

REGULATORY PANEL: 03 FEBRUARY 2022

REPORT BY PLACE DIRECTORATE

21/01114/PPP

5 GREEN STREET AYR SOUTH AYRSHIRE KA8 8AF

Location Plan



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Summary

Planning permission in principle is sought for the erection of a residential development at 5 Green Street, Ayr. Due to the application being for planning permission in principle only, no further details of the design and layout of the residential units or other aspects of the development require to be submitted.

Whilst it is materially significant to note that the site is designated in the Adopted South Ayrshire Local Development Plan 1 (hereafter referred to as LDP 1) and the Local Development Plan 2 (hereafter referred to as LDP 2) as being located within the established Newton-on-Ayr industrial area, the applicable industrial and business policies allow for consideration of other non-industrial and business land uses where they meet with certain criteria and justification. As part of this there is a need for the applicant/agent to provide evidence that the development of the site future use of the land and premises for industry or business is unlikely and that an alternative proposal, in this case affordable housing, can be justified against the framework of planning policy.

The application has been assessed against the various material planning considerations which include the provisions of LDP 1, LDP 2, Scottish Planning Policy, Supplementary Planning Guidance, consultations, representations received (four in total), planning history and the impact of the proposed development on the locality. The assessment concludes that whilst the proposed development does not align with the allocation of the site for business and industry and the policy provisions with regards specific criteria of the business and industrial policy requirements there are other material planning considerations that out-weigh this in support of the proposed development for affordable housing.

While the marketing information submitted by the applicant/agent does not conclusively determine that there will be no interest in developing the site for business and industry in the future, they have demonstrated that a residential development and the benefits and opportunities that this proposal would bring, do in this instance, outweigh maintaining the land use designation of industrial/business. This includes the developments ability to contribute positively to the South Ayrshire Council Housing Land Supply shortfall/deficits, especially in affordable housing provision, and the placemaking, sustainability and regeneration opportunities that come from supporting this type of residential development at this urban, town centre and harbour/marina fronting location that has been vacant for over 2 ½ years. Therefore, the proposal can be considered as an acceptable departure to the relevant business and industrial policies of the development plans as an alternative affordable housing development can be justified.

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

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 03 FEBRUARY 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	21/01114/PPP
SITE ADDRESS:	5 GREEN STREET AYR SOUTH AYRSHIRE KA8 8AF
DESCRIPTION:	PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF A RESIDENTIAL DEVELOPMENT
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, subject to certain restrictions arising directly from the public health measures put in place to deal with the COVID-19 (Coronavirus) pandemic.

1. Proposal:

The application site is located in Newton-on-Ayr and sits prominently at the junction of Green Street and North Harbour Street. It covers an area of 0.2 hectares (approximately) and comprises of both vacant premises at 3-5 Green Street, and also the associated adjacent land to the south. The whole site is showing signs of dereliction with it last being actively occupied in mid-June 2019 by a builder's merchant who operated from the whole application site.

Situated to the north of Ayr Town Centre, the site is within an area of mixed uses in close proximity to the harbour. To the south, the site overlooks the River Ayr and boat marina. It is bound by commercial properties to the north, with residential properties being the dominant and closest land uses to the west, east and south of the site. This is particularly apparent for the southern side of the site at the corner of York Street Lane and North Harbour Street where a residential tenement adjoins the corner of the application site directly. More broadly the frontages of North Harbour Street on both sides of the road to both the west and east are characterised by residential properties and similarly for the extent of York Street Lane and Green Street which run parallel to the application site.

Planning permission in principle is sought for the erection of a residential development on the site. Due to the nature of the application, no further details of the design and layout of the residential units require to be submitted. Notwithstanding this, the application provides an indicative layout with buildings shown around the perimeter of the site at North Harbour Street and Green Street, with parking and open space located to the rear. A single point of access to the site is proposed from Green Street. The submission suggests 40 units as an indicative number of residential properties, contained within flatted buildings up to four storeys in height. It is understood that the applicant seeks to develop the site for use as public sector affordable rented and elderly accommodation.

It should be noted for Members awareness that this current application and proposal is a follow-on/re-submission to an earlier application Ref. 20/00920/PPP for the same residential land use proposals. This earlier application was submitted in November 2021 and following review it was considered that it could not be supported at that time due to insufficient information. The application was subsequently withdrawn in January 2021 before it was considered by the Council's Regulatory Panel.

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, due to the Council potentially having a financial interest in the development.

2. **Consultations:**

- **The Coal Authority** - No Objections
- **Ayrshire Roads Alliance** - No Objections subject to Conditions
- **South Ayrshire Council Environmental Health Service** - No Objections subject to Conditions
- **Scottish Water** - No Objections
- **West of Scotland Archaeology Service** - No Objections
- **Scottish Environment Protection Agency** – No Objections

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.

The applicant/agent has submitted the following information; marketing information comprising of email correspondence from the landowner, email particulars and correspondence from marketing agent Graham and Sibbald, marketing advert extract from Graham and Sibbald website, Marketing Appraisal report, Letter of support from South Ayrshire Council Housing Services, Design and Access Statement, Planning Statement, Addendum Planning Statement, Technical Supporting Statement, Site Investigation Report, Coal Mining Risk Assessment and Flood Risk Assessment.

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:**

Four representation(s), from four local households have been received, two of which objects to the proposed development with the other two supporting the development. All representations can be viewed online at www.south-ayrshire.gov.uk/planning but a summary of these are set out as follows:

The issues raised in the objection submitted can be summarised as principally relating to; design, residential amenity, traffic transport and infrastructure concerns and other general and technical concerns.

The supporting representations consider that the development will enhance the area by redeveloping a redundant and derelict site and by providing residential accommodation which is close to the town centre of Ayr. They also believe that that proposals will also help to address the ongoing issue of seagulls who currently inhabit the roof of the existing premises within the site and cause residential amenity issues.

The merits of the representations received are considered in detail in the relevant sub-section 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, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. 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 and the proposed development plan, other policy considerations and guidance (including government guidance), representations received, the planning history and the potential impact of the proposal on the amenity of the locality.

(i) Development Plan and Other Policy Considerations (including Government Guidance)

Section 25 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 (LDP1); the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Members will note that the Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. The Examination Report and LDP 2 now forms a substantial material consideration in the determination of planning applications. The Examination Report, Reporters Recommendations and the intention to adopt LDP 2 will be submitted to Council in March 2022 for approval to submit the Plan for adoption to the Scottish Government.

In light of the above, the following section of this Report is subdivided into:

- A. An assessment based on the Adopted LDP 1;
- B. A review of the implications arising from the effective housing land shortfall, and the consequential implications this has on the assessment of the planning application. Consideration is given with respect to the Council's established methods to address such a shortfall (contained in Supplementary Guidance: Maintaining an Effective Land Supply), and the provisions of SPP (taking cognisance of the Court of Sessions determination to quash the December 2020 SPP amendments); and
- C. The final part of the section will provide an assessment against any consideration's material to the provision of LDP 2 and the associated Examination Report.

Part A: Assessment against LDP1

The statutory Local Development Plan (LDP) currently comprises the South Ayrshire Local Development Plan 1 (adopted in September 2014) and its associated Supplementary Guidance, as well as the Town Centre and Retail Local Development Plan, adopted in 2017.

The following policies of the development plan are considered relevant to the consideration of this application:

- LDP1 Policy: Spatial Strategy
- LDP1 Policy: Core Investment Towns
- LDP1 Policy: Newton-on-Ayr
- LDP1 Policy: Sustainable Development
- LDP1 Policy: Business and Industry
- LDP1 Policy: Affordable Housing
- LDP1 Policy: Development Opportunities
- LDP1 Policy: Maintaining and Protecting Land for Housing
- LDP1 Policy: Residential Policy within Settlement Release Sites and Windfall Sites
- LDP1 Policy: Flooding and Development
- LDP1 Policy: Air Noise and Light Pollution

- LDP1 Policy: Low and Zero Carbon Buildings
- LDP1 Policy: Land Use and Transport
- LDP1 Policy: Open Space

(the policies can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/planlpdocuments.aspx>)

The Following Supplementary Planning Guidance is applicable:

- Supplementary Planning Guidance: Maintaining an Effective Five Year Land Supply
- Supplementary Planning Guidance: Open Space and Designing New Residential Development

An assessment of the policy considerations in relation to the proposals is set out below.

Spatial Strategy - Core Investment Towns:

The Spatial Strategy and Core Investment Towns seek to direct development towards existing towns and villages. The policy sets specific targets and aspirations for the different towns, villages and projects throughout South Ayrshire which developments should seek to deliver and/or contribute towards. Given the policy covers all of the core investment towns, only certain criteria are relevant to this current proposal. The policy confirms that it will encourage development within core investment towns (including Ayr) where; it promotes and enhances the vitality of town centres and vacant, redundant or brownfield land will be regenerated and it is considered both of these are relevant tests for this proposal.

In terms of LDP 1, the site is identified by the Newton-on-Ayr Strategy Map as part of a wider area of land designated as a general industrial area. The LDP 1 policies consider the location to be suitable for a range of uses, including, light industrial uses, and small-scale storage and distribution, with the potential for ancillary office/business activities to also be accommodated. Notwithstanding the designation of the site on the strategy map the development proposals do still accord with the spirit of much of the relevant criteria of this policy as cited above. Firstly, it is considered that a residential development on this site would promote and enhance the viability and vitality of the town centre and indeed assist in the overall regeneration of Ayr Town Centre. More specifically, a residential development on the site comprising of some 40 units would encourage population growth which would in turn stimulate increased footfall within the local area. This would have a positive impact on the overall vitality of the town centre including for the amenities and services in the locality.

Secondly, the current proposals will help to physically regenerate the area by transforming this currently underutilised, brownfield site through the provision of an affordable housing development. The site itself has been vacant for a period in excess of 2 ½ years and is showing signs of dilapidation. This site itself is situated in a desirable, attractive, urban location, within close proximity to the town centre of Ayr and also benefits from a harbour and marina fronting location, with views onto the River Ayr and beyond. All of these factors combined make this site an important and strategic site in the area and it is considered that because of all of this there is real opportunities to deliver a high quality, sustainable and placemaking agenda focused residential development on this site, which sets the design tone and standard for similar types of development in the locality going forward.

Newton-on-Ayr:

This policy supports a flexible approach to promoting Newton's potential to adapt to changing business and property needs, without affecting the area's existing use and character and states: "While the role of Newton as an industrial area is important, the relatively low land values and loss of housing has, in some cases, resulted in low levels of investment in building maintenance and not enough people to support activities and facilities. We hope that a flexible approach to promoting the area's potential will help stop this decline and reaffirm Newton-on-Ayr as a lively and viable area." This is achieved by ensuring development satisfies and does not compromise a number of requirements set out within the policy itself; Criteria a) to f). Similar to the Spatial Strategy policy, some of the criteria is not relevant to this case and this includes those relating to the future development of the Port of Ayr and those requirements applicable to retail developments. The relevant criteria in this case are criteria b) and criteria f) which are set out as follows:

- b) Making sure that development proposals within the Newton area are in line with allocated land use, as identified in the Newton-on-Ayr strategy map or as may be altered by the preparation of the Newton masterplan.

f) Supporting proposals for residential developments next to existing residential areas and where the developer can show that the development will not cause significant harm to the local environment or cause unacceptable disturbance to residential properties. Any proposal that involves industrial/business land must comply with LDP Policy: business and industry.

Whilst it is accepted that the current development proposals would not accord with criteria b) it is important to note that this policy does advocate for a flexible approach to development which allows proposals to be considered under criteria f), this policy offers support for proposals for residential developments next to existing residential areas where the developer can show that the development will not cause significant harm to the local environment or cause unacceptable disturbance to residential properties. The Design and Access Statement provided as part of this application includes a number of contextual plans which show the surrounding land uses to the site. These plans and photographs demonstrates the site is within close proximity to existing residential dwellings, with residential being the closest neighbouring land use on three sides of the application site, including the adjoining land to the south west corner of the site.

On this basis and noting the current land uses around the site, it is not considered that that a residential development would impact the existing use and character of the surrounding area in adverse or detrimental manner. Instead, the principle of residential proposals offers a land use which is consistent with much of the surrounding locality and in this regard it offers an opportunity to deliver a development that could be sympathetic and complimentary to the surrounding environment without causing unacceptable disturbance to existing and neighbouring residential properties.

Sustainable Development:

This Policy of the LDP supports the principle of Sustainable Development and sets out a series of standards against which the detail of development proposals are generally expected to meet. The purpose of this current application is to establish whether the site is, in principle, a suitable location for a residential development and so this would be a matter for the detailed application stage should this application for planning permission in principle be approved.

However it is reasonable to consider at this stage that a residential development on the site could be capable of delivering on much of the sustainability expectations of the policy. This is largely down to the location of the site within walking distance to the core town centre of Ayr and its public services, facilities and amenities. Future residents of the residential accommodation could therefore contribute to their efficient use and also benefit from their proximity to the development site. There are sustainable modes of transport, including cycling, bus and rail travel links. As a result it has the potential to deliver a 'twenty minute neighbourhood development' (a key aspiration and policy of the draft National Planning Framework 4 that is all about living locally, giving people the ability to meet most of their daily needs within a 20 minute return walk from home, with access to safe cycling and local transport options). Through the use of appropriately worded planning conditions (including requirements for cycle parking/storage, a travel plan and electric car charging points) combined with careful consideration of the development at detailed application stage, it is considered that opportunities to deliver a sustainable residential development can be maximised.

In addition to this and as previously outlined, weight is also given to the fact that the site at present constitutes a derelict industrial premises and yard which has lay vacant since June 2019. The opportunity to redevelop and regenerate the site to a form of development which, as evidenced in the 'Transport Assessment', will lead to a potentially less car and HGV dependant use would also comply with the spirit of the sustainability policies from a transport perspective.

Business and Industry:

It is materially relevant to note that under the Business and Industry and Newton-on-Ayr policies of the SALDP, the site is designated as forming part of the established Newton-on-Ayr industrial area and therefore the initial aim is to seek industrial and commercial uses on the land. The policies of the SALDP safeguard land and premises for industrial and commercial uses, so as to ensure there is a variety of industrial land and premises and a choice of different locations which is available to meet the existing and future demands of various different business and industrial users.

Notwithstanding the terms of this policy, in line with the provisions of Scottish Planning Policy, the LDP also recognises that, on occasion, there may be circumstances where alternative non-industrial use(s) may be acceptable within industrial areas. Indeed, the Business and Industry policy includes flexibility to consider such circumstances and in this regard set out the following criteria which applies to, and is materially significant in the assessment of proposals for non-industrial development within industrial areas;

1. The site must be within a settlement boundary, as defined in the local development plan.
2. The site must not be developed in a way that fragments a larger industrial area or cuts links between industrial users in that area.
3. If it is a residential development, future residents would not be negatively affected by business or industry in the area.
4. The developer must satisfy us that the land or premises are unlikely to be used for industry or business in the future.
5. The proposal, in every other way, complies within the local development plan.

In considering the development proposal against the above criteria, the following is noted;

1. The site lies well within the settlement of Ayr and is located in Newton-on-Ayr, close to the core town centre of Ayr.
2. As noted above, whilst the site lies within a larger area of land which forms part of the industrial area designation in LDP 1, only the land/premises to the adjoining north of the site is actively being utilised for industrial and commercial purposes at this time. The dominant and closest land uses on western, eastern and southern side of the site is existing residential. In this regard, it is considered that a residential development on the site would constitute a compatible land use noting the types of uses present within the locality.

In terms of the potential implications for the principle of a residential development to fragment the delivery of a larger industrial area or indeed cut links between industrial users, weight is given to the fact that the site is immediately surrounded and intersected by road networks on three sides; York Street Lane to the west, North Harbour Street to the south and Green Street to the east which provide good connectivity within the area. Opportunities for the site to play a role in physically expanding or linking existing or proposed industrial areas are extremely limited. In this context, it is only the existing established business premises which sits 'back to back' to this site to the north which could feasibly be directly extended to form part of a larger industrial area or form any sort of direct linkages. Notwithstanding this, during the marketing campaign, it is understood that no specific interest was received from the existing established units to the north to extend to the south using the application site. Due to this lack of interest in the respect, combined with the limited opportunities the site would present in terms of delivering a larger industrial area or a linkages between such areas, it is not considered that a residential development on site would necessarily have the consequence of fragmentation.

3. As the area is designated and zoned for industrial and business land uses, the 'Agent of Change' principle applies in so far, as the developer would be responsible for ensuring mitigation measures e.g. noise attenuation are designed into the development at the detailed planning application(s) stage to create an acceptable level of amenity for future residents of the site, ensuring they are not adversely impacted by existing business and industry uses in the area and, in turn, that these existing business and industry uses are not disadvantaged by a future residential development on this site.

As evidenced by the presence of existing residential dwellings within the locality, it is clear that residential land uses are capable of successfully co-existing in this mixed use area despite the wider industrial and business designation. The Council's Environmental Health Service has already referenced in their consultation response for the current planning permission in principle application, the need for any future residential development to meet various acoustic and noise insulation requirements to provide an acceptable level of residential amenity and these are included as planning conditions to this report. Therefore both these and the 'Agent of Change' requirements would be appropriately addressed at detailed application stage should planning permission in principle be granted.

4. The extent to which the land and premises are unlikely to be used for industry or business in the future is a key criterion against which the development proposal requires to be considered. Given the adopted planning policies which apply to the site, the onus is on the applicant/agent to set out an adequately reasoned and evidential justification which demonstrates, to the satisfaction of the Council, that future use of the land and premises for industry or business is unlikely.

The marketing information which accompanies this submission seeks to evidence that the site has been robustly marketed for industrial or commercial use and that despite this, there has been no tangible business or industrial interest in the site. It is worth noting that as part of consideration of the previous application 20/00920/PPP, the same marketing information was presented and at this time, and following review, it was not considered that this was sufficient enough information to be relied upon to evidence a pro-active, targeted and exhaustive marketing campaign in the interests of genuinely seeking to deliver industrial or business use on the land. As this marketing material has not be supplemented or bolstered by additional material to further evidence the extent and nature of the marketing campaign previously undertaken, the Council's position on this material remains unchanged as part of the consideration of this application in that it is lacking and insufficient. Notwithstanding the fact that the site has been vacant for over 2 ½ years, no weight is afforded to the marketing material presented and this does not evidence the criteria set out in the policy.

The current application has however been accompanied by a Marketing Appraisal report prepared by a property advisor. This examines the commercial feasibility of continued industrial and business use at this specific site in response to this criteria. The argument presented seeks to build upon the earlier case and through some additional market research and data information provided, it endeavours to evidence that there has been a change in demand with predicted trends for a downturn and lack of interest for industrial and business development sites in the Newton area in the future. The report suggests that the Heathfield and Boundary Road area are more desirable with these being larger scale, purpose built sites with more flexibility and better road connections. In addition to this, the appraisal also suggests that the site has little prospect of business and industrial reuse due its present state and condition. More specifically the appraisal puts forward a case that due to the physical arrangement of the site, the age, condition and appearance of the premises on-site, the limitations for accessibility for serving different types of commercial uses, this makes the site unattractive and unviable for continued industrial use. As a result, the report concludes that these same constraints significantly hamper the sites ability for refurbishment, subdivision or redevelopment for the same or similar type of uses.

Both arguments above are predicated on the assumption that the only current appetite for industrial land and premises in the area is for large scale, purpose build sites with equally large warehouse facilities. In this regard, the site in question could never accommodate such tenants, with Newton-on-Ayr historically catering for smaller, independent business and franchises and being successful at attracting these in the past. Given the baseline stance that the report starts from, the Council do not considered that the justification or assumptions are correct for this site and this in turn does not satisfy the requirements of this particular criteria. Crucially, and as set out above, sufficient additional information relating to marketing particulars to evidence the credibility of the previously undertaken marketing campaign remains absent from this application. The alternative argument presented as part of the appraisal in terms of the sites unsuitability due to its 'present state' and the change in demand/downturn in interest in Newton are not robust enough to supplement or offset for the absent marketing material.

5. The Marketing Appraisal Report sets out the assessment of the proposals against the relevant policy provisions of the Adopted South Ayrshire Adopted Local Development Plan and the Local Development Plan 2 which is considered in more detail below.

In summary of the above, while the proposals are compliant with 4 out of the 5 business and industry policy criteria, it has not been adequately reasoned and evidenced, to the satisfaction of the Council that the future use of the land and premises for industry or business is unlikely and therefore the application is considered to be contrary to this policy overall as a result.

Maintaining and Protecting Land for Housing:

The primary purpose of this policy seeks to promote and maintain an effective five-year supply of land for housing in South Ayrshire to meet demand. In situations where the supply is not maintained (which is currently the case at South Ayrshire Council with the housing land deficit as outlined in a number of sub-sections below). It asserts that the Council will assess any housing proposals on unallocated sites against relevant development plan policies and the criteria as set out in the supplementary guidance. As part of this, it states that the Council will encourage housing development on appropriate brownfield sites, rather than greenfield sites.

South Ayrshire Council has very recently published its 2020 Housing Land Audit. This Audit (agreed with Homes for Scotland) identified and acknowledged that a shortfall in 'effective housing land' has emerged pending the progression to adoption of LDP 2. The identified shortfall in 'effective housing land' is some 397 units (effective land supply 2020-25 of 2148 units versus a housing land requirement 2020-25 of 2545 units). In this regard, the 2020 Housing Land Audit outlines that only a 4.2 year effective land supply exists based on LDP 1.

In this regard, a residential development proposals for 40 units comprising of affordable residential flatted blocks subject to this application can contribute towards helping to reduce the housing land supply deficit whilst at the same time help to work towards achieving the target of the policy in terms of maintaining an effective five year supply of land for housing to meet demand. Whilst the site itself is unallocated (in the sense referred to within the terms of the above policy), it is on a redundant brownfield site and in this regard it does meet with the desired characteristics for considering housing developments in such scenarios. Given this, the principle of development the Green Street site for residential can help meet the identified shortfall and is on a site which would be considered acceptable by the terms of the policy.

Consideration of the proposed development against the Council's Supplementary Guidance 'Maintaining an Effective Land Supply' can be found in Part B below.

Residential Policy within Settlements, Release Site and Windfall Sites:

This policy seeks to protect the character and amenity of areas that are mainly residential, particularly from non-residential development that could have a negative effect on local amenity. It sets out a suite of criteria to which it will allow residential developments within settlements. The requirements in each case are quite prescriptive and relate to specific vehicular access arrangements, the layout, density, plot ratio, scale, form and materials of buildings, privacy and amenity matters, safeguarding of maintained amenity or recreational open space and sufficient on-site private and public open space provision.

For reasons previously set out, it is considered that the proposals would be capable of meeting with the criteria and subject to conditions, this can be addressed and demonstrated at further application stage, should planning permission in principle be granted.

Affordable Housing:

The above policy of the SALDP and the related supplementary policy guidance seeks to ensure affordable housing is accounted for as part of residential developments. More specifically, the policy sets a target contribution of 25% of the total number of units from all new housing developments of 15 units or more, or a site of 0.6 ha.

In this instance, the residential development proposal is for entirely for affordable housing comprising of approximately 40 flatted units of 1 and 2 bedrooms. The 'Addendum Planning Statement' presents a case that this development will help meet the demand for affordable housing and the evidence put forward includes consideration of the recent 'South Ayrshire Housing Need and Demand Assessment 2021-2026 (July 2021)' which concludes that:

- Demand for social housing is high, with recent figures showing more than 3,000 people on the Council's housing list.
- Supply is limited with an average of 770 Council properties becoming available in the five years to 2019/20 and between 140 and 200 lets per year.
- In terms of South Ayrshire Council's housing stock, there were estimated to be 4 applicants for every let in 2019/20. Most demand is for one and two bedroom properties.

The information presented in this respect is considered to be relevant and the figures set out make a compelling case. As the proposals subject to this application are seeking planning consent for some 40, 1 and 2 bedroom affordable flats in a close to town centre location and in this context is agreed that the development will make a positive contribution and does comply with the overall aim of the policy. Given, the justification presented by the agent is partly predicated on the affordable housing case set out above and noting that endorsing such a proposal would benefit the applicant with certain developer contributions being waived, a planning condition is considered necessary to restrict the future residential properties to being affordable housing provision only. Both the applicant and their appointed agent have agreed to this condition on this basis.

Development Opportunities:

This policy advocates that the Council will actively encourage development on brownfield, vacant and derelict sites instead of greenfield sites. To strengthen the vitality and vibrancy of all towns and centres, the Council will encourage the redevelopment of town-centre brownfield sites over other potential sites outside of town centres, where proposed use is in keeping with town centre uses.

As previously outlined in a number of sub-sections above, the site subject to this application is a vacant and derelict brownfield site situated at a prominent site within the town centre of Ayr. The redevelopment of this site, is compatible with neighbouring and town centre uses and will help to strengthen the vitality and vibrancy of the local town centre by increasing population density within the area and by helping to establish a twenty-minute neighbourhood. The premises on the site at present is in a poor state of repair and its unoccupied condition is becoming increasingly more notable with issues such as water ingress, vandalism and illegal occupancy (May/June 2021) all by-products of it lying unoccupied for over 2 ½ years. On this basis, the redevelopment of this site will also have a positive contribution visually, enhancing the appearance and general condition of the site at this prominent harbour side and marina fronting location and aligns with the policy requirements.

Open Space:

The policy seeks to ensure that sufficient and proportionate levels of open space are accommodated for relevant and applicable developments. The policy itself gestures to the Council's supplementary guidance note 'Open Space and Designing New Residential Development' which sets the requirements for public and private open space in both quantitative and qualitative terms.

In quantitative terms, as this proposal is for an affordable, residential, flatted development, open space should be provided at a minimum rate of 50 m² per unit. Any shortfall that is not provided on site would require a contribution to be made. In qualitative terms, the priorities and defining principles for open space on this site would need to reflect the needs of the intended client group. Noting the potential anticipated end user, it would be expected that proposed open spaces are fully usable and accessible and facilitate social interaction as well as perform practical functions.

Whilst the exact detail and arrangements for open space on-site would ultimately be a matter for the further detailed application (if planning permission in principle is granted) a condition has been included which covers these requirements. It is worth noting that the design statement and the indicative layout plans submitted do show cognisance to the above requirements with the provision of open space being illustrated as achievable on-site.

Flooding and Development:

The relevant policy stipulates a presumption against development in areas which are likely to be affected by flooding or if the development would increase the flooding elsewhere. As part of this it sets out the flood risk framework which all development proposals should be considered against.

The application is supported by a comprehensive Flood Risk Assessment which concludes that there is no significant flood risk associated with development of the site. SEPA have confirmed that they agree with the assessment's conclusions including the flood management measures proposed by the FRA floodplain avoidance and a minimum Finished Floor Level which can be secured by condition. The proposal is consistent with LDP Policy: Flooding and Development.

Other LDP1 policies:

Given the consultation responses above and the fact that the application is for the consideration of development in principle, it is reasonable to assume that policies with regards noise, lighting, vehicle movements and approaches to reducing carbon footprint could be reasonably addressed at detailed application stage with matters relevant to these policies addressed by planning conditions.

Part B: Acknowledged Housing Land Shortfall, Supplementary Guidance Maintaining an Effective Five Year Land Supply and Scottish Planning Policy

In September 2021, South Ayrshire Council published its 2020 Housing Land Audit. This Audit (agreed with Homes for Scotland) identified and acknowledged that a shortfall in 'effective housing land' has emerged pending the progression to adoption of MPLDP2 and its revised housing land requirements.

The Council's Supplementary Guidance 'Maintaining an Effective Land Supply', provides criteria against which residential development sites are to be assessed in terms of acceptability (or otherwise) in addressing the housing land shortfall. A key factor which underpins the criteria relates to encouraging housing development on appropriate brownfield sites, rather than greenfield sites. Members will be aware that the SG forms an integral part of the Development Plan and its provisions are therefore significant and have implications for the LDP 1 assessment of this application.

In turning to the specific provisions of the SG, a three-stage process to assess the acceptability of sites is established.

Stage 2 of the process requires (inter alia), any proposed site to:

- a) Be limited to 49 units;
- b) Contribute to reducing the deficit in the land supply at the point of determination (i.e. that it must be immediately effective);
- c) Not jeopardise the LDP Spatial Strategy by utilising infrastructure capacity planned to deliver LDP priorities (including allocated housing sites), the site can meet infrastructure requirements (as per LDP Policy delivering infrastructure) without undermining the viability of the development proposals; and,
- d) That the development of the site would otherwise be compliant with LDP.

The proposed development at Green Street is considered in response to the criteria as follows:

- a) The current proposal is for a residential development of some 40 units;
- b) Whilst this is a planning permission in principle application, the applicant has confirmed that their offer to purchase the site been accepted by the landowner and that subject to this application being approved it will be concluded. They have the finances, end user, resources and infrastructure requirements in place to progress the site swiftly and their intentions and commitment to develop the site in this regard is further evidenced by the discussions held with South Ayrshire Council Housing Services who support the application and confirm the site is within the Strategic Housing Investment Plan as an opportunity to deliver affordable housing; they also confirm the demand for 1 and 2 bed properties close to the town centre and are confident the site will secure Scottish Government funding towards delivery.
- c) Information has been provided at this stage to suggest that the development could be accommodated on site without jeopardising or putting an undue strain on infrastructure requirements. As part of this application, both Ayrshire Roads Alliance and the Council's Education Service have confirmed that no developer contribution would be needed for the development from their respective remits. As an affordable housing contribution would not be required (noting the nature of the development), the only outstanding matter would be addressing the open space requirements on site and the quantity and quality of the level of on-site provision would be assessed in more detail at further application stage, in response to conditions.
- d) As outlined above, the proposals are considered on balance to be compliant with all aspects of LDP 1 with the exception of the land use designation and specific criteria which forms part of the business and industry policy.

Given the aforementioned, it is considered that the Green Street residential proposals subject to this application are considered to be compliant with the terms of the South Ayrshire Council Supplementary Guidance 'Maintaining an Effective Land Supply' as outlined.

Separately, Scottish Planning Policy 2020 is a significant material consideration and also makes specific provision for circumstances where a shortfall in effective housing land is agreed.

Paragraph 125 states that where a shortfall in the effective 5-year housing land supply emerges in a plan which is more than 5 years old; 'development plan policies for the supply of housing land will not be considered up to date, and paragraphs 32-35 will be relevant'. Whilst such circumstances do not result in the dismissal of the policy provisions of the Development Plan, they introduce a provision that there is a presumption in favour of proposals which contribute to sustainable development. With respect to the determination of proposals for residential development, this has become known as a 'titled balance' in favour of residential development, unless other material factors outweigh that titled balance.

In such circumstances when considering whether a proposed development constitutes a sustainable development, this should be assessed according to the principles set out in Paragraph 29 of SPP:

- Giving due weight to net economic benefit;
- Responding to economic issues, challenges and opportunities as outlined in local economic strategies;
- Supporting good design and the six qualities of successful places;
- Making efficient use of existing capacities of land, building and infrastructure including supporting town centre and regeneration priorities;
- Supporting delivery of accessible housing, business, retail and leisure development;
- Supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- Supporting climate change mitigation and adaptation including taking account of flood risk;
- Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- Having regard to the principles for sustainable land use set out in the Land Use Strategy;
- Protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- Reducing waste, facilitating its management and promoting resource recovery;
- Avoiding over development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

It is readily evident that the proposed development does comply with a number of the principles which include the following;

- Gives due weight to net economic benefit by bringing a vacant and derelict site back into use.
- Opportunity to deliver a high quality design of residential development which maximises the urban, close to town centre, harbour and marina fronting location of the application site.
- Opportunity to deliver a residential development with a strong placemaking agenda which demonstrates the six qualities of successful places.
- Protect, enhance and promote the wider environment by providing a land use which is commensurate to neighbouring and surrounding uses with residential the most dominant in the locality.
- Making efficient use of existing capacities of land in terms of the redevelopment of a vacant and derelict brownfield site and fully support Ayr town centre regeneration priorities and policies.
- Support the delivery of an accessible housing development and given the proximity of Ayr town centre help to establish a twenty minute neighbourhood which is a key aspect of the emerging National Planning Framework 4 (NPF 4) for Scotland.
- Presents opportunities to improve health and well-being by utilising and integrating the close to town centre location of the site with options to make use of healthier and more sustainable modes of transport to support and serve future residents of the development.
- Support the delivery of much required affordable housing and contribute towards addressing a deficit.
- Take account and mitigates flood risk (as evidenced through the Flood Risk Assessment submitted).

Given the aforementioned, it is considered that the Green Street residential proposals subject to this application are considered to be, on titled balance, compliant with the terms of the SPP as in this case it relates to the situation where a shortfall in the effective 5 year housing land supply emerges (in a plan which is more than 5 years old) and it would qualify as a sustainable development noting the circumstances and characteristics associated with the application.

In this case and noting the above, this compliance with SPP takes precedence over the proposals being contrary to the land use designation and business and industry policy of LDP 1 and in this regard the application is considered to be an acceptable departure that can be supported.

Part C: Provision of emerging Development Plan (LDP2) and Examination

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) has concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and has issued its Examination Report on 10th January 2022. The Examination Report and LDP 2 now forms a substantial material consideration in the determination of planning applications. The Examination Report, Reporters Recommendations and the intention to adopt LDP 2 will be submitted to Council in March 2022 for approval to submit the Plan for adoption to the Scottish Government.

The following provisions of the development plan are considered relevant to the consideration of this application:

- LDP2 Spatial Strategy
- LDP2 Spatial Strategy - Strategic Policy 1 Sustainable Development
- LDP2 Spatial Strategy - Strategic Policy 2 Development Management
- LDP2 Proposals Map – General
- LDP2 Proposals Map - Ayr
- LDP2 Policy - Business and Industry
- LDP2 Policy - Newton-on-Ayr
- LDP2 Policy - Development Opportunities
- LDP2 Policy – Delivering Infrastructure
- LDP2 Policy - Town Centre First Principle
- LDP2 Town Centre (Guiding Land Use)
- LDP2 Maintaining and Protecting Land for Housing
- LDP2 Residential Policy Within Settlements, Release Sites and Windfall Sites
- LDP2 Policy – Affordable Housing
- LDP2 Policy - Open Space
- LDP2 Policy - Flooding and Development
- LDP2 Policy - Air, Noise and Light Pollution
- LDP2 - Low and Zero-Carbon Buildings
- LDP2 Policy - Land Use and Transport

As set out above, the application site is zoned as part of a wider industrial land use designation within LDP 1 and this also remains unchanged with LDP 2. Generally, the policies of the proposed LDP 2 relevant to this application are similar to LDP 1 and the application has been assessed and considered in the same context as the adopted LDP 1. The conclusion of the assessment of the relevant policies for LDP 2 is generally consistent with the conclusions for LDP 1 in so far as the proposed development would not align with the land use designation of the plan and elements of the business and industry policies however other factors and material planning considerations, particularly with regards the housing shortfall case and the opportunity that this application presents to deliver much needed affordable housing, outweigh this in favour of the principle of the development.

The notable difference with LDP 2 compared to LDP 1 and the assessment covered above is that the examination outcome for LDP 2 has established that unlike LDP 1, there is no shortfall in overall in housing land at all tenure and private land levels however there is a significant shortfall in affordable housing provision. The proposed development of this site could contribute towards reducing this shortfall and therefore can be considered an acceptable departure that outweighs the aforementioned land use and spatial planning designation and the business and industrial policies of LDP 2, with other material planning considerations (namely, the application and developments contribution towards reducing the significant shortfall in affordable housing provision) which outweigh the aforementioned policy factors, in support for the principle of development on the site.

(ii) Representations Received

The representations received in relation to the proposal are summarised (italics), and responded to below as follows:

Objections:

Design concerns (layout, design, height and appearance of development):

- *Development is too high, existing buildings not of same height and scale. There is no variation in height which is out of keeping with the area.*
- *Proposal for 3 stories plus the flood lift and peaked roof design will mean that other properties will be dwarfed on all sides and this development will dominate.*
- *Proposals too dense with too many homes being squeezed onto a confined site. Lack of detail and absence of balconies on the North Harbour Street elevation is out of keeping with the neighbouring buildings*
- *The building is too close to the pavement. If it was set back it would make the streetscape more attractive and would allow other buildings in the locality not to be dominated.*
- *The 'prominent corner' is referred to several times in the Design Statement but the design of that part of the building is unattractive.*
- *There is no on-site provision for bike stores. These would encourage active travel and take advantage of the National Cycle Network Route 7 (which passes close by on Main Street) and further the Council's active travel strategy.*

The purpose of this application is to establish whether the site is, in principle, a suitable location for a residential development. Given the nature of the application, which is for planning permission in principle, no further details of the residential units, design or layout proposed requires to be submitted. While some limited information has been provided, this is purely indicative at this stage and there is insufficient information to enable the proper consideration of the proposals against the design concerns raised. It would be for further more detailed applications to consider the design details of the proposals, if planning permission in principle was to be granted.

With regards to the specific point raised regarding concerns for the absence of bike stores as part of the development, a condition has been included which stipulates requirements for on-site cycle parking and storage facilities to be included in the design of the detailed residential development, if planning permission in principle is to be granted.

Amenity concerns:

- *Proximity to other properties resulting in over-looking.*
- *Over-shadowing and a loss of light.*
- *Increased noise and activity compared to previous use*
- *Lack of community facilities in the area for the current population, and this would be felt more with this development. In particular there is no communal green space.*

As noted above, given the nature of the application which is for planning permission in principle, no further details of the residential units or layout proposed requires to be submitted. While some limited information in relation to a suggested possible design and layout has been provided, this is purely indicative at this stage and there is insufficient information to enable the proper consideration of the proposals against the potential impact on the amenity of nearby properties. It would be for further more detailed applications to consider the design details of the proposals and if/how they may impact on the amenity of nearby and adjoining properties, if planning permission in principle was to be granted.

In terms of the points raised regarding the lack of community facilities in the area, this is not a matter which this planning permission in principle application could reasonably be assessed or considered against. The applicant has confirmed that the development will provide on-site green infrastructure and open space provision to serve future residents and this is gestured to on the indicative layout plans provided. The requirements to deliver on-site open space have been included as a condition and this would once again be for further more detailed applications to consider and secure, if planning permission in principle was to be granted.

Traffic/Transport and infrastructure concerns:

- *Access to the site - the proposed car park is too narrow from York Street Lane, pavements on York Street Lane very narrow and will not support two cars meeting.*
- *Proposed parking is insufficient and too close to other properties, potential for increased on-street parking on Green Street and North Harbour Street where there is already a shortage.*
- *Increase in traffic from development including those providing services to the homes, bin lorries, delivery/courier drivers, visitors, traffic noise and activity previously restricted to hours of 8-5 (Mon-Sat) and this development will now mean potential traffic 24/7.*
- *The alternative route to Main Street, using Crown Street, has two junctions which are already difficult for pedestrians. Back Main Street is busy with Aldi traffic and Main Street where there are three lanes of traffic to cross.*
- *Sections of the pavements on the most direct route to the town centre are only wide enough for one person.*
- *Pedestrian access to nearest shops, amenities and bus stops is difficult. The most direct routes are poorly lit, badly maintained and used for anti-social purposes. They are unpleasant to use during the day and unsafe to use at night.*
- *Given the above, the development would not meet the Council's Plan 2018-2022 commitment to 'work with communities on opportunities for older people to be active and socialise within their community'.*

The Ayrshire Roads Alliance (ARA) has been consulted on the proposals and has offered no objection to the principle of the residential development of the site. As part of their response they have recommended various planning conditions in relation to parking and access so as to inform the details of future residential proposals. These matters would be addressed as part of more detailed applications, if planning permission in principle was to be granted.

More broadly and in considering the proposals, the ARA will have considered the adequacy of the existing local road network, and the pedestrian footpaths adjacent to the site and they have raised no specific issues nor have they requested any conditions or recommendations for infrastructure contributions which suggest that either are insufficient to support a future residential development. As noted elsewhere in the report, the site is noted to benefit from a short distance from the town centre and its public transport connections. It is also understood that public buses routes travelling to and from the town centre are located at Main Street, which is in close proximity to the site.

In terms of the specific concerns raised in relation to the perceived unsuitability of York Street Lane to serve and access the developed, it should be noted that this is not being proposed as an access to the site for the residential development. The Transport Statement sub-section contained within the Technical Supporting Statement confirms that the residential development would only have one access with this being the existing access on Green Street and this would be used for vehicles to access the rear parking court.

Finally and with regards to the Council Plan, the application has been appropriately considered against the policy provisions of LDP 1 and LDP 2 which provides the statutory framework for the assessment of applications for planning permission.

General and other technical concerns:

- *Potential disruption and/or damage to neighbouring properties during construction due to proximity (in particular potential for foundations and ventilation of neighbours to the site to be impacted).*
- *Potential anti-social behaviour from residents with at least 40 new neighbours and families being introduced to the area.*
- *Construction works will disturb asbestos, mine workings, hazardous gas flow, hydrocarbon contamination which will be dependent upon how much groundwork and removal is required, proposed development for affordable housing is being built on contaminated soil.*
- *Site is at high risk of flooding and is being situated in an area where SEPA issue regular alerts to residential properties.*

The purpose of this application is to consider the land use planning merits of the principle of a residential development at the site. That being the case, it would be for future more detailed application to consider the design details of the proposals, if planning permission in principle was to be granted. Notwithstanding this, any damage to properties or neighbouring land that could or may occur at construction stage would be a private legal matter. Equally, it is relevant to note in response to the specific concerns raised regarding potential anti-social behaviour and disruption from the development, these are not material planning considerations which can be afforded weight in the assessment of this application.

Environmental Health regulate the hours of operation of construction sites and as such any construction activity on the site would have to work to certain parameters including restricted hours and days. A condition has been included which limits construction hours to defined times/days. With regards to site contamination issues, the Council's Environmental Health Service is responsible for ensuring that the applicant appropriately deals with any contamination issues, in accordance with the relevant legislation. As part of this, they have requested a condition which covers the potential for future un-encountered contamination and this is included below.

In terms of the specific concerns regarding the disturbance and implications of mine workings, The Coal Authority have confirmed in their consultation response that they have no objections to the proposed development. This follows on from the review of the Coal Mining Risk Assessment that has supplied as part of the application.

Finally, with regards to the flooding matters raised, As noted above, SEPA has confirmed that the site is not at risk of flooding. A comprehensive Flood Risk Assessment (FRA) accompanies this application and this provides evidence as to how a residential development, subject to existing site characteristics and proposed mitigation measures, could be accommodated on the site. SEPA endorse the FRA and its findings and conclusions. A condition is proposed which requires the development to be constructed in line with the FRA including any mitigation proposed.

Support:

- *The development will refurbishment, enhance and regenerate the area with the current abandoned and derelict Jewson's site now a complete eyesore.*
- *The development will provide accommodation within walking distance of the town centre and this will be of benefit to future residents but also the services and amenities available in the town centre due to the additional footfall generated.*
- *The redevelopment of the residential site will also provide an opportunity to address the issue of seagulls which use the vacant premises as a prime nesting site over summer months. These seagulls cause considerable noise disturbance, bin raiding, fouling and pedestrian swooping and so long as these proposals provide preventative actions to prevent/reduce seagull nesting on the roofs of residential properties, it will be beneficial to all local residents in the area.*

The terms of the supporting comments with regards to visual and environmental improvements and the benefits of the proximity of the site to Ayr town centre are noted. In terms of the matters raised regarding addressing the issues surrounding seagulls, the Council's Environmental Health Service have advised that they would be responsible for addressing any such issues should they become or constitute a nuisance at a later date.

(iii) Planning History

As previously outlined, a Planning permission in principle application (20/00920/PPP), which proposed the erection of a residential development was submitted to the Council in November 2020. Following assessment, the Planning Authority considered that the application did not provide sufficient information to evidence and justify that the future use of the land and premises for industry or business is unlikely. On this basis, they considered that the proposed for a non-commercial use had not been robustly justified and as a result the proposal was premature. A Regulatory Panel report was drafted by Planning Authority and following review and consideration the applicant/agent made the decision to withdraw the application before it was considered by the Panel.

The applicant/agent have demonstrated cognisance and understanding to the position previously taken by the Planning Authority and this is reflected in some of the information and material which accompanies this application (e.g. the re-submission). Whilst the Marketing Appraisal report does not effectively evidence why future use of the land and premises for industry and business is unlikely and no weight or justification can be given to this, the Addendum Planning Statement to the previous Planning Statement is more compelling and sets out a line of justification which was not previously presented in support of the proposed development.

The additional material and information submitted as part of this application compared to the previous, in so far as the Addendum Planning Statement is considered significant in this case and the justification presented has allowed the Planning Authority to consider the proposals favourably and in turn to recommend approval.

(iv) Impact on the Locality

Given the nature of the application, which is for planning permission in principle, no further details of the residential units or layout proposed requires to be submitted. While some limited information in relation to a suggested possible design has been submitted, there is insufficient information to enable the proper consideration of the details of the proposals.

The Council's Environmental Health Service has already referenced the need for the development to meet various acoustic requirements and these are included as planning conditions to this report. Compliance with these acoustic and noise requirements alongside the Agent for Change' (which is established as the responsible test to mitigate any environmental impact on existing neighbouring land uses) would be for the applicant to evidence as part of further more detailed applications can be achieved and complied with.

Notwithstanding all of the above and as previously set out in earlier sections above, as evidenced by the presence of a number of existing residential dwellings within the locality, it is reasonable to consider that residential land uses are capable of co-existing in this mixed use area despite the wider industrial and business designation. In principle, there is no reason at this time to suggest that such compatibility (subject to further detailed consideration and potential mitigation) could not also potentially be reasonably achieved for a residential development on the application site.

8. Conclusion:

Planning permission in principle is sought for the erection of residential development on land at the former Jewsons site, Green Street, Ayr. An assessment of the planning merits of the proposals is set out above and this includes an assessment against the various material planning considerations; the provisions of the LDP 1, LDP 2, Scottish Planning Policy, supplementary guidance, consultations, representations received (four in total), planning history and the impact of the proposed development on the locality.

Although the site is designated as part of a larger area which is zoned for industrial use and is subject to assessment against the industry and business policies within LDP1 and LDP2; the same policies of the plans also allow for a flexible approach for development in Newton on Ayr which allows consideration for alternative uses subject to sufficient justification and evidence being provided.

Even though the proposals fails to capitalise upon this flexibility in terms of providing an adequately reasoned and evidenced case that the site is unlikely to be developed for industry or business in the future, significant weight is given to the merits of the proposed developed as presented by the applicant/agent as part of the application. This includes the fact that the proposed residential development will contribute to addressing an accepted shortfall in housing land supply in LDP 1, that it will provide affordable housing provision and contribute to towards addressing a significant shortfall (particularly relevant with regards to LDP 2), that it constitutes a 'sustainable development' under the terms of Scottish Planning Policy and finally that it is offering a tangible proposal to regenerate and redevelop a semi-derelict and brownfield site. Developments which contribute to addressing an established shortfall in housing land supply, constitutes sustainable development and also the reuse brownfield land is strongly supported in the strategies of the development plans and also more broadly within Scottish Planning Policy and this is evident in the assessment in this case.

Therefore, the proposal is considered to be line with these requirements and on this basis it can be considered as an acceptable departure to the relevant land use designation of the spatial strategies and business and industrial policies of LDP 1 and LDP 2. In this instance, that the above justification and reasoning outweighs the land use designation and the criteria contained within the industrial and business policies of the development plans.

In addition to all of the above and whilst this did not form an integral part of the applicants justification, weight is also given to the fact that the application site is situated at a strategic, close to town centre, harbour and marina fronting location. In this regard, it is considered that the application provides a real opportunity to deliver a high quality, placemaking focused residential development which meets with a number of sustainability, design and regeneration targets set out within the policies of the plans, the associated supplementary guidance and national planning guidance. This approach will be achieved through a suite of appropriately worded planning conditions that will help to inform the detailed design.

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

9. Recommendation:

It is recommended that the Director of Place be granted delegated powers to approve this application for planning permission in principle subject to the condition(s) set out below:

Conditions:

1. No development shall commence until such time as approval of the detailed design of the residential development (hereinafter called "Approval of Matters Specified in Conditions") has been granted by the Planning Authority. Any application for approval of matters specified in conditions shall be submitted before the expiration of three years from the date of this planning permission in principle and shall include:
 - a) The overall site layout/internal layout of the development;
 - b) The orientation, size, height, design and external appearance and finishing materials of residential buildings;
 - c) The means of drainage and sewage;
 - d) Details of the full vehicular and pedestrian access arrangements;
 - e) Provisions for car parking;
 - f) Boundary walls/fences to be erected and/or retained;
 - g) Existing and proposed site levels and floor levels;
 - h) Hard and soft landscaping arrangements;
 - i) Public and private open space.

2. This permission in principle, subject to the specified planning conditions, relates to the plans listed below unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority. For the avoidance of any doubt, the requirements of the conditions of this permission will necessitate an amendment to some of the plans listed below including the 'Site Plan as Proposed' (Drawing No. AL (00)03)), Proposed Sketch Perspectives (Drawing No. AL-XX-01) and the associated Design Statement (Denham Benn, November 2021).
3. The indicative design and layout of the residential flatted blocks shown on drawings; 'Site Plan as Proposed' (Drawing No. AL (00)03)), Proposed Sketch Perspectives (Drawing No. AL-XX-01) and the associated Design Statement (Denham Benn, November 2021) are hereby not approved. The Approval of Matters Specified in Conditions application required by Condition 1 shall include a revised building design, massing, appearance and layout which seeks to deliver a high quality, placemaking approach that effectively responds to the urban, close to town centre and harbour/marina fronting location of the application site. In addition to this, the revised design shall also be fully compatible with neighbouring and surrounding properties and details shall be included to demonstrate that the proposed residential buildings will not unduly impact existing neighbouring and surrounding properties by way of overshadowing or overlooking. The revised design of the development will demonstrate compliance with the requirements of the Local Development Plans and government policy including 'Creating Places' and 'Designing Streets' together with the Council's Guidance on 'Open Space and Designing New Residential Development' and 'New Housing Developments and Affordable Housing'.
4. All residential units proposed on site and subject to Approval of Matters Specified in Conditions applications shall constitute affordable housing provision in line with the approved 'Addendum Planning Statement' (McInally Associates, December 2021). The affordable housing shall meet the definition of 'affordable housing' (namely housing of a reasonable quality that is affordable to people on modest incomes) in the Scottish Government's 2014 'Scottish Planning Policy' or any future government policy that replaces it.
5. Further to Condition 1 part c) above, the Approval of Matters Specified in Conditions application shall include full details of a suitable Sustainable Urban Drainage System designed and constructed in accordance with SUDS Manual CIRIA C735 and other relevant guidance to serve the development. The Sustainable Urban Drainage System should be designed to ensure that infrastructure and buildings are generally free from surface water flooding in rainfall events and 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, if the chosen Sustainable Urban Drainage System solution requires discharge to an open water course then this discharge rate shall be agreed with the Flood Risk Management Authority.
6. Further to Condition 1 part e) above, the Approval of Matters Specified in Conditions application shall provide off road parking spaces provided within the existing site boundary in accordance with the Council's Roads Development Guide. In each case, parking bays shall be a minimum 5.5 metres x 2.9 metres with minimum aisle widths of 6m and provision should also be made for both disabled parking bays and electric car charging points parking bays within the proposed parking layout.
7. Further to Condition 1 part i) above, the Approval of Matters Specified in Conditions application shall include detailed supporting information illustrating compliance with the Council's planning guidance in relation to 'Open Space and Designing New Residential Developments' and/or any subsequent document prepared by the Council in relation to the provision of open space for residential areas. As part of this, such details shall include annotated plans showing the exact locations and volumes of open space including their appearance, make-up and associated features (including street furniture) alongside a supporting documentation/statement which provides understanding of the nature, function and role of the areas of open space(s) proposed.
8. Further to Condition 1 part h), the Approval of Matters Specified in Conditions application shall include a detailed landscape scheme comprising of a full planting schedule and ongoing maintenance arrangements for the development.

9. That the presence of any previously unsuspected or un-counteracted contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority within one week, and work on site shall cease. At this stage, if requested by the Planning Authority, a comprehensive contaminated land investigation shall be carried out and shall be submitted to for the formal prior written approval of the Council as Planning Authority. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution 'The investigation of potentially contaminated sites-Code of Practice' BS 10175: 2001, or as may be amended). The report shall include a site-specific risk assessment of all relevant pollutant linkages, as required in Scottish Government Planning Advice Note 33 (or as may be amended). Any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, shall be the subject of a detailed remediation strategy which shall be submitted for the formal prior written approval of the Council as planning authority. Remediation of the site shall be carried out in accordance with the approved remediation plan prior to the occupation of any residential property as part of the development. Any amendments to the approved remediation plan shall not be implemented unless approved in writing by the Planning Authority.

10. The Approval of matters specified in conditions application shall include, a Noise Impact Assessment prepared by a suitably qualified person. The Noise Impact Assessment shall be carried out in accordance with the principles outlined in Technical Advice Note (TAN) Assessment of Noise and shall identify all noise sensitive receptors located within the application site in the high and medium category (Table 2.1 TAN) and the level of significance determined. The maximum target noise levels within the noise sensitive receptor to be used in the assessment shall be:

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

Where a potential for noise disturbance is identified in relation to the receptors above, proposals for the attenuation of that noise shall be included as part of assessment to ensure internal and external noise levels can be achieved. Any such approved noise attenuation scheme shall be implemented prior to the occupation of any of the residential properties within the site and shall thereafter be retained in accordance with the approved scheme unless otherwise agreed in writing by the Planning Authority.

11. Further to Condition 10 above, prior to the occupation of any of the residential flatted buildings or properties identified as noise sensitive receptors in the Noise Impact Assessment approved, a Verification Report, prepared by a suitably qualified professional shall be submitted to and approved in writing by the Planning Authority. This verification report shall demonstrating compliance and validation of the maximum noise projections and effectiveness of the noise attenuation measures detailed within the approved 'Noise Impact Assessment' Report (approved through Condition 11). These levels and measures as agreed and validated within the approved Verification Report shall be maintained for the lifetime of the development thereafter unless otherwise agreed in writing by the Planning Authority.

12. The final design of the layout of the residential development and finished site and floor levels approved as part of subsequent Approval of Matters Specified in Conditions applications shall be undertaken in accordance with the approved Flood Risk Assessment (Environcentre, January 2021) including the mitigation measures contained within.

13. Prior to the commencement of development on site, details of an effective vehicle wheel washing facility shall be submitted to and approved by the Planning Authority. Thereafter, the approved wheel washing facility shall be installed prior to any construction work associated with the development commencing. It shall remain in place for the duration of the construction activity until the development is complete unless otherwise agreed in writing by the Planning Authority.

14. During the period of construction, all works and ancillary operations which are audible at the site boundary (or at such other place(s) as may first be agreed in writing with the Planning Authority), shall be carried out between the following hours unless otherwise approved in writing by the Planning Authority:

- Mondays to Fridays: 0700-1800
- Saturdays: 0700-1200
- Sundays and public holidays: No working

15. Unless otherwise agreed in writing, no development shall commencement on site until a Travel Plan is submitted and approved in writing by the Planning Authority (in consultation with the Roads Authority). The Travel Plan shall include information and details on the following:
- Identify, walking, cycling and public transport facilities, services and opportunities within the vicinity of the development site, including journey times by sustainable modes of transport to key local destinations.
 - Identify measures to promote sustainable travel to and from the site and measures and actions to reduce private car dependence.
 - An information pack which will be provided to future occupants of the development to ensure that they are aware of the public transport and active travel options available within the area.
 - A system of management, monitoring, review, reporting the effectiveness of the Travel Plan and the measures proposed.
- Thereafter, the approved Travel Plan including any measures identified shall be implemented in a timescale to be agreed in writing by the Planning Authority and shall thereafter remain in place for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
16. Prior to the commencement of development on site, details and specifications as to how the discharge of water onto the public road carriageway shall be prevented by drainage or other means shall be submitted to and approved in writing by the Planning Authority (in consultation with the Roads Authority). Thereafter, the approved drainage or other measures and features shall be installed prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
17. Prior to the commencement of development on site, details and specifications of the surfacing works to the private access to the site shall be submitted to and approved in writing by the Planning Authority. Such details shall ensure that the private access is surfaced for a minimum of 10 metres as measured from the rear of the public footway. The approved surfacing details and arrangements shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
18. Prior to the commencement of development on site, details and specifications showing the design and specification of a turning area capable of allowing service vehicles to turn within the site boundaries whilst accessing the proposed bin storage area shall be submitted to and approved in writing by the Planning Authority. The turning area proposed shall be in accordance with the Council's Roads Development Guide. The approved turning area and arrangements shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
19. Prior to the commencement of development on site, details and arrangements for the location of bin collection points and the design of bin store and refuse facilities shall be submitted to and approved in writing by the Planning Authority. As part of this, such details shall show bin collection points to be located a maximum of 15 metres from the public carriageway. The approved bin collection points and bin store/refuse facility details shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
20. Prior to the commencement of development on site, details of the design and location of on-site cycle storage and cycle parking provision shall be submitted to and approved in writing by the Planning Authority. Such details shall include for the provision of a lockable and covered cycle stand accommodating a minimum of 1 no. cycle per dwelling within the site boundaries. The approved cycle storage and parking provision shall be installed and undertaken prior to the occupation of any residential property within the site and shall be maintained as such within the site for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.
21. That junction access visibility sightline splays of 2.4 metres by 45 metres shall be maintained in both directions at the junction with the public road. There shall be no obstacle greater than 1.05 metre in height within the visibility sightline splays.

22. Unless otherwise agreed in writing, prior to the occupation of any residential property within the site, the proposed access shall be constructed in accordance with the specification in the Council's Roads Development Guide, and to be a minimum of 5.5 metres wide over its initial 10 metres, as measured from the rear of the public footway.
23. Unless otherwise agreed in writing, prior to the occupation of any residential property within the site, the existing footway crossing shall be removed and the footway reinstated in accordance with the specifications in the Council's Roads Development Guide.
24. Any gates proposed as part of the development shall be set back a minimum distance of 6 metres from the rear of the public footway and open inwards away from the public roadway.

Reasons:

1. To be in compliance with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by section 20 of the Planning etc. (Scotland) Act 2006. In order to retain proper control over the development proposal.
2. 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 20 of the Planning etc. (Scotland) Act 2006.
3. In the interest of proper planning and placemaking of the area and to ensure the design and layout of the residential development maximises the sites potential and complies with the requirements of the Local Development Plan and government policy including 'Creating Places' and 'Designing Streets' together with the Council's Guidance on 'Open Space and Designing New Residential Development' and 'New Housing Developments and Affordable Housing'.
4. To ensure that the future residential development is progressed and delivered in line with the proposals and justification presented at planning permission in principle stage and to ensure that the flexibility afforded to the development in terms of developer contributions remains justified.
5. To ensure the site is drained in an acceptably sustainable manner and the drainage infrastructure is properly maintained.
6. In the interest of road safety and to ensure adequate off-street parking provision which is sufficient for manoeuvring and turning.
7. To comply with the Council's supplementary planning policy guidance in relation to open space and in the interests of the proper planning of the area.
8. In the interests of visual amenity and to ensure that adequate hard and soft landscaping is in place for the site.
9. To ensure all contamination within the site is dealt with.
10. To prevent road, business and industrial noise nuisance in the interest of residential amenity.
11. To prevent road, business and industrial noise nuisance in the interest of residential amenity.
12. In order to ensure no increased flood risk within and out with the development site.
13. In the interest of road safety and to ensure no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which will cause a nuisance or hazard to the road system in the locality.
14. In the interests of the amenity of residential properties in the vicinity.
15. To encourage sustainable means of travel and to ensure the development maximises and facilities opportunities for sustainable travel.
16. In the interest of road safety and avoid the discharge of water on to the public road.
17. In the interests of road safety and to ensure an acceptable standard of construction.
18. To enable service vehicles to enter and leave the site in forward gear and in the interests of road safety.
19. In the interest of road safety and to ensure that adequate provision is made for pedestrians.
20. To ensure adequate provision of cycle storage and cycle parking on site and to encourage sustainable means of travel.
21. In the interest of road safety and to ensure acceptable visibility at road junctions.
22. In the interest of road safety and to ensure an acceptable standard of construction.
23. In the interest of road safety and to ensure an acceptable standard of construction.
24. In the interest of road safety.

Advisory Notes:

The Coal Authority

- The Coal Authority is satisfied with the conclusions of the Coal Mining Risk Assessment (November 2021) informed by the site investigation works, based on the professional opinion provided by Mason Evans Partnership Limited; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, the Coal Authority does not object to the proposed development and no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues. Notwithstanding this, in the interests of public safety, we request the following as an Informative Note:
- The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority (0345 762 6848). Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

Scottish Water

- All proposed developments require to submit a Pre-Development Enquiry (PDE) to be submitted directly to Scottish Water via our Customer Portal prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals. Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer which Scottish Water can contribute towards through Reasonable Cost Contribution regulations. As network upgrades will be required to support this development, it is recommended that a PDE is submitted at your earliest convenience.
- The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.
- For reasons of sustainability and to protect our customers from potential future sewer flooding. Scottish Water will not accept any surface water connections into our combined sewer system. There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges. In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.
- Scottish Water asset plans can be obtained from our appointed asset plan providers: Site Investigation Services (UK) Ltd, Tel – 0333 123 1223, Email – sw@sisplan.co.uk, www.sisplan.co.uk
- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

Ayrshire Roads Alliance

- Road Opening Permit – This shall be applied for, and obtained from the Council as Road Authority, for any works within the public road limits, 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.
- Cost 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.
- Fire Exits – Any fire exit to the public road shall be maintained free of obstruction at all times.

List of Determined Plans:

- Location Plan (Drawing No. AL-00-01)
- Existing Site Plan (Drawing No. AL-00-02)
- Proposed Site Plan (Drawing No. AL-00-03)
- Proposed Sketch Perspectives (Drawing No. AL-XX-01)
- Site Layout and Photographs (Drawing No. D/001)
- Design Statement (Denham Benn, November 2021)
- Planning Statement (McInally Associates Ltd, November 2021)
- Addendum Planning Statement (McInally Associates Ltd, December 2021)
- Flood Risk Assessment (Environcentre, January 2021)
- Market Appraisal Report (North Property Advisors, November 2021)
- Historic Marketing Information and Evidence
- Supporting Technical Statement (Clancy Consulting, November 2021)
- Site Investigation Report (Mason Evans, January 2021)
- Coal Mining Risk Assessment (Mason Evans, November 2021)

Background Papers:

- Application form, plans and submitted documentation
- Consultation Responses
- Representations
- Adopted South Ayrshire Local Development Plan 1
- Town Centres and Retail Local Development Plan
- Modified proposed South Ayrshire Local Development Plan 2
- Supplementary Guidance: 'New Housing Developments and Affordable Housing'
- Supplementary Guidance: Maintaining an Effective Five-Year Land Supply
- 'Open Space and Designing New Residential Developments' Guidance
- Scottish Planning Policy (SPP)

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:

Mr Ross Lee, Supervisory Planner - Place Planning - Telephone 01292 616 383