



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 March 2019** at **14:15** to consider the undernoted business.

1 Declarations of Interest

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

2 Minutes

The accuracy of the Minutes of meetings of the Committee held on 20 February 2019 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: 19/00023/PP - BP Girdle Toll Service Station, Long Drive, Irvine

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

4 Urgent Items

Any other items which the Chair considers to be urgent.

Local Review Body Sederunt

Tom Marshall (Chair)
Timothy Billings (Vice-Chair)
Robert Barr
Ian Clarkson
Robert Foster
Christina Larsen
Shaun Macaulay
Ellen McMaster
Ronnie McNicol
Donald Reid

Chair:

Apologies:

Attending:

**Local Review Body
20 February 2019**

Irvine, 20 February 2019 - At a Meeting of the Local Review Body of North Ayrshire Council at 2.30 p.m.

Present

Tom Marshall, Timothy Billings, Robert Barr, Ian Clarkson, Robert Foster, Shaun Macaulay, Ellen McMaster, Ronnie McNicol and Donald Reid.

In Attendance

A. Hume, Senior Development Management Officer (Economy and Communities); J. Law, Solicitor (Legal Services); and E. Gray, Committee Services Officer (Chief Executive's Service).

Chair

Councillor Marshall in the Chair.

Apologies for Absence

Christina Larsen.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the meeting of the Local Review Body held on 5 December 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Notice of Review: 18/00780/PP - Site to the East of Scotthaven, Park Terrace, Lamlash, Isle of Arran

Submitted report by the Head of Service (Democratic Services) on a Notice of Review submitted by the applicant in respect of an application for planning permission refused by officers under delegated powers for the demolition of an existing storey and a half workshop building and the erection of new storey and a half dwelling.

The Notice of Review documentation, the Planning Officer's Report of Handling, a copy of the Decision Notice and a location plan were provided as appendices to the report. There were no interested parties and therefore no further comments or responses.

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

The Committee unanimously agreed that there was enough information provided to determine the review request without a hearing or site visit.

Members asked questions and were provided with further information about the workshop currently on the site, the siting and orientation of the proposed development and the pictures included in the applicant's submission.

Councillor McMaster, seconded by Councillor Barr, moved that the Local Review Body uphold the review request and grant the application for planning permission.

As an amendment, Councillor McNicol, seconded by Councillor Foster, moved that the Local Review Body uphold the decision taken by the Planning Officer to refuse the application for planning permission.

On a division there voted for the amendment five and for the motion four, and the amendment was declared carried.

Accordingly, the Local Review Body agreed to uphold the Planning Officer's decision to refuse planning permission on the following ground:

The proposed development would be contrary to Criteria (a) and (b) of the General Policy of the Local Development Plan, in that by reason of its siting, scale and design, it would: (i) represent overdevelopment of the site and not offer an acceptable level of residential amenity for the proposed dwellinghouse; (ii) conflict with the existing linear pattern of development in the area which would not be in the interests of the proper planning of the area; (iii) would be out of character with the design and appearance of the surrounding residential properties; and (iv) if approved, establish an undesirable precedent for other similar developments, to the detriment of the character and amenity of the residential area.

The Meeting ended at 2:40 p.m.

NORTH AYRSHIRE COUNCIL

20 March 2019

Local Review Body

Title:	Notice of Review: 19/00023/PP - BP Girdle Toll Service Station, Long Drive, Irvine
Purpose:	To submit, for consideration of the Local Review Body, a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers.
Recommendation:	That the Local Review Body considers the Notice of Review.

1. Executive Summary

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

2. Background

- 2.1 A Notice of Review was submitted in respect of Planning Application 19/00023/PP - Erection of Class 1/Class 3 coffee shop unit with drive-through and associated parking.
- 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 and supporting documents;
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:	None arising from this report.
Human Resources:	None arising from this report.
Legal:	The Notice of Review requires to be considered in terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
Equality/Socio-economic Duty:	None arising from this report.
Children and Young People:	None arising from this report.
Environmental & Sustainability:	None arising from this report.
Key Priorities:	None arising from this report.
Community Benefits:	None arising from this report.

5. Consultation

- 5.1 No consultation was required as there were no interested parties (objectors, supporters or statutory consultees) in relation to this planning application.



Andrew Fraser
Head of Democratic Services

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

Background Papers

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

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

Thank you for completing this application form:

ONLINE REFERENCE 100153769-001

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="Bidwells"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="█"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="█"/>	Building Number:	<input type="text" value="1"/>
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="██████"/>
		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"/>	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"/>	Building Number:	<input type="text" value="█"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="████████"/>
Company/Organisation	<input type="text" value="Motor Fuel Limited"/>	Address 2:	<input type="text" value="██████████████"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="████████████"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="████████"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="██████"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

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="BP GIRDLE TOLL SERVICE STATION"/>
Address 2:	<input type="text" value="LONG DRIVE"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="IRVINE"/>
Post Code:	<input type="text" value="KA11 2AB"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="640785"/>	Easting	<input type="text" value="233571"/>
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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)

Erection of Class 1/Class 3 coffee shop unit with drive-through and associated parking

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.

Please refer to the attached grounds of appeal statement in support of the Notice of Review appeal

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)

Planning application forms, application drawings, supporting planning statement, Report of Handling, decision notice and grounds of appeal statement

Application Details

Please provide details of the application and decision.

What is the application reference number? *

N/19/00023/PP

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

14/01/2019

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

06/02/2019

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

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

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To assess the relationship of the proposed development to the wider PFS site and the existing footpath links to the surrounding residential areas

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:

██████████

Declaration Date:

19/02/2019

**GIRDLE TOLL, IRVINE –
ERECTION OF CLASS 1
AND CLASS 3 COFFEE
SHOP UNIT WITH DRIVE
THROUGH &
ASSOCIATED PARKING
NOTICE OF REVIEW
APPEAL STATEMENT**

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1.0 Introduction

- 1.1 This statement should be read in conjunction with the Notice of Review appeal submitted to North Ayrshire Council's Local Review Body against the refusal of detailed planning permission (19/00023/PP) for the erection of a class 1 and class 3 coffee shop unit and drive through facility and associated car parking on Wednesday 6 February 2019. The planning application had been submitted to North Ayrshire Council by AMCA Architects on behalf of Motor Fuel Limited on Friday 11 January and registered on Monday 14 January 2019.
- 1.2 The appeal site involves an area of land within the boundaries of the existing Girdle Toll BP Petrol Filling Station (PFS) site which also currently includes a 'Londis' convenience shop (open 24 hours per day). The proposal is located on the northern part of the PFS site and is currently undeveloped ground which includes a mix of grassed area and some low-level vegetation. The site does not form part of any identified or protected open space area as identified in either the adopted Local Development Plan or in the proposed LDP2.
- 1.3 This planning application was submitted as a 'local application' under the Town & Country Planning (Development Management Procedures) (Scotland) Regulations 2013.
- 1.4 Procedurally it has been noted from the appointed officer's Report of Handling that the application was not publicly advertised and that no neighbour notification appears to have been undertaken. However later in the Report of Handling under the heading 'Consultation and Representations' there appears to be a contradictory statement which says '*the application was subject to the statutory neighbour notification procedures. No representations were received.*' Whilst it is not clear if neighbour notifications were issued, the proposal includes an element of Class 3 and takeaway use and therefore as a minimum the application may have been required to be advertised as a '*bad neighbour*' development in the local press. The speed in which the decision notice was issued by the council meant that there was no opportunity to discuss this or any other aspect of the proposal with the planning department prior to the issuing of the decision. In the circumstances the applicant has been left with no alternative but to submit this Notice of Review appeal to the Local Review Body.

2.0 Background to the Proposals & Previous History

- 2.1 The proposed coffee shop unit is to be of contemporary design and measures only 140 sqm in floor area. No changes are proposed to the main vehicular access into the existing PFS site. The proposed layout has been configured to allow cars to enter the site and to circulate to either locate a parking space or to utilise the drive through lane. A 17-space car park would be formed between the front elevation of the building and the existing PFS site. The site layout also provides 2 blue badge spaces immediately adjacent to the main entrance. Four cycle spaces are proposed on the hard-standing area close to the main entrance and a dedicated pedestrian link is also to be formed between the existing PFS building (Londis shop) and the proposed unit.

- 2.2 In terms of external finishing materials, the proposed unit is predominantly formed from coloured composite cladding but also includes the use of brick, timber cladding, and glazing. Windows will be double glazed with powder coated aluminium frames. The design of the building is therefore contemporary, utilising modern materials and would add to the character of the existing established buildings and structures already located across this commercial site. Additional landscaping and boundary treatments would also be provided around the perimeter of the site.
- 2.3 The proposed development would initially support construction jobs and then at least nine new full-time jobs.
- 2.4 Planning permission was initially granted for the PFS in April 1998 (ref: 98/00363/PP) and included petrol pumps for cars and HGV's, a car wash and a 24-hour retail shop (currently operated under the Londis brand).
- 2.5 The proposal that is subject to this appeal follows on from the refusal of an earlier similar application (ref:18/00719/PP) which had been refused for two reasons as follows;
- 2.5.1 *That the proposal would be contrary to Policies TC 4 and TC 5 of the adopted North Ayrshire Council Local Development Plan in that no local need for the development has been adequately demonstrated for an additional Class 1/Class 3 development outwith the Irvine town centre boundary and outwith Commercial Centre allocations. Whilst the proposed 140 square metres of additional Class 1/Class 3 floorspace would be adjacent to an existing petrol filling station (PFS), its siting to the north of the PFS via dedicated vehicular access and egress routes with separate parking provision demonstrates that the development would be capable of operation independently of the PFS at a location which cannot be conveniently reached on foot from the surrounding residential areas. As such, the proposed development cannot be justified either as a local shop nor as a facility that would exclusively serve the needs of motorists using the local road network, resulting in the potential for detrimental impacts on the vitality and viability of Irvine town centre.*
- 2.5.2 *That the proposal would be contrary to criterion (a) siting, design and external appearance, (b) amenity and (d) access, layout and parking provision of the General Policy contained in the adopted North Ayrshire Council Local Development Plan in that:*
- *the proposed building would appear out of scale for its context and setting, resulting in over-development of the petrol filling station site;*
 - *the prominent siting of the proposed building and drive-thru facility on an elevated roadside site at the edge of the Hill Roundabout would have an adverse visual impact on the 'parkland' landscape design of the Long Drive area, to the detriment of visual amenity;*
 - *the proposed development would result in adverse impacts for the future maintenance of the existing public road grass verges on Hill Roundabout by reason of the steep embankments to be formed, contrary to the provisions of the Design Manual for Roads and Bridges.*

- 2.6 Rather than simply proceeding to submit a Notice of Review appeal against that original refusal, the applicant instructed the project team to review the reasons for refusal and to seek to address the concerns raised particularly through further amendments to the proposed siting and layout. Specifically the amendments incorporated into this revised proposal include movement of the building & drive-through lane by 2 metres so that they are now closer and better related to the existing PFS building and associated forecourt canopies and therefore less prominent at the edge of the Hill Roundabout; alterations to the car park layout including a reduction in the number of car spaces from 24 to 17; as well as green space changes including the retention of greater areas of the existing grass verges and the removal of steep embankments to prevent issues arising with future maintenance.
- 2.7 The appointed officer maintained a negative attitude towards the proposal and declined the request for a pre-application meeting to discuss the proposals prior to the submission of the revised application.
- 2.8 The revised application was registered by North Ayrshire Council on 14 January 2019. In response to comments received from the council's Active Travel and Transportation department (dated 16 January 2019) a further plan was submitted by the agents (AMCA Architects) on 31 January 2019 showing the visibility splays at the Hill Roundabout. No opportunity was provided or offered to discuss this plan.
- 2.9 Due to the apparent haste by the appointed officer to issue the decision notice, the Report of Handling highlights that NAC Active Travel and Transportation recommend refusal on the basis that the proposal will interfere with the existing public road grass verges and with the visibility splays required for Hill Roundabout. However as highlighted above this was addressed through the submission of the amended plan and the appointed officer then failed to take the time to reconsult with NAC Active Travel and Transportation which he could easily have done. In fact, the Report of Handling makes no mention of the further plan and the assessment in the Report of Handling under the heading '*d) Access, road layout, parking provision*' is therefore inaccurate and completely misleading. Instead of addressing this properly, a mere 23 days after the planning application was registered, the planning department issued the refusal notice.
- 2.10 Whilst most of the wording set out in the refusal of the revised application is identical to the original application, the final bullet point in the second reason for refusal has been altered from the time of the first planning application. As highlighted above, NAC Active Travel and Transportation department had raised concerns about the future maintenance of the existing public road grass verges on Hill Roundabout and the visibility splays, but through the modifications shown on the updated plans and explained above, this concern has been addressed and it no longer forms part of the second reason for refusal. Even though this amendment has obviously been recognised by the appointed officer, there is no specific reference to this being adequately addressed within the Report of Handling.
- 2.11 However, in its place the appointed officer now claims that there would not be a pedestrian footpath connection between the site and the surrounding residential areas, to the detriment of active travel, and road safety in the area. This did not form part of the reason for refusal of the original application. Furthermore, this does not appear anywhere within the NAC Active Travel and Transportation department consultation response and therefore without justification appears to have been simply added by the appointed officer in an attempt to try and embellish the reasons for refusal of the application.

3.0 Planning Policy Context

National Policy and Guidance

- 3.1 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

National Planning Framework

- 3.2 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

Scottish Planning Policy 2014

- 3.3 Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing enough flexibility to reflect local circumstances.
- 3.4 One of the core values of the Scottish planning system outlined in paragraph 4 of SPP is that the service should 'focus on outcomes' and 'facilitate sustainable economic growth'. There is also a presumption in favour of development that contributes to sustainable development (page 9) and decisions should give due weight to net economic benefit (paragraph 29).
- 3.5 SPP sets out a 'town centres first' approach which promotes town centres as the primary location for new uses which 'attract a significant number of people' (paragraph 60). This is established through a 'sequential approach' for site selection, whereby out of town locations are the least preferred location for certain uses. Town centre locations are not always possible, and in this case the scale, nature and form of the proposed sui generis development (i.e. a mix of class 1, class 3 and takeaway use including drive through facility) adjacent to an existing mix of sui generis uses confirms that this is an appropriate and suitable location for such a proposal. Furthermore, the proposed limited scale of retail floorspace within the proposed coffee shop unit in this location could not reasonably be considered or argued to have an adverse impact on the vitality and viability of any town centre or other defined centre.
- 3.6 The policy principles of Supporting Business and Employment are that the planning system should be flexible enough to 'allow the realisation of new opportunities' (paragraph 93). Furthermore, SPP states that LDPs should allocate a 'range of sites for business' and allow for a 'potential mix of uses', taking current market demand into account as well as location, size, quality and infrastructure requirements of sites (paragraph 101). The application site is located on an existing commercial site and the proposal presents an opportunity to introduce a further mix of uses to enhance the service for customers, the ancillary service provision available for the nearby businesses, as well as passing trade, without impacting upon the nature of the area or the residential amenity of the nearby properties.

- 3.7 SPP also promotes sustainable transport and active travel. SPP states that the planning system should optimise the use of existing infrastructure and provide safe and convenient opportunities for walking and cycling (paragraph 270). The proposed development (drive-through) by its nature facilitates the use of the private car, however its proximity adjacent to Hill Interchange and arterial routes does make efficient use of existing infrastructure. Trips to the site are also highly likely to be combined with trips to the adjacent PFS and the Londis convenience store and also from the nearest residential neighbourhoods, and so the trip generation of the new use may be relatively low. Bus stops are also located on both sides of Littlestone Road directly adjacent to the south eastern boundary of the application site, with regular services provided to and from the City Centre. Pavements and road surfaces are of a good quality on Littlestone Road and Long Drive including dedicated pedestrian crossing facilities on both roads within 100 metres of the site that link with the Core Path network to assist those walking or cycling from the surrounding areas including the Strategic Housing Growth Area to the north and west.

4.0 Development Plan

- 4.1 The Development Plan for the area comprises The North Ayrshire Local Development Plan (adopted 2014).
- 4.2 The site is identified as lying within the Irvine settlement boundary on the Proposals Map no. 3. The entire site including the existing PFS is designated as 'housing' area. Existing established housing areas are also located to the east and west with further housing planned to the north and west in the Montgomery Park Strategic Growth Area. An identified Core Path is also located immediately adjacent to the south of the site.
- 4.3 The council's General Policy is therefore applicable with the following criteria relevant a) siting, design and external appearance, b) amenity and d) access, road layout, parking provision.
- 4.4 Other land in the area out with the defined 'housing' areas is identified green on the Proposals Map and is specifically designated as protected open space areas. However, this does not affect the current application site.
- 4.5 Elsewhere the council's policies TC4 (Edge of Centre/Out of Centre Development) and TC 5 (Local Shops) also require consideration.
- 4.6 Policy TC 4 states that proposals for new retail on sites located out with town centre boundaries shall not accord with the LDP unless a range of criteria can be satisfied. These include the following:

(a) that the development comprises local shops permitted in terms of Policy TC 5; OR

(b) that the proposal site has been selected after careful sequential assessment of available and suitable sites/premises (or which can reasonably be made available or suitable) in the following order (1) sites within the town centre (2) sites within edge of centre locations (3) other sites designated on the proposals map as commercial centres, with each alternative sequentially preferable option being discounted for demonstrable reasons; AND

(c) that the development would not adversely affect, either on its own or in association with other built or consented developments, the vitality and viability of the town centre; AND

(d) the development is well located in relation to access by public transport, cycle routes and on foot.

- 4.7 Turning to Policy TC 5, which applies to the development of Local Shops, such proposals shall not accord with the LDP unless they can be justified against a range of criteria. These include:

(a) the development does not incorporate a unit of greater than 400 sq.m gross, and the total retail development is below 1,000 sq.m in size overall; AND

(b) the development meets a recognised local need. Determination of local need will include consideration of the range of facilities available which already serve all or part of the catchment of the proposed unit. Where there are at least two existing units providing the same or similar services to a majority of the catchment of the proposed unit, no need for the proposed unit will be demonstrated; AND

(c) it is located where it can be conveniently accessed on foot from adjacent, existing development.

- 4.8 The council published their LDP2 for public consultation in April 2018 and the period for representations closed on 29 June 2018. The Proposed Plan was submitted to Scottish Ministers for Examination in October 2018 and that examination is now underway. LDP2 is therefore currently not expected to be adopted until Summer 2019.

5.0 Planning Appraisal & Response to Reasons for Refusal

- 5.1 In addressing the policy issues raised in the reasons for refusal and in response to the comments provided in the Report of Handling, the following points are therefore made in support of this Notice of Review appeal.
- 5.2 The site forms part of a long established PFS site serving users of the adjoining road network including the A376 and B7080 as well as serving the needs of the surrounding residential areas in Irvine, including Girdle Toll and Montgomery Park. The site currently includes a retail sales building, car forecourt and canopy, HGV forecourt and canopy, car wash, jet wash facility and car parking. The existing jet wash bay would be removed as part of the proposals to allow for improved circulation space for vehicles.
- 5.3 The proposed single storey unit and drive through facility are therefore located on a long-established commercial site and this proposal represents further development on an underdeveloped 'brownfield' part of the commercial site, all of which falls within the recognised urban area designation as confirmed by the LDP and in LDP2. The site is not on an allocated landscaped 'open space' area to the north of the PFS as has been described by the appointed officer in the Report of Handling and also does not represent overdevelopment of the site.
- 5.4 Whilst the existing retail unit on the PFS site contains an express coffee offer and a branch of Subway which sells some takeaway coffee, the submission of the application follows feedback from customers and a requirement for an enhanced coffee and takeaway offer and therefore allows the opportunity for the existing facilities to be enhanced and/or replaced. Consumers are becoming increasingly more knowledgeable with choice and quality of coffee and other associated drinks and the improved facilities will clearly benefit existing road users including those travelling to and from the South Newmoor Industrial Estate. The designated HGV fuelling facility at the PFS highlights that longer distance industrial and commercial traffic using the A736 and the B7080 already do use the current facilities at this PFS site.
- 5.5 The very nature and purpose of the proposed coffee shop and drive through takeaway facility and its main purpose which is to provide additional facilities to existing customers to this site and users of the adjacent road network, which forms the junction of several locally important distributor roads, means that the unit cannot be located at another location other than the application site as the main catchment of the proposal is the A376/B7080 area. This proposal is sui generis i.e. the primary use is clearly for Class 3 and takeaway use with an ancillary retail use. Therefore, policy TC 4 does not strictly apply as that policy applies solely to new retail developments. This is not a new retail development but a mix of Class 3, takeaway and limited retail space. Notwithstanding that argument, in terms of any assessment of other potential sites, the proposal would require to be located adjacent to a similar location on the A376/B7080 and also be of a minimum size of 0.4 ha to be able to accommodate the relocation of the existing PFS facility. No other sites have been identified as being suitable or viable for the size of site that would be required for all of the facilities including the provision of safe and easy access (including for HGV traffic) and at the same time safeguarding amenity of neighbouring residents due to the fact that the PFS operates 24 hours per day.

- 5.6 Although the proposal is primarily aimed at existing motorists who may also be using the existing PFS facilities or wish to link trips and are purchasing goods from the Londis store, existing residents would also clearly be able use the coffee shop as an accessible, safe and comfortable Class 3 meeting place in addition to the current Londis store. Residents already walk to the Londis store despite the appointed officer's belief that residents from the nearby housing areas never walk to use the existing retail facility. Pedestrian routes including pedestrian crossings form part of the identified Core Path network and are located directly adjacent to the site. Bus stops are also located immediately adjacent to the site on Littlestone Road. A dedicated pedestrian access would be created along the frontage from the Londis store to the proposed unit. Even though this proposal is not a 'Local Shop' and therefore Policy TC 5 is also not strictly applicable, the limited size of the proposed unit (140 sq m) also falls well below the threshold of 400 sq m that is set out under Policy TC 5 and therefore it could also help to serve the further new residential developments proposed to the north and west.
- 5.7 Given the location of the site on the locally important road network and the limited size of the mixed Class 1, Class 3 and takeaway unit, any impact on diversion of trade from Irvine town centre (which is currently protected by planning policy), would be so small that it would be completely negligible and certainly nowhere near any level that could reasonably be argued to 'adversely' affect the vitality or viability of Irvine town centre as a whole, which is what planning policy requires. The Report of Handling criticises the lack of any supporting evidence or analysis to support this claim however any impact must be assessed on the basis of an analysis against the town centre floorspace as a whole. The Irvine town centre audit (2016) identified 286 units in the town centre as a whole and therefore it is surely evident that one single unit of 140 sq m of mixed Class 1, Class 3 and takeaway floorspace proposed in this application (which equates to 0.003% of the total town centre units and probably an even lower percentage in terms of the of the overall total town centre floorspace) would have no adverse impact on Irvine town centre as a whole. The impact of small local facilities which in this case is well below the 400 sq m limit is also not a matter that requires to be addressed under Policy TC 5. It is also significant that there is no other drive through coffee shop facility currently available in Irvine.
- 5.8 Issues relating to design, layout and placemaking have been given careful consideration and this is exhibited in the architectural response through the proposed layout, siting and design within this revised proposal. The site does not form part of the protected open space within the LDP and clearly forms part of the wider existing commercially zoned sui generis PFS site.
- 5.9 The site sits slightly higher than the adjacent Hill Roundabout, but the development would not be visually prominent particularly when viewed against the backdrop of the main PFS building and forecourt canopies which are all set at a higher level as is clearly shown on the submitted site section drawing. The proposed unit only measures 140 sq m and the sloping roof would be 4.2 m in height at its highest point and therefore would not look out of place or out of keeping with the existing context and setting set by the other buildings and structures that are already positioned throughout the wider site. The proposed building would therefore not appear out of scale for its context or setting and would not lead to overdevelopment of the site. The unit and the drive through lane have also be moved 2 m further back into the site to help alleviate any concerns on this point and to allow for further landscaping and avoidance of steep gradients being formed on the 2 m wide service strip adjacent to the public road. This alteration also addresses the specific comments that were received previously within the NAC Active Travel and Transportation consultation response which as noted earlier no longer forms part of a reason for refusal.

- 5.10 No objections were received from the public to the previous application (and none apparently to the current application) and the main residential areas close to the site are separated by footpaths, roads and landscaping. No hot food cooking facilities are required on site and as such there is no need for extraction equipment. Accordingly, it is therefore considered that no amenity issues would arise from the development.
- 5.11 The proposed drive through coffee shop unit will create at least nine new permanent jobs for the local area and therefore will provide a significant contribution to sustained local economic growth.
- 5.12 This proposal is a small-scale unit that provides ancillary service provision to meet the day to day needs of motorists and other users of the existing site, as well as the wider local community and local businesses in a manner that addresses the requirements of the site and without causing any adverse environmental impact or any adverse impact on Irvine town centre as a whole.

6.0 Conclusions

- 6.1 In terms of placemaking, the revised application proposals achieve a well-considered response to the application site, delivering a development that is sensitive to its surroundings but one which achieves a sense of place and delivers the quality of facility required. The proposed development is contemporary in design and will complement the existing PFS site and make a positive contribution to the area.
- 6.2 The proposal will also make a positive contribution to the local area by creating direct and indirect job opportunities during the construction phase and then during operation of the drive-through facility when at least nine new permanent jobs would be created contributing to sustained local economic growth.
- 6.3 The proposal will be accessible by sustainable and active methods of transport including cycling, walking and public transport by using existing and proposed infrastructure including the adjacent existing public footpath network (including Core Paths), bus stops and pedestrian crossing facilities.
- 6.4 The proposal is for a mixed Class 1, Class 3 and takeaway use i.e. sui generis and will complement the existing commercial road side service uses already available on this site without having any adverse impact on Irvine town centre or any other defined centre.
- 6.5 In conclusion this appeal statement provides a review of material planning policy and guidance at all levels. It has been demonstrated that the proposed development at Girdle Toll PFS can be supported when reviewing planning policy together with the broader economic context and the mix of uses already evident on the site.
- 6.6 On the basis of the above, it is considered that the proposals can be supported as being in accordance with the existing Development Plan subject to any conditions that may be considered necessary and appropriate by the Local Review Body.

REPORT OF HANDLING



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Reference No:	19/00023/PP
Proposal:	Erection of Class 1/Class 3 coffee shop unit with drive-through and associated parking
Location:	BP Girdle Toll Service Station, Long Drive, Irvine, Ayrshire KA11 2AB
LDP Allocation:	Residential/Housing
LDP Policies:	TC4 / TC5 / General Policy /
Consultations:	Yes
Neighbour Notification:	None Required
Advert:	Not Advertised
Previous Applications:	18/00719/PP for Erection of Class 1/Class 3 coffee shop unit with drive-through and associated parking Application Refused on 19.09.2018

Appeal History Of Site:

Relevant Development Plan Policies

TC4

POLICY TC4: EDGE OF CENTRE/OUT OF CENTRE DEVELOPMENT

Proposals for new retail or commercial leisure development (including extensions to or redevelopment of existing premises) on sites located outwith the town centre boundaries identified on LDP Maps shall not accord with the LDP unless the following criteria can be satisfied:

(a) the development comprises local shops permitted in terms of Policy TC5; OR

(b) that the proposal site has been selected after sequential assessment of available and suitable sites/premises (or which can reasonably be made available or suitable) in the

following order (1) sites within the town centre (2) sites within edge of centre locations

(3) other sites designated on the proposals map as commercial centres, with each alternative sequentially preferable option being discounted for demonstrable reasons;

AND

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(c) that the development would not adversely affect, either on its own or in association with other built or consented developments, the vitality and viability of the town centre; AND

(d) the development would tackle deficiencies (the nature of which shall require to be described and quantified) in qualitative or quantitative terms which cannot be otherwise met in the town centre; AND

(e) the development is well located in relation to access by public transport, cycle routes and on foot.

For the avoidance of doubt, the above policy shall apply to all retail and commercial leisure development proposals within Commercial Centre allocations, which do not form

part of defined town centres. Where commercial centres are in edge of centre locations,

this will be sequentially preferable to other commercial centres.

Applicants may be required to submit a proportionate retail impact assessment and undertake a town centre health check in order to demonstrate compliance with the above

criteria. This will depend on the scale of the proposal and will be at the discretion of the

Council.

TC5

POLICY TC 5: LOCAL SHOPS

Proposals for the development of new local shops outwith town centres, including shops

attached to petrol filling stations, hot food shops, cafes and betting offices shall not accord with the LDP unless they can be justified against the following criteria:

(a) the development does not incorporate a unit of greater than 400m² gross, and the total retail development is below 1,000m² in size overall; AND

(b) the development meets a recognised local need. Determination of local need will include consideration of the range of facilities available which already serve all or part

of the catchment of the proposed unit. Where there are at least two existing units providing the same or similar services to a majority of the catchment of the proposed unit, no need for the proposed unit will be demonstrated; AND

(c) it is located where it can be conveniently accessed on foot from adjacent, existing development.

Proposals within the settlement boundaries of those towns without a defined town centre boundary shall accord with the LDP subject to being of a scale and character which is not detrimental to the amenity of the locality.

Note: The catchment will generally refer to the walk-in catchment of the proposed unit, with 300m from the unit being an indicative figure for the boundary of the catchment. However, the catchment should be agreed at an early stage between the applicant and planning authority.

The thresholds identified in paragraph (a) above are considered to be necessary in order to ensure that retail floor space allowed under this policy meets a local need.

General Policy GENERAL POLICY

(a) Siting, Design and External Appearance:

- Siting of development should have regard to the relationship of the development to existing buildings and the visual effects of the development on the surrounding area and landscape.
- Design should have regard to existing townscape and consideration should be given to size, scale, form, massing, height, and density.
- External appearance should have regard to the locality in terms of style, fenestration, materials and colours.
- Development will require to incorporate the principles of 'Designing Streets' and 'Designing Places'.
- The particularly unique setting of North Ayrshire's rural, coastal, neighbourhood and town centre areas, and those with similar characteristics, necessitates that all development proposals reflect specific design principles unique to these areas. Coastal, Rural, Neighbourhood and Town Centre Design Guidance (four separate documents) are Supplementary Guidance to the Plan and contain further details.
- Consideration should be given to proper planning of the area and the avoidance of piecemeal and backland development.
- Design should have regard to the need to reduce carbon emissions within new buildings.

(b) Amenity:

Development should have regard to the character of the area in which it is located.

Regard should be given to the impact on amenity of:

- Lighting;
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- Levels and effects of noise and vibration;
- Smell or fumes;
- Levels and effects of emissions including smoke, soot, ash, dust and grit or any other environmental pollution;
- Disturbance by reason of vehicular or pedestrian traffic.

Development should avoid significant adverse impact on biodiversity and upon natural

heritage resources, including those outwith designated sites and within the wider countryside. Development proposals should further have regard to the preservation and

planting of trees and hedgerows, and should also have regard to their potential to contribute to national and local green network objectives.

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

(c) Landscape Character:

In the case of development on edge of settlement sites, substantial structure planting will

generally be required to ensure an appropriate boundary between town and country is

provided. Such proposals should include native tree planting, retain natural features where possible and make provision for future maintenance.

Development should seek to protect the landscape character from insensitive development and the Ayrshire Landscape Character Assessment shall be used to assist

assessment of significant proposals.

(d) Access, Road Layout, Parking Provision:

Access on foot, by cycle, by public transport and other forms of transport should be an

integral part of any significant development proposal. Development should have regard to

North Ayrshire Council's Roads Development Guidelines and meet access, internal road

layout and parking requirements.

(e) Safeguarding Zones:

Pipelines, airports and certain other sites have designated safeguarding areas associated

with them where specific consultation is required in assessing planning applications. The

objective is to ensure that no development takes place which is incompatible from a safety

viewpoint. The need for consultation within Safeguarding Zones is identified when an

application is submitted. Supporting Information Paper No. 7 provides further information

on Safeguarding Zones.

(f) The Precautionary Principle

The precautionary principle may be adopted where there are good scientific, engineering, health or other grounds for judging that a development could cause significant irreversible damage to the environment, existing development or any proposed development, including the application itself.

g) Infrastructure and Developer Contributions

For development proposals which create a need for new or improved public services, facilities or infrastructure, and where it is proposed that planning permission be granted, the Council will seek from the developer a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions, where required, will be sought through planning conditions or, where this is not feasible, planning or other legal agreements where the tests in Circular 3/2012 are met. Other potential adverse impacts of any development proposal will normally be addressed by planning condition(s) but may also require a contribution secured by agreement. This will emerge from assessment of the impact of development proposals upon:

- Education;
- Healthcare facilities;
- Transportation and Access;
- Infrastructure;
- Strategic landscaping; and,
- Play facilities.

Further to analysis of infrastructure, indicative requirements for housing land allocations are set out within the Action Programme. Developer contributions will be further established by Supplementary Guidance (timing, costs etc.).

In addition to the above, Mixed Use Employment Areas are identified within the LDP. These sites are allocated for a mix of uses, subject to an element of employment space creation or improvement being provided. This will be informed by a business plan and masterplan. In these specific cases, contributions to the above (and affordable housing requirements as set out in Section 5) will also be required.

h) 'Natura 2000' Sites

Any development likely to have an adverse effect on the integrity of a 'Natura 2000' site will only be approved if it can be demonstrated, by means of an 'appropriate assessment', that the integrity of the 'Natura 2000' site will not be significantly adversely affected.

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i) Waste Management

Applications for development which constitutes "national" or "major" development under the terms of the Planning Etc. (Scotland) Act 2006 will require the preparation of a Site Waste Management Plan (SWMP), which will be secured by a condition of the planning consent.

Description

A revised planning application has been submitted for the erection of a coffee shop with drive-thru facility and associated car and cycle parking on the landscaped open space to the north of the Girdle Toll petrol filling station (PFS) adjacent to Long Drive and Hill Roundabout, Irvine. A previous application seeking permission for a similar type of development was refused on 19th September 2018 (ref. 18/00719/PP).

It is proposed to erect a 140 square metre single storey building of modern design, featuring a glazed frontage onto the PFS forecourt, the use of which would be a combination of Class 1 (shop) and Class 3 (food and drink). Takeaway sales would be catered for via the proposed drive-thru facility. Internally, the building would have seating, a washroom with changing and disabled facilities, a servery and preparation/storage. There would be an enclosed yard area, for the storage of bins, etc. to the side of the building. Proposed hours of operation would be 0700-2200 hours every day. The building size and design would be similar to that in the previous application.

There would be no direct connection from the proposed development onto the adopted road network - all traffic entering and exiting the coffee shop would do so via the existing PFS access and exit roads. However, the internal road layout would 'bypass' the PFS forecourt. A 17 space car park would be formed to the south facing front elevation of the building, inclusive of 2 wheelchair accessible spaces, with the drive-thru lane formed around the rear. New landscaping and boundary treatments would be provided around the perimeter of the site. The previous application indicated a 24 space car park.

Pedestrian access to the proposed development would be via the forecourt of the existing PFS. However, there would be no direct pedestrian connection from the site to any adopted public footpath or footway. Pedestrians would require to take access to the site over a 4m wide grass verge from the existing adopted footpath to the south of the PFS via several crossings of the internal roadways within the filling station. There are no footways on the Hill Roundabout itself. The adopted footpath to the south of the PFS provides a link from Girdle Toll (to the east) to Montgomerie

Park (to the west). The wide grass verge between the adopted footpath and the PFS indicates that it has not been designed to provide a direct connection into the PFS.

A Planning Policy Statement in support of the proposal has been submitted with the application. Among other things, this statement highlights the decline in petrol filling stations (PFS) around the UK against ongoing growth in vehicle numbers and use. The statement highlights that fuel sales alone are generally not viable for the remaining PFS outlets, which has prompted a diversification in the range and scope of the services provided, such as convenience stores, sandwich bars, coffee shops, etc. The proposal is therefore based on a growth sector, coffee shops, where margins are higher than fuel and therefore more profitable. Sales of 'coffee to go' are noted as being a major trend within the roadside market. The statement provides a review of the proposal against Scottish Planning Policy and the relevant LDP policies, and highlights that the development would support up to 9 new jobs.

Revisions to the original supporting statement have been made following the previous refusal. Where previously the focus was on the provision of an additional 'traveller's rest' facility for motorists, the revised statement highlights that the new application proposes to site the building 2m closer to the existing PFS building in order to reduce its visual prominence when viewed from Hill Roundabout. A reduction in parking provision has also been proposed (17 rather than 24) as well as the retention of a greater area of landscaped green space around the perimeter. This alteration would include the removal of steep embankments adjacent to the public road at the roundabout, thus addressing concerns over potential maintenance difficulties.

The statement also highlights that, in addition to providing an additional service to motorists passing through the area, the facility would also be of use to existing residents as an "accessible, safe and comfortable Class 3 meeting place." Walking routes in the area are highlighted as is the proximity of the site to nearby residential areas, including the new housing estate at Montgomerie Park.

Following the allocation of the site for a PFS in the Irvine New Town Plan of 1992, the site was identified for this purpose in the Irvine/Kilwinning Local Plan with the proviso that any retail outlet shall be ancillary to the primary use as a PFS. In April 1998, planning permission (ref. 98/00363/PP) was granted for the PFS which was then built. The site includes petrol pumps for cars and HGVs, a car wash and 24 hour retail shop. The shop has a gross floor area of 240 square metres, 175 square metres of which is retail floorspace. In 2008, Marks and Spencer Simply Food took on the lease of the retail shop which included a takeaway facility known as Wild Bean Cafe. At present, there is a convenience supermarket (Londis), which includes Costa Express, and a branch of Subway, which sells takeaway coffee, sandwiches, salads and other light snacks from a separate counter.

In terms of the adopted LDP, the site is within the settlement of Irvine. The proposal requires to be considered in relation to Policies TC 4 (Edge of Centre/Out of Centre Development), TC 5 (Local Shops) and the General Policy. In relation to town centre policies, the LDP states that "local shops will be permitted subject to demonstration of need and a limit on their size."

Consultations and Representations

The application was subject to the statutory neighbour notification procedures. No representations were received.

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Consultations

NAC Active Travel and Transportation - recommend refusal of this proposal on the grounds that it will interfere with the existing public road grass verges (a 2 metre strip adjacent to the carriageway) and with the visibility splays required for Hill Roundabout. Any development requires to be out with these areas.

Response: Noted.

Glasgow Prestwick Airport - no objection to this proposed development on statutory safeguarding grounds.

Response: Noted.

Analysis

As noted above, the proposal requires to be considered in relation to Policies TC 4 (Edge of Centre/Out of Centre Development), TC 5 (Local Shops) and the General Policy.

Policy TC 4 states that proposals for new retail on sites located outwith town centre boundaries shall not accord with the LDP unless a range of criteria can be satisfied. These include the following:

- (a) that the development comprises local shops permitted in terms of Policy TC 5;
OR
- (b) that the proposal site has been selected after careful sequential assessment of available and suitable sites/premises (or which can reasonably be made available or suitable) in the following order (1) sites within the town centre (2) sites within edge of centre locations (3) other sites designated on the proposals map as commercial centres, with each alternative sequentially preferable option being discounted for demonstrable reasons; AND
- (c) that the development would not adversely affect, either on its own or in association with other built or consented developments, the vitality and viability of the town centre; AND
- (d) the development is well located in relation to access by public transport, cycle routes and on foot.

In response, it is contended by the applicant that the proposed development, as set out in the supporting design and access statement, would serve both the roadside service market as well as providing a coffee shop type facility for the local community.

The statement discounts the 'town centre first' sequential approach set out in Policy TC 4, arguing that town centre locations are not always possible and that the proposed development would be appropriate adjacent to a PFS. The statement also argues, without any supporting evidence or analysis, that the development "could not reasonably be considered to adversely impact on the vitality and viability of any town centre or other defined centre."

The statement draws heavily on commentary contained in Scottish Planning Policy (SPP), arguing that LDPs should allocate a "range of sites for business" and allow for a "potential mix of uses." In response, it is contended that the adopted LDP does precisely this. It is not considered that the (residential) land use allocation in the LDP

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in relation to the application site is inappropriate. The statement also argues that SPP promotes sustainable transport and active travel. Again, the adopted LDP provides a policy framework addresses these matters.

The status of SPP is non-statutory, and clearly highlights that the 1997 Planning Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Any quotations from SPP need to be considered within the context of the entire document ("The SPP should be read and applied as a whole" - p.3, SPP). As such, it is not considered that SPP provides any support for the proposed development one way or another.

Even if the current availability of refreshment facilities on the PFS site was to be discounted, or if these were to cease trading at some point, it is still not considered that motorists using the B7080 or A736 would be disadvantaged given that the site is around 2 miles from Irvine town centre, where there is a large variety of catering outlets with convenient car parking and WC/washroom facilities.

In relation to the housing areas near the site, there are established group of local shops and services within the nearby housing areas of Girdle Toll and Lawthorn, both of which are closer to the nearest residential communities than Irvine town centre. Furthermore, the Council's Masterplan for Montgomerie Park reserves an area for the development of retail facilities to the west of Hill Roundabout at an accessible location to serve the future needs of the new housing area. This is a material consideration in relation to the overall land use strategy for the surrounding area, and has not been addressed by the applicant.

Taking the above factors together, the proposal cannot be justified on the basis that additional roadside services that would also serve as a local facility for nearby residential areas are needed at the application site, taking account of existing facilities both in the locality and within Irvine town centre.

In addition, the planning system has no locus to restrict any Class 1 or Class 3 development only to a coffee shop. As the proposed development would be free-standing, with its own separate parking area, it would be capable of operating independently from the PFS. As such, the proposed development would not necessarily safeguard the trading position of PFS in the longer term, as was originally claimed. The established local shops, whilst not protected in terms of the LDP, also offer more convenient locations within their respective residential areas to support active travel such as walking and cycling. Similarly, the reserved retail site within the Montgomerie Park Masterplan would be more convenient on foot or bicycle for residents of that estate. In contrast, the application site is located on the opposite side of arterial roads (Long Drive and Littlestone Road) from the nearest housing adjacent to a busy roundabout. For pedestrians, this would make the site less accessible, less convenient and therefore more likely to be accessed by motor vehicles.

The potential 9 jobs which the development would create is not sufficient reason to set aside the principles of the 'town centre first' policy in circumstances where the roadside and local services arguments are not compelling. In summary, it is not considered that the proposed development would accord with Policy TC 4.

Turning to Policy TC 5, which applies to the development of Local Shops, such proposals shall not accord with the LDP unless they can be justified against a range of criteria. These include:

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- (a) the development does not incorporate a unit of greater than 400 sq.m gross, and the total retail development is below 1,000 sq.m in size overall; AND
- (b) the development meets a recognised local need. Determination of local need will include consideration of the range of facilities available which already serve all or part of the catchment of the proposed unit. Where there are at least two existing units providing the same or similar services to a majority of the catchment of the proposed unit, no need for the proposed unit will be demonstrated; AND
- (c) it is located where it can be conveniently accessed on foot from adjacent, existing development.

In response, the submitted supporting information states that the limited size of the development would fall well below the threshold of 400m and that it "could also help serve further new residential developments proposed to the north and west." As noted above, the Montgomerie Park masterplan already provides a suitably located site within the development for the provision of retail facilities, which could potentially include Class 3 use. In terms of meeting a recognised local need it is stated that "there is no other drive through coffee shop facility is available in Irvine" which would tend to suggest that the main reason for the choice of site is to primarily serve customers arriving by motor vehicle, whether or not as local residents. However, the lack of a drive through coffee shop in Irvine is not considered to be any evidence of local need for such a facility at this particular location.

There are no footways on the Hill Roundabout. There is an existing public footpath to the south of the site which links, via a signal controlled pedestrian crossing on Long Drive (B7080) onto a remote path that leads west to Montgomerie Park. There is also a footway alongside Littlestone Road which leads south (or east) towards Girdle Toll. A footpath connection to the proposed development from the PFS site, crossing the HGV lane, has been indicated on the submitted plan. However, pedestrians would still need to access the site via the 4m grass verge onto the PFS forecourt. It is considered that the PFS site was not designed to encourage access from the surrounding areas by pedestrians, and whilst such trips would be possible, the environmental conditions would not be particularly attractive to making such journeys on foot.

As such, it is not considered that the proposal would accord with the provisions of Policy TC 5. No need has been demonstrated given the availability of similar facilities within the existing PFS shop, and in view of other locations in the surrounding residential areas that could offer more suitable sites to serve local needs on foot or bicycle.

With regard to the General Policy, the following criteria are of relevance:

(a) Siting, Design and External Appearance/(b) Amenity

The site occupies a visually prominent position, elevated above the adjacent Hill Roundabout by approximately 1.5m - 2m. The proposed development has been re-sited 2m to the south, but would still occupy a large part of the landscaped area which contributes positively to the 'parkland' setting of the existing petrol filling station, a characteristic that is consistent across all outer edges of the Hill Roundabout. The 'parkland' theme, a legacy of the landscape design principles from Irvine New Town, continues south along Long Drive towards Stanecastle Roundabout. The proposed building itself, whilst of reasonable modern design, would appear out of scale for its context and setting, resulting in over-development of the petrol filling station site to the detriment of the amenity of the area.

Notwithstanding its re-siting southwards by 2m, the elevated position of the site relative to Hill Roundabout and Long Drive would continue to present a visually prominent development, notwithstanding any landscaping or boundary treatments designed to mitigate the visual impact. As such, it is considered that the proposal would be unacceptable in relation to criteria (a) siting and (b) amenity.

(d) Access, road layout, parking provision

It is noted that the parking provision has been reduced from 24 to 17 spaces. However, the site would remain located at a location that is dominated by road traffic. The reduction in parking spaces would be of marginal benefit for pedestrian access, and would not address the relative remoteness of the site in relation to the housing areas nearby.

As noted above, Active Travel and Transport has recommended the refusal of the application on the grounds of adverse impacts on the public road network. As such, it is considered that the proposal would be unacceptable in relation to criterion (d).

There are no other material considerations. The application should therefore be refused as being contrary to the provisions of LDP policies TC 4 and TC 5 as well as the General Policy.

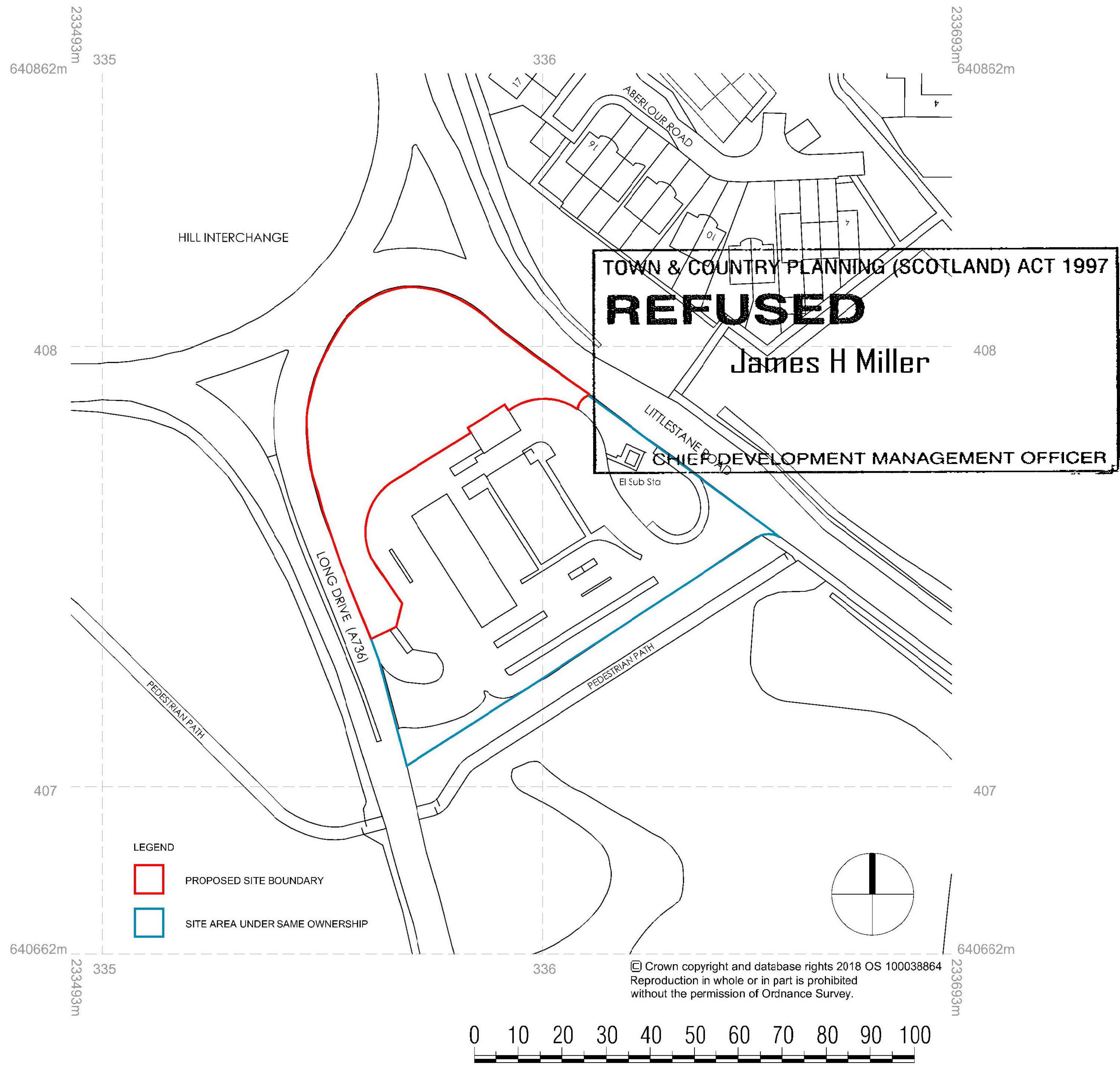
Decision


Refused

Case Officer - Mr A Hume

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Location Plan	WPS-MFG-072-PL001	
Levels	WPS-MFG-072-PL002	
Site Plan	WPS-MFG-072-PL003	C
Proposed Floor Plans	WPS-MFG-072-PL004	
Proposed Elevations	WPS-MFG-072-PL005	
Sections	WPS-MFG-072-PL006	B
Sections	WPS-MFG-072-PL007	C
Site Plan	WPS-MFG-072-PL008	B



rev	date	by	description
CLIENT			
 Motor Fuel Limited, Gladstone Place, 36-38 Upper Marlborough Road, St Albans, Hertfordshire, AL1 3UU			
PROJECT LOCATION			
GIRDLE TOLL SERVICE STATION, LITTLESTANE ROAD, IRVINE, KA11 2DB			
DRAWING			
LOCATION PLAN			
Wyeth Projects Services			
The Cart Shed, Amberley Court, Amberley Lane, Milford, Surrey, GU8 5EB, United Kingdom Tel: +44 (0)1483 424704 Email: enquires@wyethprojects.com			
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Date:	JULY 2018	Drawn By:	AMCA ARCHITECTS A3 original plot size
Scale:	1:1000@A3	Dwg No:	WPS-MFG-072-PL001
		Rev:	-



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

KAREN YEOMANS : Executive Director (Economy & Communities)

No N/19/00023/PP

(Original Application No. N/100149916-001)

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 : Motor Fuel Limited
c/o AMCA Architects Fao Sandy McAllister
Castlecroft Business Centre
Tom Johnston Road
Dundee
DD4 8XD

With reference to your application received on 14 January 2019 for planning permission under the above mentioned Acts and Orders for :-

Erection of Class 1/Class 3 coffee shop unit with drive-through and associated parking


at BP Girdle Toll Service Station
Long Drive
Irvine
Ayrshire
KA11 2AB

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

No N/19/00023/PP

1. That the proposal would be contrary to Policies TC 4 and TC 5 of the adopted North Ayrshire Council Local Development Plan in that no local need for the development has been adequately demonstrated for an additional Class 1/Class 3 development outwith the Irvine town centre boundary and outwith Commercial Centre allocations. Whilst the proposed 140 square metres of additional Class 1/Class 3 floorspace would be adjacent to an existing petrol filling station (PFS), its siting to the north of the PFS via dedicated vehicular access and egress routes with separate parking provision demonstrates that the development would be capable of operation independently of the PFS at a location which cannot be conveniently reached on foot from the surrounding residential areas. As such, the proposed development cannot be justified either as a local shop nor as a facility that would exclusively serve the needs of motorists using the local road network, resulting in the potential for detrimental impacts on the vitality and viability of Irvine town centre.
2. That the proposal would be contrary to criterion (a) siting, design and external appearance, (b) amenity and (d) access of the General Policy contained in the adopted North Ayrshire Council Local Local Development Plan in that:
 - the proposed building would appear out of scale for its context and setting, resulting in over-development of the petrol filling station site;
 - the prominent siting of the proposed building and drive-thru facility on an elevated roadside site at the edge of the Hill Roundabout would have an adverse visual impact on the 'parkland' landscape design of the Long Drive area, to the detriment of visual amenity; and
 - there would not be a pedestrian footpath connection between the site and the surrounding residential areas, to the detriment of active travel, and road safety in the area.

Dated this : 6 February 2019


.....
for the North Ayrshire Council

(See accompanying notes)



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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

KAREN YEOMANS : Executive Director (Economy & Communities)

FORM 2

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Committee Services, Chief Executive's Department, Cunninghame House, Irvine, North Ayrshire, KA12 8EE.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

