

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - 2 MAY 2006

JOHN FINNIE STREET AND BANK STREET OUTSTANDING CONSERVATION AREA SUPPLEMENTARY PLANNING GUIDANCE AND PROPOSED BOUNDARY AMENDMENTS, ARTICLE 4 DIRECTION AND CONTROL OF ADVERTISEMENTS

Report by Executive Director of Development and Property Services

1. PURPOSE OF REPORT

- 1.1 To report back on the public consultation undertaken in respect of the Conservation Area Appraisal of John Finnie Street and Bank Street; to seek Committee approval for the appraisal to be designated as Supplementary Planning Guidance; to seek Committee approval for the amendment to the boundary of the Conservation Area of John Finnie Street and Bank Street; to seek approval to prepare and implement an Article 4 Direction; and to seek Committee approval to remove deemed consent, with regard to adverts, in John Finnie and Bank Street Outstanding Conservation Area.

2. BACKGROUND

- 2.1 The Conservation Area of John Finnie Street and Bank Street was designated in December 1984 and amended in December 1994. The Conservation Area was declared 'Outstanding' in April 1989 for grant aid purposes by Historic Scotland.
- 2.2 On 23 August 2005 Committee approval was received for the draft Conservation Area Appraisal including proposed boundary changes for the John Finnie Street and Bank Street 'Outstanding' Conservation Area and for a public consultation exercise to be undertaken.
- 2.3 The proposals contained in this report implement the short-term priority actions contained within the Kilmarnock Town Centre Strategy agreed by Committee on 20 December 2005.

3. CONSERVATION AREA APPRAISAL – CONSULTATION RESPONSES

- 3.1 Section 63 (2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 directs Councils, from time to time, to submit proposals for the preservation and enhancement of Conservation Areas in their area and to submit these for consideration at a public meeting in the area to which they relate. Section 63(3) states that Council's should take due cognisance of the views of any person concerning the proposals expressed.
- 3.2 The consultation exercise for the John Finnie Street and Bank Street Conservation Area included a public exhibition, which was held on the 20th and 21st September 2005 at the Dick Institute. Copies of the Appraisal were also made available throughout the period from 01 September until 03 October 2005 at the Planning, Development and Building Standards office at 6 Croft Street, Council Headquarters, London Road, and at the Dick Institute. An advertisement publicising the public exhibition and inviting public opinion was placed in the Kilmarnock Standard on 02 September 2005.

- 3.4 Historic Scotland was also invited to comment on the Appraisal and feedback was received from them and incorporated into the finalised version of the Conservation Area Appraisal.
- 3.5 There were no adverse responses from members of the public.
- 3.6 The consultation exercise included the opportunity to comment on the proposed incorporation of portions of Strand Street, St Marnock Street, Bridge Lane, King Street, Cheapside Street, Water Street and West George Street within the Conservation Area boundary. Historic Scotland confirmed their support for the proposal to extend the conservation area boundaries. No negative comments were received regarding these proposals.
- 3.7 Further consideration has been given to the inclusion of the western side of King Street. It is considered that the proposed extensions to the Conservation Area excluding the west side of King Street will effectively consolidate the boundaries of the John Finnie Street/Bank Street Conservation Area. It includes the Category B listed viaduct and the Category A Listed High Kirk, which is of national importance. However it is considered that King Street has a different character to that of the John Finnie Street and Bank Street Conservation Area as proposed and has therefore been excluded from the proposed extension.
- 3.8 Approval is now sought for these changes so that they can be formally advertised. Section 62 (4) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 directs Councils to give notice of any variation to boundaries within the Edinburgh Gazette and in at least one local newspaper. After the placement of the advert, the Council will approach Historic Scotland to seek reinstatement of Outstanding Status for the revised area.

4. FINALISED CONSERVATION AREA APPRAISAL

- 4.1 Planning Advice Note (PAN) 71 recommends that Conservation Area Appraisals should be approved as supplementary planning guidance. Accordingly it is proposed that the John Finnie Street and Bank Street Conservation Area Appraisal, as amended following the comments from Historic Scotland and relating solely to the new proposed boundaries, be approved as supplementary planning guidance to the East Ayrshire Local Plan and that it come into effect following advertisement of the amended Conservation Area boundaries outlined above. Approval of the Appraisal would enable it to be considered as material when assessing development proposals within the Conservation Areas to which it relates.
- 4.2 Copies of the Finalised Appraisal have been deposited in the Members' Information Point.

5. ARTICLE 4 DIRECTIONS AND CONTROL OF ADVERTISEMENTS

- 5.1 Planning authorities may seek to extend planning controls in a Conservation Area through an Article 4 Direction, which would remove permitted development rights in the area concerned. If planning permission is required by virtue of the Article 4 Direction, a planning application fee is not required. East Ayrshire Local Plan Proposal 15 states that the Council will introduce Article 4 Directions for all of the Outstanding Conservation Areas. An Article 4 Direction is already in place in Newmilns to support the Newmilns THI and to protect the public investment made through the Newmilns THI.

- 5.2 As agreed by Committee, the Planning, Development and Building Standards Division intend to submit a grant application to the Heritage Lottery Fund for a Townscape Heritage Initiative for the John Finnie Street/Bank Street Outstanding Conservation Area. An Article 4 Direction will help to safeguard any investment of public funds in the Outstanding Conservation Area and protect the character and amenity of the area by removing Permitted Development Rights.
- 5.3 Following internal consultation it is proposed to remove the following classes from Permitted Development:
- Class 7 and 8 which relate to Sundry Minor Operations; and
 - Class 31 and 33 which relate to Development by Local Authorities

A detailed description of the classes outlined above is contained within Appendix A of this report.

- 5.4 The Conservation Area Appraisal indicates that the conservation area has examples of unattractive, unsympathetic and inappropriate signage on shop fronts throughout the area, which result in the loss of active street frontages and can have detrimental impacts on not just the streetscape and architectural integrity of buildings but also on the vitality and viability of the area.
- 5.5 Regulation 11 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 allows the Council to remove deemed consent for those classes of advertisements contained within Schedule 4 of the above Regulations. If advertisement consent is required by virtue of the removal of deemed consent, an advertisement fee is not required. The removal of deemed consent for advertisements will help to protect the character and amenity of the Outstanding Conservation Area by making all advertisements subject to express consent and approval by the Council.

6. FINANCIAL IMPLICATIONS

- 6.1 The Council will not receive a planning application or advertisement fee for any application that is submitted as a result of an Article 4 Direction or the removal of deemed consent for advertisements. However, it is considered that the loss of fees will not be significant. All costs associated with the Article 4 Direction and removal of deemed consents for advertisements can be accommodated within existing budgets.

7. PERSONNEL IMPLICATIONS

- 7.1 Any additional work required in relation to the above proposals can be incorporated into the work programme of the existing staff within the Planning, Development and Building Standards Division.

8. LEGAL/POLICY IMPLICATIONS

- 8.1 The duty to formulate proposals for the preservation and enhancement of Conservation Areas is contained within Section 63 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997.

- 8.2 Upon Committee approval and following advertisement of the new Conservation area boundaries the Conservation Area Appraisal will become Supplementary Planning Guidance and a material consideration in the determination of planning applications.
- 8.3 The procedure for designation of an Article 4 Directions is contained within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.
- 8.4 The procedure for removing deemed consent for advertisements is contained within the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

9. COMMUNITY PLAN IMPLICATIONS

- 9.1 East Ayrshire's Community Plan: 'Improving the Environment Action Plan' aims to protect and improve the natural and built environment. The Action Plan specifically identifies the preparation of enhancement statements for all Outstanding Conservation Areas. The introduction of an Article 4 Direction and the removal of deemed consent for advertisements will provide additional protection for the built environment.

10. RECOMMENDATION

10.1 It is recommended that the Committee:

- (i) approves the Conservation Area Appraisal for John Finnie Street and Bank Street 'Outstanding' Conservation Area as supplementary Planning Guidance;
- (ii) approves the boundary changes for John Finnie Street and Bank Street, as indicated on the attached plan and authorise the Head of Planning, Development and Building Standards to advertise the boundary changes in the Edinburgh Gazette and the Kilmarnock Standard;
- (iii) authorise the Head of Planning, Development and Building Standards to prepare and implement the proposed Article 4 Direction for the John Finnie Street/Bank Street Outstanding Conservation Area; and
- (iv) authorise the Head of Planning, Development and Building Standards to prepare and implement the removal of deemed consent for advertisements within the John Finnie Street/Bank Street Outstanding Conservation Area

James Lavery
Executive Director of Development and Property Services
21 April 2006
AMcG/SA - FV

LIST OF BACKGROUND PAPERS

1. The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
2. The Town and Country Planning (General Permitted Development) (Scotland) Order 1992;
3. The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984;
4. National Planning Policy Guidance 18: Planning and the Historic Environment;
5. Planning Advice Note 71: Conservation Area Management;
6. Historic Scotland: Memorandum on Listed Buildings and Conservation Areas;
7. Conservation Area Appraisal of John Finnie Street and Bank Street; and
8. Consultation response from Historic Scotland on 05 October 2005.

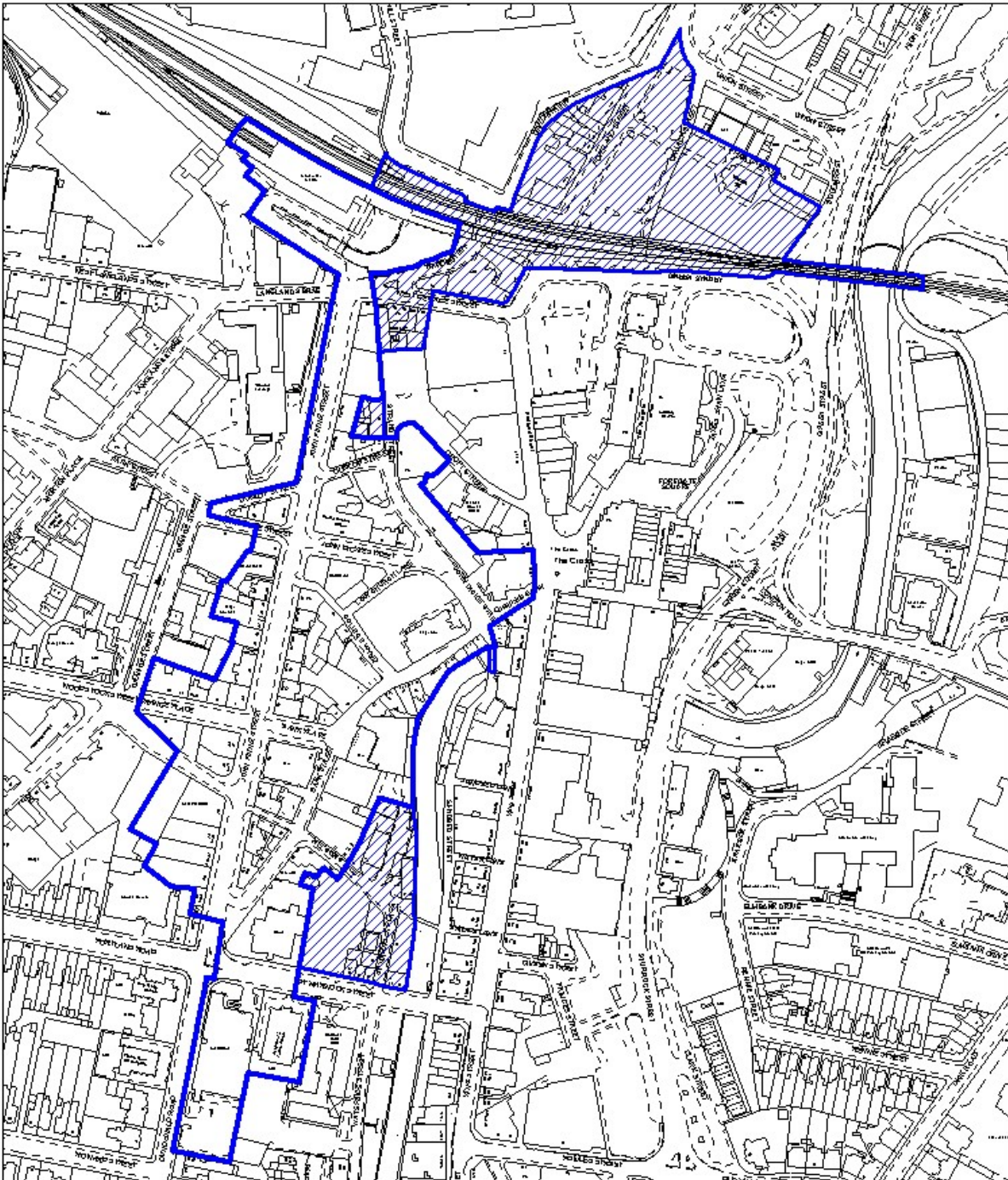
Anyone wishing further information on the above report please contact Antony McGuinness, Planning Officer, on (01563) 576757.


Implementation Officer: Alan Neish

Appendix A: Proposed List of Permitted Development Rights to be removed by means of an Article 4 Direction - John Finnie Street & Bank Street, Kilmarnock Outstanding Conservation Area

The Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

- Class 7: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.
- Class 8: The formation, laying out and construction of a means of access to a road which is not a trunk road or a classified road, where that access is required in connection with development permitted by any class in this Schedule other than Class 7.
- Class 31 - The carrying out by a roads authority:
- a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road where said works involve development by virtue of Section 26(2)(b) of the Town and Country Planning (Scotland) Act 1997; or
 - b) on land outside but adjoining the boundary of an existing road of works required for, or incidental to the maintenance or improvement of the road.
- Class 33 - The carrying out, within their own district by a planning Authority of:
- a) works for the erection of dwellinghouses so long as those works conform to a local plan adopted under Section 17 of the 1997 Act;
 - b) any development under the Housing (Scotland) Act 1987 not being development to which the last foregoing sub paragraph applies so long as the development conforms to a local plan adopted as aforesaid;
 - c) any development under any enactment the estimated cost of which does not exceed £100,000.



<p>Title/Location Proposed Extension to John Finnie St & Bank Street Outstanding Conservation Area</p>	<p>East Ayrshire Council Planning, Development & Building Standards Division. 6 Croft Street Kilmarnock KA1 1JB Tel: (01563) 576790 Fax: (01563) 576774 E-Mail : Planning@east-ayrshire.gov.uk</p>
<p>Key</p> 	<p>ComDate 02/05/06 Checked By</p>



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