



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

## Planning Committee

A Meeting of the **Planning Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 19 June 2024** at **14:00** to consider the undernoted business.

### **Meeting Arrangements - Hybrid Meetings**

This meeting will be held on a predominantly physical basis but with provision, by prior notification, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003. Where possible, the meeting will be live-streamed and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>.

#### **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 held on 22 May 2024 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 24/00315/PP : Tigh An Droma Caravan Kings Cross Brodick, Isle Of Arran North Ayrshire KA27 8RG**

Retrospective planning permission for the siting of a residential static caravan on a field at Kings Cross (copy enclosed).

#### **4 Urgent Items**

Any other items which the Chair considers to be urgent.

## **Webcasting**

Please note: this meeting may be filmed/recorded/live-streamed to the Council's internet site and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>, where it will be capable of repeated viewing. At the start of the meeting, the Provost/Chair will confirm if all or part of the meeting is being filmed/recorded/live-streamed.

You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the webcast will be retained in accordance with the Council's published policy, including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Generally, the press and public seating areas will not be filmed. However, by entering the Council Chambers, using the press or public seating area or (by invitation) participating remotely in this meeting, you are consenting to being filmed and consenting to the use and storage of those images and sound recordings and any information pertaining to you contained in them for webcasting or training purposes and for the purpose of keeping historical records and making those records available to the public. If you do not wish to participate in a recording, you should leave the meeting. This will constitute your revocation of consent.

If you have any queries regarding this and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact [dataprotectionofficer@north-ayrshire.gov.uk](mailto:dataprotectionofficer@north-ayrshire.gov.uk).

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## Planning Committee Sederunt

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Robert Foster (Chair)  
Timothy Billings (Vice-Chair)  
Scott Davidson  
Stewart Ferguson  
Cameron Inglis  
Amanda Kerr  
Davina McTiernan  
Jim Montgomerie  
Ian Murdoch  
Chloe Robertson

Chair:

Apologies:

Attending:



At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m. involving a combination of participation by remote electronic means and physical attendance within the Council Chambers, Irvine.

**Present (Physical Participation)**

Robert Foster, Scott Davidson, Stewart Ferguson, Cameron Inglis, Davina McTiernan and Chloé Robertson.

**Present (Remote Participation)**

Timothy Billings and Jim Montgomerie.

**In Attendance (Physical Participation)**

A. Finlayson, Chief Planning Officer; R. Lynch, Senior Manager (Legal Services), C. Stewart and S. Wilson, Committee Services Officers (Democratic Services) (Corporate Services).

**Chair**

Councillor Foster in the Chair.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

**2. Minutes**

The Minutes of the Meeting held on 24 April 2024 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. 24/00307/PP: Blairland Farm, Dalry**

A Section 42 application has been sought by the Blair Trust Co. Ltd. in relation to some of the planning conditions attached to permission in principle for a major housing development at Blairland Farm in Dalry. The site has been allocated for residential development purposes since the adoption of the Council's first Local Development Plan in May 2014.

The Chief Planning Officer advised the Committee on representations received and officer responses in terms of the application.

A Member asked a question and was provided with information in relation to the position concerning delegation, in the event there was any variation in respect of conditions 8. and 9., as noted below and listed in the report:-

The Committee unanimously agreed that the application be granted, subject to the following conditions:-

1. That, along with the first application for the approval of matters specified in conditions (MSC), further intrusive site investigations shall be undertaken to establish the location and condition of the recorded mine entries, the results of which shall inform the layout of the detailed masterplan required by Condition 5 and any subsequent remediation works which may be required. Confirmation shall be submitted in writing to North Ayrshire Council as Planning Authority and certified by a suitably qualified person that the required site investigations and any subsequent remedial works have been undertaken.
2. That, along with the first application for the approval of matters specified in conditions (MSC), a programme of archaeological works in accordance with a written scheme of investigation, the results of which shall inform the layout of the detailed masterplan required by Condition 5, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the developer shall ensure that the approved programme of archaeological works is fully implemented (taking phasing into account) and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of North Ayrshire Council as Planning Authority.
3. That, along with the first application for the approval of matters specified in conditions (MSC), a scheme to treat the surface water arising from the site in accordance with the principles and practices contained in CIRIA's "Sustainable Urban Drainage Systems Manual", (November 2015), the results of which shall inform the layout of the detailed masterplan required by Condition 5, shall be submitted for the written approval of North Ayrshire Council as Planning Authority. For the avoidance of doubt: - there shall be no drainage connections to the trunk road drainage system;
  - all waste water arising from the development must be collected and diverted away from operational railway land;
  - all surface water arising from the development must be collected and discharged no closer than 10 metres from operational railway land; and,
  - the SuDS scheme shall not be sited within 10 metres of railway infrastructure.

Thereafter, the scheme as may be approved shall be implemented during the course of development (taking phasing into account) and maintained thereafter to the satisfaction of North Ayrshire Council as Planning Authority.

4. That, along with the first application for the approval of matters specified in conditions (MSC), a detailed flood risk assessment (FRA) which identifies the areas of the site at risk of flooding, taking into account the impact of the development on flood risk elsewhere, shall be submitted for the approval of North Ayrshire Council as Planning Authority. Thereafter, the FRA as may be approved shall inform the layout of the detailed masterplan required by Condition 5. For the avoidance of any doubt, no built development or infrastructure should be located within the 1 in 200 year functional floodplain.
5. That, along with the first application for the approval of matters specified in conditions (MSC), a development brief together with a masterplan for the site shall be submitted for the approval of North Ayrshire Council as Planning Authority. The brief and masterplan shall take into account the findings of the further intrusive

site investigations, archaeological investigations, the detailed SuDS scheme and flood risk assessments required by conditions 1, 2, 3 and 4 respectively.

The development brief and associated masterplan shall take into account the principles of the Scottish Government's 'Designing Streets' and 'Designing Places' policy documents to the satisfaction of North Ayrshire Council as Planning Authority.

Thereafter, the details contained in the MSC application(s) shall accord with the development brief and masterplan as may be approved, to the satisfaction of North Ayrshire Council as Planning Authority.

6. That application(s) for the approval of matters specified in conditions (MSC) shall include a scheme of mitigation measures for the design and construction of the houses to ensure that the noise levels at each plot shall not exceed the following:

- (a) Daytime external level, 50-55dB LAeq 16hrs (0700-2300);
- (b) Night time internal level, 30dB LAeq 8hrs (2300-0700); and
- (c) Night time internal level, 45dB LA Max (2300-0700).

Thereafter, the development shall be implemented only in accordance with the approved scheme of noise mitigation measures unless North Ayrshire Council as Planning Authority gives written consent to any variation.

7. That, prior to the commencement of the development hereby approved, the developer shall implement the recommendations contained within the "Preliminary Geo-Environmental Risk Assessment including Coal Mining Risk Assessment Report" dated March 2014 by Waterman (document reference EED14275-100-R-1-2-1-JLD-PERA) and also the recommendations contained within the "Preliminary Slag Analysis Report" by Waterman dated 7th July 2014 (document reference EED14275-100-C-001-SC-HW) in order to assess the likelihood of any ground contamination present at the site. Remediation proposals shall also be presented to North Ayrshire Council as Planning Authority in relation to any significant findings. All documentation shall meet BS 10175:2011 and shall be verified by a suitably qualified environmental consultant. Thereafter, the presence of any significant unsuspected contamination which becomes evident during the development of the site shall be reported to North Ayrshire Council and treated in accordance with a remediation scheme to be agreed in writing with North Ayrshire Council as Planning Authority. On completion of the proposed works, written verification, detailing what was done by way of any remediation, shall also be submitted to North Ayrshire Council as Planning Authority.
8. That prior to the commencement of the development hereby approved, the developer shall submit a Construction Environmental Management Plan (CEMP) for the written approval of North Ayrshire Council as Planning Authority, which shall include details of routing arrangements for construction traffic. For the avoidance of doubt, the CEMP shall be designed to reduce potential adverse impacts on road safety and to minimise potential disruption and congestion for road users, pedestrians and local residents. Thereafter, the development shall progress in accordance with the CEMP as approved.

9. That prior to the commencement of the development hereby approved, the developer shall submit a Phasing Plan for the written approval of North Ayrshire Council as Planning Authority to include all land within the application site, and the development shall progress in accordance with the approved Phasing Plan.
10. That prior to the commencement of the development hereby approved, the developer shall submit details of the lighting within the site for the written approval of North Ayrshire Council as Planning Authority, after consultation with Transport Scotland.
11. That prior to the commencement of the development hereby approved, the developer shall submit details of the landscaping treatment along the boundary with the A737 Dalry bypass trunk road for the written approval of North Ayrshire Council as Planning Authority, after consultation with Transport Scotland.
12. That, prior to the occupation of any dwellings within the development, a barrier/boundary feature of a type to be approved in writing by North Ayrshire Council as Planning Authority in consultation with Transport Scotland shall be erected and maintained along the proposed boundary of the site with the A737 Dalry Bypass trunk road. In addition, the developer shall provide a suitable trespass proof fence adjacent to Network Rail's boundary, which shall include provision for access to facilitate future maintenance and renewal.
13. That the recommendations of the "Bat Survey Report" (ref. EED14275-100-R-2-2-1) and "Preliminary Ecological Survey" (ref. EED14275-100\_R\_1\_1\_2\_WE) by Waterman shall be reviewed, updated and taken into account during the MSC stage and implemented during the course of the development to the satisfaction of North Ayrshire Council as Planning Authority.
14. That the development shall initially be limited to a maximum of 25 house completions per annum unless otherwise agreed in writing between the developer and North Ayrshire Council as Planning Authority. Thereafter, at 2 yearly intervals following the commencement of the development until its completion, a review of the build rate shall be undertaken by the developer to consider new house completions, new house sales and local primary school capacity. Each review shall propose the number of houses that can be completed during the following 2-year period (at a rate of not less than 25 units per annum), and shall be submitted for the consideration and written approval of North Ayrshire Council as Planning Authority.

**4. 24/00331/PP: 'Endmoor', Lochlibo Road, Burnhouse KA15 1LF**

A Section 42 application has been sought by Mrs Patricia Wilson for permission to delete a condition that was imposed on a planning permission granted in 2002 for the erection of a dwellinghouse within the settlement of Burnhouse (ref. 02/00232/PP).

The Chief Planning Officer advised the Committee on the background to the request and on relevant Development Plan policies.

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



## **5. Urgent Items**

There were no urgent items.

The meeting ended at 2.20 p.m.



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**NORTH AYRSHIRE COUNCIL**

**Planning Committee**

Locality	Isle of Arran
Reference	24/00315/PP
Application Registered	19th April 2024
Decision Due	19th June 2024
Ward	Arran

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**Recommendation**      Approved with no conditions

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**Location**                      Tigh An Droma Caravan Kings Cross Brodick Isle Of  
Arran North Ayrshire  
KA27 8RG

**Applicant**                      Mrs Kirsty Lewis

**Proposal**                        Siting of static caravan

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**1. Description**

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

This application seeks retrospective planning permission for the siting of a residential static caravan on a field at Kings Cross.

The caravan is of a standard rectangular static caravan type measuring approximately 8.5m long by 3.7m wide by 3m high, is off-white in colour and has been sited c.19 metres southwest of a previous caravan in the same field. It has windows to three sides.

It is sited approximately 2.5 metres from the southeast boundary of the field and 30 metres from the field entrance at its northwest corner. The southeast boundary is a common boundary with a detached house, the Old Pottery, and is enclosed by a 1.8m high timber fence and planting. The other field boundaries are partially enclosed by shrub hedges and mature trees.

The field extends to some 1,120m<sup>2</sup> and is otherwise undeveloped grassland other than some paths and the areas around the current caravan and the previously sited caravan

being laid to gravel. On a site visit, a small boat was parked at the position of the former caravan.

The site is approximately 230m southwest of the main grouping of houses at Kings Cross. It is adjoined by two detached houses, The Old Pottery and Tigh An Droma to the southeast and the nearest other houses are c.75m away across intervening trees and hedgerows.

In terms of the adopted Local Development Plan ("the LDP"), the application site is within a countryside area. Strategic Policy 1: The Countryside Objective and Strategic Policy 2: Placemaking are relevant to the consideration of the application.

The background of the site is that a Certificate of Lawfulness for an Existing Use as a domestic static caravan (17/00041/LUE) was issued by North Ayrshire Council in January 2017. A Certificate of Lawful Use or Development (CLUD) can be issued under Sections 150 (existing) or 151 (proposed) of the Town and Country Planning (Scotland) Act, if requested, to ascertain whether any operations, use of land or building or breach of a planning condition is lawful. It is not equivalent in law to a grant of planning permission but the purpose of a CLUD for an existing use is usually to confirm lawfulness so as to secure immunity from enforcement action by the Planning Authority. The legislation makes it clear that the onus of proof rests with an applicant and the relevant test of such applications is based on 'the balance of probability' rather than 'beyond reasonable doubt.'

In the case of 17/00041/LUE, sufficient evidence was provided that the caravan had been in use as a domestic caravan for more than ten years prior to the application date and the use was therefore exempt from planning enforcement action and so was effectively lawful. A Certificate was thereafter issued to that effect.

At some point thereafter the land was marketed for sale. Preapplication planning advice was given to several enquirers that a CLUD, as with most planning permissions, 'runs with the land' and is not personal to a particular applicant or landowner. Advice was therefore given that the CLUD would continue to establish the lawfulness of the occupation of the caravan at the site but that it would not establish the caravan as a dwellinghouse in terms of Local Development Plan policies which might refer to replacement of a dwellinghouse. Advice was also given that it would continue to apply to a replacement caravan but would not justify siting of further caravans. Any future planning proposals would require to be assessed against the Development Plan at the time, as required by the Town and Country Planning (Scotland) Act.

A complaint was received in October 2023 that a new caravan had been sited outwith the site identified in 17/00041/LUE and that the new caravan was therefore unauthorised. The complaint was investigated and the site visited. It was found that the approved plans in 17/00041/LUE were inconsistent in that they identified two red line site boundaries and whilst the original caravan had been removed, the new caravan was still within the red line boundary of one of the plans. The complainant was advised that, as there was still only one static caravan at the site and no other development or apparent change of use requiring planning permission, that there was no obvious breach of planning control and it was not expedient in the public interest to pursue planning enforcement action in terms of the 'new' caravan.

The complainant thereafter escalated the complaint to Stage 2 of the Council's complaints procedure, the conclusion of which procedure agreed that a planning application would be

sought from the owners of the caravan and that, whilst relating to a type and scale of development normally falling within the powers delegated to the Planning Manager, the planning application would be put forward to be determined by the planning committee.

### **Relevant Planning History**

17/00041/LUE for Certificate of Lawfulness for existing use as a domestic static caravan Certificate Issued on 30.01.2017.

### **Relevant Development Plan Policies**

SP1C - The Countryside Objective

SP2 - Strategic Policy 2

The LDP can be viewed at the link below.

[LDP November 2019](#)

NPF4 can be viewed at the link below

[National Planning Framework 4](#)

## **2. Consultations and Representations**

The statutory neighbour notification was carried out and the application was also advertised in the local press (Arran Banner). One objection was received, the points of which are summarised as follows:

**OBJECTION: LACK OF DETAIL.** The application lacks the detail to permit effective comment on the appropriateness of the proposal. The plans do not identify the whole site or provide a scale, show hard surfaces, proposed parking or private drainage.

**RESPONSE:** The proposal relates to an existing site and a caravan which has already been sited and can be viewed in-situ. It is considered that the form and content of the application contains sufficient information to allow its determination as required by Regulation 9 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

**OBJECTION 2: PROPOSAL DETAILS.** It is apparent that this is a retrospective application for a new caravan on a new pitch, contrary to the application form which states that it is a replacement caravan. Therefore this application would potentially allow a new caravan in addition to the already lawful one in 17/00041/LUE.

**RESPONSE:** The application description was amended to reflect the nature of the proposal. This point is considered further in the following Analysis.

OBJECTION 3: LDP and precedent. The proposal does not comply with the Countryside Objective of the LDP and its proposal would therefore create an undesirable precedent, making it difficult to reject similar proposals in future.

RESPONSE: The application s considered against the Development Plan and any other material considerations as required by the Town and Country Planning (Scotland) Act in the following Analysis. No precedent would be set by this determination as the Planning Act requires all proposals to be determined on their merits on the same terms.

OBJECTION 4: The proposal does not comply with the Placemaking Policy of the LDP in that it is in an elevated position on the site close to boundaries with other properties, and trees on the site have been cleared increasing its visibility from Kings Cross and Knockenkelly. It does not respect the amenity of existing dwellings as the windows are above fence level, leading to overlooking.

RESPONSE: The application is considered against the Development Plan and any other material considerations as required by the Town and Country Planning (Scotland) Act in the following Analysis.

OBJECTION 5: The proposal does not comply with Policy 18: Forestry, Woodland and Hedgerows. A number of trees and hedgerows have been felled and there is no proposal to replace these with compensatory planting.

RESPONSE: The application is considered against the Development Plan and any other material considerations as required by the Town and Country Planning (Scotland) Act in the following Analysis. It is noted that there are no tree protection designations within the site and no planning permission would therefore have been required for any treeworks within the site.

No consultations were required or undertaken.

**Publicity:-** Arran Banner

**Reason for advertisement:-** Regulation 20 (1) Advert

**Published on:-** 03.05.2024

**Site Notices:-** No Site Notice

### **3. Analysis**

The Town and Country Planning (Scotland) Act requires that planning applications be determined with regard to the development plan and any other material considerations. The development plan comprises the North Ayrshire Local Development Plan, adopted in November 2019, and National Planning Framework 4.

The determining issue in this application is therefore whether the proposal accords with Strategic Policy 1: the Countryside Objective and Strategic Policy 2: Placemaking in the LDP and whether there are any other material considerations. An assessment against the relevant policies follows:

The Countryside Objective recognises that countryside areas play an important role in providing homes for rural communities. Whilst Strategic Policy 1 supports new housing where it is a replacement or converted building, it is noted that the proposal here is specifically not to provide new housing but to continue the occupation of one caravan at the site.

In this regard, it is considered to be a material planning consideration that the site now being considered and as outlined in red in the Location Plan is not divided or bounded any differently, and continues to be accessed by the same single access track and is therefore effectively the same site as that considered in the previous Certificate of Lawfulness application 17/00041/LUE.

While the application may not propose any new forms of development specifically addressed in the Countryside Objective, in Planning terms it is considered to be effectively a continuation of the existing use of the same site, although it is recognised that the site boundary may have been poorly represented in the previously issued Certificate 17/00041/LUE. However, that technicality should not obscure the material planning consideration that this proposal would result in one caravan on the same site which has not changed significantly since the status was regularized in 2017 and for at least years previous to that.

The proposal therefore accords with the overall aim of the Countryside Objective to protect the countryside environment which would not be altered by this proposal. It is noted that a caravan is not a dwellinghouse and that it would not benefit from the Permitted Development Rights available to houses to develop their curtilage. The site would therefore remain within planning control.

All development proposals also require to accord with the principles of Placemaking outlined in Strategic Policy 2 of which the most relevant to the particular nature of this application is "Safe and Pleasant" which requires proposals to respect the amenity of other users and properties in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation and parking and to sufficiently investigate issues of ground stability.

In this regard, it is noted that the caravan is screened from the nearest residential properties by an intervening timber fence, is now sited at a similar distance from the previously lawful caravan and that there are no windows facing the neighbouring properties. It is also at least 18 metres distant from the windows of any other property which is considered a reasonable separation distance to avoid significant adverse effects on residential amenity.

The quality 'distinctive' listed in the policy requires developments to draw on positive characteristics of the surrounding area but in this case, the proposal is to replace a large static caravan with a similar type of caravan at a similar distance from neighbouring properties. Whilst these types of caravans are not generally considered appropriate in Planning terms outwith commercial caravan sites, it must be noted that a previous caravan here had been confirmed to be lawful and is not considered that the proposed siting here would significantly worsen the spatial relationship to neighbouring properties. The caravan

itself is a newer, more modern example than the previous and the revised siting further towards the neighbouring houses has resulted in a more appropriate, cohesive grouping within the landscape, thereby reducing the visual prominence of the previous caravan.

On balance, the proposal is therefore considered to accord with SP2.

The application has also been assessed against the approved National Planning Framework 4 and it has been determined that the proposals do not raise any significant strategic planning issues which conflict with the foregoing assessment

Given the above, the proposals therefore accord with the Development Plan. The previous Certificate of Lawfulness issued for the longstanding siting of a similar caravan within c.20 metres of the new siting is also considered to be a material consideration in favour of the proposal given the similar effects on the wider landscape. Any legal or matters relating to provision of services are private matters and not within the control of the planning system and there are no other material considerations not considered above.

It is therefore recommended that planning permission be granted.

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

Approved with no conditions

Allan Finlayson  
Chief Planning Officer

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



## Appendix 1 – Location Plan

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