

EAST AYRSHIRE COUNCIL

**SPECIAL SOUTHERN LOCAL PLANNING COMMITTEE:
15 DECEMBER 2010**

**10/0780/PP: SITE BURNS STATUE AND PLINTH, RAISE HEIGHT OF
REAR WALL
AT LAND ADJACENT TO 47 CASTLE, NEW CUMNOCK
BY MR JAMES CARMICHAEL, N.E.R.V**

Report by Head of Planning and Economic Development

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=10/0780/PP>

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal comprises the erection of a Robert Burns Statue on a plinth which will extend to 3.32 metres in height. The rear boundary of the site, formed by the existing wall and fence arrangement, will be altered to extend the height of a 4 metre section of the wall by 1.2 metres in height which will include three plaques set into the wall. Furthermore, the applicant proposes the creation of two new raised beds at the entrance to the garden, locating a plough share within the garden and utilising 0.5 metre high decorative bollard and chain fencing around the statue and over part of the frontage of the site. The applicant has also advised that some form of security lighting is to be provided although no details have been presented.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to conditions.

3. CONCLUSIONS

3.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

3.2 As detailed previously in this report the proposal is considered to be in compliance with the applicable policies in the Development Plan as the proposal replaces an existing community facility with another of at least the same standard.

3.3 Other than the letters of objection, the material considerations in this instance do not indicate that the application should be refused. The consultees have raised no significant concerns and the Estates Management Service have indicated that the applicant has a lease for this site and is currently in negotiation to obtain a new lease. The proposed works are not considered to adversely impact on the amenity of the area and should at least maintain the existing level of community resource at this site.

3.4 The letters of objection primarily relate to the change in nature of the site from a memorial garden to a Burns memorial. The Planning Authority recognise that any move away from the Mary Morrison memorial garden is a sensitive issue as described by the objectors however this is not a material planning consideration. The proposed change would continue to provide a community resource that would be of at least the same standard as existing. Furthermore, the comments of the objector that a new site should be found is also not material to this application as only the proposal put forward can be assessed based on its own merits. On this basis it is considered that the comments by the objectors do not carry sufficient weight to allow a recommendation for refusal.

CONTRARY DECISION NOTE

Should the Committee agree that this application be refused contrary to the recommendation of the Head of Planning and Economic Development then the application will not require to be referred to Council as it would not be a significant departure from Council Policy.

Alan Neish
Head of Planning and Economic Development

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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10/0780/PP: SITE BURNS STATUE AND PLINTH, RAISE HEIGHT OF REAR WALL AT LAND ADJACENT TO 47 CASTLE, NEW CUMNOCK BY MR JAMES CARMICHAEL, N.E.R.V

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application for planning permission which is to be considered by the Southern Local Planning Committee under the scheme of delegation as the Council has an ownership interest in the land to which the application relates.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an area of public open space extending to approximately 130m² within the town centre area of New Cumnock. The site currently includes hardstanding, raised planting beds, benches, a small mine cart and a bin. The site is open to the east facing onto the public road with a stone wall and fence to the west and south and a gable wall to the north which has been painted with a large mural. The site is named the Mary Morrison Memorial Garden

2.2 **Proposed Development:** The proposal comprises the erection of a Robert Burns Statue on a plinth which will extend to 3.32 metres in height. The rear boundary of the site, formed by the existing wall and fence arrangement, will be altered to extend the height of a 4 metre section of the wall by 1.2 metres in height which will include three plaques set into the wall. Furthermore, the applicant proposes the creation of two new raised beds at the entrance to the garden, locating a plough share within the garden and utilising 0.5 metre high decorative bollard and chain fencing around the statue and over part of the frontage of the site. The applicant has also advised that some form of security lighting is to be provided although no details have been presented.

3. CONSULTATIONS RECEIVED

3.1 Cumnock Community Council has not formally responded to their consultation at the time of writing.

3.2 Estates Management has advised that the applicant currently leases the site for use as a Community Garden and is in discussion with the Council over obtaining a new long term lease. They have also advised that the original location for this development would have been the Heritage Garden at Afton Bridgend however the applicant had to give up their lease on this site due to a proposed extension of the school at this location. They have no objection to the development as the site remains in use as a community resource.

3.3 Transport Scotland has no objections to the development.

3.4 East Ayrshire Roads and Transportation Service has no objections to the proposal.

3.5 Amey Roads has not responded at the time of writing.

3.6 Cumnock and Doon Valley Access Panel has no comments on the application.

4. REPRESENTATIONS

4.1 Four objections have been received in connection with this application, details of which are summarised below.

4.2 This site is a memorial garden to Mrs Morrison and should be left as that.

4.3 The garden was named The Mary Morrison Memorial Garden as a tribute to Mary for all her good work and time spent organising events and numerous other activities for the community.

4.4 The gable end of the Castle Inn overlooking the garden already has an image of Robert Burns and there is also a Burns Club Plaque on the front of the building. The space will no longer be a memorial to Mary's valuable contribution to the community but become a shrine to Robert Burns and the pleasant garden space will be greatly reduced and cramped –simply put this wee corner of New Cumnock will no longer be the 'Mary Morrison Memorial Garden'.

4.5 It seems a strange decision to use this already regenerated and popular spot while there are host of other places in the village that would benefit from re-generation. Surely we have the opportunity of a win-win situation where local residents and visitors can enjoy both the current 'Mary Morrison Memorial Garden' and the Robert Burns Statue in a new landscaped location.

The comments at sections 4.2 to 4.5 generally relate to the change in nature of this site from the Mary Morrison Memorial Garden to a Robert Burns memorial. Whilst the concerns of the objectors and

the emotive nature of this issue are noted, unfortunately the change in nature of the site from a memorial to Mary Morrison to one to Robert Burns is not a material planning consideration that can be given any particular weight by the Planning Authority. The planning use of the site remains the same and it is only the details within that area which are proposed to change. The comments of the objector at point 4.5 are sensible and could be explored further by the applicant however the Planning Authority must determine the application as presented to it by the applicant.

4.6 We will have to look on to this towering statue and wall which is connected to CCTV and a spotlight which have not been mentioned in this planning application.

The plinth and statue are considerably higher than the existing details at this site with a section of the wall also increasing in height. Whilst this height increase will be very visible from the main public viewpoints on the adjacent street, it is not considered to be an adverse impact on the visual or environmental amenity of the surrounding area. Any provision of CCTV or lighting can be controlled through the attachment of a planning condition.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 For the purposes of this application the development plan comprises the Adopted East Ayrshire Local Plan (EALP) (2010).

5.2 Policy CS1 relates to the provision and improvement of community facilities and advises that the Council will encourage and support the development of such new facilities to meet local needs.

The proposed development retains the existing public use of this area but proposes to replace the main existing raised planting bed with a statue and plinth and also replaces the small mine cart with a plough share. The existing and proposed uses both provide a useful public resource that meets with the terms of this policy.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principle material considerations relevant to the determination of this application are the consultation responses, the letters of objection and the impact on the amenity of the area.

Consultation Responses

6.2 The consultees have raised no issues that would warrant refusal of the application. The comments by Estates Management provide some background to why this site has been chosen for the development and it

should be noted that they are currently in negotiations to extend the lease for this site.

Letters of objection

6.3 The letters of objection primarily relate to the change in character of this area from the Mary Morrison Memorial Garden to a Robert Burns memorial. The other point raised by an objector relates to the use of CCTV and lighting with a visual impact from the large statue, plinth and wall. The change in nature of the area i.e. a memorial garden to a Burns statue etc is not a material planning consideration as the use of the site remains the same and the facilities proposed are generally of an equal or better standard than those existing. The height of the statue and wall are not considered to be excessive and the use of lighting and CCTV could be controlled by planning condition to ensure that it does not have an adverse impact on the area.

Impact on the amenity of the area

6.4 The proposal will not adversely affect the visual or environmental amenity of the surrounding area as the site remains a community resource for the general enjoyment of the wider public.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications arising from the determination of this application other than the Council agreeing a lease with the applicant for the use of the site.

8. CONCLUSIONS

8.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

8.2 As detailed previously in this report the proposal is considered to be in compliance with the applicable policies in the Development Plan as the proposal replaces an existing community facility with another of at least the same standard.

8.3 Other than the letters of objection, the material considerations in this instance do not indicate that the application should be refused. The consultees have raised no significant concerns and the Estates Management Service have indicated that the applicant has a lease for this site and is currently in negotiation to obtain a new lease. The proposed works are not considered to adversely impact on the amenity of the area and should at least maintain the existing level of community resource at this site.

8.4 The letters of objection primarily relate to the change in nature of the site from a memorial garden to a Burns memorial. The Planning Authority recognise that any move away from the Mary Morrison memorial garden is a sensitive issue as described by the objectors however this is not a material planning consideration. The proposed change would continue to provide a community resource that would be of at least the same standard as existing. Furthermore, the comments of the objector that a new site should be found is also not material to this application as only the proposal put forward can be assessed based on its own merits. On this basis it is considered that the comments by the objectors do not carry sufficient weight to allow a recommendation for refusal.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to conditions.

CONTRARY DECISION NOTE

Should the Committee agree that this application be refused contrary to the recommendation of the Head of Planning and Economic Development then the application will not require to be referred to Council as it would not be a significant departure from Council Policy.

Alan Neish
Head of Planning and Economic Development

3 December 2010

DW/RH

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application forms and plans
2. Statutory Notices and Certificates
3. Adopted East Ayrshire Local Plan
4. Consultation responses
5. Letters of objection

Anyone wishing to inspect the above papers should contact David Wilson, Acting Senior Planning Officer on 01563 576779.

TP24

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 10/0780/PP

Location	47 Castle New Cumnock East Ayrshire KA18 4AG
Nature of Proposal:	Site Burns statue and plynth, raise height of rear wall.
Name and Address of Applicant:	Mr James Carmichael NERV 4 Stellhead Avenue New Cumnock Cumnock East Ayrshire KA18 4JT
Location	47 Castle New Cumnock East Ayrshire KA18 4AG
Name and Address of Agent	

Officer's Ref: David Wilson
01563 576779

The above application for Planning Permission should be approved subject to the following condition:

1. Details of lighting and CCTV provision shall be provided for the written approval of the Planning Authority prior to works commencing on site and shall be implemented on site as approved thereafter.

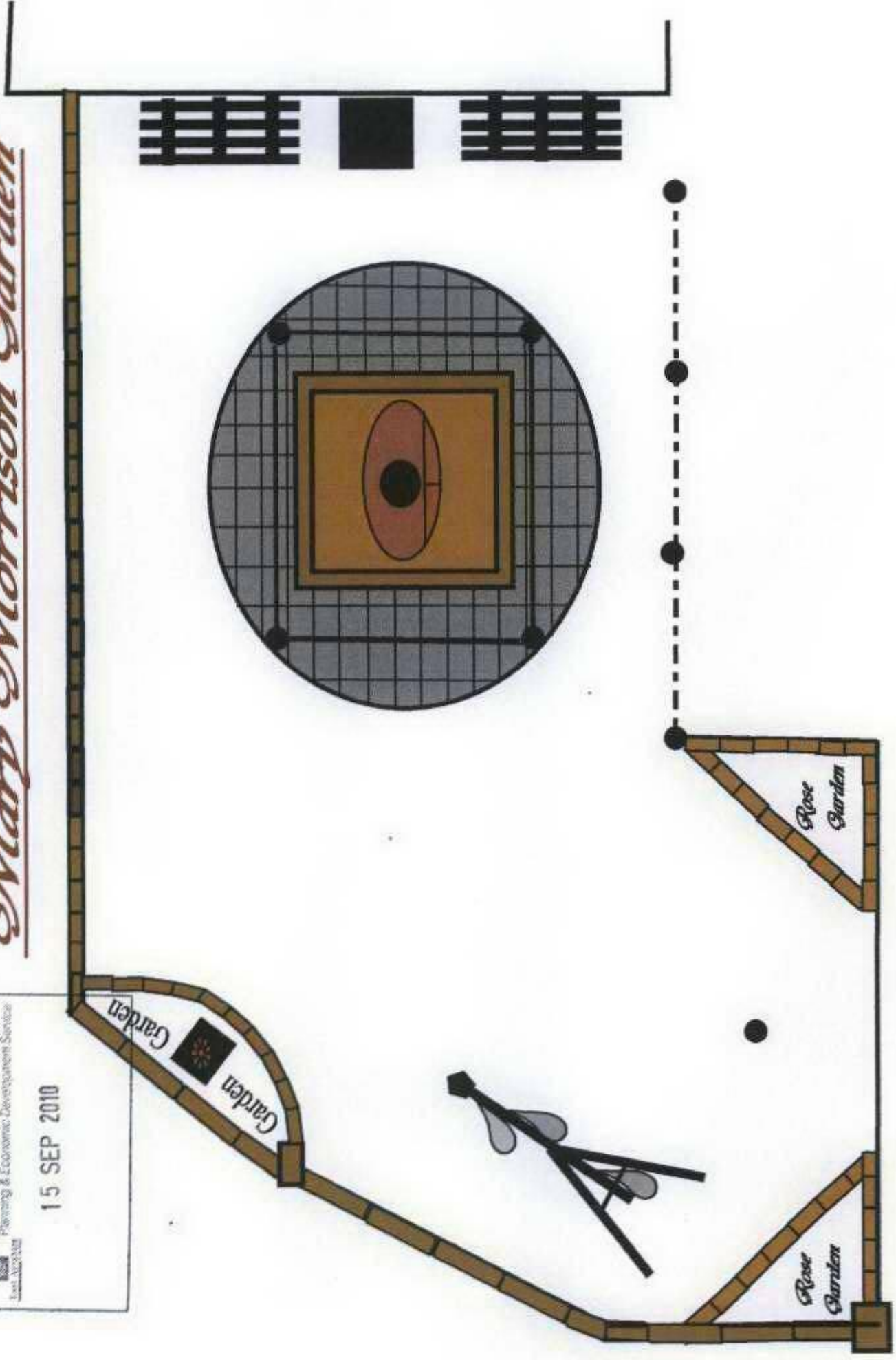
Reason: In the interests of maintaining the visual amenity of the surrounding area.

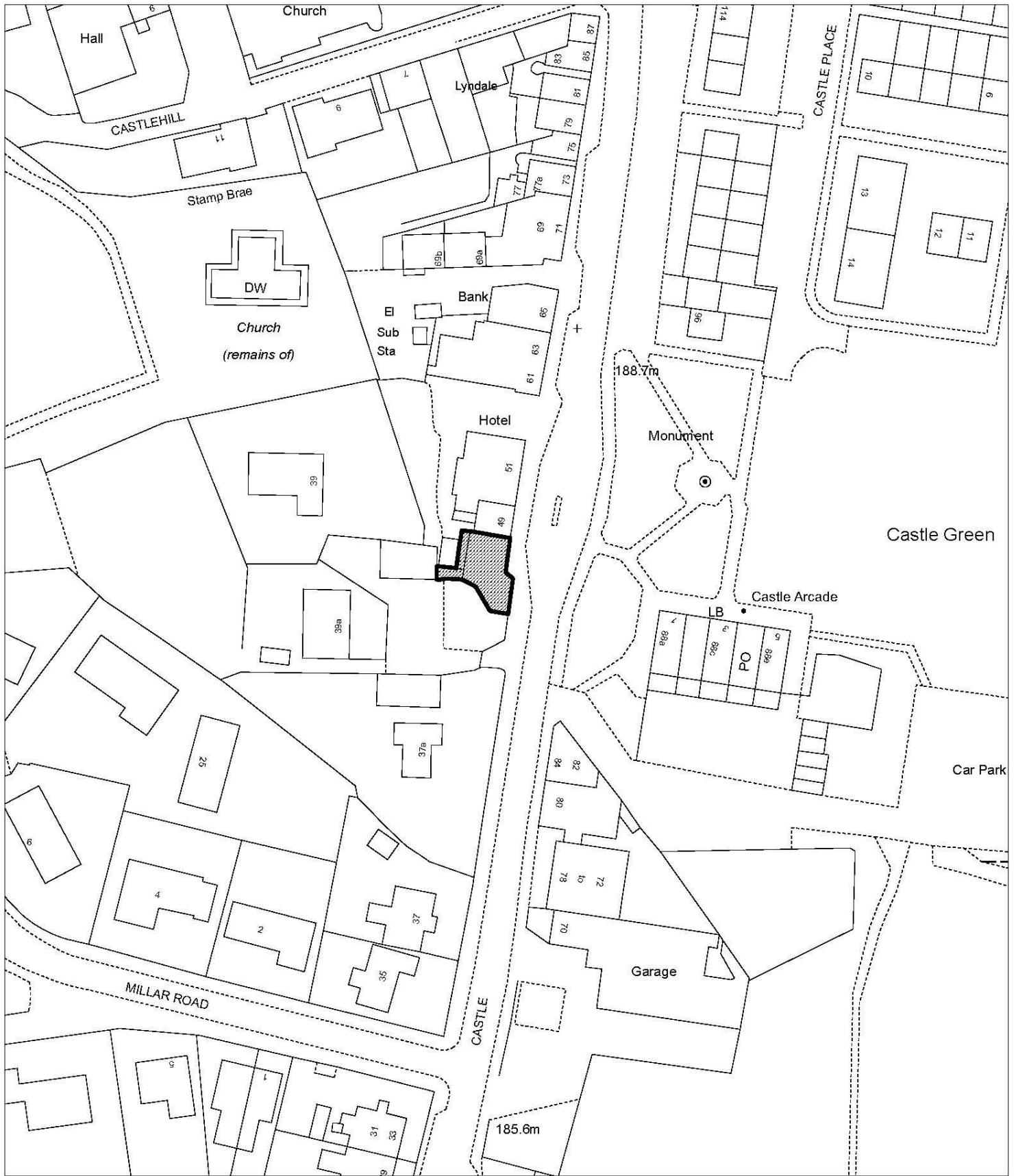
REASON FOR THE DECISION

The application is considered to be appropriate in terms of the Development Plan and the material considerations, on balance, do not indicate that the application should be refused.

Mary Morrison Garden

Department of Neighbourhood Services
Planning & Economic Development Services
East Ayrshire Council
15 SEP 2010





Title/Location **47 Castle,
New Cumnock
Application No. 10/0780/PP**

East Ayrshire Council
Department of Neighbourhood Services
Planning & Economic Development Service.
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Kilmarnock KA1 1JB
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Key

 **Application Site**

Com Date: 15/12/20210

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