



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Local Review Body

A Meeting of the **Local Review Body** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 14 March 2018 at 14:15** 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 the meeting of the Committee held on 14 February 2018 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 Notice of Review: 17/01100/PP - 2 Horse Isle View, Ardrossan

Submit report by the Chief Executive on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers (copy enclosed).

4 Notice of Review: N/17/00926/PP - Site to the west of Gateside Inn, Main Road, Gateside – erection of a dwellinghouse (in principle)

Submit report by the Chief Executive on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers (copy enclosed).

5 Urgent Items

Any other items which the Chair considers to be urgent.

Local Review Body Sederunt

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 and Donald Reid.

In Attendance

N. McIlvanney, Strategic Planning Manager (Planning) (Economy and Communities); and A. Craig, Senior Manager (Legal Services) and A. Little, Committee Services Officer (Chief Executive's Service).

Chair

Councillor Marshall in the Chair.

Apologies for Absence

Ronnie McNicol 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 Committee held on 8 November 2017 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3 Notice of Review: N/17/01100/PP - 2 Horse Isle View, Ardrossan

Submitted report by the Chief Executive on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers for the erection of sunroom and roof alteration to the rear of the dwellinghouse and garage conversion at 2 Horse Isle View, Ardrossan.

The Notice of Review documentation, the Planning Officer's Report of Handling, a copy of the Decision Notice, further representations and the applicant's response to further representations were provided as appendices to the report.

The Legal Adviser to the Local Review Body advised of the appropriate procedure for consideration of the review request. The Planning Adviser to the Local Review Body introduced the matter under review, confirming that the Notice of Review had been submitted timeously by the applicant.

The Planning Adviser summarised the Notice of Review for the Applicant, the Report of Handling of the Appointed Officer, the representations lodged and the applicant's response to further representations. Photographs and plans of the site were displayed. He also advised of a request by the applicant to submit further information and for a site visit.

Accordingly, the Local Review Body agreed (a) to continue consideration of the Notice of Review pending a site familiarisation visit; (b) that no further information was required by the Committee in its consideration of the Notice of Review; and (c) note that only those Members of the LRB who attended the site visit would be eligible to participate in the determination of the review request.

The meeting ended at 11.25 a.m.

NORTH AYRSHIRE COUNCIL

14 March 2018

Local Review Body

Title:	Notice of Review: 17/01100/PP 2 Horse Isle View, Ardrossan - Erection of a sunroom and roof alteration to the rear of the dwelling house and garage conversion
Purpose:	To submit, for consideration of the Local Review Body, a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers.
Recommendation:	That the Local Review Body considers the Notice of Review.

1. Executive Summary

- 1.1 The Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, provides for certain categories of planning application for "local" developments to be determined by appointed officers under delegated powers. Where such an application is refused, granted subject to conditions or not determined within the prescribed period of 2 months, the applicant may submit a Notice of Review to require the Planning Authority to review the case. Notices of Review in relation to refusals must be submitted within 3 months of the date of the Decision Notice.

2. Background

- 2.1 2.1 A Notice of Review was submitted in respect of Planning Application N/17/01100/PP - 2 Horse Isle View, Ardrossan for the erection of a sunroom and roof alternation to the rear of the dwelling house and garage conversion.
- 2.2 The application was refused by officers for the reasons detailed in the Decision Notice (Appendix 3).
- 2.3 The following related documents are set out in the appendices to the report:-

Appendix 1 - Notice of Review;
Appendix 2 - Report of Handling;
Appendix 3- Planning Decision Notice
Appendix 4 - Location Plan;
Appendix 5 - Further Representations from interested parties; and
Appendix 6 - Applicant's response to further representations;

2.4 The Notice of Review was considered at a meeting of the Local Review Body on 14 February 2018. The Local Review Body agreed (a) to continue consideration of the Notice of Review pending a site familiarisation visit; (b) that no further information was required by the Committee in its consideration of the Notice of Review; and (c) note that only those Members of the LRB who attended the site visit would be eligible to participate in the determination of the review request.

2.5 A site visit was arranged for 12 March 2018. A verbal update on the attendance to this visit will be provided at the meeting.

3. Proposals

3.1 The Local Review Body is invited to consider the Notice of Review.

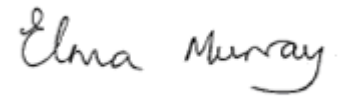
4. Implications

Financial:	None arising from this report.
Human Resources:	None arising from this report.
Legal:	The Notice of Review requires to be considered in terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
Equality:	None arising from this report.
Children and Young People:	None arising from this report.
Environmental & Sustainability:	None arising from this report.
Key Priorities:	None arising from this report.
Community Benefits:	None arising from this report.

5. Consultation

5.1 Interested parties (both objectors to the planning application and statutory consultees) were invited to submit representations in terms of the Notice of Review and these are attached at Appendix 5 to the report.

5.2 The applicant has had an opportunity to respond to the further representations and their response is set out in Appendix 6 to the report.

A handwritten signature in black ink that reads "Elma Murray". The script is cursive and fluid.

Elma Murray
Chief Executive

For further information please contact **Euan Gray, Committee Services Officer** on **01294 324130**.

Background Papers
N/A

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

☐ you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application Date of decision (if any)

Note: This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- | | |
|--|-------------------------------------|
| 1. Application for planning permission (including householder application) | <input checked="" type="checkbox"/> |
| 2. Application for planning permission in principle | <input type="checkbox"/> |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. Application for approval of matters specified in conditions | <input type="checkbox"/> |

Reasons for seeking review

- | | |
|---|-------------------------------------|
| 1. Refusal of application by appointed officer | <input checked="" type="checkbox"/> |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- | | |
|---|-------------------------------------|
| 1. Further written submissions | <input checked="" type="checkbox"/> |
| 2. One or more hearing sessions | <input type="checkbox"/> |
| 3. Site inspection | <input checked="" type="checkbox"/> |
| 4. Assessment of review documents only, with no further procedure | <input type="checkbox"/> |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

THE APPLICATION WAS REFUSED PRIMARILY REGARDING AN INCREASE IN OVERLOOKING THE ADJOINING PROPERTY AND SUBSEQUENT LOSS OF PRIVACY. I BELIEVE THE PROPOSED DEVELOPMENT DOES NOT RESULT IN A LOSS OF PRIVACY AS THE EXISTING WINDOWS ALREADY OVERLOOK THE ADJOINING PROPERTY (SETTING A PRECEDENT) AND THE PROPOSED NEW WINDOW LINE IS IN FACT SET FURTHER BACK THAN THE EXISTING WINDOWS.

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

THERE IS A LOCKED GARDEN GATE WHICH CAN BE UNLOCKED IF REQUESTED BY PRIOR ARRANGEMENT.

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

PLEASE REFER TO LETTER AND ATTACHMENT DATED 20TH DECEMBER 2017 SENT TO COMMITTEE SERVICES, CHIEF EXECUTIVES DEPARTMENT, CUNNINGHAME HOUSE, IRVINE. ALSO ATTACHED AGAIN FOR COMPLETENESS.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

PLEASE REFER TO LETTER AND ATTACHMENT DATED 20TH DECEMBER 2017 SENT TO COMMITTEE SERVICES, CHIEF EXECUTIVES DEPARTMENT, CUNNINGHAME HOUSE, IRVINE. ALSO ATTACHED AGAIN FOR COMPLETENESS.

Note: The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

12TH JANUARY 2018

2 Horse Isle View,
Ardrossan
Ayrshire
KA22 8PD

Date: 20th December 2017

Committee Services
Chief Executive's Department,
Cunninghame House,
Irvine,
KA12 8EE

Subject: Application No. N/17/01100/PP - Notice of Appeal

Dear Sir/Madam,

In relation to your letter reference N/17/01100/PP, dated 14th December 2017, regarding refusal of planning permission and also the report reference 17/01100/PP, we have reviewed these documents and are submitting our appeal.

To hopefully make our appeal easier to follow we have annotated the report with our comments in red italics. It is attached to this letter. The key points of our appeal are as follows:

1. Existing precedent set by Mactaggart and Mickel (please refer to attachment)
2. Unviable alternatives proposed by planning officer as compromises (please refer to attachment)
3. The site survey protocol (please refer to attachment)

On the basis of the above 3 points, and the points noted in the attached annotated report, we respectfully request that our planning application is reconsidered.

Yours faithfully,

Mr Charles Urquhart and Ms Karen McWilliam



Enclosed for completeness:

- Letter reference N/17/01100/PP, date 1th Dec 2017 - Planning Permission Refusal
- Report reference 17/01100/PP, annotated with our comments

Please refer to Mr C Urquhart and Ms K McWilliam responses in red text below

REPORT OF HANDLING



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Reference No:	17/01100/PP
Proposal:	Erection of sunroom and roof alteration to rear of dwellinghouse, and garage conversion
Location:	2 Horse Isle View, Ardrossan, Ayrshire, KA22 8PD
LDP Allocation:	Residential/Housing
LDP Policies:	General Policy /
Consultations:	None Undertaken
Neighbour Notification:	Neighbour Notification carried out on 24.10.2017 Neighbour Notification expired on 14.11.2017
Advert:	Not Advertised
Previous Applications:	None
Appeal History Of Site:	

Description

2 Horse Isle View is a modern bungalow in a peripheral housing development to the northwest of Ardrossan. The house has a hipped roof design and integral garage on the front elevation. Finishing materials are flat grey concrete tiles for the roof, an off-white render on the walls and a buff coloured stone basecourse. The plot is quite narrow with only around a metre between the house and boundary on both sides. Horse Isle View is situated on a hill which slopes up from the Firth to the costal bluffs which lie behind the development.

There are two elements to the proposal; the erection of a sunroom on the rear elevation and the conversion of the integral garage into additional kitchen space. The sunroom would have a 4.5m square floor plan and would be approximately 4.3m in height. It would have a pitched roof and would have large sections of glazing on all three elevations with a patio door to the south. The garage conversion would entail the formation of a new triple window on the west elevation. The building standards require the existing living room windows to be enlarged to allow more light into the room as a result of the sunroom removing its rear windows. Finishing materials would be a stone basecourse, roughcast walls to match the existing and matching roof tiles.

In the adopted Local Development Plan the site lies within a residential allocation and the proposal requires to be assessed against the relevant criteria of the General

Policy of the LDP, in this case (a) siting, design and external appearance and (b) amenity.

Consultations and Representations

This application has been subject to one objection from the residents of a neighbouring property. The main points of the objection are summarised below.

1) Loss of privacy and overlooking onto 10 McMillan Drive resulting from the proposed new windows and the enlarged windows on the southwest elevation of 2 Horse Isle View. The back garden would be overlooked as well as the windows for two bedrooms and a kitchen/dining area.

The above paragraph implies that it's solely the introduction of the new windows and the enlarged windows that introduces a loss of privacy. In fact we already have 4 windows on the southwest elevation which are directly opposite, and look directly into, the Objector's property (their kitchen, dining room and bedroom as well as their garden). Given the Objector's property was built several years before our property it is assumed that the builder (Mactaggart and Mickel) must have gained planning approval for our house without loss of amenity/privacy being an issue. Surely this sets a precedent?

It should be noted that extending the lounge windows was not our personal choice it was a condition imposed upon us due to building regulations regarding light. Regardless, enlarging the lounge windows primarily involves extending them downwards towards the floor, and given there is a 2m boundary fence only 2.3m from the extended windows we gain little additional visibility, the main benefit is light. Please note that from both our kitchen window, and the large window in the kitchen door, we already have full uninterrupted visibility of the rear of the Objector's property including all windows and garden. Therefore the Objector is already overlooked, extending the lounge windows does not change the outlook.

Planning Response: The proposal would result in an increase in overlooking onto 10 McMillan Drive and subsequent loss of privacy (see below).

It should be noted that the proposed sunroom is set further back from our existing window line and the addition of the new windows would not worsen the Objector's privacy more than it currently is. We believe that given the Objector is already overlooked the only way to exacerbate the situation as it stands would be to build closer to the boundary fence (which we are not) or build a 2 storey extension (which we are not).

Consultations were not required.

Analysis

Extensions and alterations to an existing dwellinghouse in a residential area are considered acceptable in principle. The detail of the application requires to be

assessed against criteria (a) Siting, Design and External Appearance and (b) Amenity of the General Policy of the LDP.

In regards to criterion (a), the design of the sunroom would be in keeping with that of the existing house; it would make use of the same palette of materials and has similar roof and window designs. The scale of the proposal is small in relation to the rear garden in which it is to be situated and in relation to the existing house. There is no element of the design which would contravene criterion (a).

The main amenity concern of the proposal is the overlooking onto 10 McMillan Drive which would be caused by the increase in fenestration on the south west elevation of the application property. It was noted from the site visit that there is already a large degree of overlooking - the two houses are 15m apart, and the elevated position of 2 Horse Isle view in relation to 10 McMillan Drive means that the windows on the south west elevation of 2 Horse Isle View directly overlook both the garden and the kitchen and bedroom windows of 10 McMillan Drive. The new and enlarged windows proposed for the south west elevation would materially increase the degree of overlooking and subsequently have an adverse affect on the privacy of 10 McMillan Drive.

We wish to question this observation. We already have a view out of the 2 small living room windows that overlook the Objector's property. As stated above, enlarging the windows was an enforced building modification to gain light, all we will gain from enlarging these windows is a view of an enclosed wooden boundary fence circa 2.3m away. It certainly won't increase the degree of overlooking due to the fact we currently have a full uninterrupted view from our existing kitchen windows which look directly into the Objector's property.

With respect to overlooking the garden, all gardens in the estate are significantly overlooked due to the estate being built on an incline, in fact the neighbour's further up the hill can see more of the Objector's garden than we can due to the elevation. The main source of privacy provided by Mactaggart and Mickel was 2m high fences. It is worth noting that we are significantly overlooked by our neighbour at No 4 Horse Isle View, we only have a 2ft high wall with metal railings which affords no privacy at all and their kitchen overlooks the area directly outside our patio doors which should be the most private area. They are less than 9m away. However MacTaggart and Mickel gained planning approval for the close proximity of these two houses which is far more intrusive than the impact of our proposed extension on the Objector.

Regarding the site visit we have concerns as follows. During the planning officer's first visit our gate was locked and we were not in attendance (we didn't know he was coming) and he was unable to view the planning proposal from the Site. He did, however, manage to view and discuss the proposed extension from the Objector's site, following which we were led to believe that our planning submission was unlikely to be approved. We queried this with the planning officer via our representative (Mr John Fife, Hunter Conservatories) which subsequently led to a visit to our property by the planning officer. We feel this order of events may have led to unconscious bias despite the integrity of the planning officer.

The planning officer said at the second visit that his initial misgivings from the first visit were premature now that he saw the proposed outlook from our side of the fence.

We believe the perceived privacy issue is exacerbated by the incline at Site as it appears our property has an overbearing appearance to the Objector when in fact, in reality, no amount of additional windows will worsen the lack of privacy which currently exists.

Notwithstanding the above, the new kitchen window and the enlarged living room windows are permitted development under Class 2D of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) and therefore the planning authority cannot exert control over these works. The sunroom does however require planning permission due to its height exceeding 4m.

Several suggestions have been made by the case officer to the applicant for design changes which would reduce the potential for overlooking from the proposed sunroom, eg. utilising obscure glazing on the south west elevation of the sunroom or setting the sunroom further back from the boundary. The main rationale for the sunroom is to provide the applicant with a view of the Firth of Clyde and Arran. Consequently, the applicant is not agreeable to the use of obscure glazing and would oppose any planning condition to require its use. Setting the position of the proposed sunroom back from the boundary would also curtail the view of the sea. Despite exhausting a number of options no design solution was found which would reduce the overlooking caused by the sunroom and also provide the applicant with their desired outlook and therefore the sunroom must be assessed as submitted.

I would like to question the above as it isn't representative and comes across as us being unprepared to compromise which just isn't fair. Having a view of the sea is an important consideration for us but it isn't the main rationale for rejecting the 'compromises'.

Since the objection was raised we have searched the internet for hours trying to find compromise solutions. Since buying our house 17 years ago we have always wanted a sunroom and have saved for years to afford it. Now we are devastated that it has been rejected when others around us have had their extensions approved. Therefore, of course we are prepared to compromise but only if solutions are viable.

The suggestions to use opaque glass, a solid wall or move the extension by 1m were seriously considered by us. In order to obtain more insight on the privacy issue we reviewed other legislation and guidance. We have concerns about the solutions proposed on the basis of the following:

- a) Solid wall: PPS 7 regulations (NI) " Neighbouring occupiers should not be adversely affected by a sense of being 'hemmed in' by an extension. This can often result from the construction of a large blank wall."*
- b) Opaque glass: PPS 7 regulations (NI): "In addition Balconies, roof terraces, decking, dormer windows, windows in side elevations and conservatories all have the potential to cause overlooking problems, due to their position and orientation, particularly from upper windows. The use of obscure glass, velux windows and high-level windows in appropriate circumstances can often minimise this potential, for example, the use of obscure glass for bathroom and landing windows. However, this is not considered an acceptable solution for windows serving main rooms such as bedrooms, living rooms, dining rooms or kitchens."*
- c) Sunroom relocation: Criterion (b) of the General Policy in the adopted North Ayrshire Council Local Development Plan: - " In relation to neighbouring*

properties regard should be taken of privacy, sunlight and daylight". Surely this also applies to our own property? By moving the extension by 1m it would significantly impact daylight to our bedroom.

The cost of the extension is a life changing amount for us, replacing one of the walls with a solid wall or opaque glass would look ridiculous and devalue the extension. I don't believe I have ever seen a sunroom on a detached house with the side wall being solid or with opaque glass?

A more sensible compromise might be for the boundary fence to be increased in height slightly along the section where our current windows face directly into the Objector's property? We would have discussed this with the Objector as part of a 3 way discussion involving ourselves, the Objector and the planning officer but the discussion was rejected by the planning officer as a bad idea.

Whilst the existing boundary fence would partly obscure direct overlook , given that the proposed sunroom would be raised by 0.594 metres above the ground level, the principal view from the sunroom would be over the fence towards the neighbouring property and further distant views. It has been established that the windows on the south west elevation of the proposed sunroom would directly overlook the back garden and rear windows of 10 McMillan Drive from an elevated position. In summary, by reason of the side facing windows, the proposed sunroom would result in a significant loss of amenity for a neighbouring property and therefore conflicts with criterion (b).

I would like to question this observation on the basis that it is misleading. The proposed sunroom is at the same ground floor level as the rest of the house and as previously advised there are 4 existing windows in our house which overlook the Objector's property, in fact the existing windows look directly into the windows of the Objector's property and back garden. The new windows would be less intrusive.

All of the rear gardens in this estate significantly overlook each other, this is exacerbated by the fact that the estate is on an incline. In fact number 4 to number 10 Horse Isle View probably have a better view into the Objector's garden than we do due to the elevation (in particular No 4 who have a conservatory).

The Objector's statement about Mactaggart and Mickel building privacy into their design isn't strictly true. The only privacy that has been provided is a 2m high boundary fence situated between each property. To support this point my front bedroom window is less than 3m from my neighbour's bedroom window (no 4 Horse Isle View) and due to the angle of the 'bay' windows we can see into each other's room. Walking further up the street to house numbers 12 to 17 - their houses significantly overlook their neighbours on McMillan Drive.

The fact that only 1 neighbour objected, out of the 12 that were contacted about the planning application, supports the fact that homeowners in this estate have the realistic expectation that they are, and always will be, overlooked. The extent of amenity/privacy was set by Mactaggart and Mickel when they built this phase of the estate and our proposed extensions do not worsen this.

Hence we challenge the statement that "the proposed sunroom would result in a significant loss of amenity for a neighbouring property". The 'loss of amenity' was already introduced when Mactaggart and Mickel built our house. The sunroom sits

further back and further away from the Objector's property than our existing house and hence does not worsen the neighbour's situation.

The proposal does not accord with criterion (b) of the General Policy of the LDP and it is not considered that there are any other material considerations which would indicate otherwise than that the application should be refused.

Decision

Refused

Case Officer - Mr John Mack

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Proposed Floor Plans	C2250/01 REV B	
Proposed Floor Plans	C2250/02 REV B	
Proposed Elevations	C2250/03 REV A	
Proposed Elevations	C2250/04 REV A	
Proposed Elevations	C2250/05 REV A	
Roof Plan	C2250/08 REV A C2250/08 REV A	
Existing Floor Plans	C2250/12 REV A	
Existing Elevations	C2250/13 REV A	
Location Plan	C2250/14 REV A	



North Ayrshire Council
Comhairle Siorrachd Air a Tuath

KAREN YEOMANS : Executive Director (Economy & Communities)

No N/17/01100/PP

(Original Application No. N/100070607-001)

Type of Application: Local Application

REFUSAL OF PLANNING PERMISSION

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997,
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2013

To : Mr Charlie Urquhart
c/o Hunter Conservatories & Sunrooms Fao John Fife
Arran House
Drybridge Road
Dundonald
KA2 9AF

With reference to your application received on 24 October 2017 for planning permission under the above mentioned Acts and Orders for :-

Erection of sunroom and roof alteration to rear of dwellinghouse, and garage conversion

at 2 Horse Isle View
Ardrossan
Ayrshire
KA22 8PD

North Ayrshire Council in exercise of their powers under the above-mentioned Acts and Orders hereby refuse planning permission on the following grounds :-

1. That the proposed development would be contrary to criterion (b) of the General Policy in the adopted North Ayrshire Council Local Development Plan in that the side facing windows on the extension would introduce an unacceptable degree of overlooking to a neighbouring dwellinghouse to the detriment of its amenity and privacy.

Dated this : 14 December 2017

for the North Ayrshire Council

(See accompanying notes)



North Ayrshire Council
Comhairle Siòrrachd Àir a Tuath

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2013 – REGULATION 28**

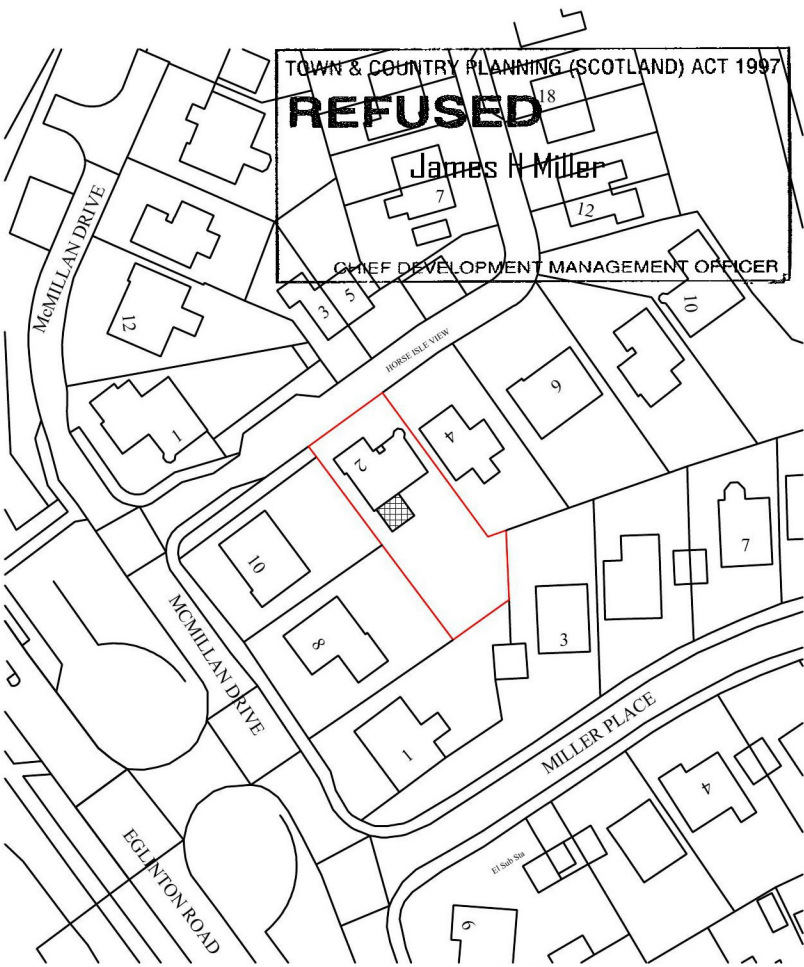
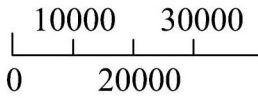
KAREN YEOMANS : Executive Director (Economy & Communities)

FORM 2

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Committee Services, Chief Executive's Department, Cunninghame House, Irvine, North Ayrshire, KA12 8EE.

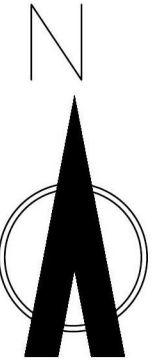
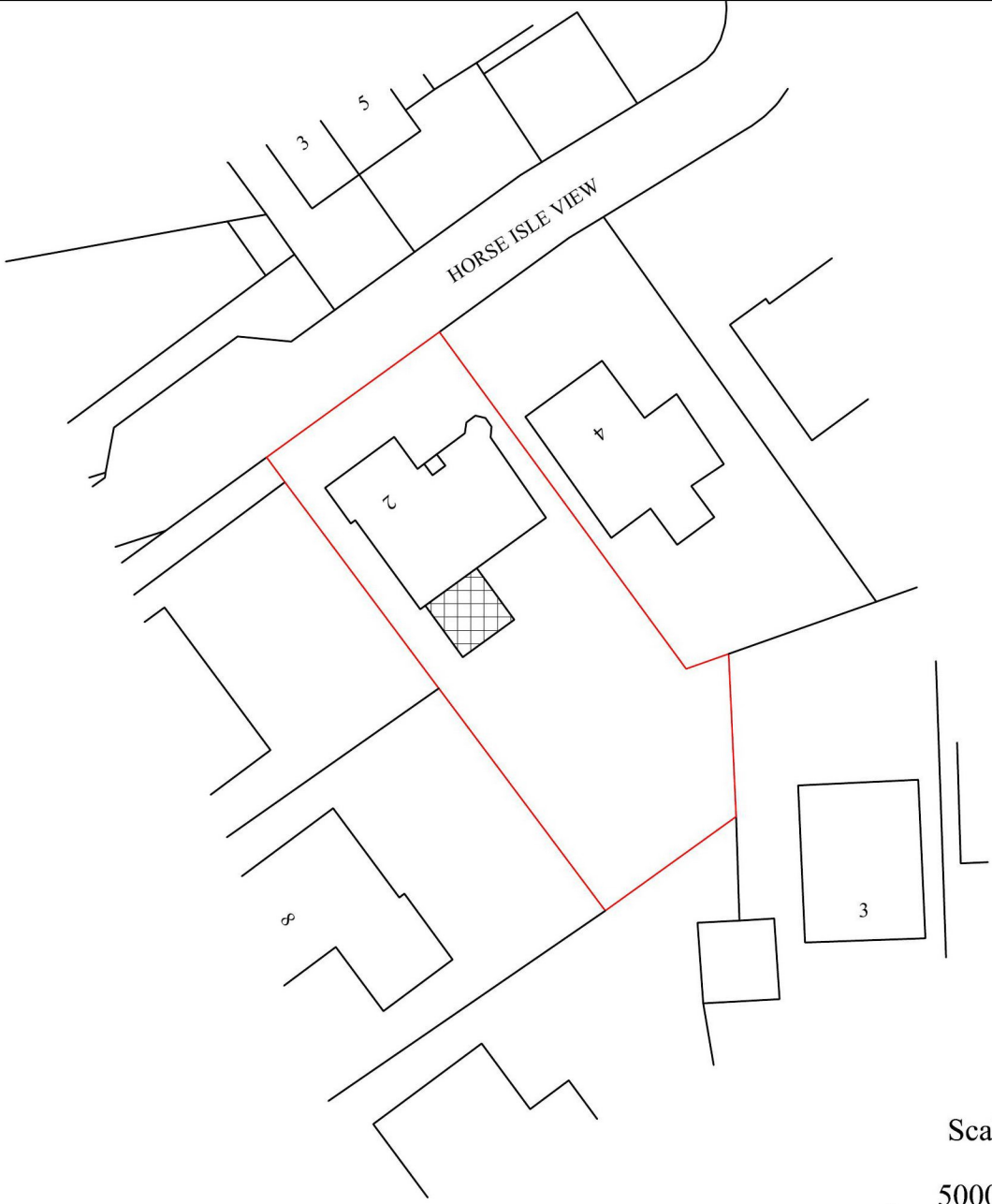
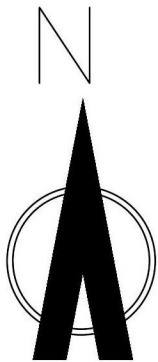
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Scale 1/1250

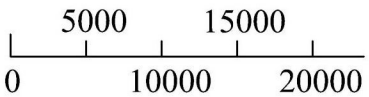


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Location Plan 1/1250



Scale 1/500



Block Plan 1/500

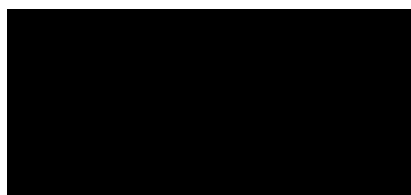
HUNTER

Conservatories & Sunrooms

PART OF THE HUNTER GROUP SCOTLAND LTD.

Arran House, Drybridge Road, Dundonald,
Kilmarnock KA2 9AF
Telephone: 01563 852346
Email: info@hunterconservatoriesandsunrooms.co.uk

REVISIONS & ADDITIONS		DATE
A.	ORIGINAL DRAWING AS PASSED TO CLIENT	
PROJECT		
Proposed sunroom and garage conversion for: Mr & Mrs Urquhart 2 Horse Isle View Ardrossan KA22 8PD		
Location Plan		
SCALE	1/1250	C2250/14
DATE		
DRAWN BY	JF	
CHECKED BY		REVISION
		A



Dear Angela

This email is a response to your correspondence dated 15th Jan 2018 regarding planning application N/17/01100/PP – 2 Horse Isle View, Ardrossan.

My wife and I have reviewed the appeal documentation relating to the above planning application and would like to make the following points.

1. In the Consultation and Representations Section of the appeal document, it states “Given that the Objector’s property was built several years before our property it is ASSUMED that the builder (MCTAGGART AND MICKEL) must have gained planning approval for our house without loss of amenity/privacy being an issue”

We prefer to deal in facts and not assumptions and suppositions.

It also states that due to Building Regulations they would have to extend the size of their existing windows if they build the proposed extension.

They would effectively be creating a light deficiency themselves by building the proposed extension.

The submission also states “Regardless, enlarging the lounge windows primarily downwards towards the floor and given there’s a 2 metre boundary fence only 2.3m from the extended windows we gain little additional visibility”

The above statement is totally misleading as the two existing small windows are set at a high level and subsequently offer very little opportunity for overlooking our property as it stands. Extending the windows downwards would actually create a view from two additional angles into our property.

The paragraph regarding what view the neighbours at 4 Horse Isle view have of our property is totally irrelevant, they are far enough away from us as to have no real view into our house.

The section regarding the proximity and partition arrangements between themselves and their neighbours in 4 Horse Isle View has absolutely nothing to do with this planning proposal.

The statement “We believe the perceived privacy issue is exacerbated by the incline at site as it appears our property has an overbearing appearance to the objector when in fact in

reality, no amount of additional windows will worsen the lack of privacy which currently exists”

That statement is at best totally misleading, it isn't a perception that the privacy issue is exacerbated by the difference in elevation between the properties, it's a fact. If both properties were at the same height then the boundary fence would be more than adequate to provide privacy for both properties.

To summarise,

We are disappointed that Mr [REDACTED] and Miss [REDACTED] decided not to discuss their proposal with us, we are neighbours after all and it may well have saved a lot of time and effort for everyone concerned. We are also disappointed that the compromises suggested by Mr [REDACTED] were deemed to be unsuitable, he was after all only doing what he is paid to do.

The fact remains that every additional window looking into our property would erode our privacy even more than it currently does. We are not especially enamoured by the overlooking issue as it stands but there is very little we can do to change it so we just have to accept it, but we strongly object to any proposal to increase the overlooking issue by adding in additional windows.

Yours sincerely

[REDACTED]

PS: if you would like to discuss any of the points contained in the above text then please feel free to call us on [REDACTED]

[REDACTED]
[REDACTED]
Date: 30th January 2018

Dear Ms Little,

Subject: Response to Representations detailed in correspondence dated 22 January 2018 application N/17/01100/PP

Thank you for providing us with a copy of the Objector's e mail response to our letter dated 20th December 2017. After due consideration we feel that the e mail does not reinforce the argument that the windows fitted to the proposed sunroom would further erode their privacy.

We re-iterate our appeal on the following grounds:

- A precedent was set by the builder McTaggart and Mickel when they built Montfode estate with houses in close proximity and overlooking each other, separated by 2m high boundary fences for privacy.
- The boundary fences were considered to offer sufficient privacy at that time, and also for any subsequent extensions, regardless of the elevated positions of the houses.
- Our kitchen window, and door, both have uninterrupted views over the rear of the Objector's property. This is a direct line of sight view at the shortest possible distance. This is possibly exacerbated by the fact that our kitchen door sees high 'traffic' as we enter/exit from it several times a day. Privacy between our properties is via a 2m high boundary fence, as it is elsewhere on the estate. In the Objector's appeal letter they acknowledge they are overlooked, but this was the case when they made the decision to purchase their house.
- The proposed sunroom window line is further away and farther back than our existing house window line. The existing 2m boundary fence would be in place as a privacy measure. Hence we fail to see how the sunroom windows make the overlooking/privacy situation worse than already exists.
- Regarding the compromises (the solid wall, opaque glass and relocation of the sunroom), whilst we fully respect the experience and knowledge of the Planning Officer, after much serious consideration we found the options not viable for the purpose of the extension, which was for a sunroom. We were prepared to have further discussions on compromises with the Objector but were advised against it by the Planning Officer.
- To replace the sunroom windows with a solid wall, on the side that gets most light, would render the sunroom pointless. Opaque glass is not deemed good practice in main rooms. Relocating the sunroom would result in restricted light in our bedroom. Compromises need to be viable and acceptable to both parties, based on best practice, not just acceptable to the Objector.
- Regarding the protocol for communication with our neighbours: rather than contact neighbours directly, and at random, we went with what we believed was the correct process via the planning department to ensure all neighbours were contacted on an equal basis, and in the same timeframe, thus ensuring nobody was missed.

In conclusion, our proposed sunroom is a single storey extension, it is further away and farther back than our existing windows and in addition we believe it meets the technical requirements regarding length, height and distance from the boundary. It is at the same elevation as our current house and hence the existing boundary fence should be deemed sufficient as a privacy measure in line with precedent already set. We ask that our application is reconsidered on this basis.

We feel that by imposing the suggested material compromises an additional level of privacy is being applied at our expense, which is greater than that currently experienced by us and the other residents. We genuinely cannot understand this and therefore would greatly appreciate the opportunity to discuss this directly with the appeal board. This might be enhanced by a site visit and we would be more than happy to show the committee members around the proposed site and discuss viable options.

Thank you for taking the time to review this, please do not hesitate to contact us if further information is required.

Yours sincerely,

[REDACTED]

NORTH AYRSHIRE COUNCIL

14 March 2018

Local Review Body

Title:	Notice of Review: N/17/00926/PP Site to the west of Gateside Inn, Main Road, Gateside – erection of a dwellinghouse (in principle)
Purpose:	To submit, for consideration of the Local Review Body, a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers.
Recommendation:	That the Local Review Body considers the Notice of Review.

1. Executive Summary

- 1.1 The Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, provides for certain categories of planning application for "local" developments to be determined by appointed officers under delegated powers. Where such an application is refused, granted subject to conditions or not determined within the prescribed period of 2 months, the applicant may submit a Notice of Review to require the Planning Authority to review the case. Notices of Review in relation to refusals must be submitted within 3 months of the date of the Decision Notice.

2. Background

- 2.1 A Notice of Review was submitted in respect of Planning Application N/17/00926/PP - site to the west of Gateside Inn, Main Road, Gateside – erection of a dwellinghouse (in principle).
- 2.2 The application was refused by officers for the reasons detailed in the Decision Notice (Appendix 3).
- 2.3 The following related documents are set out in the appendices to the report:-

- Appendix 1 - Notice of Review;
- Appendix 2 - Report of Handling;
- Appendix 3- Planning Decision Notice
- Appendix 4 - Location Plan;
- Appendix 5 - Further Representations from interested parties; and
- Appendix 6 - Applicant's response to further representations;

3. Proposals

3.1 The Local Review Body is invited to consider the Notice of Review.

4. Implications

Financial:	None arising from this report.
Human Resources:	None arising from this report.
Legal:	The Notice of Review requires to be considered in terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
Equality:	None arising from this report.
Children and Young People:	None arising from this report.
Environmental & Sustainability:	None arising from this report.
Key Priorities:	None arising from this report.
Community Benefits:	None arising from this report.

5. Consultation

- 5.1 Interested parties (both objectors to the planning application and statutory consultees) were invited to submit representations in terms of the Notice of Review and these are attached at Appendix 5 to the report.
- 5.2 The applicant has had an opportunity to respond to the further representations and their response is set out in Appendix 6 to the report.



Elma Murray OBE
Chief Executive

For further information please contact **Angela Little, Committee Services Officer** on **01294 324132**.

Background Papers

N/A



Cunninghame House Friars Croft Irvine KA12 8EE Tel: 01294 324 319 Fax: 01294 324 372 Email: eplanning@north-ayrshire.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100062199-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- ☐ Application for planning permission (including changes of use and surface mineral working).
- ☒ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Development of 1.5 storey dwellinghouse (Class 9) utilising existing access arrangements. Connection to services.

Is this a temporary permission? *

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

☐ Yes ☒ No

Has the work already been started and/or completed? *

☒ No ☐ Yes – Started ☐ Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	HLM Scotland Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Martin	Building Name:	Kilview
Last Name: *	Hannah	Building Number:	23
Telephone Number: *		Address 1 (Street): *	Draffen Mount
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Stewarton
Fax Number:		Country: *	UK
		Postcode: *	KA3 5LG
Email Address: *			
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	South Border Farm
First Name: *	Karen	Building Number:	
Last Name: *	Cunningham	Address 1 (Street): *	Barrmill
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Beith
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	KA151JY
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

North Ayrshire Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

653546

Easting

236374

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

560.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Historically used as a car park associated with Gateside Inn. Subdivided and split off separate from licensed premises some years ago.

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2> <p>Will your proposal require new or altered water supply or drainage arrangements? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *</p> <p><input checked="" type="checkbox"/> Yes – connecting to public drainage network</p> <p><input type="checkbox"/> No – proposing to make private drainage arrangements</p> <p><input type="checkbox"/> Not Applicable – only arrangements for water supply required</p>
<p>Do your proposals make provision for sustainable drainage of surface water?? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>
<h2 style="margin: 0;">Assessment of Flood Risk</h2> <p>Is the site within an area of known risk of flooding? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p>
<h2 style="margin: 0;">Trees</h2> <p>Are there any trees on or adjacent to the application site? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>
<h2 style="margin: 0;">All Types of Non Housing Development – Proposed New Floorspace</h2> <p>Does your proposal alter or create non-residential floorspace? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

☐ Yes ☒ No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

☐ Yes ☒ No

Is any of the land part of an agricultural holding? *

☐ Yes ☒ No

Are you able to identify and give appropriate notice to ALL the other owners? *

☒ Yes ☐ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Mr Robert Marshall

Address:

27, Main Road, Gateside, Beith, UK, KA15 2LF

Date of Service of Notice: *

01/09/2017

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Martin Hannah

On behalf of: Mrs Karen Cunningham

Date: 01/09/2017

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☒ Site Layout Plan or Block plan.

☐ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☒ Other.

If Other, please specify: * (Max 500 characters)

A brief supporting statement and illustrative layout is appended for determination by the Authority

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. *

☐ Yes ☒ N/A

A Flood Risk Assessment. *

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

☐ Yes ☒ N/A

Drainage/SUDS layout. *

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. *

☐ Yes ☒ N/A

Habitat Survey. *

☐ Yes ☒ N/A

A Processing Agreement. *

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Martin Hannah

Declaration Date: 08/08/2017

Payment Details



Created: 01/09/2017 11:39

LAND MANAGEMENT . PLANNING . DEVELOPMENT

North Ayrshire Council
Cunningham House
Irvine
KA12 8EE

Email:
Direct:
Mobile:



Ref: 17/00926/PPP
Our Ref: Cunningham/Gateside/2017

30 August 2017

Dear Sirs,

Land adjacent to Gateside Inn, Gateside, by Beith, North Ayrshire

This statement is submitted in support of planning application reference 17/00926/PPP. The applicant is the former owner of the Gateside Inn, public house. The business and building was sold to others in February 2006, however, the applicant retained the former car park for future development. The former car park is presently gated and secure against trespass, vacant and not in use.

The Proposal

The application site, defined by a red line on the location plan, includes the former car park and also a small area of additional land currently used as garden ground. Combined the two areas make up a sizable plot site area of 660 m². The plot is suitable for the development of a single family home and garden. The garden land that forms part of the application extent is not presently owned by the applicant, however, it is understood that heads of terms to purchase have now been agreed. The land owner has been notified of this application in accordance with the development management procedures.

This application is submitted for planning permission in principle. If permission is granted, the applicant may seek to sell the plot for self-build development. Grant of permission in principle would allow the new owner an opportunity to exercise some influence over the final design of the house. Alternatively, the applicant would seek the necessary approval of matters specified in condition and build out the house for personal occupation, rent or sale. In order to keep all options open at this stage, to test the market and demonstrate, acceptability in planning terms, planning permission in principle is applied for and the site plan is accordingly lodged for illustrative purposes only.

Access, Serviceability and Design

The application site appears suited to the development of a single 1.5 storey home. A section of masonry wall must be taken down to create the enlarged site area but otherwise the land is undeveloped, regularly shaped, flat and clear of buildings. There is an established, good vehicular access owned by the applicant, however, there are limited shared access rights over this access in favour of the Gateside Inn and the

proprietors of No 33 Main Rd also have more limited rights of usage.

Sightlines are excellent and there would appear to be no impediment to use of this existing vehicular access/egress as a private driveway access to serve two properties and meet the essential maintenance needs of a third property. There is also a small Scottish Power electricity substation adjacent to the application site. The lease to the land also owned by the applicant but occupied by Scottish Power is understood to have expired over a decade ago and therefore continued occupation may be by way of tacit relocation as the substation appears to be still in use. The applicant has certified ownership of the land occupied by the substation which has been blue-lined on the location plan. It is assumed that Scottish Power also require periodic access over the driveway and through part of the application site in order to inspect and maintain the substation but this is infrequent. The future of the substation is uncertain. The applicant recognises that it serves the wider village and has no interest in upsetting this arrangement but some attempt may be made to seek Scottish Power cooperation to enclose the substation for reasons of safety and amenity so, for the time being, the site of the substation has been excluded from the application site and curtilage of the proposed house.

Overhead electricity lines also intersect the application site but there are no registered services wayleaves affecting the application site other than a pipe that carries waste water marked by a broken line on the site plan. The application site is served by mains water and an electricity supply. Gateside is not presently served by a public sewer and existing development is serviced via an arrangement of septic tanks. To service the proposed development acceptably, and to accord with the supplementary planning guidance on private drainage systems, this application proposes that foul water drainage will be via a small five-person sewerage treatment plant located within the application site rather than a septic tank. The tank design and siting shall meet local building control and environmental licensing requirements and shall be sited to the front of the house to be accessible for maintenance purposes. The waste effluent which should be to a high standard following treatment will be routed and connected to the existing wastewater pipe that traverses the application site at present and serves the adjoining property.

Surface water run-off will be attenuated at source through aquacells installed to the civil engineer's specification to permit natural infiltration. Subject to final drainage design and building control approval the SUDs system may incorporate rainwater harvesting to reuse collected rainwater for non-potable applications.

The site is adequately sized to accommodate a single family house, capable of being serviced and accessed acceptably to meet normal planning and building control requirements. Impermeable surfaces will be avoided and best available technology shall be applied to ensure that waste and surface water treatment is sustainable and poses no health or environmental risk to neighbouring buildings or land, therefore compliant with the requirements of the Adopted Development Plan and Supplementary Planning Guidance.

There is adequate garden ground proposed to front and rear of the proposed house to meet the normal domestic and amenity requirements of occupiers. There is adequate scope within the site to provide facilities for bin storage and recycling to meet the general requirements of the Supplementary Planning Guidance and to provide source control measures to deal with surface water run-off.

A house design conceived as 1.5 storey high, incorporating dormer windows to the front elevation and roof windows that aspect to the rear would integrate well visually, similar to other housing locally, it would not over-dominate; also avoid overlooking of neighbouring property. Normal separation distance of 18 metres between windows can also be respected.

Neighbouring Property and Representations

The applicant anticipates the possibility of objection from one neighbouring property and only wishes to state at this point that a new home, appropriately designed and orientated should have no adverse effect upon the privacy or amenity of any neighbouring property. An illustrative site plan is submitted to support this application – to underline the comfortable relationship between the site of the proposed new house and neighbouring buildings.

The applicant is also entitled to make use of driveway access and make connections to services located within the ownership extent or control of the applicant and also make reasonable and beneficial use of land that was excised from the sale of the adjacent public house over ten years ago, reserved with the intention of future development. The applicant will nevertheless endeavour to design and implement consented operations in a responsible and considerate manner to cause the least inconvenience possible to adjoining property.

Development Plan Policy

In broad policy terms the application site is located within the village settlement of Gateside, under the housing land use category: North Ayrshire Local Development Plan (Proposals Map Inset 8), adopted in May 2014. New development is directed towards existing communities and the proposal appears acceptable in terms of the wider settlement strategy.

The proposed house can be designed and sited to integrate well visually and relate acceptably to neighbouring buildings, safe vehicular and pedestrian access is achievable and the plot is adequately sized to provide off road car parking space for several vehicles. An attractive built outcome acceptable in normal planning terms is achievable. The proposal therefore accords with the **LDP General Policy** in all important respects.

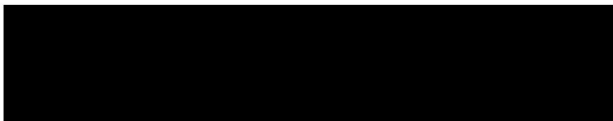
Although this application is submitted in principle, the illustrative layout indicates that the standards set out under the **Neighbourhood Design Guidance**, also the main and auxiliary policies under the Adopted Plan can all be achieved. Under the Town and Country Planning (Scotland) Act 1997, as amended, the development proposal should be assessed and determined in accordance with the adopted Development Plan. The application generally accords with the North Ayrshire Adopted Plan and Supplementary Planning Policies and to this end it is hoped that it can be determined positively.

Conclusion

The proposed development is located within an existing small settlement. The plot is adequate in terms of land area, siting and topography to accommodate a single family sized dwellinghouse, garden and off street car parking. The application site benefits from good access and it can be served by utilities and drained, subject to detailed design considerations and technical approvals. The proposal accords with the General Policy and other adopted planning policies including supplementary guidance.

There being no other material planning considerations before the Planning Authority that would outweigh the statutory presumption in favour of development that is supported by the Adopted Development Plan, on behalf of the applicant it is hoped that permission in principle can be granted to allow approval of detailed matters of house design by the Planning Authority, early course. I hope that the submissions are adequate to allow an early and positive determination, however, if I can assist to clarify any aspect of this letter please do not hesitate to contact me.

Yours faithfully,

A large black rectangular box used to redact the signature of Martin Hannah.

Martin Hannah
Chartered Planning Consultant

North Ayrshire Council
Committee Services
Chief Executive department
Cunningham House
Irvine
North Ayrshire
KA12 8EE

Email
Direct



Our Ref Cunningham/Gateside
Your Ref 17/00926/PPP

09 January 2018

Dear Sirs,

Land West of Gateside Inn, Main Road Gateside

This appeal is lodged against refusal of planning permission in principle for the development of a single dwellinghouse, decision dated 12 October 2017.

A single reason is given by the Appointed Person to support the refusal of planning permission:

The proposed development would be contrary to criterion (a) and (b) of the General Policy of the Local Development Plan in that by reason of its siting to the rear off 33 main Road any new dwellinghouse irrespective of siting and design:

- (i) **Would conflict with the established street pattern of development in the village of gateside due to the lack of a developable street frontage;**
- (ii) **Would not offer an acceptable level of residential amenity for the proposed dwellinghouse including outlook due to the constraints on the site;**
- (iii) **would be detrimental to the amenity of housing in the surrounding area all of which would not be in the interest of the proper planning of the area.**

The General Policy criterion (a) regulates matters around siting, design and external appearance; matters normally and best assessed at the full application or approval of matters specified stage where reasoned decisions about such matters can be made. Criterion (b) requires that all new development should have regard to the character of the area in which it is located. Regard should also be given to the impact upon 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.

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

The appellant's grounds for appeal are as follows:-

The application for planning permission is made in principle now. It is not a full application. The appointed officer has made a subjective and premature judgement around matters of siting, design and external appearance of the proposed dwelling and the standard of residential amenity achievable through the application of design and critical assessment of the site characteristics, also reached conclusions around impact upon neighbouring property again without the benefit of building designs, floorplans and elevations necessary to be able to reach such a determination. The reasoning is flawed as explained further.

Gateside is a small hamlet community characterised by traditional and more modern low rise housing. Over the years there have been several self-built homes constructed, predominantly single and 1.5 storey cottage in style. Most of the properties present a linear pattern of development facing towards the highway. It is accepted that back land development is not a common feature in Gateside, however, there is some indication of large plot subdivision and densification within the settlement over time. Some of these new homes are also set well back from the main road. Development of the appeal site will not have a negative impact upon the character and appearance of the area. Development of the plot will not lead to overshadowing, overlooking or other adverse impacts upon neighbour living conditions if the design of the home is conceived correctly.

Although illustrative drawings were lodged and several iterations of possible layout ideas were further requested by the appointed officer the submissions served an illustrative purpose only and were not intended to be determinative. Initially the applicant suggested that a 1.5 storey design would best sit comfortably within the plot with no adverse impact upon neighbouring property in terms of overlooking or aspect. The description of development was, however, amended by the Authority to read “erection of a dwellinghouse” since the application was submitted in principle. The approach was accepted by the applicant as the proposal is entirely conceptual to test planning principle.

There should have been no determination to refuse an application for permission in principle on the basis of matters of siting, design or external appearance under criterion (a) of General Policy 1 because there is insufficient information to make a proper and reasoned determination based upon the site plan and further illustrations lodged only to test the principle of development and also provide the reassurance to proceed and commission architectural and engineering designs and surveys for further submission.

The indicative layout options that are submitted depict a generous size of single house plot and the relationship of the plot to adjacent existing built development is hardly egregious or even untypical of some forms of development approved by the Council as Planning Authority. The indicative layout has helped to underline that the application extent measures 0.12 acres (504 m²) excluding the shared access and therefore adequately sized and of regular shape to accommodate a single dwelling with garden ground to front and rear and adequate space to serve the dwelling without compromise to wellbeing, safety or amenity.

The principle of development is rejected by the appointed officer only because it is reasoned that a house must have a frontage to a principal road and, regardless of the architectural approach eventually adopted, the Appointed Officer determines that a satisfactory standard of amenity cannot be achieved either for the occupants of the proposed home or for neighbouring proprietors because of aspect. While this may be the considered view of the Officer, until further detailed submissions are lodged these are inadequate grounds for reaching a determination to refuse the application. There is ample ground within this plot to create a suitable residential environment but a bespoke architectural solution is desirable.

The application falls to be determined against the adopted Development Plan – The North Ayrshire Local Development Plan. This is a statutory requirement set out clearly under s 25 and 37 of the Town and Country Planning (Scotland) Act 199, as amended.

The planning application site is located within an established settlement boundary and relates acceptably to existing roads, services and other buildings. It is a brownfield site and vacant land now.

There is no encroachment upon protected countryside, land designated for protection or that has important conservation or landscape or heritage value. The land no longer serves the adjacent public house and in fact it has been many years since the ownership subdivision occurred.

The policies relevant to the determination of this application are STRAT 1, RES1 and the General Policy. Neighbourhood design guidance may also be material to consideration of the application although this appears to have non-statutory planning status and less weight accordingly should be afforded to it.

Development Plan STRAT 1 states that the key strategic policy at the heart of the development strategy is to stimulate population growth by attracting new people and retaining existing people – in the face of official projections indicating a pattern of decline.

Policy RES1 identifies existing residential areas and those areas where residential use will be acceptable in principle. The Policy also states that proposals for residential development in areas allocated for housing on the LDP maps shall accord with the LDP. The appeal site is identified as falling within the village envelope of Gateside and under the status of Policy RES 1.

In all important respects the development of a single dwellinghouse on brownfield land within an existing settlement should be supported under the adopted planning policy. Development of a single home accords with the other residential land use policies. The application site is serviceable with good access, regularly proportioned and it has well defined boundaries. It is adequately sized to accommodate a modest family home with a good garden, normal provision for car parking, access to emergency services and bin and recycling storage. There are some acknowledged constraints and a shared access arrangement but these issues are not insurmountable.

While a two-storey home might present some risk of overlooking of adjoining gardens a different house style such as a bungalow or dwelling with room in roof accommodation would not overlook neighbouring gardens.

A key conclusion reached by the Housing Need and Demand assessment for mainland North Ayrshire is that there is “a significant shortfall of affordable housing” Policy RES4 supports the provision of affordable housing and the allocation and grant of planning permission for self-build plots is accepted under Scottish Planning Policy to provide affordable housing and wider tenure choice.

The application presents no contradiction with criterion (a) of the General Policy because it is submitted in principle and such detailed matters should be reserved until a properly conceived architectural scheme is prepared and lodged with the Planning Authority at the appropriate time. If the Authority considers the risk of overlooking real, then a condition regulating the height of the building could be considered although during handling of the planning application only one neighbour objection was received and the objector's property would scarcely be affected by the proposed new home. Minimum acceptable window separation distances and a normal garden size is not difficult to achieve within the defined plot extent.

The same criticisms and concerns apply to Criterion (b) of the General Policy also cited as a reason for refusal in the decision letter. There is insufficient information before the Council to make any proper assessment upon the impact of lighting for example. The appointed officer is evidently unhappy about the construction of a dwelling that does not relate to the road, that is described as back land, yet there is no mention of a policy presumption against back land development in the adopted Plan. Many of the road facing properties in Gateside suffer considerably from vibration and noise due to passing traffic particularly at peak hours.

The application site does not benefit from direct street frontage. This is not a disputed point but the setback and position of the appeal site and any dwelling built on it can afford a level of amenity, freedom from noise, vibration and disturbance due to passing traffic that is not enjoyed by some of the road facing properties and with the correct design approach should also satisfy criterion (b) adequately.

The applicant submits that based on the information before the Authority the application in principle accords with General Policy 1, criteria (a) and (b) and the remaining criteria. The proposal furthermore accords with the Residential Policies of the adopted development plan and the appeal should be upheld for this reason.

Any concerns regarding the design, orientation, height of the proposed building can be addressed at the detailed design stage and appropriate planning conditions can be used to ensure an acceptable built outcome.

It is the applicant's intention to utilise private sewerage treatment to serve the development as this is an improvement upon conventional septic tank foul water treatment. The appellant accepts completely that any new dwelling must be adequately served by a means of access and drainage and viable options exist to enable the proposed development to proceed. These matters can be conditioned and the concerns raised by SEPA will be addressed since the drainage arrangement is subject to a licensing regime and must also satisfy building control environmental standards.



The application and appeal site is highlighted in red

Also relevant is the Council's non-statutory Supplementary Guidance, June 2010. Non-statutory guidance has limited weight and should not be a determining factor but the guidance has been published to assist developers and it does make several interesting and useful points and so reference is made to it, again to underscore the importance of proper site assessment in advance of detailed design.

The guidance note expresses regret that new development is driven by regulation and standardisation rather than true site analysis and design based on place making principles. The Guidance acknowledges that there is an over-emphasis on inappropriate architectural styles.

Elsewhere in the design guidance, there is support for mews style development and informal housing courts, feud plots accessed through pends and denser forms of development patterns also opportunities to create courtyards to provide well-defined private space. It expresses no antipathy towards back land development. Case studies in Poundbury and Boness are also cited as exemplars of development and some of this development also does not benefit from main road frontage.

Elsewhere in North Ayrshire, recently approved housing development also does not always benefit from main road frontage. To illustrate the point one example of recent development in North Ayrshire at Nursery Drive, Kilwinning (Production 1) represents a more egregious example of back land

development and poor aspect than the current application yet this development was evidently supported by the Planning Authority.

This and other examples of similar development serve to underline that a fair and reasonable planning judgement, good practice and consistency of approach may not have been applied in this case and the applicant respectfully asks that the refusal decision be reconsidered.

As the proposal accords with the General Policy or can certainly be made to accord with minimum layout and servicing standards through use of appropriate conditions, the application of design and through further dialogue with planning officers the applicant hopes that this appeal can be upheld.

Yours faithfully,

A solid black rectangular box used to redact the signature of the applicant.

HLM Planning and Development

Production 1: Example of modern development at Nursery Drive, Kilwinning



**Narrow private driveway access between two dwelling houses to a shared courtyard serving two detached dwellings to rear backland.
Note aspect over rear garden**



REPORT OF HANDLING

Reference No: 17/00926/PPP

Proposal: Erection of dwellinghouse (in principle)

Location: Site To West Of Gateside Inn, Main Road, Gateside, Beith Ayrshire

LDP Allocation: Residential/Housing

LDP Policies: RES1 / General Policy /

Consultations: Yes

Neighbour Notification: Neighbour Notification carried out on 05.09.2017

Neighbour Notification expired on 26.09.2017

Advert: Regulation 20 (1) Advert

Published on:- 13.09.2017

Expired on:- 04.10.2017

Previous Applications: None

Appeal History Of Site: None

Description

Permission in principle is sought to erect one dwellinghouse on land to the rear (south) of 33 Main Road, Gateside on the former car park associated with the Gateside Inn, which is situated to the east of the site. Access would be taken from a 30m long track which leads from Main Road into the former car park, which has been closed off with a gate.

The former car park area is level and is surfaced with stone chips. It is bounded by walls and fences. There is an electricity sub-station enclosed with a metal palisade fence situated beyond the south east corner of the site. To the north is the rear garden and rear elevation of the 2 storey dwellinghouse 33 Main Road. The western part of the site contains a vegetable garden (outwith the curtilage of the adjacent housing) which is separated from the former car park by a stone wall. Beyond this area and to the west of the site boundary is the rear garden of 31 Main Road. To the east of the site is the rear garden area associated with the flat above the Gateside Inn; to the south is a narrow lane which leads from Reek Street to a field to the east of the village. Beyond the lane to the south is the heavily wooded rear garden of the dwellinghouse at 1 Reek Street.

A Supporting Planning Statement has been submitted on behalf of the applicant by a planning consultant, which highlights the following:

- the proposed site has an area of 660 square metres, which is considered to be adequate for one dwelling whilst respecting the amenity of neighbours;
- a 1.5 storey dwelling with dormer windows to the front and roof lights to the rear is envisaged;
- there is an established access to the site, but it has "limited" shared access rights with others (eg. Gateside Inn and 33 Main Road);
- the future of the sub-station adjacent to the site is considered "uncertain" due to the expiry of the land lease 10 years ago, however, there are no immediate plans for its relocation;
- there are overhead electricity lines which cross the site and a timber pole is located within the ground;
- foul drainage would be dealt with using a small five person sewerage treatment plant;
- surface water would be attenuated at source through aquacells.

The site is located within the settlement of Gateside as identified within the adopted Local Development Plan. Policy RES1 states the proposals for residential development in areas allocated for housing on the LDP Maps shall accord with the LDP. The proposal also requires to be assessed against the General Policy of the LDP.

Pre-application advice was provided in 2016 which indicated the backland nature of the site relative to Main Road and stated that any development within the former car park area would be unsuitable.

Consultations and Representations

Neighbour notification has been carried out in accordance with statutory procedures and the application was advertised in a local newspaper. One objection and one representation have been received. The grounds can be summarised as follows:

1. Poor drainage in the area is being worsened by climate change, resulting in waterlogged ground throughout the year. The proposed development would exacerbate this issue due to additional sewage. In addition, the outfall from a neighbours septic tank runs across the application site and the additional load could affect the system. The water table in the area is already very high and the area is not draining well.

Response: Noted. See also SEPA consultation response, below.

3. The development would encroach on the privacy of neighbouring residents.

Response: It is considered that any residential development on the site could have adverse effects on the privacy of the adjoining dwellings and their associated private garden areas.

4. There are overhead lines which cross over the site. No permission would be granted for these to be placed underground if this would result in a monoblocked area to be dug up.

Response: It is noted that the site is constrained by various utilities. The latter point is not a material planning consideration.

Consultations:

SEPA - object to the proposal on the grounds of lack of information on waste water drainage, which is a material planning consideration. The site falls within a Waste Water Drainage Consultation Area. The minimum information which SEPA require to be able to provide advice, as set out on our WWDCA webpage, has not been provided. SEPA would review their objection once further information is submitted.

Response: Noted. The applicant's agent has responded by stating that further information on site drainage would be submitted if permission in principle is granted. However, no further information has been provided at this stage. Therefore, the objection from SEPA has not been resolved. See Analysis.

NAC Active Travel and Transport - no objections. The proposed house is indicated as being located within the former car park area of the Gateside Inn. The site plan indicates the access is shared by the Gateside Inn and 33 Main Road. Active Travel and Transport recommend the car park remains available for use by patrons of the Gateside Inn in order to ensure the operation and safety of the adjacent public road, however, it is understood the car park is now separate from the Gateside Inn. Parking for the proposed house is acceptable to Active Travel and Transport.

Response: Noted. See Analysis.

Analysis

The application site is located within the settlement of Gateside as identified within the adopted LDP. Within settlements, residential development is an acceptable land use subject to meeting the criteria of the General Policy. In this case, the relevant criteria are (a) siting, design and external appearance; (b) amenity and (d) access, road layout and parking provision.

In terms of (a), it is considered that the site has a backland character due to its position to the rear of 33 Main Road. Although the site would be connected to Main Road via a shared driveway, the main part of the site (the former car park and vegetable garden) is constrained by its lack of any street frontage. The supporting information confirms that the only part of the site which potentially has a street frontage (ie. immediately adjacent to Main Road) has shared access rights with others and is therefore not available for development other than for access purposes. The supporting information also suggests that any house and garden would therefore be located within the former car park area as well as the vegetable garden. As such, any dwellinghouse on the site, regardless of orientation, scale or design, would be out of keeping with the established pattern of development in Gateside, which is characterised primarily by houses and public buildings with their main frontages facing onto public roads, primarily Main Road and Reek Street. In summary, the proposal would be unsatisfactory in terms of criterion (a), taking the local context into account.

With regard to (b) amenity, it is considered that any the dwellinghouse on the site would not have an acceptable level of outlook, as discussed above. In addition, a dwellinghouse would have the potential to adversely impact on the established amenity of the surrounding housing eg. overlooking of private rear garden areas. Furthermore, there are various constraints in terms of shared access arrangements,

an electricity sub-station and overhead lines all in close proximity. In summary, the proposal would be unsatisfactory in terms of criterion (b).

With regard to (d) access, road layout and parking provision, NAC Active Travel and Transport has no objections to the development of a dwellinghouse on the site, but have recommended that car park remains in order to be available for patrons of the Gateside Inn, notwithstanding the change in ownership. Whilst the Gateside Inn is an historic use in the village which pre-dates current parking standards, the absence of a convenient off-street parking area for its staff and patrons (both now and in the future) would be permanently lost should the site be developed with a dwellinghouse. However, it is not considered that this would be sufficient reason to refuse the application.

In terms of the objection received from SEPA, the applicant's agent considers that there are solutions available. He advises that the use of on site private waste water treatment plant "and it is the highly treated effluent that needs to be routed back to the water environment by agreed means which is regulated by SEPA."

Notwithstanding any technical solutions which may be available (and which would need to be agreed upon by SEPA), the overriding land use planning consideration is the backland character of the site in relation to the established pattern of development in Gateside.

There are no other material considerations. It is considered that the principle of housing development on the site would not comply with criteria (a) and (b) of the General Policy of the LDP and, therefore, planning permission should be refused.

Decision

Refused

Case Officer - Mr A Hume

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Location Plan		



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

KAREN YEOMANS : Executive Director (Economy & Communities)

No N/17/00926/PPP

(Original Application No. N/100062199-001)

REFUSAL OF PLANNING PERMISSION IN PRINCIPLE Type of Application: Local Application

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997,
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2013

To : Mrs Karen Cunningham
 c/o HLM Scotland Ltd Fao Martin Hannah
 Kilnview
 23 Draffen Mount
 Stewarton
 KA3 5LG

With reference to your application received on 5 September 2017 for planning permission in principle under the above mentioned Acts and Orders for :-

Erection of dwellinghouse (in principle)

at Site To West Of Gateside Inn
 Main Road
 Gateside
 Beith
 Ayrshire

North Ayrshire Council in exercise of their powers under the above-mentioned Acts and Orders hereby refuse planning permission in principle on the following grounds :-

1. The proposed development would be contrary to criterion (a) and (b) of the General Policy of the Local Development Plan, in that by reason of its siting to the rear of 33 Main Road, any new dwellinghouse, irrespective of siting and design:
 - (i) would conflict with the established pattern of development in the village of Gateside due to the lack of a developable street frontage;
 - (ii) would not offer an acceptable level of residential amenity for the proposed dwellinghouse, including outlook, due to constraints on the site;
 - (iii) would be detrimental to the amenity of the housing in the surrounding area, all of which would not be in the interests of the proper planning of the area.

Dated this : 12 October 2017

.....
for the North Ayrshire Council

(See accompanying notes)



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

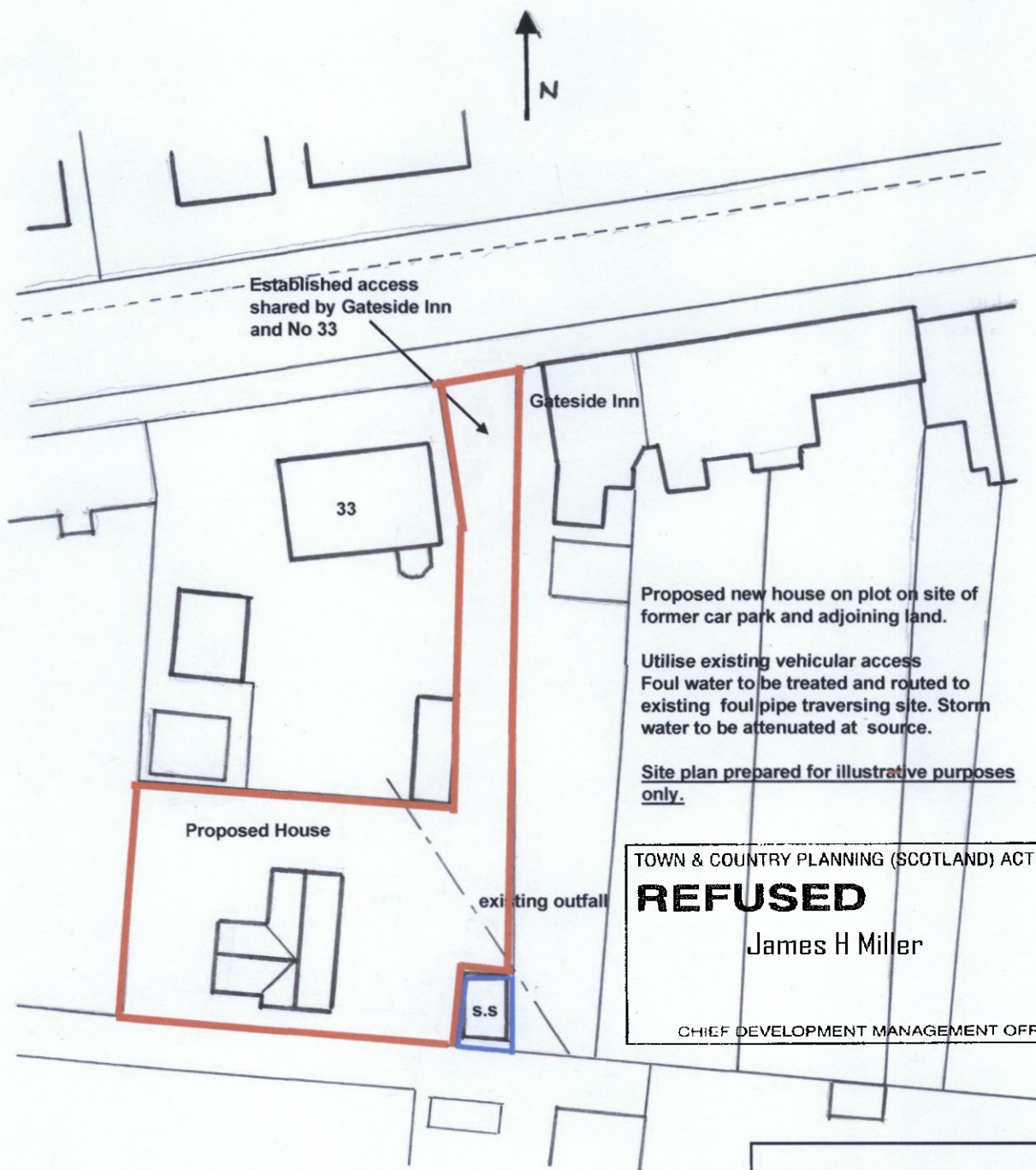
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2013 – REGULATION 28

KAREN YEOMANS : Executive Director (Economy & Communities)

FORM 2

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Committee Services, Chief Executive's Department, Cunninghame House, Irvine, North Ayrshire, KA12 8EE.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

REFUSED

James H Miller

CHIEF DEVELOPMENT MANAGEMENT OFFICER

5m 20m
SCALE 1:500

HLM SCOTLAND LTD

PROJECT: GATESIDE
PLAN: SITE PLAN - A4
APPLICATION: 2017/00926/PPP

DATE: AUGUST 2017

From: [REDACTED]
To: "Melanie Anderson" <MelanieAnderson@north-ayrshire.gov.uk>
Date: 29/01/2018 20:02
Subject: RE: Notice of Appeal [OFFICIAL]

Dear Melanie

Please treat this email as part of the 'Review Process'.

I wish to reit [REDACTED] application as below.

I live at No. [REDACTED] and have resided there since 1994.

With regards to the above application, I have two main concerns:

Firstly is the dispersal of both rain water and also septic tank water. The outfall from my septic tank runs across the north east corner of the proposed plot before entering the rear garden of the Gateside Inn. This has been in place since the property was built in 1989/90. There have been no problems with this system to date. I worry that any additional load could affect the flow from my system. I do not want this dug up or compromised by works. The drainage water is a big problem in both the proposed plot and the ground owned by Mr Marshall which emanates from the existing proposed land and floods Mr Marshals land. The water table in gateside is already very high in Gateside and is not draining well.


Secondly the proposal would encroach on my privacy in my back garden where I enjoy practicing naturism. Most of the rooms in my home have south facing windows which have either no blinds or little curtain area. Any windows which were facing North in the proposed plot would enjoy a view of my garden and bedrooms which rarely have the curtains shut as there has always been a small but restricted view of the farmland to the south east. The proposal would shut that down. That aside, a Bungalow with no roofspace accommodation would be less intrusive.

One other issue is that BT lines which start in my property and go overhead to most of the village cross directly over the proposed plot. I will refuse permission for BT to dig them underground on my plot as I have already been through that pain before which ended in me having to replace the whole of my monoblocked area. That cost a fortune.

In addition to the above, I also wish to emphasise my serious concerns regarding SEPA's "Objection" due to waste water and the fact that the **'agent considers that there are solutions available'** I am amazed that the agents wisdom is a even a consideration given that both the council and SEPA know of the water table issues in this village. If the water table is already high then a 'soak away' will not work. So I am intrigued to learn of the solutions which are apparently available. I am surprised that the statutory consultation of SEPA has not formed part of the refusal document. Why is that the case?. So, in summary, where is the waste water and the rain water from the footprint of the proposed building to go?

Has anyone from planning ever visited any part of the land for the proposed development after even half a day of rain?

y|
[REDACTED]



30. 01. 18.

Dear Ms Little,

Planning Application N/17/00926/PP Site to west of Gateside Inn, Gateside.

I previously sent you a notice detailing my objections to the erection of a dwelling house on land to the west of the Gateside Inn, Gateside Village, Beith.

Having revisited the documents that accompany the application I would like to add some further points to my objection.

The applicant proposes to purchase a piece of land (The vegetable plot) adjacent to my garden if planning permission is granted. From the site map it is clear that any building erected on the car park area or encroaching into the vegetable garden will have 2 detrimental effects on my property.

Firstly Any windows in the gable (west end) of the building will look straight into more than 50% of my garden and will also have a clear view into the lounge at ground level and upstairs into my bedroom. I will therefore be deprived of the privacy I have until now been able to enjoy.

Secondly As previously known the water table in the village and in particular the area around and including the proposed development is extremely high. The plot which the applicant owns lies about one and a half metres above the level of the plot which is intended for purchase and it is shored up by a stone wall. During and after any rainfall water pours through the stonework of the wall from the car park flooding the lower area. This flooding continues into my garden and from there the water flows out into Reek Street. This is not just a problem during the winter months but due to the excessively wet summers we have recently experienced the bottom third of the vegetable garden and my garden remain saturated all year round. I am therefore very concerned that any development on the site will only make this situation worse.

Hi Angela

Please see attached.

Regards

Anthony Hume - Senior Development Management Officer
Planning Services
North Ayrshire Council, Cunninghame House, Irvine KA12 8EE

t: [REDACTED]
[REDACTED]
[REDACTED]

WORKDAYS: Mondays, Wednesdays, Thursdays, Fridays
IF YOU REQUIRE AN URGENT REPLY TO YOUR ENQUIRY ON A TUESDAY, PLEASE
TELEPHONE 01294 324319 FOR ASSISTANCE.

----- Forwarded by Anthony Hume/EconomyandCommunities/North Ayrshire Council on 09/02/2018 11:10 -----

From: [REDACTED]
[REDACTED].gov.uk"
Date: 05/02/2018 09:48
Subject: Notice of Review - N/17/00926/PP - Site to the west of Gateside Inn, Main Road, Gateside

Dear Anthony

Thank you for your correspondence regarding this application dated 12 January 2018. We have no further comments to make at this time. Our position was set out in response (PCS/154933) dated 19 September 2017. We note the analysis with regards to foul drainage in the Report of Handling.

Regards,

Jonathan

Jonathan Werritty
Planning Officer

Scottish Environment Protection Agency
Silvan House
[REDACTED]
[REDACTED]

The information contained in this email is confidential and is intended solely for the use of the named addressee. Access, copying or re-use of the information in it by any other is not authorised. If you are not the intended recipient please notify us immediately by return email to postmaster@sepa.org.uk.

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15 February 2018

Our Reference: Cunningham_Gateside_17/00926/PPP

A Little
Committee Services Officer
Development Management Service
N Ayrshire Council
Cunningham House
Irvine
KA12 8EE

Dear Sirs,

N/17/00926/PP| Notice of Review – Site to the West of Gateside Inn, Gateside.

Thank you for your letter dated 2 February 2018. The further letters of representation attached to your correspondence are redacted, however, you seek a response to the points raised. In the circumstances this is made rather difficult but in response to the planning application there was only the one letter of objection received from the neighbouring proprietor and occupier of 33 Main Street, Gateside. I have assumed the email dated 29 January 2018 and the letter dated 30 January 2018 are from this same person.

The original objection was anticipated by the appellant, even before the application was lodged, and therefore some effort was invested to prepare a written supporting statement, which is still relevant. At the risk of repetition, the application for planning permission now subject to this review/appeal is lodged in principle. Layouts were submitted to the appointed officer for illustrative purposes only and accordingly I do not wish to be drawn too far into discourse about the design and appearance of the proposed development. These matters are not strictly germane to the determination of an application made in principle.

At the outset, a single storey house or possibly a house with additional room in roof accommodation was thought the most likely appropriate built outcome having regard to the locality and the character of the neighbouring homes and gardens. This opinion has not altered, however, matters of siting, building design and orientation and final arrangements for drainage are best left to the AMSC stage and building warrant approval when all site and technical factors and any conditions attached to planning permission can be considered carefully by the design team.

To achieve an acceptable built outcome, it is important to consider the suitability of the plot for development – boundaries, topography, constraints, also the means of access and ability to drain the land by gravity but there is no requirement to submit fully detailed proposals to support an application for permission in principle.

In fact, to engage design consultants and invest in an architectural scheme and civil engineering design a significant financial investment is necessary and in this case the appellant first wishes to test the acceptability in planning terms before making this commitment. The appeal site is situated within the settlement boundary and there is a means of vehicular access, water and electricity nearby. All the buildings nearby have private drainage arrangements - including the dwelling occupied by the objector, so evidently there are solutions available and working locally.

The appeal site is adequately sized to accommodate a modest single dwellinghouse yet during pre-application discussion with the appellant the planning official expressed concern about the backland characteristics of the plot though other development with very similar characteristics has been accepted before in North Ayrshire. The backland status is not a determinative issue under current policy and every application before the Authority must be judged fairly to decide if an acceptable built outcome is achievable.

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In this context, the concerns raised by a single objector regarding siting, privacy and drainage arrangements should be set aside for the following reasons.

First, the final house design will have regard to normal standards concerning set back from adjacent development. No 33 Main Street site is set back approximately 17.5 metres from the main part of the appeal site, excluding the access route. The conservatory extension to No 33 is slightly closer (15m) but this is located behind one of the several outbuildings constructed in the rear garden of the objector's property and there is currently limited intervisibility.

A family sized home is achievable on this sizeable and regular plot of land (22m x 17.5m) without injury to the privacy of any neighbouring occupier probably using a single-storey design. Any upper floor or room in roof windows should be sited to maintain adequate (normally considered to be around 18m) setback from the **habitable** windows of the nearby buildings but otherwise boundary treatment including walls, fences and hedge planting can provide an effective screen.

The objector has entitlement to reasonable privacy and amenity; however, normal planning standards should be applied. The objector has no entitlement to an aspect over the fields to the South, nor to borrow amenity from adjacent land. There should not be any reasonable expectation of special treatment due, for example, to the lack of curtains or inadequate shrub and tree planting to protect and screen the garden – something most occupiers of dwellings would consider if privacy and screening is important.

The letters exhibited for comment present spurious grounds for objection and should be disregarded. If permission in principle is granted the appellant must conceive a house design that complies with Council placemaking standards and safeguards normal standards of residential amenity and privacy for the benefit of the occupier and any affected neighbouring property. Adequate privacy is normally assessed by analysis of window to window distance. Pragmatic allowance can be made if views are oblique or further mitigated by planting or existing boundary treatment. Few properties have the benefit of gardens that are not overlooked in some fashion by neighbouring homes and other buildings. The objector's expectation of complete garden privacy is not reasonable by any current planning standard.

The Planning Authority has published excellent guidance on neighbourhood design. This guidance states: that new buildings can help to shape characterful places, that road narrowing can signal entry to a different type of area and that boundary walls can serve to frame spaces. Sometimes houses can be entered directly off courtyards and that landscaping can assist help to integrate new development visually.

The guidance is responsive, not prescriptive, with an emphasis on creating successful places and if these principles are applied to the appeal site, with the right vision and architectural approach, a new dwelling can work well.

The appellant expects the Authority to impose controls over siting, scale, orientation and design of the building, also materials and details in order maintain an appropriate relationship between building and surroundings. These matters can be regulated appropriately through condition(s) attached to planning permission in principle. Further conditions could be imposed to exercise future planning control over-permitted development rights to maintain influence over building adaptation or extension in the future and as a precaution against the introduction of building alterations that could become problematic.

Second, there is no realistic prospect of implementation of development unless it can be served by a foul and storm water drain and necessary utilities. Due to the proximity of established built development, a watercourse, open fields and ditches nearby; also since all development in Gateside is currently served by private drainage arrangements there are evidently practicable solutions available to enable single house development.

The appointed officer did not ask that percolation tests be undertaken in advance of determination of the planning application, however, such tests must be carried out to support applications for building warrant design verification and approval also SEPA licensing approval of the proposed private drainage arrangements.

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There is an existing foul and storm pipe traversing the application site (laid by the objector) and possibly another pipe serving neighbouring buildings.

The appellant is entitled to make connection to existing pipes and services, and if necessary realign services that traverse the part of the appeal site that is controlled by the appellant and seek cooperation to either realign or remove services and apparatus that traverse or over sail land without benefit of a wayleave.

The appellant anticipates that if planning permission is granted, and prior to commencement of development, details of the proposed foul and surface water drainage treatment shall be submitted for the written approval of the Planning Authority, in consultation with SEPA, to meet the standard set out by supplementary guidance on private sewerage systems. This requirement could be inserted as a condition regulating grant of planning permission in principle.

Most of the application site is brownfield and currently under hardstanding. A new dwelling will introduce improved site drainage and if necessary engineered attenuation of surface water flows so as not to impact adversely upon neighbouring land and buildings.

The small vegetable plot or garden included within the site extent will be incorporated into the development but this land will probably remain as usable garden to serve the proposed dwelling. Designed and engineered correctly, surface water flow from the site following development will not exceed current flows and possibly yield less run-off than at present.

The objector raises points of concern about site levels and flood risk but the SEPA objection does not relate to flood risk but rather to a simple error on the original application form that referred to connection to public drainage.

While drainage and flood risk factors are material to the assessment and determination of the application there is no objection to the current application from the local authority flood officer. It is hoped that a site inspection will provide a more balanced perspective and improved understanding of the size of the plot, suitability for a single house development and the relationship to adjoining property.

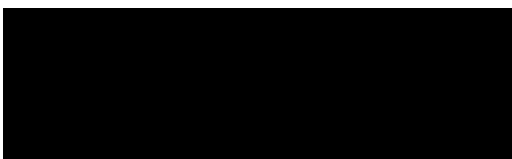
Members should maintain an open mind, consider that development has been approved across the Authority that is far more contrived than is proposed under the current appeal and reflect also that this application was lodged to test the principle. There is considerable further work ahead for the appellant before development can commence.

If standard conditions are attached to the grant of permission in principle the appellant can proceed with greater confidence, invest in detailed surveys, engage design and scope out the mitigation measures necessary to implement development that must also meet the stringent statutory licensing standards of SEPA and the requirements of the Scottish Building Regulations. Accordingly, limited weight should be attached to the objections.

I hope that this letter clarifies the appellant's position and I would welcome early and positive determination.

To this end a site visit in advance of the scheduled meeting may be beneficial.

Yours faithfully,



Martin Hannah
Chartered Town Planner