

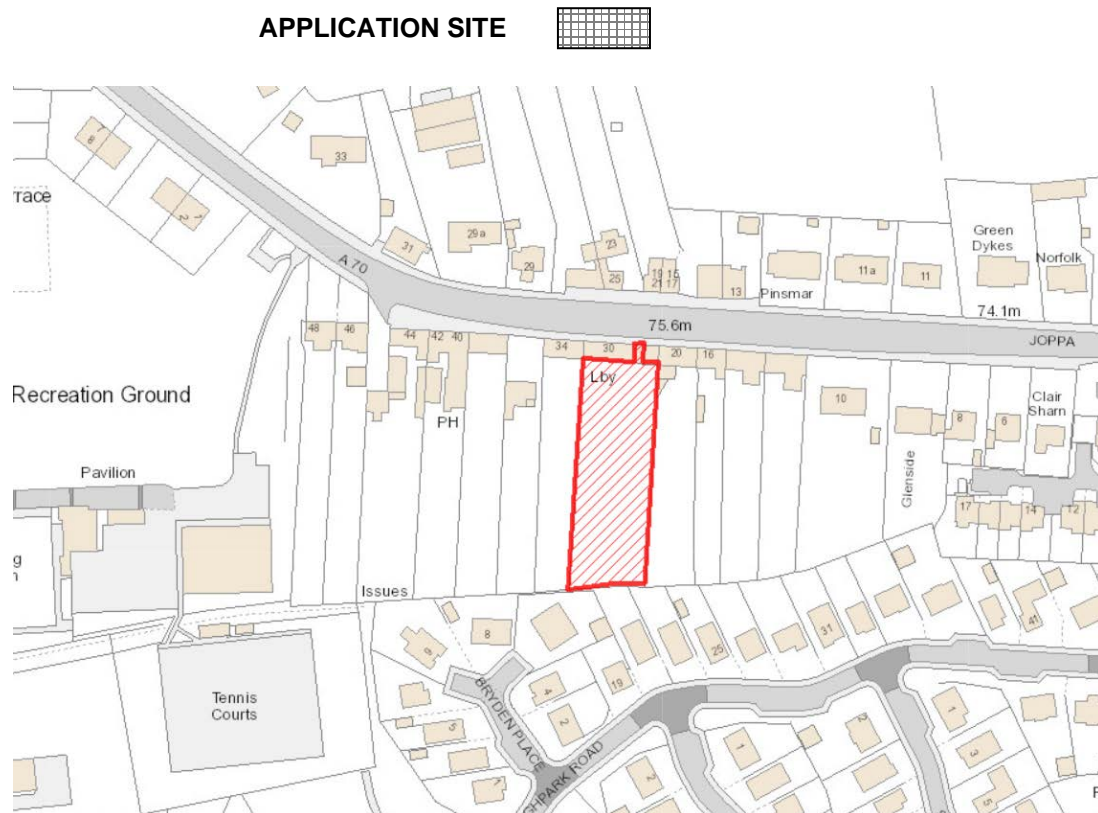
REGULATORY PANEL: 15 SEPTEMBER 2022

REPORT BY PLACE DIRECTORATE

22/00526/APP

LAND TO THE REAR OF 30 JOPPA COYLTON SOUTH AYRSHIRE

Location Plan



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Summary

Planning permission is sought for the 'change of use of vacant land to form a community garden' on land to the rear of 30 Joppa, Coylton. The application submission shows the formation of 8 x 'garden zones', the planting of 2 x flower beds, the formation of a paved patio area and the formation of access paths. The existing hedging, which defines the boundary of the site are to be filled and retained; while the existing trees/ shrubs located to the rear of the site (subject of TPO 50 - Hole Road) are to be retained. The application submission also intimates that additional screen fencing shall be erected so as to afford neighbouring properties a greater level of privacy. The application submission is accompanied by a Supporting Statement which sets out the background and rationale behind the application proposals.

The application has been assessed against the various material planning considerations which include the provisions of the development plan Scottish Planning Policy, PAN65, consultations, representations received, and the impact of the proposed development on the locality. The assessment concludes that the proposed development broadly aligns with the policy provisions of the local development plan. The consultation responses do not raise any issues of overriding concern. The matters raised in the representations have been fully considered, but do not raise any issues that would merit a different recommendation. Overall, there are no policy objections. It is considered that the proposal will not have an unacceptable impact on the character, setting or appearance of the site, or the wider locality. The application has been considered in this context. Accordingly, the application is recommended for approval, subject to conditions.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL: 15 SEPTEMBER 2022

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00526/APP
SITE ADDRESS:	LAND TO THE REAR OF 30 JOPPA COYLTON SOUTH AYRSHIRE
DESCRIPTION:	CHANGE OF USE OF VACANT LAND TO FORM COMMUNITY GARDEN.
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.

1. Proposal:

Planning permission is sought for the 'change of use of vacant land to form community garden' on land to the rear of 30 Joppa, Coylton.

The application site is located to the rear of the property located at 30 Joppa, Coylton. Historically, the property at 30 Joppa, Coylton was utilised as a community library; however, the library was closed on 2016. It is understood that the property is now occupied by Lodge Coila (a Class 10. non-residential institution). The application site comprises vacant/ disused land associated with the property at 30 Joppa, Coylton. The application site is bound to the west, east and south by garden ground associated with neighbouring residential properties located at Joppa, High Park Road and Bryden Place. The site is accessible via a pend which connects directly to/from the public footpath which runs adjacent to Joppa/ the A70. The application site is identified as being within a residential area, as prescribed by the adopted South Ayrshire Local Development Plan. The rear boundary of the application site also includes a tree belt which is afforded protection by Tree Preservation Order (TPO) 50 - Hole Road.

Planning permission is sought for the 'change of use of vacant land to form a community garden'. The application submission shows the formation of 8 x 'garden zones', the planting of 2 x flower beds, the formation of a paved patio area and the formation of access paths. The existing hedging, which defines the boundary of the site are to be filled and retained; the existing trees/ shrubs located to the rear of the site (subject of TPO 50 - Hole Road) are also to be retained.

This application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as more than five competent written objections have been received.

Regulatory Panel (Planning):

Report by Place Directorate (Ref: 22/00526/APP)

2. Consultations:

Ayrshire Roads Alliance - offer no objection subject to condition.

Transport Scotland (Trunk Roads) - do not propose to advise against the granting of planning permission.

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 application submission is accompanied by a Supporting Statement which explains that the proposals are intended to enhance the village, promote health and wellbeing and encourage all members of the community to take ownership and be proud of their own village garden space.

The Supporting Statement also indicates that the operating hours of the community garden will be as follows: -

Summer – 9am – 6pm*

Winter – 9am – 4pm*

*It is proposed that the garden would operate during daylight hours with these being the latest closing times.

Finally, the Supporting Statement provides an overview of the perceived parking and residential amenity impact, as well as noting that the garden will be used by the Local Primary School and Early Years Centre.

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:

16 representations have been received, 7 of which object and 9 of which support the proposed development. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The concerns of the objectors can be summarised as follows:

- The development is contrary to the Local Development Plan and the principle of Scottish Planning Policy (SPP);
- Impact of the proposed development on the residential amenity (noise, overlooking and light pollution) of neighbouring properties at Bryden Place, Highpark Road and Joppa;
- Concerns relating to the layout, design and visual appearance of the development;
- Flooding and drainage concerns – specifically that the development proposal is to be built on a flood plain;
- Traffic/ parking/ road safety concerns;

Regulatory Panel (Planning):

Report by Place Directorate (Ref: 22/00526/APP)

- o Natural heritage/ ecological concerns;
- o Lack of infrastructure capacity relating to toilet provision, waste disposal;
- o Anti-social behaviour/ security concerns;
- o Concerns regarding the viability of the development proposal;

The comments made in support of the application proposals generally indicate that the proposed community garden would represent a much needed and welcomed facility for Coylton.

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, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

(i) Development Plan

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; the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

The following provisions of the South Ayrshire Local Development Plan 2 are considered relevant to the consideration of this application and the policies can be viewed in full online at <http://www.south-ayrshire.gov.uk/planning/planlpdocuments.aspx>

- o Core Principle B2
- o Strategic Policy 1: Sustainable Development;
- o Strategic Policy 2: Development Management;
- o Open Space;
- o Community Facilities; and
- o Preserving Trees.

The proposal has been assessed against LDP2' Core Principle B2 and is found to be in accordance with that principle in that the application proposals are considered to support community focused development by facilitating the development of a leisure facility.

Strategic Policy 1: Sustainable Development and Strategic Policy 2: Development Management seek to ensure that development is appropriate in terms of its impacts on local amenity and that its layout, scale, massing, design and materials are acceptable in relation to its surroundings. In addition, development should be suitable in terms of its bearing on residential amenity, infrastructure implications and contribute to the efficient use of public services and facilities.

The physical works associated with the application proposals are minor and will have a minimal impact when viewed outwith the application site. The physical works will formalise the proposed community garden space which is considered will improve the visual amenity of the locale. Additional screening is proposed on the mutual boundaries of the application site and a condition can be attached which requires for full details of the screening to be agreed by the Council as Planning Authority before works commence on site. Further consideration of the impact of the proposals on the residential amenity of properties in the vicinity, is set out below.

It is considered that the use of the application site as a community garden, would improve, not only the facilities for the local community, but also the amenity value of the area for the benefit of residents and the wider community.

Regulatory Panel (Planning):

Report by Place Directorate (Ref: 22/00526/APP)

The LDP2 policy in relation to community facilities seeks to support community facilities. In this regard, the proposals to provide a community garden are considered to be entirely consistent with this policy objective of the LDP2.

As set out above, the rear boundary of the application site includes a tree belt which is afforded protection by TPO 50. - Hole Road. The application submission indicates that no works are to be undertaken to these trees and therefore the value of these trees will not be compromised as a consequence of the application proposals.

Given the above policy context, the principle of the development proposal is considered to be in accordance with the afore-mentioned policy provisions of the local development plan.

The provisions of the Adopted South Ayrshire Local Development Plan 2 must be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

(ii) Other Policy Considerations (including Government Guidance)

o Scottish Planning Policy

Scottish Planning Policy (Maximising the Benefits of Green Infrastructure) seeks to protect, enhance and promote green infrastructure, including open space, as an integral component of successful placemaking; improving access to open space seen as helping build stronger, healthier communities, an essential part of long-term environmental performance and climate resilience and improving places and spaces.

o Planning Advice Note 65 - Planning and Open Space

Planning Advice Note - PAN65 - Planning and Open Space recognises that "open spaces are important for our quality of life. They provide the setting for a wide range of social interactions and pursuits that support personal and community well-being. They allow individuals to interact with the natural environment and provide habitats for wildlife. They can also be important in defining the character and identity of settlements". PAN 65 considers allotments ('garden zones') to be open space where they are described as "areas of land for growing fruit, vegetables and other plants, either in individual allotment or as a community activity".

o South Ayrshire Open Space Strategy 2012;

The Council has produced an Open Space Strategy. The Strategy, which is based on a quantitative and qualitative audit of open space in South Ayrshire, sets out a vision for the provision, management and maintenance of open spaces within the Council's area. Whilst generally seeking to protect and improve open spaces, the Strategy does not preclude them from being developed - particularly when the development improves the facilities associated with the open space. However, development proposals also require to be considered based on the provisions of the development plan, merits of the proposal and any individual site-specific circumstances arising, and also the planning history of the site.

The proposal would be located within the settlement boundary for Coylton where there is a general presumption in favour of development. Although the proposal would technically see the loss of non-designated open space associated with 30 Joppa, the area that would be lost is overgrown and appears not to be used. Furthermore, the site could easily revert back to open space associated with 30 Joppa as the structures proposed could easily be removed, and the site would be in community use to serve the local community. It is considered that such provision can be of great value to the local community in terms of the development of horticultural skills, concern for the environment and others, physical and mental health and well-being and place-making in general. As such, it is considered that the proposal is acceptable in terms of the above provisions of SPP, PAN 65 and the Council's Open Space Strategy.

(iii) Objector Concerns

The representations received in relation to the proposal are noted, and the following response is offered in respect of the objections received:

- o The development is contrary to the Local Development Plan and the principle of Scottish Planning Policy (SPP);

An assessment of the development proposals against the policy provisions of the Local Development Plan 2 are set out elsewhere in this report.

Regulatory Panel (Planning):

Report by Place Directorate (Ref: 22/00526/APP)

- Impact of the proposed development on the residential amenity (noise, overlooking and light pollution) of neighbouring properties at Bryden Place, Highpark Road and Joppa;

The potential for noise issues arising from the proposal is a matter for the operator of the facility. A condition can, however, be attached to a planning permission which limits the hours of operation and requires for the submission of a management plan clarifying the operational arrangements to demonstrate compliance with the hours of operation restriction.

The boundaries of the application site are defined by mature hedging/ planting and the application submission intimates that additional screen fencing shall be erected so as to afford neighbouring properties a greater level of privacy. A condition can be attached to the permission which requires for details of the proposed boundary fencing to be agreed before the commencement of development on site.

An advisory note can also be attached to the permission which indicates that the flood lighting requires to comply with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light to ensure neighbouring properties are appropriately safeguarded. Taking the recommended planning condition/ advisory note, it is considered that the proposed development will have an acceptable relationship to the residential properties in the vicinity in terms of noise, light, privacy and enjoyment of gardens throughout the year.

- Concerns relating to the layout, design and visual appearance of the development;

As set out above, the physical works associated with the application proposals are minor and will have a minimal impact when viewed outwith the application site. The physical works will formalise the proposed community garden space which is considered will improve the visual amenity of the locale. Additional screening is proposed on the mutual boundaries of the application site and a condition can be attached which requires for full details of the screening to be agreed by the Council as Planning Authority before works commence on site.

- Flooding and drainage concerns – specifically that the development proposal is to be built on a flood plain;

Local residents have expressed concern that the proposals represent an increased flood risk. The application has been the subject of consultation with the Ayrshire Roads Alliance (ARA). ARA undertakes the Flood Prevention role on behalf of the Council and offer no objection to this development on the grounds of flood risk.

- Traffic/ parking/ road safety concerns;

There is no parking proposed for the community garden, the site is designed for local use and in a central location so it is not anticipated that it will generate significant traffic. Nevertheless, condition 2 below is recommended to encourage sustainable alternatives to the private car for users of the garden that rely on transport. The Ayrshire Roads Alliance (ARA) have considered the proposals in full and offer no objection to the application proposals; they have recommended condition 2 be imposed. The proposals are therefore considered acceptable from a traffic/ parking/ road safety perspective.

- Natural heritage/ ecological concerns;

The application site is not protected by way of local wildlife sites, RSPB Important Bird Area or Scottish Wildlife Trust Reserves. NatureScot has produced Guidance on how and when Planning Authorities should consult them on planning applications the application proposals do not meet the criteria for consultation. While there is no requirement to consult NatureScot, an advisory note can be attached to the permission which reminds the applicant of the need to comply with the legislative requirements set out in the Wildlife and Natural Environment (Scotland) Act 2011.

As set out above, the rear boundary of the application site includes a tree belt which is afforded protection by TPO 50. - Hole Road. However, the application submission indicates that no works are to be undertaken to these trees and therefore the value of these trees will not be compromised as a consequence of the application proposals.

- Lack of infrastructure capacity relating to toilet provision, waste disposal;

How a facility in South Ayrshire is used, issues arising from its use and alternative options for the provision of open space facilitates are not material considerations that should be given weight in the consideration of this application proposal. The purpose of this assessment is to consider the planning merits of the development being presented under this application.

Regulatory Panel (Planning):

Report by Place Directorate (Ref: 22/00526/APP)

- o Anti-social behaviour/ security concerns;

It is considered that appropriate usage of the facility should not adversely affect residential amenity. Anti-social behaviour, should it occur, is a matter for the police and/or anti-social behaviour teams.

- o Concerns regarding the viability of the development proposal;

The potential cost of the development is not a material planning consideration that should be given weight in the consideration of this application proposal.

(iv) Impact on the Locality

The proposal to form a community garden at the application site is found to be in accordance with South Ayrshire Local Development Plan 2 Core Principle B2 in that the application proposals support community focused development by facilitating the development of a leisure facility.

The South Ayrshire Local Development Plan 2 Policy: Community Facilities is also particularly relevant to the assessment of the current planning application. This policy supports community and recreational facilities and there is a presumption against development which has a negative effect on those facilities. It is considered that the proposal can create opportunities for all sections of the community to interact in an outdoor recreational setting and therefore, the proposal is considered to meet with the terms of the LDP2 Policy: Community Facility.

The application site is bound to the west, east and south by garden ground associated with neighbouring residential properties located at Joppa, High Park Road and Bryden Place. While it is clear that the proposal will involve pedestrian activity at the application site, it is considered that proper management of the facility will ensure that the residential amenity of neighbouring properties will not be adversely compromised. The supporting statement, which accompanies the application submission, indicates that the gated access to the community garden from Joppa, will be locked outwith opening hours and that users will be considerate to neighbouring properties in terms of noise. Noise nuisance, were to it occur, would be a matter for the Council's Environmental Health Service. A condition can, however, be attached to a planning permission which limits the hours of operation and requires for the submission of a management plan clarifying the operational arrangements to demonstrate compliance with the hours of operation restriction.

The nearest residential properties to the application site are located at Joppa, High Park Road and Bryden Place. The separation distance between the proposed allotments and neighbouring dwellinghouses is considered sufficient enough to safeguard the amenity of the nearby residential properties. Furthermore, the residential properties located to the rear are not considered to be adversely affected by the proposals due to the mature woodland which screens the application site on its southern boundary, while the application submission intimates that additional screen fencing shall be erected so as to afford neighbouring properties a greater level of privacy.

It is also noted that the Ayrshire Roads Alliance and Transport Scotland offer no objection to the proposals from a transport/ road safety perspective. They are satisfied with the proposals as presented subject to condition 2 (travel plan) below being imposed. The comments of the Ayrshire Roads Alliance can be addressed by way of an appropriate planning condition.

Overall, the application proposal seeks to promote green infrastructure as an integral component of successful placemaking; improving access to open space seen as helping build stronger, healthier communities, an essential part of long-term environmental performance and climate resilience and improving places and spaces.

There are no policy objections to the development proposal, which will provide a garden area open to the wider community. Overall, the principle of the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern that cannot be addressed by condition.

Regulatory Panel (Planning):

Report by Place Directorate (Ref: 22/00526/APP)

8. Conclusion:

The application has been assessed against the various material planning considerations which include the provisions of the development plan, consultations, representations received and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern that cannot be addressed by condition. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections and following the above assessment, it is considered that the proposal will not have an adverse impact on the amenity of the locality. Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the application be approved subject to conditions.

9. Recommendation:

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

- (1) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (2) That before occupation of the development a Travel Plan shall be submitted for the prior written approval of the Council as Planning Authority (in consultation with the Council as Roads Authority). The Travel Plan shall identify the measures and initiatives to be implemented in order to encourage modes of travel to and from the development other than by single occupancy private car trips. The Travel Plan shall clearly define the system of management, monitoring, review, reporting and the duration of the plan. The travel plan shall be implemented as approved.
- (3) That the proposed community garden shall not be in use before 9.00am and after 6.00pm and a management plan clarifying the operational arrangements to demonstrate compliance with the hours of operation restriction and how the facility will be secured when not in use, shall be submitted for the prior written approval of the planning authority before facilities become operational. Thereafter, the management plan shall be implemented as approved.
- (4) That prior to the commencement of development, details of the location, height and materials of all new boundary fences, gates or other means of enclosure shall be submitted to the Planning Authority for written approval. Thereafter, the development shall be implemented in accordance with the details approved.
- (5) That notwithstanding the terms of condition 1 above, no sheds or structures shall be erected within the curtilage of the application site without the prior written approval of the planning authority. Thereafter, the shed/ structures shall be implemented in accordance with the details approved.

Reasons:

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (2) To encourage sustainable means of travel.
- (3) In the interests of residential amenity.
- (4) In the interests of residential amenity.
- (5) To retain proper control over the development.

Advisory Notes:

1. That any lighting to be installed on site shall comply with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light to the requirements of Council's Environmental Health Service.
2. Please note that work should be undertaken in compliance with legislation and guidance relating to NatureScot <https://www.nature.scot/professional-advice>

Regulatory Panel (Planning):

Report by Place Directorate (Ref: 22/00526/APP)

List of Determined Plans:

Drawing - Reference No (or Description): 694 B1

Drawing - Reference No (or Description): 694 L1

Drawing - Reference No (or Description): 694 S1

Reason for Decision (where approved):

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

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

Background Papers:

1. Application form, plans and submitted documentation
2. Representations
3. Adopted Local Development Plan 2
4. Scottish Planning Policy
5. South Ayrshire Open Space Strategy 2012
6. PAN65

Equalities Impact Assessment:

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

Person to Contact:

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