

REGULATORY PANEL: 5 MARCH 2025

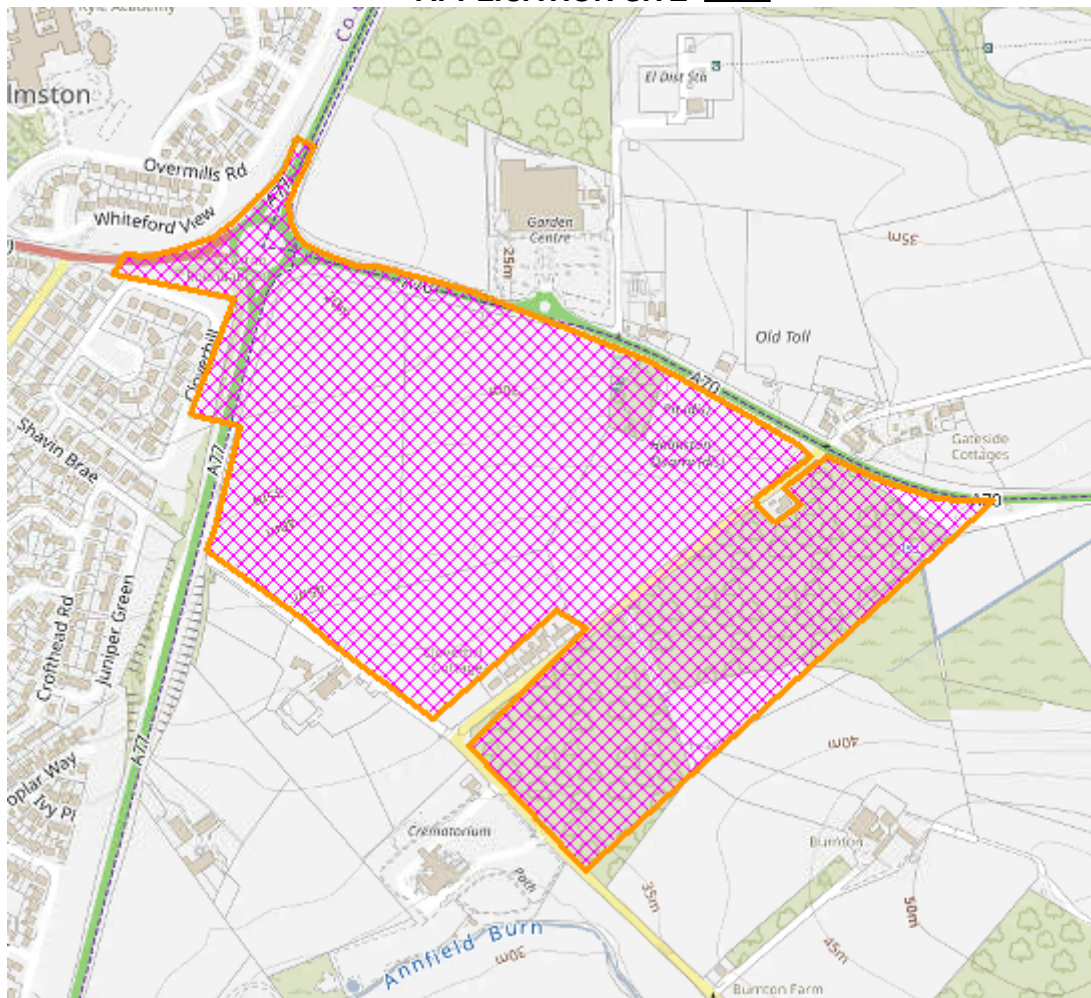
REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

22/00302/PPPM

LAND TO THE EAST OF A77T FROM HOLMSTON ROUNDABOUT TO BANKFIELD ROUNDABOUT AYR SOUTH AYRSHIRE

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

This application was previously reported to the Council's Regulatory Panel (Planning) on 25 June 2024 with a recommendation of refusal. The Panel was 'Minded to Grant' the application, subject to identification of appropriate conditions and identification of legal requirements, with the matter to be referred back to the Panel for further consideration once those issues had been identified.

The Planning Service recommendation remains unchanged; is recommended that the application is refused for the reasons set out within the earlier Report of 25 June 2024.

REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT

REGULATORY PANEL: 5 MARCH 2025

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00302/PPPM
SITE ADDRESS:	Land to the East of A77T from Holmston Roundabout to Bankfield Roundabout Ayr South Ayrshire
DESCRIPTION:	<p>Planning Permission in Principle for residential development and neighbourhood commercial development (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office), access, landscaping, drainage and associated works</p> <p>Refuse - for the reasons outlined in the report dated 25 June 2024 and that Policy 16 of NPF4 should be included within the reasons for refusal 1.</p>
RECOMMENDATION:	Note - Should Members maintain their 'minded to grant' position the application will be referred to the Scottish Ministers who may 'call in' the application for their own determination or clear the Council to continue to determine the application.

ADDENDUM TO APPLICATION REPORT

This addendum report together with the original report to Regulatory Panel on 25 June 2024 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. Purpose:

On 25 June 2024 the Council's Regulatory Panel was 'Minded to Grant' application Ref. 22/00302/PPPM contrary to the recommendation of Officers of the Planning Service, which was to refuse the application. In planning terms, 'minded to grant' indicates an intention to approve a planning application, pending other processes being concluded. The 'minded to grant' position does not amount to a concluded decision.

In this case, Members of the Panel were 'minded to grant' the planning application and as the minutes recorded, for Officers of the Planning Service to *"identify appropriate conditions and subject to legal agreements as required...and that the matter be referred back to Panel for further consideration."*

The purpose of this report is to present Members of the Panel with the draft schedule of conditions and draft headline terms of a S75 legal agreement but also to inform them of a letter dated 26 June 2024 from the Scottish Government's Chief Planner with respect to Policy 16 – Quality Homes of NPF4 and the letter dated 12 November 2024 from the Chief Planner and Minister for Public Finance (which introduces the document 'Planning and the Housing Emergency – Delivery Plan') which are new material considerations relevant to this application. Any decision maker on a planning application requires to consider all material planning considerations right up to the time that a formal decision is made to either grant the planning application or to refuse the planning application.

2. Planning Process

Preparation of the draft schedule of conditions and draft Headline terms of a legal agreement required further consultation with the Council's Education Service and the Ayrshire Roads Alliance. Input from these consultees and the subsequent draft schedule of conditions and headline terms for a S75 legal agreement is provided within this report. Also provided is a summary and explanation of the letters from the Scottish Government's Chief Planner dated 26 June 2024 and the letter dated 12 November from the Chief Planner and Minister for Public Finance, which are also materially relevant to this case. As per the content of the Regulatory Panel report dated 25 June 2024, Council Officers maintain their recommendation that the application be refused for the reasons set out within that report and that Policy 16 of NPF4 should be included within reason for refusal 1.

Once Members of the Panel have considered the further information contained within this report, some of the options available are to:

a) continue their 'minded to grant' position subject to the finalisation of the draft conditions and signing of a legal agreement, as set out in Heads of Terms. Noting that the matter would then be notified to the Scottish Government; this is explained further below.

Or;

b) refuse the application in accordance with officer recommendation.

Referral process – with regards a) above, planning authorities are required under section 46(1) of the Town and Country Planning (Scotland) Act 1997 to notify Scottish Ministers if they are minded to grant planning permission in respect of certain categories of development as specified in The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009. Following this notification, Scottish Ministers may 'call in' the application for their own determination.

One of the categories requiring notification to the Scottish Ministers is development in which planning authorities have a financial or other interest **and** where the proposed development would be significantly contrary to the development plan. In this instance, the development would involve a S75 Legal Agreement in respect of the applicant providing financial contributions to the Council towards education provision. In addition to the above, the Council would incur ongoing transportation costs to transport pupils from the proposed development to the primary and potentially also the secondary school. It is therefore considered that there is a financial interest. The second consideration is whether the application is significantly contrary to the Development Plan.

As noted in the report of 25 June 2024, paragraph 4.77 of Circular 3/2022 (Development Management Procedures) notes that while the judgement as to whether a proposal is significantly contrary to the development plan lies with the Planning Authority, and ultimately the Courts, Scottish Ministers' general expectation is that if the proposal is contrary to the vision or wider spatial strategy of the Plan then it should be considered significantly contrary to said plan. These considerations are planning judgements undertaken by the Chief Planning Officer of the Council.

In this case, as the application site is not allocated for housing and commercial development in the Local Development Plan, it is the judgement of the Chief Planning Officer of the Council that the proposal for housing and commercial development is significantly contrary to the vision and spatial strategy of the Plan.

Given that there is a financial interest in this development and the proposal is significantly contrary to the Development Plan, should Members be minded to maintain their 'Minded to Grant' position, contrary to recommendation of Officers, then the application would require to be notified to the Scottish Ministers under section 46(1) of the Town and Country Planning (Scotland) Act 1997 who can then choose to 'call in' the application for their own determination, or alternatively, instruct the Planning Authority to determine the application as they see fit.

If the application is 'called in' for determination by Scottish Ministers, or if Scottish Ministers clear the Planning Authority to continue to determine the application, the s75 would require to be finalised, in line with the Draft Heads of Terms. The draft headline terms of the S75 as set out in this report are therefore not final and may be subject to change by either the Scottish Ministers or in response to matters deemed to require further clarity. The draft conditions may also be subject to change if the Scottish Ministers 'call in' the application for their determination and are minded to approve the application.

As the application is a 'major' development that is significantly contrary to the development plan, a pre-determination hearing is required to be held. The purpose of this is to allow the views of applicants and those who have made representations to be heard before a planning decision is taken. A pre-determination hearing for this application took place on 25 June 2024. A further hearing is not required to take place in relation to this further, addendum report.

3. Background

The Regulatory Panel report of 25 June 2024 is attached as an annex to this report. In this report, the Planning Service recommended refusal of the application. However, the Regulatory Panel at their meeting of 25 June 2024 were minded to grant the application (extract) "...subject to identification of appropriate conditions and subject to legal agreements as required... and that the matter be referred back to Panel for further consideration."

4. Draft S75 headline terms

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.

Approval of this planning application would require the applicant to enter into a section 75 legal agreement. This agreement would cover education contributions for the proposed development, with notional secondary education contributions currently standing at £4,000 per home and notional primary education contributions at £7,000 per home, taking the total education contributions to £11,000 per home. The proposed development is for 350 residential units, which results in a required education contribution by the developer of £3.85 million. This figure would likely increase following a full education impact assessment and feasibility study on a schedule of accommodation required to more than just meet the minimum number of pupil spaces in Ayr catchment area non-denominational secondary schools.

This full education impact assessment would be undertaken, and the total amount of contributions would be finalised through the S75 process and contributions would require to be secured before development starts on site.

The draft headline terms of the S75 agreement are discussed above and in Section 5 of this report. The table below has been produced for ease of reference.

Section 75 Legal Agreement Headline Terms

Indicative Education Contributions*	Indicative Cost	Arrangements
Primary contribution	£7,000 per home	Contribution on pro rata basis from construction of first house with payment on a quarterly basis/as number of houses are complete. Payment index linked. Affordable houses would not make a contribution.
Secondary contribution	£4,000 per home	Contribution on a pro rata basis from construction of first house with payment on a quarterly basis/as number of houses are complete. Payment index linked. Affordable houses would not make a contribution,
Total contribution per home	£11,000	
Total education contribution that would require to be secured through S75 legal agreement	£11,000 x 350 (homes) = £3,850,000 (less affordable housing)	

*This figure would likely increase following a full education impact assessment and feasibility study on a schedule of accommodation required to more than just meet the minimum number of pupil spaces in Ayr catchment area non-denominational secondary schools.

5. Assessment

The assessment of this application remains as outlined in the report put before the Regulatory Panel on 25th June 2024 (attached as an annex to this report).

The purpose of this addendum report is to outline proposed conditions and the content of a section 75 legal agreement together with providing supplementary information including consultation responses that informed this work. A Scottish Government Chief Planner letter was issued on 26 June 2024 and together with the Minister for Public Finance, a further letter was issued on 12 November and are also relevant to this case and are considered further below.

Education considerations

As noted in the report dated 25 June 2024, St John's Primary School, Whitletts Road, Ayr and Queen Margaret Academy, Dalmellington Road, Ayr are the denominational catchment schools for the application site; both currently have capacity to accommodate anticipated primary and secondary denominational pupils arising from the proposed development.

Forehill Primary School, Cessnock Place Ayr and Kyle Academy, Overmills Road, Ayr are the non-denominational catchment schools for the application site. Following the Regulatory Panel meeting on 25 June 2024, Education Services have confirmed that these schools are at capacity and cannot accommodate pupils anticipated to arise from the proposed development. These schools are not considered eligible for extension or for the siting of temporary accommodation.

Education Services has concluded that the 99 anticipated non-denominational primary pupils arising from the proposed development could be accommodated at Coylton Primary School, which is approximately 5.3 kilometres (3.2 miles) to the east of the application site, accessed along the A70. The anticipated 61 non-denominational secondary pupils could be accommodated at Ayr Academy secondary school which is approximately 4.2 kilometres (2.6 miles) to the west, at the opposite side of the A77 and River Ayr. Education Services advise that to accommodate the 99 anticipated non-denominational primary school aged pupils arising from the proposed development would require a four-classroom extension, or modular accommodation, at Coylton Primary School – with the cost estimated to be in the region of £2 to £2.5 million. This would require a minimum contribution from the applicant of £7,000 per home, once other factors such as Early Years accommodation are also factored in, to mitigate the impact of the proposed development on non-denominational primary school provision.

Although Ayr Academy non-denominational school has available capacity, as noted in section 4 of this report, the Service still needs to secure secondary financial contributions to mitigate the impact of the proposed development on non-denominational secondary schools in the wider Ayr catchment area. Adding 350 homes from this proposed development to the other planned sites listed in the 2023 South Ayrshire Council Housing Land Audit and LDP2 allocated sites means there would be approximately 5,445 new homes in total delivered over the plan period (until August 2032). This increase could affect the three non-denominational secondary schools: Ayr Academy, Kyle Academy, and Belmont Academy. The proposed development accounts for 6.5% of this figure.

The projected number of non-denominational secondary school aged pupils arising from 5445 homes would be 941 pupils, with the current available spaces within the three non-denominational secondary schools totalling only 562. Should all of the development sites in the Ayr catchment area progress, the shortfall in spaces across the 3 non-denominational secondary schools would total circa 380. Therefore, notwithstanding there being current capacity at Ayr Academy, secondary school contributions will be required.

Advice from Property Services is that the cost per m² of extending an existing secondary school would be £4542 and that 12m² of accommodation per secondary school pupil would be required. Therefore, to extend any of the secondary schools in the Ayr catchment area to accommodate, at the very minimum 380 additional pupils, would cost at the very least £20,711,520, subject to indexation. Attributing 6.5% of this figure to the proposed 350 home development produces the sum of £1,346,248.80, or circa, minimum £4,000 contribution per home to mitigate the impact of the development on non-denominational secondary school provision for the projected 61 pupils. As noted in Section 4 of this report, this figure would likely increase following a full education impact assessment and feasibility study on a schedule of accommodation required to more than just meet the minimum number of pupil spaces in Ayr catchment area non-denominational secondary schools.

Based on the primary and secondary contribution requirements mentioned above, the Council will require to seek an estimated minimum of £11,000 per home to address the impact on education provision in South Ayrshire. 350 homes x £11,000 equals education contributions of approximately £3,850,000 for this proposed development. This would require to be secured through a S75 legal agreement. It is important to note that affordable housing provided through Scottish Government Grant provisions are not able to make a contribution towards developer contributions. As a consequence, there would be a shortfall of 25% in overall contributions that the Council would require to provide. No allowance for this has been made in the Council's Capital budget setting.

The total amount of contributions would be finalised through the S75 legal agreement process and would require to be secured before development starts on site; this would be written into and secured through the legal agreement.

It is key to note that in addition to the above, the Council would incur ongoing transportation costs to transport pupils from the proposed development to the primary and potentially also the secondary school. All Scottish Local Authorities have approved distance criteria for free school transport, with 2 miles for primary and 3 miles for secondary being the most common – it is a Council decision and one which the Council is bound by, with a requirement to provide, and to which children are entitled, transportation to and from school.

As the proposed development is located further than 2 miles from Coylton Primary School, transportation would require to be paid for and provided by the Council. In respect of secondary education, any property located 3 miles or more from the school would be entitled to transportation. The proposed development is approximately 2.6 miles from Ayr Academy. While this is within the aforementioned 3 miles, the route to the school must be a safe walking route, otherwise children within 3 miles may also be eligible for transportation. Factors such as an active travel route across the A77 (see condition 19) would determine whether a safe walking route can be identified between the site and Ayr Academy.

At this moment it is difficult to apportion a cost to the transport as provisions are tendered based on eligibility, pupil numbers and pick up points and the detail of condition 19 with respect to active travel networks has not been provided with this Planning Permission in Principle application. The Council's Education Service has advised however that transporting children out of the catchment area to another school would be absorbed by existing Education budgets.

It is important to emphasise that the closest non-denominational schools to the application site (Forehill and Holmston Primaries and Kyle and Belmont Academies) do not have the capacity or ability to accommodate pupils arising from the proposed development and that the catchment schools would therefore be Coylton Primary School and Ayr Academy.

Although not a material planning consideration, if this application were to be approved, prospective buyers should be made aware that children arising from the development would not be attending the closest geographical non-denominational primary and secondary school. Unfortunately, this proposal by Education Services does not fulfil the criteria of forming a competent planning condition and the Council does not have the powers to notify prospective buyers on this matter.

Ayrshire Roads Alliance (ARA) consultation

The Ayrshire Roads Alliance were re-consulted to obtain proposed conditions in relation to roads and transportation matters. The ARA recommend various conditions and note that the proximity of Dobbie's Garden Centre to the proposed development suggests that this may be a popular local resource for residents. However, the indicative layout and detail within the Transport Assessment does not provide any insight into how pedestrian trips generated by the development proposals seeking to cross the A70 would be safely accommodated.

The proposed access to the site is via the augmentation of the existing Dobbie's access roundabout to create a new 4-arm roundabout. However, the A70 is an arterial route linking Ayr with neighbouring local authorities (East Ayrshire Council, South Lanarkshire Council, etc.) as well as providing a strategic link to the M74 and as a result not only carries a significant volume of traffic but also a higher proportion of HGV traffic than is generally typical on our local roads.

It should also be noted that an Active Travel route spans the northern side of the A70 between the A77(T) and the village of Coylton – again, residents of the proposed development would require to cross the A70 in order to access this facility.

The ARA are therefore of the view that consideration of safe and convenient crossing facilities on the A70 requires to be incorporated into the overall development proposals at the detailed application stage, should this application for planning permission in principle be approved. It therefore remains the case that it is not known if the development is capable of providing safe means of access for non-vehicular traffic.

In addition to the above, recommended conditions include the following: submission of travel packs, public transport strategy, infrastructure improvement, parking provision, vehicle turning and servicing, footways and street management, construction management and flooding and drainage matters.

The consultation response from Transport Scotland that was received through the processing of this application included recommended conditions in the event the application is approved. Transport Scotland were subsequently made aware of the draft schedule of conditions and offered no objection to these.

Letter from Scottish Government Chief Planner dated 26 June 2024

The purpose of this letter is to provide further clarification on the application of National Planning Framework 4, including Policy 16 'Quality Homes.' Scottish Ministers have reinforced that policies in NPF4 should be read as a whole and that conflicts between policies are normal and to be expected. Recent court judgements, notably *Miller Homes vs Scottish Ministers*, XA41/23 confirmed that NPF4 moves housing policy away from disputes over numbers to an approach which seeks to provide homes in suitable locations and that looking at the policies as a whole there is an emphasis on quality, diversity and sustainability.

The letter is a reminder that the intent of NPF4 Policy 16 is to “to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.”

Policy 16 has four different parts with some aspects relating to location and other to types of homes. The letter confirms that they should be weighed up as relevant to the proposal: there is no hierarchy and no one part of the policy should always outweigh others, a balanced planning judgement should be reached in each case.

A summary of the clarity the letter provides on the different parts of NPF4 Policy 16 is provided below in bold. Parts a. and f. relate to locational considerations and therefore have been grouped, with considerations on types of homes (parts b-e) following thereafter.

Commentary by the Planning Service is provided after each part of the policy clarification provided.

NPF4 Policy 16 parts a and f - locational considerations

On land allocated for housing in local development plans, there is support for development in principle from NPF4 Policy 16-part a).

Planning Service comment: The application site is not allocated for housing in Local Development Plan 2 and therefore does not comply with Policy 16-part a.

Policy 16-part f) includes a limited exception that can allow proposals of less than 50 affordable homes on unallocated sites, where they accord with criteria relating to build-out and the plan's spatial strategy and other relevant policies.

Planning Service comment: A significant element of the previously mentioned legal case (in the report of 25 June 2024) related to Policy 16-part f) and a deliverable housing land pipeline.

Scottish Ministers advised in their letter of 26 June 2024 to Planning Authorities that action programmes associated with local development plans be reviewed, up dated and re-published as delivery programmes, and for this to be done by 31 March 2025. Under transitional arrangements, this will ensure they include the sequencing of, and timescale for, the delivery of housing sites allocated in local development plans. This is currently underway by the Planning Service in South Ayrshire and will demonstrate that there is a sufficient pipeline of housing for open market and affordable needs in South Ayrshire through allocated sites.

The proposal does not accord with the spatial strategy of the plan and the only locational exception (development not on an allocated site) that the policy offers is in circumstances where the proposal is for 100% affordable housing and units do not exceed 50. The proposal is however for 350 units of which approximately 263 will be houses for open market sale and approximately 87 for affordable needs.

The proposal is therefore contrary to NPF4 policy 16-part f.

NPF4 policy 16 parts b to e – type of homes considerations

NPF4 provides at Policy 16-part b) for proposals to explain how they will contribute positively to meeting local housing requirements, to local infrastructure services and facilities, and to residential amenity, using new Statements of Community Benefit.

Planning Service comment: Reference should be made to the earlier Report of Handling dated 25 June 2024. The applicant asserts that the proposed development would support investment in and around Ayr and would contribute to community benefit in the following ways: provision of homes (including 25% affordable on site), delivery of road and transport improvements to accommodate the proposed development and enhance the existing infrastructure, deliver an active travel route across the A77, provision of new neighbourhood amenities for new and existing surrounding residents, support aspirations of the Ayrshire Growth Deal by providing new homes to attract skilled workforce and enhance the green network and provide high quality open space for the enjoyment of new residents and the existing community.

As assessed in the earlier report of 25 June 2024, the proposal relates to the development of a greenfield site at a time when there is no justification for any additional greenfield release sites for the purposes of housing. With regards to the Growth Deal, the spaceport is no longer being taken forward and Mangata are no longer delivering the satellite manufacturing facility. While other growth deal projects are expected to progress, these are of a much smaller scale and do not justify a release of greenfield land for 350 homes. In summary, the applicant's case around the Ayrshire Growth Deal relative to South Ayrshire is unfounded and premature, at this time. Furthermore, there is no shortfall in housing land or the provision of new homes as defined either through the provision of NPF4 or LDP2 and there is no evidence to suggest that the development of the site would do anything other than undermine the delivery of pre-existing housing land supply, i.e. no net economic benefit of the proposed development has been demonstrated. The development of the application site would undermine the Plan led process. Considering the above, the proposal is contrary to NPF4 policy 16-part b.

Policy 16-part c) supports proposals that improve affordability and choice, and address identified gaps in provision.

Planning Service comment: The proposed development includes 25% on site affordable housing provision but this does not outweigh parts a and b of Policy 16 as affordable housing requirements can be met on existing allocated sites – there are no identified gaps in provision.

Policy 16-part d) relates to development proposals for public or private, permanent or temporary, Gypsy/Travellers sites and family yards and Travelling Showpeople yards and is therefore not relevant to this development proposal.

Policy 16-part e) supports proposals for new homes where they make provision for affordable homes to meet an identified need and it strengthens contributions to affordable housing from market sites to 'at least 25%.

Planning Service comment: The proposed development includes 25% on site affordable housing provision; however, this does not outweigh parts a and b of policy 16 as affordable housing requirements can be met on existing allocated sites – there are no identified gaps in provision.

The letter from the Chief Planner of the Scottish Government, dated 26 June 2024, provides useful clarification on Policy 16 of NPF4 and this has been reconsidered by the Service in the context of the current application. After reviewing all aspects of the policy criteria again, the overall conclusion is that the proposal cannot be reasonably supported under policy 16.

In the report of 25 June 2024, the Planning Service recommended 5 reasons for refusal. Recommended reason for refusal 1 has been amended to include specific reference to the proposal being contrary to Policy 16 of NPF4 and this is captured directly below.

Reason for refusal 1: The proposed development is contrary to NPF4 Policies: 5: Soils, 9: Brownfield, Vacant and Derelict Land and Empty Buildings and 14: Design, Quality and Place and Policy 16: Quality Homes and LDP Policies: Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management, Maintaining and Protecting Land for Housing, Rural Housing and Agricultural Land Policy in that the proposed development site is not an allocated development site identified in the South Ayrshire Local Development Plan, there is no shortfall in effective housing land supply and allocated sites are not being built out more quickly than expected and it has not been demonstrated that there is a need for residential development in the area concerned. Moreover, there is no evidence to suggest that the development would result in a net economic benefit or contribute significantly to the implementation of the Ayrshire Growth Deal, the regeneration of Ayr or result in overriding community interest. Furthermore, the development of the application site for housing could undermine the viability and probability of pre-existing allocated and consented sites in the LDP being developed, most of which are within existing settlements and/ or on brownfield sites. There are no over-riding reasons to depart from the policies as detailed in NPF4 and the South Ayrshire Local Development Plan.

Letter from the Chief Planner and Minister for Public Finance dated 12 November 2024

This letter introduced the document 'Planning and the Housing Emergency Delivery Plan' which outlines that a housing emergency has emerged as a result of a number of factors in Scotland, including that planning permission has been granted for many more homes than are currently being built. The document outlines an intention to identify a mechanism to stimulate the build-out of housing sites with planning permission, in line with a plan led approach and to improve the efficiency of the planning system.

It should be noted that this letter and accompanying document from the Scottish Government does not alter the Planning Service assessment. The document reiterates that that planning system should be plan led.

Summary

All material considerations from June 2024 to present have been considered as part of this addendum report. Following the additional Education consultation post Regulatory Panel of 25th June 2024, it is evident that pupils will require to be transported to the non-denominational educational provision at Coylton Primary School and Ayr Academy. It is therefore considered that this application represents an unsustainable proposal and does not accord with the sustainability requirements of NPF4 and LDP2. In addition, the Chief Planner letter dated 26th June 2024 and Chief Planner and Minister for Public Finance letter dated 12 November 2024 (which introduced the document 'Planning and the Housing Emergency Delivery Plan') emphasise that notwithstanding the declared National Housing Emergency, the Planning system is a plan led system and that development proposals should be considered primarily against the development plan. In this case, the proposal is significantly contrary to the development plan and material considerations do not outweigh the primacy of the development plan in this case. Finally, Transport Scotland requires the development to provide an active travel connection across the A77 and this is also required to ensure a sustainable development in accordance with the Development Plan. The applicant has proposed an underpass however no design details of an underpass or an alternative active travel connection has been provided (note- an overbridge cannot be considered under this application). Therefore, it has not been demonstrated that an underpass or alternative active travel connection is capable of being delivered and therefore this may inhibit the delivery of this development.

6. Recommendation

None of the reasons for refusal set out in the report dated 25 June 2024 (as set out in Appendix 2) have been satisfactorily resolved or mitigated by draft conditions or Heads of Terms. It is recommended that the application is refused for the reasons set out in Appendix 2. Reason for refusal 1 has been revised to include specific reference to Policy 16 following the Chief Planners letter of the 26th June 2024.

Note - Should Members maintain their 'minded to grant' position the application will be referred to the Scottish Ministers who may 'call in' the application for their own determination or instruct the Council to determine the application as they see fit. In this case, proposed conditions and associated reasons are outlined in section 7 of this report below together with advisory notes for the applicant and a table detailing the draft headline terms of a S75 legal agreement.

7. Draft schedule of conditions (C) and reasons (R) and draft S75 headline terms

Timing of permission

1C – The development to which this permission relates must be commenced no later than five years from the date of this permission.

1R- Reason: To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by Section 32 of The Planning (Scotland) Act 2019.

Matters to be included in Approval of Matters Specified in Conditions (AMSC) Applications

2C - That applications for Approval of Matters Specified in Conditions (AMSC) shall include full details of the proposed development, including the siting, design and external appearance of all buildings, ground engineering works including existing and proposed cross sectional drawings, means of access, roads, footpaths and cycleways, landscaping measures, SUDS drainage and any other matters specified in conditions below.

2R - To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by section 21 of the Planning etc. (Scotland) Act 2006. In order to retain proper control over the development proposal.

Approved Plans

3C - That this planning permission in principle relates to the plans listed below unless a variation is required by a condition of the permission or a non-material change has been agreed in writing by the Planning Authority.

3R - To clarify the extent of the planning permission and to be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by section 21 of the Planning etc. (Scotland) Act 2006.

Scale of Development

4C – That the total number of dwellings to be developed throughout the site shall not exceed 350 residential units, unless otherwise agreed in writing by the Council as Planning Authority through consultation with Transport Scotland.

4R – To define the terms of this permission and to ensure that the scale of the development does not exceed that assessed by the supporting Transport Assessment and to ensure that the scale and operation of the proposed development does not adversely affect the safe and efficient operation of the trunk road network.

Development Brief

5C - The first Application for Approval of Matters Specified in Conditions shall include a Development Brief / Design Code for the site. The Development Brief / Design Code shall have full regard to the Scottish Government's published guidance "Creating Places: A Policy Statement on Architecture and Place for Scotland" or any subsequent updated policy guidance.

5R - In the interest of good design and promoting a sense of place.

Programme for Development of the Site

6C - The first Application for Approval of Matters Specified in Conditions shall include a detailed phasing plan showing the exact sequences of development for each proposed land use, land engineering works, the provision of infrastructure, hard and soft landscaping, open space, equipped play areas, footpaths, cycleways, SUDS features and the distribution of the 262 market homes and 88 (25% of 350) affordable homes within the current application site. The development shall be implemented in accordance with the approved phasing plan unless otherwise agreed in writing by the Council as Planning Authority.

6R - In order to ensure that the green and community infrastructure is provided timeously and that the development is progressively landscaped at the earliest opportunity during the construction phase.

Affordable Housing

7C – The first Application for Approval of Matters Specified in Conditions shall include a detailed scheme for: the provision of 88 (25% of 350) affordable homes on site. The affordable housing to be provided on site shall be in accordance with the approved scheme and shall meet the definition of 'affordable housing' (namely good quality homes that are affordable to people on low incomes) in the Scottish Government's National Planning Framework 4 or any future government policy that replaces it. The scheme shall be designed to take account of the Council's current guidance on affordable housing (or any subsequent replacement guidance) 'New Housing Developments and Affordable Housing: A Guideline for Developers') and shall include:

- a) the timing of the delivery of the market homes within each phase or sub-phase of the site and the timing of delivery of the affordable homes in the relevant phase or sub-phase of the site;
- b) the arrangements for the transfer of affordable homes to an affordable housing provider e.g., registered social landlord or for the management of the affordable homes;
- c) the factoring and/or common maintenance regime (including charges) for affordable homes;
- d) the arrangements to ensure that any affordable home is affordable for both first and subsequent occupiers of the affordable home; and
- e) the occupancy criteria to be used for determining the identity of occupiers of the affordable homes and the means by which such occupancy criteria shall be enforced.

Thereafter, affordable housing shall be provided and maintained in perpetuity on site in accordance with the terms of the detail approved under this condition.

7R - To ensure the delivery of and satisfactory arrangements are made for the provision of affordable housing on the site.

Archaeology

8C - That no development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

8R - To establish whether there are any archaeological interests on this site and allow for archaeological excavation and recording.

Cross Sections, Ground Levels and Finished Floor Levels

9C - That at the Approval of Matters Specified in Conditions stage the detailed plans for each phase of development shall include suitably scaled block layout plans and cross sections showing;

- a) Existing ground levels;
- b) Proposed ground levels;
- c) Existing and proposed cross sections drawings through the site and extending to the surrounding area including the A77 and A70, Cloverhill Farm Stables and Livery, Sandyhill Terrace and the dwellinghouse known as 'Treborlea' Old Toll; and
- d) Finished floor levels of each proposed dwellinghouse.

Thereafter, the development shall be completed in accordance with the terms of the detail approved under this condition.

9R - In the interests of residential and visual amenity; to ensure that there is no significant detrimental impact on adjacent properties and to avoid excessive level changes to the site and surrounding landscape and underbuilding.

Flood Risk Management

10C – That the recommendations contained within the submitted Flood Risk Assessment prepared by Kaya Consulting Ltd dated March 2022 shall be adhered to in full throughout the development of the site.

10R - In order to ensure no increased flood risk within and outwith the development.

Noise Nuisance

11C – Prior to the commencement of works on-site, a noise impact assessment shall be undertaken and submitted as to determine the likelihood of noise nuisance on the noise sensitive receptors. The assessment shall include all relevant noise sources that may impact on the noise sensitive receptors using the current British Standard (or as may be amended). Maximum Target Noise Levels within the noise sensitive receptor to be used are as follows:

The noise impact assessment shall be carried out by a suitably qualified acoustic consultant or other competent person, in accordance with the principals outlined in Technical Advice Note (TAN) Assessment of Noise.

LAEQ 16hrs	35dB	(0700-2300)	internal noise level
LAEQ 8hrs	30dB	(2300-0700)	internal noise level
LAMAX	45dB	(2300-0700)	internal noise level
LAEQ 16hrs	50dB	(0700-2300)	outside amenity space

Internal noise levels to be achieved, where possible, with windows open sufficiently for ventilation. Noise reduction to be taken as 10dB outside to inside with window open. The submitted assessment shall identify any mitigation measures required to achieve the above ratings and shall be agreed in writing with the Planning Authority, prior to the commencement of works on-site and therefore be implemented as approved.

11R – To avoid noise disturbance in the interests of residential amenity.

12C - Prior to the commencement of works on-site, a noise impact assessment shall be undertaken and submitted to determine the impact of noise from aircraft on the new development.

In terms of Planning Advice Note 1/2011 (PAN) The noise impact assessment shall be carried out in accordance by a suitably qualified acoustic consultant or other competent person, with the principals outlined in Technical Advice Note (TAN) Assessment of Noise. All Noise sensitive receptors in the high and medium category (table 2.1 TAN) shall be identified and the level of significance determined.

Maximum Target Noise Levels within the noise sensitive receptor to be used in the determination:

LAEQ 16hrs	30dB	(0700-2300)	internal noise level
LAEQ 8hrs	30dB	(2300-0700)	internal noise level
LAMAX	45dB	(2300-0700)	internal noise level
LAEQ 16hrs	52dB	(0700-2300)	outside amenity space

The internal noise levels to be achieved, where possible, with windows open sufficiently for ventilation. Noise reduction to be taken as 10dB from outside to inside with window open.

The submitted assessment shall identify any mitigation measures required to achieve the above ratings and shall be agreed in writing with the Planning Authority, prior to the commencement of works on-site and therefore be implemented as approved.

12R - To avoid noise disturbance in the interests of residential amenity.

Natural Heritage

13C – That an updated version of the Biodiversity Enhancement Plan April 2024, Brindley Associates shall be submitted with the first AMSC application which shall include proposals for native trees to be planted as scattered trees as opposed to Scots Pine, details of the numbers of wildlife refugia shall also be proposed together with details of compensatory tree planting for each tree to be felled. Thereafter the approved plan shall be implemented in full to the satisfaction of the Planning Authority and prior to the completion of development.

13R – To ensure that the development results in biodiversity enhancement of the area.

14C - Should any vegetation require to be removed this should be undertaken outwith the breeding bird's season, specifically March to August, inclusive. If this is not possible, and works are due to take place between March and August, then nesting bird checks should be undertaken by a suitably qualified ecologist, immediately prior to any tree or vegetation removal works commencing.

14R - In the interest of nature conservation.

15C – That the recommendations contained within the Updated Ecological Appraisal (April 2024, Brindley Associates) shall be implemented in full to the satisfaction of the Council as Planning Authority. Notwithstanding the content of the Updated Ecological Appraisal, prior to the lopping topping or felling of any of the trees within the site or prior to any land engineering works or construction works taking place within 30m of any of the trees within the site, an initial ground level daytime Preliminary Bat Roost Assessment will be undertaken by a suitably qualified ecologist. Any tree that is identified as containing Potential Roost Features will require a subsequent aerial inspection survey to be undertaken. Should suitability be confirmed, or a feature is not able to be fully assessed during the preliminary surveys, then emergence/re-entry bat activity surveys will be undertaken during the bat activity season (May to September inclusive). The results of the survey shall be reported to the Planning Authority prior to the planned works being carried out and no work shall be undertaken until such time as written consent is provided by the Planning Authority.

15R - In the interest of nature conservation.

16C – That the first Application for Approval of Matters Specified in Conditions shall include an updated Ecological Appraisal which considers the potential effects of the development on nature conservation sites and to include mitigation measures and set out any licencing requirements as necessary. Thereafter, all actions and mitigation identified under the terms of this condition shall be implemented in full.

16R – In the interest of nature conservation.

17C – That the first Application for Approval of Matters Specified in Conditions shall include a detailed lighting design for the site, which should be devised in collaboration with a suitably qualified ecologist. The development shall thereafter be implemented in accordance with the approved lighting scheme and strategy at both construction and operational stages of development to the satisfaction of the Council as Planning Authority.

17R – In the interest of nature conservation.

Landscaping

18C – The Approval of Matters Specified in Conditions for each phase of the development shall include a detailed landscaping plan with information on the plant genus, species, variety, pot size, planting density, mulch material, and maintenance programme. The landscaping scheme shall include:

- I. Public Open Space and Amenity Areas as defined in the Council's published guidance "Open Space and Designing New Residential Developments".
- II. Details of all play equipment to be installed including safety surfacing materials. Such details shall show a range of play equipment to cater for children of all ages, including dynamic items that are specifically designed for older children/teens. The play equipment should also include a number of 'inclusive' items installed to enable children of different levels of ability to play together.

- III. where possible, the retention of native hedgerows. Where it is not possible to retain native hedgerows, these shall be replaced with native species hedgerow enhancements, consisting of mostly hawthorn, with a mix of hazel, holly, dog rose, willow and elder.
- IV. the use of native nectar rich species and fruiting species of plants in the soft landscaping areas including Blackthorn, Hazel, Holly, Rowan and Silver Birch.
- V. Additional tree planting and native hedging along the northern boundary to create a structural framework for the site and provide screening and landscape corridor with the surrounding area.

18R - In the interests of visual amenity and to ensure a satisfactory standard of local environmental quality including adequate public open space provision.

19C - Prior to the commencement of development, a phasing plan for the implementation of the landscaping scheme approved under condition 18 of this permission for each phase of the development shall be submitted to and approved by the Planning Authority. The phasing plan shall show implementation of the landscaping works in a staged manner, with the landscaping being completed within any particular area of the development within the first planting season following the completion of construction works within the phase concerned. The open space/landscaped area shall be retained as open space and to this approved standard to the satisfaction of the Council as Planning Authority.

19R - In the interest of visual amenity to ensure that the development is progressively landscaped.

A77 Trunk Road Improvements

20C – That prior to commencement of residential and commercial units a grade-separated active travel crossing of the A77(T), shall be designed, constructed and completed to the satisfaction of the Planning Authority, after consultation with Transport Scotland, and in compliance with the Design Manual for Roads and Bridges (DMRB), and Transport Scotland's Interim Amendments, Roads For All, and the Manual of Contract Documents for Highway Works (MCHW). The active travel crossing will require to be suitable for use by pedestrians and cyclists. For the avoidance of doubt, pre-construction compliance with the DMRB will include, but not be restricted to:

- (i) Approval in Principle
- (ii) Category 3 structural design check
- (iii) Geotechnical Check (Proposal to be considered as Category B)
- (iv) Assessment in accordance with GG142 Walking, Cycling and Horse-Riding Assessment
- (v) Construction Management Plan including Risk Assessment and Method Statement (RAMS)"

For the avoidance of doubt, details of the proposed active travel crossing shall be submitted to and approved in writing by the Council as Planning Authority through the first AMSC application and thereafter implemented and completed as approved prior to the occupation of any of the development. This active travel crossing cannot be an overbridge under the terms of this permission.

20R – To ensure that the proposed design complies with current standards and also to ensure that a safe active travel link is provided to allow for the safe crossing of the A77 (T) by pedestrians of cyclists without affecting the safety and free flow of traffic on the trunk road.

21C – Prior to occupation of any part of the proposed development hereby permitted, details of the modifications required to the A77 (T) Holmston Roundabout junction shall be submitted to and approved in writing by the Council as Planning Authority, following consultation with Transport Scotland. Thereafter, the agreed modifications shall be implemented as approved prior to occupation of any part of the proposed development hereby permitted.

21R – To ensure that the proposed design complies with the current standards and also to ensure that the safety and free flow of traffic on the trunk road is not diminished.

22C - Prior to the occupation of any part of the proposed development hereby permitted, the works /arrangements for:

- a) Improvement of the A77(T) trunk road infrastructure to dual carriageway standard between Whitletts roundabout and Holmston roundabout to provide additional link capacity shall be agreed, constructed, and completed to the satisfaction of the Planning Authority following consultation with Transport Scotland;

Or

- b) An alternative scheme of mitigation in compliance with the DMRB (Design Manual for Roads and Bridges), shall be agreed, constructed, and completed to the satisfaction of the Planning Authority in consultation with the Ayrshire Roads Alliance and Transport Scotland. Any alternative scheme shall require to be based on a scoped traffic impact assessment including sensitivity testing of all development trips associated with South Ayrshire Council Local Development Plan 2 allocated sites;

Or

- c) a Section 48 Agreement (Roads Scotland Act 1984) between the applicant and Transport Scotland for an agreed proportionate contribution to the cost of the Whitletts / Holmston A77 Dualling as per point "a" above, or an alternative scheme of mitigation as per point "b" above, must be concluded.

22R – To ensure that appropriate mitigation is put in place, to the satisfaction of the Trunk Authority, to accommodate the impact of the development on the trunk road network, recognising the possibility that there may be alternative mitigation solutions to the dualling of the Whitletts – Holmston link.

23C – Prior to the commencement of development, details of the lighting within the site shall be submitted for the written approval of the Planning Authority, following consultation with Transport Scotland and thereafter implemented as approved.

23R – To ensure that there will be no distraction or dazzle to drivers on the Trunk Road and that the safety of the traffic on the Trunk Road shall not be diminished.

24C – Prior to commencement of the development, details of the landscaping treatment along the trunk road boundary shall be submitted to and approved in writing by the Planning Authority, following consultation with Transport Scotland. All landscaping shall be located such that it can be installed and maintained from within the development site without requiring access to the trunk road.

24R – To ensure that there will be no distraction to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

25C – Prior to commencement of the development, details of the fencing/barrier proposals along the trunk road boundary shall be submitted to and approved in writing by the Planning Authority, following consultation with Transport Scotland and thereafter implemented as approved prior to commencement of development. The fencing/barrier proposals shall be located such that they can be erected and maintained from within the development site without requiring access to the trunk road.

25R – To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

26C – That there shall be no drainage connections to the trunk road drainage system.

26R – To ensure that the efficiency of the existing trunk road drainage network is not adversely affected.

Roads and Transportation

Travel Plan (class 1 retail, class 2 professional services, class 3 food and drink, class 4 office):

27C - That before occupation of the development, a Travel Plan shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance. 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 clearly define the system of management, monitoring, review, reporting and the duration of the plan. Thereafter, the travel plan shall be implemented as approved.

27R - To encourage sustainable means of travel.

School Travel Pack:

28C - That before occupation of any residential units a School Travel Pack shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance. The School Travel Pack shall promote sustainable travel to and from the catchment schools of the development, and shall include information on walking, cycling and public transport facilities and services between the development and schools. The School Travel Pack shall be distributed to all new residents within the development on occupation of homes.

28R - To encourage sustainable means of travel.

Residential Travel Pack:

29C - That before occupation of the first dwelling within the development a Residential Travel Pack shall be submitted for the approval of the Planning Authority in consultation with ARA. The Residential Travel Pack shall promote travel to and from the site via sustainable modes of travel, and include information on walking, cycling and public transport facilities and services within the vicinity of the development. This information shall include journey times by sustainable modes of transport to key local destinations. The Travel Pack shall be distributed to all new residents within the development on occupation of homes.

29R - To encourage sustainable means of travel.

Public Transport Strategy:

30C - That at the first formal application for Approval of Matters Specified in Conditions, a public transport strategy setting out that either every residential development located within the development is located a walking distance of no greater than 400m, or sets out a package of enhancements to the public transport offer associated with the development to help mitigate any shortfall in achieving this standard. The Strategy shall require to be submitted for the consideration and detailed approval of the Planning Authority in discussion with SPT and thereafter implemented as approved.

30R - In order to maximise the use of public transport and sustainable travel patterns.

Infrastructure Improvement:

31C - Prior to occupation of any part of the proposed development an at grade pedestrian crossing facility of the A70 shall be designed, constructed and completed. The precise details and specifications of all infrastructure improvements shall be submitted for the approval of the Planning Authority as part of the first formal AMSC application and shall be considered in consultation with Ayrshire Roads Alliance and thereafter be implemented as approved.

31R - For the purposes of road safety and the functional operation of the local road network.

Junction Layout:

32C - That at the Approval of Matters Specified in Conditions stage plans detailing all junction layouts, both within the curtilage of the development and with the adjacent public road network to create means of site access/egress, shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance. The junction layouts shall require to accord with the standards as set out in the SCOTS National Roads Development Guide and shall be implemented as approved.

32R - In the interest of road safety and to ensure an acceptable standard of construction.

New Roads Infrastructure to Adoptable Standards (Residential):

33C - That all new roads infrastructure associated with the development shall require to be designed and constructed to adoptable standards, as specified by the SCOTS National Roads Development Guide, and take full cognisance of the principles of Designing Streets as National Policy. The precise details and specifications of all new roads infrastructure shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance at the Approval of Matters Specified in Conditions stage. All roads infrastructure shall be constructed, as approved by condition and in conjunction with any necessary Roads Construction Consents and/or Permits.

33R - In the interest of road safety and to ensure an acceptable standard of construction.

Discharge of Water:

34C - 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 approval of the Planning Authority in consultation with Ayrshire Roads Alliance, before any work commences on site.

34R - In the interest of road safety and to avoid the discharge of water onto the public road.

Parking Provision:

35C - That the levels of parking provision within the curtilage of the site shall be required to fully comply with the standards as defined within the SCOTS National Roads Development Guide. This shall include, where relevant, specific details on general parking provision levels, disabled parking facilities and visitor parking.

35R - In the interest of road safety and to ensure adequate off-street parking provision.

Parking Dimensions:

36C - That defined parking bays and associated aisle widths shall accord with the dimensions as set out within paragraphs 3.6.2 and 3.6.3 of the National Roads Development Guide publication, adopted for use by the Council.

36R - In the interest of road safety and to ensure that there is adequate space for manoeuvring and turning.

Integral/ Detached Garages:

37C - That integral or detached garages within the curtilage of a property intended to form part of the parking provision for the dwelling shall have internal garage dimensions of a minimum of 7m x 3m, per vehicle.

37R - In the interest of road safety and to ensure adequate off-street parking provision.

Cycle Parking Provision:

38C - That cycle parking facilities shall be provided within the site boundary in line with the standards as set out in Cycling by Design. Precise details of the siting and specifications of cycle parking facilities shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance. The approved cycle parking facilities shall require to be installed prior occupation of any class 1 retail, class 2 professional services, class 3 food and drink, or class 4 office element of the development.

38R - To ensure adequate provision of cycle parking on site and encourage sustainable means of travel.

Turning Areas:

39C - That at the Approval of Matters Specified in Conditions stage, plans shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance. The turning areas shall require to accord with paragraph 3.1.3 and figure 18, of the SCOTS National Roads Development Guide.

39R - To reasonably avert the reversing of vehicles onto the main road and in the interests of road safety.

Bin Collection Points:

40C - That designated bin collection points shall be located a maximum of 15 metres from the public carriageway, before occupation of the development. Details and specification of the siting and design of bin collection points shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance prior to any work commencing on site. Thereafter the bin collection points shall be provided on site.

40R - In the interests of road safety.

Footway/Footpath link to A77 Crossing:

41C - That a new footway/ footpath designed to be fully compliant with the standards as set out in Cycling by Design shall be provided linking the development site with the required grade-separated crossing facility of the A77(T). Details and specification of the proposed footway/ footpath link shall be submitted for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance prior to any work commencing on site. The footway/ footpath shall be constructed, as approved, prior to occupation of any element of the development.

41R - In the interest of road safety and to ensure that adequate provision is made for pedestrians.

Construction Traffic Management Plan:

42C - No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved by, the Planning Authority in consultation with Ayrshire Roads Alliance. The CTMP shall be required to include:

1. Full confirmation of the approved/agreed routes for use by construction traffic movements;
2. A full breakdown of all vehicle numbers anticipated to be generated by the development over the construction period, broken down by vehicle classification. The detail provided shall require to be sufficient to highlight periods of peak development traffic generation, and provide both estimated daily and weekly trip number estimates;
3. Full details of any mitigation and/or control measures required on the public road network to facilitate construction traffic. Where this requires public road layout or alignment mitigation this requires to include full detailed design/ construction details;
4. Full details of video condition surveys of all public roads under the control of the ARA forming part of the delivery route(s) for construction traffic. The CTMP shall require to include details of a schedule for video condition surveys including prior to the commencement of works on site, at the mid-point of the construction programme, and following the conclusion of construction traffic movements;
5. Details of measures/ contractual agreements to be put in place to manage the compliance of contractors and sub-contractors with using agreed/approved construction traffic routes. This shall include any associated monitoring procedures, and any specific training and disciplinary measures to be established to ensure the highest standards are maintained;
6. Details of all public road signing and lining arrangements to be put in place during both the construction period, and for the operation of the site thereafter. This detail shall include any additional advisory/warning signage and/or temporary traffic control measures which may be required during the construction period;
7. Full details of all arrangements for emergency vehicle access;
8. Full details of measures to minimise traffic impacts in existing road users where practicable, including consideration of avoiding busy road periods, and requirements for all drivers to drive in a safe and defensible manner at all times;
9. Measures to accommodate pedestrians and cyclists where appropriate, and details of a nominated road safety person;
10. All materials delivery lorries (dry materials) to be sheeted to reduce dust and spillage onto the public roads;
11. Details of wheel wash facilities to be established at the site entrance or an alternative suitable location to ensure no tracking of mud onto the public highway;
12. Full details on the process for the identification and undertaking of any necessary repairs to the construction traffic route, including the mechanism for coordination with the Roads Authority.

Thereafter, the development shall be carried out in full accordance with the approved CTMP, unless approved otherwise in writing with the Planning Authority, in consultation with Ayrshire Roads Alliance.

42R - In the interests of road safety.

Surface Water Management Plan:

43C - That at the Approval of Matters Specified in Conditions stage, the developer shall be required to submit a Surface Water Management Plan for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance. The plan shall require to demonstrate how surface water will be managed, detailing the retention/attenuation/SUDS sized to accommodate the 1:200 year rainfall event + climate change for the site. The Surface Water Management Plan will also detail the flood routes during the 1 in 200 year + climate change, to the retention such that no property on or off the site is put at risk of flooding. Thereafter, the development shall be undertaken in accordance with the details approved under the terms of this permission.

43R - In order to ensure the development is protected against flooding in an acceptable manner.

Flood Protection:

44C - That at the Approval of Matters Specified in Conditions stage, the following detail shall be provided for the approval of the Planning Authority in consultation with Ayrshire Roads Alliance prior to any work commencing on site:

1. If discharge is to a watercourse (open/piped/culverted) the discharge from this retention will be limited to 4.5ltrs/sec/ha (retention sized to suit). If the discharge is to a Scottish Water asset they will determine the discharge rate. This appears to be the case for Catchment 1. If so written proof of Scottish Water acceptance of the discharge rate is required;
2. Verification that the developer has permissions to install or use an existing outfall pipe in place to discharge the Catchment 2 detention basin to the Annfield Burn.
3. Demonstration required that the recommendations contained within the Kaya Consulting Flood Risk Assessment are implemented and specifically those relating to surface water ponding areas, finished floor levels in relation to overtopping of the A70 and ground levels are designed to shed away from buildings towards landscaped areas and drainage outlets are taken into account in the detailed design of the site.

44R - In order to ensure the development is protected against flooding in an acceptable manner.

Flood Risk Assessment:

45C - That at Approval of Matters Specified in Conditions stage a detailed flood risk assessment report shall be submitted for the prior written approval of the Council as Planning Authority, in consultation with SEPA, before any work commences on site.

45R - In order to ensure the development is protected against flooding in an acceptable manner.

Drainage Impact Assessment:

46C - That at Approval of Matters Specified in Conditions stage an updated drainage impact assessment shall be submitted for the prior written approval of the Planning Authority, in consultation with SEPA and Scottish Water, to assess drainage capacity within the network. The implications of the drainage impact assessment on the strategic landscape plan for the site shall be fully addressed as part of this submission.

46R - In order to ensure the development is protected against flooding in an acceptable manner.

SUDS:

47C - That surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems (SUDS) Manual published by CIRIA in 2015. At the Approval of Matters Specified in Conditions stage full details of the methods to be employed, following discussions with SEPA, and including where appropriate calculations, along with details of how these measures will be maintained in perpetuity, shall be submitted for the formal prior written approval of the Council as Planning Authority before any work commences on site.

47R - *To ensure the site is drained in an acceptably sustainable manner and the drainage infrastructure is properly maintained.*

Bird Mitigation Plan

48C – That prior to commencement of development, a Bird Mitigation Plan / Risk Assessment shall be submitted to and approved in writing by the Planning Authority, following consultation with Glasgow Prestwick Airport. Thereafter, the approved Bird Mitigation Plan / Risk Assessment shall be implemented to the satisfaction of the Council as Planning Authority.

48R – *In the interest of aviation safety.*

Gas Pipeline

49C – That no works shall commence on site until such time that the developer/applicant has further discussed the detailed design of the development with SGN, confirming that it will not compromise The Deeds of Servitude or The Major Accident Hazard Pipelines' Integrity. This includes agreement of the proposed groundworks / topography and any required SUDS ponds, altering the design if required.

49R – *In the interest of public safety and to protect the infrastructure of SGN.*

Section 75 Legal Agreement Headline Terms

Indicative Education Contributions*	Indicative Cost	Arrangements
Primary contribution	£7,000 per home	Contribution on pro rata basis from construction of first house with payment on a quarterly basis/as number of houses are complete. Payment index linked. Affordable houses would not make a contribution.
Secondary contribution	£4,000 per home	Contribution on a pro rata basis from construction of first house with payment on a quarterly basis/as number of houses are complete. Payment index linked. Affordable houses would not make a contribution,
Total contribution per home	£11,000	
Total education contribution that would require to be secured through S75 legal agreement	£11,000 x 350 (homes) = £3,850,000 (less affordable housing)	

*This figure would likely increase following a full education impact assessment and feasibility study on a schedule of accommodation required to more than just meet the minimum number of pupil spaces in Ayr catchment area non-denominational secondary schools.

Advisory Notes

Road Opening Permit:

That a Road Opening Permit is required in addition to planning consent for any work to be undertaken within the public road limits. An application for a Road Opening Permit should be made separately to the ARA as Roads Authority, prior to works commencing on site.

Roads (Scotland) Act:

The Council as Roads Authority advises that all works on the carriageway to be carried out in accordance with the requirements of the Transport (Scotland) Act 2005 and the Roads (Scotland) Act 1984.

New Roads and Street Works Act 1991:

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.

Costs of Street Furniture:

The Council as Roads Authority advises that any costs associated with the relocation of any street furniture shall require to be borne by the applicant / developer.

Costs of TROs:

The Council as Roads Authority advises that promotion of Traffic Regulation Orders resulting from this development shall require to be fully funded by the applicant – including any relevant road signs and markings.

Signage to TSRGD 2016:

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.

Roads Construction Consent:

Please note that in addition to planning consent, Roads Construction Consent (RCC) shall be required from ARA as Roads Authority for the formation of any new road to be considered for future adoption. The formation of any new road shall require to comply with the specifications of the SCOTS National Roads Development Guide and Designing Streets as National Policy.

RSA Stage 2:

The Council as Roads Authority advises that prior to the commencement of works to construct any new or amended roads infrastructure; a Stage 2 Road Safety Audit in compliance with GG 119 of the Standard for Highways Design Manual for Roads and Bridges shall be submitted for the approval of the Planning Authority in consultation with ARA. This applies to all proposed new roads and any alterations to existing roads carried out under a Section 56 Agreement with the Council as Roads Authority & the applicant. The requirement to complete a Road Safety Audit includes for addressing the recommendations contained within the audit report.

RSA Stage 3:

The Council as Roads Authority advises that a Stage 3 Road Safety audit in compliance with GG 119 of the Standard for Highways Design Manual for Roads and Bridges shall be submitted for the approval of the Planning Authority in consultation with ARA by no later than 1 month after completion of the development, unless an alternative time period is approved. This applies to all proposed new roads and any alterations to existing roads carried out under a Section 56 Agreement with the Roads Authority & the applicant. The requirement to complete a Road Safety Audit includes for addressing the recommendations contained within the audit report.

Background Papers:

- Regulatory Panel Report 22/00302/PPPM dated 25 June 2024.
- Scottish Government Chief Planner letter dated 26 June 2024.
- Scottish Government Chief Planner and Minister for Public Finance letter dated 12 November 2024
- Draft S75 legal agreement headline terms

Integrated Impact Assessment:

The consideration of this planning application sits within a policy framework of the Council's Local Development Plan 2 and National Planning Framework 4. These have been the subject of Equalities Impact Assessments which considered how the policies may impact on protected characteristics. Therefore, no separate Integrated Impact Assessment is required.

Person to Contact:

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