



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, 22 January 2020** 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 the meeting of the Local Review Body held on (i) 2 October 2019 and (ii) 30 October 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: 19/00704/PPP – Site to the North West of 15 Thirdpart Holdings, West Kilbride

Submit report by the Head of Service (Democratic Services) on a Notice of Review submitted by the applicant in respect of a condition applied to a planning permission granted by officers under delegated powers (copy enclosed).

4 Notice of Review: 18/01044/PP – Middleton Farm, Perceton Gate, Irvine

Submit report by the Head of Service (Democratic Services) on a Notice of Review submitted by the applicant in respect of a condition applied to a planning permission granted by officers under delegated powers (copy enclosed).

5 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
2 October 2019**

Agenda Item 2

Irvine, 2 October 2019 - At a Meeting of the Local Review Body of North Ayrshire Council at 2.55 p.m.

Present

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

In Attendance

I. Davies and A. Hume, Planning Advisers to the LRB (Economy and Communities); J. Law, Legal Adviser to the LRB (Legal Services); and E. Gray, Committee Services Officer (Chief Executive's Service).

Chair

Councillor Marshall in the Chair.

Apologies for Absence

Shaun Macaulay.

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 4 September 2019 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: 19/00147/PPP – Site to West of 35 Irvine Road, Largs

Submit report by the Head of Service (Democratic Services) on a Notice of Review submitted by the applicant in respect of a condition applied to a planning permission in principle granted by officers under delegated powers for the erection of dwellinghouse at a site to the west of 35 Irvine Road, Largs.

The Notice of Review documentation, Planning Officer's Report of Handling, Location Plan, Planning decision notice, further representations by interested parties and the applicant's response to the further representations were provided as appendices to the report.

The Legal Adviser to the Local Review Body advised of the appropriate procedure for consideration of the review request. The Planning Adviser to the Local Review Body 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 site visit.

The Local Review Body unanimously agreed that there was enough information provided to determine the review request without a site visit.

Members asked questions and were provided with further information on:

- similar access roads to other properties from A78 in Largs and the impact these have on traffic flow;
- the suggested wording for Condition 1 which was proposed in the Notice of Review and whether planning conditions could set out recommendations; and
- other options which would allow the applicant to increase the width of the access road and the land ownership issues which prevent this.

Councillor Marshall, seconded by Councillor Foster, moved that the Local Review Body uphold the review request and amend Condition 1 to remove the reference to the required width of the access road.

There being no amendment the motion was declared carried.

Accordingly, having considered all the information, the Local Review Body agreed to uphold the appeal and grant planning permission subject to the following condition:

1. That the approval of North Ayrshire Council as Planning Authority with regard to:
 - i) The siting, design and external appearance of the proposed dwellinghouse;
 - ii) Details of all boundary enclosures;
 - iii) Details of all hard and soft landscaping;
 - iv) Details of the means of access, proposed driveway and parking provision;

shall be obtained before the development is commenced. For the avoidance of doubt, the indicative drawings submitted in support of this application, are not approved.

4. Notice of Review: 19/00306/PP – Sorbie Farm, Ardrossan

Submitted a report by the Head of Service (Democratic Services) on a Notice of Review submitted by the applicant in respect of a Section 42 application refused by officers under delegated powers to vary condition 2 of planning permission 18/01061/PP to enable an increase of the consented wind turbine tip height from 104.3m to 125m at Sorbie Farm, Ardrossan, Ayrshire.

The Notice of Review documentation, Planning Officer's Report of Handling, Location Plan, Planning decision notice, further representations by interested parties and the applicant's response to the further representations were provided as appendices to the report.

The Planning Adviser to the Local Review Body 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 Local Review Body unanimously agreed that there was enough information provided to determine the review request.

Members asked questions and were provided with further information on:

- the impact on visual amenity which the increased turbine height would have for local residents;
- the additional energy which would be generated by the taller turbines and whether, following the Council's decision to declare a climate emergency, this outweighed the negative visual impact;
- the danger of setting a precedent by allowing this type of turbine to be sited within 2km of a residential area; and
- the increased noise generated by the taller turbines, whether this could be limited through the use of a planning condition and who would be responsible for monitoring noise levels should a condition be imposed.

Councillor McNicol, seconded by Councillor McMaster, moved that the Local Review Body uphold the review request and grant planning permission subject to a condition relating to the monitoring of noise generated by the turbine.

As an amendment, Councillor Clarkson, seconded by Councillor Larsen, moved that the Local Review Body uphold the officer's decision and refuse planning permission for the reasons set out in the decision notice.

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 decision taken by the Planning Officer to refuse the Section 42 application on the following grounds:

1. The proposal would be contrary to the provisions of Local Development Plan Policy PI 9 criterion (a) and (d) and the General Policy on the adopted North Ayrshire Council Local Development Plan in the following ways: It is considered that the degree of change from 104.3m blade tip to 125m blade tip would be substantial and adverse in terms of landscape and visual impacts, especially given the locational context of the site within 2km to the north of the settlement of Ardrossan and in close proximity to the North Ayrshire Lowlands Landscape Character Type, being a landscape of smaller scale. Such a substantial increase in scale would contrast markedly with the turbine design approved in the previous consents, would overwhelm those parts of the North Ayrshire Lowlands Landscape Character Type close to the site and would have an adverse effect on the rural setting of Ardrossan. This contrast would also be unfavourable against the design of the nearby Ardrossan Windfarm, resulting in conflict with the recommendations contained in the Council's Landscape Wind Capacity Study of 2018, all of which would adversely affect landscape character and visual amenity in the locality.

The Meeting ended at 3.45 p.m.

Irvine, 30 October 2019 - At a Meeting of the Local Review Body of North Ayrshire Council at 10.30 a.m.

Present

Tom Marshall, Timothy Billings, Robert Barr, Robert Foster, Christina Larsen, Ellen McMaster, Ronnie McNicol and Donald Reid.

In Attendance

I. Davies, Planning Adviser to the LRB (Place); J. Law, Legal Adviser to the LRB (Legal Services); A. Hume, Senior Development Management Officer and H. Clancy, Committee Services Officer (Chief Executive's Service).

Also In Attendance

A. Wilson, G. McGuinness, N. Maccallum and S. Wilson (Radio City Association); G. Walker and C. Harry (Scottish Natural Heritage); S. Simpson, J. Low and N. Willis (Save Your Regional Park Campaign).

Chair

Councillor Marshall in the Chair.

Apologies for Absence

Ian Clarkson

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 02 October 2019 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Hearing Session

3.1 Notice of Review: 18/01123/PP – Site to North of Standingstone Hill, Kilbirnie

Submitted a report by the Head of Service (Democratic Services) on a Notice of Review submitted by the applicant in respect of a planning application refused by officers under delegated powers for the erection of a 2.5MW wind turbine measuring 110m to blade tip and 65m to hub, to include associated earthworks and infrastructure at the site to the north of Standingstone Hill, Kilbirnie.

At its meeting on 4 September 2019, the Local Review Body agreed (a) to continue consideration of the Notice of Review to a future meeting for a hearing to be conducted in terms of the Hearing Session Rules set out in Schedule 1 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, to consider the application for review and hear from the parties on specified matters; (b) that the following parties are invited to attend and address the hearing, after submission of a hearing statement, on the following specified matters (i) material considerations - the applicant/applicant's representative, any interested parties who made representations, and officers of the Council's Planning Service (ii) location of application site in regional park and wild land assessment - the applicant/applicant's representative, any interested parties who made representations, and officers of the Council's Planning Service (iii) air traffic control matters – the applicant/applicant's representative, Glasgow Airport, and officers of the Council's Planning Service; (c) to undertake a site visit before the review hearing is considered; and (d) undertake all necessary notifications and any further procedure in terms of the said Rules.

In accordance with the hearing procedure and rules, the applicant, an officer of the Council's Planning Service, representatives from Scottish Natural Heritage, representatives from Glasgow Airport and representatives from Save Your Regional Park Campaign were invited to attend the Hearing Session and to submit a Hearing Statement and supporting documentation in advance of the session.

The Legal Adviser set out the background to the Hearing and advised those present of the procedures for conducting the Hearing.

The Planning Adviser advised the Local Review Body of the background to the application. The Planning Adviser also read out the Hearing Statement from Glasgow Airport who were unable to attend the hearing.

Representatives from Radio City Association, Scottish Natural Heritage, Save Your Regional Park Campaign and the Council's Planning Service then addressed the Local Review Body.

Members asked questions and were provided with further information on:

- suitability of the proposed site and if other sites were considered;
- Glasgow Airport objection and the conditions they requested be imposed;
- classification of the Wild Land Area and the impact on the classification if planning permission was granted;
- plans for current track at the site location if planning permission was granted;
- objector's knowledge of the site location and the wildlife;
- creation of jobs;
- Forestry Commission planting project at Halkhill and Blairpark Forest; and
- the role of the Scottish Natural Heritage National Interest Panel when a proposal is considered to raise issues of national interest.

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

Councillor Barr seconded by Councillor McMaster, moved that the Local Review Body uphold the appeal and grant planning permission.

As an amendment, Councillor Billings, seconded by Councillor McNicol, moved that the Local Review Body uphold the officer's decision and refuse planning permission.

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

Accordingly, the Local Review Body agreed to uphold the appeal and grant planning permission on the basis that the material considerations outweigh planning policy, subject to the following conditions:

Phasing plan

1. Prior to the commencement of the development a phasing plan, including the start and end dates for construction, the maximum height of construction equipment and the exact latitude and longitude of the turbine, shall be submitted to the Council, as Planning Authority, for written approval, in consultation with the Ministry of Defence. The development will not commence until such details are approved and thereafter be carried out in accordance with the approved details.

Reason: In order to ensure an appropriate timescale for the development and at the specific request of the Ministry of Defence.

Details relating to proposed track

2. Notwithstanding the details on any approved drawings, prior to the commencement of any development the applicant shall submit to the Council, as Planning Authority, for written approval, details of the proposed access track and hardstanding. Details shall include:

- i) method of construction and where an existing track is to be used, details of any widening or other improvement works proposed;
- ii) details of where any materials for improvement/construction works will be taken from;
- iii) details of remediation measures to the track, hardstanding and any 'borrow pits' for material following erection of the turbine, including a timescale for any remediation measures.

The development shall not commence until such details are approved and thereafter be carried out in accordance with the approved details.

Reason: In recognition of the difference between the submitted proposed track route and the unauthorised existing track to the north of the former Pundeavon Reservoir. To ensure appropriate mitigation measures to lessen any visual impact from the track and hardstanding following completion of the development.

Archaeological watching brief;

3. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved in writing by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: In recognition of the archaeological interest of the area and potential interest within the development site.

Glasgow Airport Safeguarding

4. That prior to the commencement of development, a Radar Mitigation Scheme setting out measures to be taken to prevent the impairment of the performance of aerodrome navigation aids and the efficiency of air traffic control services at Glasgow Airport must be submitted to, and approved in writing by the Council, as Planning Authority, in consultation with Glasgow Airport Limited.

Reason: In the interests of aviation safety

5. The turbines must be erected in accordance with the approved Radar Mitigation Scheme

Reason: In the interests of aviation safety

6. The development must be operated at all times fully in accordance with the approved Radar Mitigation Scheme.

Reason: In the interests of aviation safety

Ecological

7. An Ecological Clerk of Works (ECoW) shall be appointed and funded by the developer and the details of this appointment shall be submitted to and approved in writing by the Council, as Planning Authority, prior to commencement of the development. The ECoW will be present to supervise the installation of suitable surface water management drainage designs and silt prevention mitigation measures. The ECoW will also monitor the effectiveness of measures installed including the mitigation measures as may be approved under Condition 2. The ECoW will have the authority to stop works as necessary.

Reason: To ensure oversight of any drainage and visual mitigation works in recognition of the special circumstances of the site and the details set out in the Preliminary Ecological Appraisal Report, by Arcus dated December 2018 and submitted as part of this application.

8. Prior to commencement, a further survey, to be dated not earlier than 6 months prior to the proposed commencement date, shall be undertaken of the site and watercourses within 250m to assess the presence of otters and/or water voles. The survey shall be undertaken by a suitably qualified professional and in accordance with SNH guidance. Where the survey identifies the presence of protected species, mitigation measures to ensure no unacceptable adverse impact on the species or their habitats shall be provided. The findings of the survey shall be submitted to the Council, as Planning Authority, and approved in writing prior to commencement of the development. The development will thereafter be carried out in accordance with any details approved. If the works do not commence within 6 months of the date of any agreed survey, a further survey shall be carried out and submitted to the Council, as Planning Authority, for approval as above.

Reason: To ensure up-to-date information in respect of protected species and their habitats potentially within proximity of the site and in recognition of the details set out in the Preliminary Ecological Appraisal Report, by Arcus dated December 2018 and submitted as part of this application

Restoration

9. That, if the turbine ceases to be operational for a continuous period of 6 months, all its above ground elements, foundations down to one metre below ground level and any hardstanding shall be removed and the ground re-instated, within a period of not more than 6 months after the expiry of the 6 month period referred to above.

Reason: To ensure that the turbine is removed promptly should it become redundant and to protect the visual amenity of the area.

Noise

10. The proposed wind turbine noise emission level, when assessed at nearby noise sensitive premises, shall not exceed 35dB(A)LA90,10min at all wind speeds up to and including 10 ms⁻¹ when measured at 10m above ground level. In the case where the wind speed is measured at a height other than 10m, the wind speed data shall be standardised to 10m. The operation of the wind turbine shall not result in any audible tones at any noise sensitive premises.

Reason: To mitigate any noise disturbance from the turbine at noise sensitive properties

11. At the reasonable request of the Planning Authority/Environmental Health Service or following a valid complaint to the Planning Authority/Environmental Health Service relating to noise emission arising from the operation of the wind turbine, the operator shall measure the level of noise emission from the wind turbine at the property to which the complaint relates in line with a methodology agreed by the Planning Authority/Environmental Health Service.

Reason: To ensure any potential noise disturbance can be properly monitored

The Meeting ended at 12.15 p.m.

NORTH AYRSHIRE COUNCIL

22 January 2020

Local Review Body

Title:	Notice of Review: 19/00704/PPP – Site to the North West of 15 Thirdpart Holdings, West Kilbride.
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 19/00704/PPP – erection of detached dwelling house and stable at a site to the North West of 15 Thirdpart Holdings, West Kilbride.
- 2.2 The application was refused by officers for the reasons detailed in the Decision Notice.
- 2.3 The following related documents are set out in the appendices to the report: -
- Appendix 1 - Notice of Review documentation;
 - Appendix 2 - Report of Handling;
 - Appendix 3 - Location Plan;
 - Appendix 4 - Planning Decision Notice;
 - Appendix 5 - Further representations from interested parties; and
 - Appendix 6 - Applicants response to further representations.

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.

Human Resources

4.2 None.

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.

Environmental and Sustainability

4.5 None.

Key Priorities

4.6 None.

Community Benefits

4.7 None.

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 these are attached at Appendix 5 to the report.

5.2 The applicant has had an opportunity to respond to the further representations and their response is set out in Appendix 6 to the report.

Craig Hatton
Chief Executive

For further information please contact **Hayley Clancy, Committee Services Officer**, on **01294 324136**.

Background Papers

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NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY 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 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

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.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name Caroline Santos

Address 7 Tay Street,
Newburgh,
Fife

Postcode KY146AL

Contact Telephone 1 [REDACTED]
Contact Telephone 2 [REDACTED]
Fax No [REDACTED]

E-mail* [REDACTED]

Agent (if any)

Name Andrew Nicoll

Address 7 Tay Street,
Newburgh
Fife

Postcode KY146AL

Contact Telephone 1 [REDACTED]
Contact Telephone 2 [REDACTED]
Fax No [REDACTED]

E-mail* [REDACTED]

Mark this box to confirm all contact should be
through this representative:

Yes

* Do you agree to correspondence regarding your review being sent by e-mail?

Planning authority

North Ayrshire

Planning authority's application reference number

Decision 19/00704/PPP

Site address

Land to the north west of 15 Thirdpart Holdings

Description of proposed
development

A one and a half storey house with attached stables

Date of application

September 24,
2019

Date of decision (if any)

November 11, 2019

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

Nature of application

2. Application for planning permission in principle

Reasons for seeking review

1. Refusal of application by appointed officer

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.

- 4 Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, 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 are necessary:

Site inspection

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

Yes

1. Can the site be viewed entirely from public land?
2. Is it possible for the site to be accessed safely, and without barriers to entry? Yes

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

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.

As set out in the additional document attached, the decision reached by the planning officer is perverse in that it disregards an earlier decision of the Local Review Body and no reasonable person, based on the evidence, could reach that decision.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

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 and intend to rely on in support of your review.

Please see the attached submission setting out my reasons for requesting a review. Marked maps and documents relating to the original submission are available here:

<https://www.eplanning.north-ayrshire.gov.uk/OnlinePlanning/applicationDetails.do?activeTab=documents&keyVal=PXZ2KPLEHZZ00>

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.

Checklist

Please mark the appropriate boxes to confirm 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 requiring 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 [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

12/11/19

REPORT OF HANDLING



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Reference No:	19/00704/PPP
Proposal:	Erection of detached dwelling house and stable
Location:	Site To North West Of , 15 Thirdpart Holdings, West Kilbride, Ayrshire
LDP Allocation:	Countryside/Rural Community
LDP Policies:	ENV2 / ENV4 / POLICY PI 8 / General Policy /
Consultations:	Yes
Neighbour Notification:	Neighbour Notification carried out on 24.09.2019 Neighbour Notification expired on 15.10.2019
Advert:	Regulation 20 (1) Advert Published on:- 02.10.2019 Expired on:- 23.10.2019
Previous Applications:	None
Appeal History Of Site:	None

Relevant Development Plan Policies

ENV2

POLICY ENV 2: HOUSING DEVELOPMENT IN THE COUNTRYSIDE

Single houses in rural areas

Proposals for a single new stand alone house within its own established setting in a rural area shall not accord with the LDP unless it can be demonstrated that:

- (a) the proposal demonstrates outstanding quality of design; AND
- (b) is distinctive and responsive to its setting, making a positive contribution to the locality of the area; AND
- (c) the proposal integrates with, complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable; AND
- (d) is located a sufficient distance from a village, existing grouping, building or settlement to ensure that the development is considered as part of an established rural landscape; AND

- (e) account has been taken of the possibility of converting, rehabilitating or replacing an existing building in the countryside or of locating a new building in a brownfield location; AND
- (f) the development is not proposed in an area of 'sensitive countryside' (see glossary), is not of a suburban character and takes cognisance of the Rural Design Guidance; AND
- (g) the proposal has been closely scrutinised and positively endorsed by a design review (internal to the Council) and/or Architecture and Design Scotland.

Small scale growth of existing rural housing groups

Proposals for development in rural areas not defined in the LDP as a settlement or village shall accord with the LDP subject to satisfying the following criteria:

- (a) the proposal constitutes a small-scale, sympathetic addition to an existing well-defined nucleated group of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Expansion of such a group will be limited to 50% of dwellings existing in that group as of 1 January 2005 up to a maximum of four new housing units (rounded down where applicable); AND
- (b) the proposal is not suburban in character and takes cognisance of the approved Rural Design Guidance; AND
- (c) any individual proposal does not prejudice a future development opportunity; AND
- (d) the proposal complies with relevant Roads Guidelines.
- (e) the proposal is not located within an area of 'sensitive countryside' (see glossary).

The sensitive infilling of any available gap sites consolidating existing groups will be particularly encouraged.

Housing for workers engaged in a rural business

Proposals for housing for workers engaged in an appropriate rural business (such as agriculture, forestry, or other operations provided for under Policy ENV 1) shall accord with the LDP subject to the following criteria:

1. The dwelling is for a farmer who owns and operates a viable agricultural holding full time which has no farmhouse at present; OR
2. A farmer is the owner and occupier of an agricultural holding and proposes to erect a dwelling for a family member in full time employment on the farm and who intends to take over the farm in time; OR
3. A genuine operational need for a worker to live on site in pursuance of an established rural business has been demonstrated; AND
4. All proposals will also be required to demonstrate that:
 - (a) accommodation cannot be reasonably provided by another existing dwelling on site or in the area (including by any buildings after re-use, replacement, conversion or rehabilitation at reasonable cost) or within existing rural housing groups suitable for expansion under the other provisions of this policy;
 - (b) there are no existing planning consents (not time expired) for residential developments which have not commenced and would provide a suitable accommodation arrangement;
 - (c) the siting, design and external appearance of the new development (including any conversion) complements any existing building group on the site;
 - (d) the scale of the housing provided is commensurate with the need of the person or persons who will occupy it; and
 - (e) cognisance has been taken of the Council's Rural Design Guidance.

Note:

In the case of housing for a worker engaged in a rural business, where an operational need requires to be demonstrated, this should take the form of an independent report/business plan prepared by a suitably qualified professional. This justification should demonstrate the ongoing viability of the business and provide reasons why residential accommodation located on site is essential to the functional needs of the business and is not merely for convenience.

For housing justified as 'housing for workers engaged in a rural business', occupation of such shall be limited to persons employed (and any dependents) in agriculture, forestry or other rural activities allowed under Policy ENV 1 and this will be secured via planning condition and/or legal agreement as appropriate.

All proposals will require to be supported by a design statement, inclusive of landscaping proposals particularly in regard to urban fringe sites, to assist the Council to fully assess the proposal.

The submission of an area landscape capacity evaluation will normally be required for all development in the countryside.

It will be a condition that the development be commenced within two years to prevent land banking.

In the case of single houses in rural areas, permitted development rights may be removed in recognition of the high standard of design required from the development.

No applications for planning in principle shall be accepted for development. Pre-application discussions are encouraged prior to the submission of a full application. Provision of temporary accommodation for an agreed period in pursuance of a viable rural business, requiring an operational need for a worker to live on-site, will be in accordance with the Plan subject to compliance with other policies.

ENV4

POLICY ENV 4: FARMLAND

Proposals for development which would lead to the permanent loss of prime quality farmland on mainland North Ayrshire or the Cumbraes (grades 1, 2 and 3.1 on the Macaulay Institute Agricultural Land Classification Maps) shall not accord with the LDP unless it can be demonstrated that:

(a) The proposal is small scale development acceptable under the terms of Policy ENV1 or ENV2; OR

(b) The development is for an appropriate scale of renewable energy generation or mineral extraction, where restoration proposals will return the land to its former status.

Proposals for development on locally important non-prime agricultural land (grade 3.2 on mainland North Ayrshire and the Cumbraes and grades 3.2, 4.1 and 4.2 on the Isle of Arran) which would have a detrimental effect on the viability of a farming unit and which would lead to the permanent loss of such farmland shall not accord with the LDP unless the need for development outweighs the importance of the agricultural land.

Restoration proposals showing how land will be returned to its pre-existing status may be required.

This policy does not apply to sites allocated as RES 2 or RES 4 on the LDP maps.

POLICY PI 8
DRAINAGE, SUDS & FLOODING

Water/Waste Water Treatment Infrastructure

1. Proposals for the expansion or development of new facilities for water supply or the treatment of waste water shall accord with the LDP, subject to satisfying the following criteria:

- (a) it can be demonstrated that a range of alternative sites have been examined and that the proposed development offers the solution with least environmental impact whilst at the same time being technically feasible and financially viable;
- (b) the proposal incorporates appropriate landscape buffering, screening and design, particularly in sensitive environments.

Drainage

Development shall normally require a comprehensive Drainage Assessment (see Supplementary Guidance: Drainage, SUDS & Flooding) to be submitted to the satisfaction of the Council's Flooding Risk Management section unless it can be otherwise demonstrated that the site can be satisfactorily drained.

2. Proposals where public sewage infrastructure is available should connect to the public network, instead of providing a private drainage solution.

3. Where a private drainage solution is proposed, this will only be acceptable subject to the criteria set out within Supporting Information Paper 9.

4. Any proposals for the culverting of a watercourse will be considered with reference to SEPA's position statement on culverting.

SUDS

5. All development, with the exception of single house developments and development discharging surface water run-off to coastal waters, shall require to incorporate SUDS techniques.

Flooding

6. Development on areas identified as at or greater than 0.5% risk of flooding annually (0.1% for essential civil infrastructure) on flood risk plans, or on areas of known or suspected incidences of flooding, shall not accord with the LDP, unless the following criteria can be satisfied:

(a) a Flood Risk Assessment, completed to the satisfaction of the Council's Flood Risk Management Section, has been submitted;

(b) the ability of any functional floodplain to store and convey water will not be impaired;

(c) the development will not increase the risk of flooding elsewhere or materially increase the number of buildings at risk of being damaged by flooding; AND

(d) the risk of flooding to the development itself can be mitigated satisfactorily (i.e. through an existing or planned flood protection scheme); OR

(e) where flood risk cannot be satisfactorily mitigated, the development has an operating requirement that makes the location essential (e.g. for emergency services coverage, agriculture related use, water based activity) and will be capable of remaining operational and accessible during extreme flooding events.

The above criteria shall generally not apply to alterations and small scale extensions, provided that such development will not have a significant material effect on the functional floodplain; will not affect local flooding issues; and will not significantly increase the number of people occupying/visiting the area.

7. Development on areas identified as having flood risk of less than 0.5% will normally be acceptable for development in respect of flood risk. A Flood Risk Assessment may be required if the nature of the development or local circumstances indicate heightened risk.

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;
- 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:

19/00704/PPP

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.

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

The application site is a 0.97ha agricultural field in Thridpart Holdings. The site is accessed off the U60 Thirdpart Road and is flat and open in character. Thirdpart Holdings is an area of countryside to the north of West Kilbride characterised by small clusters of agricultural buildings based around a loop road and separated by open fields. This is as a result of the history of the area, which was at the beginning of the twentieth century split into numerous 'small holdings', a form of agricultural division similar to a croft.

This proposal is for Planning Permission in Principle for dwellinghouse and stable. The house would contain three bedrooms and would be one and a half storeys in height. There are two proposed accesses, one at the north west corner of the site and one in the south east corner adjacent to the road junction which serves 13-16 Thirdpart Holdings. However, as the application is in principle all details are indicative. Such details would have to be determined through future planning applications, should permission in principle be granted.

In the adopted Local Development Plan the site lies within the Countryside and the proposal requires to be assessed against Policy ENV 2; Housing Development in the Countryside, Policy ENV 4; Farmland, Policy PI 8; Drainage, SuDs and Flooding and the relevant criteria of the General Policy, in this case (a) Siting, Design and External Appearance, (b) Amenity, (c) Landscape Character and (d) Access, Road Layout and Parking Provision.

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

Consultations and Representations

The standard neighbour notification was undertaken, and the application was advertised in the local press. There have been three letters of objection, the points raised in which are summarised below:

1. The proposed southern access has never previously been used as an access and would cause traffic congestion at the road junction. It is also adjacent to a blind corner and would pose a danger to oncoming vehicles.

Response: This is an application for Planning Permission in Principle and access arrangements would be assessed as part of a following application for full Planning Permission. North Ayrshire Council Active Travel and Transportation has no objections to the proposal subject to the applicant being able to maintain visibility splays of 2.5m by 90m.

2. There are currently no buildings on the land, and it is agricultural land.

Response: The proposed development site is identified as prime quality farmland, and therefore its development would be contrary to policy ENV4; see analysis.

3. Why was number 16 Thirdpart Holdings not notified about the development?

Response: The standard neighbour notification was undertaken, and 16 Thirdpart Holdings was outwith the 20m range for notification.

4. The site is prone to flooding.

Response: The site is at high risk of surface water flooding and no Flood Risk Assessment has been provided and the development is therefore contrary to policy PI 8; see analysis. North Ayrshire Council's Flooding Team have also objected on this basis.

5. The development of a house in this location would be detrimental to the visual appearance of the area.

Response: This is an application for Planning Permission in Principle and the visual appearance of the development would be assessed as part of a following application for full Planning Permission. Notwithstanding the above, the site is not considered suitable for a dwellinghouse and would represent ribbon development which would be detrimental to the appearance of the area.

6. The application is contrary to policy ENV2 as it does not contain details relating to siting, design and external appearance and is not allied with a clearly defined rural housing group.

Response: Agreed, see analysis.

7. The application states that the house would utilise a public water connection, however, there is no public water mains in Thirdpart.

Response: The applicant would be required to demonstrate that the site could be sufficiently serviced as part of an application for full Planning Permission.

Consultations:

North Ayrshire Council Active Travel and Transport: No objections, subject to conditions.

Response: Noted.

19/00704/PPP

North Ayrshire Council Flooding: Object to the application on the basis that the application site is at high risk of surface water flooding and no Flood Risk Assessment has been provided with the application.

Response: Noted.

Analysis

Under Policy ENV 2; Housing Development in the Countryside, all proposals for housing in the countryside need to comply with North Ayrshire Council's Rural Design Guidance. Applications for Planning Permission in Principle do not contain details on the design and appearance of the house, and it is therefore impossible to demonstrate accordance with the Rural Design Guidance. Planning Permission in Principle for housing in the countryside cannot therefore be granted. The applicant did not seek pre-application advice. After submitted this application the applicant was advised of Planning's position vis-à-vis Planning Permission in Principle for housing in the countryside and was advised to withdraw and re-submit at a later date with a full Planning application. The applicant has declined to do this and has asked that the application be determined in its current form. The application does not demonstrate a design which complies with the Rural Design guidance and is therefore contrary to Policy ENV 2.

Notwithstanding the above, it is not considered that the site is a suitable location for a new dwellinghouse under Policy ENV 2. In the Design Statement the applicant argues that the development site would constitute small scale growth of an existing rural housing group comprising of 13, 14, 15 and 16 Thirdpart Holdings. A recent decision by the Local Review Body with relation to planning application ref. 18/00469/PP took the view that these four houses do represent a rural housing group. It is not however considered that the proposed site would be attached to this grouping as any house would not be in line with the existing houses and would be approximately 250m away from nos. 13 and 14 Thirdpart, the houses at the end of the grouping. The erection of a house on the site would represent ribbon development along Thirdpart Road and does not meet the requirements of Policy ENV2.

The proposed site is identified in the Macaulay Institute Agricultural Land Classification Map as high-quality agricultural land (grade 3.1) capable of producing consistently high yields of a narrow range of crops and/ or moderate yields of a wider range. Development of prime quality farmland is not supported under policy ENV 4, Farmland, unless it is acceptable under the terms of Policy ENV 1 or ENV 2, which this proposal is not. The proposed development is therefore contrary to Policy ENV 4.

The proposed development site is identified by SEPA flood mapping as being at high risk of surface water flooding. Under Policy PI 8, development on areas identified as being at or greater than 0.5% flood risk annually shall not accord with the LDP unless a Flood Risk Assessment (FRA) completed to the satisfaction of the Council's Flood Risk Management Section has been submitted. No such assessment has been received and the application is therefore contrary to Policy PI 8. Criterion (f) of the General Policy states that 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. In the absence of an FRA or details of drainage measures, the impact of the development on flooding is not known. The proposal is therefore also contrary to criterion (f) of the General Policy.

In terms of General Policy criteria (a) and (b), no specific design details have been submitted and it is not therefore possible to carry out an assessment of whether the proposal would comply with these criteria. It is also important to note that no details have been given with regards to the proposed stable and it is not evident whether this would be a commercial or private stable.

With regards to criterion (c), it is considered that erecting a house on this site would have a negative impact on the landscape of the area due to the high visibility of the site and its lack of a relationship to nearby development. The applicant has submitted a plan showing two proposed accesses to the site. The southern access would be out onto a three-way road junction and adjacent to a bind corner. While NAC Active Travel and Transport has not objected to this access, it seems unlikely that the southern access would meet the required visibility splays. The northern access may be more acceptable in terms of road safety but would open onto a different road from the rest of the houses in the rural grouping which the applicant argues the proposed house would be a part of. There is not enough information to assess whether the proposal complies with criteria (a), (b) and (d) and it conflicts with criteria (c), and therefore the proposal cannot be said to be in accordance with the General Policy.

The proposal is contrary to policies ENV 2, ENV 4, PI 8 and criteria (a), (b), (c), (d) and (f) of the General Policy of the adopted North Ayrshire Local Development Plan and therefore it is recommended that the application be refused.

Decision

Refused

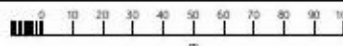
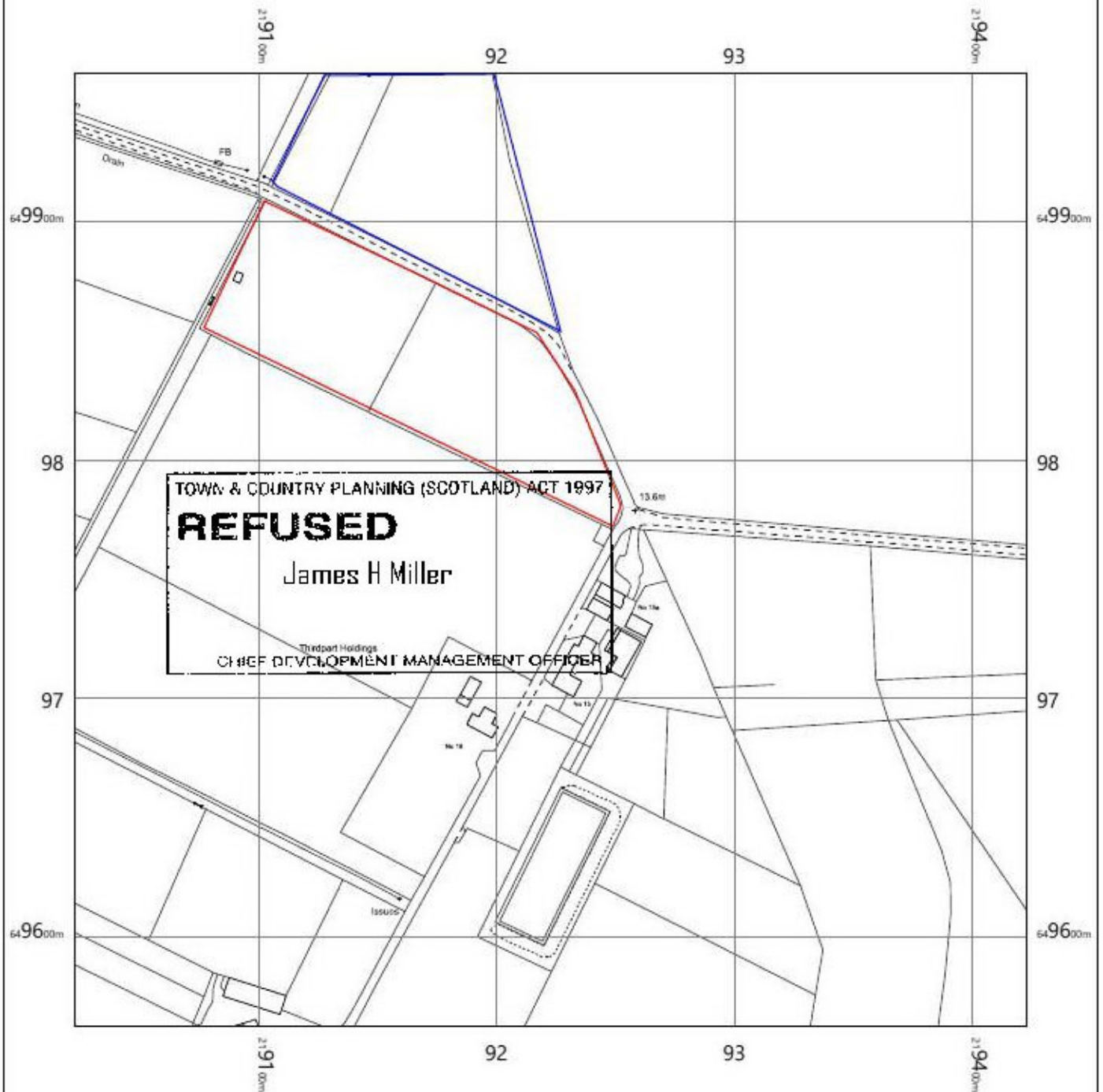
Case Officer - Mr John Mack

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Block Plan / Site Plan		
Location Plan		

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Site To North West Of 15 Thirdpart Holdings, West Kilbride

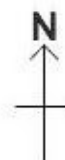


The Stables
15a Thirdpart Holdings,
West Kilbride,
Ayrshire
KA23 9QD

OS MasterMap 1250/2500/10000 scale
Thursday, September 19, 2019, ID: MPMBW-00828823
www.blackwellmapping.co.uk

1:2500 scale print at A4, Centre: 219223 E, 649762 N

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North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

KAREN YEOMANS : Executive Director (Economy & Communities)

No N/19/00704/PPP

(Original Application No. N/100180291-001)

REFUSAL OF PLANNING PERMISSION IN PRINCIPLE Type of Application: Local Application

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

To : Ms Caroline Santos
 7 Tay Street
 Newburgh
 KY14 6AL

With reference to your application received on 24 September 2019 for planning permission in principle under the above mentioned Acts and Orders for :-

Erection of detached dwelling house and stable

at Site To North West Of
 15 Thirdpart Holdings
 West Kilbride
 Ayrshire

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

1. The proposal is contrary to Policy ENV 2 and criteria (a), (b) and (c) of the General Policy of the adopted North Ayrshire Local Development Plan. The development would be of a new house in the Countryside which would not be within its own established setting or form small scale growth of an existing housing group. In the absence of detailed design, no cognisance of the Council's Rural Design Guidance nor outstanding quality of design has been demonstrated. The erection of a house in this location would have a negative impact on landscape character by way of the high visibility of the site.
2. That the proposal would be contrary to Policy ENV 4 of the adopted North Ayrshire Local Development Plan, as the proposal would result in the loss of prime quality farmland and the proposal is contrary to Policy ENV2.
3. That the proposal would be contrary to criterion (d) of the General Policy of the adopted North Ayrshire Local Development Plan, as insufficient information has been submitted to demonstrate that safe access and egress arrangements, including adequate visibility splays, could be achieved.
4. That the proposal would be contrary to Policy PI8 and criterion (f) of the General Policy of the adopted North Ayrshire Local Development Plan, as the site is located within an area of high risk of surface water flooding. No details have been submitted to assess the impact of the any flooding of the proposed development site and surrounds.

No N/19/00704/PPP

Dated this : 11 November 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.

As discussed, I enclose the email correspondence between myself and Mr Mack dated **23rd October 2019** which highlights and details the unauthorised copyrighting which has taken place to support application **19/00704/PPP**;

In recent informs in relation to application **19/00704/PPP**, Mr Andrew Nicol has submitted an '**Appeal Statement**' of which continues to reference application **18/00469/PP** either directly and/or indirectly.

All planning applications ought to be accessed individually of which should be based on the councils planning policies and circumstances, constraints and/or justifications for a new housing development in the countryside.

Evidently, not all applicants agree with the councils ruling in relation to their applications of which they have a right to appeal.

However, the applicants of **19/00704/PPP** clearly believe that the same decision should be taken on their application despite separate constrains and location including site amenities being entirely divergent to application **18/00469/PP**.

I would also like to point out the comparative in the name of the formal application made, of which has been fully submitted; **19/00704/PPP Erection of detached dwelling house and stable**, application **18/00469/PP** was named - **Erection of detached dwellinghouse with stables** this seems to be a blatant attempt to mimic the same antecedence of application **18/00469/PP**.

Many of the statements made by Mr Andrew Nicol within the '**Appeal Statement**' in regard to co-common shared access with neighbouring properties such as **13, 14, 15, 15a** and **16** Thirdpart holdings are false. This agricultural land does not share the co-common features or shared access with these properties and is separated by a public road and land mass. Properties such as **13, 14, 15, 15a** and **16** have shared co-common access and right to the shared-common access road by the right of title deed.

I would very much like to echo the concerns raised on the **23rd of October 2019** and from our telephone conversation to ask that the LRB be notified in regard to the similarity and unauthorised use of application documentation from **18/00469/PP**, including imagery to support application **19/00704/PPP**.

Dear John,

Thank you for your time this morning and your e-mail below.

I understand the formal position of the council on this matter, thus the reasoning behind my calls this morning to you and to **Jean Law** as pose to perusing private legal matters.

I have appended for you only some of the copyrighting infringements which have been taken from our documents of which have been consciously copied to support the application **19/00704/PPP**.

As I specified this morning even the image contained within the application named above to propose and or to support and illustrate the southern access point has been taken from the application **18/00469/PP**'s document ("**Planning Design Statement**") which appears on page seven (7) photograph three (3).

As stated to **Jean Law** some of the copyrighting has also been taken from the document ("**Review Statement Document**") of which was created by a UK incorporation which the contractual consultancy agreement terms are between Mr & Mrs Macdonald and that incorporation of which contains exclusivity provisions which can only be used in relation to and in support of application **18/00469/PP** unless otherwise authorised in writing by both parties.

Inclusive of the above **Ms Caroline Santos** would also appear to be breach of North Ayrshire Councils own terms and conditions within the NAC e-Planning portal under the **Copyright** section and the sub section conditions of use.

The NAC e-Planning portal clearly outlines that all material contained within the website is the copyright of North Ayrshire Council and any copyrighting is only permitted provided that the source of such materials is clearly acknowledged of which this has not been acknowledged as part of the formal application **19/00704/PPP** nor has **Ms Caroline Santos** been given expressed written permission by the original sources of the material to use as part of her application.

Thank you, for acknowledging this the above and I understand that the application will still be accepted in good faith and that this may not be a planning matter and is subject to legal proceedings.

I support North Ayrshire Councils legal teams recommended to the letter which expectantly will cease and desist all unlawful copyrighting conducted by **Ms Caroline Santos** going forward and or in pursuant to the process of her planning application **19/00704/PPP**.

I will confirm to you and to North Ayrshire Council that should **Ms Caroline Santos** continue to use any such documentation that is related to our planning application **18/00469/PP** to support her own planning application **19/00704/PPP** after receiving said letter of allegation. I will have no choice but to enact "**willingful Infringement**" and seek the necessary legal actions and associated relief for the copyright infringements that have taken place of which will be **pursuant to the Intellectual Property Act 2014 and the Copyright, Designs and Patents Act 1988**.

Policy ENV2 of the adopted North Ayrshire Local Development Plan sets out the circumstances in which a new dwellinghouse in the Countryside would be acceptable. **Taken from ("Review Statement Document") For Application 18/00469/PP**

The first circumstance for a new dwelling under ENV2 is for a single house in its own established setting in a rural area. **Taken from ("Review Statement Document") For Application 18/00469/PP**

The second circumstance relates to a small scale, sympathetic addition to an existing well-defined nucleated group of four or more houses. **Taken from ("Review Statement Document") For Application 18/00469/PP**

Policy ENV2 in relation to small scale growth of existing rural housing groups states that proposals for development in rural areas not defined in the LDP as a settlement or village shall accord with the LDP subject to satisfying the following criteria: the proposal constitutes a small scale, sympathetic addition to an existing, well defined, nucleated group of four or more houses and visually identifiable as a group with some common features, eg shared access. **Taken from ("Review Statement Document") For Application 18/00469/PP**

Expansion of such a group will be limited to 50 per cent of dwellings existing in that group as of 1 January 2005 up to a maximum of four new units. The proposed development will fully accord with those principles. **Taken from ("Review Statement Document") For Application 18/00469/PP**

Access is available there, in accordance with ENV2, or at the northern end of the site, with more than adequate space for parking within the site. Any visitor to the location would find themselves in a rural area with a mixture of residential properties, agricultural buildings and related land. **Taken from ("Review Statement Document") For Application 18/00469/PP**

The site forms part of the Thirdpart Holdings and sits on a low coastal saddle between the gentle rises of Waterside/Auld Hills and Drummilling Hill within the former Hunterston Estate. **Taken from ("Planning Design Statement") For Application 18/00469/PP**

The proposed additional dwelling can be justified as a sympathetic addition to this group. The policy allows only a limited expansion of groups by up to 50% and the proposal would meet this criterion. **Taken from ("Review Statement Document") For Application 18/00469/PP**

Good Afternoon Mr Macdonald,

I am writing in response to our phone call this morning regarding the potential breach of copyright of documentation from Planning Application ref. 18/00469/PP.

On the advice of our legal team I will be writing to the applicant to advise that the Council has received your allegation, however, the Council is obliged to accept the applicant's application in good faith.

I would therefore suggest that you consult with a solicitor in a private practice. I would also add that the Council may be required to reconsider its position should it receive notification of legal action concerning the dispute.

Regards,

John

*John Mack
Planning Officer
Planning Services
North Ayrshire Council
Cunninghame House
Irvine KA12 8EE*

Applicants Response to Further Representations

I have attempted to honestly interpret the meaning of your correspondent's complaints. All comments and complaints made by your correspondent are reproduced here verbatim and exactly as they were passed to me.

To deal with the points raised as they occur:

Your correspondent avers: "In recent informs in relation to application 19/00704/PPP, Mr Andrew Nicol has submitted an 'Appeal Statement' of which continues to reference our application either directly and/or indirectly."

Response : Agreed. My appeal is based entirely on the fact that the LRB ruled that the development at 15a Thirdpart Holdings was in compliance with policy ENV2 and, in my submission, the application in the name of Ms Santos must therefore be in accordance with Policy ENV2 also.

Your correspondent avers: "All planning applications ought to be accessed individually of which should be based on the councils planning policies and circumstances, constraints and/or justifications for a new housing development in the countryside."

Response: Also agreed insofar as all applications are given equal treatment.

Your correspondent avers: "Evidently, not all applicants agree with the councils ruling in relation to their applications of which they have a right to appeal."

Response: Agreed.

Your correspondent avers: "However, the applicants of 19/00704/PPP clearly believe that the same decision should be taken on their application despite separate constrains and location including site amenities being entirely divergent to our application 18/00469/PP."

Response: Agreed. With no admission regarding constraints, the applicant wholeheartedly agrees that the same decision must be taken on two, exactly similar applications regarding properties separated by the width of a common access road.

Your correspondent avers: "I would also like to point out the comparative in the name of the formal application made, of which has been fully submitted; 19/00704/PPP Erection of detached dwelling house and stable our application was named 18/00469/PP | Erection of detached dwellinghouse with stables this seems to be a blatant attempt to mimic the same antecedence of our application."

Response: Agreed. The application is intentionally designed to be in exactly the same terms as the application 18/00469/PP, approved by the LRB in November of last year in order that, like the application approved in November last year, it should also fall within the terms of Policy ENV2.

Your correspondent avers: "Many of the statements made by Mr Andrew Nicol within the 'Appeal Statement' in regard to co-common shared access with neighbouring properties such as 13, 14, 15, 15a and 16 Thirdpart holdings are false. This agricultural land does not share the co- common features or shared access with these properties and is separated by a public road and land mass. Properties such as 13, 14, 15, 15a and 16 have shared co-commonaccessandrighttotheshared-commonaccessroad bytherightoftitledeed."

Response: Not agreed. A reference to the map, a brief site visit or, indeed, reference to the disputed photograph will show clearly that the land in question is accessed by the same, single-track road which serves the properties listed above. Such investigation

Applicants Response to Further Representations

would also confirm that the so-called “land mass” separating the sites is nonexistent and, to put it kindly, imaginary.

Your correspondent avers: “I would very much like to echo the concerns raised on the 23rd of October 2019 and from our telephone conversation to ask that the LRB be notified in regard to the similarity and unauthorised use of our application documentation including imagery to support application 19/00704/PPP.”

Response: Agreed. The applicant would also very much like the LRB to be notified of the similarity between the two applications. In fact the applicant *insists* that members of the LRB should be fully appraised of the similarity since that can only strengthen the case for appeal.

To turn to the alleged copyright infringements listed by your correspondent.

Response: except in the case of the use of a photograph of the access gate to the applicant's property, this is not agreed. The applicant would invite members of the LRB to study the disputed photograph in detail as that photograph- supplied by your correspondent - completely undermines their claim that there is no shared access. In all other cases copyright infringement is denied. The complaints by your correspondent are nonsensical. To quote the council's publicly available planning rules in correspondence regarding a planning application falls clearly within fair usage. Indeed to forbid its usage would make such an appeal as that currently before the LRB impossible, which is obviously not the intention of the council.

NORTH AYRSHIRE COUNCIL

22 January 2020

Local Review Body

Title: Notice of Review: 18/01044/PP – Middleton Farm, Perceton Gate, 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 18/01044/PP – the erection of 2 storey dwellinghouse with attached double garage.
- 2.2 The application was refused by officers for the reasons detailed in the Decision Notice.
- 2.3 The following related documents are set out in the appendices to the report: -
- Appendix 1 - Notice of Review documentation;
 - Appendix 2 - Report of Handling;
 - Appendix 3 - Location Plan; and
 - Appendix 4 - Planning Decision Notice.

3. Proposals

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

4. Implications/Socio-economic Duty

Financial

4.1 None.

Human Resources

4.2 None.

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.

Environmental and Sustainability

4.5 None.

Key Priorities

4.6 None.

Community Benefits

4.7 None.

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 representations were received.

Craig Hatton
Chief Executive

For further information please contact **Hayley Clancy, Committee Services Officer**, on **01294 324136**.

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 100144292-002

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:

Ref. Number: You must enter a Building Name or Number, or both: *

First Name: * Building Name:

Last Name: * Building Number:

Telephone Number: * Address 1 (Street): *

Extension Number: Address 2:

Mobile Number: Town/City: *

Fax Number: Country: *

Postcode: *

Email Address: *

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

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

Site Address Details

Planning Authority:	<input type="text" value="North Ayrshire Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="Site to South of Middleton Farm"/>
Address 2:	<input type="text" value="Perceton Gate"/>
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 2AJ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="641127"/>	Easting	<input type="text" value="236402"/>
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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 1.75 storey dwellinghouse and double garage.

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.

Our Client is always willing to work with North Ayrshire Council, where the drawings & specification were revised to comply (email correspondence attached). They are a young family trying to build an affordable house, which would support the housing shortage within the area and contributing to the regeneration. Full Notice of Review letter has been enclosed with this application.

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 correspondence (15no emails) Coal Mining Risk Assessment Drainage Assessment Non-Residential Mining Report SEPA Registration K180070-PL 01 (Design & Planning Statement) K180070-PL 03 (Notice of Review) K180070-PL01f (Ground Floor Plan) K180070-PL02f (First Floor Plan) K180070-PL04f (Elevations) K180070-PL09e (Site Plan) K180070-PL10d (Location Plan)

Application Details

Please provide details of the application and decision.

What is the application reference number? *

18/01044/PP

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

23/11/2018

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

24/10/2019

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

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mr Andrew Mowat

Declaration Date: 15/11/2019

REPORT OF HANDLING



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Reference No: 18/01044/PP
Proposal: Erection of 2 storey dwellinghouse with attached double garage
Location: Site To South Of Middleton Farm Perceton Gate, Irvine, Ayrshire,

LDP Allocation: Countryside/Rural Community
LDP Policies: ENV2 / General Policy /

Consultations: Yes

Neighbour Notification: Neighbour Notification carried out on 23.11.2018
Neighbour Notification expired on 14.12.2018

Advert: Regulation 20 (1) Advert
Published on:- 14.12.2018
Expired on:- 04.01.2019

Previous Applications: None

Appeal History Of Site: None

Relevant Development Plan Policies

ENV2
POLICY ENV 2: HOUSING DEVELOPMENT IN THE COUNTRYSIDE

Single houses in rural areas

Proposals for a single new stand alone house within its own established setting in a rural

area shall not accord with the LDP unless it can be demonstrated that:

- (a) the proposal demonstrates outstanding quality of design; AND
 - (b) is distinctive and responsive to its setting, making a positive contribution to the locality of the area; AND
 - (c) the proposal integrates with, complements and enhances the established character of the area and the cumulative impact on the landscape of the development is acceptable;
- AND

(d) is located a sufficient distance from a village, existing grouping, building or settlement to ensure that the development is considered as part of an established rural landscape;
AND
(e) account has been taken of the possibility of converting, rehabilitating or replacing an existing building in the countryside or of locating a new building in a brownfield location;
AND
(f) the development is not proposed in an area of 'sensitive countryside' (see glossary), is not of a suburban character and takes cognisance of the Rural Design Guidance;
AND
(g) the proposal has been closely scrutinised and positively endorsed by a design review (internal to the Council) and/or Architecture and Design Scotland.

Small scale growth of existing rural housing groups

Proposals for development in rural areas not defined in the LDP as a settlement or village shall accord with the LDP subject to satisfying the following criteria:
(a) the proposal constitutes a small-scale, sympathetic addition to an existing well-defined nucleated group of four or more houses (including conversions) in close proximity to one another and visually identifiable as a group with some common feature e.g. shared access. Expansion of such a group will be limited to 50% of dwellings existing in that group as of 1 January 2005 up to a maximum of four new housing units (rounded down where applicable); AND
(b) the proposal is not suburban in character and takes cognisance of the approved Rural Design Guidance; AND
(c) any individual proposal does not prejudice a future development opportunity; AND
(d) the proposal complies with relevant Roads Guidelines.
(e) the proposal is not located within an area of 'sensitive countryside' (see glossary).
The sensitive infilling of any available gap sites consolidating existing groups will be particularly encouraged.

Housing for workers engaged in a rural business

Proposals for housing for workers engaged in an appropriate rural business (such as agriculture, forestry, or other operations provided for under Policy ENV 1) shall accord with

the LDP subject to the following criteria:

1. The dwelling is for a farmer who owns and operates a viable agricultural holding full time which has no farmhouse at present; OR
2. A farmer is the owner and occupier of an agricultural holding and proposes to erect a dwelling for a family member in full time employment on the farm and who intends to

take over the farm in time; OR

3. A genuine operational need for a worker to live on site in pursuance of an established

rural business has been demonstrated; AND

4. All proposals will also be required to demonstrate that:

(a) accommodation cannot be reasonably provided by another existing dwelling on site or

in the area (including by any buildings after re-use, replacement, conversion or rehabilitation at reasonable cost) or within existing rural housing groups suitable for expansion under the other provisions of this policy;

(b) there are no existing planning consents (not time expired) for residential developments

which have not commenced and would provide a suitable accommodation arrangement;

(c) the siting, design and external appearance of the new development (including any

conversion) complements any existing building group on the site;

(d) the scale of the housing provided is commensurate with the need of the person or

persons who will occupy it; and

(e) cognisance has been taken of the Council's Rural Design Guidance.

Note:

In the case of housing for a worker engaged in a rural business, where an operational need

requires to be demonstrated, this should take the form of an independent report/business

plan prepared by a suitably qualified professional. This justification should demonstrate the

ongoing viability of the business and provide reasons why residential accommodation

located on site is essential to the functional needs of the business, and is not merely for

convenience.

For housing justified as 'housing for workers engaged in a rural business', occupation of

such shall be limited to persons employed (and any dependents) in agriculture, forestry or

other rural activities allowed under Policy ENV 1 and this will be secured via planning

condition and/or legal agreement as appropriate.

All proposals will require to be supported by a design statement, inclusive of landscaping

proposals particularly in regard to urban fringe sites, to assist the Council to fully assess

the proposal.

The submission of an area landscape capacity evaluation will normally be required for all

development in the countryside.

It will be a condition that the development be commenced within two years to prevent land

banking.

In the case of single houses in rural areas, permitted development rights may be removed in recognition of the high standard of design required from the development.

No applications for planning in principle shall be accepted for development. Pre-application discussions are encouraged prior to the submission of a full application. Provision of temporary accommodation for an agreed period in pursuance of a viable rural business, requiring an operational need for a worker to live on-site, will be in accordance with the Plan subject to compliance with other policies.

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;
- 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

18/01044/PP

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

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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.

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

The application site is located in an open agricultural field located to the northeast of Perceton Gate and to the South of Middleton Farm just outside of Irvine. The site is roughly square in shape with an area of approximately 3250sqm. It is bounded on the north by the B769 road from Irvine to Stewarton. The field is flat and open in character with the only notable features being hedging and mature deciduous trees along the boundaries with the road and with a neighbouring group of housing at Perceton Gate. Perceton Gate is a converted farm steading which has been subdivided into five dwellinghouses. Middleton Farm lies on the opposite side of the road and comprises of a large modern farmhouse and numerous agricultural buildings.

It is proposed to erect a two storey detached dwellinghouse and attached double garage. The house would be located in the western corner of the field and would be oriented to face the B769 and set back approximately 15m from the road edge. The layout of the house would comprise of a central one and a half storey section containing the majority of the rooms, with two smaller wings on either side. The northeastern wing would be a single storey element and would house the lounge whilst the southwestern wing would be a double garage with an additional bedroom in the loft space above. The total floor area of the house would be approximately 170sqm. The roof design of the house would be gabled, and the central section would be approximately 8.2m in height to ridge. Finishing materials would be slate effect tile on the roof, smooth white render for the walls and uPVC doors, windows, fascia and soffits. A new access would be formed onto the B769 leading to a parking and turning area of hardstanding. Foul water drainage would be to a treatment tank and partial soakaway while surface water drainage would discharge to a local watercourse.

The site is located in a countryside allocation in the adopted North Ayrshire Local Development Plan and subsequently requires to be assessed against policy ENV 2, Housing Development in the Countryside. The proposal would also be assessed against the relevant criteria of the General Policy, in this case (a) Siting, Design and External Appearance, (b) Amenity and (c), Landscape Character and (d), Access, Road Layout and Parking Provision.

The applicant initially made a planning application to erect a house in a nearby field (18/00587/PP), however, this application was made without the benefit of pre-application advice. On the recommendation of Officers, the applicant withdrew this application in October 2018 as it would have been contrary to Policy ENV 2 of the adopted Local Development Plan, as it did not relate to an existing rural housing group nor was it a single house of outstanding design merit.

18/01044/PP

Pre-application planning advice was given in November 2018 (18/00953/PREAPP) which suggested there may be scope for the erection of a house on the current site under policy ENV 2. The pre-application advice stated that the proposed house design was suburban in character and would not be supported under policy ENV 2 or criteria (a) of the General policy.

The design has evolved considerably from the original submission and has gone through several revisions. The applicant was asked to radically alter the design in order to make it comply with the Council's approved Rural Design Guidance.

Consultations and Representations

Neighbour notification was undertaken in accordance with statutory requirements which included an advertisement in a local newspaper. One letter of objection has been received, the points raised in which are summarised below:

1. The proposed development would overlook adjacent properties leading to a loss of privacy.

Response: The proposed house would not have any windows on the elevation facing the neighbouring properties at Perceton Gate so there would be no overlooking.

2. The proposed house would be overbearing and excessive in scale.

Response: Agreed. See analysis.

3. The design would not be in-keeping with the area.

Response: Agreed. See analysis.

Consultations:

Active Travel and Transportation: No objections, subject to conditions.

Response: Noted.

The Coal Authority: The Coal Authority initially objected the to the proposal on the grounds that it would be located in a high risk area for coal mining activities and no Coal Mining Risk Assessment had been provided. Following the provision of a Coal Mining Risk Assessment by the applicant, the Coal Authority has withdrawn the objection subject to conditions.

Response: Noted.

Analysis

Policy ENV 2 allows for the small-scale growth of existing rural housing groups subject to the proposal satisfying a number of criteria as detailed at the beginning of this report.

With regards to criterion (a), it is considered that there is an existing rural housing group at Perceton Gate comprising of 6 dwellings: nos. 1-5 Perceton Gate and Middleton Farm. These dwellings were all extant or in the process of being developed before the 1st of January 2005. Middleton Farm is somewhat removed from the rest of the houses at Perceton Gate being on the opposite side of the road and set back from the road edge, however, it is still clearly identifiable as part of the group due to the open character of the area and its visual prominence. The character of the existing group is of a small farm steading cluster on the edge of a larger settlement. The proposed house would be on the same side of the road as Perceton Gate and would face directly onto Middleton Farm. It would be approximately 50m away from the nearest house at Perceton Gate and 60m away from Middleton Farm. The land in between the proposed house and Perceton Gate is garden ground and thus despite the distance between buildings, the curtilage of the proposed house would directly border onto existing housing curtilage. It is considered that the proposed house would be a small scale, sympathetic addition to an existing rural housing group, and furthermore would help to consolidate the connection between the two existing elements of the group (Perceton Gate and Middleton Farm). The proposal complies with criterion (a).

With regards to criterion (b), the core of proposed design attempts to replicate a traditional Ayrshire farmhouse. This design ambition is hampered by the excessive scale of the proposal, inauthentic detailing and poor finishing material choice. In terms of the scale, the applicant has attempted to break up the overall massing by having two 'wings' to either side of the main house section. Unfortunately, this has the effect of creating a very long frontage which is not something commonly seen in traditional rural architecture which more often has clusters of buildings set at angles adjacent to each other. A large contributor to the excessive massing is the double integral garage which is particularly suburban in appearance. The case officer had suggested splitting the garage off from the house and designing it in the manner of a farm outbuilding, but this approach was not agreed by the applicant.

With regards to the inauthentic detailing, the proposed wallhead dormers are wider than would be the case in traditional rural architecture and are more similar to the proportions of dormers in late 20th century architecture. The proportion of the window groupings generally have a horizontal emphasis despite the individual window openings having a vertical emphasis. Again, this arrangement is more reminiscent of contemporary suburban architecture as opposed to the vernacular rural design that the applicant is attempting to replicate. The windows are single pane brown uPVC casement units which would be at odds with the more typical design typology involving two panel sash and case windows, usually painted white or black. Similarly, the doors would be brown uPVC in a modern design. The rooflights would also be a modern design which would protrude upwards from the roof plane, rather than flush fitted.

As previously discussed, the proposed use of brown uPVC for the windows, doors, fascia and soffits is not considered acceptable, and in order to be authentic, these elements would be timber painted in white or black. While a slate effect roof tile and smooth white render may be acceptable depending on their texture and quality, insufficient details have been provided to demonstrate that these finishing materials would be appropriate. The proposal does not accord with criterion (b).

It is not considered that the proposed development would prejudice against any further development as it is to be sited in an open field with no planning history and

no other likely potential uses. On this criterion, the proposal would therefore accord with ENV 2.

The Council's Active Travel and Transportation service has not objected to the proposal. It is therefore considered that, in terms of access and parking, the development would be in accordance with the relevant Roads Guidelines and with criterion (d) of Policy ENV 2.

The site is not located in an area of sensitive countryside and so the proposal would comply with criterion (e).

In summary, the proposal has demonstrated compliance with all of the criteria of policy ENV 2 other than criterion (b) which requires that the design is not suburban and takes cognisance of the Rural Design Guidance. Criterion (b) is possibly the most critical and essential criterion contained in the policy (the others being more technical in nature). Despite numerous attempts to revise the design to meet these requirements, the applicant has failed to produce a design which would be suitable for the rural location of the site. Therefore, on balance, the proposal does not comply with Policy ENV 2 on design grounds.

Turning to the General Policy and in terms of criterion (a), the scale and design of the proposed house has already been discussed above and is considered to be out-of-keeping with the rural location. The proposal does not comply with criterion (a).

In terms of criterion (b), the proposed building would be approximately 50m away from the nearest house and would not therefore result in any overshadowing. There would be no windows on the elevation facing Perceton Gate and so there would be no overlooking. The development accords with criterion (b).

There is existing hedging on the boundary of the site with the road as well as several mature trees. These are to be retained (with the exception of an area of hedging removed to form the access) which is considered appropriate. No boundary treatments are proposed to the east and south of the house. It is considered that boundary treatments would need to be erected to enclose the curtilage in order to ensure an appropriate boundary between the housing grouping and the open countryside; this could be ensured via condition. The proposal would accord with criterion (c).

The formation of a new access onto the B769 would be acceptable subject to the maintenance of suitable visibility splays. An appropriate level of parking has been provided with the double garage and there is a sufficient area for the turning of a vehicle on site. No details have been provided in regards to surfacing; the first 6m metres of the access requires to be surfaced in a hard bituminous material. The proposal would accord with criterion (d).

The emerging North Ayrshire Proposed Local Development Plan is a material consideration, and the proposal has been assessed against the terms of the Proposed LDP. In this instance, assessing the proposal against the terms of the Proposed LDP would not alter the conclusion of the assessment of the proposal against the adopted LDP, because the policies in the Proposed LDP are substantially similar to those in the adopted LDP, and it does not raise any new issues that would alter the assessment of the proposal.

In conclusion, the proposed development does not accord with policy ENV2 or criterion (a) of the General Policy and is therefore contrary to the adopted Local Development Plan. Notwithstanding continued attempts, since the application was submitted in November 2018, to seek appropriate amendments to the design to meet the terms of the Council's approved Rural Design Guidance, the applicant has failed to submit the required amendments. Therefore it is recommended that the application be refused on this basis. There are no material considerations which would outweigh the provisions of the development plan in this case.

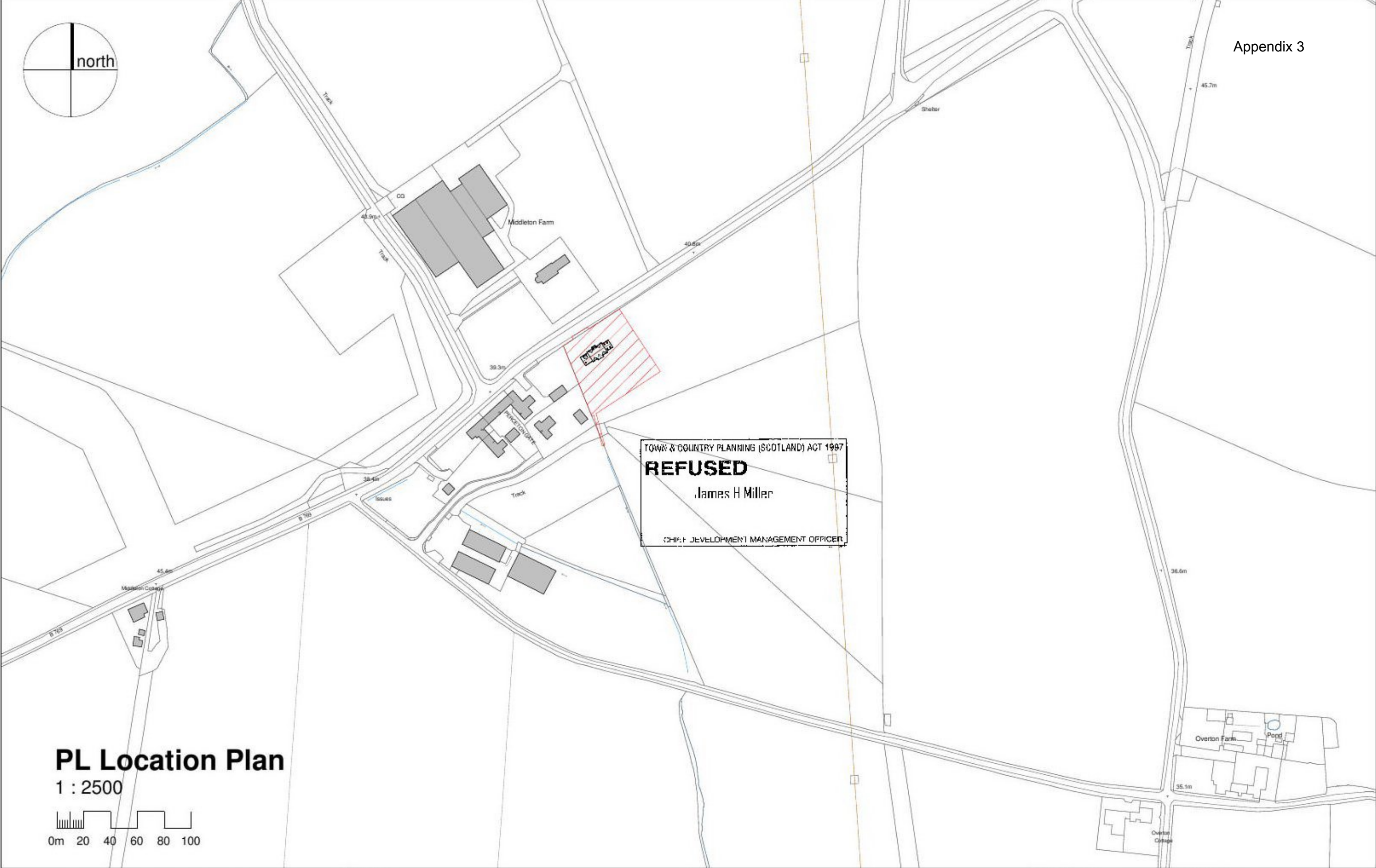
Decision

Refused

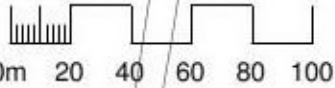
Case Officer - Mr John Mack

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Proposed Floor Plans	K180070-PL01-REV F	
Proposed Floor Plans	K180070-PL02-REV F	
Proposed Elevations	K180070-PL04-REV F	
Block Plan / Site Plan	K180070-PL09-REV E	
Location Plan	K180070-PL10-REV D	



PL Location Plan
1 : 2500



<div>PTARMIGAN HOMES</div> <div>A Castle House, Fairways Business Park, Inverness, IV2 6AA T 01463 611050 W PtarmiganHomes.com</div> <div>This drawing is Copyright © Ptarmigan Homes Ltd. All Rights Reserved</div>	CLIENT Brian Gorman				PROJECT No. K180070	DRAWING No. PL10				
	PROJECT Land beside 2 Perceton Gate, Irvine, KA11 2AJ Lismore (Amended)	Q Revised to suit PL observations		AM	20 Aug 2018	SCALE 1 : 2500	A3	DRAWN AM	CHECKED MR	APPROVED MR
		Q Revised to suit PL observations		AM	04 Sep 2018					
		Q Revised to suit PL observations		AM	15 Feb 2019	DATE 16 Nov 2018				
		A Revised to suit PL observations		AM	11 Jun 2018					
REV.	DESCRIPTION	ISSUED	DATE							



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

KAREN YEOMANS : Executive Director (Economy & Communities)

No N/18/01044/PP

(Original Application No. N/100144292-001)

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 : Mr Brian Gorman
c/o Ptarmigan Homes Fao Andrew Mowat
Castle House
Fairways Business Park
Inverness
IV2 6AA

With reference to your application received on 23 November 2018 for planning permission under the above mentioned Acts and Orders for :-

Erection of 2 storey dwellinghouse with attached double garage

at Site To South Of Middleton Farm Perceton Gate
Irvine
Ayrshire

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 proposed development does not accord with criterion (b) of Policy ENV 2 nor criterion (a) of the General Policy and is therefore contrary to the adopted Local Development Plan on the grounds that the design of the house would be excessively suburban in character, and the proposed development fails to achieve the design standards sought for housing in the countryside in terms of the Council's Rural Design Guidance.

Dated this : 24 October 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.