Definitely merits a TPO

## Findings and Recommendations

- 2.7 The report makes the following recommendations:
- 1) The served TPO notice is modified and confirmed to no longer include the section from Brodict Primary School to Rosa Bridge as compartments 2 & 3 definitely merit a TPO.

- 2) That some trees be felled as they are dead and could become dangerous. Other normal woodland management practices such as pruning is also recommended.
- 2.8 Reasons for the recommendations include that both compartments 2 & 3 are classed as having “high desirability for retention” and scored highly (in the category “*definitely merits a TPO*”) on the TEMPO evaluation Method for Preservation Orders.
- 2.9 Reasons to remove Compartment 1 include that a large section of the area is on the edge of a commercial plantation and many of the trees have already been removed. In addition, woodland to the South, South-West of the protected area suffers from sporadic wind-throw. The TEMPO evaluation score for the compartment was “*Does not merit a TPO*”.
- 2.10 Full details of the assessment including character statements and scoring can be found in Background Paper 1 of this report.
- 2.11 Stanley Wright Ltd made an objection to the TPO on the following grounds;
- The trees along the roadside have had no active management for over 80 years and require some management works to maintain public safety which is the Estates’ prime concern;
  - Trees along the roadside have been marked up to enable management and several of them have been identified as being dead, having dead wood in the canopy or indications of disease; and
  - Some trees pose a risk to the carriageway and could causes significant damage if blown and understand there is no adequate means locally of removing many fallen trees after a strong gale.
- 2.12 The representee also highlights that a broad TPO is not appropriate for the long term and suggests that the TPO could be modified to protect key trees only. Additional concerns include the integrity of the road from lifted root plates of trees that have fallen.
- 2.13 In response, it is considered that the independent survey carried out by Informed Tree Services does recommend that some active management is required and highlights three trees that are required to be felled or managed. The survey methodology also included analysis to determine the health of the trees. The confirmation of a TPO does not mean that woodland can no longer be managed, just that consent is required from the planning authority to carry out some works. Should an issue arise where there is a serious and immediate risk to public safety, the responsibility still lies with the Owner, Tennent or Addressee to ensure their land is safe. Section 160 (5) of the 1997 Town and Country Planning (Scotland) Act states that without prejudice to any other exemptions for which provision may be made by a tree preservation order, nothing in such an order shall prohibit the uprooting, felling or lopping of trees if—
- (a) it is urgently necessary in the interests of safety,
  - (b) it is necessary for the prevention or abatement of a nuisance, or
    - (ba) it is authorised by an order granting development consent,
  - (c) it is in compliance with any obligation imposed by or under an Act of Parliament or an Act of the Scottish Parliament, so long as notice in writing of the proposed

operations is given to the planning authority as soon as practicable after the operations become necessary.

2.14 Mr Charles Fforde also submitted a representation objecting to the TPO as follows:

- The Tree Preservation Order makes reference to "Article(s)" 2, 3 and 4, which are presumed to form part of the Town and Country Planning (Scotland) Act 1997 but a search has not revealed them. We require them to be included verbatim in the Notice or ignored. The map showing the notice should be made clear and highlight whether trees below the line are included in the TPO;
- The trees do not satisfy the criteria for TPO which are:
  - 1) It is expedient in the interests of amenity to make that provision,
  - 2) the trees, or groups of trees or woodlands are of cultural or historical significance;
- Sections 3 and 4 of the notice appear contradictory as it states that "no person" may lop, top, etc without consent of the planning authority in section 3 while within section 4 allows with the consent of the forest authority. This is unsatisfactory and misleading;
- The present landowner is content to take such steps necessary for public safety and, being prevented from so doing, must now pass liability to North Ayrshire Council;
- The trees are marked to show those that are a danger, many are leaning, some are dead. If they were to blow over, the trees would ever block the carriageway, or their roots would tear it up. It is time positive management was applied to those trees;
- The trees have been carefully selected as they are unlikely to improve, and the number and size of the trees is such as to make it worthwhile for a reputable timber merchant to remove the trees;
- If the notice is confirmed, we will certainly seek payment for all timber within and below the line on the map.

2.15 In response it is considered that the notice served complies with the relevant legislation. The Council's Legal Services are content with its contents. It is also considered that the map which accompanied the notice also complies with the legislation.

2.15.1 The articles Mr Fforde refers to are contained within the notice itself and not to parts of the legislation. However, should there be any confusion, any interested party is able to contact the Council for confirmation or advice.

2.15.2 Article 3 describes the restrictions put on any person as a result of the TPO, while Article 4 highlights which restrictions do not apply if works are under accordance with relevant parts of the 1967 Forestry (Scotland) Act which is why there is reference to two different consenting authorities.

2.15.3 As stated in the response to Stanley Wright Ltd, the confirmation of a TPO does not restrict works where an immediate risk to public health exist. Should such a risk be

present, the responsible person is still required to take appropriate action (and can do so under the Act) and then notify the Planning Authority as soon as possible. Therefore, the transfer of liability is neither required nor accepted.

- 2.15.4 With regards to trees which are a danger, the independent report highlights that 3 trees should be removed as soon as possible. Should anyone wish to remove trees that are dangerous, then they can do so. It should be noted that the report's findings include that most trees are healthy, vibrant and worthy of protection.
- 2.15.5 The compensation provisions are in Article 7 of the TPO and are narrated below for ease of reference. Making a TPO does not in itself give rise to a claim for compensation. This would only occur after a planning application is made and refused 7(1)(a) or granted with conditions 7(1)(b). The applicants would require to demonstrate that they have suffered loss or damage caused or incurred as a result of the refusal or conditions above. Any claim would require to be in writing stating the grounds of claim and the amount claimed and be submitted within 6 months of the planning decision or determination of any appeal. The claim cannot be made for amounts less than £1,000. Article 7(5) of the notice sets out the grounds under which compensation will not be paid. Any dispute regarding compensation is to be determined by the Lands Tribunal for Scotland. Each case for compensation will therefore need to be judged on its own merits making it difficult to determine how much compensation any party would be entitled to.

### **3. Proposals**

- 3.1 It is proposed that the Council confirms a modified Tree Preservation Order in order to recognise the significant contribution the woodland makes to public amenity. This will ensure that the trees are afforded an appropriate level of protection while allowing appropriate woodland management. The Proposed modifications are as follows:-
- 3.1.1 That the trees between Brodick Primary School and Rosa Bridge are removed from the TPO.
  - 3.1.2 That the words "Brodick Primary School" are removed from the title of the TPO and replaced with "Rosa Bridge"
  - 3.1.3 That the Schedule to the TPO is amended to remove the trees from an "area" designation and instead include them within a "woodland" designation as shown within a continuous red line on the map (map shown in appendix 1).
  - 3.1.4 That an "individually specified protection" is included for Tree 13 (Beech) and its location highlighted in green on the said map.
  - 3.1.5 That a "group" protection is included for the four mature common lime trees located outside "Arran Aromatics and their location highlighted with a broken black line on the said map.



#### 4. Implications/Socio-economic Duty

<b>Financial:</b>	There will be registration fees involved in registration of the Order if Confirmed. These costs are likely to be in the region of £180
<b>Human Resources:</b>	N/A
<b>Legal:</b>	Should a TPO be confirmed, the owners will be served with a notice meaning that any work to lop, chop or fell the trees or woodland will require permission of the Council. The TPO will be recorded in the appropriate Land Register.
<b>Equality/Socio-economic Duty:</b>	Assessments carried out highlight the impact on public amenity.
<b>Children and Young People:</b>	No significant impacts foreseen as a result of confirming TPO.
<b>Environmental &amp; Sustainability:</b>	Confirmation of TPO complies with LDP policy on enhancing and protection of the environment.
<b>Key Priorities:</b>	North Ayrshire is a vibrant, welcoming and attractive environment.
<b>Community Benefits:</b>	The protection of the trees is in the interest of wider public amenity.

#### 5. Consultation

- 5.1 Should a TPO be confirmed interested parties are required to be notified and the Order registered in the Scottish Land Register.

Russel McCutcheon  
Executive Director of Place

For further information please contact **Thom Ledingham, Planning Officer**, on **01294 324623**.

#### Background Papers

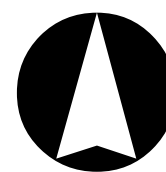
1. Report on the Suitability of a Tree Preservation Order Relating to: Brodick Primary School to Cnocan Bridge, Isle of Arran. KA27 8DD by Informed Tree Services.



Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationery Office Crown Copyright Licence No: 100023393

Produced by Planning Services

Description: Mainly mixed deciduous mature trees



**Scale: 1:5,000**





**REPORT ON THE SUITABILITY  
OF A TREE PRESERVATION ORDER  
RELATING TO:  
BRODICK PRIMARY SCHOOL TO  
CNOCAN BRIDGE,  
BRODICK,  
ISLE OF ARRAN.  
KA27 8DD.**

***Ref: NAC/TPO/07.08.19***

Prepared at the request of,  
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7<sup>th</sup> August 2019.

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## **1 INTRODUCTION & INSTRUCTIONS**

- 1.1. Following communications received from Mr. Thom Ledingham, of North Ayrshire Council, on the 17<sup>th</sup> June 2019, a quotation to carry out an elevation of a recently created tree preservation order (TPO) was provided. The quotation was accepted – official order number received on 18<sup>th</sup> July 2019.
- 1.2. The TPO in question<sup>1</sup> was forwarded to the author prior to the site investigation.
- 1.3. It was agreed that Mr. Chris Simpson of Informed Tree Services Ltd (ITS) would carry out an objective appraisal of the appropriateness of the TPO.
- 1.4. Mr. Ledingham asked the author to treat the TPO as three distinct areas (compartments). Described (by Mr. Ledingham) as:  
  
**Compartment 1)** “Brodict primary School to the junction of B880 String Road incorporating the northern perimeter of Stronach Wood to the south of A841”.  
  
**Compartment 2)** “A841 incorporating roadside trees forming an avenue and public footpath past Rosa Bridge woodland with golf course to the south and on to the bend in the road just north of Strabane”.  
  
**Compartment 3)** “A841 passing Home Farm with mature woodland and road side trees to Cnocan Bridge”.  
  
1.5. The appraisal was carried out on the 5<sup>th</sup> August 2019, with the aim of assessing the appropriateness of the TPO.  
  
1.6. The author used the nationally recognised system “Tree evaluation method for preservation orders” (TEMPO) (J. Forbes-Laird 2006) to rate the appropriateness of the TPO.  
  
1.7. The author also applied the “Visual amenity valuation of trees and woodlands – The Helliwell system 2008” (R. Helliwell 2008) to give a comparative “amenity” value to the protected woodland. The Helliwell System provides a financial value but is applied here purely to give a comparative amenity value.

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<sup>1</sup>The North Ayrshire Council (A841 Brodict Primary School to Cnocan Bridge, Brodict, Isle of Arran) Tree Preservation Order 2019.

## **2     DECLARATION**

I, Christopher Brian Simpson, declare that:

- 2.1 I understand that my duty in providing this written report is to provide an objective unbiased opinion on the suitability of a recently created tree preservation order. I understand that this duty overrides any obligation to the party who has commissioned me. I confirm that I have complied with that duty.
- 2.2 I believe the facts I have stated in this report are true and that the opinions I have expressed are correct.
- 2.3 I have set out in my report what I understand from those instructing me to be the issues in respect of which my opinion as an expert is required.
- 2.4 I have done my best in preparing this report to be accurate and complete, and I have mentioned all matters that I regard as relevant to the opinions I have expressed.
- 2.5 I have drawn attention in this report to all facts of which I am aware might affect my opinion.
- 2.6 I have not, without forming my own independent view, included or excluded in this report anything that has been suggested to me by anyone including those instructing me.
- 2.7 I will notify those instructing me if for any reason this report requires any correction or qualification.
- 2.8 I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- 2.9 I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the findings of this report.



### **3     SUMMARY**

- 3.1 North Ayrshire Council created a Tree Preservation Order (TPO) relating to an area of roadside trees, north of Brodick, on the 22<sup>nd</sup> May 2019.
- 3.2 Mr. Chris Simpson, of Informed Tree Services Ltd, was commissioned to objectively appraise the TPO area. The appraisal was carried out on the 5<sup>th</sup> August 2019.
- 3.3 The “Tree Evaluation Method for Preservation Orders” (TEMPO) (2006) was adopted.
- 3.4 The TPO area was to be considered in three distinct compartments; 1, 2 & 3.
- 3.5 Compartment 1 does not merit a TPO.
- 3.6 Compartment 2 definitely merits a TPO.
- 3.7 Compartment 3 definitely merits a TPO.
- 3.8 The “Visual amenity valuation of trees and woodlands – The Helliwell system” (2008) was also applied. The woodland (collectively) scored 72 points.
- 3.9 Three trees have been recommended for removal within 3 months. These are trees 4, 1478 & 1909.
- 3.10 Foliage and limbs that obstruct the pavement along the A841 should be pruned to provide unobstructed passage, within 3 months.
- 3.11 The TPO should be modified to remove compartment 1, should be altered to a woodland category, one individual tree (tree 13) should be added and 1 group added; the four Common Lime outside “Arran Aromatics”.
- 3.12 The TPO plan should be scaled at 1:2’500.
- 3.13 The TPO should then be confirmed and registered.

## 4 **INVESTIGATION FINDINGS**

- 4.1 The woodland appraisal was carried out in clear, bright, dry and warm conditions. The wind speed was approximately Force 4, (Moderate Breeze)<sup>2</sup>.
- 4.2 Mature mixed woodland and single lines of mature roadside trees are present in close proximity to the A841.
- 4.3 The A841 was busy with vehicular traffic and pedestrians during my appraisal. I estimated approximately 10 vehicles per minute; or 600 per hour. The area adjacent to “Arran Aromatics” was well frequented by visitors. The pavement had a fairly constant stream of walkers heading north and south.
- 4.4 The three woodland compartments are described below. Please refer to appendix 1 for the location of each compartment.

### 4.4.1 **Compartment 1:**

- a) **Character Statement:** Mature mixed woodland with a high proportion of non-native species.
- b) **BS 5837 Retention Category:** B, “moderate desirability for retention”.
- c) **BS 5837 Sub-category:** 2 & 3 (mainly landscape and cultural values).
- d) **Age Class:** Mature.
- e) **Safe useful life expectancy (SULE):** 20-40 years
- f) **Species composition:**

*Abies procera* (Noble Fir)  
*Acer pseudoplatanus* (Sycamore)  
*Alnus glutinosa* (Common Alder)  
*Betula pendula* (Silver Birch)  
*Fagus sylvatica* (Beech)  
*Larix decidua* (European Larch)  
*Picea abies* (Norway Spruce)  
*Picea sitchensis* (Sitka Spruce)  
*Pseudotsuga menziesii* (Douglas Fir)  
*Quercus robur* (Pedunculate Oak)  
*Salix caprea* (Goat Willow)  
*Sorbus aucuparia* (Rowan)

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<sup>2</sup> Beaufort Scale (Met Office)

- g) Elevation:** approximately 9 metres above sea level.
- h) Aspect:** East facing slope,
- i) Terrain:** Rough and largely inaccessible with steep cliff faces.
- j) Drainage:** Open drain network appears to function adequately, though congested in places.
- k) Artefacts:** Derelict stone dyke forms eastern boundary (in part) adjacent to road.
- l) Access:** No paths or access roads present but turning circle/parking bay to north, north-east of cliffs.
- m) Neighbours:** Brodick Primary School to south. Public road to east. Further woodland to west, south-west.
- n) Vertical structure:** Varied; mature conifer plantation with developing broadleaved trees by roadside.
- o) Horizontal structure:** Varied; densely stocked to west (away from road) but history of wind-throw and thinning (felling) has created glades to eastern boundary.
- p) Shrub layer:** Dense *Rhododendron ponticum* (Rhododendron), *Rubus fruticosus* (Bramble) and scattered *Ulex europaeus* (Gorse). Some developing Beech, Sycamore, Birch and Goat Willow also; all concentrated in thinned area close to road – the TPO area.
- q) Field Layer:** *Juncus* species (Rushes), coarse grasses, *Urtica urens* and *U. dioica* (Nettles), *Chamerion angustifolium* (Rosebay Willowherb) and *Lonicera* species (Honey Suckle).
- r) General Observations:** Woodland to north-west is prone to further wind-throw. Some large specimen conifers. With one large dead specimen (tree number 4) that should be felled/reduced. At mid-length a parking lay-by (turning area) is found with a stand of mature Larch arising high above a cliff face. The Larch display severe leans and a history of wind-throw. To the north-west of the parking area the TPO protects really only one mature to late-mature Beech (tree 13) (found at N00679, S36788); given that most trees along this edge have been felled in the past. Now mostly *Rhododendron* and Birch plus Sycamore regeneration. To the south, the TPO does protect some large Douglas Fir and Spruce but they display far from optimised canopy structures.

Please refer to appendix 6, picture 1 for a view of the woodland from the south; taken at location: N00991, S36601.

#### 4.4.2 **Compartment 2:**

- a) **Character Statement:** Mature mixed woodland with large roadside specimen trees.
- b) **BS 5837 Retention Category:** A, “high desirability for retention”.
- c) **BS 5837 Sub-category:** 2 & 3 (mainly landscape and cultural values).
- d) **Age Class:** Mature.
- e) **SULE:** 40+ years.
- f) **Species composition:**

*Castanea sativa* (Sweet Chestnut)  
*Fraxinus excelsior* (Common Ash)  
*Larix x eurolepis* (Hybrid Larch)  
*Pinus sylvestris* (Scots Pine)  
*Prunus avium* (Gean)  
*Tilia x europaea* (Common Lime)  
*Ulmus glabra* (Wych Elm)  
Beech  
Douglas Fir  
Norway Spruce  
Pedunculate Oak  
Silver Birch  
Sitka Spruce  
Sycamore

- g) **Elevation:** approximately 6 metres above sea level.
- h) **Aspect:** No particular aspect, fairly level site.
- i) **Terrain:** Generally smooth terrain.
- j) **Drainage:** No drain network observed but no particular signs of water-logging.  
Glenrosa Water dissects woodland to south.
- k) **Artefacts:** Road bridge. Metal palisade fencing.
- l) **Access:** Private access road to north after Rosa Bridge. Private access road to Strabane on south side of road.
- m) **Neighbours:** Public pavement, public road and lodge house by Rosa Bridge.
- n) **Vertical structure:** Most trees display final, or near final, height. Woodland block to south-east of road after bridge is supplemented by stand of younger Sycamore, creating a lower canopy.

- o) Horizontal structure:** Densely stocked woodland belt to north of road and single row of roadside trees to south, with low Beech hedge also.
- p) Shrub layer:** Limited understory within woodland contains *Sambucus nigra* (Elderberry), *Crataegus monogyna* (Hawthorn), *Ilex aquifolium* (Holly), Rhododendron and Bramble. Beech hedge runs along southern side of road.
- q) Field Layer:** Limited field layer with Nettles, *Pteridium aquilinum* (Bracken) and *Hedera helix* (Ivy).
- r) General Observations:** Compartment starts with large specimen Scots Pine trees to the south of the road, by a hair-pin bend. Then healthy well stocked and established broadleaved woodland to the north side of the road, after Rosa Bridge. A line of single mature broadleaved trees runs the full length of the road on the south side, with a low Beech hedge understory. Slightly deeper woodland belt (but still shallow) on the north side of the road. One large dead Sycamore but weighted away from road and posing little concern. Large dead Scots Pine on east side of road should be removed; located at N01015, S37078 and tagged 1478. Several trees have been topped and/or pruned in the past with well developed re-growth. As would be expected most trees display canopies weighted over the road, due to light availability.

Please refer to appendix 6, picture 2 for a view of the woodland from the south; taken at location: N00557, S36840.

Please refer to appendix 6, picture 4 for an image of the dead Scots Pine (tree 1478).

Cont...

#### 4.4.3 **Compartment 3:**

- a) **Character Statement:** Mature mixed woodland.
- b) **BS 5837 Retention Category:** A, “high desirability for retention”.
- c) **BS 5837 Sub-category:** 2 & 3 (mainly landscape and cultural values).
- d) **Age Class:** Mature.
- e) **SULE:** 40+ years.
- f) **Species composition:**

*Abies alba* (European Silver Fir)  
*Acer platanoides* (Norway Maple)  
*Aesculus hippocastanum* (Horse Chestnut)  
*Chamaecyparis lawsoniana* (Lawson Cypress)  
*Cupressus leylandii* (Leyland Cypress)  
*Fagus sylvatica* ‘Purpurea’ (Copper Beech)  
*Quercus cerris* (Turkey Oak)  
*Rhus typhina* (Staghorn Sumac)  
*Sorbus aria* (Whitebeam)  
Beech  
Common Ash  
Common Lime  
European Larch  
Gean  
Pedunculate Oak  
Scots Pine  
Sitka Spruce  
Sycamore  
Wych Elm

- g) **Elevation:** approximately 6 metres above sea level
- h) **Aspect:** Very gentle south facing slope.
- i) **Terrain:** Generally smooth but with dense undergrowth in many places. Short, steep roadside slopes to north of compartment.
- j) **Drainage:** No drainage network noted. But no signs of water-logging, to west of road. Woodland to north, and on east side of road, is becoming water-logged due to run-off from road, resulting in shallow root-plates.
- k) **Artefacts:** Stock fence to western boundary of woodland.
- l) **Access:** Access road at mid-length to west. No path network within woodland.

- m) Neighbours:** Public road (A841), public pavement to west of road. Businesses and visitor attractions to east of road at mid-length. Bus stance to west at mid-length. One private residence to west after access road. Pasture to far west. Further woodland to east.
- n) Vertical structure:** Mature mixed woodland with even-age structure. So, uniform canopy height with little lower canopy. But scattered shrub layer with (mainly) Holly and Rhododendron.
- o) Horizontal structure:** Densely stocked woodland to south-west and north-east extremes. Very few open areas.
- p) Shrub layer:** Consists of Rhododendron, Holly, Hawthorn, Bramble and regenerating Goat Willow & Elm.
- q) Field Layer:** Coarse grasses, Ivy, Nettles and dense stands of *Reynoutria japonica* (syn. *Fallopia japonica*) (Japanese Knotweed). Knotweed is found to south of compartment, on both sides of road. Knotweed has, mostly, been treated but this does not ensure control. A small clump of Bamboo is also present to the south-east.
- r) General Observations:** Mature mixed woodland to west of road with areas of dense Rhododendron shrubs, plus Japanese Knotweed. To east is a narrow band of trees and woodland edge trees fragmented by business centre/visitor centre. One part-blown Sycamore to west side and just south of bridge at N01098 S37503 which leans towards road. Four specimen Common Lime arise to west of “Arran Aromatics” and appear to be included within TPO area. Japanese Knotweed is being actively sprayed/controlled. Epicormic shoots and low levels limbs obstruct pavement to west of road, in several places. One private garden at mid-length to western side of road, with *Berberis*, *Ligustrum*, *Cotoneaster*, etc within garden. Run-off/excess water from road is drained into woodland to north-east. This results in water-logged soils and mature trees with shallow roots.

Please refer to appendix 6, picture 3 for a view of the woodland from the south; taken at location: N01064 S37129.

Please refer to appendix 6, pictures 5 & 6 for images of the water-logged woodland.

- 4.5 As mentioned in the descriptions above, three trees were noted that are unsuitable for retention. They are: tree number 4 a dead roadside Noble Fir; tree 1478 a dead roadside Scots Pine and; tree 1909 a part blown (uprooted) Sycamore that leans towards the road. Please refer to appendix 4 for further details.
- 4.6 The “Tree Evaluation Method for Preservation Orders (TEMPO)” was applied to the TPO area. TEMPO applies scores to amenity value, likely retention span, visibility, other factors and expediency. The final score can then be used to determine whether the TPO is merited, defensible or indefensible. A summary of each compartment’s score is listed below. Full details/workings may be viewed at appendix 2.

	Compartment 1	Compartment 2	Compartment 3
Factor	Score	Score	Score
Condition	3	3	3
Retention span	1	4	4
Relative public visibility	3	3	3
Other factors	1	4	4
Expediency	0	2	2
<b>Total</b>	<b>8</b>	<b>16</b>	<b>16</b>
<b>Decision</b>	<b>Does not merit TPO</b>	<b>Definitely merits TPO</b>	<b>Definitely merits TPO</b>

- 4.7 The Helliwell “Evaluation method for woodlands” was also applied to the TPO area. This method uses a range of scores (from 0.5 to 4) to calculate the amenity value of the woodland, over six criteria. I scored the woodland at 72 points. Points allocated as follows:

Factor	Points allocated
1) Size of woodland	3
2) Position in landscape	2
3) Viewing population	2
4) Presence of other trees and woodland in the vicinity	1
5) Composition and structure of woodland	2
6) Compatibility	3
<b>TOTAL (scores multiplied)</b>	<b>72</b>

- 4.8 The monetary value for woodland is £33.70 per point (until end of 2019). Making the amenity value of the TPO area £9’704.88 per hectare. This figure is only mentioned to allow comparison of another method for elevation of amenity value. At 72 points awarded, the TPO area is of moderate to high amenity value. The lowest possible score is 0.03125, with the highest being 3’072.

Please refer to appendix 3 for details and workings associated with the above calculation.



## **5 CONCLUSIONS**

- 5.1 The TPO area was broken down into three distinct compartments. Each compartment was elevated in its own right; as requested. Conclusions as follows:
- 5.2 Compartment 1 does not merit a TPO.
- 5.3 Compartment 2 definitely merits a TPO.
- 5.4 Compartment 3 definitely merits a TPO.
- 5.5 The existing TPO should be modified as follows:
  - 5.5.1 Compartment 1 should be removed.
  - 5.5.2 The TPO map should be redrawn at a scale of 1:2'500.
  - 5.5.3 The TPO should be of a "woodland" designation rather than an "area" designation.
  - 5.5.4 The TPO map should, therefore, highlight the protected woodland with a "continuous red line".
  - 5.5.5 Tree 13 (Beech) should have "individually specified" protection. Its location should be highlighted green on the TPO map.
  - 5.5.6 Four mature Common Lime trees, located outside "Arran Aromatics", should have "group" protection. Their location should be highlighted with a broken black line on the TPO map.
- 5.6 The TPO should then be confirmed and recorded with the appropriate Register of Sasines or registered with the Land Register of Scotland.
- 5.7 The TPO should be reviewed from "time to time". Once every five years is suggested.
- 5.8 Trees 4, 1478 & 1909 should be removed/made safe within 3 months. North Ayrshire Council should request that the owner(s) of these trees remove them within this timeframe. If the trees are not removed a "28 day notice" should be served.<sup>3</sup>
- 5.9 The overhanging foliage and limbs that obstruct the pavement along the A841 should be pruned to provide unrestricted pedestrian access, within 3 months.

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<sup>3</sup> Roads (Scotland) Act 1984

## **6 OPINION**

- 6.1 A tree preservation order is a tool that should be used sparingly. They are appropriate only when the trees provide clear amenity benefits and are perceived to be under threat.
- 6.2 So, the trees need to provide tangible and/or intangible benefits to the public. The trees within the TPO area north of Brodick do provide benefits. They enhance the landscape and provide a mature established and natural feel. In general they are worthy of retention.
- 6.3 Compartments 2 & 3 are definitely in keeping with woodland that may be worthy of protection. However, compartment 1 is the edge of a commercial plantation. Here most trees within the TPO area have already been removed and woodland to south, south-west of the narrow protected area is suffering from sporadic wind-throw. I don't feel this area (compartment 1) is worthy of protection.
- 6.4 The results produced here are meant to guide the client to a decision only. But given the clear difference in scores for compartment 1, compared with compartments 2 & 3, I feel most would agree with the recommendation to protect compartments 2 & 3 but not compartment 1.
- 6.5 For a TPO to be appropriate it should be expedient to apply one. This is to say, there should be some reason for the planning authority to consider them at risk. I am not aware of the reason why the trees within the TPO area are deemed to be at risk. I did note that they had been painted with numbers and some with crosses. This only suggests, to me, that someone had surveyed the trees and identified some trees for removal. This would be in keeping with the land owner acting in a prudent manner. I hope that if the TPO is confirmed the planning authority will permit identified remedial work to these roadside trees, on receipt of future "applications to work". It is reasonable to predict that tree surgery and or tree removals will be required, from time to time, to meet a duty of care.
- 6.6 Arran is not a heavily populated area. However, the island does receive significant numbers of visitors – especially in the summer months. These trees are readily viewed by many of the visitors, given their proximity to the main road. So they are readily viewed by many but only in passing. The trees form the established view of a, relatively, small number of residents. Given their rural setting they don't screen any unsightly buildings or areas. If they were removed the view of attractive surrounding countryside would be increased.
- 6.7 Having driven most of Arran, at one time or another, I note that much of the island is devoid of trees and that the woodland present is mostly formed of commercial exotic monocultures; mainly Sitka Spruce. The area around Brodick, however, has a significant proportion of its land mass allocated to mixed woodland. Brodick Castle with its mature woodland and specimen conifers is just to the north of the TPO area. The trees within the TPO area are in keeping with the local landscape and enhance the experience of visitors and the day-to-day lives of residents alike.

## 7 **REFERENCES**

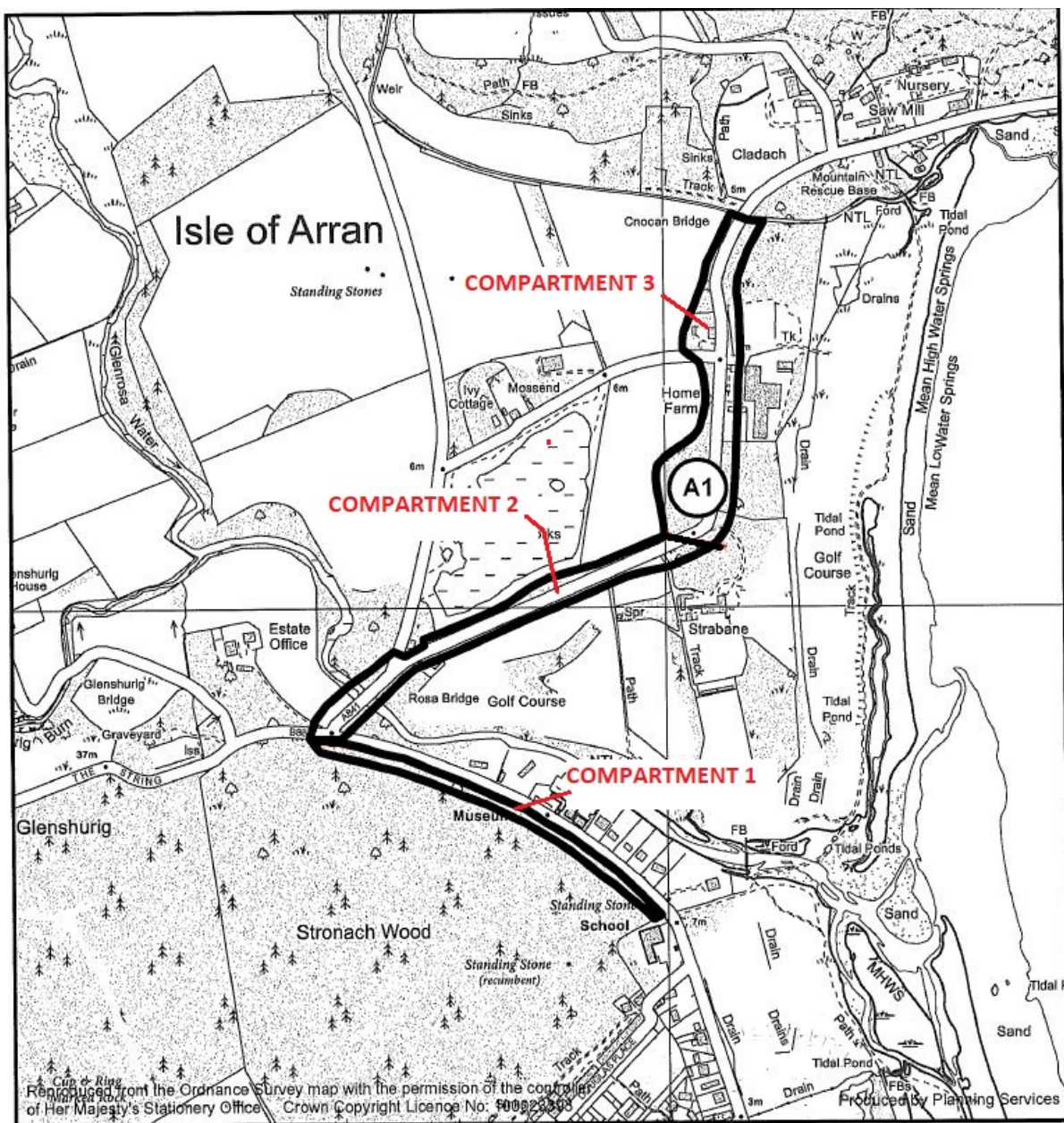
- |   |   |
|---|---|
| FORBES-LAIRD. J. (2006)   | Tree Evaluation Method For<br>Preservation Orders – Guidance Note<br>For Users.           |
| DUNSTER. J.A (2017)<br>International Society of Arboriculture   | Tree Risk Assessment Manual (second<br>edition).  |
| HELLIWELL. R. (2008)<br>Arboricultural Association              | Principles of tree hazard assessment<br>and management.                                   |
| SCOTTISH GOVERNMENT (2011)                                      | Scottish Planning Series. Planning<br>Circular 1 2011. Tree Preservation<br>Orders.       |
| BRITISH STANDARD INSTITUTE (2012)<br>BSI, 2 Park Street, London | BS 5837 “Trees in relation to design,<br>demolition & construction -<br>Recommendations”. |

## **APPENDIX 1**

### **TPO COMPARTMENT PLAN<sup>4</sup>**

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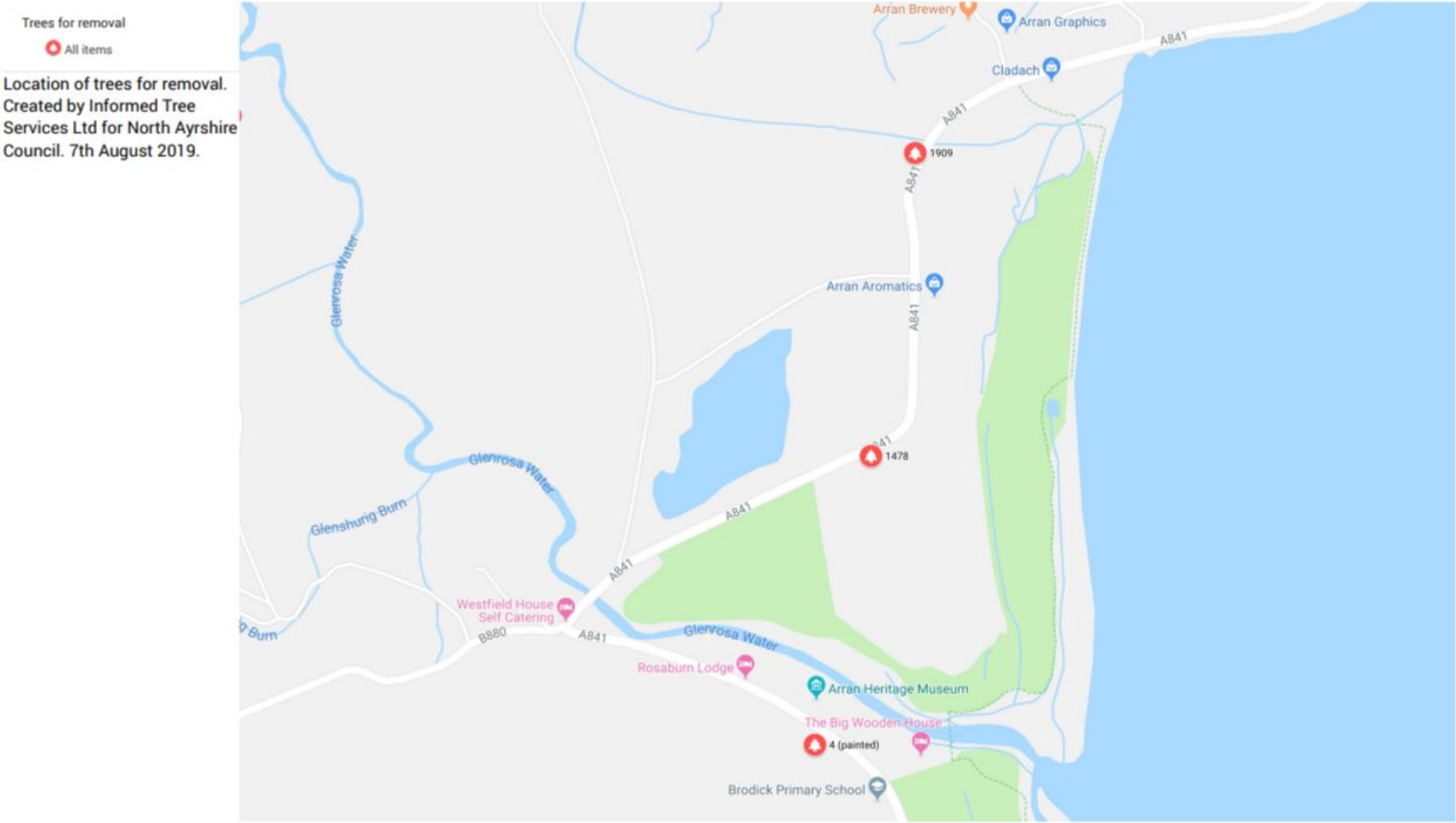
<sup>4</sup> Plan taken from original TPO and not to scale.



## **APPENDIX 2**

### **TREES FOR REMOVAL PLAN**

Arran TPO



### **APPENDIX 3**

#### **SCHEDULE OF TREES FOR REMOVAL**



Ref No.	Species Botanical (Common)	Height (m)	Crown spread (m) N-S E-W	Dia @ 1.5 M (mm)	Age Class	Vigour	Condition/Notes	Management Recommendations	Urgency Rating	Likelihood of Failure	Likelihood of Impacting Target	Likelihood of Failure and Impact	Consequences	Overall Risk Rating	Safe Useful Life Expectancy (assuming remedial work is completed) (years)	Re-Inspection Frequency	X Co-Ordinates	Y- Co-Ordinates
4 (painted)	<i>Abies procera</i> (Noble fir)	23	4-2 3-3	750	M	L	<b>Very Poor.</b> Standing deadwood within falling distance of public road.	Remove to ground level. OR reduce to 3 metre monolith.	High	imminent	medium	likely	severe	high	0	N/A	n00679	s36788
1478	<i>Pinus sylvestris</i> (Scots Pine)	24	4-2 1-5	660	M	L	<b>Very Poor.</b> Standing deadwood with bias towards road.	Remove to ground level. OR reduce to 3 metre monolith.	High	imminent	medium	likely	severe	high	0	N/A	n01015	s37078
1909	<i>Acer pseudoplatanus</i> (Sycamore)	17	5-0 0-0	410	MA	L	<b>Very Poor.</b> Part blown (uprooted) specimen rests on canopy of neighbouring roadside tree. Somewhat sparse canopy with one hanger above pavement.	Sever root- plate and make safe (remove to ground level).	High	imminent	medium	likely	severe	high	0	N/A	n01098	s37503

## **APPENDIX 4**

### **TEMPO FORMS**

## TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO) SURVEY DATA SHEET & DECISION GUIDE

**Date of inspection:** 5<sup>th</sup> August 2019  
**Surveyor:** Chris Simpson  
**TPO Ref:** A841 Brodick Primary School to Cnocan Bridge, Brodick, Isle of Arran – Tree preservation Order 2019

**Compartment Number:** Compartment 1  
**Owner:** Unknown (by author)  
**Location:** “Brodick primary School to the junction of B880 String Road incorporating the northern perimeter of Stronach Wood to the south of A841”

### **Part 1: Amenity assessment**

#### **a) Condition & suitability for TPO**

5) Good	Highly suitable
3) Fair	Suitable
1) Poor	Unlikely to be suitable
0) Dead	Unsuitable
0) Dying/dangerous <sup>5</sup>	Unsuitable

**SCORE :** 3

**NOTES:** The northern edge of Stronach Wood has suffered from wind-blow in the past and has been thinned out. The area covered by the TPO is the very northern extremity where the remaining trees are now exposed to higher (than previously experienced) wind loading. The few trees protected by the TPO display generally less than favourable canopy structure and pronounced leans. Tree 13 being an exception. Further storm damage is reasonably predictable.

#### **b) Retention span (in years) & suitability for TPO**

5) 100+	Highly suitable
4) 40-100	Very suitable
2) 20-40	Suitable
1) 10-20	Just suitable
0) <10 <sup>6</sup>	Unsuitable
0) Dying/dangerous <sup>7</sup>	Unsuitable

**SCORE :** 1 (running total = 4)

**NOTES:** Once woodland has lost its wind-firm edge, progressive wind-throw can reasonably be expected. The safe useful life expectancy of these roadside trees is reduced due to previous management and wind-throw.

<sup>5</sup> Relates to existing context and is intended to apply to severe irremediable defects only.

<sup>6</sup> Includes trees which are an existing or near future nuisance, including those clearly outgrowing their current context, or which are significantly negating the potential of trees of better quality.

<sup>7</sup> Relates to existing context and is intended to apply to severe irremediable defects only.

**c) Relative public visibility & suitability for TPO (consider realistic potential for future visibility with changed land use)**

- 5) Very large trees with some visibility, or prominent large trees. Highly suitable
- 4) Large trees, or medium trees clearly visible to the public. Suitable
- 3) Medium trees, or large trees with limited view only. Suitable
- 2) Young, small, or medium/large trees visible only with difficulty. Barely suitable
- 1) Trees not visible to the public, regardless of size. Probably unsuitable

**SCORE : 3 (running total = 7)**

**NOTES:** remaining trees, within the TPO area, are now only readily viewed by users of the A841, pedestrians and the limited number of residents to the north of the road.

**d) Other factors (trees must have accrued 7 or more points (with no zero score) to qualify)**

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

**SCORE : 1 (running total = 8)**

**NOTES:** Other than tree 13, the remaining trees within this thinned/blown woodland edge do not display particularly attractive or optimised form.

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**Part 2: Expediency assessment** (Trees must have accrued 9 or more points to qualify)

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

**SCORE : Not applicable**

**NOTES:** Compartment doesn't score high enough to qualify for an "expediency assessment" – required to score 2 points or more in section (d), above.

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**Part 3: Decision guide**

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-10  | Does not merit TPO    |
| 11-14 | TPO defensible        |
| 15+   | Definitely merits TPO |

**ADD SCORES FOR TOTAL : 8**

**DECISION: Compartment 1 does not merit a TPO.**

## TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO) SURVEY DATA SHEET & DECISION GUIDE

**Date of inspection:** 5<sup>th</sup> August 2019  
**Surveyor:** Chris Simpson  
**TPO Ref:** A841 Brodick Primary School to Cnocan Bridge, Brodick, Isle of Arran – Tree preservation Order 2019

**Compartment Number:** Compartment 2  
**Owner:** Unknown (by author)  
**Location:** “A841 incorporating roadside trees forming an avenue and public footpath past Rosa Bridge woodland with golf course to the south and on to the bend in the road just north of Strabane”

### **Part 1: Amenity assessment**

#### **a) Condition & suitability for TPO**

5) Good	Highly suitable
3) Fair	Suitable
1) Poor	Unlikely to be suitable
0) Dead	Unsuitable
0) Dying/dangerous	Unsuitable

**SCORE :** 3

**NOTES:** Most of this compartment consists of a narrow line of large mature roadside trees. They display signs of previous management and some structural defects such as cavities, deadwood, failed limbs etc.

#### **b) Retention span (in years) & suitability for TPO**

5) 100+	Highly suitable
4) 40-100	Very suitable
2) 20-40	Suitable
1) 10-20	Just suitable
0) <10	Unsuitable
0) Dying/dangerous	Unsuitable

**SCORE :** 4 (running total = 7)

**NOTES:** Other than severe weather events it is likely that these trees would persist, in a satisfactory condition, for at least 40 years.

**c) Relative public visibility & suitability for TPO (consider realistic potential for future visibility with changed land use)**

- 5) Very large trees with some visibility, or prominent large trees. Highly suitable
- 4) Large trees, or medium trees clearly visible to the public. Suitable
- 3) Medium trees, or large trees with limited view only. Suitable
- 2) Young, small, or medium/large trees visible only with difficulty. Barely suitable
- 1) Trees not visible to the public, regardless of size. Probably unsuitable

**SCORE : 3 (running total = 10)**

**NOTES:** These trees are only readily viewed by users of the A841 and those using the golf course.

**d) Other factors (trees must have accrued 7 or more points (with no zero score) to qualify)**

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

**SCORE : 4 (running total = 14)**

**NOTES:** The trees form a cohesive arboricultural feature that occupies both sides of the A841.

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**Part 2: Expediency assessment** (Trees must have accrued 9 or more points to qualify)

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

**SCORE : 2 (running total = 16)**

**NOTES:** It is possible that the trees are at risk because some have been marked with numbers and some with crosses, suggesting they have been considered for removal.

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**Part 3: Decision guide**

Any 0	Do not apply TPO
1-6	TPO indefensible
7-10	Does not merit TPO
11-14	TPO defensible
15+	Definitely merits TPO

**ADD SCORES FOR TOTAL: 16**

**DECISION: Definitely merits confirmation of TPO.**

## TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO) SURVEY DATA SHEET & DECISION GUIDE

**Date of inspection:** 5<sup>th</sup> August 2019  
**Surveyor:** Chris Simpson  
**TPO Ref:** A841 Brodick Primary School to Cnocan Bridge, Brodick, Isle of Arran – Tree preservation Order 2019

**Compartment Number:** Compartment 3  
**Owner:** Unknown (by author)  
**Location:** “A841 passing Home Farm with mature woodland and road side trees to Cnocan Bridge”

### **Part 1: Amenity assessment**

#### **a) Condition & suitability for TPO**

5) Good	Highly suitable
3) Fair	Suitable
1) Poor	Unlikely to be suitable
0) Dead	Unsuitable
0) Dying/dangerous	Unsuitable

**SCORE : 3**

**NOTES:** The roadside population has experienced remedial work in the past; trees have been topped and heavily pruned previously. It is likely that future remedial work will be required to meet a duty of care. Most trees, however, display favourable structural and physiological condition.

#### **b) Retention span (in years) & suitability for TPO**

5) 100+	Highly suitable
4) 40-100	Very suitable
2) 20-40	Suitable
1) 10-20	Just suitable
0) <10	Unsuitable
0) Dying/dangerous	Unsuitable

**SCORE : 4 (running total = 7)**

**NOTES:** Other than severe weather events it is likely that this woodland would persist, in a satisfactory condition, for at least 40 years.

**c) Relative public visibility & suitability for TPO (consider realistic potential for future visibility with changed land use)**

- 5) Very large trees with some visibility, or prominent large trees. Highly suitable
- 4) Large trees, or medium trees clearly visible to the public. Suitable
- 3) Medium trees, or large trees with limited view only. Suitable
- 2) Young, small, or medium/large trees visible only with difficulty. Barely suitable
- 1) Trees not visible to the public, regardless of size. Probably unsuitable

**SCORE : 3 (running total = 10)**

**NOTES:** These large, or medium sized trees, are viewed by users of the A841, visitors to the visitor attractions and industrial units opposite Home Farm. There are very few residential properties that view this woodland.

**d) Other factors (trees must have accrued 7 or more points (with no zero score) to qualify)**

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

**SCORE : 4 (running total = 14)**

**NOTES:** The trees form a cohesive arboricultural feature that occupies both sides of the A841.

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**Part 2: Expediency assessment** (Trees must have accrued 9 or more points to qualify)

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

**SCORE : 2 (running total = 16)**

**NOTES:** It is possible that the trees are at risk because some have been marked with numbers and some with crosses, suggesting they have been considered for removal.

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**Part 3: Decision guide**

Any 0	Do not apply TPO
1-6	TPO indefensible
7-10	Does not merit TPO
11-14	TPO defensible
15+	Definitely merits TPO

**ADD SCORES FOR TOTAL : 16**

**DECISION: Definitely merits confirmation of TPO.**



## **APPENDIX 5**

### **HELLIWELL VALUATION SHEET**

**HELLIWELL 'EVALUATION METHOD FOR WOODLANDS'<sup>8</sup>**  
**CALCULATIONS RELATING TO TPO AREA**

FACTOR	POINTS					SCORES & NOTES
	0.5	1	2	3	4	
1. Size of woodland		Very small	Small	Medium	Large	According to TPO, protected woodland is 5.65 Ha so scores 3.
2. Position in landscape	Very secluded	Secluded	Visible but not prominent	prominent	Very Prominent	Non-prominent woodland so scores 2.
3. Viewing population	Very few	Few	Some	Many	Very many	Woodland only viewed by a few residents but by road users and pedestrians. Scores 2.
4. Presence of other trees and woodland in the vicinity	Surrounding area more than 75% wooded	Surrounding area more than 25% wooded	Surrounding area 5-25% wooded	Surrounding area 1-5% wooded	Surrounding area less than 1% wooded	Surrounding area with more than 25% woodland cover but less than 75%. So scores 1.
5. Composition and structure of the woodland	Plantation with geometric stripes, or visually degraded woodland	Even-aged young woodland	Mature or uneven-aged woodland or wood pasture	Mature or uneven-aged woodland or wood pasture with large or veteran trees		Mature woodland with some variety in age and height. So scores 2.
6. Compatibility	Only just acceptable	Acceptable	Moderately good	Good	Excellent	Woodland is compatible with surroundings. So scores 3.
<b>TOTAL</b>						<b>72</b>

<sup>8</sup> Full guidance notes relating to the scoring regime can be read in "Visual amenity valuation of trees and woodlands. The Helliwell System 2008". Guidance note 4 from the Arboricultural Association.

## **APPENDIX 6**

### **SUPPORTING PHOTOGRAPHIC EVIDENCE**

## **Picture 1**



**Above: Compartment 1. The dead tree (tree 4) can be seen in the background. The open nature of the protected area can be seen here.**

**Picture 2**



**Above: Compartment 2, as seen from the south – the car is just approaching the Glenrosa Water bridge.**

**Picture 3**



**Above: Compartment 3, as seen from the south – treated Japanese Knotweed can be seen on both sides of the road.**



**Picture 4**



**Above: Tree 1478 is a dead roadside tree in compartment 2.**

**Picture 5**



**Above: Area of water-logging within woodland to north-east of compartment 3.**



**Picture 6**



**Above: A shallow rooted, part-blown, tree located within woodland to north-east of compartment 3.**

## **APPENDIX 7**

### **GLOSSARY OF TERMS**

## **Glossary of Arboricultural Terms:**

<b>Term</b>	<b>Explanation</b>
<b>Amenity value</b>	The tangible and intangible benefits afforded by trees to the public.
<b>Mixed woodland</b>	Woodland consists of a mixture of broadleaved and coniferous trees.
<b>Native</b>	Tree species native to the British Isles.
<b>Exotic</b>	Tree species introduced to the British Isles.
<b>Tree</b>	Any woody perennial that would normally be referred to as a tree.