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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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<b>Recommendation</b>	Approved with no conditions
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<b>Location</b>	Tigh An Droma Caravan Kings Cross Brodick Isle Of Arran North Ayrshire KA27 8RG
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<b>Applicant</b>	Mrs Kirsty Lewis
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<b>Proposal</b>	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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