

South Ayrshire Council

Report by  
Place Directorate  
to Regulatory Panel of 4 October 2022

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**Subject: Public Access Exemption Order: Prestwick Golf Course 150<sup>th</sup> Open Event 2022**

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**1. Purpose**

- 1.1 This report seeks authority to agree a Council response to the public consultation representations and to proceed to make a temporary public access exemption order for an area of land affected by the Prestwick Golf Course 150<sup>th</sup> Open Event 2022.

**2. Recommendation**

**2.1 It is recommended that the Panel:**

- 2.1.1 Notes the outcome of the public consultation on the proposed public access exemption for land at Prestwick Golf Course, and agrees the proposed Council responses to the representations received, as set out in Appendix 1,**
- 2.1.2 Agrees to make a temporary public access exemption order under Section 11(1) of the Land Reform (Scotland) Act 2003, for land at Prestwick Golf Course and the right of way (SKC 35), as set out in Appendix 2.**

**3. Background**

- 3.1 Councils can make orders temporarily exempting specific areas of land from access rights (exemption orders). Government guidance suggests exemption orders should be made for health and safety or security reasons, or to permit the charging of a fee for entry to an event. The Council has made a number of exemption orders to facilitate the staging of major public events. Orders effective for 6 or more days must be the subject of prior public consultation and must be confirmed by the Scottish Ministers.
- 3.2 The Prestwick Golf Course 150<sup>th</sup> Open Event 2022 is to be held over the Course from **10<sup>th</sup> October 2022 to 23<sup>rd</sup> October 2022** inclusive. Prestwick Golf Club has requested that the Council makes an access exemption order for this same period to facilitate the safe and successful staging of the event, covering the Course itself, as well as the right of way which crosses it.
- 3.3 The Council's approved Scheme of Delegation delegates power to the Director - Place to make access exemption orders covering periods of less than 6 days. As the proposed Orders cover periods of more than 6 days approval is required from this Panel to proceed with making the proposed Order.

3.4 The Panel of 22<sup>nd</sup> September 2022 agreed to commence a public consultation on the proposed Order. The consultation took place via :- the Local paper, Council Web site, Council Twitter Site, an email to Prestwick Community Council and notices placed on the right of way in Prestwick. The consultation ran from 23<sup>rd</sup> September to 2<sup>nd</sup> October 2022 and attracted two responses. These responses are set out in Appendix 1, together with the comments from the Planning Service on each response.

#### **4. Proposals**

4.1 Prestwick Golf Club has requested that access rights exemptions apply over the land and route, for the dates specified, indicated on the attached plan forming Appendix 2.

4.2 For the period during which the relevant exemption order is in force, an alternative route for the right of way will be available around the edge of the area covered by the Order (as indicated on the plan forming Appendix 2).

4.3 It is considered that the responses received to the public consultation did not raise any issues or concerns that would be sufficient to prevent the Council from making the proposed access exemption order. The details of the consultation, representations received and proposed Council responses are set out in section 13 of this report.

4.4 If Panel agrees to make the access exemption order, it will be submitted to the Scottish Ministers for confirmation. Assuming the Ministers confirm the Order, a further public notice (of confirmation) will be published in the local press and on the Council's web site, in compliance with the legislation.

#### **5. Legal and Procurement Implications**

5.1 The recommendations in this report are consistent with legal requirements (the relevant provisions of the Land Reform (Scotland) Act 2003).

5.2 There are no procurement implications arising from this report.

#### **6. Financial Implications**

6.1 Costs associated with undertaking the public consultation and making the access exemption order can be met from existing Planning budgets but will be recoverable from the Prestwick Golf Club as event organiser. There will be no ongoing financial commitments arising from this report.

#### **7. Human Resources Implications**

7.1 There are no human resource implications arising directly from the recommendation of this report.

## **8. Risk**

### **8.1 Risk Implications of adopting the recommendations.**

There is a risk access takers visiting the area may be unaware the Course and right of way across it have been exempted temporarily from access rights. This will be mitigated by publishing notices of the exemption orders in the local press and on the Council's web site, and by erecting signage on site.

### **8.2 Risk Implications of rejecting the recommendations.**

Rejecting the recommendation to agree to make the Order will mean that the order could not be made, which could jeopardize the staging of the Prestwick Golf Course 150<sup>th</sup> Open Event 2022. There could also be a health and safety risk associated with not creating the order, in that members of the public could attempt to access the Course during the golf event. The Club have measures ready to place additional stewards on the course, for such an outcome, but this may impact the staging of the event and potentially not mitigate all risk to members of the public.

## **9. Equalities**

9.1 The proposals in this report have been assessed through the Equality Impact Assessment Scoping process. There are no significant potential positive or negative equality impacts of agreeing the recommendations and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as Appendix 3.

## **10. Sustainable Development Implications**

10.1 ***Considering Strategic Environmental Assessment (SEA)*** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

10.2 The recommendation of this report will have no significant environmental benefit or cost.

## **11. Options Appraisal**

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

## **12. Link to Council Plan**

12.1 The matters referred to in this report contribute to the Council strategic objective of 'Maximising the Potential of our Local Economy and within that to the outcome 'tourism, culture and heritage opportunities are developed and promoted.

### 13. Results of Consultation

- 13.1 Public notice of the Council's intention to make the proposed access exemption order and the opportunity to make objections or representations, was published in the local press and on the Council's website, on both the Consultations portal and the Outdoor Access webpage. Notices were also posted on-site at either end of the public right of way that crosses Prestwick Golf Course. The consultation was also advertised on the Council's social media accounts. Prestwick Community Council was also contacted directly and invited to comment on the proposals. Councillors Ian Cochrane, Hugh Hunter, Martin Kilbride and Cameron Ramsey, as members for the Prestwick ward, and the South Ayrshire Local Access Forum, were previously consulted on the proposed exemption order, and have expressed no objection to it.
- 13.2 Consultation has taken place with Cllr. Alec Clark, Portfolio Holder for Tourism, Culture and Rural Affairs, and he has expressed no objection to the proposed order.
- 13.3 Two representations on the proposed Order were received by email, one of which raises a clear objection to the proposals. The representations are set out in Appendix 1, alongside the Council's proposed responses. One response draws attention to the age and original purpose of the right of way that is affected, noting that stewards are usually positioned at either end of the path for golf events. The other response objects to the Order being made as they consider that the planned event is not significant enough to justify the Order. The objector feels that it is disproportionate and not in keeping with the Land Reform Act.
- 13.4 The Council's proposed responses in Appendix 1 note that the Council considers the proposed Order complies with the Land Reform (Scotland) Act 2003 and is a necessary and appropriate as a temporary measure, to allow the hosting of the event.

### 14. Next Steps for Decision Tracking Purposes

- 14.1 If the recommendation above is approved by Members, the Service Lead Planning & Buildings Standards will ensure that all necessary steps are taken to ensure full implementation of the decision, with the completion status reported to the next Regulatory Panel.

<b><i>Implementation</i></b>	<b><i>Due date</i></b>	<b><i>Managed by</i></b>
Request for permission from Panel to consult public on the proposed Order	22 <sup>nd</sup> September 2022	Service lead Planning & Budling Standards
Public consultation on proposed Order	22 <sup>nd</sup> September to 2 <sup>nd</sup> October 2022	Service lead Planning & Budling Standards
Report consultation responses and request permission from Members to create Order	4th October	Service lead Planning & Budling Standards
Refer to Scottish Ministers	5 <sup>th</sup> October 2022	Service lead Planning & Budling

		Standards
Publish notice of confirmation of Order	Week commencing 10 <sup>th</sup> October 2022	Service lead Planning & Budling Standards

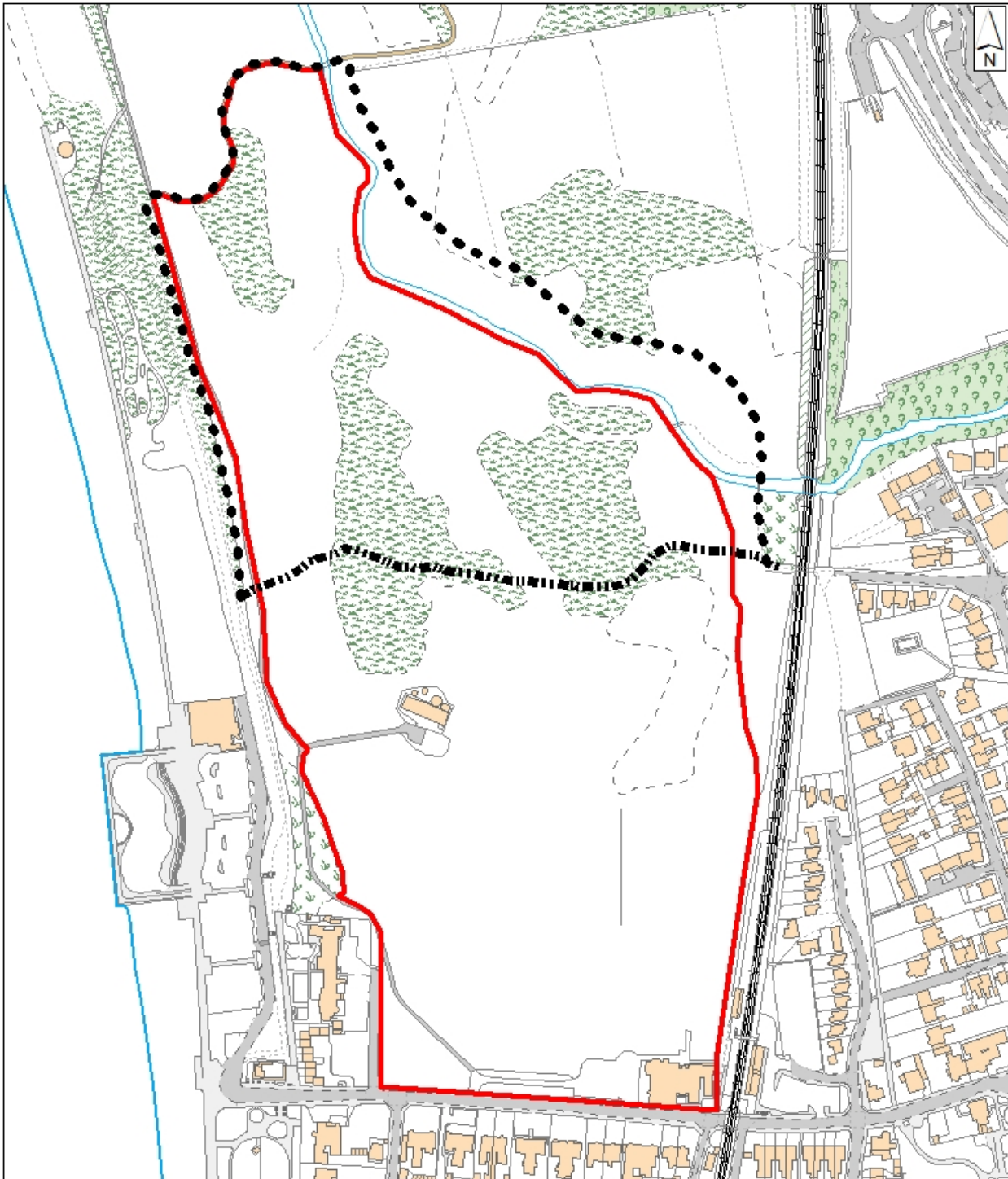
**Background Papers** Land Reform (Scotland) Act 2003 [here](#)  
Part 1 Land Reform (Scotland) Act 2003: Guidance for Local Authorities and National Park Authorities [here](#)

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**Date: 3<sup>rd</sup> October 2022**

### Responses received to the public consultation

Name of Respondent	Detail of response	Council's proposed response
Mr Alex Young	<p>I have just noticed the proposed application for a change to the right away from Seagate, Prestwick across the course. It wasn't on the gate until today 23/09/2023 and objections must be lodged by 02/10/2022. Prestwick, Scotland's oldest burgh 983ad has a lot of right ways and that one in particular from Seagate, one of the original routes out of Prestwick has been established and protected for over 700 years by the Freeman of Prestwick. Its original purpose was a right of way to collect wrack (seaweed) from the beach. In the past golf courses have had to respect that route and have stewards at both ends.</p>	<p>The proposed access exemption order is a temporary measure, which the Council agrees is necessary to safely and effectively run the Prestwick 150<sup>th</sup> Open 2022 event. An alternative pedestrian route across the golf course is being provided for the duration of the event (14 days), which the Council considers to be a suitable arrangement.</p>
Dr Gary White	<p>I note the proposal to restrict right of access to Prestwick Golf Course between 10th and 23rd October 2022.</p> <p>I object to this proposal on the grounds that the event planned is essentially a series of low-key golf events, mainly for club members and paying public. I could understand if the Open was being held there, but it is not.</p> <p>Having already lost two of the three access points on the seafront side of the course, I feel this proposal is disproportionate, and not in keeping with the Act.</p> <p>I would suggest South Ayrshire Council should be answerable to residents more than businesses with vested interests.</p>	<p>The Council considers that the proposed Order complies with the terms of the Land Reform (Scotland) Act 2003. The Council agrees that the planned event(s) would increase the risk to members of the public trying to cross the course, due to the greater number of players on the course and the effect of the temporary redesign of the course for the event.</p> <p>The proposed Order would be a temporary measure, and an alternative route across the course would be provided, which would have the same start and finish points as the existing right of way.</p>



Area of land to be exempt from access rights.



Current Right of Way



Proposed Temporary Right of Way

Scale 1:3,500

**This is the plan referred to in the foregoing  
The South Ayrshire Council (Prestwick Golf Club)  
Exempting Land from Access Rights Order 2022**

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## South Ayrshire Council Equality Impact Assessment Scoping Template

Equality Impact Assessment is a legal requirement under the Public Sector Duty to promote equality of the Equality Act 2010. Separate guidance has been developed on Equality Impact Assessment's which will guide you through the process and is available to view here: <https://www.south-ayrshire.gov.uk/equalities/impact-assessment.aspx>

Further guidance is available here: <https://www.equalityhumanrights.com/en/publication-download/assessing-impact-and-public-sector-equality-duty-guide-public-authorities/>

The Fairer Scotland Duty ('the Duty'), Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018. It places a legal responsibility on Councils to actively consider ('pay due regard to') how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. FSD Guidance for Public Bodies in respect of the Duty, was published by the Scottish Government in March 2018 and revised in October 2021. See information here: <https://www.gov.scot/publications/fairer-scotland-duty-guidance-public-bodies/>

### 1. Policy details

Policy Title	Public Access Exemption Order: PRESTWICK GOLF COURSE 150TH OPEN EVENT 2022
Lead Officer (Name/Position/Email)	Craig Iles Service Lead Planning & Building Standards <a href="mailto:craig.iles@south-ayrshire.gov.uk">craig.iles@south-ayrshire.gov.uk</a>

### 2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts

Community or Groups of People	Negative Impacts	Positive impacts
Age – men and women, girls & boys	N/A	N/A
Disability	N/A	N/A
Gender Reassignment (Trans/Transgender Identity)	N/A	N/A
Marriage or Civil Partnership	N/A	N/A
Pregnancy and Maternity	N/A	N/A
Race – people from different racial groups, (BME) ethnic minorities and Gypsy/Travellers	N/A	N/A
Religion or Belief (including lack of belief)	N/A	N/A
Sex – (issues specific to women & men or girls & boys)	N/A	N/A
Sexual Orientation – person's sexual orientation i.e. LGBT+, lesbian, gay, bi-sexual, heterosexual/straight	N/A	N/A
Thematic Groups: Health, Human Rights & Children's Rights	N/A	N/A



**3. What likely impact will this policy have on people experiencing different kinds of social disadvantage i.e. The Fairer Scotland Duty (This section to be completed for any Strategic Decisions). Consideration must be given particularly to children and families.**

<b>Socio-Economic Disadvantage</b>	<b>Negative Impacts</b>	<b>Positive impacts</b>
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	N/A	N/A
Low and/or no wealth – enough money to meet Basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	N/A	N/A
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies	N/A	N/A
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	N/A	N/A
Socio-economic Background – social class i.e. parent’s education, employment and income	N/A	N/A

**4. Do you have evidence or reason to believe that the policy will support the Council to:**

<b>General Duty and other Equality Themes Consider the ‘Three Key Needs’ of the Equality Duty</b>	<b>Level of Negative and/or Positive Impact (High, Medium or Low)</b>
<b>Eliminate unlawful discrimination, harassment and victimisation</b>	Low Positive
<b>Advance equality of opportunity</b> between people who share a protected characteristic and those who do not	Low Positive
<b>Foster good relations</b> between people who share a protected characteristic and those who do not. (Does it tackle prejudice and promote a better understanding of equality issues?)	Low Positive
Increase participation of particular communities or groups in public life	Low Positive
Improve the health and wellbeing of particular communities or groups	Low Positive
Promote the human rights of particular communities or groups	Low Positive
Tackle deprivation faced by particular communities or groups	Low Positive

**5. Summary Assessment**

<b>Is a full Equality Impact Assessment required?</b> (A full Equality Impact Assessment must be carried out if impacts identified as <b>Medium and/or High</b> )	<b>No</b>
<b>Rationale for decision:</b>	

Not required as there is no specific impact on communities, groups of people, employees or thematic groups.

**Signed** : Craig Iles **Service Lead - Planning & Building Standards**

**Date**: 12 September 2022