

County Buildings
Wellington Square
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29 September 2023

To: Councillors Bell (Chair), Cavana, Clark, Dixon, Hunter, Kilbride, Kilpatrick, Mackay and Townson

All other Members for Information Only

Dear Councillor

REGULATORY PANEL (PLANNING)

You are requested to participate in the above Panel to be held on **Wednesday, 11 October 2023 at 10.00 a.m.** for the purpose of considering the undernoted business.

Please note that a briefing meeting will take place for all Panel Members at 9.15 a.m., online and in the Prestwick Room.

This meeting will be held on a hybrid basis for Elected Members, will be live-streamed and available to view at <https://south-ayrshire.public-i.tv/>

Yours sincerely

CATRIONA CAVES
Head of Legal and Regulatory Services

B U S I N E S S

1. Declarations of Interest.
2. Minutes of previous meetings of:-
 - (a) 4 May 2023 (Site Visits); and
 - (b) 14 September 2023(copies herewith).
3. Hearing relating to Applications for Planning Permission - Submit report by the Housing, Operations and Development Directorate (copy herewith).

For more information on any of the items on this agenda, please telephone Andrew Gibson, Committee Services on at 01292 612436, at Wellington Square, Ayr or e-mail: andrew.gibson@south-ayrshire.gov.uk
www.south-ayrshire.gov.uk

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REGULATORY PANEL (SITE VISITS)

Minutes of meeting to undertake site visits on 4 May 2023 at 2.30 p.m.

Present: Councillors Martin Kilbride (Chair); Ian Cavana and Mark Dixon.

Apologies: Councillors Kenneth Bell, Alec Clark, Mary Kilpatrick and Craig Mackay.

Councillors Brian Connolly and Duncan Townson were not present at the Regulatory Panel on 30 March 2023 so could not participate in the site visits.

Attending: K. Briggs, Service Lead – Legal and Licensing; C. Iles, Service Lead – Planning and Building Standards; R. Lee, Supervisory Planner; B. Seditas, Environmental Health Officer; E. Little, Environmental Health Officer; A. Porter and S. Greig, Ayrshire Roads Alliance; and A. Gibson, Committee Services Officer.

1. Declarations of Interest

There were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

2. Continued Planning Application – Crofthead Caravan Park, Ayr (Ref: 22/00483/APPM).

Reference was made to the Minutes of 30 March 2023 when it had been agreed to continue consideration of a planning application at Crofthead Caravan Park, Ayr (Ref: [22/00483/APPM](#)) to allow a site visit to be conducted.

Having viewed the site, the Panel

Decided: to continue determination of the application to the next meeting of this Panel, scheduled to take place on 11 May 2023.

3. Continued Planning Application – Crofthead Caravan Park, Ayr (Ref: 22/00929/FURM).

Reference was made to the Minutes of 30 March 2023 when it had been agreed to continue consideration of a planning application at Crofthead Caravan Park, Ayr (Ref: [22/00929/FURM](#)) to allow a site visit to be conducted.

Having viewed the site, the Panel

Decided: to continue determination of the application to the next meeting of this Panel, scheduled to take place on 11 May 2023.

The meeting ended at 3.40 p.m.

REGULATORY PANEL (PLANNING)

Minutes of a hybrid webcast meeting
on 14 September 2023 at 10.00 a.m.

Present

In County

Buildings: Councillors Kenneth Bell (Chair), Ian Cavana, Alec Clark, Hugh Hunter, Martin Kilbride and Duncan Townson.

Present

Remotely: Councillors Mary Kilpatrick and Craig Mackay.

Apology: Councillor Mark Dixon.

Attending

in County

Buildings: K. Briggs, Service Lead – Legal and Licensing; E. Goldie, Co-ordinator (Place Planning); E. McKie, Planner; D. Lewis, Planner; K. Braidwood, Head of Roads, Ayrshire Roads Alliance; A. Gibson, Committee Services Officer; and C. McCallum, Clerical Assistant.

Chair's Remarks.

The Chair

- (1) welcomed everyone to the meeting; and
- (2) outlined the procedures for conducting this meeting and advised that this meeting would be broadcast live.

1. Sederunt and Declarations of Interest.

The Service Lead – Legal and Licensing called the Sederunt for the meeting and having called the roll and in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct, Councillor Hunter declared an interest in item 3(2) below as he had written an article for a local magazine supporting the Bothy, Mossblown.

2. Minutes of previous meetings.

- (1) The minutes of 4 May 2023 (Site Visits) ([issued](#)) were submitted but could not be approved as there was not a sufficient quorum present from that meeting here today to approve them.
- (2) The minutes of 27 June 2023 ([issued](#)) were submitted and approved.

3. Hearings relating to Applications for Planning Permission -

There were submitted reports ([issued](#)) of September 2023 by the Housing, Operations and Development Directorate on planning applications for determination.

The Panel considered the following applications:-

- (1) [23/00495/FUR](#) – AYR – 3 Summerfield Cottages, 66 Monument Road, KA7 4NG
– Further application to renew planning permission 20/00435/APP.

Decided: to approve the planning application subject to the following conditions:-

- (a) that the development hereby permitted must be begun within three years of the date of this permission;
- (b) that the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority;
- (c) that the proposed access shall be constructed in accordance with the specifications in the Council's Roads Development Guide, and be a minimum of 3.6 metres wide over its initial 5 metres and be surfaced for a minimum of 5 metres, as measured from the rear of the public footway prior to operation;
- (d) that the discharge of water onto the public road carriageway shall be prevented by drainage or other means. Precise details and specifications of how this is to be achieved shall be submitted for the prior written approval of the Planning Authority before any work commences on site;
- (e) that junction access visibility sightline splays of 2.4 metres by 43 metres shall be maintained in both directions at the junction with the public road. There shall be no obstacle greater than 1.05 metre in height within the visibility sightline splays; and
- (f) that prior to completion of the development any gates shall open inwards away from the public roadway;

Reasons:

- (a) to be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019;
- (b) to ensure that the development is carried out in accordance with the approved plans unless otherwise agreed;
- (c) in the interest of road safety and to ensure an acceptable standard of construction;
- (d) in the interest of road safety and avoid the discharge of water on to the public road;
- (e) in the interest of road safety and to ensure acceptable visibility at road junctions; and
- (f) in the interest of road safety.

Advisory Notes:

- The Council as Roads Authority advises that any costs associated with the relocation of any street furniture will require to be borne by the applicant/developer.
- The Council as Roads Authority advises that access to the site shall be by way of dropped kerbs, in accordance with the Council's Roads Development Guide before completion of the development.
- In order to comply with the requirements of the New Roads and Street Works Act 1991, all works carried out in association with the development on the public road network, including those involving the connection of any utility to the site, must be co-ordinated so as to minimise their disruptive impact. This co-ordination shall be undertaken by the developer and his contractors in liaison with the local roads authority and the relevant utility companies.

Reason for Decision:

The siting and design of the development hereby approved is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Councillor Hunter, having previously declared an interest in the following application, left the meeting at this point.

- (2) [23/00258/APP](#) – MOSSBLOWN – The Bothy, B743 from A77T at Whitletts roundabout to Mauchline Road, KA6 5AE – Erection of three residential accommodation units.

The Panel

Decided: to approve the application subject to the following conditions:-

- (a) that the development hereby permitted must be begun within three years of the date of this permission;
- (b) that the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority;
- (c) that prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and implemented in accordance with the approved details;

- (d) that prior to the commencement of development, full details of the finishing materials to be used to form the access track/road, shall be submitted for the prior written approval of the Planning Authority and implemented in accordance with the approved details;
- (e) that before occupation of the development a Travel Plan shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). The Travel Plan shall identify the measures and initiatives to be implemented in order to encourage modes of travel to and from the development other than by single occupancy private car trips. The Travel Plan shall also dissuade trips to and from the site via the C37. The Travel Plan shall clearly define the system of management, monitoring, review, reporting and the duration of the plan;
- (f) the applicant shall make provision of warning signage consisting of Diagram 506.1 (Side road ahead) signage compliant with the TSRGD on the B743 on both directions of approach to the site access junction at the East Lodge gateway, prior to occupation of the development. The precise details and siting of the signage shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority);
- (g) that before any works start on site, details of the future management and aftercare of the proposed landscaping and planting shall be submitted for approval in writing by this Planning Authority. Thereafter the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details;
- (h) that the existing trees, other than those agreed or approved for removal, shall be retained, and protected in accordance with BS5837:2005 Trees in relation to Construction, and the arboricultural recommendations in the submitted Tree Survey Report, to the satisfaction of the Planning Authority;
- (i) the developer shall utilise the protective measures necessary to safeguard the trees on the site during operations as specified in Drawing No. 577-G1-B15-XX-DR-A-SITE04 Rev. P1. The Planning Authority shall be formally notified in writing of the completion of such measures and no work on site shall commence until the Planning Authority has confirmed in writing that the measures as implemented are acceptable. The protective measures shall be retained in a sound and upright condition throughout the operations and no building materials, soil or machinery shall be stored in or adjacent to the protected area, including the operation of machinery;
- (j) the approved landscaping scheme as set out in Drawing No. 577-G1-B15-XX-DR-A-SITE04 Rev. P1 shall be implemented within 3 months / first planting season following the completion or occupation of the development, whichever is the sooner. The landscaped area shall be retained for the lifetime of the development and to this approved standard; and

- (k) that prior to the commencement of any construction works, a Construction Management Plan shall be submitted for the prior written approval of the Planning Authority. The Construction Management Plan shall detail anticipated construction traffic movements, including numbers of movements, deliveries, timings and associated warning signage on the B743 public road. Thereafter the Construction Management Plan shall be implemented as approved.

Reasons:

- (a) to be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019;
- (b) to ensure that the development is carried out in accordance with the approved plans unless otherwise agreed;
- (c) to ensure that the materials are appropriate for the site and in the interests of visual amenity;
- (d) to ensure that the materials are appropriate for the site and in the interests of visual amenity;
- (e) to encourage sustainable means of travel;
- (f) for the purposes of road safety and the functional operation of the local road network;
- (g) in the interests of visual amenity; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term;
- (h) in the interests of visual amenity; to ensure that all trees worthy of retention are satisfactorily protected before and during works on site;
- (i) in order to ensure that no damage is caused to the existing trees during development operations;
- (j) in the interests of visual amenity and to ensure a satisfactory standard of local environmental quality; and
- (k) for the purposes of road safety and the functional operation of the local road network.

Advisory Notes:

- The Council as Roads Authority advises that only signs complying with the requirements of 'The Traffic Signs Regulations and General Directions 2016' are permitted within public road limits.
- Please note that work should be undertaken in compliance with legislation and guidance relating to Scottish Environment Protection Agency (SEPA) Guidance Note No.8 which can be found at the website of SEPA as follows: www.sepa.org.uk
- Should any EPS be found either prior to or during the period of development then a qualified ecological consultant should be contacted immediately for advice before proceeding with works. Advice from NatureScot may be required and the ecologist should be able to determine this. Further information available at <https://www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice/>

- The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

List of Determined Plans:

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-LP01 Location Plan;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-SITE01 Rev P2 Site Plan as Existing;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-SITE02 Rev P4 Site Plan as Proposed;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-SITE04 Rev P1 Landscaping as Proposed;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-PLAN01 Building 1 Floorplan as Proposed;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-PLAN02 Building 2 Floorplan as Proposed;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-PLAN03 Building 3 Floorplan as Proposed;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-EL01 Building 1 Elevations as Proposed;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-EL02 Building 2 Elevations as Proposed;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-EL03 Building 3 Elevations as Proposed

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-Tree01 Tree Survey;

Drawing - Reference No (or Description): 577-G1-B15-XX-DR-A-SP03 Rev P1 Drainage Plan as Proposed;

Other – Reference No (or Description): Tree Survey; and

Other – Reference No (or Description): Drainage Strategy.

Reason for Decision:

The application has been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received (47 in total) and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concerns that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections, and following the above assessment, it is considered that the proposal will not have an adverse impact on the residential character or amenity of the locality.

The meeting ended at 10.25 a.m.

South Ayrshire Council

List of Planning Applications for Regulatory Panel (Planning) Consideration on 11th October 2023

List No.	Reference Number	Location	Development	Applicant	Recommendation
1.	23/00426/APP & 23/00427/LBC Ms Emma McKie (Objections) (APP: Application Summary) (LBC: Application Summary)	40 Smith Street Ayr South Ayrshire KA7 1TF	APP: Change of use of betting shop (Class 1A) to form restaurant (Class 3) including takeaway, alterations to shopfront and erection of flue LBC: Alterations to listed building and erection of flue.	Ms Krisalda Kita	Approval with Condition(s)

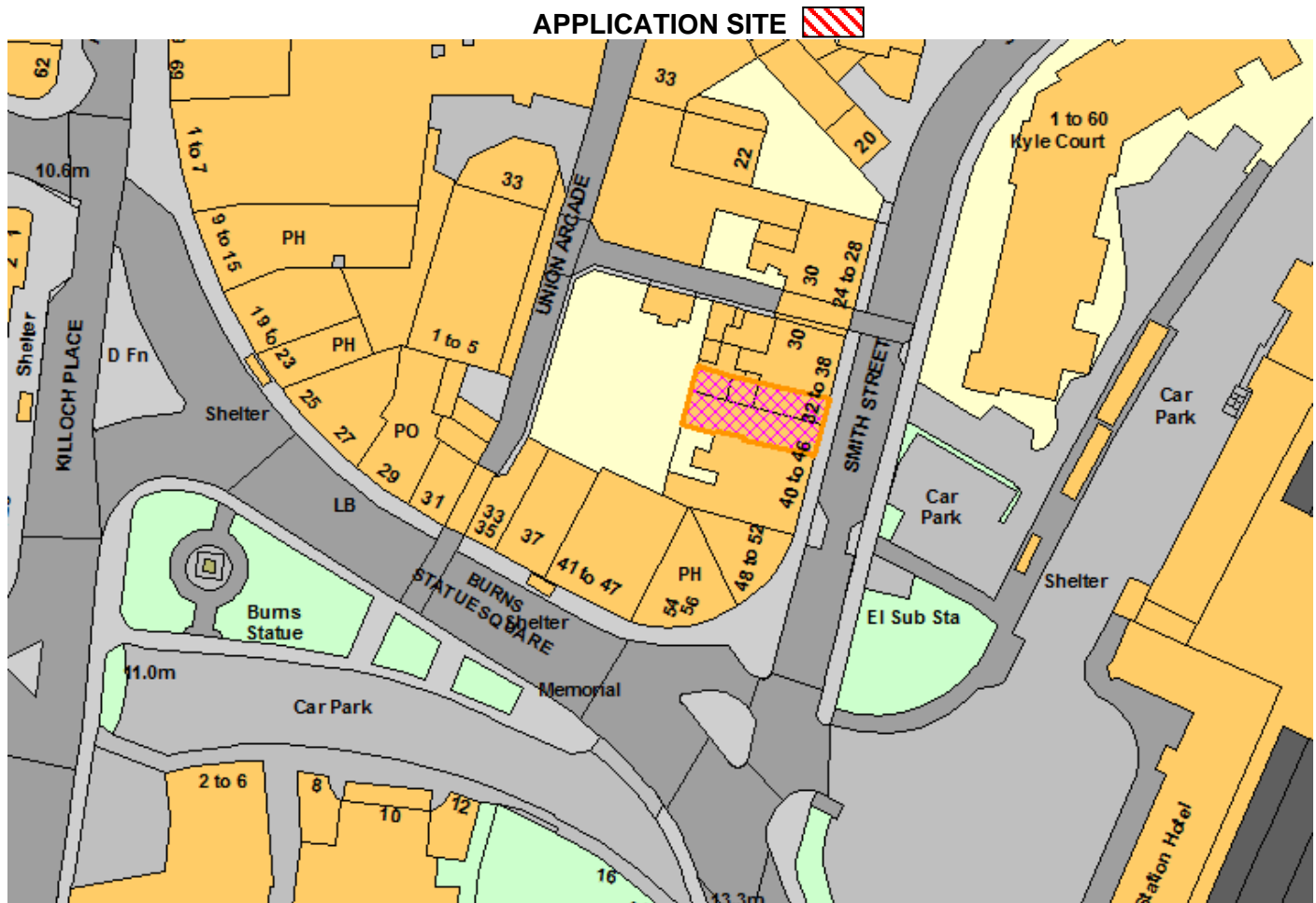
REGULATORY PANEL: 11 OCTOBER 2023

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

23/00426/APP AND 23/00427/LBC

40 SMITH STREET AYR SOUTH AYRSHIRE KA7 1TF

Location Plan



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Summary

Planning permission is sought for the change of use of a betting shop (Class 1A) to form a restaurant (Class 3) including a takeaway element, alterations to the shopfront and erection of a flue to the rear of 40 Smith Street, Ayr. The external alterations proposed comprise of the removal of an existing single doorway to be replaced with a double doorway to the left-hand side of the existing timber shopfront. This shall allow the proposed restaurant and takeaway to be accessed separately, with the restaurant being accessed via the proposed left-hand side doorway and the takeaway via the pre-existing right hand side doorway. A ventilation flue shall be erected to the rear of the premises.

This planning application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as 10 or more competent written objections have been received from individuals, organisations or third parties and the recommendation is to approve. Whilst concurrent application 23/00427/LBC could be determined under delegated authority, it is considered logical to present both applications to the Regulatory Panel at the same time given that they are intrinsically linked.

The applications have been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received (18 in total) and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concerns that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections, and following the above assessment, it is considered that the proposal will not have an adverse impact on residential amenity at the locality and will have a neutral impact on the character and appearance of Ayr Central conservation area or the setting of the C listed building.

Given this assessment and having balanced the applicant's rights against the general interest, it is recommended that the applications be approved subject to conditions.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

REGULATORY PANEL: 11 OCTOBER 2023

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	23/00426/APP and 23/00427/LBC
SITE ADDRESS:	40 Smith Street Ayr South Ayrshire KA7 1TF
DESCRIPTION:	23/00426/APP: Change of use of betting shop (Class 1A) to form restaurant (Class 3) including takeaway, alterations to shopfront and erection of flue. 23/00427/LBC: Alterations to listed building and erection of flue.
RECOMMENDATION:	Approval, Subject to Condition(s)

APPLICATION REPORT

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications.

1. Proposal:

The application site is located at 40 Smith Street, Ayr and is currently a ground floor vacant Class 1A premises, most recently occupied by a Bookmakers. The property is part of a row of C listed buildings and is situated within Ayr Central conservation area. The site, and the immediate locality is situated within Ayr town centre, and as such, is bound by a variety of different land uses. Commercial premises are located adjacent to the site, with residential properties above and to the north east of the site and Ayr railway station located opposite.

The proposals comprise of the change of use of a betting shop (Class 1A) to form a restaurant (Class 3) including takeaway, alterations to the shopfront and erection of a flue to the rear. The external alterations proposed comprise of the removal of an existing single doorway to be replaced with a double doorway to the left-hand side of the existing timber shopfront. This shall allow the proposed restaurant and takeaway to be accessed separately, with the restaurant being accessed via the proposed left-hand side doorway and the takeaway via the existing right hand side doorway. A ventilation flue shall be erected to the rear of the premises and shall project approximately 1 metre above the roof of the single storey rear projection. A statement has been submitted in support of the application which sets out that the applicant intends to relocate their existing restaurant business from Burns Statue Square to the application premises as 40 Smith Street as it provides a larger area of accommodation to meet their business needs.

This planning application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as 10 or more competent written objections have been received from individuals, organisations or third parties and the recommendation is to approve. Whilst application 23/00427/LBC could be determined under delegated authority, it is considered logical to present both applications to the Regulatory Panel at the same time given that they are intrinsically linked.

2. Consultations:

Waste Management – Offer no objections.

Environmental Health – Offer no objections, subject to conditions and advisory notes.

Ayrshire Roads Alliance – Offer no objection, subject to conditions.

3. Submitted Assessments/Reports:

In assessing and reporting on a Planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations. None.

4. S75 Obligations:

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development. None.

5. Scottish Ministers Directions:

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. None.

6. Representations:

18 representations have been received, 17 of which object to the proposed development and 1 neutral comment. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The issues raised by Representees can be summarised as follows.

- Traffic and transport issues and road safety concerns
- Noise and air pollution
- Adverse impact on residential amenity
- Litter and antisocial behaviour
- Nature of and need for the proposed development.
- Inclusion of private car park on submitted plans.

In accordance with the Council's procedures for the handling of Planning applications the opportunity exists for Representees to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to these representations is included within the assessment section of this report.

7. Assessment:

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

On 13 February 2023, Scottish Ministers published and adopted National Planning Framework 4 (NPF4). NPF4 sets out the Scottish Ministers position in relation to land use planning matters and now forms part of the statutory development plan, along with the South Ayrshire Local Development Plan 2 (LDP2) (adopted August 2022).

Sections 25(1) and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. The application is determined on this basis.

Legislation states that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”); Section 24(3)). NPF4 was adopted after the adoption of LDP 2, therefore NPF4 will prevail in the event of any incompatibility.

(i) National Planning Framework 4 (NPF4)

The following policies of NPF4 are relevant in the assessment of the application and can be viewed in full online at [National Planning Framework 4 - gov.scot \(www.gov.scot\)](http://www.gov.scot):

National Policy 7: Historic assets and places

National Policy 13: Sustainable transport

National Policy 27: City, town, local and commercial centres

National Policy 7 seeks to protect and enhance the historic environment. Development proposal for the reuse, alterations or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting (para. (c)). Development proposals in conservation areas will only be supported where the character appearance of the conservation area and its setting is preserved or enhanced (para. (d)). The external alterations proposed comprise of the removal of an existing single doorway to be replaced with a double doorway to the left-hand side of the existing timber shopfront and the erection of a flue to the rear of the property. Given the relatively minimal alterations proposed, and that the flue shall not be visible from the streetscape of the conservation area, it is not considered that they shall result in a detrimental impact on the character, appearance and setting of the C listed building or Ayr Central conservation area, as discussed further below.

National Policy 13 considers the issue of sustainable transport and active travel and is supportive of development in locations which support safe sustainable travel, and travel by means other than private vehicle. The application site is located opposite Ayr Railway station and approximately 60 metres from the nearest bus stop to the south west of the site at Burns Statue Square. It is therefore considered that the proposed development complies with the terms of this policy.

National Policy 27 outlines that:

- Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported.
- Development proposals for non-retail uses will not be supported if further provision of these services will undermine the character and amenity of the area or the health and wellbeing of communities, particularly in disadvantaged areas. These uses include:
 - i. Hot food takeaways, including permanently sited vans;
 - ii. Betting offices; and
 - iii. High interest money lending premises.

The proposal under consideration is for the change of use of a vacant Class 1A retail unit to a Class 3 restaurant with hot food takeaway. The application site forms part of a row of ground floor commercial premises, currently occupied by a mix of uses (including hot food takeaways), within Ayr town centre. As such, it is considered that the proposed use as a restaurant with hot food takeaway shall not undermine the character and amenity or the health and wellbeing of the area, as outlined further below.

The provisions of NPF4 must be read and applied as a whole, and as such, no policies should be read in isolation. The application has been considered in this context and it is considered that the proposed development accords with the provisions of NPF4, as set out further below.

(ii) South Ayrshire Local Development Plan 2

The following policies of the South Ayrshire Local Development Plan 2 are relevant in the assessment of the application and can be viewed in full online at [Local development plan 2 - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://www.south-ayrshire.gov.uk):

LDP 2 Strategic Policy 1: Sustainable Development
LDP 2 Strategic Policy 2: Development Management
LDP 2 Policy: Town Centre First Principle
LDP 2 Policy: General Retail
LDP 2 Policy: Town Centres
LDP 2 Policy: Ayr town centre guidance
LDP 2 Policy: Historic Environment
LDP 2 Policy: Land Use and Transport

The retail policies of LDP 2 seek to promote and enhance the vitality and viability of town centres, through encouraging a range of uses, and also an evening and night time economy. More specifically, the LDP 2 Town Centres policy defines the category of land uses which are considered to be acceptable in core and peripheral town centre locations. The application site is located in the periphery of Ayr town centre. Class 3 uses are supported in both the core and peripheral town centre locations. Hot food takeaway establishments shall be supported in peripheral areas subject to a consideration of their impact on the character of neighbour and surrounding land uses. The provision of such establishments is to be expected in the periphery of town centres, as evidenced by Smith Street, neighbouring streets within Ayr town centre, and other town centres with the wider local authority area. The submission confirms the main use of the premises shall be as a Class 3 restaurant (with the largest proportion of floorspace to be occupied by this use), with a small, separately accessed ancillary area for the collection of hot food, for consumption off the premises. The restaurant/takeaway is also an established business owned and operated by the applicant in a smaller nearby unit at Burns Statue Square, which is intended to be relocated to the application site. As such, the proposal is considered to be appropriately sited within the defined periphery of Ayr town centre. The application has been considered in this context.

Given its town centre location, the site is considered to be accessible, and the availability of other means of transport other than the private car and including pedestrian links are noted. In considering both the context of the site location, the Ayrshire Road Alliance (ARA) acknowledged that the proposed development has no off-street parking associated with it. However, they stated that given the town centre location, accessibility to nearby public transport facilities and the available parking opportunities both on-street immediately in the site vicinity and a host of other parking opportunities in the surrounding area, the ARA offered no objections to the proposed development, subject to a condition requesting the provision of a Service Management Plan regarding the movement of delivery traffic associated with the development, prior to commencement of works on site. For these reasons, the proposal is not considered to raise any issues relating to traffic, transport and accessibility.

The provisions of the Adopted South Ayrshire Local Development Plan 2 must be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context and is considered to be in accordance with the provisions of LDP2, as set out further below.

(iii) Other Policy Considerations (including Government Guidance)

Historic Environment Policy for Scotland

Historic Environment Policy for Scotland outlines the commitment of Historic Environment Scotland to supporting the protection and management of Scotland's rich and diverse historic environment in a sustainable way so that current and future generations can understand, appreciate and benefit from it. In terms of development within conservation areas, planning authorities are required to pay special attention to the desirability of preserving or enhancing the character and appearance of the area.

The Managing Change document on Setting defines setting as the way in which the surroundings of a historic asset contributes to how it is experienced, understood and appreciated, and indicates that the setting of a historic structure often extends beyond the immediate property boundary of that structure into the broader landscape. Less tangible elements can also be important in understanding the setting. These may include function, sensory perceptions or the historical, artistic, literary and scenic associations of places or landscapes. Planning authorities are expected to take into account the setting of historic assets in the determination of applications for planning permission.

Historic Environment Scotland's Managing Change in the Historic Environment document on Shopfronts and Signs indicates that high quality historic shopfronts should be retained, as good examples of Georgian, Victorian, Edwardian and inter-war shopfronts are now scarce. A balance needs to be achieved between accommodating commercial needs such as signage and security and maintaining the historic significance of the shopfront.

South Ayrshire Council Planning Guidance – Historic Environment

Guidance Policy 1 of South Ayrshire Council's Guidance on the Historic Environment refers to design quality, and states that development proposals will be considered in terms of compliance with the 'General Criteria for New Development', which applies to both new development and extensions to existing development / buildings.

Guidance Policy 2 refers to listed buildings, and states that the Council recognises the value of listed buildings in terms of their heritage value, but also recognises their potential economic and social benefits to the community as a whole. Consequently, the Council will encourage owners to undertake appropriate maintenance and repair to such properties to ensure their character is maintained and enhanced. The Council will presume in favour of protecting listed buildings and their settings, especially from inappropriate development and will actively encourage the sensitive maintenance, restoration and re-use of all such properties. Proposals affecting a listed building shall be expected to be of a quality commensurate with that of the original building to ensure the character of the building is not adversely impacted.

Guidance Policy 3 of South Ayrshire Council's Guidance on the Historic Environment, refers specifically to development proposals within conservation areas, and states that all new development within, or affecting the setting of, a conservation area shall be required to preserve or enhance its character or appearance. To ensure a consistent high standard of development within conservation areas, proposals will be considered in terms of compliance with the design principles for all proposed development within a conservation area.

The external alterations proposed comprise of the removal of an existing single doorway to be replaced with a double doorway to the left-hand side of the existing timber shopfront and the erection of a flue to the rear of the property. Given the relatively minimal alterations proposed, and the that the flue shall not be visible from the streetscape of the conservation area, it is considered that the proposed alterations to the building will not compromise the visual amenity or character of the building, subject to a condition requiring details of all finishing materials to be provided prior to the commencement of development on site. On this basis, it is considered that the proposals will preserve and enhance the character and appearance of Ayr Central conservation area and the C listed building.

(iv) Objector Concerns

- Traffic and transport issues and road safety concerns

These matters are considered elsewhere in this report; however, the development proposals are obliged to meet the transport needs arising from the proposal. The availability of short-term parking at this locale is consistent with town centre locations. Smith Street and the surrounding streets form part of the local road network which is managed and maintained by the ARA and where existing and proposed traffic regulation orders, in addition to road lining ensure that the network operates in an acceptable manner and remains accessible to emergency vehicles. In the context of the town centre location of the site, the ARA has confirmed it has no objection to the proposed change of use of the premises to form a Class 3 restaurant with hot food takeaway facility, subject to a condition requesting the provision of a Service Management Plan regarding the movement of delivery traffic associated with the development, prior to commencement of works on site. For these reasons, the proposal is not considered to raise any issues relating to traffic, transport, road safety and accessibility.

- Noise and air pollution

The Council's Environmental Health Service were consulted regarding the development proposals under consideration. In their response, they offered no objections to the development subject to the attachment of appropriate conditions relating to ventilation, odour and noise management and advisory notes (captured below) to any planning permission granted. However, should any statutory noise or odour nuisance arise, or any other matter related to air quality, lighting or health and safety issues once the unit is operational, it is for the Council's Environmental Health Service to address such matters under their statutory powers.

- Adverse impact on residential amenity

The impact of the proposed development on the residential amenity of nearby properties has been carefully considered. Given there is a mix of commercial uses currently operating in the area (including food and drink/hot food takeaway) together with the change of use to restaurant with hot food takeaway proposed, it is considered that neighbouring residential properties presently, and will continue to, experience a level of amenity which is commensurate with their location within the town centre, and that the proposal will not significantly alter this. Conditions regarding ventilation and noise are recommended to be imposed and are designed to safeguard residential amenity.

- Litter and antisocial behaviour

The application submission is accompanied by a supporting statement which states that there is a bin store area located within a courtyard to the rear of the property which is accessed through the rear fire exit. Waste shall be stored here and transferred to Smith Street for trade waste collection, as per neighbouring properties. The Council's Waste Management Service has not offered any objections in response to the development proposals.

Class 3 and hot food takeaways uses are commonplace in town centres, and as such, its use is considered to be compatible with the town centre location. The residents' perceived fear of crime and potential for anti-social behaviour are primarily matters for the police. Notwithstanding, given the location of the site within Ayr town centre it is considered that nearby residential properties presently, and will continue to experience, a level of amenity which is commensurate with their location within a town centre, and that the proposal will not significantly alter this.

- Nature of and need for the proposed development.

With regard to the proposed food and drink use, is not considered that there is an over proliferation of restaurants or hot food take away establishments in the area but rather a mix of offerings with regards eating out. In addition, it is noted that the applicant intends to relocate their existing and established business to the property from a nearby location.

Notwithstanding, the applicant/agent is not required to demonstrate a need for the proposal, and therefore the application is considered on its own merits.

- Inclusion of private car park on submitted plans.

It is noted that an area across from the application site has been annotated as a car park within the submitted plans. This has been included to provide context as to the location of the application site and its relationship with the surrounding land uses only.

(v) Impact on the Locality

As noted above, the application site is located within the periphery of Ayr town centre, as designated by the Adopted South Ayrshire Local Development Plan 2. Town centres are characterised by a range of different land uses which co-exist, often adjacent to, or within close proximity of each other. Town centres are also widely recognised as being the primary focus for retail, commercial uses, services and leisure opportunities, and in terms of being accessible locations with opportunities for use by a range of different modes of transport. Class 3 food and drink uses, and sui generis hot food takeaway establishments, are commonplace in town centres, and as such, there is no issue with the proposed use from a planning perspective, as it is compatible with the town centre location of the site.

The proposed flue is located to the rear of the premises and outwith public view. It is considered that the proposed flue is acceptable in size, scale, siting and design in that it will not be visible from the public vantage points. Given its proposed siting, the flue is considered to be acceptable and shall not result in a significant detrimental impact on the visual or residential amenity of the surrounding locality.

The Council's Environmental Health section has been consulted and has offered no objection to the development proposals, subject to the attachment of relevant conditions and advisory notes to any consent granted. It is therefore considered that, subject to these conditions, the property can be appropriately ventilated, and the proposed use would not adversely impact on the amenity of nearby properties.

While the impact of the development proposals on the residential amenity of nearby properties requires to be carefully considered, given there is a mix of commercial uses currently operating in the area (including food and drink/hot food takeaway) with the change of use to restaurant with hot food takeaway proposed, it is considered that neighbouring residential properties presently, and will continue to, experience a level of amenity which is commensurate with their location within the town centre, and that the proposal will not significantly alter this.

In addition, the Ayrshire Roads Alliance offer no objections to the proposed change of use, subject to a condition requesting the provision of a Service Management Plan regarding the movement of delivery traffic associated with the development, prior to commencement of works on site. Therefore, the proposals are not considered to represent inappropriate development in terms of either parking or road safety.

The application submission is accompanied by a supporting statement which states that there is a bin store area located within a courtyard to the rear of the property which is access through the rear fire exist. Waste shall be stored here and transferred to the Smith Street for trade waste collection, as per neighbouring properties. In addition, the Council's Waste Management Service have offered no objections to the proposed development.

For the reasons noted above, it is considered that the development proposals align with the provisions of National Planning Framework 4, the Adopted South Ayrshire Local Development Plan 2. Given the above assessment and having balanced the applicants' rights against the general interest, it is recommended that the applications are approved, subject to the following conditions.

8. Conclusion:

The applications have been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received (18 in total) and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concerns that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections, and following the above assessment, it is considered that the proposal will not have an adverse impact on residential amenity at the locality and will have a neutral impact on the character and appearance of Ayr Central conservation area or the setting of the C listed building.

Given the above and having balanced the applicant's rights against the general interest, it is recommended that the applications be approved subject to conditions.

9. Recommendation:

It is recommended that planning application 23/00426/APP is approved subject to the conditions set out below:

- (1) That the development hereby permitted must be begun within **three years** of the date of this permission.
- (2) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (3) That prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and implemented in accordance with the approved details.
- (4) The applicant/ developer shall, prior to the commencement of works, submit a Service Management Plan (SMP) for the written approval of the Council as Planning Service in conjunction with the Roads Authority. The plan shall describe the best practice methodology for the movement of delivery traffic associated with the development including delivery timings, routing, banksmen requirements and other related matters. The SMP shall require the agreement in writing of the Planning Authority through consultation with the Ayrshire Roads Alliance prior to occupation of the development.

- (5) Ventilation within the kitchen requires to be adequate and suitable for the food handling/cooking carried out therein. In order to prevent the occurrence of an odour nuisance, the ventilation system in this area must be provided with suitable means of filtration e.g., grease and charcoal filters and extended ducting terminating at least one metre above eaves level of any building within 15m of the building housing the commercial kitchen, or alternatively the operation of the premises is limited to enclosed unit cooking. Details of the ventilation system shall be submitted for the approval in writing of the Planning Authority through consultation with the Council's Environmental Health Service and thereafter installed as approved, prior to the occupation of the development.
- (6) That, prior to the occupation of the development, an acoustic consultant's report or manufacturer's specifications demonstrating that the ventilation extraction system complies with noise rating criteria 25 when measured within a habitable room of the nearest noise sensitive dwelling with windows open sufficiently for ventilation, or alternatively, the closest accessible location to the nearest noise sensitive dwelling from where noise can be measured, shall be submitted for the formal prior written approval of the Council as Planning Authority in consultation with the Environmental Health Service. The location from where the noise can be measured from will first be agreed in writing by the Planning Authority.
- (7) The ventilation unit shall be installed using anti-vibration mounts where it attaches to a building, the ground or other hard surface, in order to prevent noise caused by vibration.

Reasons:

- (1) To be in compliance with Section 58 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.
- (2) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3) To safeguard the character and appearance of the conservation area.
- (4) In the interest of road safety.
- (5) In order to prevent the likelihood of a smell nuisance.
- (6) In order to prevent the likelihood of a noise nuisance.
- (7) In order to prevent the likelihood of noise nuisance.

Advisory Notes:

- (1) The granting of this Planning Permission does not negate the need for the applicant to obtain Advertisement Consent for any signage to be erected at the premises.
- (2) The applicant/developer is advised to contact Environmental Health with regard to standards applicable to this development proposal.
- (3) The premises require to fully comply with the Health and Safety at Work etc Act 1974 and the Food Safety Act 1990 and any Regulations and requirements therein and thereto.
- (4) Adequate provision must be made for the storage and disposal of food waste, non-edible by-products and other refuse. Refuse stores are to be designed and managed in such a way as to enable them to be kept clean and, where necessary, free of animals and pests.

It is recommended that listed building consent 23/00427/LBC is approved subject to the conditions set out below:

- (1) That the development hereby permitted must be begun within three years of the date of this permission.
- (2) That the works hereby granted Listed Building Consent shall be implemented in full accordance with the approved plan(s) as listed below unless a variation required by a condition of the consent has been agreed in writing by the Planning Authority.
- (3) That prior to the commencement of development, samples or a brochure of all materials to be used on external surfaces, in respect of type, colour and texture, shall be submitted for the prior written approval of the Planning Authority and implemented in accordance with the approved details.

Reasons:

- (1) To be in compliance with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended by Section 20 of the Planning Etc. (Scotland) Act 2006.
- (2) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (3) To safeguard the character and setting of the listed building.

List of Determined Plans:

Drawing - Reference No (or Description): 23/KITA/LP Location Plan
Drawing - Reference No (or Description): 23/KITA/PL/01A Existing Plans
Drawing - Reference No (or Description): 23/KITA/PL/02A Proposed Plans

Reason for Decision (where approved):

The applications have been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received (18 in total) and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concerns that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections, and following the above assessment, it is considered that the proposal will not have an adverse impact on residential amenity at the locality and will have a neutral impact on the character and appearance of Ayr Central conservation area or the setting of the C listed building.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Background Papers:

1. Planning application form, plans and supporting information.
2. National Planning Framework 4.
3. Adopted Local Development Plan 2.
4. Historic Environment Policy for Scotland
5. South Ayrshire Council Planning Guidance – Historic Environment
6. Consultation Responses.
7. Representations.

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

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