



**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, 14 February 2018 at 10:30** 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 meetings of the Committee held on 17 January 2018 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).

**Three Towns**

Submit reports on the following applications:

**3     17/01038/LUP - Shore Compound, Ardeer, Stevenston**

Use of former storage compound as a multi-purpose events area (copy enclosed).

**North Coast and Cumbraes**

Submit reports on the following applications:

**4     1701191PP - Rose Cottage, Portencross, West Kilbride**

Replacement of existing dwelling house and erection of 4no new dwelling houses (copy enclosed).

**5     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:

**Present**

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

**In Attendance**

J. Miller, Senior Manager (Planning) (Economy and Communities); and J. Law, Solicitor (Contracts and Licensing) and M. Anderson Committee Services Team Leader (Chief Executive's Service).

**Also in Attendance**

Karen Wallace and Claude Nelson (representing Tarryholme residents) and Andrew Easton (Robert Potter and Partners), Janice Russell (McTaggart Construction) and Mark Rinkus (White Young Green) (representing the applicants) (Agenda Item 3).

**Chair**

Councillor Marshall in the Chair.

**Apologies for Absence**

Ellen McMaster.

**1 Declarations of Interest**

In terms of Standing Order 10 and Section 5 of the Code of Conduct, Councillor McNicol, as the spouse of the applicant, declared an interest in Agenda Item 4 (17/01214/PP - 35 Caledonia Road, Saltcoats) and left the meeting for that item of business.

**2 Minutes**

The Minutes of the meeting of the Committee held on 6 December 2017 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3 17/01096/PPM - Site To North Of Tarryholme Pond, Irvine**

Irvine Housing Association have applied for planning permission for the erection of 87 dwellinghouses to include the provision of associated infrastructure and landscaping at the site to the north of Tarryholme Pond, Irvine. Seventy-three representations were received and were detailed in the report.

Ms Wallace, accompanied by Mr Nelson, representing residents of Tarryholme, addressed the Committee in support of the objections.

Ms Wallace referred to increased traffic volumes and road safety concerns associated with the proposed development. She questioned the traffic volume forecasts prepared on behalf of the applicants; raised the issue of increased CO2 emissions relating to extra vehicles idling at the estate's exit during busy periods; and expressed concern about road safety in the vicinity of the access road to the new site. In addition, Ms Wallace made reference to increased flooding risks and the potential for the proposed development to affect the water table at this location. The capacity of local schools and health services to absorb the additional residents associated with the proposals was also called into question, particularly given the new development at the nearby Hallmark Hotel. Ms Wallace questioned the measured distance to public transport and highlighted the applicant's failure to meet the Scottish Planning Policy guidance on travel distances to bus stops. Access to public transport and walking route provision were, the objectors considered, key considerations in the context of a likely increase in the number of residents with mobility issues.

Mr Easton, of Robert Potter and Partners, and Mark Rinkus, of White Young Green, accompanied by Janice Russell of McTaggart Construction, then addressed the Committee, on behalf of the applicants, in response to the objectors. In a presentation, the applicants' representatives highlighted the longstanding allocation of the site for residential development within the Adopted Local Plan and the stated capacity of the Education Authority to meet the needs of the proposed development. Mr Rinkus, the applicant's transport consultant, then outlined the scope and findings of the transport assessment undertaken, asserting that the proposed development would generate relatively low traffic flow. He indicated that the development had been designed to promote and support public transport access and referred to proposed road crossing improvements. Mr Rinkus made reference to planned road safety measures, including a proposed change to the junction onto the A71 to prohibit vehicles from turning right. Mr Easton then addressed the objectors' concerns about potential flooding, advising that no objections had been expressed by the Council's flooding officer or by SEPA.

The objectors then had an opportunity to make brief final comments. Ms Wallace referred to significant changes in traffic volumes since the site was originally allocated and queried the accuracy of forecasting. Ms Wallace also challenged assertions about road safety at this location, referring to a previous accident on the main route into the estate.

Members then asked questions of the objectors and applicants' representatives in respect of traffic volumes forecasting, the nature of the development proposed,

the planned provision of two access roads to the new development, the road safety improvements proposed, and GP service capacity in the area.

The Senior Manager then outlined the terms of the planning report, including a recommended further condition relating to parking provision to reflect the schedule of off-street parking requirements for each plot.

Members had the opportunity to ask further questions and received clarification on the following:-

- an existing sewerage system in the area and its capacity;
- safe walking routes and the availability of a public path crossing beneath the A71; and
- the nature of the new development, in terms of housing mix.

Councillor McNicol, seconded by Councillor Barr, moved that the application be granted, subject to the conditions set out in the report and the additional condition referred to by the Senior Manager (Planning). There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application subject to the following conditions:-

1. That, prior to the commencement of development hereby approved, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority full details of the pedestrian crossing improvements between Milgarholm Roundabout and junction of the Tarryholme site access road with the A71, together with all other road improvement works as may be deemed necessary by North Ayrshire Council as Roads Authority. Thereafter, all road and pedestrian crossing improvements as may be approved, including those illustrated on drawing no. A104936 SK001, shall be fully implemented prior to the occupation of the first dwellinghouse within the application site to the satisfaction of North Ayrshire Council as Planning Authority.

2. That no development shall take place until there has been submitted to and approved by North Ayrshire Council as Planning Authority a scheme of landscaping, which shall include details of species, planting densities, soil treatment and aftercare and shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of the development.

3. That all planting, seeding or turfing comprised in the approved details of landscaping 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.

4. That, prior to the occupation of any of the dwellinghouses and where Council adoption of open space and landscaped areas is not to be pursued, details of the proposed factor or management agency for all areas of open space, landscaping and SuDs area within the site shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the areas of open space and landscaping shall be maintained and managed in accordance with the details as may be approved under the terms of Condition 2 above.

5. That, prior to the commencement of the development, hereby approved, the applicant shall undertake a desk study of the application site, (including the review of any previous site investigations) to assess the likelihood of contamination and assist in the design of an appropriate site investigation and subsequent suitable quantitative risk assessment as advocated in BS10175: 2011. 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 North Ayrshire Council as Planning Authority. Any required remediation measures shall be undertaken, prior to the commencement of the development 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 to the North Ayrshire Council as Planning Authority.

6. That, prior to the commencement of the development, details of phasing shall be submitted for the written approval of North Ayrshire Council, which shall incorporate phasing details for off-site infrastructure works, SuDS, tree planting and open space provision. Thereafter, the development shall be implemented only in accordance with such phasing as may be agreed with North Ayrshire Council as Planning Authority, unless otherwise agreed in writing

7. That, prior to the commencement of the development, hereby approved, the developer shall secure the implementation of a programme of archaeological works in accordance with a written scheme of investigation for submission by the applicant and approved by North Ayrshire Council Planning Authority in consultation with the West of Scotland Archaeology Service. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of North Ayrshire

Council Planning Authority in consultation with the West of Scotland Archaeology Service.

8. That, prior to the erection of any of the dwellinghouses hereby approved, a detailed schedule of the proposed external finishes for each of the dwellinghouses together with a plan and schedule of the surface treatments to be used on the roads and footpaths within the site shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the houses, roads and footpaths shall be constructed only in accordance with such details as may be approved to the satisfaction of North Ayrshire Council as Planning Authority.

9. That, prior to the commencement of the development, hereby approved, confirmation shall be submitted in writing to North Ayrshire Council as Planning Authority and certified by a suitably qualified person that a scheme to treat the surface water arising from the site has been prepared in accordance with the principles and practices contained in 'The SuDS Manual' (CIRIA report C753, published November 2015). Thereafter, the certified scheme shall be implemented prior to the completion of the development and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

10. That the recommendations/mitigation measures contained within the Ecological Report and Flood Risk Assessment, submitted with the application, shall be implemented during the course of the development to the satisfaction of North Ayrshire Council as Planning Authority. During the course of the development, details demonstrating the implementation of the recommendations in each report shall be submitted for the written approval of North Ayrshire Council as Planning Authority.

11. That, prior to the commencement of the development, details of all boundary treatments to be formed shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, all boundary fences and walls as may be approved relating to or adjacent to each plot shall be erected prior to the occupation of the dwelling within that plot to the satisfaction of North Ayrshire Council as Planning Authority.

12. That the first 2 metres of the driveways, measured from the heel of the footway or shared surface roadway shall be hard surfaced in order to prevent deleterious material being carried onto the carriageway and designed in such a way that no surface water shall issue from the access onto the carriageway.

13. That, prior to the commencement of the development, the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority further details in relation to the storage volume of the proposed basin, including calculations, drawings, etc. that demonstrate that the basin will not be overtopped up to and during the 1 in 200 year flood event for all relevant sources of flooding. Thereafter, the development shall be implemented only in accordance with such



details as may be approved, all to the satisfaction of North Ayrshire Council as Planning Authority.

14. That, prior to the commencement of the development, comprehensive details of all site levels, including existing ground levels, proposed ground levels and finished floor levels, shall be submitted for the written approval of North Ayrshire Council as Planning Authority.

15. That, notwithstanding the plans hereby approved, the parking provision for Plot 13 shall be 2 spaces within the curtilage of the plot and 3 spaces each within the curtilages of Plots 47 and 48. Prior to the commencement of the development, an updated site plan reflecting the above requirements shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the development shall be implemented only in accordance with such details as may be approved.

**4 17/01214/PP - 35 Caledonia Road, Saltcoats**

Mrs Martha McNicol, 35 Caledonia Road, Saltcoats has applied for planning permission for the erection of a single storey extension to the rear of the semi-detached dwelling house at that address.

Councillor Barr, seconded by Councillor Foster, moved that the application be granted. There being no amendment, the motion was declared carried.

**5 1701206ALO - Townend Of Shutterflat Farm, Beith**

Mr and Mrs J Lamont, Townend of Shutterflat Farm, Beith have applied for a discharge of Section 75 obligation in respect of planning permission 03/00011/PP for the tipping of inert material and land improvement at that address.

The Committee agreed to approve the application.

The Meeting ended at 3.05 p.m.

## NORTH AYRSHIRE COUNCIL

14th February 2018

### Planning Committee

Locality	Three Towns
Reference	17/01038/LUP
Application Registered	17th November 2017
Decision Due	17th January 2018
Ward	Saltcoats And Stevenston

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<b>Recommendation</b>	Certificate to be Issued
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<b>Location</b>	Shore Compound Ardeer Stevenston Ayrshire KA20 3LN
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<b>Applicant</b>	Irvine Bay Developments/Clowes Developments Ltd
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<b>Proposal</b>	Use of former storage compound as a multi-purpose events area
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### 1. Description

This is an application for a Certificate of Lawfulness in respect of the proposed establishment of a Multi-Purpose Events Area on a site known as the Shore Compound, within the former ICI Factory site at Ardeer, Stevenston. The site extends to some 9.1Ha in size and contains a large area of hard surfacing, some 1.5Ha, which was formerly used for chemical storage. The remainder of the site comprises sand dunes, rough grassland, ponds, and an area of foreshore.

The site is bounded to south by the foreshore; the west by the large BPI factory and Scottish Water treatment plant; and to the north and east by undeveloped land. The site has been occasionally used as an events area in recent years.

The applicant submits that the Town and Country Planning (County of Ayr No.1 Special Development) Order 1953 grants planning permission for the proposed use and seeks the issue of a formal certification from the Council to that effect. In the adopted Local Development Plan the application site is within an area allocated for Industrial purposes where policy IND3 (Industrial Estates) applies. The LDP allocation however is not a material consideration in the determination of an application of this type.

## **2. Consultations and Representations**

There is not a requirement for a statutory neighbour notification or consultation to be carried out. A total of five objections and a representation were received on the application, the grounds of which can be summarised as follows:

1. Seeks clarification exactly what would be involved in the proposed change of use. Would it primarily be a reuse of the hardstanding area on which to hold events or would it also require groundworks that could remove elements of the system of earthworks associated with the manufacture of explosives?

Response - The application seeks confirmation that the proposed use of the area, within the red line site boundary, as a multi-purpose events area, would not require to be the subject of a planning application. Therefore there is no requirement for the applicant to provide any further details of the proposal.

2. Concerned that any ground disturbance carried out without a proper programme to investigate and record archaeological remains.

Response - Not relevant to this application.

3. Object to the potential of the proposed development to negatively affect an important wildlife site. The Council must consider whether these proposals would further the conservation of invertebrate species listed on the Scottish Biodiversity List which are present in the area. SDO should not remove the requirement for planning permission for a use unrelated to the original use and as such the Application for Certificate of Lawfulness should be refused.

Response - If approved then a Planning application would not be required for the use.

4. The use of the 1953 SDO to permit the proposed development without proper scrutiny would appear to conflict with current national and local planning policy and practice.

Response - The Council has obtained legal advice on the interpretation of the SDO. (see analysis).

5. Article 7 of the SDO reserves the local planning authority to right to insist that a planning application be submitted in respect of any development covered by the Order.

Response - It would require a formal Direction procedure to be promoted and approved by Scottish Ministers. The Council has obtained legal advice on the interpretation of the SDO. (see analysis).

6. The Explanatory Note attached to the SDO states that the Order is relevant only to industrial developments required for the normal purposes of running a factory. The "large industrial concern" referred to disappeared many years ago and the change of use of Shore Compound to a multi-purpose events area is clearly not a form of development of any relevance to the spirit of the Order.

Response - The Council has obtained legal advice on the interpretation of the SDO. (see analysis), which advises that the Explanatory Note is not part of the SDO.

### **3. Analysis**

This application requests the issue of a Certificate of Lawfulness in respect of the proposed use of an area of land for a Multi-Purpose Events Area. The purpose of a Certificate of Lawfulness is to confirm that an existing or proposed use or development is, or would be, lawful for planning purposes and therefore that the proposal does not require planning permission. It should be noted that it is not necessary to submit an application for a Certificate of Lawfulness. In this particular case the applicant considers that the existence of the Town and Country Planning (County of Ayr No.1 Special Development) Order 1953 (SDO) grants planning permission for the proposed use. The SDO extends to an area of some 590Ha, which, at the date of the Order, was the extent of the former ICI factory and it is accepted that the application site lies within the boundary of the SDO.

Article 3 of the SDO permits, subject to the terms of the Order, the carrying out of "any development" on the relevant land without the permission of the local planning authority or the Secretary of State, but subject to restrictions set out in Article 5, specifically the erection of a chimney stack or buildings exceeding 120 feet in height, and certain Use Classes.

The legal advice obtained by the Council advises that the SDO has not been repealed or varied since its introduction, and concludes that the SDO is therefore still valid and, in terms of Article 3 of the SDO, that no additional consent(s) is required from the planning authority before developers can proceed with development within the SDO area.

Subsequent European Legislation, particularly the Environmental Impact Assessment Directive (EIA) was also covered in the legal advice obtained by the Council. However the proposed Events Area use is not a development type covered by the EIA Regulations.

Finally consideration has to be given as to whether the proposed Events Area use is one of the types of development or classes of use that are specifically excluded by the SDO. Article 3 of the SDO permits the carrying out of "any development", subject to the express restrictions set out in Article 5 (i.e. the erection of a chimney stack or buildings exceeding 120 feet in height, and certain use classes).

The use classes relate to the Town and Country Planning (Use Classes) (Scotland) Order 1950 which has been the subject of amendments, to the effect that there is now little correlation between the classes and provisions of the 1950 and the current 1997 Order. The legal advice obtained by the Council advised that the degree of changes introduced since the 1950 Order would be difficult to interpret and that a more restrictive application could arguably engage the Human Rights Act.

However the following caveats apply:

- The road access to the site is almost entirely outwith the boundaries of the Order. Accordingly approval of the certificate in no way certifies the access is suitable for the proposed use;
- The site is adjacent to the Health & Safety Executive (HSE) explosives safeguarding zone from the neighbouring Chemring site but within a Hazardous Substance consultation zone for both Chemring and the Shore Compound. In the absence of a

full planning consideration of the suitability of the site for events, or the use of the current road access which passes through the safeguarding zones, risks have not been evaluated by the Authority. HSE was not consulted as part of the process of this application and it would be advisable that the applicant should address this matter, prior to the use of the site as a multi-purpose events area;

- Any contamination issues on the site have not been considered as part of the process of this application; and
- The Order does not permit shops so any retail sales at events may not be permitted.

The Explanatory Note accompanying the SDO explains that it "grants planning permission for any development on that site required for the normal purposes of the factory". The legal advice, as noted above, is that the Explanatory Note is not part of the SDO.

Accordingly, the proposed use is not a use specifically excluded by the terms of the SDO. In view of the above the proposed use of the application site as an Events Area would be a use permitted under Town and Country Planning (County of Ayr No.1 Special Development) Order 1953 and accordingly a Certificate of Lawfulness can be issued.

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

Certificate Issued

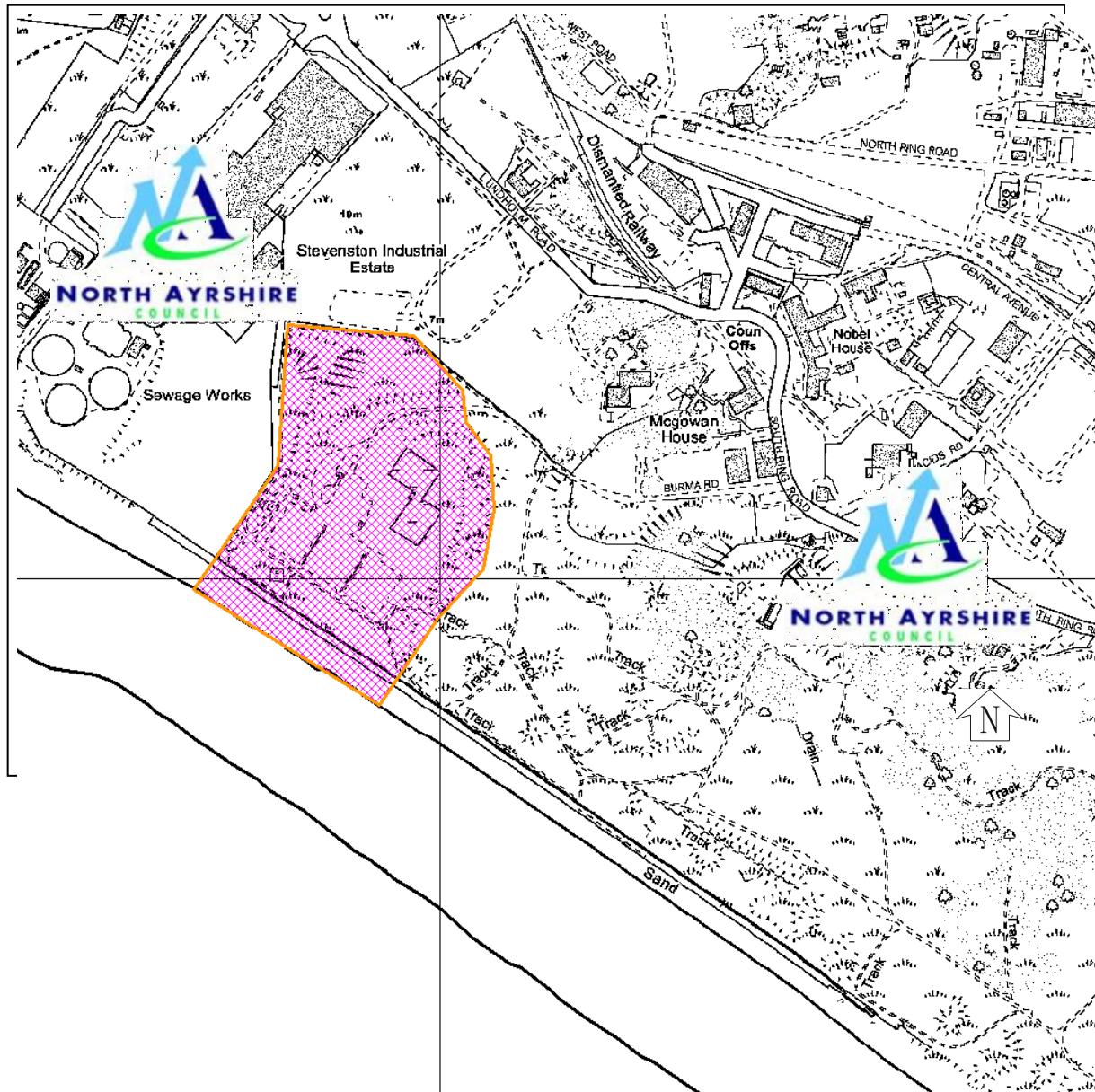


Karen Yeomans  
Executive Director  
Economy & Communities

For further information please contact Mr Gordon Craig Planning Officer on 01294 324380.

## Appendix 1 – Location Plan

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## NORTH AYRSHIRE COUNCIL

14th February 2018

### Planning Committee

Locality	North Coast
Reference	17/01191/PP
Application Registered	22nd November 2017
Decision Due	22nd January 2018
Ward	Dalry And West Kilbride

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<b>Recommendation</b>	Approved subject to Conditions
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<b>Location</b>	Rose Cottage Portencross West Kilbride Ayrshire KA23 9QA
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<b>Applicant</b>	Mr David & Gordon Wright
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<b>Proposal</b>	Replacement of existing dwelling house and erection of 4no new dwelling houses
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### 1. Description

This can be ascertained by reference to the attached plans and photographs.

This application proposes the replacement of an existing house and the erection of four new houses within the grounds of Rose Cottage Portencross. The site extends to 0.72 Ha. and contains Rose Cottage, which is semi derelict and vacant for a number of years, and one other occupied house. The site is located at the northern end of Portencross and is bounded to the south by a private access road connecting the B7048 coast road to the two houses within the site, and a group of four houses at Meadow Cottages; to the west by the B7048; to the east by a private access road leading to two other houses to the north of the site, Auchenames and Auldhill Cottage; and to the north by the wooded grounds of Auchenames. The site is accessed from the public road by two lanes and a new access road is now proposed from the northern end of the B7048.

The proposed replacement house would be constructed on the same site as Rose Cottage and would be generally rectangular in plan and one and a half and single storey in height, and would be slightly smaller in scale to the house to be demolished, which is predominantly two storeys high. The proposed house would have a mix of stone and rendered walls and a slate roof.

The other proposed houses would be in two groups, two located immediately north of Meadow Cottages to the east of the site, each of similar one and a half storeys high and general appearance but incorporating different design features. The other two houses would be semi-detached one and a half storeys high and again of similar design principles and external finishes to the other proposed houses, and orientated east/west and facing south over the access road, which forms the northern boundary of the Meadow Field.

The application site is located within a Countryside allocation in the adopted Local Development Plan and the proposal requires to be assessed against Policy ENV 2 'Housing Development in the Countryside' which sets out a range of criteria to be met for proposals for housing in the countryside; Policy ENV 3 'Conversion, Rehabilitation or Replacement of Existing Buildings in the Countryside' which provides a presumption in favour of such development, subject to specific criteria; and Policy HE 4 'Scheduled Ancient Monuments and Archaeological Sites' which seeks to protect the setting of Scheduled Ancient Monuments and safeguard archaeological sites from inappropriate development.

The application also requires assessment against the relevant criteria of the General Policy of the LDP, in this case (a) siting, design and external appearance, (b) amenity, and (d) access, road layout and parking provision and the Council's Rural Design Guidance.

A similar application by this applicant (ref. 17/00771/PP) was withdrawn in November 2017 following discussions between Planning Officers and the applicant to achieve amendments to the siting and design of the proposed houses.

## **2. Consultations and Representations**

The standard neighbour notification procedure was carried out and the application was also advertised in the local press on 29th November 2017 for neighbour notification purposes.

A total of 13 letters of objection and a pro-forma style letter from 6 residents of the same property, were received, the grounds of which can be summarised as follows:

1. The proposed development would be contrary to LDP policies ENV1-ENV6, HE4  
Response - Policies ENV1 and ENV4-ENV6 are not relevant to the proposed development with ENV1 relating to non-housing rural developments; ENV4 relating to protecting prime quality agricultural land; ENV5 relating to farm diversification, and ENV6 relating to economic development and diversification within rural areas.

In relation to ENV2 objectors claim that the application site is not within a small nucleated group; that the scale of expansion, at 33%, is excessive; and that the development would prejudice future development opportunities. Portencross is considered to be a single nucleated grouping of housing, and as such ENV2 permits an expansion of up to 50% of the existing dwellings. It is considered that the proposal would represent a small-scale, sympathetic addition to the well-defined group of existing houses in accordance with Policy ENV2.

In respect of the concern of prejudicing future developments, the proposal, if approved, would permit the maximum number of additional houses in terms of Policy ENV2, however the permission would be subject to a Direction requiring the development to commence



within two years in order to prevent land banking and to allow other competing developments to be considered at that time. It is worth noting however that Portencross has not been the subject of any applications for new residential development for many years.

ENV3 relates to replacement houses in the countryside and therefore is relevant to the proposed demolition of Rose Cottage and the erection of a replacement house. The policy requires that the replacement house be of equivalent scale and siting to the building it replaces and it is considered that the proposal complies with this requirement.

In relation to Policy HE4, this policy states that proposals for development, which would adversely affect the site or setting of a Scheduled Monument, shall not accord with the LDP. Historic Environment Scotland (HES) is the responsible authority for Scheduled Monuments and has offered no objection to the proposal and advised that any impact upon views from the Scheduled Monuments of Portencross Castle and Auld Hill fort would be minimal.

2. The proposed development would be contrary to criteria (a) and (b) of the General Policy of the LDP, being of too modern and unsympathetic in appearance, and resulting in overlooking of neighbouring houses.

Response - Disagree. The proposed houses have been designed to be of a scale and design to compliment the range of traditional scales and designs in the area, with rendered walls, cement banded windows and base courses, slate roofs, and timber windows. The siting of the proposed houses would ensure adequate separation in terms of intervisibility with adjacent properties. The house of the objector, who raised this issue, would be some 35m from the nearest new house and would not be overlooked.

3. Portencross is of unique character and therefore Policy ENV2 should not apply in this case.

Response - Policy ENV2 applies throughout the Council area with the only exception being areas allocated in the LDP as 'sensitive countryside' and Portencross is not within such an allocation.

4. The proposed development would be contrary to Rural Design Guide.

Response - Disagree. The proposed layout and design of the proposed houses are considered to be relate well with the character of the settlement and of similar scale and density to other nearby buildings.

5. The proposed development could set precedent for further expansion within and on the fringe of the area.

Response - There would be no further potential for additional housing developments.

6. Portencross is characterised by two parallel linear forms of development and the proposed semi-detached cottages, being perpendicular to them, would be out of character and form an unnatural enclosure to the northern end of the meadow field.

Response - Portencross is considered to be a single nucleated grouping of housing.

7. The proposed development would have adverse impacts on SSSI's.

Response - The nearest SSSI to the application site is an area of woodland located over 200m to the north of the site and therefore unaffected by the proposals.

8. The proposed development would have adverse impacts on the Scheduled Monument of Portencross Castle, namely (i) the character and design of the proposed houses detracting from views from the viewing platform; (ii) detract from the visitor experience; and (iii) impact on the setting of the Castle. The application should have been referred to HES for their comments given the implications for the proposed development on Portencross Castle and Harbour.

Response - The proposed houses would be some 100 m - 150m distant from the Castle and would not affect the setting of the Castle. HES also consider that views from the Castle to the proposed houses to be minimal and therefore would not detract from the experience of visitors to the Castle.

9. Lack of details, and questionable accuracy of what has been submitted, with regard to foul and surface water drainage and which may not be realistic or able to gain subsequent consents from SEPA. Scottish Water should be consulted.

Response - Both Scottish Water and SEPA have not objected. Additional consents will require to be obtained from both of these agencies with regard to water supply and the treatment and discharge of foul and surface water drainage. An informative is attached to require the applicant to contact SEPA to agree the foul drainage proposals for the site.

10. The proposed houses are not needed at this location and no contribution towards affordable housing is contained in the application.

Response - The applicant does not require to demonstrate either need or to make any of the houses affordable.

11. A claim that bats are roosting in Rose Cottage.

Response - The applicant's agent has advised that whilst the house has been vacant for a number of years, there is not any evidence of the presence of bats. However the applicant has agreed that the demolition of the house would be delayed until a full bat survey is carried out and the results of which, including any necessary mitigation measures, would be submitted to the Council for approval. It is considered that a condition to require the survey work to be undertaken, prior to the commencement of the development, would be satisfactorily address this matter.

12. Japanese Knotweed is present on the site.

Response - An appropriate condition would address this matter.

13. Dispute the reference to 'Village Green' in the applicants Design Statement.

Response - Agree that the term may be misconstrued in that the area in question is rough grassland rather than what is normally envisaged as a formal village green, however the design principle of the proposed houses facing onto this open area is clearly understood.

14. Site is within the Hunterston B Emergency Evacuation area and would require to be included in the Emergency Plan.

Response - HSE (Office for Nuclear Regulation) advised that the site of the proposal is outwith the consultation zone for the power station.

15. No justification for the demolition of Rose Cottage as this is due to neglect by the owner.

Response - Planning permission is not required to demolish the existing house. Other objectors to the application have stated that they are only objecting to the four new houses and not to the replacement house.

16. This is purely a speculative development for financial gain with no intention by the applicant of living there.

Response - This is not a material land use planning consideration.

17. Residents were of the belief that no new houses, other than on the footprint of former or existing buildings, were permitted in the settlement.

Response - The LDP allows for both new individual houses and small groups of housing to be developed within the countryside subject to policy compliance.

18. Inadequate provision for parking and turning within the development. Issues residents currently experience with poor infrastructure would be significantly exacerbated as a result of the development e.g. road access, parking, drainage, pedestrian/vehicle segregation.

Response - NAC Transportation has no objections subject to a condition requiring the applicant to provide details of a turning area to accommodate refuse/servicing vehicles. Other consultations have not raised issues with infrastructure provision.

19. Request that the proposed new access should serve all of the proposed houses without them utilising any other existing accesses to the site.

Response - The applicant claims to have rights of access over alternative access roads into the site.

20. Permitted Development rights for future extensions to the proposed houses e.g. garages/outbuildings should be removed.

Response - It is considered to be unreasonable to impose such a restriction on these houses.

21. The applicant's statement that the grounds of Rose Cottage is 'too large to maintain' should not be a justification to allow the development.

Response - Agree. The proposal requires to be assessed against appropriate LDP policies and any other material considerations.

22. Servitude Rights with regard to access and drainage etc. cannot take place without the agreement of relevant landowners.

Response - This is a legal matter to be resolved separate from this application.

#### Consultations

NAC Transportation - No objection. Conditions required to secure (i) the hard surfacing of the first 5m of the access road, and (ii) require the applicant to identify a turning area within the site for refuse and larger service vehicles. Transportation also advise that the new access road will not be adopted by the Council for maintenance purposes and that the junction of the new access road with the public road will require to be the subject of an application for a Road Opening Permit.

Response - Appropriate conditions and informative would address these matters.

SEPA - No objection. SEPA acknowledge that the nearest public sewer connection is over 2km away and would therefore not expect this development to connect to the public drainage network. The applicant proposes that the development would be served by a private arrangement, a biological sewage treatment system, and this would require to authorisation from SEPA and with a preference of the sewage treatment and effluent disposal system for the site being a holistic system for whole development rather than a piecemeal set up.

The soil conditions might not be suitable for the installation of a soakaway arrangement and any discharge to coastal waters must be extended to below the low water mark. If pipework is required to be formed within the Old or North Harbours, which are Listed Buildings, to service the site then this should be discussed and agreed with Historic Environment Scotland.

Response - The applicant advises that the existing pipework which serves existing houses in the vicinity of the site would be utilised for the new houses. For foul drainage a treatment plant is proposed which will both treat and control the flow of treated outfall to the existing discharge to the sea. For surface water SUDS treatment would be introduced prior to discharge through the same pipework as the foul drainage. There is therefore no proposal to form new discharge pipework within the Harbour. An informative is attached to require the applicant to contact SEPA to agree the foul drainage proposals for the site.

Historic Environment Scotland (HES) - No objection. The impact upon views from the Scheduled Monuments of Portencross Castle and Auld Hill fort would be minimal as the footprint of the existing settlement would not be expanded and therefore the change to the setting of these monuments would not be substantial.

Response - Noted.

West of Scotland Archaeology Service (WoSAS) - No objection, however it is possible that significant archaeological remains may survive within the application boundary and that these may be damaged or destroyed by the ground-breaking elements of the proposals and a condition should be attached to require the applicant to submit a written scheme of archaeological investigation prior to the commencement of the development.

Response - An appropriate condition would address these matter.

Scottish Water - No objection. There is capacity in the water supply network however there is no Scottish Water waste water infrastructure within the vicinity of this proposed development and the applicant should therefore investigate private treatment options.

Response - An informative is attached to advise the applicant to contact Scottish Water regarding the proposed water connections.

HSE (ONR) - No comment as site is below the consultation threshold for Hunterston Power Station.

Response - Noted.

### **3. Analysis**

This application proposes the erection of five dwellinghouses within the coastal settlement of Portencross. One of the houses would be a replacement for Rose Cottage which would be demolished to accommodate the new house, and the other four houses erected within the grounds of Rose Cottage.

Portencross lies within a Countryside allocation in the adopted LDP and the proposed four new houses require assessment against Policy ENV2 and the replacement house assessed against ENV3. Policy ENV3 allows an existing house to be replaced subject to the replacement being of equivalent scale and siting to the building it would replace. The proposed house would be built at the same location and would be of similar scale design and in use of external materials and is therefore considered to satisfy ENV3.

Policy ENV2 makes provision for the small scale expansion of existing rural housing groups, with an up to a 50% increase and a maximum of four houses within a group. The cluster of houses at Portencross, from the public car park at its southern end to Rose Cottage at the north is considered to form a well-defined nucleated group. This group does not include houses close to, but visually separated from the application site, to the north, nor does it include houses at South Banks or West Point some 100m south of the car park.

Within the identified group there are some 15 houses which would permit up to the maximum four house limit subject to the proposed development (i) not being suburban in character and taking cognisance of the Rural Design Guide, (ii) not prejudicing a future development opportunity; (iii) complying with the relevant Roads Guidelines, and not being located within an area of 'sensitive countryside'.

In response to the above criteria, the proposed houses are considered to be appropriately sited and of a scale and design reflecting advice provided in the Rural Design Guide. The development if approved would be subject to a two year time limit under the terms of ENV2, intended to prevent land banking and to allow other development proposals to come forward if an approved development was not to proceed, thereby ensuring that the development would not prejudice any future development opportunity. The site does not fall within the definition of 'sensitive countryside' in the LDP and NAC Transportation has offered no objection to the proposals. The proposed four additional houses are therefore considered to satisfy ENV2.

Policy HE 4 'Scheduled Ancient Monuments and Archaeological Sites' seeks to protect the setting of Scheduled Ancient Monuments and safeguard archaeological sites from inappropriate development. HES, as the responsible authority for Scheduled monuments, did not object to the proposal, advising that any views from the Castle towards the proposed houses would be of minimal impact given the separation distance (some 110m - 150m) and due to the houses being within, and not representing an expansion of the settlement.

WoSAS has no objection subject to a condition to require the applicant to undertake an archaeological investigation of the site. Accordingly the proposed development is considered to satisfy HE4.

With regard to the General Policy criteria, as previously discussed in both responding to the grounds of objection and in assessing ENV2 and ENV3, the siting and design of the proposed houses is considered to be acceptable and thereby also satisfies criterion (a) of the General Policy. Similarly, the potential impact of the proposed development on criterion (b), amenity, and (d) access, road layout and parking, have been discussed earlier in this report and found to be acceptable.

In view of the above the proposed development is considered to comply with the relevant provisions of the Local Development Plan and it is recommended that conditional planning permission be granted subject to the Direction that subsections (2)(a)(i) and (3) of section 59 of the Town and Country Planning (Scotland) Act 1997 do not apply to the erection of the dwellinghouses on plots 1 - 4 as respects this planning permission with the substitution for the period of 3 years referred to in each of those subsections, for the period of 2 years.

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

Approved subject to Conditions

#### **Reasons for Decision**

##### **Condition**

1. That the developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to North Ayrshire Council as Planning Authority, during development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by West of Scotland Archaeology Service. 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**

In recognition of the archaeological significance of the site.

##### **Condition**

2. That, prior to the commencement of the development, details of remediation measures to eradicate Japanese Knotweed from the site shall be submitted for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the remediation measures as may be approved shall be undertaken and the developer shall appoint a suitably qualified person to certify that Japanese Knotweed has been eradicated from the application site, all to the satisfaction of North Ayrshire Council as Planning Authority.

##### **Reason**

To ensure that Japanese Knotweed is safely eradicated from the site.

##### **Condition**

3. That, prior to any demolition works taking place to Rose Cottage, the applicants shall submit for the written approval of North Ayrshire Council as Planning Authority, a full survey of the building to establish if it is being used by roosting or hibernating bats; if bats are discovered, applications shall be made for appropriate licences, and details of measures to minimise the disturbance to bats shall be submitted, for the approval in writing of North Ayrshire Council as Planning Authority prior to any works taking place.

**Reason**

To minimise the impact of the development on roosting or hibernating bats.

**Condition**

4. That the first 5 metres of the access measured from the edge of the carriageway shall be surfaced in bituminous material in order to prevent deleterious material being carried on to the carriageway.

**Reason**

To meet the requirements of North Ayrshire Council as Roads Authority.

**Condition**

5. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a plan indicating the provision of a turning area within the site to accommodate large service vehicles. Thereafter, the proposals as may be approved shall be provided to the satisfaction of North Ayrshire Council as Planning Authority prior to the occupation of any of the houses hereby approved.

**Reason**

To meet the requirements of North Ayrshire Council as Roads Authority.

**Condition**

6. That the new access road hereby approved shall be provided to the satisfaction of North Ayrshire Council as Planning Authority prior to the occupation of any of the houses hereby approved.

**Reason**

To meet the requirements of North Ayrshire Council as Roads Authority.

**Condition**

7. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority full details/samples of the proposed external finishes.

**Reason**

In the interest of the amenity of the area.

**Condition**

8. That prior to the commencement of the development the applicant shall submit for the written approval of North Ayrshire Council as Planning Authority a phasing plan to indicate the sequence and timescale for the erection of the various components of the development hereby approved. For the avoidance of doubt plots 3 and 4 and the combined

plots 1 and 2 will each require to have commenced within the 2 year period as instructed by the Direction to the planning permission.

**Reason**

In order to prevent land banking.

A handwritten signature in black ink, appearing to read 'Karen Yeomans', written in a cursive style.

Karen Yeomans  
Executive Director  
Economy & Communities

For further information please contact Mr Gordon Craig Planning Officer on 01294 324380.



## Appendix 1 – Location Plan

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