

REGULATORY PANEL: 12 SEPTEMBER 2024

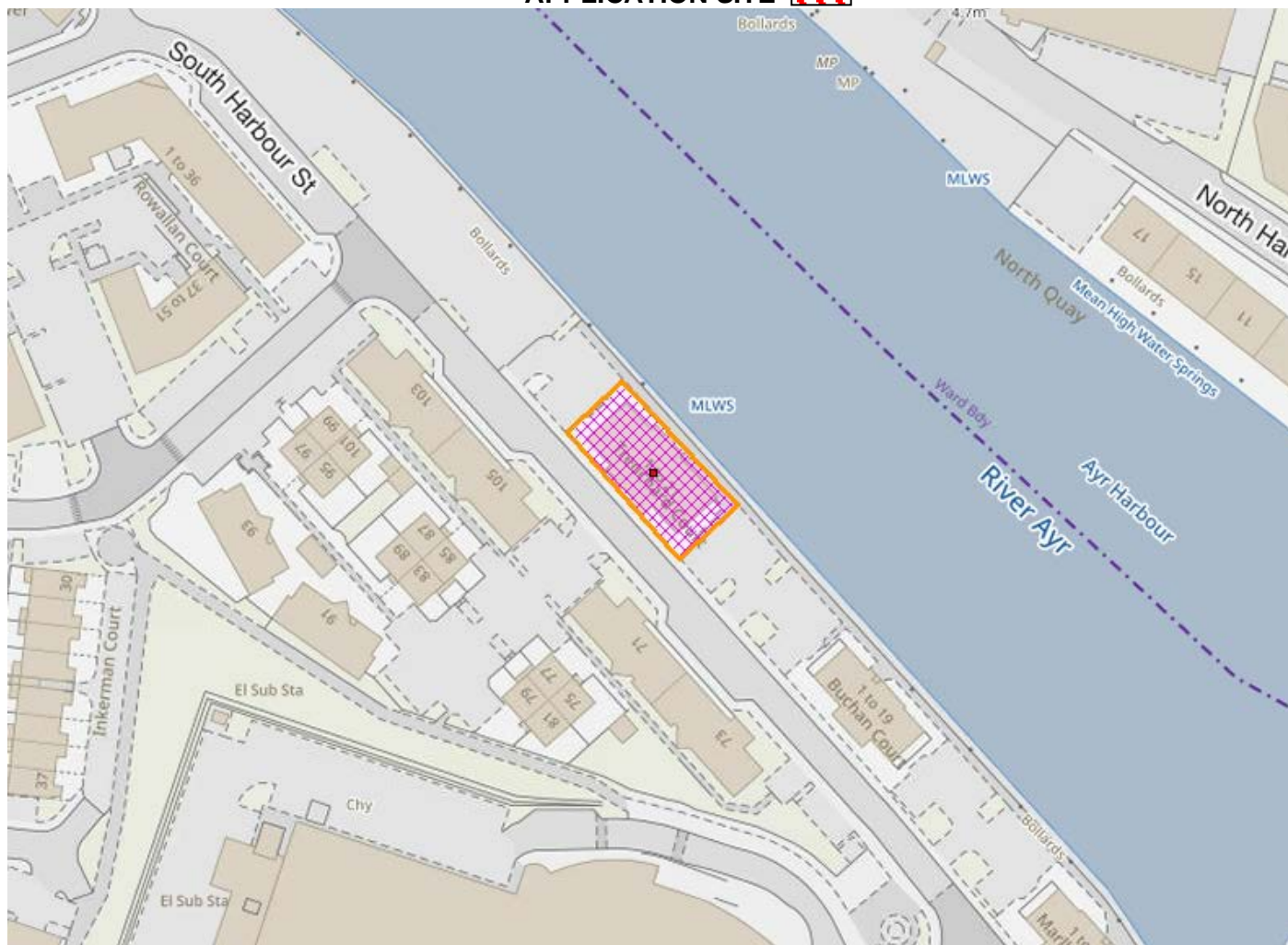
REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

24/00324/APP

5 TRENCHARD COURT SOUTH HARBOUR STREET AYR SOUTH AYRSHIRE KA7 1JU

Location Plan

APPLICATION SITE 



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The drawings and other documents relating to this application, can be accessed on the Council's website via the link below:

[\(Application Summary\)](#)

Summary

Planning permission is sought for the change of use of a two-bedroom first floor dwellingflat to form short term letting accommodation at a 7-storey flatted residential block located at 5 Trenchard Court, Ayr. A total of 21 dwellingflats are located within the Trenchard Court residential block.

The application site is located within the settlement boundary of Ayr, as prescribed by the South Ayrshire Local Development Plan 2. The dwellingflat has historically been occupied on a permanent residential basis with the current application seeking permission to allow it to be used for short-term letting purposes in order to comply with the licensing scheme introduced in Scotland in relation to short term letting properties. In this regard, no changes to the internal layout or exterior appearance of the building are proposed, with the application only seeking permission for change of use.

14 representations objecting to the proposed development, including an objection by the Fort, Seafield and Wallacetown Community Council have been received. Following consideration, the points raised do not merit refusal of this application.

On balance, the proposed development subject to this planning application has been assessed against the relevant policies of National Planning Framework 4 (NPF4) alongside South Ayrshire Local Development Plan 2 and it is considered that the proposal is capable of positive consideration against the terms, criteria and requirements of all of applicable statutory planning policy framework. Other material planning considerations have been assessed and it is not considered that any of these matters would warrant a recommendation other than approval noting the developments compliance with the statutory development plan framework.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

REGULATORY PANEL: 12 SEPTEMBER 2024

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	24/00324/APP 5 Trenchard Court South Harbour Street
SITE ADDRESS:	Ayr South Ayrshire KA7 1JU
DESCRIPTION:	Change of use of dwellingflat to form short term let
RECOMMENDATION:	Approval with conditions

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.

Key Information:

- The application was received on 2 May 2024.
- The application was validated on 27 May 2024.
- Neighbour Notification, under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, was carried out by the Planning Authority on 29 May 2024.
- The case officer visited the application site on 10th June 2024.
- No Site Notice was required.
- No Public Notice in the Local Press was required.

1. Proposal:

Planning permission is sought for the change of use of a two bedroom dwellingflat to form short term letting accommodation.

The site of the proposed development comprises a first floor dwellingflat located at 5 Trenchard Court, South Harbour Street, Ayr. The flatted block is finished in a red brick with concrete roof tiles and reaches 7 storeys in height. A total of 21 dwellingflats are located within the Trenchard Court residential block. The application site is located within the settlement boundary of Ayr, as prescribed by the South Ayrshire Local Development Plan 2.

The application seeks planning permission to allow the dwellingflat to be used for short-term letting purposes in order to comply with the licensing scheme introduced in Scotland in relation to short term letting properties. In this regard, no changes to the internal layout or exterior appearance of the building are proposed, with the application merely seeking permission for change of use.

The application submission is accompanied by an Operating Plan which confirms the following: -

- The applicant is the sole owner of the property who is responsible for Council Tax;
- The property is to be let from January to December and is capable of accommodating 4 guests at any given time;
- The minimum booking no. of days is 2 per stay, while the maximum booking no. of days is 7;
- Trenchard Court contains 21 flats who all have a shared common entrance, lift and bin store; while the first floor of the building contains a total of 4 x flats;
- The property has 2 bedrooms, along with 1 designated off road parking space;
- Keys will be made available via an agent with check in between 1pm and 6pm, and check out at 11am;
- Cleaning will be conducted by a 3rd party company, they will deal with all aspects of changeover including laundry;
- Deliveries will be limited to when the owners are using the property;
- Complaints can be made directly to the applicant or via a managing agent, and all residents of Trenchard Court will be provided with the applicants contact details; and
- House rules will be in place which will include the following:
 - No pets will be permitted
 - No loud music will be permitted at any time
 - No smoking will be permitted.

The 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 the Fort, Seafield and Wallacetown Community Council has expressed a contrary view to the recommendation that this planning application be approved; and more than 10 competent written objections have been received.

2. Consultations:

No consultations were undertaken for this application.

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:

14 representations have been received which objects to the proposed development, including objection by the Fort, Seafield and Wallacetown Community Council. All representations can be viewed online ([Application Summary](#)).

The grounds of the objection alongside a response to each objection by the Planning Service is set out in detail in the 'Objector Concerns' of the Assessment section below.

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, 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):

Policy 30 of the revised Draft National Planning Framework 4 states that development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

An assessment of the application proposals on the impact on local amenity is set out elsewhere in this report.

In considering the local economic benefit of the application proposal, the Scottish Government's 'Research into the impact of short-term lets on communities across Scotland' 2019 document is of relevance to the assessment of the application. The document sets out 5 key impacts that short-term lets have on communities, which include local economic benefits. The document acknowledges that STLs encourage tourism which supports local economic benefits. Specifically, the benefits identified relate to increased spend, increased availability of jobs (often all year round) and direct jobs and trade for the STLs supply chain including property managers, cleaners and the property maintenance industry.

The application site is located within the settlement of Ayr and guests of the STL will have easy access to services and amenities located in-and-around Ayr town centre. It is not unreasonable to assume that guests of the STL will use such services and amenities and thus increase spend within the local area. Furthermore, it is noted from the submitted Operating Plan that the applicant uses a cleaning company which is considered to support local economic benefit. Overall, it is considered that the loss of the existing residential accommodation can be justified due to the local economic benefits associated with the application proposals.

(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):

- o Strategic Policy 1: Sustainable Development;
- o Strategic Policy 2: Development Management;
- o LDP Policy: Tourism; and
- o LDP Policy: Residential policy within settlement, release sites and windfall sites.

The provisions of the Adopted South Ayrshire Local Development Plan 2 must, however, 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.

An assessment of the proposals against the provisions of Local Development Plan 2 is set out below.

(iii) Objector Concerns

14 representations have been received which objects to the proposed development, including objection by the Fort, Seafield and Wallacetown Community Council. The points of objection are summarised in the sub-sections below (in bold) and responded to below as follows:

Application proposals are contrary to the development plan (NPF4 and the adopted South Ayrshire Local Development Plan) with reference made to DPEA appeal decisions (PPA-180-2071 & PPA-340-2155) whereby the Scottish Government reporter(s) refused to grant planning permission for a change of use of dwelling(s) to form a short term let(s) in Dundee City and Perth and Kinross Council areas respectively.

An assessment of the proposal against the provisions of the development plan is set out elsewhere in this report.

Planning appeal decisions by Scottish Government reporters are not binding precedents, but can provide useful indications of the approach to be taken. Both Scottish Government DPEA decisions considered that the proposed STL accommodation use would be incompatible with the residential use; however, both the application sites/ surrounding areas cannot be compared with the current application proposals which are in South Ayrshire which has a different Local Development Plan and ultimately requires to be considered on its own merits.

The application site has two bedrooms, one lounge, two bathrooms, and is relatively modest in size. It would therefore be incapable of satisfactorily accommodating large groups of individuals and would be more suited to use by small families. It is highly unlikely that for a property of this size, within Trenchard Court which contains 20 other flats who all share a common entrance and lift, that there would be a noticeable difference in the average daily number of occupants' movements in and out of the property between the existing use and the proposed use. These factors significantly reduce the likelihood of disturbance arising from guests whether inside, or outside the flat. Furthermore, there is no record of any other STL's within Trenchard Court.

Noise and amenity concerns with reference made to the “Research into the Impact of STLs on Communities Across Scotland”.

The research document referenced considers the positive and negative impacts associated with STLs in Scotland, with a focus on communities, particularly on neighbourhoods and housing

It is considered that appropriate usage and management of the proposal should not adversely affect residential amenity. An assessment of the proposal’s amenity impact is set out elsewhere in this report.

Loss of housing.

NPF4 precludes the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits. An assessment of the proposals demonstrable local economic benefit is set out elsewhere in this report.

It should also be noted that there is no record of any other STL’s operating within Trenchard Court.

Parking concerns.

One designated parking space exists for the property. The proposal would in essence retain a residential use despite the commercial aspect, and it is considered that the parking implications associated with the development proposals would not significantly differ to that which exist at the existing residential dwellingflat, taking account of its modest size, being only a two bed property.

The STL Licensing Scheme cannot control the over-provision of STLs.

Noted. There is no evidence to suggest that approval of the proposal would have a significant impact on the availability of residential accommodation in the local area, nor would it represent the over-provision of STLs in the surrounding area. That said, the Council could designate a STL Control Area if it felt there was over-provision/ lack of residential accommodation within a particular area. A STL Control Area is designation by local authorities in Scotland to manage high concentrations of secondary lettings by restricting or preventing short term lets that affect the availability of residential housing and the character of the local community. While this is an option open to the Council, there are no plans for a STL Control area currently.

Anti-social behaviour, vandalism and security concerns.

Anti-social behaviour/ vandalism/ security issues, should they occur, are matters for the police/ anti-social behaviour/ Short Term Let teams.

Proposal represents a business use within a residential area.

Despite the dwelling continuing to be utilised for residential purposes, it would be occupied by different parties on a short-term, as opposed to a permanent basis i.e. it would no longer be the sole or main residence of any of the occupants and it would be utilised on a commercial basis to provide tourist accommodation, as opposed to its historic private use.

Prospective guests should be vetted to ensure that are suitable.

This is a matter for the operator of the STL as opposed to being a material planning consideration.

Waste disposal concerns.

The submitted operating statement notes states that ‘a shared bin-store is available which has facilities for general waste, glass and cardboard which users of the property will have access to and will be made aware of. In any case, the STL Licence holder must provide adequate information on, and facilities for, the storage, recycling, and disposal of waste.

Wildlife concerns due to potentially unacceptable behaviour from guests.

The impact of the proposed change of use in regard to wildlife impact would be negligible as no external changes are proposed to the property itself.

Increased Maintenance Costs/ Fire Risk/ Non-compliance with Title Deeds

These matters are not material considerations which can be taken into consideration in the assessment of this planning application.

(iv) Impact on the Locality

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises NPF4 and the South Ayrshire Local Development Plan 2. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

As noted previously in the report, NPF4 was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan. Whether an LDP has been adopted prior to or after the adoption and publication of NPF4, legislation states that in the event of any incompatibility between a provision of NPF 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)).

In this instance, in the absence of any specific policy on short term lets in the Local Development Plan, NPF4 Policy 30e Tourism is relevant and states -

Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

The application site is located within the settlement of Ayr and guests of the STL will have easy access to services and amenities located in-and-around Ayr. It is not unreasonable to assume that guests of the STL will use such services and amenities and thus increase spend within the local area. In respect of criterion (i) above, it is considered that the proposed change of use of the residential flat to a short-term let property would be compatible with the amenity and character of the surrounding area.

In respect of criterion (ii), the proposal would result in the loss of a 2-bedroom flat to short term let accommodation. There is no evidence to suggest that approval of the proposal would have a significant impact on the availability of residential accommodation in the local area.

There are economic benefits to the provision of small-scale holiday let accommodation. Indeed, the Council's Tourism Service (Destination South Ayrshire) has previously advised that 'holiday lets contribute hugely to the SA economy and have become more and more popular since covid for visitors wanting to stay in self-catering and for small to medium groups (friends /family) to holiday together. Also, South Ayrshire is limited in number of hotels. The self-catering sector boosts the South Ayrshire economy by over £50m, and it has provided a vital source of alternative accommodation for major events such as The Open and will continue to do so especially with the International Ayr Show - Festival of Flight.

The proposal is therefore considered to satisfy NPF4 Policy 30e Tourism.

In terms of the South Ayrshire Local Development Plan 2, LDP policy: Residential policy within settlements, release sites and windfall sites indicates that development proposals should not affect the privacy and amenity of existing and proposed properties. An issue to consider in the assessment of this application is whether changing the flat's primary and lawful use from residential to commercial short term visitor self-catering accommodation would be acceptable in principle. The South Ayrshire Local Development Plan 2 does not preclude the short term lets uses outright. A key policy test for the acceptability or otherwise of the proposal should therefore principally be based on whether the use would be materially detrimental to the amenity of other residents within the locale.

The impact of the proposed change of use in regard to the character and appearance of the built environment would be negligible as no external changes are proposed to the property itself. However, in certain circumstances, the introduction of a commercial use in a primarily residential area can negatively impact residential character. An example of this is where the scale of usage associated with the numbers of lets, patrons and cars is excessive and unreasonable.

It is noted that the access to the application site is shared with 20 other residential properties located at Trenchard Court Street. It is considered that the use of the application site for the purposes of a short term let, assuming that the STL is managed appropriately, is not considered to compromise the residential amenity of the properties located within the immediate locale to such an extent which would merit refusal of the application. In addition, the proposed use would also be restricted by the modest nature of the dwelling itself, currently two-bed, the applicant is proposing a maximum occupancy of four people which is no more than the property could potentially house if it were utilised on a full time residential basis, and therefore it is not considered the proposed use would increase residential densities on a constant basis. However, if it were the case that persistent and/or unreasonable noise and disturbance were to result from the future occupiers, such anti-social behaviour would be dealt with by either Police Scotland, the Council's Environmental Health Service or the Short Term Lets Licensing Team. Furthermore, given the property would no longer be considered as a residential dwelling, it would not benefit from householder permitted development rights. Should future owners therefore seek to undertake any external alterations or development often associated with short-term occupancy uses such, which could be capable of generating noise nuisance, a further application would require to be submitted.

Under LDP Policy: Tourism, the Council will allow new sites and accommodation to be developed provided that:

- a) All new accommodation is for holiday use only; and
- b) The development has suitable screening and is appropriate in terms of the landscape setting, scale and design.

In this instance, the proposal does not fit specifically with any criteria above which is in part due to the current LDP2 being adopted, prior to the publication of NPF4. Despite the dwelling continuing to be utilised for residential purposes, it would be occupied by different parties on a short-term, as opposed to a permanent basis i.e. it would no longer be the sole or main residence of any of the occupants and it would be utilised on a commercial basis to provide tourist accommodation, as opposed to its historic private use.

Given its siting within the settlement boundary of Ayr, it is considered the application proposals would be well related to an existing settlement thus avoiding any potential dispersed pattern of development. Furthermore, as no external alterations are proposed, it is determined that the proposal would respect the character, amenity and scale of the built and natural environment in the surrounding area and bring about no detriment to the area. All of the preceding being the case, it is considered that the proposal can be supported under LDP Policy: Tourism.

A condition can be attached to any permission to ensure the use of the property is for holiday occupation by any person or connected group only that it shall not be used at any time as the sole or principal residence by any occupants.

In conclusion, the proposal which would in essence retain a residential use despite the commercial aspect, is considered to be compliant with the provisions of the stated Development Plan Policies and as there are no material considerations which override the presumption in favour of a determination in accordance with the terms of the development plan, it is recommended that this proposal be approved subject to condition listed below.

8. Conclusion:

Following review, it has been established that both Local Development Plan 2 (LDP2) and National Planning Framework 4 (NPF4) are generally supportive of the proposed use in this location. It has been demonstrated and satisfied that the proposed development is compliant with the specific policies which cover these topics across the statutory development plan framework.

Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the planning application be approved subject to the following conditions.

9. Recommendation:

It is recommended that the application is approved subject to the following conditions: -

- (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 the accommodation hereby approved shall not be promoted, advertised, let, or used for any purpose other than as holiday accommodation, to the satisfaction of the Planning Authority.

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 define the terms of this planning permission, and to retain proper planning control over the development.

9.1 Advisory Notes:

N/A

9.2 List of Determined Plans:

Drawing - Reference No (or Description): Floor Plan (No change)

Drawing - Reference No (or Description): Location Plan

Supporting Information - Reference No (or Description): Operational Statement

9.3 Reason for Decision (where approved):

The proposed change of use proposal is supported by the framework of planning policy including National Planning Framework 4 and Local Development Plan 2 in that it could bring economic benefits to the area and is not expected to have a detrimental impact on residential amenity or the character of the surrounding area. Should any residential amenity issues arise in the future, it would be for Police Scotland, the Council's Environmental Health Service or Licensing Team to pursue through their regulatory powers.

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. Application form, plans and submitted documentation.
2. Representations.
3. Adopted South Ayrshire Local Development Plan (LDP2).
4. National Planning Framework 4 (NPF4).
5. Research into the Impact of STLs on Communities Across Scotland
6. DPEA appeal decisions (PPA/180-2071 & PPA-340-2155)

Regulatory Panel (Planning): 12 September 2024

Report by Housing, Operations and Development Directorate (Ref: 24/00324/APP)

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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