



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Planning Committee

A meeting of the **Planning Committee** of North Ayrshire Council will be held remotely on **Wednesday, 26 January 2022** at **14:00** to consider the undernoted business.

Arrangements in Terms of COVID-19

In light of the current COVID-19 pandemic, this meeting will be held remotely in accordance with the provisions of the Local Government (Scotland) Act 2003. Where possible, the meeting will be live-streamed and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>. In the event that live-streaming is not possible, a recording of the meeting will instead be available to view at this location.

1 Declarations of Interest

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

2 Minutes

The accuracy of the Minutes of meetings of the Planning Committee held on 1 December 2021 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 21/01115/PP: Site To North Of Fairlie Bowling Club Main Road, Fairlie, Largs

Erection of garden centre and restaurant with associated access, parking and landscaping.

4 Notices under Section 179 of the Town and Country Planning (Scotland) Act 1997: 1. Land to rear of 62 Main Street, Kilwinning 2. Land to rear of 126 High Street, Irvine

Submit report by the Chief Planning Officer, seeking authority to serve a notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring the clearance of all fly-tipped materials on the above areas of land for the abatement of the adverse impacts on the amenity of the local area (copy enclosed).

5 Urgent Items

Any other items which the Chair considers to be urgent.

Webcasting - Virtual Meeting

Please note: this meeting may be recorded/live-streamed to the Council's internet site, where it will be capable of repeated viewing. At the start of the meeting, the Provost/Chair will confirm if all or part of the meeting is being recorded/live-streamed.

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If you have any queries regarding this, please contact dataprotectionofficer@north-ayrshire.gov.uk.

Planning Committee 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:

**Planning Committee
1 December 2021**

Agenda Item 2

At a Meeting of the Planning Committee of North Ayrshire Council at 2.00 p.m. involving participation by remote electronic means.

Present

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

In Attendance

J. Miller, Chief Planning Officer, A. Gemmell, Strategic Planning Manager, L. Dempster and K. Gee, Technicians (Planning) (Economic Development and Regeneration); J. Law, Solicitor (Legal Services) and A. Little and C Stewart, Committee Services Officers (Chief Executive's Service).

Apologies

Donald Reid

Chair

Councillor Marshall in the Chair.

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 Planning Committee held on 3 November 2021 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 21/00961/PPP: Bridgend Mill Site No 3 Bridgend Dalry Ayrshire

Telford Three Ltd have applied for planning permission in principle for a residential development on vacant land at Bridgend, Dalry. Five representations were received and were summarised in the report.

The Committee asked questions in relation to the maximum number of units on the site and was advised that the indicative number for the site was included in the Local Development Plan and reference to the maximum number could be removed from Condition 1.

The Chief Planning Officer advised of further information that had been received from the Council's Flooding Officer that could be incorporated into Condition 1 in the event the Committee granted the application.

The Committee unanimously agreed to grant the application, subject to the following conditions:

1. That the approval of North Ayrshire Council as Planning Authority with regard to layout, siting, design, external appearance and landscaping shall be obtained before the development is commenced, taking into account all other conditions in this planning permission and including the following: - The site layout plan shall ensure that no houses (including their associated curtilages) nor access roads shall be constructed within those parts of the site that have been identified as being at risk of flooding during a 1 in 200 year event (plus climate change) in the submitted Flood Risk Assessment by Dougall Baillie Associates dated September 2021 and to be verified by the Final Updated Fluvial flood model information (which is expected to be ready by summer 2022) to accurately confirm finished floor level. For the avoidance of doubt, the finished floor levels of all housing within the development shall accord with at least the minimum levels recommended as per above.
2. That the details of the development as required under condition 1 shall generally accord with the submitted Masterplan/Design and Access Statement prepared by Denham Benn Architects, and shall include details of SuDS, flood risk areas, public open space, access arrangements for the riverbank area, landscaping (including replacement trees), outdoor play space, curtilage and visitor parking, boundary treatments and bin storage. Street design shall accord with the principles of Designing Streets and the Council's Roads Development Guide, all to the satisfaction of North Ayrshire Council as Planning Authority.
3. To inform the detailed proposals of the development, the following environmental investigations/studies shall be carried out by suitably qualified persons with reports and recommendations submitted for the consideration and approval of North Ayrshire Council as Planning Authority: - a desk study of the application site, (including the review of any previous site investigations) to assess the likelihood of contamination and assist in the design of an appropriate site investigation and subsequent suitable quantitative risk assessment. Remediation proposals shall also be presented in relation to any significant findings. All documentation shall be verified by a suitably qualified Environmental Consultant and submitted to the satisfaction of North Ayrshire Council as Planning Authority. - Demonstration that the increased road traffic, generated as a result of the development, shall not have a detrimental effect on the local air quality or result in an increase in concentrations of atmospheric pollutants such that statutory Air Quality Objectives would be exceeded at any location of relevant public exposure. - a noise impact assessment together with details of any mitigation measures required to achieve the noise targets set out below for implementation in the layout, design and construction of the proposed housing. The following external noise targets shall be achieved at the curtilage of the proposed residential properties: a) During daytime hours between 0700 and 2300hrs the noise level (LAeq 16 hour) from rail transport must not exceed 50 dB. As a minimum if this external target cannot be achieved, the proposed residential properties should be designed and constructed in such a way that an internal level of 35 dB can be achieved (window open for ventilation); b) During night-time hours between 2300 and 0700hrs the noise level (LAeq 8 hour) from rail

transport must not exceed 40dB. As a minimum if this external target cannot be achieved, the proposed residential properties should be designed and constructed in such a way that an internal level of 30 dB can be achieved (window open for ventilation).

4. That the site layout and design details as required under condition 1 shall identify a buffer zone for wildlife and habitats alongside the River Garnock and on the southern boundary of the site between the Garnock Bridge parapets and 5 - 7 Bridgend. The buffer zone shall be designed to meet the requirements of Policy 22 (Water Environment) of the adopted North Ayrshire Local Development Plan and shall be safeguarded during the course of development against tree felling and ground disturbance, other than the removal of surface rubble and redundant masonry walls. It shall be a requirement of the detailed site plan to protect and enhance the ecological status of the riparian habitats on the site, including details of measures to promote and safeguard these aims upon the completion of the development.
5. That all recommendations contained in the Ecological Constraints Report and Preliminary Roost Assessment by Wild Surveys Ltd dated August 2020 shall be taken into account in the detailed design for the development of the site and shall be implemented during all subsequent clearance and construction works on the site to the satisfaction of North Ayrshire Council as Planning Authority.
6. That prior to the commencement of the development hereby approved, details of the heat and power system for the house, which shall include low and/or zero carbon technologies to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met, shall be submitted for the written approval of the planning authority. Thereafter, the development shall be implemented only in accordance with such details as may be approved unless otherwise agreed in writing with North Ayrshire Council as planning authority.
7. That the site access junction details with Bridgend as illustrated on DBA drawing no. 21126-SK-04 are hereby approved in detail. Visibility splays of 2.5 metres by 70 metres, in both directions shall be provided and maintained at the junction with Bridgend. No item with a height greater than 1.05 metre above adjacent carriageway level must be located within these sightline triangles. The road access into the site shall not be constructed until the approval of the other matters specified in conditions and subject to Road Construction Consent and a Road Opening Permit being obtained beforehand.
8. That the presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of Environmental Health. Thereafter a suitable investigation strategy as agreed with North Ayrshire Council shall be implemented and any necessary remediation works carried out prior to any further development taking place on the site, all to the satisfaction of North Ayrshire Council as Planning Authority.

4. Hunterston PARC Development Framework

Submitted report by the Executive Director (Place) on the development framework for Hunterston PARC which had been prepared and submitted to the Council by site owners Peel Ports Group. The development framework sought to inform detailed proposals for Hunterston by highlighting important considerations and establishing a layout for the site and, if approved, would be a material consideration in the determination of future planning applications for the site. The Development Framework was attached at Appendix 1 to the report.

The Committee agreed to approve the Hunterston Development Framework which would inform proposals and be a material consideration in the determination of future planning applications for the site.

5. Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997: Site to East of Castlepark Gardens, Fairlie

Submitted report by the Executive Director (Place) seeking approval to serve a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with Condition 7 of planning permission 19/00506/PP on the installation of play facilities at the site to the east of Castlepark Garden, Fairlie.

The Chief Planning Officer advised the Committee that Condition 7 required the play facilities to be installed prior to the occupation of Plot 25 or 26 of the development and both plots had now been occupied for approximately 9 months

The Committee unanimously agreed, in the interest of the amenity of the area and to ensure appropriate play facilities, to approve the service of a Notice under Section 145 of the Town and Country Planning (Scotland) Act 1997 to require the installation of the play facilities.

Councillor McNicol left the meeting at this point.

6. Urgent Item

The Chair agreed that the following item be considered as a matter of urgency to allow the Committee to be updated timeously.

7. Planning Performance Framework – Feedback

Submitted report by the Executive Director (Place) on the feedback received from the Scottish Government on the Planning Performance Framework (PPF) 2020/21.

The report advised that the PPF captured key elements of a Planning Service's performance and reported on a range of qualitative and quantitative indicators, including agreed performance markers on which the Scottish Government provided feedback. Using Red, Amber, Green ratings based on the evidence provided within the PPF reports, it was noted that the Planning Service had been rated 'green' against all relevant markers for a second consecutive year. The PPF highlighted how the

service adapted to continue to provide exceptional application determination timescales, implemented the recently adopted Local Development Plan and responded to the wider reform of the planning system in Scotland. Examples of regular and proportionate policy advice, corporate working across services and sharing good practice, skills and knowledge were recorded by the Scottish Government.

The Committee congratulated the Planning Team for their achievements and excellent work throughout the pandemic which had been recognised by the Scottish Government.

Noted.

The meeting ended at 2.45 p.m.

NORTH AYRSHIRE COUNCIL

Planning Committee

Locality	North Coast and Cumbraes
Reference	21/01115/PP
Application Registered	18th November 2021
Decision Due	18th January 2022
Ward	North Coast And Cumbraes

Recommendation Refused

Location Site To North Of Fairlie Bowling Club Main Road
Fairlie Largs Ayrshire

Applicant Mr David Castelvechi

Proposal Erection of garden centre and restaurant with
associated access, parking and landscaping

1. Description

Planning permission is sought for the erection of a garden centre and restaurant with associated access, parking and landscaping at a site to the north of Fairlie Bowling Club, Main Road, Fairlie. An application for a similar proposal was refused by the Planning Committee on the 1st September 2021. Whilst the application site remains the same, the main difference between the previous and current applications is that the area of site to be developed has been reduced from 5100sqm to some 3475sqm. The northern most portion of approx. 25m in length is proposed to be undeveloped with additional landscaping on the northern boundary. The building footprint has been reduced by some 160sqm.

The site is roughly rectangular in plan form, with shared access with the bowling club at the south-eastern corner. The building would be some 794sqm in area. The building would be some 3.5m from the western boundary and 4.5m from the southern boundary at its closest point. The building would be some 42m from the northern boundary at its closest point and 21.5m from the eastern boundary at the closest point.

The building would be single storey, mainly aligned north to south with a double pitched roof, and the principal elevation being to the east. It would be roughly 'F' shape in plan form with two perpendicular pitched roof sections at the northern end and a smaller pitched roof

section, aligned north and south, at the southern end. The roof would be some 6.4m in height at the ridge and 3.15m at the eaves. There would be flat roof sections, some 5.5m in height joining the pitched roofs. The roof would be finished in slate grey concrete tiles and timber-effect roof glazing in the middle. The elevations would be finished in white render with brown vertical cedar cladding features. There would be extensive glazing on all elevations. One of the gables on the southern elevation would be glazed framed.

The restaurant/café areas would comprise some 262sqm. The retail/garden centre area would be some 362sqm. There would be a shared lobby, office and toilets comprising approx. 170sqm. An external sales planting area of some 240 sqm would be located to the north of the building. A car parking area with some 44 spaces would be sited on the eastern portion of the site.

In support of the application the following documents have been submitted:

Planning Statement

This Statement sets out the planning history of the site and considers the 2013 (ref: 10/00813/PP) permission to establish this proposal as an acceptable development in this location. The Statement notes that the Council stated such a use could be more acceptable than houses in the 2019 LDP examination. The statement also considers that the development would provide services/facilities to the village of Fairlie. It considers the development has significant potential to assist in Covid recovery. It considers that it would help encourage tourists to the area. The development is claimed to have potential to create 30 full and part time jobs and protect 30 existing jobs during construction.

An addendum to the statement has been prepared for this submission, following the refusal in September 2021. This addendum sets out the changes made, including reducing the proposed development area by 25m to the south, outwith the Regional Park; revision of the built form to the line of the settlement on the eastern side of the A78; landscape buffer to the northern boundary; reduction in scale of building footprint with a ratio of approx. 2/3 garden centre to 1/3 restaurant/café.

Design Statement

This Statement sets out the thought process for the design of the proposal and assesses the previous permission's conditions. The statement considered that all of the previous conditions could be met. However, it is not considered that a pedestrian crossing over the A78 is required.

Landscape Appraisal

This Appraisal considers there are few constraints on the site in landscape terms. It considers that development of the site would not lead to coalescence with Largs. The built form would sit between the existing bowling club building and the watercourse to the north. It considers this development would be sensitive infilling of a gap site which provides a defensible boundary. It considers that a similar proposal was granted planning permission in 2013 and little has changed since that time.

Flood Risk Assessment

This Assessment is dated December 2019 and builds on a previously undertaken FRA submitted with the 2017 application, which was refused. The FRA concludes that any flooding of the watercourse at the northern end of the site would be to the north i.e. outwith the application site, because of the topography of the land. This assessment was previously accepted by SEPA. In terms of surface water, it is considered that an appropriate soakaway system can be designed to overcome this.

Transportation Statement

This Statement assesses likely impacts on the local road network. The report concludes that the development could be integrated into the road network. Impact on the A78 is expected to be modest. There are ample public transport services and there are good links to the cycle network.

Site Investigation Report

This Report gives information on ground conditions. It is considered there is negligible scope for contamination given the historic use for agriculture. It is also considered that a soakaway and porous paving could be utilised to deal with surface water.

The site is identified as Countryside in the adopted Local Development Plan (LDP). The settlement of Fairlie is to the south (the bowling club) and to the east on the opposite side of the A78. The application site extends north of the settlement boundary on the eastern side of the road by approx. 25m. This part of the application site is within the Clyde Muirshiel Regional Park. However, it is not proposed for any built form within this area. The whole site is within the Special Landscape Area. The very north-eastern most corner, approx. 100sqm in area, is within the Kelburn and Fairlie Glen Local Nature Conservation Site.

The application is bounded by the Largs/Kilwinning railway line on its western side and Countryside to the north. The adopted Core Path NC21 runs through the eastern part of the site. The path location would be modified to facilitate the car parking.

There is a history of applications for development on this site. Since 2001:

2001 (ref: 00/00748/PP) application for a new bowling club and garden/craft centre was refused. The development was considered contrary to policies seeking to prevent development with no specific locational need in the countryside and would have had an adverse impact on the amenity and appearance of the area.

2010 (ref: 10/00063/PP) application for a garden centre and bar/restaurant was refused. The development was again considered contrary to policies seeking to prevent development with no specific locational need in the countryside and would have had an adverse impact on the amenity and appearance of the area. The development was also considered to be detrimental to the openness and appearance of the countryside, landscape character area and Clyde Muirshiel Regional Park.

2013 (ref: 10/00813/PP) permission for a garden centre and restaurant was granted (approved by Committee in 2011 subject to a legal agreement.) At that time there was no requirement for a committee to give reasons for granting permission, so it is not clear why the decision was made. This permission lapsed in 2016 having not been implemented.

2017 (ref: 16/01176/PP) application for 19 houses was refused. The development was considered to represent unjustified development in the countryside, ribbon development with potential for visual and physical coalescence along the coast and set an undesirable precedent for other unjustified development. The proposal was also considered to be detriment of the visual amenity of the area. The Local Review Body upheld the decision to refuse the application.

During the preparation of the current LDP, this site was promoted as an allocation for housing. The Council did not allocate the site. An objection to the non-allocation was considered by the Scottish Government when the LDP was subject to the Examination. The Scottish Government's Reporter concluded that the site should not be allocated for development. The Reporter came to this conclusion on the grounds of landscape and visual impact, and the housing land supply.

2021 (ref: 21/00596/PP) application for a garden centre and restaurant was refused. The Committee held that the development would be contrary to Policies 15 and Strategic Policy 2 of the LDP as inappropriate development which would undermine the setting of Fairlie, with potential for visual and physical coalescence along the coast, set an undesirable precedent for other unjustified development and have an unacceptable impact on the Special Landscape Area. The proposal was also held to be contrary to Policy 17 of the LDP as it failed to take account of the wider objectives of the Regional Park.

The development requires to be assessed against Strategic Policy 1: The Countryside Objective, Strategic Policy 2, Policy 3, Policy 6, Policy 15, Policy 16, Policy 17, Policy 23, Policy 27 and Policy 29 of the LDP.

Relevant Development Plan Policies

SP1 - The Countryside Objective The Countryside Objective

We recognise that our countryside areas play an important role in providing homes, employment and leisure opportunities for our rural communities. We need to protect our valuable environmental assets in the countryside while promoting sustainable development which can result in positive social and economic outcomes. We want to encourage opportunities for our existing rural communities and businesses to grow, particularly on Arran and Cumbrae, and to support these areas so that they flourish.

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

- a) expansions to existing rural businesses and uses such as expansions to the brewery and distillery based enterprises in the area.
- b) ancillary development for existing rural businesses and uses, including housing for workers engaged in agriculture or forestry.
- c) developments with a demonstrable specific locational need including developments for renewable energy production i.e. wind turbines, hydroelectric schemes and solar farms.

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

Strategic Policy 2

Placemaking

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

Six qualities of a successful place

Distinctive

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

Welcoming

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

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private

and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

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

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

Adaptable

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

Resource Efficient

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

Easy to Move Around and Beyond

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

Detailed Policy 3 -Town Centres & Retail

Policy 3:

Town Centres and Retail

Our town centres are the social and economic heart of our communities, providing jobs, homes and employment. Appropriate development within our town centres has the potential to improve their vitality and vibrancy. This can also ensure that investment in our communities is directed in a way that is most beneficial to residents, employees and visitors to our towns.

In principle, we will support development in our network of centres shown in schedule 6 where it would be of a scale appropriate to that centre.

For development that has the potential to generate significant footfall, we will support proposals that have adopted a town centre first sequential approach. This includes retail and commercial leisure uses, offices, community and cultural facilities and where appropriate, public buildings such as education and health facilities.

We will require that locations are considered, and a reasoned justification given for discounting them, in the order of preference:

- o Town centres (as defined in Strategic Policy 1).
- o Edge of town centres.
- o Other commercial centres (as defined above).
- o Out-of-centre locations that are, or can be made, easily accessible by a choice of transport modes.

We will be flexible and realistic in applying the sequential approach, in particular where key sector and employment uses are proposed, to ensure that different uses are developed in the most appropriate locations. It is important that community, education and healthcare facilities are located where they are easily accessible to the communities that they intend to serve. We recognise that for some uses, such as sports centres and schools, a town centre location may not always be the appropriate location for them, particularly where sports pitches are part of the proposal.

When a development is proposed within our Network of Centres, we will support proposals which positively contribute to:

- o The role and function of the centre within the network, including by addressing an identified opportunity.
- o Quality of character and identity that creates a shared sense of place for users, visitors and residents
- o Community well-being, including by supporting the integration of residential uses and by enhancing links with surrounding residential areas and tourist attractions via the road and path network with associated blue & green network.
- o Vitality, viability and vibrancy of the centre, supporting it as a place for business to locate, expand and flourish by enhancing and diversifying the mix of uses including supporting economic and social activity.
- o Our important retail streets/areas (as described in schedule 6 and in our Town Centre Audits), recognising the fragile nature of some of our retail areas.
- o Accessibility of the town centre including considering the location of regular rail and bus routes.

In principle, we will also support proposals which align with town centre strategies and we will continue to encourage other regeneration initiatives, such as Conservation Area renewal projects, which improve the quality, accessibility and perception of town centre environments.

Detailed Policy 6 - Supporting Tourism Policy 6:

Supporting Sustainable Tourism

We will, in principle support the creation and enhancement of tourism and related activities that are in accordance with the Tourism Framework for Scotland and with the Council's current Tourism Strategy, including development and expansion of:

- o Chalets, static and touring caravan, and other camping sites.
- o Hotels, boarding houses, hostels, bed and breakfast facilities and guesthouses.
- o Destination clusters (for example cafes, visitor shops, views, starts of walks and so on).
- o Associated staff and seasonal accommodation.

Development should be sited to take into account the details contained with the flood risk management policy, in particular for uses described as being most vulnerable by SEPA.

Detailed Policy 15-Landscape & Seascape Policy 15:

Landscape and Seascape

We will support development that protects and/or enhances our landscape/seascape character, avoiding unacceptable adverse impacts on our designated and non-designated landscape areas and features. In particular, we will consider the following:

a) National Scenic Areas

Development that affects the North Arran National Scenic Area including the need to protect existing sport and recreation interests, will only be supported where:

- i) the objectives of the designation and the overall integrity of the area will not be compromised; or
- ii) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

b) Special Landscape Areas

We will only support development which affects Special Landscape Areas where it would not have an unacceptable impact on their special character, qualities and setting.

c) Wild Land

We will only support development within Wild Land areas where any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

d) Local Landscape Features

Where appropriate, development should take into consideration its individual and cumulative impacts on landscape features, including:

- i) patterns of woodlands, fields, hedgerows and trees;
- ii) lochs, ponds, watercourses, wetlands, the coast and wider seascape;
- iii) settlement setting, including approaches to settlements;
- iv) the setting of green network corridors, such as important transport routes and the cycle and footpath network;
- v) historic, natural and recreational features of interest, skylines and hill features, including important views to, from and within them.

For all development with the potential to have an impact on either Landscape Character or Landscape features (including their setting), appropriate mitigation measures should be considered as part of any planning application. Where there is potential for development to result in significant adverse landscape/visual impact, a landscape and visual impact assessment (LVIA) will be required. The Ayrshire Landscape Character Assessment (SNH, 1998) and North Ayrshire Settlement Development Strategy (Entec, 2008) provide further information on designations such as Local Landscape Character Areas and the Potential Limit of Development Expansion areas as shown on the map on page 81 and on our online proposals map. These landscape assessment documents, and any new or updated landscape assessments, will be key considerations in determining whether development proposals would be acceptable within the landscape.

Detailed Policy 16- Protection of our
Policy 16:

Protection of our Designated Sites

We will support development which would not have an unacceptable adverse effect on our valuable natural environment as defined by the following legislative and planning designations;

a) Nature Conservation Sites of International Importance

Where an assessment is unable to conclude that a development will not adversely affect the integrity of a site, development will only be permitted where there are no alternative solutions; there are imperative reasons of overriding public interest; and suitable compensatory measures are provided to ensure that the overall coherence of the Natura Network is protected.

b) Nature Conservation Sites of National Importance

Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.

c) Nature Conservation Sites of Local Importance

Development adversely affecting Local Nature Reserves or Local Nature Conservation Sites will generally not be permitted unless it can be demonstrated the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social, environmental or economic benefits of local importance.

d) Marine Protected Areas

Development likely to have an adverse effect on the protected features of South Arran MPA will not be supported. Proposals are also required to consult with the Clyde Marine Planning Partnership (CMPP).

e) Biodiversity Action Plan Habitats and Species

Development adversely affecting priority habitats or species set out in the North Ayrshire Local Biodiversity Action Plan will not be permitted unless it can be demonstrated the impacts are clearly outweighed by social or economic benefits of local importance.

f) Protected Species

Development likely to have an unacceptable adverse effect on;

i) European Protected Species (see Schedules 2 & 4 of the Habitats Regulations 1994 (as amended) for definition); Birds, Animals and Plants listed on Schedules 1, 5 and 8 (respectively) of the Wildlife and Countryside Act 1981 (as amended); or badgers, will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.

ii) The Scottish Biodiversity List (SBL) of animals, plants and habitats that Scottish Ministers considered to be of principle importance for biodiversity conservation in Scotland.

Detailed Policy 17 - CMRP

Policy 17:

Clyde Muirshiel Regional Park

Proposals that affect Clyde Muirshiel Regional Park must have regard to the Park's statutory purpose of providing recreational access to the countryside.

Proposals should also take account of wider objectives as set out in relevant management plans and strategies, namely to:

- o Provide visitors of all ages and abilities the opportunity for quality recreation. Using its unique assets, the Park will facilitate a high quality programme of leisure activities which contribute to the health agenda
- o Ensure the Park is an increasingly popular and productive venue for formal and informal education and outdoor learning. More people will participate in learning opportunities and will develop a better appreciation of the area's natural and cultural heritage
- o Ensure the Park is an attractive and ecologically important visitor destination with increased biodiversity value. The Park embraces opportunities for positive environmental change

Detailed Policy 23-Flood Risk Management

Policy 23:

Flood Risk Management

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

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

Development proposals should:

- o Clearly set out measures to protect against, and manage, flood risk.
- o Include sustainable urban drainage systems (SuDS) where surface water is proposed to be discharged to the water environment, in accordance with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 as amended.
- o Include provision of temporary/construction phase SuDS.
- o include appropriate long-term maintenance arrangements.
- o Be supported by an appropriate flood risk assessment where at risk of flooding from any source in medium to high risk areas and for developments in low to medium risk areas identified in the risk framework (schedule 7).
- o Take account of SEPA's flood risk and land use vulnerability guidance (2018) and any relevant updates to, or replacements of this guidance.

Detailed Policy 27

Sustainable Transport and Active Travel

We will support development that:

contributes to an integrated transport network that supports long term sustainability

- o reduces inequality by improving the accessibility and connectivity of employment opportunities and local amenities
- o provides safe and convenient sustainable transport options and supports modal shift to sustainable transport and active travel.
- o reduces the need to travel or appropriately mitigates adverse impacts of significant traffic generation, road safety and air quality, including taking into account the cumulative impact.

- o takes a design-led, collaborative approach to street design to provide safe and convenient opportunities for integrated sustainable travel in the following order of priority: pedestrians, people on cycles, people using collective transport (buses, trains etc.) and people using private transport.
- o considers the potential requirements of other infrastructure providers, including designing for the potential development of district heat networks by for example incorporating access points into the transport network to allow for future pipe development or creating channels underneath the road/infrastructure to enable pipe development with minimal disruption to the networks.
- o enables the integration of transport modes and facilitates movement of freight by rail or water (in preference to road). This would include, for example, the provision of infrastructure necessary to support positive change in transport technologies, such as charging points for electric vehicles and the safeguarding of disused railway lines with the reasonable prospect of being used as rail, tram, bus rapid transit or active travel routes.
- o considers the impact on, and seeks to reduce risk to level crossings, including those located within Ardrossan, Stevenston and Gables.

Proposals are expected to include an indication of how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.

We will take account of:

- o the implications of development proposals on traffic, patterns of travel and road safety.
- o Significant traffic generating uses should be sited at locations that are well served by public transport, subject to parking restraint policies, and supported by measures to promote the availability of high-quality public transport services. Where this is not achievable, we may seek the provision of subsidised services until a sustainable service is achievable.
- o the potential vehicle speeds and level of infrastructure provided for the expected numbers of trips by all modes.
- o the relationship between land use and transport and particularly the capacity of the existing transport network, environmental and operational constraints, and proposed or committed transport projects.
- o committed and proposed projects for the enhancement of North Ayrshire's transport infrastructure, including improved park and ride provision.
- o specific locational needs of rural communities. We recognise that in rural areas we need to be realistic about the likely viability of public transport services and innovative solutions such as demand-responsive public transport and small scale park and ride facilities at nodes on rural bus corridors will be considered.
- o The Council's adopted Local Transport Strategy, Core Paths Plan, Town Centre Parking Strategy and parking requirements.
- o The need to mitigate and adapt to climate change with regard to the Climate Change (Scotland) Act 2009.
- o The provision of new and improved links to existing and proposed active travel routes which are integrated with the wider strategic network, including the National Walking and Cycling Network, core paths and the Ayrshire Coastal Path.

Developments likely to generate significant additional journeys will be required to be accompanied by a Transport Assessment, Air Quality Assessment and a Travel Plan. A Transport Statement will be required for smaller scale developments that will not have a major impact on the transport network, but are still likely to have an impact at a local level on the immediate transport network.

National Development:

The National Walking and Cycling Network (NWCN) was designated as a national development within the National Planning Framework (NPF3). This is an ambitious project which aims to grow Scotland's network of paths from 6,000 to 8,000 km by 2035. Key routes in North Ayrshire which will contribute to this network are detailed below. These are being developed in partnership with Sustrans and Scottish Natural Heritage as lead organisations for the delivery of the NWCN.

These include the development of an off-road alignment for:

- o National Cycle Network (NCN) Route 73 (North) between Brodick and Corrie on the Isle of Arran
- o NCN Route 753 between Skelmorlie and Ardrossan
- o While not explicitly referenced in NPF3, support will be given to development of an off-road alignment for NCN Route 7 between Kilwinning and Kilbirnie.

Detailed Policy 29 - Energy Infrastructure

Policy 29:

Energy Infrastructure Development

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

Environmental

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

Community

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

Public Safety

- o Greenhouse gas emissions;
- o Aviation and defence interests and seismological recording;

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

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

Buildings: Low and Zero Carbon Generating Technology

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

This requirement will not apply to:

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

2. Consultations and Representations

Neighbour notification has been carried out and the application has been advertised. There have been 2 objections and 1 submission of support. The objections can be summarised as follows:

1. Loss of countryside and amenity it provides the village. This will reduce the separation of Fairlie between and Largs. Inappropriate ribbon development and could set a precedent for further development. The land provides views towards the Clyde.

Response: Noted. The impact on the development on the countryside and settlements is assessed below.

2. The site is prone to flooding and development would risk adding to the flooding of the A78.

Response: It is noted that part of the site is identified as being at Medium to High risk of river flooding and Medium risk of coastal flooding, and is considered further below.

3. The development will add a further burden to the busy A78 and traffic congestion.

Response: Transport Scotland, as Trunk Road Authority, has provided comments as set out below.

4. Brownfield land at Hunterston would be better suited.

Response: The application must be assessed on its own merits in this specific location.

5. The Flood Risk Assessment (FRA) is deficient as it does not identify and address a potential flood risk to the development form at high tide surge causing water to enter the area via the culvert.

Response: The submitted FRA is an update of that submitted with application, ref. 16/01176/PP to which SEPA had no objection. An assessment of SEPA's guidance is outlined below.

The support comment can be summarised as follows:

1. The reduction in site area and building size is noted and welcomed. The proposal would deliver a positive addition to the village, including providing local employment. Developing the site would provide a defensible boundary to the northern perimeter of the village.

Response: Noted. The impact on the development on the countryside and settlements is assessed below.

Consultations

NAC Active Travel and Transport - No objection. The parking provision and internal layout of the parking area is considered to accord with guidance. Amendments to the path must be in accordance with Cycling by Design guidelines. Given the location adjacent to the cycle network, a minimum of 10 bicycle parking spaces should be provided with potential to expand

Response: Noted. Full details of the amended path could be required by condition if permission were granted as could details of bicycle parking.

Fairlie Community Council - Note that the developer and bowling club have come to an agreement. Agree that there may be benefit regarding local employment and an additional venue for locals. However, they remain concerned that the development would set a precedent that would facilitate further development along the coastal strip. The development would erode the remaining coastal strip to the north of the village. There are concerns about road safety with the access close to the Baillie Road exit, which is on a blind corner. It is considered that the site should remain undeveloped to assist drainage and the flood plain.

The Community Council is concerned that should the venture fail, the site would become a development opportunity for housing. Housing has already been refused on this site. The reduction of the built area by 25m makes no difference to the previous assessment of the Council, other than taking the development are outwith the Regional Park.

Response: The concern of the Community Council is noted. Transport Scotland offers no objections. The impact on the flood plain is considered further below. The changes between this proposal and the previously refused application are also considered below. The application for a garden centre/restaurant must be considered on its own merits. However, should the development fail, the redevelopment of the site would have to be considered in that context. It is noted that the site has been determined as inappropriate for housing through the LDP examination and the previously refused planning application.

The following consultees responded to the application determined in September 2021. There have been no material changes to the parts of the proposal affecting their interests. The responses received were as follows:

Transport Scotland - No objection subject to conditions including prior to commencement of development, the access to be constructed in a method to be agreed by the Planning Authority and Transport Scotland; the existing access to be closed following completion of new access; visibility splays to be provided and maintained; modification of the core path; details of landscaping; a Construction Traffic Management Plan to be agreed; and no connection to the trunk road drainage.

Response: Noted. Such details could be secured by condition if permission was granted.

Scottish Water - No objection. There is currently sufficient capacity to service the development. Advice to any developer is provided.

Response: Noted.

Network Rail - No objection subject to a condition requiring a 1.8m high trespass proof fence on the eastern boundary adjacent to the railway.

Response: Noted.

NAC Flooding Officer - No comments

SEPA was not consulted due to ongoing issues with a loss of their IT services. SEPA are directing Planning Authorities to the guidance. SEPA's standing guidance classifies this type of development as a 'Least Vulnerable Use.' Part of the site is also identified as being at Medium to High risk (0.1% to 0.5% of flood risk per year). Least Vulnerable Uses are not considered appropriate for Medium to High risk unless: redevelopment of an existing building; or redevelopment of a previously developed site; or the principle of the development has been established by the current LDP.

The site does not comprise redevelopment of a building and the site has not been previously developed. The principle of the development is considered below. It is noted that the submitted FRA is an update of that submitted with application 16/01176/PP to which SEPA had no objection.

3. Analysis

The site was assessed by the Scottish Government's Reporters in their examination of the draft LDP in July 2019. They found that the site should not be included in the LDP as

suitable for development. The Reporters were assessing the site in the context of a request for houses. However, the Reporters found that the site itself was a gateway to the village and it plays a valuable role in defining the setting of Fairlie. The Reporters found that the northward extension of the built-up-area of Fairlie, in this vicinity, would represent a prominent encroachment into views of the setting. Development would result in adverse impacts on the visual perception and landscape setting of the village. It is considered that significant weight should be given to the findings of the examination of the LDP. The Council did suggest that a garden centre/restaurant use could potentially be more acceptable than housing in the examination process. However, this view was made prior to the Reporters' findings. Development of the site was considered to be inconsistent with Policies 15, 16 and 17 of the LDP.

The Countryside Objective of Strategic Policy 1 states that, in principle, support will be given to development in the Countryside in certain circumstances. The only circumstance which is considered potentially relevant is (d) tourism and leisure uses, where they would promote economic activity, diversification, and sustainable development, particularly where they develop or coastal tourism offer/infrastructure. Any support in principle would still require to be assessed against the specific site and detailed policies of the LDP.

The applicant has made representations that consider circumstance (f) of the Countryside Objective to apply, namely, sensitive infilling of gap sites consolidating existing developments where it would define/provide a defensible boundary for further expansion.

It is not considered that (f) applies in these circumstances. The Council has adopted a Housing in the Countryside Guidance Note, June 2021. Whilst this is specifically for houses, the Note gives advice on the Countryside Objective including defining 'gap sites' and 'defensible boundary'. The Note states that a 'gap site' is a site within an established developed area, for example where a building once stood or where two permanent buildings of equivalent residential size occupy separate plots and front a road. A gap site is specifically stated not to be a site between a property and the settlement boundary. A 'defensible boundary' is considered to be an existing 'well-established topographical, natural or landscape feature which helps stop further expansion into the wider countryside.' Proposals which protrude outwith a natural building grouping or landscape feature should be discouraged to avoid encroachment into the countryside.

The application site is outwith the settlement boundary. It is a field with neither any previous development nor is it between two buildings which front a road. The site is bounded by the settlement to the south and east and the railway line to the west. To the north the application site boundary is a hedge line. However, it is now proposed only to build to a line some 25m south of the hedge line. This proposal would leave a gap of some 25m between the development and the first feature which could potentially be considered a defensible boundary. Part (f) of the Countryside Objective does not apply in this instance.

Policy 6 of the LDP states that in principle support will be given to creation of tourism and related activities. The proposal could be defined as a tourism and leisure use, providing a restaurant/garden centre facility for Fairlie whilst also likely attracting visitors to the area. The applicant has claimed that 30 jobs would be created. Whether or not this assessment is accurate, the development would certainly promote economic activity and bring a new use (garden centre) to the area. The development has the potential to be sustainable, although the non-implementation of the previous permission is noted. On balance therefore the

proposal is held to accord with Strategic Policy 1, namely part (d) of the Countryside Objective, and Policy 6.

Notwithstanding, the specific details of the proposal and the site require to be assessed against Strategic Policy 2, Policy 3, Policy 15, Policy 16, Policy 17, Policy 23, Policy 27 and Policy 29 of the LDP.

Policy 3 of the LDP seeks to direct development with significant potential footfall to Town Centres. This includes retail and leisure uses, such as restaurants. The policy does state that this will be applied flexibly to ensure that different uses are developed in the most appropriate locations. This proposal is for a sui generis use being a mixed restaurant (Class 3) and garden centre (Class 1) use. Whilst individually Class 3 and Class 1 uses are best placed in Town Centres, it is acknowledged that such a sui generis mixed use is unlikely to fit easily within a Town Centre particularly the garden centre element. There is not an identified Town Centre within Fairlie, and the nearest Town Centre is some 2.6km to the north in Largs. It is considered there are not any suitable edge of centre sites in Largs. As a sui generis use is proposed, further planning permission would be required to change the use to solely a Class 3 or Class 1 use which would be unacceptable in such a location. Given all the above, it is considered the proposal accords with Policy 3.

Policy 17 of the LDP states that proposals within the Clyde Muirshiel Regional Park (CMRP) should take account of the wider objectives of the park namely: use its unique assets to facilitate a high-quality programme of leisure activities; ensure the park is a popular and productive venue for formal and informal education; and ensure the CMRP is an attractive and ecologically important visitor destination.

The build area for this proposal has been reduced so that, other than modification of the cycle path, there would not be any physical development within the CMRP. The curtilage of the development, if approved, would be within the CMRP. However, a condition restricting any development of that area could be applied to any permission to control development within the curtilage. Subject to such a condition it is considered that the proposal would not have an effect on the CMRP, and therefore accord with Policy 17.

Policy 15 of the LDP states that support will be given to proposals which protect or enhance landscape character, avoiding unacceptable adverse impact on landscape areas. In respect of Special Landscape Areas, proposals will only be supported where it would not have an unacceptable impact on their special character, qualities and setting. In terms of local landscape features, development should take consideration or impact on features including settlement settings and approaches.

Strategic Policy 2 of the LDP sets out the six qualities of a successful place which all proposals should meet. The qualities considered to be relevant to these applications are: distinctive, in that proposals draw upon the positive characteristics of the surrounding area including landscapes; safe and pleasant, in that proposals respect the amenity of existing and future users; resource efficient; and easy to move around and beyond.

Whilst the building in itself is considered to be of reasonable visual quality, the northward extension of the settlement is considered to have a negative visual effect on the setting of the village. The proposal would extend the settlement on the western side of the A78 by approx. 65m into the Countryside. The reduction of the built area from the previous application is noted. However, the distance between the built-up area and the

dwellinghouse at Kelburnfoot would be reduced to approx. 440m. There is approx. 750m of Countryside between the north side of Kelburnfoot and Largs. Given the narrow width of the Countryside between the A78 and the railway line, it is considered that any loss would impact on the setting of Fairlie and separation of the settlements. Loss of Countryside in this location could set an undesirable precedent for other unjustified development.

The development would be highly prominent in approach from the north. Whilst the northern boundary could be landscaped it is not considered that landscaping would successfully mitigate the impact on the setting of Fairlie.

The site comprises a small part of the special landscape area. However, it is a prominent part and as discussed would diminish the openness of the landscape between Fairlie and Largs. Development of the site would not draw upon the positive characteristics of the area.

The Reporter's assessment of the site and development of it being contrary to Policy 15 is noted above. This specific proposal for the site is not considered to alter that assessment. The proposal is considered to be contrary to Policy 15 and Strategic Policy 2, in terms of creating a distinctive development.

The development would introduce a commercial use to an edge of settlement site. However, it would be sited between a trunk road and a railway line with the only immediate neighbour being a bowling club. The nearest residential gardens would be some 34m to the east of the proposed building. The nearest houses would be some 60m distant. The car park would be between 15m and 40m distant from the gardens and houses respectively, separated by the trunk road. Given this separation, it is not considered that the proposal would give rise to any significant daytime disturbance. In order to minimise late night disturbance, and given the restaurant is sought in connection with a garden centre use, a condition restricting the hours of operation of the restaurant/café could be imposed if permission was granted. A condition could also be imposed requiring details of any external flues in order for cooking odours to be fully assessed. Details of external lighting, to reflect the amended access, could also be required by condition.

Subject to such conditions it is not considered the development would give rise to any significant noise, odour or light impacts. There would be no overshadowing or overlooking impacts. The proposal therefore accords with Strategic Policy 2 in terms of respecting the amenity of existing and future users.

Policy 16 of the LDP states that support will be given to development which would not have an unacceptable adverse impact on the natural environment. In terms of Local Nature Conservation Sites, development adversely affecting an LNCS will generally not be permitted unless it can be demonstrated that the overall integrity of the area would not be compromised. An area of some 100sqm in the north-eastern corner of the site is within the Kelburn and Fairlie Glen Local Nature Conservation Site. The LNCS is some 612ha in area. The area would contain landscaping and the existing core path. Some mature trees would be removed to re-align the core path. However, it is considered any effect on the LNCS would be minimal and this development is not considered to be compromise the overall integrity of the area.

The Reporter's assessment of the site and development of it being contrary to Policy 16 is noted above. However, the specific details of this proposal are not considered to affect the LNCS. The proposal is therefore considered to accord with Policy 16.

Policy 23 of the LDP states that support will be given to proposals which set out measures to protect against and manage flood risk, including being supported by an appropriate FRA and take account of SEPA's guidance. An FRA for the site has been submitted, which states that there is a risk of flooding given the watercourse on the northern boundary. However, it is considered that any flooding would be directed onto the open land to the north given the topography of the area. Surface water could be managed through an appropriate soakaway system including porous landscaping.

The objection which considers the FRA to be deficient is noted. However, it is also noted that SEPA had no objection to the FRA submitted with the 2016 application on which this FRA is based. As discussed above, the development is considered to be acceptable in principle in terms of Strategic Policy 1 and tourism and leisure uses. As such a 'Least Vulnerable Use,' as defined by SEPA, such as this proposal, could be appropriate in an area of this type of flood risk. As such, subject to appropriate conditions, the proposal is considered to accord with Policy 23.

Policy 27 states that proposals which provide safe and convenient sustainable transport options will be supported. NAC Active Travel and Transportation and Transport Scotland were consulted. No objections are offered subject to conditions.

The site is on the edge of the settlement of Fairlie. The core path runs through the site, which would have to be slightly re-aligned but would remain extant and provide easy access to the site for active travel. There are bus stops on A78 approx. 50m to the south. Given all of the above, the proposal is considered to accord with Policy 27 and Strategic Policy 2, in terms of easy to move around and beyond.

Policy 29 states that all new buildings should demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon technologies. Compliance with this requirement could be required through condition if permission is granted. Subject to such a condition the proposal would accord with Policy 29 and Strategic Policy 2, in terms of being resource efficient.

In terms of other material considerations, weight is given by the applicant to the 2013 decision, in support of the proposal. Whilst it is not clear why this support was given by the Committee at that time, there have been two subsequent iterations of the Local Development Plans since that decision, which have not chosen to allocate the site for development. This application is required to be assessed against the current LDP adopted in 2019.

It is noted that the 2013 permission was not implemented and lapsed in 2016. In 2017 an application for houses on the site was refused and a request to allocate the site for houses also made. That request was rejected by the Scottish Government's Examination of the current LDP. In response to the consultation, the Community Council is concerned that should the venture fail, the site would become a development opportunity for housing. It is unclear why the 2013 consent was not implemented and why it was subsequently superseded by the housing proposals. Should the site be developed but become unused, any subsequent proposals for alternative development, such as housing, would have to be considered in the context of a derelict/brownfield site.

The 2013 decision is not considered to outweigh the findings that this proposal is contrary to the current LDP. These findings reflect the findings of the examination of the LDP, which is considered to have considerable weight in the assessment of any development for this site. The reduction in the built-up area is also not considered to overcome the reasons for the 2020 refusal of planning permission, with the exception in relation to the Regional Park.

The proposal is therefore recommended to be refused for the following reasons:

The development is contrary to Policies 15 and Strategic Policy 2 of the LDP, in that it constitutes inappropriate development which will undermine the setting of Fairlie, with potential for visual and physical coalescence along the coast and set an undesirable precedent for other unjustified development, it will have an unacceptable impact on the Special Landscape Area.

4. Full Recommendation

Refused

Reason for Refusal

Reason

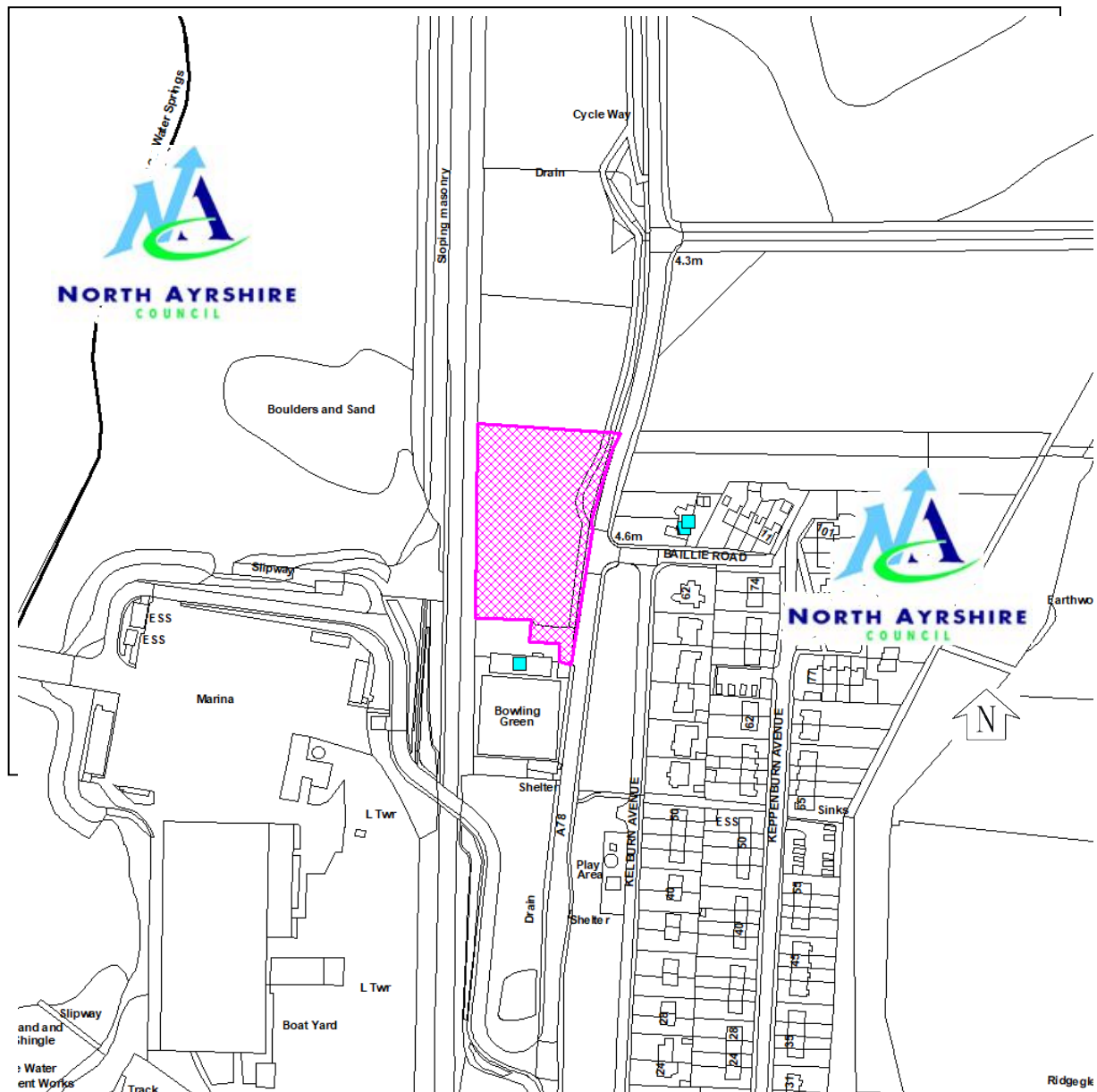
1. The development is contrary to Policies 15 and Strategic Policy 2 of the LDP, in that it constitutes inappropriate development which would undermine the setting of Fairlie, with potential for visual and physical coalescence along the coast and would have an unacceptable impact on the Special Landscape Area. It would set an undesirable precedent for other unjustified development.

James Miller
Chief Planning Officer

For further information please contact Mr Iain Davies on 01294 324320.

Appendix 1 – Location Plan

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NORTH AYRSHIRE COUNCIL

26th January 2022

Planning Committee

Title:	Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: 1. Land to rear of 62 Main Street, Kilwinning 2. Land to rear of 126 High Street, Irvine
Purpose:	To seek authority to serve a notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring the clearance of all fly-tipped materials on the above areas of land for the abatement of the adverse impacts on the amenity of the local area
Recommendation:	Agree that authority be given to serve Notices under Section 179 of the Town and Country Planning (Scotland) Act 1997 to improve and safeguard the amenity of each area

1. Executive Summary

- 1.1 Reports of fly-tipping on land within Kilwinning town centre and Irvine town centre have been made to the Council. The land is adjacent to public car parks in each case and is highly visible. The waste cannot be removed by the Council's Fly-Tipping service since, in both cases, the land is privately owned. The impact of the waste is harmful to the amenity of the areas concerned. In both cases, the land relates to rear ground associated with vacant shop units.
- 1.2 Contact has been made during recent months with the respective owners to request the removal of all waste materials from the land and their disposal to a licensed waste or recycling facility.
- 1.3 To date, neither area of land has not been cleared of the waste. Their condition is harming the amenity of Kilwinning and Irvine town centres.

2. Background

- 2.1 A report regarding fly-tipping on privately owned land to the rear of 62 Main Street in Kilwinning was received by Planning Services from the Council's Fly Tipping Officer during December 2021. The extent of the fly-tipping was noted as being considerable.
- 2.2 Since the fly-tipping had occurred on a rear yard that is privately owned, the Council has been unable to remove the waste materials, in line with Council policy. A fixed

penalty notice had been served on the lessee of the adjacent (vacant) shop, the outcome of which was that some of the fly-tipped materials were then deposited onto the adjoining public car park, rather than being removed from to licensed waste or recycling facility. To date, the majority of the waste remains on the private land.

- 2.3 The waste includes numerous bags of rubbish, several overflowing wheeled bins and a variety of individual items left on the ground. The land is visually prominent from the adjacent public car park which is busy with shoppers and visitors to the town centre.
- 2.4 Overall, the condition of the land is unsatisfactory and is harmful to the amenity of Kilwinning town centre.
- 2.5 With regard to the land to the rear of 126 High Street in Irvine, the waste has been dumped within a rear yard beside a public car park. The waste is bulky and includes various large items of furniture as well as several shopping trolleys. Contact was made with the owner to request that the area is cleared. During December 2021, Streetscene also offered their assistance to the owner and provided a quote to uplift the items for disposal. However, no action has been taken and, to date, the waste remains.
- 2.6 As with the land in Kilwinning, the presence of bulky items as well as other general waste that has been dumped on the land is harmful to the amenity of Irvine town centre, particularly given its visual prominence beside a busy public car park.

3. Proposals

- 3.1 It is recommended that a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 (as amended) is served on the respective land owner in each case to require:
 - 1. The removal of all waste materials from the land at the rear of 62 Main Street, Kilwinning to a licensed waste disposal or recycling facility.
 - 2. The removal of all waste materials from the land at the rear of 126 High Street, Irvine to a licensed waste disposal or recycling facility.
 - 3. Improved maintenance of both areas of land, to include regular checks for fly-tipping and its prompt removal should it occur again.
- 3.2 The timescale for undertaking such works should be no greater than 6 weeks from the date of the notice.

4. Implications/Socio-economic Duty

Financial

- 4.1 Should any requirement of the Notice not be complied with following expiry of the compliance period, the Council as planning authority may enter the land and carry out such steps to achieve compliance. The Council may then seek to recover from the person(s) who was the then owner (or lessee) any expenses reasonably incurred during the carrying out of these works.

Human Resources

4.2 None.

Legal

4.3 The proposed Amenity Notices would be served in accordance with statutory procedures.

Equality/Socio-economic

4.4 None.

Environmental and Sustainability

4.5 The proposed Amenity Notices would support the improvement of two town centre locations in Kilwinning and Irvine which have been adversely affected by fly-tipping incidents.

Key Priorities

4.6 The proposed Amenity Notice would support the Council Plan priority: “Vibrant, welcoming and attractive places” and the Town Centre First principle of the Local Development Plan.

Community Wealth Building

4.7 Any direct action taken under the Planning Acts can support progressive procurement.

5. Consultation

5.1 Finance has been advised of the report in terms of its budgetary provision.

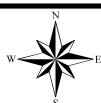
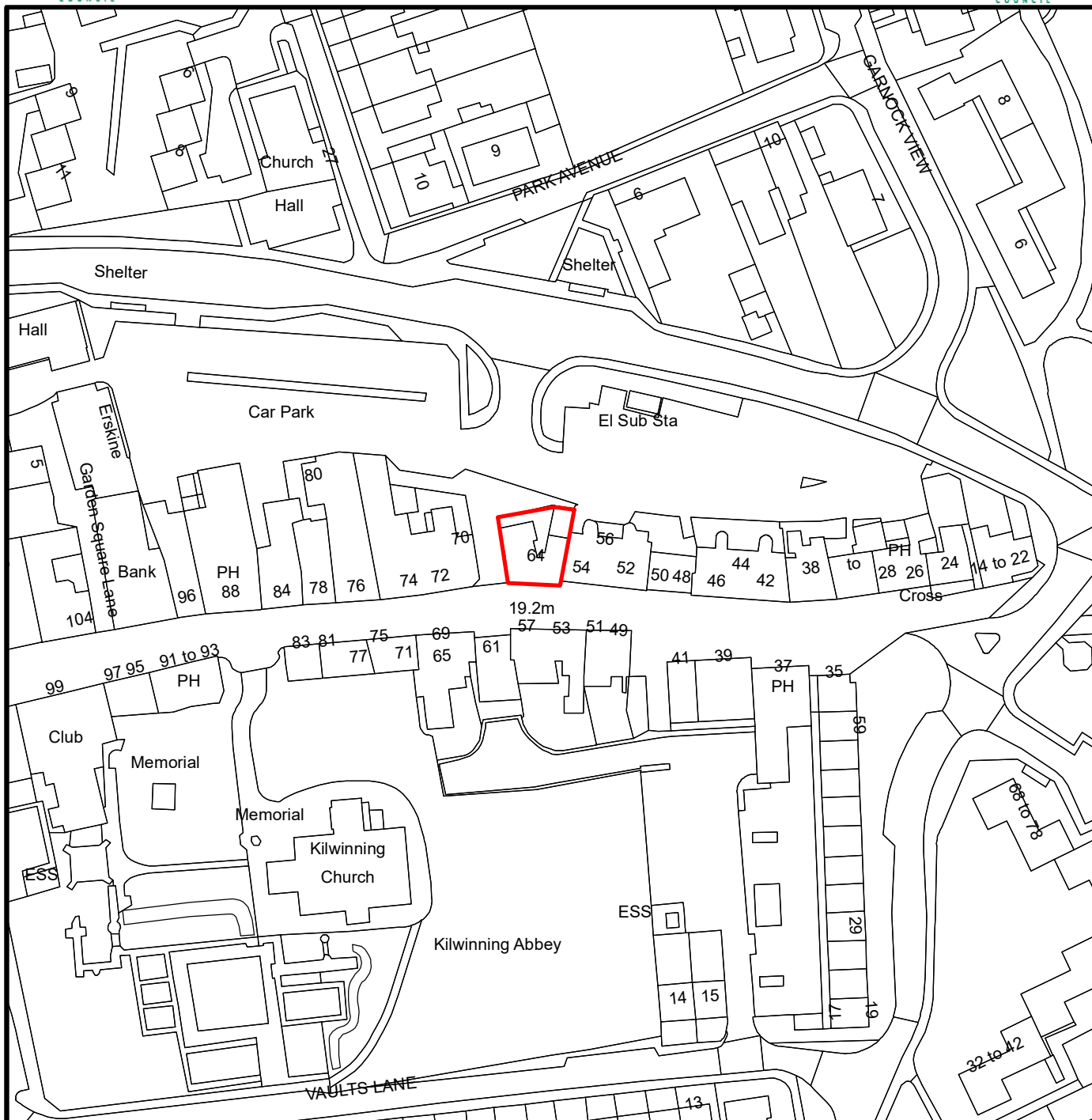
James Miller
Chief Planning Officer

For further information please contact **Mr A. Hume, Senior Development Management Officer**, on **01294 324318**.

Background Papers

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Notice under Section 179 of the Town and Country
Planning (Scotland) Act 1997:
Land to rear of 62 Main Street, Kilwinning

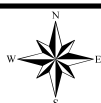
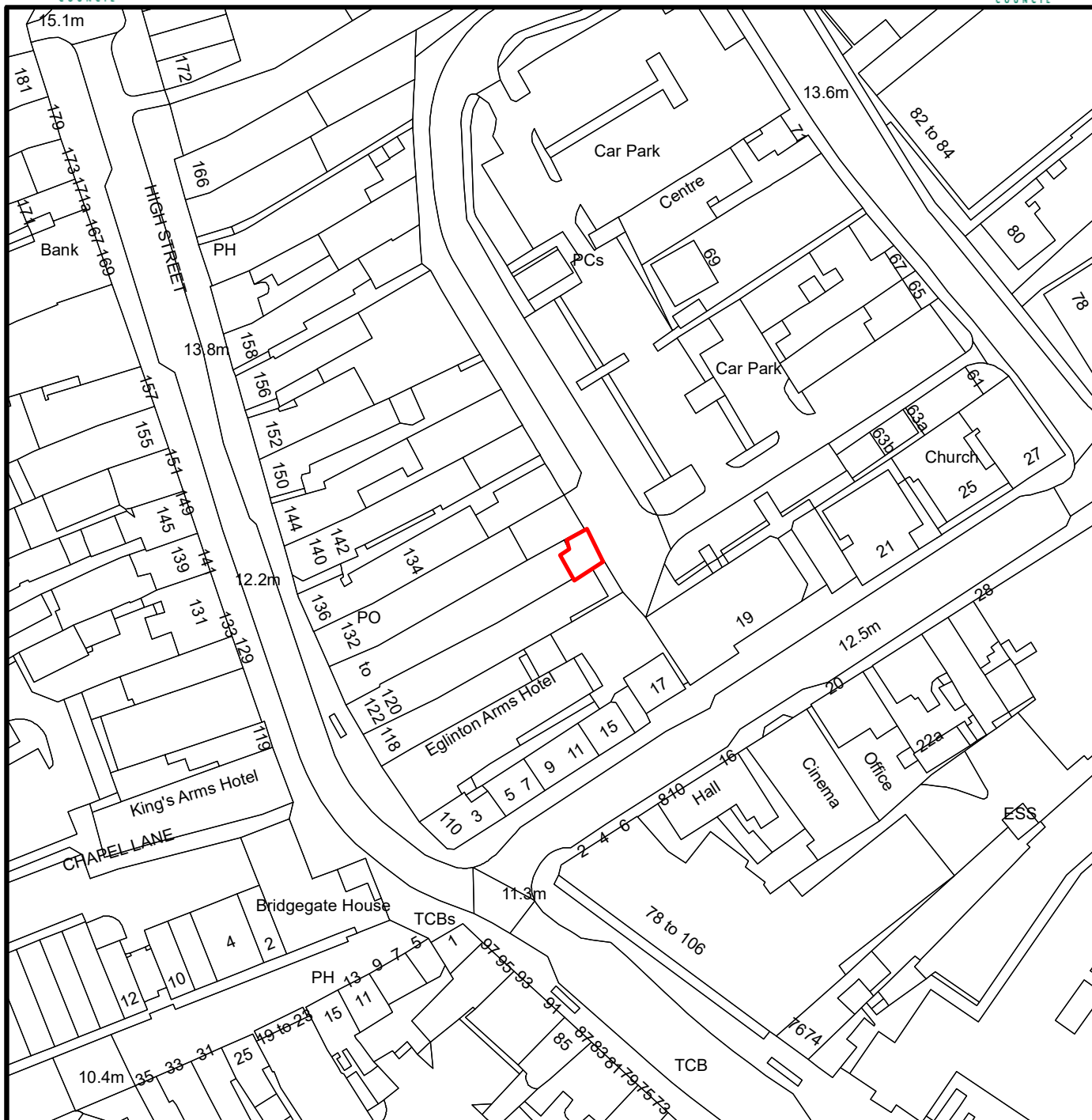


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Land to rear of 126 High Street, Irvine



1:1,250

0 15 30 60 Metres

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