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# NORTH AYRSHIRE COUNCIL

24 April 2024

## Local Review Body

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**Title:** Notice of Review: 22/00978/PP: Johnstons Marine Stores, The Old Pier, Lamlash, Brodick, Isle of Arran

**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 22/00978/PP for demolition of existing timber building and construction of new retail outlet, workshop and accommodation above at Johnstons Marine Stores, The Old Pier, Lamlash, Brodick, Isle of Arran.

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 - Representations received from interested parties;
- Appendix 3 - Comments from applicant on further representations received;
- Appendix 4 - Report of Handling;
- Appendix 5 - Location Plan; and
- Appendix 6 - 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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# NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

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

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr	Ref No.	
Forename	Adam	Forename	
Surname	Norman	Surname	
Company Name	Johnston's Marine Stores	Company Name	
Building No./Name		Building No./Name	
Address Line 1		Address Line 1	
Address Line 2		Address Line 2	
Town/City		Town/City	
Postcode		Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	North Ayrshire Council		
Planning authority's application reference number	No N/22/00978/PP and orig N/100611145-001		
Site address	Johnston's Marine Stores, Old Pier, Lamlash, Isle of Arran. KA27 8JN		
Description of proposed development	Demolition and rebuild of existing shop with small living accommodation above part of it.		

Date of application

20/12/2022

Date of decision (if any)

12 December 2023

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

#### 4. Nature of Application

Application for planning permission (including householder application)

Application for planning permission in principle

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

Application for approval of matters specified in conditions

#### 5. Reasons for seeking review

Refusal of application by appointed officer

Failure by appointed officer to determine the application within the period allowed for determination of the application

Conditions imposed on consent by appointed officer

#### 6. Review procedure

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

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

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

As your members may not be familiar with Lamlash on Arran I believe a visit would be the most useful method of review and to be able to understand the details in question.

#### 7. Site inspection

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

Can the site be viewed entirely from public land?

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

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

## 8. Statement

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

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

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

Refusal point 1 "outlook from and residential amenity of neighboring properties."

The original plan was revised with my planning officer, pulling the upper floor back to allow a compromise with the neighbor who was the only complainant an acceptable outlook. The roof line is in keeping with his building and allowed him full light and sun. Please note that my building is within the roof silhouette of the lifeboat building and so does not affect the permeability of view of many other residents here.

Refusal point 2 "Conservation Area"

This area by the pier is commercial and has a variety of buildings built in recent times with no particular theme or construction. My planning officer agreed, I thought, that this particular area has not been treated in any special way and is different to the rather more historic buildings down the sea front. See pics Lamlash slipway.

Refusal Point 3 "Policy 23: Flood Risk"

I believe the detailed flood risk assessment shows that the new building is in no danger immediately in a 1 in 200 year event if its guidelines are followed as planned and the flat above is safe with sea level rise in 80 years time if such an event happens. The tide will go down after an hour and it would anyway be possible to escape to the road quite easily as shown if required. Please note that the land of Arran is rising due to isostatic rebound and will limit the sea level rise to some extent.

For the above reasons I believe the refusal is unfair and enclose helpful items to back this up. I do not understand why there are such differences of opinion in the planning department and it may be that they are not familiar with the area. I am also a Launch authority for the lifeboat and an officer in charge in our local coastguard and it would be beneficial to live close to the lifeboat station.

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes  No

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

NB. A fully detailed and very expensive flood risk assessment was provided to the planning office as requested after the initial application but before the application was determined I believe. Hence the delay as this took quite some time. We had already suitably planned the ground floor to deal with flooding in the original plans. These plans are still in line with those suggested in the flood risk assessment. In the future toward the probably end life of the building the lower shop may become flooded due to sea level rise. This would be in an unusual 1 in 200 year event and it would not affect the structural stability of the building or electricity points and would be relatively easily cleaned up. The living accommodation above would not be affected.

The pictures I am submitting now were not part of the original application but I feel may help if you have not visited Arran or are not familiar with this local area. The appointed officer who did visit the site could see this information with his own eyes and I believed was happy with the amended plans which we had gone through.

## 9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

Pictures of Lamlash slipway 1964 and present day to me clearly show that the argument about my proposed building not complying with the conservation area is not true as it would seem there have been no attempts to preserve this commercial area in recent years.

The pictures 3 concept to 16 show the impression of the building within the current buildings and placement. I believe it does fit in with the skylines and building forms of adjacent buildings and combines the roof of the wheelhouse flat with that of the lifeboat station apex roof. My architect spent a lot of time trying to achieve this. My plan was to fit solar panels on the smaller south facing roof elevation for a greener future. If you have any better ideas I would be open to them.

The flood risk assessment should be available to you already on file.  
I assume you can see the original application documents.

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

## 10. Checklist

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

Full completion of all parts of this form


Statement of your reasons for requesting a review

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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

## DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

  Name:  Date:

**Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.**

**From:** [scott ewart](#)  
**To:** [Diane Mccaw \( Committee Services Officer / Committee & Member Serv \)](#)  
**Subject:** Re: Planning Application 22/00978/PP: Johnstons Marine Stores, The Old Pier, Lamlash, Brodick KA27 8JN  
**Date:** 08 March 2024 10:31:54

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You don't often get email from [scotthewart@outlook.com](mailto:scotthewart@outlook.com). [Learn why this is important](#)

**Caution:** This is an external email and could be malicious. Do not click on links or open attachments unless you recognise the sender and know the content is safe.

Hi Diane,

Thank you for informing me about Mr Normans Notice of Review.

You've have asked me if I would like to make any further representations about this application and that the Review Body will also be made aware of my original representations.

I still object to Mr Normans application and wish to add a further reason as to why.

Impact on Residential and Enviromental Amenity:

The proposed demolition and construction may have adverse effects on the residential amenity of neighbouring properties, including increased noise, disruption, dust and changes in the local environment.

Thank you for reaching out to me.

Kind regards

Mr Scott Ewart

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**From:** Diane Mccaw ( Committee Services Officer / Committee & Member Serv )  
<dianemccaw@north-ayrshire.gov.uk>

**Sent:** 05 March 2024 14:29

**Cc:** Shannon Wilson ( Committee Services Officer / Committee & Member Serv )  
<ShannonWilson@north-ayrshire.gov.uk>

**Subject:** Planning Application 22/00978/PP: Johnstons Marine Stores, The Old Pier, Lamlash, Brodick KA27 8JN

**To Interested Parties:**

I refer to the above planning application, which was determined by officers of the Council under delegated powers and refused in December 2023. A copy of the Council's Decision Notice in relation to this application is enclosed for your information.

In terms of Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013, the applicant has submitted a Notice of Review, making application for the decision to refuse the application to be reviewed by the Council's Local Review Body.

In accordance with the Regulations, I am writing to you as an interested party (i.e. a supporter, objector or statutory consultee) to the application to ask if you wish to make any further representations in relation to the review. The Review Body will also be made aware of your original representations.

Please note that, if you do wish to make further representations, you have 14 days from the date of receipt of this notice to make such written representations. Your further representations should, therefore, reach me no later than **19 March 2024**.

The applicant will then be sent a copy of your further representations and will be entitled to make comment on them. The Local Review Body will be advised both of your further representations and the applicant's comments on them.

Please note that all documentation in relation to this review, including the applicant's Notice of Review and any representations you make, will be placed online at [www.eplanning.north-ayrshire.gov.uk](http://www.eplanning.north-ayrshire.gov.uk). Alternatively, please telephone 01294 324133 for an appointment to view the documentation in relation to this review at Cunninghame House, Irvine.

Finally, please note that the information included in your correspondence as an interested party will form part of the LRB agenda, which is required by law to be published online. Personal data (information relating to you) will be redacted prior to publishing and all data will be processed in line the Council's Privacy Policy and all relevant information legislation.

Should you have any queries in relation to the procedure, please do not hesitate to contact me.

Kind regards,

Diane

Diane McCaw  
Committee Services Officer  
Democratic Services  
North Ayrshire Council, Cunninghame House, Irvine KA12 8EE  
Tel: 01294 324133  
Email: [dianemccaw@north-ayrshire.gov.uk](mailto:dianemccaw@north-ayrshire.gov.uk)

**I'm working in an agile way therefore the best way to contact me is by email.**

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Response to Mr Scott Ewart's Comments:

Dear Diane,

Mr Ewart had previously stated that his view and outlook would be spoiled from his flat above the coffee shop by my proposed building. A lot of time was spent with my planning officer, myself and my architect and the upstairs front of my building was redesigned allowing him an outlook of Holy Isle and the bay which we thought was a good compromise between us. The roof line which matches his also allows him unlimited light and sun to his terrace. To the right he currently sees only the roof of the lifeboat station so his view is unaltered at this angle.

I believe and so do many of the locals and boat owners that the shop provides a great amenity for this part of the village and also somewhere for tourists to buy goods and enjoy the local pier and I cannot see why it would make any detrimental change for the worse and indeed believe the new building would be a great enhancement to the area around the pier.

With regard to disruption, noise and dust while building. This has to be kept to a minimum and I would of course wish to do this but eventually all buildings have to be replaced and new ones rebuilt. I am hoping to be able to complete and have the shop running for the summer months as that is very important for trade and is a time when the pier and area is at its best.

Best Regards,

Adam Norman.

## REPORT OF HANDLING



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

<b>Reference No:</b>	22/00978/PP
<b>Proposal:</b>	Demolition of existing timber building and construction of new retail outlet; workshop and accommodation above
<b>Location:</b>	Johnstons Marine Stores, The Old Pier, Lamlash, Brodick Ayrshire
<b>LDP Allocation:</b>	General Urban Area
<b>LDP Policies:</b>	SP1 - Towns and Villages Objective / Strategic Policy 2 / Detailed Policy 9 - Conservation Areas / Detailed Policy 23-Flood Risk Management / Detailed Policy 29 - Energy Infrastructu /
<b>Consultations:</b>	Yes
<b>Neighbour Notification:</b>	Neighbour Notification carried out on 06.01.2023 Neighbour Notification expired on 27.01.2023
<b>Advert:</b>	Development in Conservation Area Published on:- 20.01.2023 Expired on:- 10.02.2023
<b>Previous Applications:</b>	21/00997/CAC for Demolition of single storey shop and workshop buildings to facilitate the redevelopment of the land Application Refused on 17.12.2021 21/00998/PP for Erection of building comprising of shop, workshop and residential use on upper level including demolition of existing structure Application Refused on 17.12.2021 22/00977/CAC for Demolition of single storey shop and workshop buildings to facilitate the redevelopment of the land Application Refused on 12.12.2023
<b>Appeal History Of Site:</b>	None

### 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.

## Detailed Policy 9 - Conservation Areas

### Policy 9:

#### Preserving and Enhancing our Conservation Areas

Development within or adjacent to a Conservation Area, that preserves or enhances its character and appearance, and is consistent with any relevant Conservation Area Appraisal or Management Plan, will be supported providing it can be demonstrated

that it retains appropriate scale, proportion, siting, massing, design, and use of materials whilst not inhibiting high quality innovative design.

There is a presumption against the demolition of unlisted buildings that contribute positively towards the character and appearance of a Conservation Area. Proposals will only be supported in the following exceptional circumstances:

i) The proposal is accompanied by a suitable redevelopment of the site which contributes positively toward the character and appearance of the Conservation Area. Such proposals should also include interim landscaping or sensitive screening of the site. We will also expect proposals to be accompanied by an implementation timetable and where the redevelopment period is considered to be excessive the demolition will generally be resisted.

AND

ii) A competent assessment of the building's contribution to the Conservation Area has concluded that there is little or no value in the building's retention; and

o The repair or reuse of the building is not economically viable; or

o The demolition of the building is essential to delivering significant benefits to the wider community economically, socially or environmentally.

Works to trees within Conservation Areas will be supported where they are:

o Part of an agreed scheme of tree management; or

o Required on the grounds of safety or nuisance; or

o Directed towards trees which are not of a material value to the conservation area (i.e. the trees are small, self-seeded saplings; or not otherwise visible to the public/neighbours - they are remotely located; or fast growing tree species such as conifers, leylandii etc.); or

o In association with a wider development proposal which would enhance the amenity of the conservation area overall - including one where suitable replacement trees can be accommodated.

Further information on our Built Heritage Designations can be found in schedule 9.

## Detailed Policy 23-Flood Risk Management

### Policy 23:

#### Flood Risk Management

We will support development that demonstrates accordance with the Flood Risk Framework as defined in Scottish Planning Policy and shown in schedule 7, relevant flood risk management strategies and local flood risk management plans. We will also support schemes to manage flood risk, for instance through natural flood management, managed coastal realignment, wetland or green infrastructure creation.

Generally, development should avoid locations of flood risk and should not lead to a significant increase in the flood risk elsewhere. Land raising and elevated buildings will only be supported in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area.

Development proposals should:

o Clearly set out measures to protect against, and manage, flood risk.

o Include sustainable urban drainage systems (SuDS) where surface water is proposed to be discharged to the water environment, in accordance with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 as amended.

o Include provision of temporary/construction phase SuDS.

o include appropriate long-term maintenance arrangements.

- o Be supported by an appropriate flood risk assessment where at risk of flooding from any source in medium to high risk areas and for developments in low to medium risk areas identified in the risk framework (schedule 7).
- o Take account of SEPA's flood risk and land use vulnerability guidance (2018) and any relevant updates to, or replacements of this guidance.

Detailed Policy 29 - Energy Infrastructure  
Policy 29:

Energy Infrastructure Development

We will support development proposals for energy infrastructure development, including wind, solar, tidal, cropping and other renewable sources, where they will contribute positively to our transition to a low carbon economy and have no unacceptable adverse environmental impacts, taking into consideration (including cumulatively) the following:

Environmental

- o Communities and individual dwellings - including visual impact, residential amenity, noise and shadow flicker;
- o Water quality;
- o Landscape - including avoiding unacceptable adverse impacts on our landscape designations;
- o Effects on the natural heritage - including birds;
- o Carbon rich soils including peat;
- o Impacts on the historic environment - including scheduled monuments, listed buildings and their settings.

Community

- o Establishing the use of the site for energy infrastructure development;
- o providing a net economic impact - including socio-economic benefits such as employment, associated business and supply chain opportunities;
- o Scale of contribution to renewable energy generation targets;
- o Public access - including impact on long distance walking and cycling routes and scenic routes identified in the National Planning Framework;
- o Impacts on tourism and recreation;
- o Specific locational opportunities for energy storage/generation.

Public Safety

- o Greenhouse gas emissions;
- o Aviation and defence interests and seismological recording;
- o Telecommunications and broadcasting installations - particularly ensuring that transmission links are not compromised; radio telemetry interference and below ground assets;
- o Road traffic and adjacent trunk roads;
- o Effects on hydrology, the water environment and flood risk including drinking water quality and quantity (to both the public and private water supplies);
- o Decommissioning of developments - including ancillary infrastructure, and site restoration and aftercare.

Proposals should include redundancy plans which will demonstrate how apparatus will be timeously removed as reasonably soon as the approved scheme ceases

operation. There may be a requirement for financial bonds to ensure that decommissioning can be achieved. Taking into consideration the above, proposals for wind turbine developments should accord with the Spatial Framework (as mapped) and consider the current Landscape Capacity Study for Wind Farm Development in North Ayrshire. This study will be used as a point of reference for assessing all wind energy proposals including definitions of what small to large scale entails.

#### Buildings: Low and Zero Carbon Generating Technology

Proposals for all new buildings will be required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies. A statement will be required to be submitted demonstrating compliance with this requirement. The percentage will increase at the next review of the local development plan.

This requirement will not apply to:

1. Alterations and extensions to buildings
2. Change of use or conversion of buildings
3. Ancillary buildings that stand alone and cover an area less than 50 square metres
4. Buildings which will not be heated or cooled, other than by heating provided solely for frost protection.
5. Buildings which have an intended life of less than two years.

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## Description

Planning permission is sought for the erection of a replacement two-storey building on the site currently occupied by Johnston's Marine Stores, a single storey building within Lamlash conservation area.

A separate application for Conservation Area Consent (22/00977/CAC) was submitted seeking authorisation for the complete demolition of the existing building on the site and this Report on Handling refers to both applications.

The proposed building would comprise a ground floor workshop and shop having a flat roof some 3.3m high with a residential flat and roof terrace above. The off-set pitched roof over the flat would then be 6.9m high at the ridge.

The ground floor of the 143m<sup>2</sup> two-storey building would have a 14m long frontage onto The Old Pier and an 11.4m southeast side elevation onto a lane between the site and the RNLI building to the south.

The ground floor of the proposed building would contain a 45m<sup>2</sup> chandlery shop and a c.98m<sup>2</sup> boat repair workshop with an internal car parking space. The upper flat would have a floor plan of 80m<sup>2</sup> and would be at the southwest corner of the building over the workshop below, with the remaining flat roof over the lower shop forming a small roof terrace to the west side delineated by a fence and associated



with the flat. The remaining flat roof to the north side would abut the balcony of a neighbouring upper flat over the Wheelhouse café but would be unused in this proposal.

The front (northeast) elevation would feature the entrance door to the proposed upper flat, five large shopfront windows and a roller shutter door to the workshop/parking space. There would be windows to the southeast and southwest side elevations of the lower workshop.

There would be windows to three sides of the upper flat with no windows on the northwest elevation facing the neighbouring flat. The off-set pitched roof over the flat would feature solar photovoltaic panels on its southeast slope. A 14.5m<sup>2</sup> area to the northwest front of the flat would be fenced off to provide a small 'garden' roof terrace to the flat and differentiate it from the remaining flat roof area. There would be no access over the remaining flat roof to prevent privacy or residential amenity issues for the neighbouring flat.

The proposed external finishes of the building would be proprietary steel wall cladding and roof panels.

The application was initially supported by a Design, Access and Heritage Statement and, later by a Flood Risk Assessment.

The existing 92m<sup>2</sup> building is L shaped in plan form and comprises a shop in a single storey block with a dual pitched and hipped roof and an attached single storey workshop with front and rear facing gables. The front elevations of both face The Old Pier, which takes access from the A841.

The site is bounded by an RNLI Station and Lamlash Pier, which is a Category B listed building, to the southeast and by a boatyard to the southwest. To the northwest is an adjoining two-storey building which houses a cafe with a residential flat above. There is a house to the northeast on the opposite side of the pier access road.

In the adopted Local Development Plan ('the LDP'), the site is located within the village of Lamlash and within the Lamlash conservation area.

Relevant LDP policies include:

Strategic Policy 1 (the Towns and Villages Objective);  
Strategic Policy 2: Placemaking;  
Policy 9: Preserving and Enhancing our Conservation Areas;  
Policy 23: Flood Risk Management; and  
Policy 29 Energy Infrastructure Development.

In terms of Planning history, applications for planning permission (21/00998/PP) and Conservation Area Consent (21/00997/CAC) for a similar proposal were refused in December 2021 as contrary to Strategic Policy 2: Placemaking, Policy 9: Conservation Areas and Policy 23: Flood Prevention in the LDP.

The consideration of the applications was extended to allow further Flood Risk Assessment to be submitted and/or amended designs to be submitted. An FRA study was later submitted.

## Consultations and Representations

The statutory neighbour notification was undertaken and the planning application was advertised in the local press (Arran Banner). The application for Conservation Area Consent was advertised in the Arran Banner and the Edinburgh Gazette.

Two objections to the proposal were received, the points of which are summarised as follows:

**OBJECTION 1: Insufficient parking.** Although an internal car park space is indicated, this would be unlikely to be permanently used due to the demands of the boat repair workshop business.

**RESPONSE:** Active Travel and Transport was consulted on road safety and parking impacts and the response is in the following section.

**OBJECTION 2: Daylight/ Residential amenity/ Views.** Although the design has been amended since a previous planning refusal, the upper flat would still have an overbearing adverse effect on the residential amenity of the neighbouring Wheelhouse flat by loss of daylight and outlook from its windows, which would then only look onto the blank wall of the new flat.

**RESPONSE:** There is no right to a specific view in Planning law but matters of reasonable amenity and light are assessed in the following Analysis.

### CONSULTATIONS:

Historic Environment Scotland was consulted on the Conservation Area Consent application and Roads, SEPA and Flooding Services on the Planning Application.

**HISTORIC ENVIRONMENT SCOTLAND:** No comments

**RESPONSE:** Noted

**NAC ACTIVE TRAVEL AND TRANSPORT:** No objection. Welcomed the internal parking space added since the previous refusal but recommended that this be retained as an open pend rather than behind a shutter. Indicated that a Road Opening Permit would be required for a drop-kerb footway crossing for the parking space.

**RESPONSE:** Comments noted. It is also noted that an open pend into the building would be likely to conflict with the required flood control measures at the site.

**NAC FLOODING SERVICES:** Objects. The site is at risk of coastal flooding during the 1 in 200 year flood event as found in the 2018 Lamlash Flood Study commissioned by the Council in 2018 and so unsuitable for residential development in principle. Notes that the Council's study is more detailed and up to date and shows flood extents differing from the SEPA flood maps.

**RESPONSE:** No Flood Risk Assessment was submitted with the initial application. Flooding Services was re-consulted once an FRA was submitted. The Council Flooding Engineers noted that the FRA itself confirmed that the site is at medium to high risk of direct inundation from the sea and the development would constitute an increase in the land vulnerability classification.

Flooding Services confirmed that Policy 22 of NPF4 would only support the development if the site were identified in the LDP as requiring to be brought into positive use AND where the long term safety and flood resilience of the site could be secured. The Flooding Service response noted that the site is not designated for any particular use in the LDP and did not consider that the resilience measures identified in the FRA demonstrate that the long term safety and flood resilience would be delivered.

In light of this, Flooding Services upheld the objection to the development as unsuitable for residential use. The existing retail use could continue.

SEPA: No objection.

RESPONSE: Noted.

## **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 (the LDP), adopted in November 2019, and National Planning Framework 4.

Assessment against the relevant policies follows:

The application site is within the General Urban Area of Lamlash, as identified in the LDP and is also within the Lamlash conservation area.

Replacing an existing commercial building with mixed commercial and residential building would be acceptable in the LDP and the principle of the proposal therefore raises no significant land use policy issues in relation to the Towns and Villages Objective of Strategic Policy 1. In order to fully accord with SP1, proposals also require to accord with Strategic Policy 2.

The detail of the application requires to be considered in terms of Strategic Policy 2: Placemaking; Policy 9: Preserving and Enhancing our Conservation Areas, and Policy 23: Flood Risk Management. The Council produced a Conservation Area Appraisal and Management Plan for Lamlash ("the Lamlash Conservation Area Assessment") to support the analysis of such proposals.

The Placemaking Policy in the LDP seeks to ensure that "all development contributes to making quality places". The policy also "safeguards, and where possible enhances environmental quality through the avoidance of adverse environmental or amenity impacts."

In relation to the six listed qualities of a successful place, the most relevant here are 'distinctive' and 'safe and pleasant'.

The overall appearance of the proposed building would represent an improvement in visual amenity over the existing, somewhat 'worn' building. The proposed external finishing materials would reflect the character of many surrounding functional harbourside buildings. However, the upper addition would be a significant intrusion

on the skyline and out of character when viewed from the heart of the conservation area to the west.

It is considered that the existing adjacent upper flat over the Wheelhouse café is itself unusual within the surrounding area and does not form a precedent for further such intrusions on the skyline. It is not therefore agreed that the proposal draws on positive characteristics of the surrounding area, skylines, spaces and scales etc as required to demonstrate the quality 'Distinctive'.

The proposal would enhance the amenity of the owner/applicant of the building as it would allow him to live and work at the same location. However, as the proposed building would obstruct the outlook which could be expected from that adjacent Wheelhouse flat to the detriment of its residential amenity, it is concluded that the proposed development would adversely affect the amenity of existing users in terms of sunlight & daylight and adversely affect the privacy of users of the neighbouring upstairs flat.

The proposal does not therefore satisfy the listed quality 'Safe and Pleasant'.

Given these considerations, the proposal does not satisfy Strategic Policy 2. Consequently, as mentioned above, it also would not therefore fully accord with Strategic Policy 1.

In terms of Policy 9 on Conservation Areas, as above the scale and massing of the building is considered to be out of scale with the overall character of buildings at this part of the Conservation Area and would be a relatively prominent addition to the skyline in views from the central part of the CA at Lamlash Green towards the harbour. Policy 9 states that the demolition of unlisted buildings in a conservation area shall only be supported in exceptional circumstances where a suitable redevelopment of the site is proposed which would contribute positively to the character and appearance of the conservation area or that the demolition of the building is essential to delivering significant benefits to the wider community economically, socially or environmentally.

No such significant wider benefits have been demonstrated and, as above, the proposed redevelopment is not considered acceptable and would not preserve or enhance the character or setting of the Conservation Area. The proposal cannot therefore be supported under Policy 9.

Turning to Policy 23 on Flood Risk Management, it is noted that the previous proposals in 2021 were refused partly on lack of sufficient flood prevention measures and that SEPA did not object on flood prevention grounds to this application.

However, the local Flooding Authority gave significant consideration to the proposals and confirmed that the Lamlash Flood Study, which was commissioned by North Ayrshire Council and provides a more up to date account of predicted flooding than SEPA's flood maps, found that the site was at risk of flooding from the Firth of Clyde during the 1 in 200 year flood event.

The Flooding Engineers further concluded that the flood prevention measures identified in the submitted FRA could not meet the requirements of Policy 22 on Flooding in the NPF4 and so the proposal is not satisfactory in terms of flood prevention. The proposal does not therefore accord with LDP Policy 23.

In terms of Policy 29: Energy Infrastructure Development, proposals for new buildings require to demonstrate how the carbon emissions reductions targets set by Scottish Building Standards shall be met. The Design Statement identified various measures including Air Source Heat Pumps which would be secured and monitored via the Building Warrant Process and the proposals would therefore comply with Policy 29.

However, given the above analysis, it is found that the proposals are contrary to Strategic Policy 2, Policy 9 and Policy 23 of the LDP. As above, initial analysis also finds that the proposal would be contrary to NPF4 in terms of Flood Prevention measures.

In summary, the proposal appears to be a piecemeal attempt to solve various commercial, residential, neighbour and other issues affecting the building owner rather than a cohesive design to provide an appropriate new building to enhance or at least preserve the conservation area character. Flood risk remains a fundamental issue and the Flooding Authority has objected. The issues which led to the refusal of the previous applications in 2021 have not been resolved. Significant time was allowed for these issues to be resolved but it is concluded that the proposal cannot fundamentally accord with the Development Plan in its current form.

It is possible that future proposals to rebuild the existing single storey commercial unit and eliminate the residential element may be able to accord with the Plan but, as presented, the proposals are contrary to the Development Plan and both applications should therefore be refused. There are no other material considerations.

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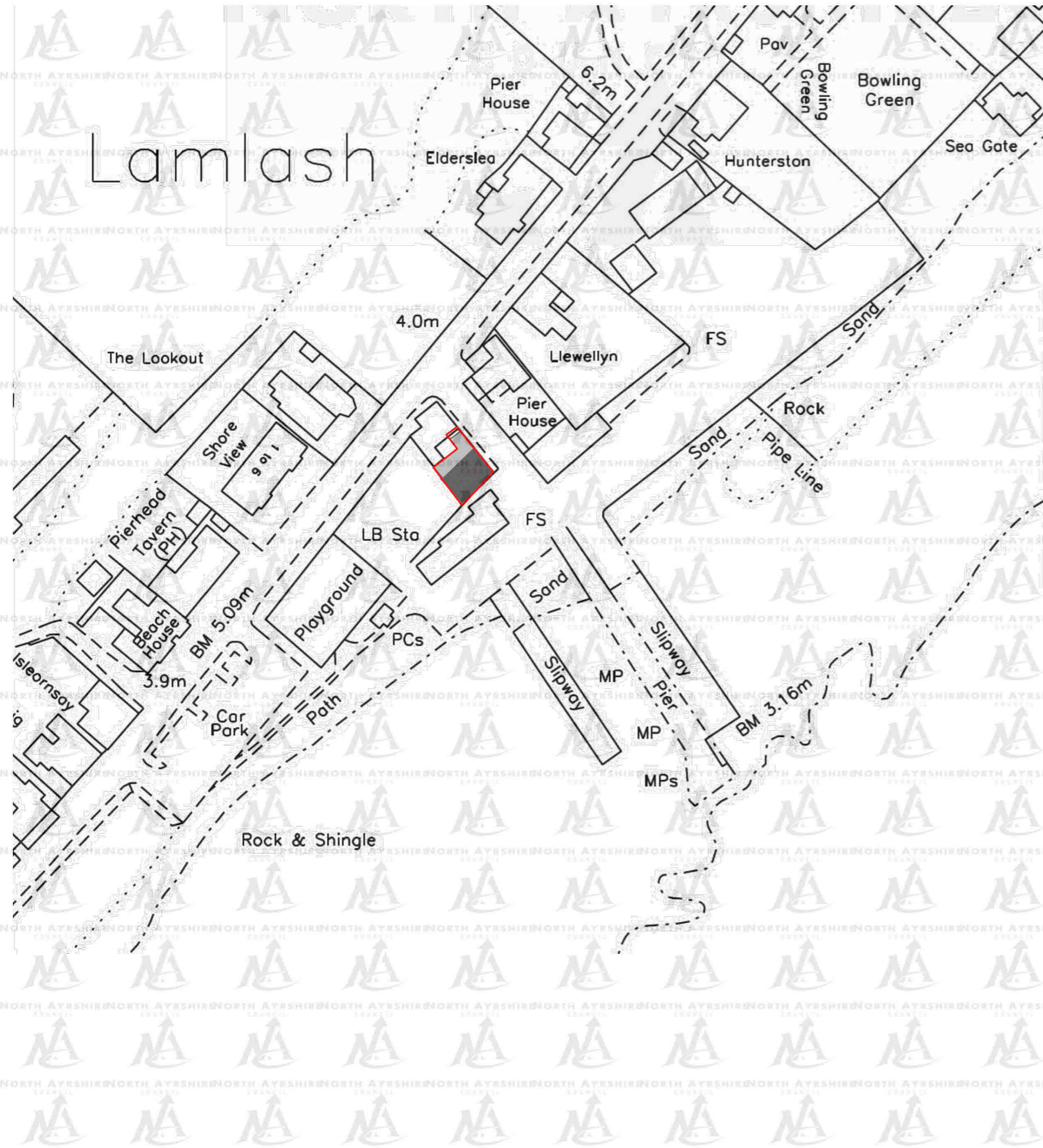
## **Decision**

Refused

Case Officer - Mr Neil McAteer

## Appendix 1 - Drawings relating to decision

<b>Drawing Title</b>	<b>Drawing Reference (if applicable)</b>	<b>Drawing Version (if applicable)</b>
Sections		
Existing Plans and Elevations		
Location Plan		
Sections		
Proposed Plans and Elevations		



# Lamlash



## Eden Architecture

Environmental Design

Director  
Mr M Archer

Architectural Design  
Design and Build,  
Energy Management

W: [www.edenarchitecture.co.uk](http://www.edenarchitecture.co.uk)  
T: 0344 500 3323  
M: 07469245677

Client: Mr A Norman  
Address: S.V. Eva; Lamlash Yacht Club  
The Old Pier;  
Lamlash;  
KA27 8JN

Drawing: Site Location Plan  
Date: 8 October 2021  
Scale: 1:1,250  
Paper size: A2





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

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

No N/22/00978/PP

(Original Application No. N/100611145-001)

REFUSAL OF PLANNING PERMISSION

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 : Johnstons Marine Stores Fao Mr Adam Norman  
c/o Eden Architecture: Environmental Design Fao Mike Archer  
1 Stepping Stones  
Maulds Meaburn  
Penrith  
Cumbria  
CA10 3HN

With reference to your application received on 5 January 2023 for planning permission under the above mentioned Acts and Orders for :-


Demolition of existing timber building and construction of new retail outlet; workshop and accommodation above

at Johnstons Marine Stores  
The Old Pier  
Lamlash  
Brodict  
Ayrshire  
KA27 8JN

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 because the proposal would not draw on positive characteristics of the surrounding area in respect of skylines and building forms and would adversely affect the outlook from and residential amenity of neighbouring properties.
2. That the proposal is contrary to Policy 9: Preserving and Enhancing our Conservation Areas of the adopted North Ayrshire Local Development Plan because it has not been demonstrated the height and scale of the building would preserve or enhance the character of the conservation area or accord with the strategy identified in the Lamlash Conservation Area Assessment
3. The proposal is contrary to the Policy 23: Flood Risk Management of the adopted North Ayrshire Local Development Plan because it has not been demonstrated that the proposal includes sufficient measures to protect against and manage flood risk.

Dated this : 12 December 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.