

## REGULATORY PANEL: 14 DECEMBER 2022

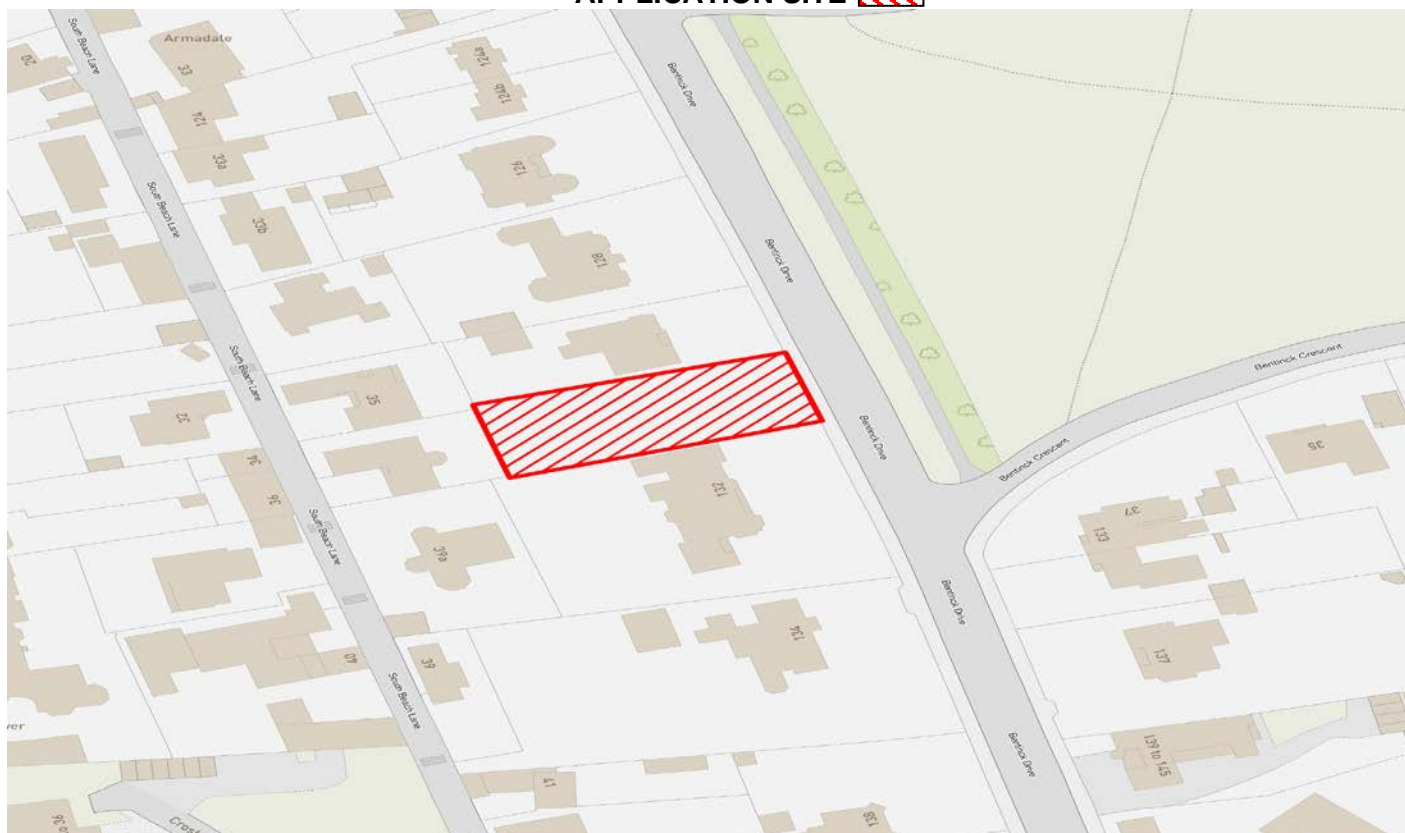
### REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

22/00783/APP

LAND ADJACENT TO 130 BENTINCK DRIVE TROON SOUTH AYRSHIRE KA10 6JB

### Location Plan

APPLICATION SITE 



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### Summary

Planning permission is sought for the erection of a boundary wall to the northern edge of the application site and the formation of a vehicular access into the front boundary wall at land adjacent to 130 / 130A Bentinck Drive Troon.

The application is being reported to the Regulatory Panel as more than 5 written objections have been received. The points of objection are principally on the grounds of concern that a dwellinghouse will be proposed at the site at a later date, that the proposed boundary wall will have an adverse impact on residential amenity, that the proposed vehicular access is not required, that the proposed vehicular access would have an adverse impact on road safety, and that the proposals are not consistent with the provisions of the Development Plan or planning history for the site.

Having considered the merits of the case, it is considered that the proposals do not accord with the provisions of the South Ayrshire Local Development Plan 2, Scottish Planning Policy (SPP), or Historic Environment Policy for Scotland (HEPS) on the basis that the proposals result in the physical sub-division of the existing planning unit which would have an adverse effect on the established character of the streetscape and the wall to the northern boundary would adversely affect the outlook of the property at 130 Bentinck Drive. There is also a cumulative visual impact with regards the vehicular access proposal which would create a third opening along the frontage of 130 and 130A Bentinck Drive which is out of character with the streetscape and locale.

Accordingly, it is recommended that the application be refused.

## REPORT BY HOUSING, OPERATIONS AND DEVELOPMENT DIRECTORATE

### REGULATORY PANEL: 14 DECEMBER 2022

<b>SUBJECT:</b>	<b>PLANNING APPLICATION REPORT</b>
<b>APPLICATION REF:</b>	<b>22/00783/APP</b>
<b>SITE ADDRESS:</b>	<b>Land Adjacent To 130 Bentinck Drive Troon South Ayrshire KA10 6JB</b>
<b>DESCRIPTION:</b>	<b>Erection of boundary wall and formation of vehicular access</b>
<b>RECOMMENDATION:</b>	<b>Refusal</b>

#### 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:

The application site relates to a flat rectangular and elongated area of land extending to an area of approximately 1107 square metres located to the south of 130 Bentinck Drive, Troon. The application site, which is located within Troon Conservation Area, previously served as garden ground for 130 Bentinck Drive, which is category C listed and has been split horizontally into two properties - 130 and 130A Bentinck Drive. The flatted dwelling at 130 Bentinck Drive occupies the ground floor of the building, with 130A occupying the first floor.

The site is located within an established residential area characterised by large, detached villas set within generous plots, with generally wide frontages onto Bentinck Drive. The site overlooks a central area of open space, which has consequently created a low density, spacious area with a high residential amenity which in part defines a significant characteristic of Troon Conservation Area at this locale. The planned and spacious layout of this part of Bentinck Drive and Bentinck Crescent dates back to the early 20th century, and typically, the existing villas have large areas of garden ground so as to provide a setting for the dwellinghouses. This pattern of development has resulted in a very orderly and balanced pattern of building and streetscene and contributes to and defines the character of the area. In terms of neighbouring land uses, the site is bound by residential properties to the north, south and west and by a carriageway with an area of public open space beyond to the east.

Planning permission is sought for the erection of a 1.8 metre high boundary wall to the northern boundary of the application site, approximately 1.7 metres away from the southern wall of 130 and 130A Bentinck Drive, and the formation of a vehicular access into the front boundary wall onto Bentinck Drive. It is understood from the applicant that the access is required to allow for maintenance of the ground forming the basis of this application site. There is a concurrent application for listed building consent (reference 22/00782/LBC).

The planning 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.

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**2. Consultations:**

**Ayrshire Roads Alliance** offer no objections to this application.

**3. Submitted Assessments/Reports:**

In assessing and reporting on a Planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations.

None.

**4. S75 Obligations:**

In assessing and reporting on a Planning application the Council is required to provide a summary of the terms of any Planning obligation entered into under Section 75 of The Town and Country Planning (Scotland) Act in relation to the grant of Planning permission for the proposed development.

None.

**5. Scottish Ministers Directions:**

In determining a Planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of Planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

None.

**6. Representations:**

6 representations have been received from 5 separate households, all of which object to the proposed development. All representations can be viewed online at [www.south-ayrshire.gov.uk/planning](http://www.south-ayrshire.gov.uk/planning)

In summary, the objections refer to the formation of a vehicular access being unnecessary for the intended purpose to maintain the ground - rather that the access is required to facilitate a future dwellinghouse at the site, that access to the ground has already been granted by the owner of 130 Bentinck Drive for maintenance purposes, that the formation of a vehicular access will not have the required visibility sight lines and therefore have an adverse impact on road safety, that the proposed gates are very elaborately designed given the intention of the applicant to maintain the ground, that the front boundary wall has been allowed to fall into disrepair, that the erection of the proposed boundary wall will adversely affect the amenity of the ground floor flatted dwelling by way of overshadowing, that the line of the proposed boundary wall will not extend the full depth of the site - rather it would meet with an existing timber fence within the rear third of the application site, and that the proposals are not consistent with the provisions of either the Development Plan or recent planning history at the site, to the detriment of the character and amenity of the listed building and Troon Conservation Area.

In accordance with the Council's procedures for the handling of Planning applications the opportunity exists for Representees to make further submissions upon the issue of this Panel Report by addressing the Panel directly. A response to these representations is included within the assessment section of this report.

## **7. Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, 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 policies are relevant in the assessment of the application and can be viewed in full online at <https://archive.south-ayrshire.gov.uk/planning/local-development-plans/>

- Strategic Policy 1: Sustainable Development;
- Strategic Policy 2: Development Management;
- LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites; and
- LDP Policy: Historic Environment.

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.

It is considered that the proposals to erect a boundary wall to the northern edge of the application site (between 130 / 130A Bentinck Drive and the former garden ground of same), and the formation of a vehicular access into the site from Bentinck Drive, are not consistent with the provisions of the Development Plan.

The proposed boundary wall is to be erected 1.7 metres from the side elevation of 130 / 130A Bentinck Drive, and measures 1.8 metres in height. With regard to the potential for overshadowing of windows at the neighbouring ground-floor flatted dwelling at 130 Bentinck Drive, it is considered that the siting, orientation, and height of the proposed boundary wall is such that significant overshadowing is unlikely to occur. However, whilst it is considered that the proposed boundary wall is unlikely to give rise to significant overshadowing, it is considered that the proposed boundary wall, by virtue of its siting, height, and length, will create an unacceptable sense of enclosure to 130 Bentinck Drive, and this will have an adverse impact on the residential amenity of that property.

Whilst it is noted that the garden ground forming the current application site was previously associated with 130 / 130A Bentinck Drive, and was sold off separately from 130 / 130A Bentinck Drive in the past, there is presently no physical separation between the building and the formerly associated garden ground forming the current application site. The proposed boundary wall will however physically sub-divide the planning unit, and it is considered that the resultant sub-division of the planning unit through the enclosure of a substantial area of formerly associated garden ground is not characteristic of the locale, to the detriment of Troon Conservation Area.

With regard to the proposed vehicular access into the front boundary wall, it is noted from the submitted plans that the width of the opening and the design of the gate piers will replicate that of the openings currently providing vehicular access to 130 and 130A Bentinck Drive (both flatted dwellings are served by separate openings). Additionally, it is noted that the height of the existing boundary wall at either side of the proposed vehicular access is to be maintained to ensure consistency with the remainder of the front boundary wall. Gates have been proposed to the new opening, it is considered that the design and construction of these would generally be acceptable at the locale.

Notwithstanding the above, the proposed access would represent the third such intervention into the category C listed front boundary wall onto Bentinck Drive. The formation of a third vehicular access into the front boundary wall, by reason of serving an enclosed area of garden ground with no associated residential property, is considered to introduce a discordant and incongruous feature to the streetscene that is inconsistent with and uncharacteristic of access arrangements present elsewhere along Bentinck Drive, to the detriment of the character and setting of Troon Conservation Area.

(ii) Other Policy Considerations (including Government Guidance)

Scottish Planning Policy (SPP) states that proposals for development within conservation areas should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance.

In terms of managing change within conservation areas, Planning Advice Note 71 - Conservation Area Management - indicates that physical change in conservation areas does not necessarily need to replicate its surroundings. The challenge is to ensure that all new development respects, enhances and has a positive impact on the area.

The principles outlined in the SPP and PAN71 are emphasised by policies HEP2 and HEP4 of the adopted Historic Environment Policy for Scotland (HEPS). Policy HEP2 states that decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations, whilst Policy HEP4 states that changes to specific assets and their context should be managed in a way that protects the historic environment. Opportunities for enhancement should be identified where appropriate. If detrimental impact on the historic environment is unavoidable, it should be minimised. Steps should be taken to demonstrate that alternatives have been explored.

The provisions of the Historic Environment Policy for Scotland are supplemented by Historic Environment Scotland's Managing Change in the Historic Environment series. The Managing Change documents on Setting and Boundaries are of particular relevance to this application.

The Managing Change document on Setting requires planning authorities to take into account the setting of historic assets in the determination of applications for planning permission. Where development is proposed it is important to identify the historic assets that might be affected, define the setting of each historic asset, and assess the impact of any new development on this. Setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context. Both tangible and less tangible elements can be important in understanding the setting. Less tangible elements may include function, sensory perceptions or the historical, artistic, literary, and scenic associations of places or landscapes.

The Managing Change document on Boundaries states that alterations or repairs to a historic boundary should protect its character. Walls and fences can be valuable in their own right as major elements in the design of a historic building and its setting, or in a broader streetscape or landscape. All alteration proposals must take into account the design and material characteristics of the historic boundary. The design, materials and execution of alterations should have regard to the original. The formation of a new opening needs to be considered in light of the overall composition of the boundary and assessed as to whether it would be consistent with the existing design. Where the formation of a new opening is found to be consistent, the minimum of historic fabric should be lost, and the opening should normally be detailed to match the existing openings. In some cases, it might be appropriate to introduce high quality contemporary design to new fixtures like gates.

Supplementary Guidance Policy 1 of South Ayrshire Council's Guidance on the Historic Environment refers to design quality, and states that development proposals will be considered in terms of compliance with the 'General Criteria for New Development', which applies to both new development and extensions to existing development / buildings. Supplementary Guidance Policy 3 refers specifically to development proposals within conservation areas, and states that all new development within, or affecting the setting of, a conservation area shall be required to preserve or enhance its character or appearance. To ensure a consistent high standard of development within conservation areas, proposals will be considered in terms of compliance with the design principles for all proposed development within a conservation area.

It is considered that the erection of the proposed boundary wall along the northern edge of the application site and the formation of a vehicular access into the category C listed front boundary wall onto Bentinck Drive would have an adverse impact on the character and setting of Troon Conservation Area at this locale. The proposal seeks to physically sub-divide the planning unit at 130 Bentinck Drive through the enclosure of an area of formerly associated garden ground, and it is considered that this is significantly harmful to the character and setting of the category C listed building at 130 / 130A Bentinck Drive and Troon Conservation Area at the locale through the creation of an uncharacteristic layout. Additionally, it is considered that the formation of what would represent a third vehicular access into the category C listed front boundary wall onto Bentinck Drive, whilst potentially acceptable in isolation, introduces a discordant and incongruous feature to the locale through the provision of a dedicated access for an area of garden ground with no associated residential property, to the detriment of the character and setting of Troon Conservation Area.

(iii) Objector Concerns

The concerns of the objectors are summarised and considered in turn as follows:

- The formation of a vehicular access is unnecessary for the intended purpose to maintain the ground as access is already available from 130 Bentinck Drive

It is acknowledged that access is presently available from 130 Bentinck Drive, something that is confirmed by both the applicant (via their appointed agent) and the owner of 130 Bentinck Drive (within their objection). However, it is understood that the present access arrangements have no legal basis. The applicant contends that the access granted can be withdrawn at any time, that the owner of 130 Bentinck Drive could sell their property and any new owner would not be obliged to honour any access agreement, and that the access presently granted is not adequate for the machinery required to maintain the garden ground. It is not for the Planning Authority to question the need for the vehicular access. Whilst the intended use of the access is understood, it is considered that the formation of a third vehicular access into the listed boundary wall to serve an area of garden ground with no associated residential property is not characteristic of development in the locale, to the detriment of Troon Conservation Area.

- The access is required to facilitate a future dwellinghouse at the site

The applicant has not applied for planning permission to erect a dwellinghouse. The Planning Authority has a duty to assess the application before it, and cannot speculate as to the potential future use of the application site. Notwithstanding, the planning history is a material consideration in the assessment of this planning application and any future planning applications.

- The formation of a vehicular access will not have the required visibility sight lines and therefore have an adverse impact on road safety

The Ayrshire Roads Alliance were consulted on this application, and have offered no objections to the formation of the proposed access.

- The front boundary wall has been allowed to fall into disrepair

It is noted that the render to the front boundary wall is cracked in places. However, the wall is not considered to be in such a poor condition to require the service of a Listed Building Repairs Notice on the applicant at this juncture.

- That the proposed gates are very elaborately designed given the intention of the applicant to maintain the ground

The design of the gates and the use of the site as garden ground are not linked. Notwithstanding, it is noted that there is a variety of gates of different designs and materials in the locale.

- That the erection of the proposed boundary wall will adversely affect the amenity of the ground-floor flatted dwelling at 130 Bentinck Drive by way of overshadowing.

For reasons set out elsewhere in this report, it is considered that the proposed boundary wall, by reason of its siting, orientation, and height, will not give rise to significant overshadowing concerns towards the windows of the ground-floor flatted dwelling at 130 Bentinck Drive. However, it is considered that the proposed boundary wall will have an adverse impact on residential amenity at 130 Bentinck Drive through the creation of a sense of enclosure. This is considered elsewhere within this report.

- That the line of the proposed boundary wall will not extend the full depth of the site - rather it would meet with an existing timber fence within the rear third of the application site.

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The submitted site plan shows the proposed boundary wall along the northern edge of the garden ground to extend the full depth of the application site. The objectors garden fence will remain unaltered by the proposals.

- That the proposals are not consistent with the provisions of either the Development Plan or recent planning history at the site, to the detriment of the character and amenity of the listed building and Troon Conservation Area.

This planning application seeks permission to erect a boundary wall along the northern edge of the application site and form a vehicular access into the front boundary wall onto Bentinck Drive. The application has been assessed on its own merits against the provisions of the Development Plan and appropriate local and national policies and guidance, taking into account the planning history of the site, responses from statutory consultees and objector concerns. As set out elsewhere within this report, it is considered that the proposed boundary wall and vehicular access do not accord with the provisions of the Development Plan and associated local and national planning guidance, and that the proposals have an adverse impact on the character, appearance and setting of the listed building and wider Troon Conservation Area. The planning history, although a material planning consideration in the assessment of this application, relates primarily to the erection of a dwellinghouse within the application site, and not specifically to the erection of a boundary wall or the formation of a vehicular access.

### (iv) Planning History

The considered relevant recent planning history of the site is as follows:

- P/363/82 - Subdivision of existing dwellinghouse to form 2 no. dwellingflats - Approved 1982.
- P/95/01086 - Outline planning permission for erection of dwellinghouse - Refused February 1996. The application was refused for the following reasons:
  - 1) That the proposal is contrary to National Planning Policy Guideline (NPPG3) in that the proposal represents infill development which is out of character with the amenity of the surrounding area of Bentinck Drive, which is characterised by substantial dwellings standing in extensive gardens.
  - 2) That the proposed development would be detrimental to the amenity and privacy of the proposed house due to overlooking from the existing house to the south and flats to the north of the site; and
  - 3) That the proposal is detrimental to the amenity of the dwelling to the south and flats to the north by reason of loss of light and the proximity of the proposed house to existing windows.

It is noted that this decision was appealed (reference PPA-370-8) and in deciding the appeal the Reporter found that any dwelling within the width of ground available would not be sympathetic to the established low-density character of Bentinck Drive. The Reporter also found that any form of residential development within the site would reduce the standard of privacy and light at adjoining properties to unacceptable levels. The Reporter dismissed the appeal. What has changed since the appeal decision is the listing of 130/130A Bentinck Drive at category C, and the site being included within Troon Conservation Area.

- 19/00172/PPP - Planning permission in principle for erection of dwellinghouse - Refused June 2019. The application was refused for the following reasons:
  - 1) That the development proposal is contrary to the Adopted South Ayrshire Local Development Plan, specifically policies in relation to; Sustainable Development and Residential Development within Settlements by reason that the; sub-division of the application site creates a plot which is not sympathetic or characteristic of the locality, which is characterised by a sense of spaciousness derived from the pattern of development, the generously proportioned plots and the low density of development. Consequently, the development of the site is considered to introduce a discordant feature which would disrupt the existing spacious relationship between buildings and open space, and interrupt and unbalance the open aspect and balanced rhythm of the streetscene at this location, to the detriment of the visual amenity of the locality, resulting in over-development and suburbanisation of the site, a loss of garden ground for the donor property at 130 Bentinck Drive, and the donor and new dwelling being sited in significantly smaller plots, than that which is typical of the immediate area.

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- 2) That the development proposal is contrary to the Adopted South Ayrshire Local Development Plan policy in relation to the Historic Environment, and Historic Environment Scotland's Policy Statement, in terms of having an adverse impact on the setting of Troon conservation area and setting of the adjacent listed building by virtue of; the locality not being characterised infill developments, and the sub-division of the application site creating a plot which is not sympathetic or characteristic of the locality which is characterised by a sense of spaciousness derived from the pattern of development, the generously proportioned plots and the low density of development. Consequently, the development of the site is considered to introduce a discordant feature which would disrupt the existing spacious relationship between buildings and open space, and interrupt and unbalance the open aspect and balanced rhythm of the streetscene at this location, to the detriment of the character, setting and visual amenity of the locality, resulting in over-development and suburbanisation of the site, a loss of garden ground for the donor property at 130 Bentinck Drive, the donor and new dwelling being sited in significantly smaller plots, than that which is typical of the immediate area.
  - 3) That the sub-division of the application site is contrary to Scottish Planning Policy objectives in relation to Sustainability and Place making in so far as the proposal will erode the distinctiveness of the site and its townscape setting, creates a plot which is not sympathetic or characteristic of the locality which is characterised by sense of spaciousness derived from the pattern of development, the generously proportioned plots and the low density of development. Consequently, the development of the site is considered to introduce a discordant feature which would disrupt the existing spacious relationship between buildings and open space, and interrupt and unbalance the open nature and balanced rhythm of the streetscene at this location, to the detriment of the visual amenity of the locality, resulting in over-development and suburbanisation of the site, and a loss of garden ground for the donor property at 130 Bentinck Drive, and the donor and new dwelling being sited in significantly smaller plots, than that which is typical of the immediate area.
  - 4) That the development proposal is contrary to the Adopted South Ayrshire Local Development Plan, specifically policies in relation to; Sustainable Development and Residential Development within Settlements by reason that the proposed development would be detrimental to the amenity of the flats to the north by reason of loss of light and the proximity of the proposed dwelling to existing windows, thereby creating a sense of enclosure.
  - 5) That the development proposal is contrary to the Adopted South Ayrshire Local Development Plan, specifically policies in relation to; Sustainable Development and Residential Development within Settlements and Council Guidance in relation to Open Space provision by reason that the lower conversion at 130 Bentinck Drive (donor property) would not be served by any private rear garden, to the significant detriment of the amenity of this property.
  - 6) That the development proposal is contrary to the Adopted South Ayrshire Local Development Plan, specifically policies in relation to; Sustainable Development, Residential Development within Settlements and Historic Environment by reason that insufficient information has been submitted to allow an assessment to be carried out in relation to the scale of the dwelling relative to the surrounding environment and whether it preserves or enhances the character of the conservation area.
- 21/00756/APP – erection of a dwellinghouse – Refused October 2021. The application was refused for the following reasons:
    - 1) That the development proposal is contrary to the provisions of the South Ayrshire Local Development Plan, specifically LDP Policy: Sustainable Development and LDP Policy: Residential Development within Settlements, Release Sites and Windfall Sites, by reason that the application site is not sympathetic or characteristic of the locale, which is characterised by a sense of spaciousness derived from the pattern of development, the generously proportioned plots and the low density of development. Consequently, the development of the site is considered to introduce a discordant feature which would disrupt the existing spacious relationship between buildings and open space, and interrupt and unbalance the open aspect and balanced rhythm of the streetscene at this location, to the detriment of the visual amenity of the locality, resulting in over-development and suburbanisation of the site, and the new dwellinghouse and the properties at 130 and 130A Bentinck Drive being sited in significantly smaller plots than that which is typical of the immediate area.



- 2) That the development proposal is contrary to the provisions of South Ayrshire Local Development Plan, specifically LDP Policy: Historic Environment, and the provisions of the Historic Environment Policy for Scotland, in that the proposed development will have an adverse impact on the character and setting of the category C listed building at 130/130A Bentinck Drive and Troon Conservation Area by virtue of the locale not being characterised by infill developments, and the proposals result in a plot which is not sympathetic or characteristic of the locale, which is characterised by a sense of spaciousness derived from the pattern of development, the generously proportioned plots and the low density of development. Consequently, the development of the site is considered to introduce a discordant feature which would disrupt the existing spacious relationship between buildings and open space, and interrupt and unbalance the open aspect and balanced rhythm of the streetscene at this location, to the detriment of the character, setting and visual amenity of the locale, resulting in over-development and suburbanisation of the site, and the proposed dwellinghouse and 130/130A Bentinck Drive being sited in significantly smaller plots than that which is typical of the immediate area.
- 3) That development of the application site is contrary to Scottish Planning Policy objectives in relation to Sustainability and Placemaking in so far as the proposal will erode the distinctiveness of the site and its townscape setting, creates a plot which is not sympathetic or characteristic of the locality which is characterised by sense of spaciousness derived from the pattern of development, the generously proportioned plots and the low density of development. Consequently, the development of the site is considered to introduce a discordant feature which would disrupt the existing spacious relationship between buildings and open space, and interrupt and unbalance the open nature and balanced rhythm of the streetscene at this location, to the detriment of the visual amenity of the locality, resulting in over-development and suburbanisation of the site, and the proposed dwellinghouse and 130/130A Bentinck Drive being sited in significantly smaller plots than that which is typical of the immediate area.
- 4) That the development proposal is contrary to the provisions of the South Ayrshire Local Development Plan, specifically LDP Policy: Sustainable Development and LDP Policy: Residential Development within Settlements, Release Sites and Windfall Sites, by reason that the proposed dwellinghouse would be detrimental to the amenity of 130 and 130A Bentinck Drive to the north by reason of loss of light and the proximity of the proposed dwellinghouse to existing windows, thereby creating an unacceptable sense of enclosure.

It is noted that this decision was appealed (reference PPA-370-2094) and, in deciding the appeal, the Reporter concurred with the Reporter of the previously dismissed appeal (reference PPA-370-8) in that any dwelling on the site would create a plot width that would be incongruous to the street frontage, and would harm the amenity of the area. As such, the appeal was dismissed. The Reporter, in dismissing appeal PPA-370-2094, also concluded that the erection of a dwellinghouse would have a harmful impact on the residential amenity of 130 / 130A Bentinck Drive. This decision is considered material to the assessment of this application.

With the exception of application P/363/82, which relates to the conversion of the dwellinghouse at 130 Bentinck Drive into two flatted dwellings (now known as 130 and 130A Bentinck Drive), the planning history, although a material planning consideration, relates exclusively to the erection of a dwellinghouse on the formerly associated side garden ground forming the current application site, and not specifically to the erection of a boundary wall or the formation of a vehicular access as proposed in the current application. Notwithstanding this, it is clear from the Reporters decisions that the subdivision of the site to create an independent planning unit would be harmful to the character of the area.

(v) Impact on the Locality

For reasons set out elsewhere in this report, it is considered that the proposed boundary wall to the northern edge of the application site, between 130 / 130A Bentinck Drive and the former garden ground of same, will have an adverse impact on the residential amenity of the ground-floor flatted dwelling at 130 Bentinck Drive through the creation of a sense of enclosure, and have an adverse impact on the character and setting of both 130 / 130A Bentinck Drive and Troon Conservation Area at this locale through the physical sub-division of the planning unit and the enclosure of an area of garden ground with no associated residential property. Additionally, it is considered that the proposed vehicular access to the front boundary wall, although potentially acceptable if considered in isolation, is uncharacteristic of Troon Conservation Area at this locale insofar as it represents a third intervention into the category C listed front boundary wall for a vehicular access which is intended to serve an area of garden ground with no associated residential property, something which is not replicated elsewhere along Bentinck Drive.

**8. Conclusion:**

The application has been assessed against the various material considerations, including the provisions of the Adopted South Ayrshire Local Development Plan 2, consultations undertaken, representations received, planning history, and the impact of the proposed boundary wall and vehicular access on the locality. The assessment concludes that the proposed boundary wall, by reason of its siting, height, and length, will have an adverse impact on the residential amenity of 130 Bentinck Drive through the creation of a sense of enclosure, and will physically sub-divide the planning unit in a manner that is not characteristic of layout or density in the locale, to the detriment of the character and setting of Troon Conservation Area. Additionally, whilst the intended purpose of the proposed vehicular access and the requirement for it is understood, it is considered uncharacteristic to have a dedicated access serving an area of garden ground with no associated residential property, and it is noted that this is not replicated elsewhere along Bentinck Drive.

Given the above assessment, and having balanced the rights of the applicant against the general interest, it is recommended that the application is refused for the reasons set out below.

**9. Recommendation:**

It is recommended that the application is refused.

**9.1 Reasons:**

- (1) That the proposed boundary wall is contrary to the provisions of the South Ayrshire Local Development Plan 2, specifically Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management, and LDP Policy: Residential Policy within Settlements, Release Sites and Windfall Sites, by reason that the boundary wall, due to its height and proximity to the ground-floor flatted dwelling at 130 Bentinck Drive, will have a significant adverse impact on the residential amenity of 130 Bentinck Drive by way of creating an unacceptable sense of enclosure.
- (2) That the proposed boundary wall is contrary to the provisions of the South Ayrshire Local Development Plan 2, specifically Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management, and LDP Policy: Historic Environment, and the provisions of South Ayrshire Council's Guidance on Historic Environment, by reason that the boundary wall will result in the physical sub-division of the planning unit at 130 / 130A Bentinck Drive, and enclose an area of side garden ground in a manner that is not characteristic of the layout in the locale of the application site, to the detriment of the character and setting of Troon Conservation Area at this locale.
- (3) That the proposed boundary wall is contrary to the provisions of Scottish Planning Policy (SPP) and the Historic Environment Policy for Scotland (HEPS) by reason that the boundary wall will result in the physical sub-division of the planning unit at 130 / 130A Bentinck Drive, and enclose an area of side garden ground in a manner that is not characteristic of the layout in the locale of the application site, to the detriment of the character and setting of Troon Conservation Area at this locale.
- (4) That the proposed vehicular access to the front boundary wall is contrary to the provisions of the South Ayrshire Local Development Plan 2, specifically Strategic Policy 1: Sustainable Development, Strategic Policy 2: Development Management, and LDP Policy: Historic Environment, and the provisions of South Ayrshire Council's Guidance on Historic Environment, by reason that the formation of an access to serve an enclosed area of garden ground with no associated residential property is considered to introduce a discordant and incongruous feature to the streetscene that is inconsistent with and uncharacteristic of access arrangements present elsewhere along Bentinck Drive, to the detriment of the character and setting of Troon Conservation Area.

**9.2 Advisory Notes:**

Not applicable.

**9.3 List of Determined Plans:**

- Drawing - Reference No (or Description): 22.15.01
- Drawing - Reference No (or Description): 22.15.02
- Drawing - Reference No (or Description): 22.15.03

**Regulatory Panel (Planning): 14 December 2022**

Report by Housing, Operations and Development Directorate (Ref: 22/00783/APP)

**Background Papers:**

1. Planning application form, plans and supporting information (available online)
2. Adopted South Ayrshire Local Development Plan 2 (available online)
3. South Ayrshire Council Guidance - Historic Environment (available online)
4. Scottish Planning Policy (available online)
5. Historic Environment Policy for Scotland (available online)
6. Historic Environment Scotland Managing Change in the Historic Environment - Setting (available online)
7. Historic Environment Scotland Managing Change in the Historic Environment - Boundaries (available online)
8. Representations (available online)

**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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