



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, 20 September 2023 at 14:15** 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 Minute**

The accuracy of the Minutes of the Meeting of the Local Review Body held on 23 August 2023 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: 2300309PPP: Mid Lambroughton Farm**

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

#### **4 Notice of Review: 2300254P: 6 Alton Way, West Kilbride KA23**

Submit report by the Head of Democratic Services on a Notice of Review submitted 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.

### **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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## Local Review Body 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 Local Review Body of North Ayrshire Council at 3.15 p.m. involving participation by remote electronic means.

**Present**

Timothy Billings, Scott Davidson, Cameron Inglis, Jim Montgomerie and Chloé Robertson.

**In Attendance**

A. Finlayson, Chief Planning Officer, I. Davies and A. Hume, Senior Development Management Officers (Planning) (Place); R. Lynch, Senior Manager, J. Niven, Solicitor (Legal Services) and C. Stewart, H. Clancy and S. Wilson, Committee Services Officers (Democratic Services) (Chief Executive's Service).

**Chair**

Councillor Billings in the Chair.

**Apologies**

Robert Foster, Stewart Ferguson, Amanda Kerr, Davina McTiernan and Ian Murdoch.

**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 14 June 2023 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. Notice of Review: 22/00987/PP – 51 Quarry Road, Irvine**

Submitted report by the Head of Democratic Services on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers. The Notice of Review documentation, Planning Officer's Report of Handling, Location Plan, Planning Decision Notice and applicant's response to the request for further information, were provided as appendices to the report.

The Planning Adviser to the Local Review Body summarised the Notice of Review submitted by the applicant, the Report of Handling submitted by the appointed officer and the background to the continuation of the Review from the June meeting for the submission of further information relating to neighbouring properties with similar extensions, which had now been provided by the applicant. Photographs and plans of the site were displayed. The Planning Adviser advised that no site visit or hearing had been requested by the applicant.

Members asked questions and were provided with further information in relation to neighbouring properties with different and alternative types of extensions, some of which could have been built under previous permitted development rights legislation.

The Local Review Body unanimously agreed that enough information had been provided to determine the review request.

Councillor Inglis, seconded by Councillor Robertson, moved that the Local Review Body uphold the officer's decision to refuse the application for the reasons outlined in the Decision Notice. There being no amendment the motion was declared carried.

Accordingly, the Local Review Body agreed to uphold the officer's decision and refuse planning permission.

#### **4. Notice of Review: 23/00126/PP: 14A Ferry Road, Fairlie**

Submitted report by the Head of Democratic Services on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers. The Notice of Review documentation, Planning Officer's Report of Handling, Location Plan and Planning Decision Notice, were provided as appendices to the report.

The Planning Adviser to the Local Review Body summarised the Notice of Review submitted by the applicant and the Report of Handling submitted by the appointed officer. Photographs and plans of the site were displayed. The Planning Adviser referred to the applicant's request for a site visit.

Members asked questions and were provided with further information in relation to the different changes that had taken place in the past to adjacent properties, with various extensions, which had demonstrated a lack of consistency in terms of the overall style of the streetscape.

The Local Review Body unanimously agreed that (a) a site visit was not required and (b) enough information had been provided to determine the review request.

Councillor Inglis, seconded by Councillor Montgomerie, moved that the Local Review Body uphold the appeal and grant planning permission. There being no amendment the motion was declared carried.

Accordingly, the Local Review Body agreed to grant the application, for the following reason:-

1. The proposal does not comply with the relevant provisions of the development plan, however other material considerations indicate otherwise and planning permission can be granted.

#### **5. Notice of Review: 23/00309/PPP: Mid Lambroughton Farm: by Cunninghamhead**

Submitted report by the Head of Democratic Services on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers. The Notice of Review documentation, Planning Officer's Report of

Handling, Location Plan and Planning Decision Notice, were provided as appendices to the report.

After hearing the Legal Adviser, it was agreed that information relating to the statement of case, as submitted by the agent for the applicant, had been inadvertently omitted from the report. Accordingly, the Local Review Body agreed to continue consideration of the Notice of Review to the next meeting of the LRB to enable this information to be included in the report.

## **6. Notice of Review: 23/00249/PP: 33 High Road, Saltcoats**

Submitted report by the Head of Democratic Services on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers. The Notice of Review documentation, Planning Officer's Report of Handling, Location Plan and Planning Decision Notice, were provided as appendices to the report.

The Planning Adviser to the Local Review Body summarised the Notice of Review submitted by the applicant and the Report of Handling submitted by the appointed officer. Photographs and plans of the site were displayed. The Planning Adviser advised that no site visit or hearing had been requested by the applicant.

Members asked questions and were provided with further information in relation to the nature and design of roof styles of similar properties in the surrounding area, in terms of visual impact and in terms of consistency of design.

The Local Review Body unanimously agreed that enough information had been provided to determine the review request.

Councillor Montgomerie, seconded by Councillor Inglis, moved that the Local Review Body uphold the appeal and grant planning permission, subject to appropriate conditions.

As an amendment, Councillor Billings, seconded by Councillor Davidson, moved that the Local Review Body uphold the officer's decision to refuse the application for the reasons outlined in the Decision Notice.

On a division and roll call vote, three voted for the amendment Councillors Billing, Davidson and Robertson (3) and for the motion, Councillors Inglis and Montgomerie (2). The amendment was declared carried.

Accordingly, the Local Review body agreed to uphold the officer's decision and refuse planning permission.

The meeting ended at 4.20 p.m.





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## NORTH AYRSHIRE COUNCIL

20 September 2023

### Local Review Body

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**Title:** Notice of Review: 23/00309/PPP: Mid Lambroughton Farm, by Cunninghamehead, by Kilmaurs, KA3 2PL

**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.

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### 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 23/00309/PPP for the dountaking of an agricultural building and development of a single dwellinghouse and associated works at Mid Lambroughton Farm, by Cunninghamehead, by Kilmaurs.

2.2 The application was refused by officers for the reasons detailed in the Decision Notice.

2.3 The following related documents are set out in the appendices to the report:

Appendix 1 - Notice of Review documentation;

Appendix 2 - Report of Handling;

Appendix 3 - Location Plan; and

Appendix 4 - Planning Decision Notice.

### 3. Proposals

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

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

##### **Financial**

4.1 None arising from the recommendation of this report.

##### **Human Resources**

4.2 None arising from the recommendation of this report.

##### **Legal**

4.3 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/Socio-economic**

4.4 None arising from the recommendation of this report.

##### **Environmental and Sustainability**

4.5 None arising from the recommendation of this report.

##### **Key Priorities**

4.6 None arising from the recommendation of this report.

##### **Community Benefits**

4.7 None arising from the recommendation of 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 no further representations were received.

Craig Hatton  
Chief Executive

For further information please contact **Craig Stewart, Committee Services Officer**, on **01294 324130**.

#### **Background Papers**

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Cunninghame House Friars Croft Irvine KA12 8EE 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 100632174-001

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.

## 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:	<input type="text" value="HLM Scotland Ltd"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Martin"/>	Building Name:	<input type="text" value=""/>
Last Name: *	<input type="text" value="Hannah"/>	Building Number:	<input type="text" value=""/>
Telephone Number: *	<input type="text" value=""/>	Address 1 (Street): *	<input type="text" value=""/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value=""/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value=""/>
Email Address: *	<input type="text" value=""/>		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value=""/>
First Name: *	<input type="text" value="Richard"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Whittaker"/>	Address 1 (Street): * <input type="text" value=""/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value=""/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="UK"/>
Mobile Number:	<input type="text" value=""/>	Postcode: * <input type="text" value=""/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value=""/>	

## Site Address Details

Planning Authority:	<input type="text" value="North Ayrshire Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="Mid Lambroughton Farm"/>
Address 2:	<input type="text" value="By Cunninghamehead,"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="By Kilmaurs"/>
Post Code:	<input type="text" value="KA3 2PL"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="643633"/>	Easting	<input type="text" value="239654"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Appeal against refusal of planning permission in principle.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See attached statement of case.

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

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. You can attach these documents electronically later in the process: \* (Max 500 characters)

Statement of case.

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

23/00309/PPP

What date was the application submitted to the planning authority? \*

03/05/2023

What date was the decision issued by the planning authority? \*

13/06/2023

## 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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

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

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

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 (if any) from the earlier consent.

## **Declare – Notice of Review**

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Martin Hannah

Declaration Date: 14/06/2023



Local Review Body  
North Ayrshire Council  
C/o Committee Services  
Cunningham House  
Irvine  
KA12 8EE

Date: 14 June 2023

Dear Sirs,

#### **S42A Appeal against refusal of planning permission in principle**

This notice of review and statement of case (Production 1) is lodged under Regulation 9 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 and 43a of the Principal Act.

Application for *planning permission in principle* was lodged under s32 of the Town and Country Planning (Scotland) Act 1997, as amended, and in accordance with Regulation 10 of the Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2013.

The planning application was lodged in April 2023, and this sought permission for the down taking of a redundant large steel (former agricultural) building and its replacement with a new dwelling. The Council has previously granted consent for refurbishment and conversion of this dilapidated Quonset style building. The full planning permission is still live and can be implemented. (Production 2).

For the reasons detailed in the appellant's supporting statement, (Production 3) the applicant would prefer to sell on the land with the benefit of planning permission in principle. This would allow a future developer or self-builder to pursue a different form of development. The appellant does not wish to limit the ambition of a future developer or impose a design solution at this stage but considers that a low-rise single house development of domestic scale and in the style of neighbouring steading development would be an improved outcome for this land.

The existing building and planning permission have their limitations. The Local Review Body is asked to inspect the appeal site and consider the extant planning permission prior to reaching a determination upon this appeal. Upon inspection of the land and building Members of the Review Body should better understand the motivation of the appellant and the reasoning for the application and this appeal.

Each planning application should be assessed and determined by the decision maker upon its merits, on the facts and circumstances of each case.

To the extent that adopted development plan policies and statutory guidance are material to an application for planning permission, the Town, and Country Planning (Scotland) Act 1997, as amended, requires that planning



decisions should be made in accordance with the provisions of the Development Plan unless there are material considerations that indicate otherwise.

The Development Plan for an area is to be taken as consisting of the provisions of the spatial plan and national planning policies under the National Planning Framework, any strategic plan for the area and any local development plan for the area.

National Planning Framework 4 was adopted in February 2023 and now represents an up-to-date statement of Government Policy and priorities.

Accordingly, this proposal should be determined against both the relevant policies of the adopted North Ayrshire Local Development Plan 2019 and National Planning Framework 4 2023 and any other material planning considerations.

As set out within Section 24(3) of the 1997 Act (as amended), **where there is incompatibility between provisions of NPF4 and the Local Development Plan, the later in date will prevail.** As the NALDP predates NPF4, it is NPF4 which will prevail, where there is incompatibility between these.

Assessment should consider the application against the relevant NPF4 policies before assessment against the LDP policies and consider whether there is any incompatibility between them. The appointed officer failed to do this correctly.

Production 3 sets out the appellant's case clearly in terms of national policy. The National Policy supports the reuse of brownfield land and rural housing development.

The appointed officer has declined to engage positively with a competent and properly supported application submitted under Regulation 10. Furthermore, the appointed officer has failed to attach sufficient weight to the existing grant of planning permission and the practical consequences of reform to the permitted development regime. The principle of residential development and conversion of the barn including substantial rebuilding is already established so the application to replace it with something better should not court controversy.

Although there is clear national planning policy support for the proposed development now under appeal the appointed officer suggests otherwise in the report on handling. The appointed officer offers reasoned justification for refusal of planning permission grounded in supplementary guidance that carries no statutory weight.

The appointed officer reasons that assessment of an application for planning permission in principle against Development Plan Policy is not possible. We disagree with his approach fundamentally. The appeal site is not located in a National Park, Conservation Area, Historic or Designed Landscape nor does it affect a Listed Building. There is no cogent planning justification or any basis in law or procedure for the demand that applications for new-build rural housing development must be made under regulation 9 or be refused.

Procedurally, only applications for change of use must be made in full. No other local Planning Authority in the West of Scotland adopts this idiosyncratic position towards planning permission in principle and far more complex development than single house development is approved routinely via this route.

The substantive reason for refusal of planning permission is the appellant's reticence to make another full planning application. This would risk repeating the previous mistake that would impose a building design, floorplan and aesthetic that may not resonate well with a prospective buyer or developer of the land.

Scottish Planning Legislation permits applications for planning permission to be lodged in principle. A Planning Authority can decide if redevelopment of a site is acceptable in principle, and most do so because the grant of permission is subject to a standard condition that requires approval of all requisite matters before commencement of development.

The reasoning for refusal of planning permission offered by the appointed officer subverts Primary Legislation and the Development Management Regulations that apply across the Country.

The appellant has planning permission that can be implemented but wishes to sell on the land with the principle established that the new owner may demolish the building and build something new. This is precisely why the planning permission in principle route exists.

The appellant's submission is entirely consistent with the National Planning Policy adopted just four months ago. The presumption under sections 25 and 37 of the Act is that planning permission should be granted.

The appointed officer has attached excessive gravitas to non-statutory guidance to justify a planning decision that flouts National Planning Policy and well-established and lawfully sound planning law and procedure.

Respectfully, we ask the Review Body to grant planning permission in principle.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Martin Hannah', with a stylized flourish at the end.

**Martin Hannah MRTPI**  
Director - HLM Scotland Ltd,

## REPORT OF HANDLING



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

<b>Reference No:</b>	23/00309/PPP
<b>Proposal:</b>	Planning permission in principle for the dountaking of an agricultural building and development of a single dwellinghouse and associated works
<b>Location:</b>	Mid Lambroughton Farm, Kilmarnock, Ayrshire, KA3 2PL
<b>LDP Allocation:</b>	Countryside/Rural Community
<b>LDP Policies:</b>	SP1 - The Countryside Objective / Strategic Policy 2 /
<b>Consultations:</b>	Yes
<b>Neighbour Notification:</b>	Neighbour Notification carried out on 03.05.2023 Neighbour Notification expired on 24.05.2023
<b>Advert:</b>	Regulation 20 (1) Advert Published on:- 17.05.2023 Expired on:- 07.06.2023
<b>Previous Applications:</b>	20/01064/PP for Erection of detached dwelling house with attached garage to include the provision of access driveway, waste water treatment system, landscaping works, solar PV array and boundary treatments Application Withdrawn on 15.01.2021 21/01151/PP for Change of use and alterations to redundant metal barn to form dwellinghouse including the provision of boundary treatment, siting of solar PV panels, provision of garden ground/wildflower meadow, provision of drainage and formation of parking Approved subject to Conditions on 11.01.2022

### Appeal History Of Site:

### Relevant Development Plan Policies

SP1 - The Countryside Objective  
The Countryside Objective

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes.

We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

We also recognise that, in general, countryside areas are less well suited to unplanned residential and other developments because of their lack of access to services, employment and established communities. We will seek to protect our prime and locally important agricultural land from development except where proposals align with this spatial strategy.

In principle, we will support proposals outwith our identified towns and villages for:

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.
- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms.
- d) tourism and leisure uses, where they would promote economic activity, diversification and sustainable development, particularly where they develop our coastal tourism offer/ infrastructure.
- e) developments which result in the reuse or rehabilitation of derelict land or buildings (as recognised by the Vacant and Derelict Land Survey) for uses which contribute to the Green and Blue Network such as habitat creation, new forestry, paths and cycle networks.
- f) sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.
- g) small-scale expansion of settlements on Arran and Cumbrae for community led proposals for housing for people employed on the island, where a delivery plan is included, and infrastructure capacity is sufficient or can be addressed by the development and where the proposal meets an identified deficiency in the housing stock and is required at that location. All proposals will be expected to demonstrate the identified housing need cannot be met from the existing housing land supply.
- h) new housing in the countryside where it is a replacement or converted building or it is a house of exceptional design quality.
- i) sympathetic additions to existing well-defined nucleated groups of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Additions will be limited to 50% of dwellings existing in that group as of January 2005 up to a maximum of four new housing units (rounded down where applicable).

## Strategic Policy 2

### Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places.

The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts.

23/00309/PPP

We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

#### Six qualities of a successful place

##### Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

##### Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

##### Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

##### Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

##### Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

##### Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

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## Description

The application site is located at Mid Lambroughton Farm in the countryside to the northeast of Irvine. The site is located to the west of the main farm steading and contains a barn of approximately 300 square metres in area. The walls and roof of the barn have a curved profile and dates from the mid-twentieth century. It is clad with red coloured metal sheeting. Mid Lambroughton farm is a traditional farm steading where three of the former byres/farm buildings have been converted into dwellinghouses.

This is an application for Planning permission in principle for the demolition of the barn and erection of a single dwellinghouse on the site.

The application site is located within the Countryside in terms of the adopted Local Development Plan and requires to be considered in terms of Strategic Policy 1 (Countryside Objective), Strategic Policy 2 (Placemaking) and the Housing in the Countryside Policy Guidance Note of June 2021. All development proposals also require to be assessed against the adopted National Planning Framework 4 (NPF4). In this instance, Policy 17: Rural Homes, of NPF4 is of particular relevance.

Mid Lambroughton is no longer a working farm. The original farmhouse is to the east of the application site, around which are three other converted barns of traditional design and character. To the southeast of the site is a barn conversion which was granted permission in 2019 (ref. 19/00665/PP) following the demolition of a series of metal sheds. To the northeast is a barn conversion granted in 2018 (ref. 18/00238/PP). Beyond, on the northeastern fringes of the steading, is an earlier barn conversion dating from 2006 (ref. 06/00090/PP). The houses are accessed from two separate driveways leading from the B769 Irvine to Stewarton Road.

Planning permission was initially applied for to demolish the barn to which this application relates and erect a new dwellinghouse in November 2020 (20/01064/PP). This application was proposed to be justified as a 'house of exceptional design quality' under The Countryside Objective of Strategic Policy 1. The Case Officer indicated that the setting was not likely appropriate for this part of the policy, and the application was subsequently withdrawn. Planning Permission was granted in January 2022 (21/01151/PP) for the conversion of the existing barn into a dwellinghouse under the 'replacement or conversion' section of The Countryside Objective.

The applicant's Design Statement for this application states that the owners of the site wish to sell the land and it is not considered that existing planning permission for conversion of the existing barn is likely to have market appeal. They therefore wish to apply for planning permission in principle to remove the barn and for the erection of a new dwellinghouse. The applicant has been advised that applications for planning permission in principle for new dwellinghouses in the countryside are not supported as there is insufficient information included in a planning permission in principle application to adequately assess a proposal against the Countryside Objective of Strategic Policy 1 and the Housing in the Countryside Advice Note.

## Consultations and Representations

The statutory neighbour notification process was undertaken and there was no requirement to advertise the application. No letters of representation were received.

Consultations:

North Ayrshire Council (NAC) Active Travel and Transportation: No objections subject to conditions relating to the access.

Response: Noted, such conditions could be added in the event of planning permission being granted.

NAC Environmental Health: No objections, subject to conditions relating to contamination and foul water drainage.

Response: Noted, such conditions could be added were planning permission forthcoming.

Scottish Water: There is no public Scottish Water infrastructure within the vicinity and therefore the applicant would need to provide private surface and foul water treatment arrangements.

Response: Noted, as this is an application for planning permission in principle, details of drainage would be assessed as part of any future 'matters specified in condition' application, should planning permission in principle be granted.

## **Analysis**

The key policy consideration in determining whether a new dwellinghouse can be supported in a countryside location is The Countryside Objective of Strategic Policy 1: Spatial Strategy of the LDP. This policy sets out the criteria in which a new dwellinghouse might be permitted in a Countryside land allocation. On the mainland, these instances are restricted to:

- i. Where the house would be for a rural worker, such as for people engaged in farming or forestry;
- ii. Sensitive infilling of gap sites;
- iii. Replacement or conversion of existing buildings or a house of exceptional design quality; or
- iv. Sympathetic additions to existing well-defined groups of four or more houses.

The Housing in the Countryside Guidance Note of June 2021 provides further explanation and detail on when proposals for new houses in the countryside will be supported. The Guidance Note states in section 2.2 that Planning Permission in Principle (PPP) applications (for new houses in the countryside) will not be supported. This is because PPP does not provide the level of detail or information required to assess the appropriateness of the proposal. Only the level of detail contained within a full Planning Application would be sufficient to adequately assess the proposal against The Countryside Objective. Insufficient information has been provided with the application in order to determine whether it accords with The Countryside Objective of Strategic Policy 1, and therefore the application cannot be supported.

Strategic Policy 2: Placemaking, states that all development proposals must meet the qualities of successful places as outlined in the policy. As above there are insufficient details to assess whether the proposal accords with this policy. In a town setting these details could be ensured via a 'Matters Specified in Condition' condition, however, as this is a countryside location, full details of the design are required in order to assess the principle of the development.

Turning to NPF4, Policy 17 relates to rural homes. This policy states that development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in-keeping with the character of the area and the development is:

- i. is on a site allocated for housing within the LDP;
- ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention;
- iii. reuses a redundant or unused building;
- iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
- v. is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work;
- vi. is for a single home for the retirement succession of a viable farm holding;
- vii. is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area; or
- viii. reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house.

As above, it is not considered that sufficient information has been provided to demonstrate that the proposed dwellinghouse would be suitably scaled, sited and designed or that it would be in-keeping with the character of the area. It has not been demonstrated that the proposal would accord with any of the eight instances outlined in the policy where proposals for new homes in the countryside would be supported. Given the above, it is not considered that sufficient information has been provided to demonstrate that the proposal would accord with Policy 17 of NPF4.

In the absence of a detailed design, it has not been demonstrated that the proposed development would accord with the relevant policies of the LDP or NPF4. The proposal has not been demonstrated to accord with The Housing in the Countryside Guidance Note and an outstanding quality of design has not been demonstrated. For these reasons, it is recommended that this application for planning permission in principle is refused.

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## **Decision**

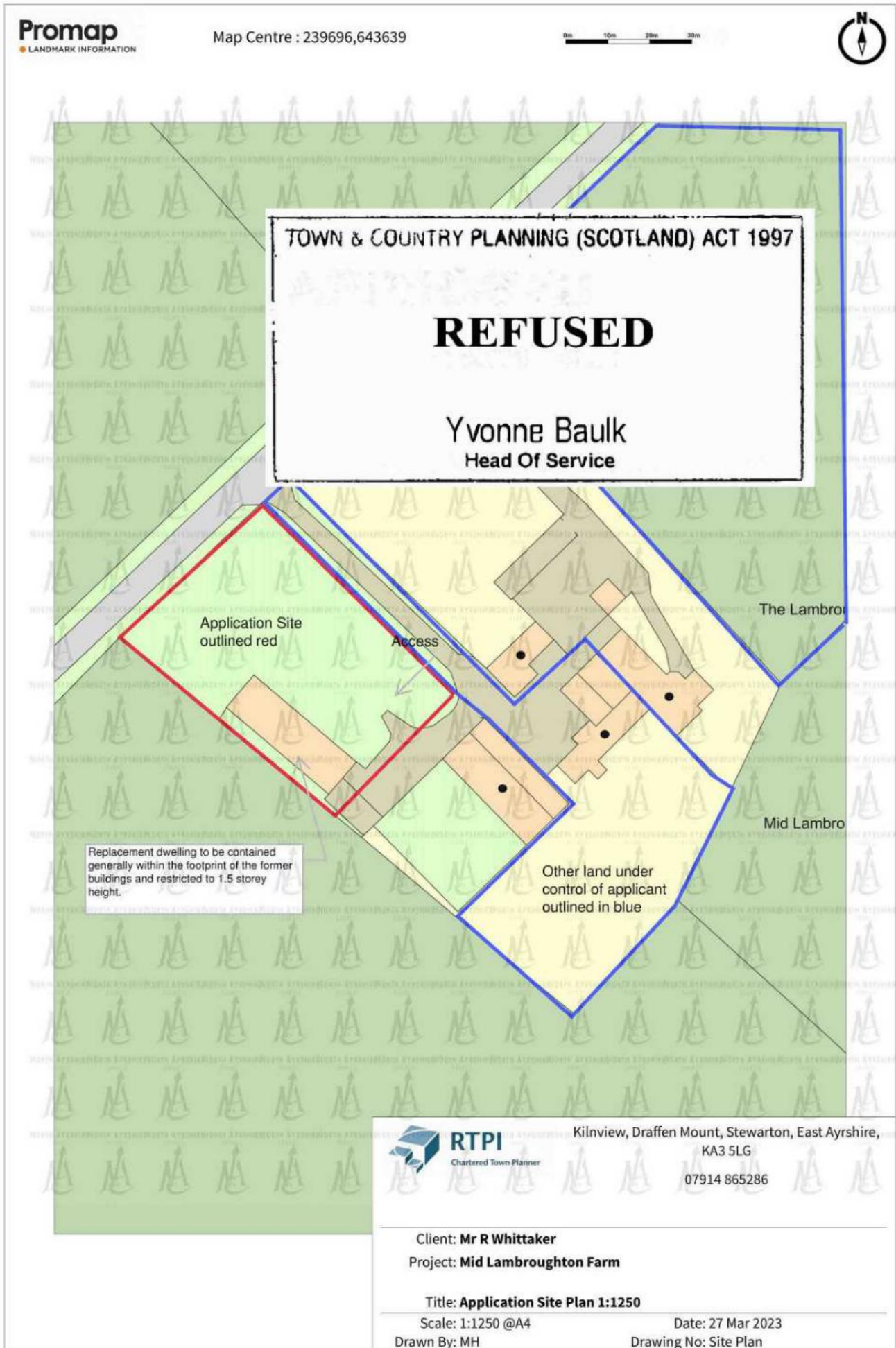
Refused

Case Officer - Mr John Mack



**Appendix 1 - Drawings relating to decision**

<b>Drawing Title</b>	<b>Drawing Reference (if applicable)</b>	<b>Drawing Version (if applicable)</b>
Location Plan		





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

Yvonne Bauk : Head Of Service (Housing & Public Protection)

No N/23/00309/PPP

(Original Application No. N/100622845-001)

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 : Mr Richard Whittaker  
c/o HLM Scotland Ltd Fao Martin Hannah  
Kilnview  
23 Draffen Mount  
Stewarton  
Ayrshire  
KA3 5LG

With reference to your application received on 3 May 2023 for planning permission in principle under the above mentioned Acts and Orders for :-

Planning permission in principle for the dountaking of an agricultural building and development of a single dwellinghouse and associated works

at Mid Lambroughton Farm  
Kilmarnock  
Ayrshire  
KA3 2PL

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 proposal has not been demonstrated to accord with the relevant policies of the adopted North Ayrshire Local Development Plan, namely, The Countryside Objective of Strategic Policy 1: Spatial Strategy, and Strategic Policy 2: Placemaking. In the absence of detailed design, no cognisance of the Council's The Housing in the Countryside Guidance Note nor outstanding quality of design has been demonstrated.
2. The proposal has not been demonstrated to accord with the relevant policies of National Planning Framework 4, namely, Policy 17: Rural Homes. Insufficient information has been provided to demonstrate that the proposed dwellinghouse would be suitably scaled, sited and designed or that it would be in-keeping with the character of the area.

Dated this : 14 June 2023



.....  
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

Yvonne Baulk : Head Of Service (Housing & Public Protection)

**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.

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## NORTH AYRSHIRE COUNCIL

23 August 2023

### Local Review Body

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**Title:** Notice of Review: 23/00254/PP: 6 Alton Way, West Kilbride  
KA23 9JJ

**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.

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### 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 23/00254/PP for the erection of a 1.5m (5ft) fence and gate onto walkway within front garden area (retrospective) at 6 Alton Way, West Kilbride KA23 9JJ.

2.2 The application was refused by officers for the reasons detailed in the Decision Notice.

2.3 The following related documents are set out in the appendices to the report:

Appendix 1 - Notice of Review documentation;

Appendix 2 - Report of Handling;

Appendix 3 - Location Plan; and

Appendix 4 - Planning Decision Notice.

### 3. Proposals

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

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

##### **Financial**

4.1 None arising from the recommendation of this report.

##### **Human Resources**

4.2 None arising from the recommendation of this report.

##### **Legal**

4.3 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/Socio-economic**

4.4 None arising from the recommendation of this report.

##### **Environmental and Sustainability**

4.5 None arising from the recommendation of this report.

##### **Key Priorities**

4.6 None arising from the recommendation of this report.

##### **Community Benefits**

4.7 None arising from the recommendation of 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 no further representations were received.

Craig Hatton  
Chief Executive

For further information please contact **Diane McCaw, Committee Services Officer**, on **01294 324133**.

#### **Background Papers**

0



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

Cunninghame House Friars Croft Irvine KA12 8EE Email: [eplanning@north-ayrshire.gov.uk](mailto: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 100639793-001

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.

## 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

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Ms"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Jenny"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Heywood"/>	Address 1 (Street): *	<input type="text"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:

North Ayrshire Council

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

Address 1:

6 ALTON WAY

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

WEST KILBRIDE

Post Code:

KA23 9JJ

Please identify/describe the location of the site or sites

Northing

647917

Easting

220501

## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

I was served a notice of a planning breach after having installed a fence in my front garden. I had contacted the planning department before purchasing the property to ask if we would be able to put up a 5ft fence in the front garden and was told that we could. After it was put up, we received the notice and retrospective planning permission has been declined. The fence is needed to keep my rescue dogs safe.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.



What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

I have enclosed a document laying out my case. In short, I was given inaccurate information prior to purchasing the property and installing the fence. The property was purchased largely because of the garden and the fence is needed to keep my dogs safe. I was told it is not in keeping with the character of the area, but other properties already have 5 or 6-foot fences around their properties. Dogs leaping up at fences and barking at passersby, however, is more of an issue.

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

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. You can attach these documents electronically later in the process: \* (Max 500 characters)

Attached are photos of the fence to demonstrate that it is not how it was represented (ie, not a 6ft closed board fence) and a letter laying out the reasons for needing the fence

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

N/100624029-001

What date was the application submitted to the planning authority? \*

18/04/2023

What date was the decision issued by the planning authority? \*

19/05/2023

## 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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

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

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

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 (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ms Jenny Heywood

Declaration Date: 18/08/2023

When we bought the house, we did so principally because of the garden. With two large rescue dogs, we had been looking for a house with a big garden near the sea. This house seemed perfect and in fact, we purchased it without ever having been able to view the inside. We did, however, do our due diligence first, calling the planning department to ascertain that we would be allowed to fence it. Having read the planning guidance and established that there was no adjacent road, and having spoken to a planning officer, we were confident that the fence was allowed within the guidance.

It was very surprising to subsequently receive a letter stating that we had breached the guidance. We opted to apply for retrospective planning consent and laid out our reasons for needing the fence.

I have two large rescue dogs. Both have been mistreated and whilst not aggressive, they are reactive and protective of their property. Most rescue centres specify that they will only rehome dogs to homes which have a minimum of 5ft fences. Additionally, it is my responsibility as a dog owner to ensure that my dogs are under control and not a threat to anyone visiting the property. According to the Blue Cross, "A dog doesn't have to bite or physically injure someone for an offence to take place. If a person feels your dog may hurt them, they may still be considered 'dangerously out of control'." I have taken steps to ensure that they are under control by making sure that they are securely fenced. With a 1 metre fence, I cannot ensure this.

If my dogs were to cause harm, I would be held accountable, but if I have been prevented from adequately protecting them, then who is accountable?

Two doors down from us there is a large poodle who frequently jumps up at his fence and barks when people walk past. I love dogs and I am confident around them but I have been frightened by his behaviour when I walk past on my own. It is a lot worse when I try and walk past with my dogs, all three dogs are extremely reactive to each other. This seems far more out of character with the area than a well-constructed but slightly higher fence. I have spoken with someone else who lives in a house which fronts this same footpath who told me she has also been frightened by this dog.

The breach letter we received stated that we had installed a 6-foot, closed board fence. It is, in fact, a 5-foot pailing-type fence. This implies that contrary to what was stated, no one from the planning department had come out to view the fence.

This situation has caused an immense amount of stress over the last few months. Installing the fence was expensive but necessary for the security of my dogs. Now being told that I have to pay for the fence to be taken down by a foot, leaves me with no solution to keep my dogs safe. Financially, I was made redundant in March and will have to borrow money to money to rectify the situation. This then leaves me with very few, very expensive options to keep my dogs safe and contained.

Either way, I am being prevented from using my own space in the way I want. I understand that when the houses were built, there was a particular vision for their use, but 60 or so years on, people's lifestyles have changed. The lifestyle of the people living here now should take precedence over the vision of architects and town planners from decades ago. Additionally, there are already precedents for local homes to be using their front gardens more like back gardens and having fenced them accordingly. I should not be penalised for doing likewise, especially having been advised that I was within my rights to do so.

With the exception of the postman, every delivery person, tradesperson and visitor to my home comes to my back door. If I am forced to use the (much smaller) back garden, I will need to take down the garage, which takes up roughly a third of the space and fence it. This will cost over £6000 (in addition to the cost of reducing the height of the front fence) and will then make it incredibly difficult for me to receive visitors and packages whilst still ensuring that my dogs are secure.

It is particularly upsetting that all this would have been avoided had we not been given the wrong information in the first place. Without having received the advice that we could fence the front garden, we would not have purchased the property in the first place. We had no intention of breaching the rules and had no idea that we were doing so when we installed the fence. And what is more, we have been further given poor advice from the planning department, such as being told that we could add a trellis to the fence. Further, when pointing out this discrepancy, I was told that it was my fault for not getting the advice in writing. With hindsight, I see this is the case, but I had no reason to suspect that I would need to do so having sought advice from the planning department; I had no reason to think I couldn't trust that advice.











## REPORT OF HANDLING



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

<b>Reference No:</b>	23/00254/PP
<b>Proposal:</b>	Erection of 1.5m (5ft) fence and gate onto walkway within front garden area (retrospective)
<b>Location:</b>	6 Alton Way, West Kilbride, Ayrshire, KA23 9JJ
<b>LDP Allocation:</b>	General Urban Area
<b>LDP Policies:</b>	SP1 - Towns and Villages Objective / Strategic Policy 2 /
<b>Consultations:</b>	None Undertaken
<b>Neighbour Notification:</b>	Neighbour Notification carried out on 19.04.2023 Neighbour Notification expired on 10.05.2023
<b>Advert:</b>	Not Advertised
<b>Previous Applications:</b>	None

### Appeal History Of Site:

### Relevant Development Plan Policies

SP1 - Towns and Villages Objective  
Towns and Villages Objective

Our towns and villages are where most of our homes, jobs, community facilities, shops and services are located. We want to continue to support our communities, businesses and protect our natural environment by directing new development to our towns and villages as shown in the Spatial Strategy. Within urban areas (within the settlement boundary), the LDP identifies town centre locations, employment locations and areas of open space. Most of the remaining area within settlements is shown as General Urban Area. Within the General Urban Area, proposals for residential development will accord with the development plan in principle, and applications will be assessed against the policies of the LDP. New non-residential proposals will be assessed against policies of this LDP that relate to the proposal.

In principle, we will support development proposals within our towns and villages that:

- a) Support the social and economic functions of our town centres by adopting a town centre first principle that directs major new development and investment to town centre locations as a priority including supporting town centre living.

- b) Provide the right new homes in the right places by working alongside the Local Housing Strategy to deliver choice and variety in the housing stock, protecting land for housing development to ensure we address housing need and demand within North Ayrshire and by supporting innovative approaches to improving the volume and speed of housing delivery.
- c) Generate new employment opportunities by identifying a flexible range of business, commercial and industrial areas to meet market demands including those that would support key sector development at Hunterston and i3, Irvine.
- d) Recognise the value of our built and natural environment by embedding placemaking into our decision-making.
- e) Prioritise the re-use of brownfield land over greenfield land by supporting a range of strategic developments that will deliver:
  - o regeneration of vacant and derelict land through its sustainable and productive re-use, particularly at Ardrossan North Shore, harbour and marina areas, Montgomerie Park (Irvine) and Lochshore (Kilbirnie).
  - o regeneration and conservation benefits, including securing the productive re-use of Stoneyholm Mill (Kilbirnie) and supporting the Millport Conservation Area Regeneration Scheme.
- f) Support the delivery of regional partnerships such as the Ayrshire Growth Deal in unlocking the economic potential of the Ayrshire region.

## Strategic Policy 2

### Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places.

The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

### Six qualities of a successful place

#### Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

#### Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

#### Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.



The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

#### Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

#### Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

#### Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

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## Description

6 Alton Way is a two-storey semi-detached dwellinghouse located in West Kilbride. The house features a gabled roof finished in concrete tiles and rendered walls. It was erected in the latter half of the twentieth century. The houses on Alton Way were constructed in the Radburn style street layout with front elevations facing onto a footpath and vehicular access being provided via lanes to the rear of the houses. The surrounding area is residential and comprises of houses of a similar age and style.

This is a retrospective application for the erection of a 1.5m high timber fence around the front garden of the application property. The fence was erected in late summer 2022 and was subsequently the subject of an enforcement investigation (22/00071/BREACH). The investigation found that planning permission was required for the fence.

The owner of the property was advised on the need for permission in order to retain the fence, although, without prejudice, it was considered unlikely that an application would receive officer support. The alternative would have been to reduce the height of the fence to 1m, and it would therefore benefit from permitted development rights under Class 3E of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. Notwithstanding this advice, the owner has decided to apply for planning permission in retrospect.

23/00254/PP

A supporting statement has been provided. In summary, this states that the applicant discussed their proposal for a fence with North Ayrshire Council (NAC) Planning prior to buying the property and was advised that no permission would be required. Had it been known that permission was required and would not be granted, the applicant would not have purchased the house, as a secure garden is necessary for pet dogs. It contends that what NAC Planning considered to be the front garden could be considered to be the back garden, and therefore planning permission would not be required for the fence. Finally, the statement notes that other houses nearby have fences over 1m in height in the front garden areas.

In the adopted North Ayrshire Local Development Plan (LDP) the site is located in a General Urban Area land allocation. The relevant policies of the LDP with relation to the proposed development are The Towns and Villages Objective of Strategic Policy 1: Spatial Strategy and Strategic Policy 2: Placemaking. All development proposals also require to be assessed against the adopted National Planning Framework 4 (NPF4).

### **Consultations and Representations**

The neighbour notification process was undertaken and there was no requirement to advertise the application. No letters of representation were received.

No consultations were undertaken as part of this planning application.

### **Analysis**

The erection of a fence within the curtilage of an existing dwellinghouse located in a General Urban Area allocation is acceptable in principle in terms of The Towns and Villages Objective of Strategic Policy 1: Spatial Strategy of the LDP. The application only therefore requires to be assessed in terms of Strategic Policy 2: Placemaking.

Strategic Policy 2: Placemaking, states that all development proposals must meet the qualities of successful places as outlined in the policy. Generally, fences and walls in excess of 1m in height are not supported in the front gardens of residential properties, as they are considered to be too high and detract from the character and appearance of the area. Higher fences and walls should typically be restricted to the rear gardens of dwellinghouses.

The Radburn style street layout of Alton Way means that the front gardens are the primary amenity space of the houses, and the rear gardens are smaller and often mostly occupied by garages and extensions. Notwithstanding, the front gardens of Alton Way have mostly retained their open character which creates a pleasant and attractive setting for the houses. The applicant's fence introduces an enclosure which detracts from the open character of the front gardens of Alton Way and therefore negatively impacts on the appearance of the area. While there is no 'precedent' in planning, and all applications are assessed on their own merits, if this application was approved, it would be difficult to refuse potential future applications for high fences and walls in the front gardens of Alton Way, and this could further erode the open character of the area.

In terms of amenity, while the fence does not negatively affect the amenity of the neighbouring properties by way of overlooking or overshadowing, the negative

impact that it has on the appearance of the area is considered to be detrimental to the amenity of the neighbouring properties. In their Supporting Statement the applicant states that the fence is required in order to contain her dogs, and that a 1m high fence would not be sufficient for this purpose. Whilst this is taken into account, it is not considered to outweigh the negative effect that the fence has on the appearance of the area, and it is considered that there are likely other solutions to contain the dogs that would not have such a detrimental impact on the appearance of the area.

In response to the applicant's supporting statement:

- The applicant did not seek written pre-application planning advice prior to erecting the fence
- Alton Way utilises the Radburn style layout where the elevations facing the footpath were intended to be the principle/front elevations of the houses. This is evidenced by the design of the houses and the design of the access lanes to the rear, which are clearly backland in their character.
- There is a history of planning permissions for neighbouring properties which considered that the elevations facing onto the footpath are the front, or principal, elevations (ref. 04/01163/PP, 09/00211/PP and 15/00037/PP).
- There are no instances of planning permission having been granted for other fences in excess of 1m in height on Alton Way: the case officer did not note any during their site visit.
- It is possible that fences that should have required planning permission have been erected in the past. If they were not reported to the Council for investigation within 4 years of being erected, they would become lawful and immune from planning enforcement action.

The fence is not considered to align with the qualities of successful places outlined in Strategic Policy 2: Placemaking, in particular it is not considered to be distinctive nor welcoming. The proposal is therefore contrary to Strategic Policy 2. The proposal also does not accord with Policy 14: Design, Quality and Place, of NPF4, which is similar in content to Strategic Policy 2 of the LDP.

There are no other material considerations. As such, it is recommended that the application be refused.

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## **Decision**

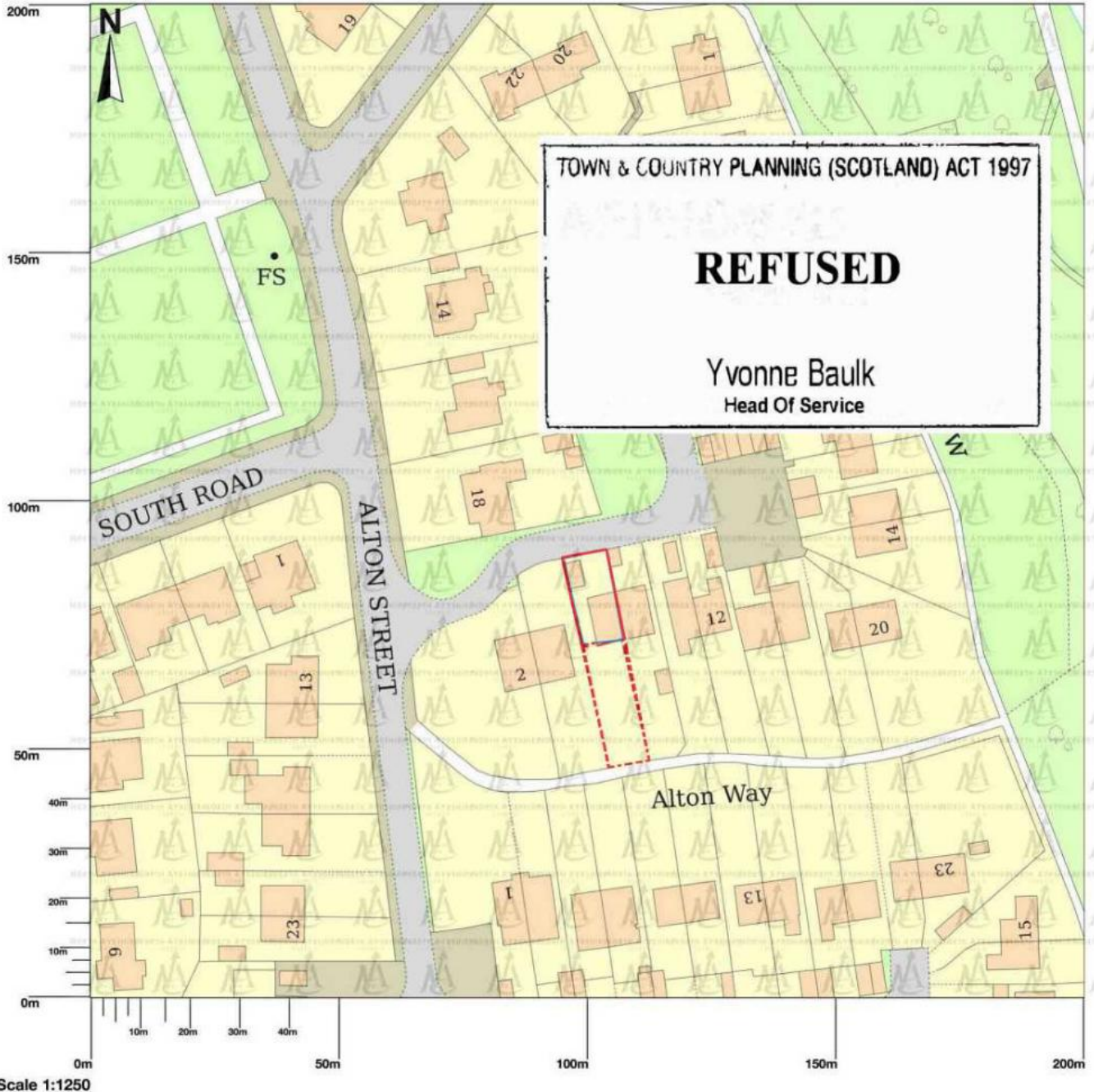
Refused

Case Officer - Mr John Mack

**Appendix 1 - Drawings relating to decision**

<b>Drawing Title</b>	<b>Drawing Reference (if applicable)</b>	<b>Drawing Version (if applicable)</b>
Annotated Photos		
Location Plan		

**6 Alton Way, West Kilbride, KA23 9JJ**



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

Yvonne Balk : Head Of Service (Housing & Public Protection)

No N/23/00254/PP

(Original Application No. N/100624029-001)

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 : Ms Jenny Heywood  
6 Alton Way  
West Kilbride  
Ayrshire  
KA23 9JJ

With reference to your application received on 18 April 2023 for planning permission under the above mentioned Acts and Orders for :-

Erection of 1.5m (5ft) fence and gate onto walkway within front garden area (retrospective)

at 6 Alton Way  
West Kilbride  
Ayrshire  
KA23 9JJ

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

1. The proposal is contrary to Strategic Policy 2: Placemaking, of the adopted North Ayrshire Local Development Plan and Policy 14: Design, Quality and Place, of the National Planning Framework 4. The fence does not accord with the qualities of successful places and detracts from the open character and appearance of the area. The fence is not considered to be distinctive in that it does not draw upon the positive characteristics of the surrounding area and is not in-keeping with the appearance of the area.

Dated this : 19 May 2023



.....  
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

Yvonne Baulk : Head Of Service (Housing & Public Protection)

## **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.

